



U.S. House of Representatives
Committee on Transportation and Infrastructure

Washington, DC 20515

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April 1, 2011

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BRIEFING MEMORANDUM

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

SUBJECT: Legislative Hearing on “Can a Civilian BRAC Commission Consolidate Federal Office Space and Save Taxpayers Billions?”

PURPOSE

The Subcommittee on Economic Development, Public Buildings and Emergency Management will meet on Wednesday, April 6, 2011, at 10:00 a.m., in 2167 Rayburn House Office Building to receive testimony from the Office of Management and Budget, the General Services Administration (GSA), the Government Accountability Office (GAO), and the Chairman of the 2005 Department of Defense (DoD) Base Realignment and Closure (BRAC) Commission. The hearing will focus on whether a civilian BRAC process can effectively consolidate federal office space, maximize value to the taxpayer, and save taxpayers billions.

BACKGROUND

General Services Administration

The Subcommittee has jurisdiction over all of GSA’s real property activity through the Property Act of 1949, the Public Buildings Act of 1959, and the Cooperative Use Act of 1976. These three Acts are now codified as title 40 of the United States Code. The Public Buildings Service (PBS) is responsible for the construction, repair, maintenance, alteration, and operation of United States courthouses and public buildings of the Federal Government. Additionally, PBS leases privately owned space for Federal use. GSA owns or leases 9,600 assets and maintains an inventory of more than 362 million square feet of workspace. GSA acts as the “landlord” for the federal government, obtaining and managing space to meet the space needs of other federal agencies. GSA,

however, is just one of nine¹ federal agencies that, in total, own or manage 93% of federal real property.

Management Issues

Given the vast real estate holdings of the federal government, poor asset management and missed market opportunities cost taxpayers significant sums of money. For this reason, in 2003, the Government Accountability Office (GAO) placed real property management on its list of “high risk” government activities, where it remains today. GAO conducts biennial reviews on high-risk areas within the Federal government to bring focus to specific areas needing added attention and oversight. Areas are identified as “high” risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or areas that need broad-based transformation to address major economic, efficiency, or effectiveness challenges.

The key reasons the GAO identified federal real property as high risk are:

- excess and underutilized real property,
- deteriorating and aging facilities,
- unreliable property data, and
- over-reliance on costly leasing.²

Unfortunately, despite executive orders and memoranda issued during two administrations and acts of Congress intended to improve the management of federal real property, these problems persist.³ The GAO noted recently in the 2011 High Risk report issued in February 2011 that some progress has been made in some of these areas but that “federal agencies continue to face long-standing problems, such as overreliance on leasing, excess property, and protecting federal facilities.”⁴

The high risk activities of Federal real property are significant. Considerable amounts of vacant or underperforming assets can translate into significant costs associated with their operation, maintenance, and security. For example, in fiscal year 2009, the federal government spent \$1.7 billion in annual operating costs for underutilized buildings and \$134 million, annually, for excess buildings.⁵

¹ The other major land-holding departments and agencies include the Department of Defense, Veterans Affairs, Department of Energy, Department of Homeland Security, Department of the Interior, Department of State, National Aeronautics and Space Administration, and the U.S. Postal Service.

² See *High Risk Series: Federal Real Property*, U.S. General Accountability Office, GAO-03-122, January 2003.

³ See, for example, Executive Order 13327, Federal Real Property Asset Management, signed by President George W. Bush, February 4, 2004; Presidential Memorandum, Disposing of Unneeded Federal Real Estate, signed by President Barack Obama, June 10, 2010; Public Buildings Cooperative Use Act of 1976; Public Law 108-447, Division H, Title IV, Section 412, December 8, 2004 (providing enhanced flexibility to GSA in real property management).

⁴ *High Risk Series: Managing Federal Real Property*, U.S. General Accountability Office, GAO-11-278, February 2011, p. 58.

⁵ FY2009 Federal Real Property Report, Federal Real Property Council, September 2010, p. 5.

BRAC

The Base Realignment and Closure process was first established by Congress through the Defense Base Closure and Realignment Act of 1988. Its purpose was to create a basic framework for the realignment and disposal of DoD properties. The BRAC process was also intended to establish a fair process of evaluating DoD's space needs and determining the best space solutions for DoD facilities. Since 1988, there have been five rounds of BRAC, with the most recent commission established in 2005.

The BRAC process first involves DoD collecting data about its facilities and establishing standards and criteria to evaluate those facilities. Applying those standards and criteria, DoD then develops recommendations on base closures and realignments. Those recommendations are sent to the independent BRAC Commission for review. The BRAC Commission is comprised of nine individuals and the President is required to consult with Congress on six of the nine selections. The commission then determines if DoD followed its standards and criteria and reviews the associated data to determine if changes to the recommendations are appropriate. The BRAC Commission may make revisions; however, those revisions are limited in scope. The BRAC Commission then submits its recommendations to the president, who in turn must forward all recommendations to Congress or none. If the President disapproves of the BRAC recommendations, BRAC can revise and resubmit to the President. If the President then approves of the revisions the recommendations can be transmitted to Congress. Congress must affirmatively disapprove of the recommendations within a specified period of time and if Congress does not disapprove of the recommendations, the BRAC recommendations are implemented.

Civilian BRAC

This year, the President included in the proposed Fiscal Year 2012 Budget Section 735, a civilian BRAC process. Like the DoD BRAC, agencies would submit recommendations to a commission for review. The provisions included in the president's budget submission provide some detail of the proposal; however, the administration is expected to submit a more detailed legislative proposal in the near future.

The committee is also drafting a legislative solution that would use a BRAC-like process to address persistent problems in the management of federal buildings and real properties. Some key principles and issues the committee is examining include:

- Maximize Return to the Taxpayer: Ensuring the process maximizes the return to the taxpayer by emphasizing the highest and best use for properties. If the process only produces a "fire sale" of vacant federal properties (most of which may have little value), real reforms and savings will be missed.
- Maximize Space Utilization: Putting more people in less space and improving and standardizing the utilization rates of our public buildings across the board will be key to long-term savings.
- Reduce the Reliance on Costly Leasing: Maximizing utilization and consolidating space will facilitate the movement of people out of costly, long-term leased space.

- Create Value in Underperforming Assets: Redeveloping underused properties may in some cases create more value for the taxpayer than selling the property.
- Strengthening Management and Controls: Improving the overall management and controls related to federal properties will minimize wasteful decisions. For example, through eliminating disparate leasing authorities exercised by certain agencies outside of GSA's oversight significant taxpayer dollars can be saved. Just last year, the Securities and Exchange Commission (SEC), which has authority independent of GSA to lease, signed a \$500 million, 10-year lease for 900,000 square feet that the agency later determined it did not need.

Conclusion

The hearing will assist the committee in understanding the administration's proposal, identifying lessons learned from BRAC, and exploring key elements and issues that should be addressed in legislation.

WITNESSES

The Honorable Daniel I. Werfel
Controller, Office of Management and Budget

The Honorable Martha Johnson
Administrator
U.S. General Services Administration

Mr. David J. Wise
Director, Physical Infrastructure Team
U.S. Government Accountability Office

Accompanied by:
Mr. Brian Lepore
Director, Defense Capabilities and Management Issues
U.S. Government Accountability Office

The Honorable Anthony J. Principi
Former Secretary, US Department of Veterans Affairs
Chairman, 2005 Defense Base Realignment and Closure Commission