



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Peter A. DeFazio
Chair

Katherine W. Dedrick, Staff Director

Sam Graves
Ranking Member

Jack Ruddy, Republican Staff Director

June 16, 2022

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Economic Development, Public Buildings, and
Emergency Management
FROM: Staff, Subcommittee on Economic Development, Public Buildings, and Emergency
Management
RE: Hearing on “Capital Investment Program: Identifying Risk to GSA Facilities”

Purpose

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Wednesday, June 22, 2022, at 10:00 am EDT in 2167 Rayburn House Office Building and virtually via Zoom to hold a hearing titled, “Capital Investment Program: Identifying Risk to GSA Facilities.” At the hearing, Members will receive testimony from the General Services Administration’s Public Buildings Commissioner.

Background

The General Services Administration (GSA) provides workspace for 1.2 million federal employees across more than 50 federal agencies.¹ GSA’s Public Building Service (PBS) owns over 1,500 federal buildings.² Approximately 53 percent of PBS’s portfolio is over 50 years old, and 28 percent is over 75 years old.³ GSA’s PBS leases approximately 8,100 office buildings, courthouses, land ports of entry, data processing centers, laboratories, and specialized space around the country for federal agencies.⁴ During the period from fiscal year (FY) 2019 through FY 2023, 60 percent of

¹ <https://crsreports.congress.gov/product/pdf/R/R46410>.

² <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>.

³ <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>.

⁴ <https://www.gsa.gov/real-estate/gsa-properties>.

PBS leases will expire.⁵ GSA's PBS portfolio is projected to include 183.4 million square feet of owned space and 183.5 million square feet of leased space in FY 2021.⁶

According to GSA's 2022-2026 Strategic Plan,⁷ its priorities include developing integrated and virtual workspace solutions for agency tenants, moving tenants from leased to federally owned GSA-controlled facilities, eliminating the backlog of repairs and alterations, disposing of underutilized facilities, investing in climate adaptation tools, and securing the funding needed to maintain GSA-controlled facilities in a state of good repair.

GSA's Federal Building Process

The Administrator of General Services (Administrator) is authorized by 40 U.S.C. 585 to enter into lease agreements (of no more than 20 years) to secure space for federal agencies.⁸ GSA also acquires space through new construction or purchase.⁹

The current prospectus threshold for leases and capital projects is \$3.375 million.¹⁰ If a lease or project cost is above the prospectus level, GSA develops a prospectus pursuant to 40 U.S.C. 3307 that includes details on the purpose, need, size, and scope of the leased space or project.¹¹ The prospectus is submitted to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works. Both committees must approve via resolution each prospectus prior to GSA executing the lease.¹²

GAO High Risk Report

Federal real property management was first placed on GAO's High Risk List in 2003.¹³ While GAO's 2021 High Risk report found that the "federal government could better manage its real property, or real estate, portfolio by effectively disposing of unneeded buildings, collecting reliable real property data, and improving the security of federal facilities," GAO noted that GSA has made progress in reducing the number and costs of leases. "GSA continued to demonstrate leadership commitment in reducing costly leasing. As noted in our 2019 High Risk Report, GSA initiated its Lease Cost Avoidance Plan in 2018 to reduce leasing costs by a projected \$4.7 billion by fiscal year 2023. GSA continued to implement its plan through several initiatives including (1) negotiating more competitive leases with longer terms, (2) reducing the size of leases, (3) moving leased tenants to federally owned space, and (4) backfilling vacant leased space."¹⁴

⁵ <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>.

⁶ Id.

⁷ https://www.gsa.gov/cdnstatic/GSA_Strategic_Plan_FY_2022_-_2026_FINAL_508.pdf.

⁸ https://www.gsa.gov/cdnstatic/LDG-CHAPTER_INTRODUCTION-FINAL_9-30-11final_508C.pdf.

⁹ 40 U.S.C. §§ 3304, 3305.

¹⁰ <https://www.gsa.gov/real-estate/design-and-construction/annual-prospectus-thresholds>.

¹¹ 40 U.S.C. § 3307.

¹² Id.

¹³ <https://www.gao.gov/assets/gao-21-119sp.pdf>.

¹⁴ Id.

Underfunding of the Federal Buildings Fund

GSA's PBS and its activities are funded through GSA's Federal Buildings Fund (FBF).¹⁵ GSA enters into occupancy agreements with its federal agency tenants and charges commercially equivalent rent.¹⁶ Those rents fund the FBF.¹⁷ In turn, the FBF funds the operations of PBS, new construction, repairs and alterations, and payments for commercial leases. The availability of funds in the FBF are subject to annual appropriations.¹⁸ GSA has raised concerns that since Congress has not made available in appropriations bills all rent collections over the last ten years, "GSA is collecting commercially equivalent rent from its occupant agencies but is precluded from reinvesting all of these funds in the aging federal facilities occupied by those rent-paying agencies."¹⁹

Since 2011, the amount of funds available in the FBF for new construction, repairs, and alternations has decreased below receipts received by GSA from its tenant agencies.²⁰ In addition, reductions, consolidations, and reconfigurations of space to improve efficiency and decrease real estate costs often require capital upfront.²¹ Given this, a number of solutions have been proposed for alternative ways of funding projects, including public-private partnerships, discounted purchase options, and the creation of a new fund outside of GSA's FBF.

While GSA has the legal authorities to carry out public-private partnerships and discounted purchase options, the Office of Management and Budget's (OMB) interpretation of budget scoring rules effectively prohibits GSA from using these alternatives.²² Specifically, OMB's interpretation of the scoring rules effectively require GSA to have the full amount of budget authority for a project up front.²³

Federal Office Space Trends Post-COVID

Early in 2020, because of the COVID-19 pandemic, GSA began consulting with key tenant agencies and the private sector to identify the impacts and trends on federal office space which GSA developed into its Workplace 2030 initiative.²⁴ The initiative examined the potential of increased teleworking beyond COVID-19, the opportunities it may present to improve efficiency and reduce space needs and costs, and the potential savings to the taxpayer.²⁵

According to GSA's FY23 Congressional Budget Justification, "PBS will play a key role in the transformation of agency space requirements, and the facilitation of the Federal Government's transition to what is likely to be a smaller, less costly real estate footprint. As agencies are evaluating how they can most effectively deliver on their missions, GSA has an opportunity to partner with its Federal Government occupant agencies in the strategic planning of their future space needs.

¹⁵ 40 U.S.C. § 592.

¹⁶ 40 U.S.C. § 586.

¹⁷ 40 U.S.C. § 592.

¹⁸ 40 U.S.C. § 3307.

¹⁹ https://www.gsa.gov/cdnstatic/02_FY_2022_CJ_FBF_Narrative_Final_2.pdf FBF-11.

²⁰ See appropriations acts beginning in FY2011.

²¹ See e.g., GSA's Consolidations Activities Program, Prospectus No. PCA-0001-MU21.

²² OMB Circular A-11, Appendix B.

²³ Id.

²⁴ Workplace 2030: Envisioning the Future of Federal Work, General Services Administration.

²⁵ Id.

Between FY 2023 and FY 2027, approximately 45 percent, or 82.9 million rentable square feet of leased space, will be expiring across the country. Much of this space is larger than necessary and prime for potential consolidation into a more agile workspace that will reduce the Government's reliance on more costly leased space."²⁶ In 2021, GSA awarded contracts to five coworking space companies, including WeWork, LiquidSpace Despass, Expansive, and The Yard.²⁷

Deferred Maintenance Liabilities

GSA's FY 2023 budget request "recognizes that GSA had a \$7.6 billion unavailable fund balance at the end of FY 2020 and accumulated an additional \$1.2 billion in FY 2021, for a total of \$8.8 billion. This fund balance has grown as a result of \$10.3 billion that could have been appropriated as New Obligation Authority (NOA) to the FBF, but instead was used to offset increases for other agencies over the last 10 years due to limitations in the Financial Services and General Government Appropriations Subcommittee's funding allocations. This represents a trend in which GSA is collecting commercially equivalent rent from its occupant agencies but is precluded from reinvesting all of these funds in its aging federal facilities occupied by those rent-paying agencies. This underfunding relative to revenue generation is almost entirely offset and absorbed through PBS's New Construction and Repairs and Alterations programs. As such, there are dramatic differences between what is needed and what is funded. Habitual underfunding of needed reinvestments is the driving factor behind PBS's growing deferred maintenance."²⁸

GSA Climate Resilience Strategy

President Biden's Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, directed federal agencies to develop a climate resilience strategy.²⁹ In response, GSA published a Climate Change Risk Management Plan which identifies GSA's vulnerabilities to climate change and priorities for action.³⁰

GSA guidelines require that it only lease properties outside of floodplains to mitigate the risk posed to its property.³¹ As floodplain maps are updated to account for climate change, GSA anticipates the availability of suitable leasing space will be restricted and rental costs more expensive as a result.³² GSA will also incorporate updated floodplain data into its Building Assessment Tool Survey to ensure owned property has service life of thirty years at a minimum.³³

²⁶ https://www.gsa.gov/cdnstatic/FY2023_CJ_FBF_Narrative_version2.pdf page 7.

²⁷ See, *GSA awards coworking space contract in bid to rethink federal office space*, Federal News Network, September 1, 2021.

²⁸ https://www.gsa.gov/cdnstatic/FY2023_CJ_FBF_Narrative_version2.pdf page 9.

²⁹ 86 FR 7619, pg. 7619-7633.

³⁰ GSA. Climate Change Risk Management Plan. September 2021. Available at: [Climate Change Risk Management Plan \(sustainability.gov\)](https://www.gsa.gov/cdnstatic/Climate_Change_Risk_Management_Plan_(sustainability.gov).pdf).

³¹ Id.

³² Id.

³³ Id.

Historic buildings within GSA's portfolio are vulnerable to disaster risks.³⁴ Historic buildings were constructed using flood maps that do not reflect updates to 100-year and 500-year flood risks.³⁵ The age and architecture of the buildings limit opportunities to make modifications that enhance resilience.³⁶ Additionally, GSA's repair backlog has left properties within the federal real estate portfolio at greater risk to extreme weather events.³⁷

On June 15, 2022, the Committee approved authorization of \$60 million from the FBF for GSA to undertake climate adaptation and natural disaster risk analyses and projects to mitigate against risks to federal buildings. While some other agencies with a large number of physical assets have done such analyses and generated tools that help identify natural disaster risks to its facilities and prioritize mitigation efforts, GSA has not yet done so.³⁸ In addition, agencies such as the Federal Emergency Management Agency, produce data through its National Risk Index for Natural Disasters that could assist GSA in identifying risks to its assets.³⁹

Real Property Disposal

The *Federal Assets Sale and Transfer Act of 2016* (P.L. 114-287) established a new process for disposing of unneeded federal space. FASTA created 6-year pilot authority to streamline the disposal of certain unneeded properties. A Public Buildings Reform Board (Board) was created to bring in outside real estate experts to make recommendations on the sale or redevelopment of federal real estate.⁴⁰ While separate from GSA, GSA provides a critical role in supporting the Board activities and carrying out recommendations approved by OMB.

Witness List

Ms. Nina Albert
Commissioner
Public Buildings Service
General Services Administration

³⁴ Id.

³⁵ GSA. Climate Change Risk Management Plan. September 2021. Available at: [Climate Change Risk Management Plan \(sustainability.gov\)](https://www.gsa.gov/property/management/Climate-Change-Risk-Management-Plan).

³⁶ Id.

³⁷ Id.

³⁸ See, for example, Department of Defense, Climate Assessment Tool.

³⁹ See, <https://www.fema.gov/flood-maps/products-tools/national-risk-index>.

⁴⁰ See, H. Rept. 114-578, Federal Assets Sale and Transfer Act of 2016.