U.S. House of Representatives

Committee on Transportation and Infrastructure

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Report and Analysis of

Sitting on Our Assets: The Federal Government's Misuse of Taxpayer-Owned Assets

Prepared by Republican Staff

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I. Executive Summary

Purpose

This report outlines and analyzes the failure of certain federal agencies to properly utilize or manage assets under their respective control. It also provides recommendations on how to achieve cost savings through better utilization of these assets. Particularly when facing difficult financial challenges in our nation, it is vital that Congress focus its attention on saving our limited taxpayer resources and wisely using federal assets.

Scope

While this report does not address assets owned and managed by every agency within the federal government, it does provide an analysis of the largest oversight portfolio of federal agencies and departments within the jurisdiction of the U.S. House of Representatives Committee on Transportation and Infrastructure, including the General Services Administration, the Department of Transportation, Amtrak, the Army Corps of Engineers, and the United States Coast Guard. From the Smithsonian Institution in Washington, D.C., to Federal Aviation Administration air traffic control towers in Alaska, agencies in the Committee's jurisdiction reach across the entire country and touch the lives of every American on a daily basis.

Summary

This report identifies and describes a number of ways to reduce, sell, or reallocate assets, thereby lessening the heavy burden placed on taxpayers for maintaining these underutilized and underperforming resources. This review is critical in outlining how we can better manage and optimize the usage of our assets, rather than growing the federal government further and looking for new ways to spend taxpayer dollars ineffectively. The following report contains more specific recommendations on how to achieve this goal.

The U.S. government is the nation's largest asset holder. It manages 896,000 buildings and structures with a total area of 3.29 billion square feet and more than 41 million acres of land. The General Services Administration, which acts as the federal government's landlord, owns or leases 9,600 assets and maintains an inventory of more than 362 million square feet of space.

The Department of Transportation owns or leases approximately 69,500 real property assets – including land, buildings, and structures. There are more than 4 million miles of public roads in the United States. Amtrak, heavily subsidized by taxpayers, maintains over $17 billion dollars worth of infrastructure assets throughout its national rail passenger system.

There are approximately 1,700 miles of levees, 650 dams and 383 major lakes and reservoirs, 12,000 miles of commercial inland channels, and 75 hydropower generating facilities all owned by the federal government. The U.S. government also operates and

maintains waterways leading to 926 coastal, Great Lakes, and inland harbors and 241 individual lock chambers at 195 sites nationwide.

Examples of Cost Savings

This report outlines potential cost savings of hundreds of billions of dollars. Below are some examples of how better asset management and elimination of waste within programs under the Committee's jurisdiction could translate into meaningful savings for taxpayers. While in some cases, changes made based on the report's recommendations would yield estimated savings in the millions, in other cases billions could be saved. Congress has a responsibility to be a good steward of the taxpayers' money, and Congressional action on a number of these issues will add up to significant savings. Some of the following examples are further detailed in this report:

- Reducing or eliminating spending on unneeded courthouses and excessive courthouse space: Estimated savings $1 billion.
- Selling at least 20% of nonperforming real estate assets: Estimated savings $2 billion.
- Better utilization and development of the Northeast Corridor and introduction of true high-speed passenger rail service – financed, constructed and operated in conjunction with the private sector: Estimated savings of $20 billion.
- Reprogramming funds that were awarded to states for slow-speed passenger rail projects to true high-speed projects that can attract private sector participation and run at an operational profit: Estimated savings of up to $6 billion.
- Encouraging additional investment in infrastructure from the private sector by providing a better definition of public-private partnerships for undertaking highway, transit, port, rail, airport and other infrastructure projects. Estimated savings up to $180 billion.
- Enacting a 437-Day Plan that will streamline the approval of transportation projects resulting in lower project costs: Estimated savings of up to $50 billion.
    - A 437-Day Plan will eliminate duplicate federal regulatory approvals when state law or rules meet or exceed federal standards.
    - A 437-Day Plan will also allow concurrent approval processes for various federal infrastructure projects rather than consecutive approvals, to save time and money.

- Allowing the transfer of stalled or cancelled project funds to more viable projects. Estimated savings of up to $1 billion.
- Converting 30 million square feet of leased space to owned space: Estimated savings over $150 million per year or $1.5 billion over 10 years.
- Consolidating the FTC headquarters in Washington, DC into a single facility: Estimated savings of $350 million.
- Reinstating GSA's Building Opportunity Purchase Program for ten office buildings: Estimated savings of $1 billion.
- Redeveloping millions of square feet of idle or vacant federal buildings, such as the Old Post Office Building in Washington, DC, through public-private partnerships: Estimated savings of $200 million.
- Selling excess and unused Department of Veterans Affairs properties: Estimated savings of $175 million in avoided annual costs or $1.75 billion over 10 years.
- Renegotiating 60% of GSA leases within two years to take advantage of declining market rates: Estimated savings of $300 million per year or $3 billion over ten years.
- Funding the Corps of Engineer projects in an efficient manner and at the Corps' capability level: Estimated savings of hundreds of millions.
- Developing an efficient, more streamlined wetlands permitting process for the Corps: Estimated savings of tens of millions of dollars annually and substantial time for both the Corps and the regulated community.
- Permanently authorizing section 214 of WRDA 2000: Estimated savings of millions.
- Exploring creative uses of the FAA's Contract Tower Program: Estimated savings of at least $190 million annually or $1.9 billion over ten years.
- Better utilization of technology for screening air passenger baggage, and utilization of high-performing private contractors for passenger screening: Estimated savings of at least $100 million annually or $1 billion over ten years.
- Allowing private educational institutions to train air traffic controllers: Estimated savings of $9 million annually or $90 million over ten years.
- Eliminating funding for the USCGC POLAR SEA and POLAR STAR: Estimated savings of more than $115 million.

II. GSA's Extensive Mismanagement of Real Property Assets

The General Services Administration (GSA) mismanages one of the largest portfolios of real property within the federal government, which costs American taxpayers billions of dollars

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 nine[1] federal agencies that, in total, own or manage 93% of federal real property.

Given the vast real estate holdings of the federal government, poor asset management and missed market opportunities cost taxpayers tremendous sums of money. For this reason, in 2003, the General Accountability Office (GAO) placed real property management on its list of "high risk" government activities where it remains today.

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
- the 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]

These high risk activities are significant. For example, GSA owns large numbers of vacant or underutilized federal buildings, which cost millions of dollars to operate, maintain, and secure. Yet GSA struggles to dispose of its surplus property in a timely fashion and for reasonable rates of return despite its enhanced property disposal authorities.[4] In addition, GSA's investment priorities too often result in expensive government construction where there is little federal need and, on the other hand, an over reliance on costly private leases where the demand to house federal workers is great and of a long-term duration. Another disturbing trend in GSA's real property management is

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[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] Public Law 108-447, Division H, Title IV, Section 412, December 8, 2004.

its apparent inability to maximize market opportunities to house federal employees at the lowest long-term cost to taxpayers.

While GSA has increasingly relied upon leasing to satisfy long-term needs of federal agencies, its existing inventory of government-owned properties is aging, draining resources to repair and maintain government assets. The average age of GSA's real property inventory is 46 years and nearly a third of GSA's assets are older than the agency itself.[5] Not only do a significant number of aging assets drain scarce repair and maintenance resources, but very often they may create inefficiencies for the tenant agency in carrying out its mission.[6] Instead of taking steps to diversify it's portfolio with a better mix of assets, GSA continues to hold onto old buildings and turns to leasing all too often to satisfy new space needs.

Many of the obstacles to efficiently manage the real property inventory are within agencies' control, but some impediments are outside of their authority. For example, while many agencies cite a lack of financial incentives to dispose of surplus property, Congress authorized GSA to retain the proceeds from its surplus property sales and to enter into enhanced use lease agreements for the full utilization of federal assets.[7] GSA also has the authority and responsibility to compile the Federal Real Property Report, which is supposed to contain essential asset data for the effective management of federal real property. GSA also has the responsibility under the Public Buildings Act of 1959, as amended, to meet federal agencies' office space requirements in a cost effective manner, yet it too often exercises little or no independent judgment when determining the most cost effective means to do so.

Finally, the scoring guidelines of the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO), while outside the authority of the GSA and other agencies, is a significant factor in the over reliance on costly private leases to meet federal office space requirements. These scoring rules require the full costs of construction, purchase or capital leases to be scored upfront, while scoring for operating leases typically only accounts for the first year of rent plus cancellation costs.[8] As a result, leasing looks cheaper, when in reality long-term leasing may be significantly more costly.

In sum, GSA and other property-holding agencies fail to act like prudent property owners and managers and, ultimately, the cost is borne by the taxpayer.

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[5] Testimony of Robert A. Peck, Commissioner, Public Buildings Service, U.S. General Services Administration, before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, March 24, 2010.

[6] *See* Investments in Federal Facilities: Asset Management Strategies for the 21st Century, Committee on Business Strategies for Public Capital Investment, Board on Infrastructure and the Constructed Environment, Division on Engineering and Physical Sciences, National Research Council, 2004.

[7] Id.

[8] *See* The Budgetary Treatment of Leases and Public/Private Ventures, Congressional Budget Office, February 2003; U.S. Office of Management and Budget Circular A-11, Part 8, Appendix B.

Vacant or Underused Federal Real Property: Vacant and underused federal properties are persistent and expensive problems for the federal government and the American taxpayer

Vacant buildings, partially occupied office complexes, derelict industrial facilities, old warehouses, and abandoned shopping centers are all types of underutilized properties in the federal government's inventory. When properties are underutilized by the federal government they typically incur operating costs that exceed the benefits they provide through current federal ownership. In addition, the capital represented by such assets often lies dormant and inaccessible for public benefit.

Scope

In 2008, the federal government's real property portfolio consisted of almost 896,000 buildings and structures with a total area of 3.29 billion square feet and more than 41 million acres of land.[9]

According to the GSA's 2009 State of the Portfolio Report, nearly 40% of its assets are underperforming.[10] In a 2003 GAO report, it was noted that there were 236 vacant or underused properties owned by GSA.[11] Properties highlighted in that GAO report seven years ago remain vacant or underutilized. As mentioned above, these properties include commercial office space, warehouses, manufacturing facilities, and special use facilities such as courthouses and even a shopping mall. GSA indicated that it had 258 buildings with 13.7 million rentable square feet reported as excess in 2007.[12] Excess property is that property which the agency has affirmatively identified as no longer needed by that agency, suggesting the amount of actual unused and underused GSA assets is much higher. The problem of underutilized space is wide spread as well. For example, the GAO found that "Energy, DHS, and NASA reported that 10 percent of their facilities were excess or underutilized."[13] Extrapolating the percentage of underutilized space government-wide suggests that the amount could be more than 330 million square feet of excess or underutilized space.[14]

Unfortunately, determining an exact figure for the amount of vacant and underused property is difficult. While the federal government compiles a Federal Real Property Profile (FRPP) each year, containing details of its holdings, only a summary is

[9] FY2008 Federal Real Property Report: An Overview of the U.S. Federal Government's Real Property Assets, Federal Real Property Council, August 2009, p. 6.
[10] State of the Portfolio: 2009, U.S. General Services Administration, p. 35.
[11] Federal Real Property: Vacant and Underutilized Properties at GSA, VA, and USPS, U.S. Government Accountability Office, GAO-03-747, August 2003.
[12] Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform, U.S. Government Accountability Office, GAO-07-349, April 2007, p. 24.
[13] Federal Real Property: An Update on High Risk Issues, Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, U.S. Government Accountability Office, GAO-09-801T, July 15, 2009, p. 11.
[14] Applying 10% to the 3.28 billion square feet of buildings and structures owned by the federal government, excluding land holdings.

typically made publically available and the data collected has been shown to contain significant flaws. According to the GAO, "…data weaknesses reduce the effectiveness of the FRPP as a tool to enable government-wide comparisons of real property efforts, such as the effort to reduce the government's portfolio of unneeded property."[15]

Costs

Underutilized properties create financial burdens for taxpayers in several ways. For example, the majority of a facility's operating costs are fixed regardless if the building is fully occupied or partially occupied, and the costs are directly proportional to the amount and type of space. According to the FY2008 Federal Real Property Report the average annual operating costs for office space are $10 per square foot of space.[16] These costs include recurring maintenance and repair costs, utilities, cleaning, and roads and grounds expenses.[17] Assuming that, on average, 10% of the government properties (both leased and owned) are excess or underused, the annual operating cost to the taxpayer would be approximately $1.9 billion annually.[18]

Old Post Office Building, Washington D.C.

Old Post Office, Washington, D.C.: GSA Loses $6.5 million per year on this partially vacant building in a prime location in D.C.

The historic Old Post Office building is an example of a major underperforming GSA property, located at a prime location in the nation's capital, just blocks from the U.S. Capitol and the White House. Built from 1892 to 1899 to house the U.S. Post Office Department Headquarters and the city's post office, the Old Post Office Building is the second-tallest structure in the nation's capital, after the Washington Monument.[19] It sits partially occupied and loses millions of taxpayer dollars a year. According to GSA, it leases approximately 200,000 square feet of office space in the building to a variety of federal agencies and collects about $5.5 million in rent each year. The building is more than 375,000 square

[15] Federal Real Property: Authorities and Actions Regarding Enhanced Use Leases and Sale of Unneeded Real Property, Letter to U.S. House Committee on Oversight and Government Reform from the U.S. Government Accountability Office, GAO-09-283R, February 17, 2009, p. 9.
[16] FY2008 Federal Real Property Report: An Overview of the U.S. Federal Government's Real Property Assets, Federal Real Property Council, August 2009, p. 33.
[17] Id. at 32.
[18] *See* Id. at 32 (using annual total annual operating costs for owned and leased space).
[19] Building Overview, Old Post Office, Washington, D.C., U.S. General Services Administration.

feet.[20] The lower levels and an adjacent pavilion are examples of failed attempts by GSA to encourage retail and other commercial mixed use.

GSA spends about $12 million to operate and maintain the facility, which results in an annual operating loss of $6.5 million. Despite specific direction and explicit authority enacted into law in 2008, GSA has yet to begin redeveloping this site.[21] In 2005, GSA determined that the 30-year net present value of simply leasing out the building for private development would yield an average of $21 million.[22] However, little movement has occurred to that end.

Veterans Affairs (VA)

Old VA Hospital, Milwaukee, Wisconsin, a vacant 141-year-old building, previously used as a domiciliary, which would require extensive upgrades to the electrical system to accommodate a modern computer network.

Excess VA space is costing the taxpayer $175 million annually.

According to the GAO, "With more than 32,000 acres of land and over 6,200 buildings on approximately 300 sites, VA is among the largest federal property-holding agencies and the operator of one of the largest health care-related real estate portfolios in the nation."[23]

VA's health care system has shifted from predominantly hospital-based care to outpatient care, which has resulted in an increasingly obsolete infrastructure, including many hospitals built or acquired more than 50 years ago.[24] As a result, in 2004, the VA initiated the Capital Asset Realignment for Enhanced Services (CARES) Initiative

[20] Inventory of Owned and Leased Properties, U.S. General Services Administration.
[21] Old Post Office Building Redevelopment Act of 2008, Public Law 110-359.
[22] Executive Summary of Responses to the RFI for the Old Post Office, U.S. General Services Administration, Final Draft, July 25, 2005, p. 3.
[23] VA Real Property: VA Emphasizes Enhanced-Use Leases to Manage Its Real Property Portfolio, Statement of David Wise, Director, Physical Infrastructure Issues, U.S. General Accountability Office, GAO-09-776T, June 10, 2009, p. 1.
[24] VA Health Care: Overview of VA's Capital Asset Management, Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, U.S. General Accountability Office, GAO-09-686T, June 9, 2009, p. 3.

intended to implement recommendations related to the management of VA health care system's capital assets.

The GAO noted that because many of VA's facilities were built more than 50 years ago and are no longer well suited for the current VA system, the VA has millions of square feet of property that is underutilized or vacant. The GAO estimated that VA's annual costs for this extra space is $175 million – money that could be put back into the VA medical system for the care of its patients.[25] In 2008, the GAO found that the VA made some progress in decreasing the amount of underutilized space from 15.4 million square feet in fiscal year 2005 to 5.6 million in fiscal year 2007; however the GAO added that the amount of vacant VA space remained relatively unchanged at 7.5 million square feet.[26] The GAO also noted that it developed the estimate of the costs for the excess space because the VA did not track the costs itself or develop a method of doing so.[27]

Reportedly, nearly all of the vacant space is at Veterans Health Administration (VHA) -operated facilities.[28] VHA operates the nation's largest integrated healthcare system, including 155 hospitals, 881 outpatient clinics, 135 nursing homes, 46 residential rehabilitation treatment programs, and 207 readjustment counseling centers totaling a combined 144.6 million square feet.[29] Because 89% of VA's vacant buildings are aged 51 years or older and just over half are more than 75 years old, as of fiscal year 2007, 99% of them had a component deemed to be in "poor" or "critical" condition.[30]

While some progress has been made through the implementation of the CARES Initiative, the GAO noted that performance measures and reliable data is lacking.[31] Effective realigning of VA's capital assets is critical for not only saving scarce taxpayer dollars, but also in ensuring VA funding for the care of veterans is maximized.

Disposal of Surplus Property: Maintaining unneeded property consumes billions of taxpayer dollars

Even though the government's inventory includes vacant, underutilized and underperforming assets, disposing of unneeded assets has continued to be a problem. For example, in fiscal year 2009, GSA disposed of 800,000 square feet of space, generating $1.8 million of revenue compared with 54 million square feet of underperforming and nonperforming assets in its inventory.[32]

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[25] Id. at p.12
[26] Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions, U.S. Government Accountability Office, GAO-08-939, September 2008, Highlights.
[27] Id.
[28] Id. at 14.
[29] Id. at 7.
[30] Id. at 15.
[31] VA Health Care: Overview of VA's Capital Asset Management, Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, U.S. General Accountability Office, GAO-09-686T, June 9, 2009, pp. 7, 12.
[32] State of the Portfolio: 2009, U.S. General Services Administration, pp. 30 and 35.

Disposing of assets is critical in minimizing costs to the taxpayer and properly managing federal assets. As the Congressional Research Services (CRS) points out: "[d]isposition is an important asset management function because the costs of maintaining unneeded properties can be substantial, consuming billions of dollars that might be applied to pressing real property needs, such as acquiring new space and repairing existing facilities, or to other policy issues, such as reducing the national debt."[33]

There are a number of reasons why federal agencies may be slow to dispose of unneeded assets. Key reasons relate to legal and regulatory requirements that must be met as well as the lack of incentives for agencies to shed unneeded properties. For example, federal agencies are usually required to assess and pay for any corrective actions needed to address environmental, repair and maintenance issues with a property before they can begin the process of disposal.[34]

In addition, the property must then be screened for other public uses or benefits, including a determination that the property is in fact "surplus," meaning there are no other federal uses, including use as a homeless shelter.[35] These screening processes can be complicated and take up agency resources, further hindering the disposal of unneeded property. Adding to the disincentive is that, generally, an agency can not recoup the costs incurred to prepare the property for disposal or the administrative costs of screening the property for other public uses.

However, GSA should no longer have this disincentive. In 2004, Congress enacted Section 412 in the Consolidated Appropriations Act of 2005 to provide GSA with flexibility in disposing of property and authorized GSA to deposit proceeds into its Federal Buildings Fund (FBF) to be reinvested in other federal assets.[36] Notwithstanding this authority, GSA has failed to effectively use this authority to improve its management of federal real property. In fact, other agencies who were provided similar flexibility, such as the VA, have failed to make full use of those authorities to better manage their property inventory.

Disposing of unneeded property not only has the potential of producing proceeds for the federal government, but it also saves funds by avoiding future operating costs of maintaining the unneeded asset. Annual operating cost avoidance can produce a significant amount of savings. For example, the net proceeds in fiscal year 2008 for the federal government from property sales were $133.7 million and the avoided annual operating costs were $120 million.[37] The savings from FY2006 through FY2008 from operating costs can be seen in the chart below:

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[33] Real Property Disposition: Overview and Issues for the 111th Congress, *Summary*, Congressional Research Service, July 27, 2010.
[34] Id. at p.5.
[35] Id. at p.6; The Disposal Process, U.S. General Services Administration, Updated 4/30/2010.
[36] Public Law 108-447, Division H, Title IV, Section 412.
[37] FY 2008 Federal Real Property Report: An Overview of the U.S. Federal Government's Real Property Assets, August 2009, p. 24.

	Total Annual Operating Costs for Disposed Assets
FY 2006	$185,803,120
FY 2007	$420,099,800
FY 2008	$119,616,100
Total	$725,519,020

**** FY 2008 Federal Real Property Report. Page 26. Conducted by The Federal Real Property Council.***

Federal Office Building, Bethesda, Maryland

Even when GSA disposes of property, it often fails to take steps to get the best return for the taxpayer. For example, this year, GSA sold a 10-story, 127,000 square foot federal office building in downtown Bethesda, Maryland. The building is located near the D.C. Metro (public transit) eight miles from downtown Washington, D.C. and is in an area surrounded by commercial office buildings, retail, and residential complexes. In addition, the building sold with zoning exemptions that would allow the purchaser to build more density than the current zoning would normally allow. The building sat vacant for eight years, missing the height of the real estate market during which time GSA could have realized a good return on investment. However, GSA instead sold the building in 2010 for $12.5 million ($98/square foot), less than the suggested minimum bid. While GSA has recently sold this prime real estate in Bethesda, it has issued a solicitation seeking to lease 100,000 square feet of space in Bethesda, Maryland for an agency whose lease is expiring in 2011.[38]

Federal Office Building, Bethesda, Maryland: GSA real estate in a prime location sat vacant for 8 years only to be sold in a bad real estate market for less than the minimum suggested bid.

[38] Expressions of Interest Sought - Bethesda, MD, Solicitation Number 0MD2004_B, U.S. General Services Administration, September 1, 2010.

Poor Investment Decisions: GSA fails to manage its existing assets effectively, overbuilding courthouses and pouring scarce resources into assets that are underused

Courthouses

In a June 2010 report, the GAO concluded that of the 33 federal courthouses constructed since 2000, there has been 3.56 million square feet of extra space built, costing the taxpayers $835 million in addition to $51 million in annual expenses.[39] The extra space was due primarily to:

- 1.7 million square feet of space exceeding congressionally authorized limits;
- 887,000 square feet related to the Judiciary's overestimate of the number of judges projected to be at a given courthouse; and
- 946,000 square feet related to the lack of courtroom sharing among judges.[40]

The June 2010 GAO report was by no means the first review of the federal courthouse program. In fact, the GAO has raised ongoing concerns about the courthouse program for nearly two decades.[41] Despite the GAO findings and the ongoing warnings and oversight of the Committee on Transportation and Infrastructure, GSA has continued to make questionable decisions on when a new courthouse is needed and whether the repairs and renovations of existing courthouses are appropriate.

In fact, GSA continues to fail to question the accuracy of the methodology the Judiciary uses to determine its future space needs. For example, the Judiciary continues to include in its projections new judgeships that require acts of Congress to be created and caseload projections to determine space needs, despite questions raised about their accuracy.[42]

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[39] Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs, GAO-10-417, June 2010, p. 9.
[40] Id.
[41] *See* Federal Courthouse Construction: More Diciplined Approach World Reduce Costs and Provide Better Decisionmaking, T-GGD-96-19 (Nov. 1995); Courthouse Construction: Improved 5-Year Plan Could Promote More Informed Decisionmaking, GGD-97-27 (Dec. 1996); Courthouse Construction: Better Courtroom Use Data Could Enhance Facility Planning and Decisionmaking, GGD-97-39 (May 1997); Courthouse Construction: Sufficient Data and Analysis Would Help Resolve the Courtroom-Sharing Issue, GAO-01-70 (Dec. 2000); Federal Courthouses**:** Rent Increases Due to New Space and Growing Energy and Security Costs Require Better Tracking and Management, GAO-06-613 (June 2006).
[42] *See*, for example, Federal Judgeships: The General Accuracy of District and Appellate Judgeship Case-Related Workload Measures, GAO-09-1050T, September 2009.

E. Barrett Prettyman Federal Courthouse and the Bryant Annex

Prettyman Courthouse and Bryant Annex

The Bryant Annex to the E. Barrett Prettyman Courthouse in Washington, D.C. was built to accommodate expected growth of the federal court in D.C., based on projections of judgeships that have now been shown to be wrong. The GAO determined that it was overbuilt by 218,000 square feet costing $56 million plus $4 million extra in annual maintenance and operations costs.

At the time a new annex was originally proposed in 2001, the federal court in D.C. had 41 judges, including the court of appeals, district court, senior judges, magistrate judges and bankruptcy judges. It was approved as a "priority" by the Judicial Conference in 1999 and the justification for the new annex included that the then-existing courthouse, Prettyman, was filled to capacity. It was also stated at that time that the new annex, along with the Prettyman building would be "fully utilized."[43] The 10-year judge projections used by the Judiciary at that time predicted that 49 judges would be housed in both the Prettyman building and Bryant Annex.[44]

Today, the federal courts in Washington, D.C. are occupying both the Prettyman Courthouse and its Bryant Annex. However, currently, the courthouse and its annex house 10 less judges than projected, and two less than it had when the new annex was proposed. In addition, there are currently 12 unassigned judges' chambers in the Prettyman Courthouse.[45]

[43] Prospectus – Construction E. Barrett Prettyman Courthouse Annex, Washington, D.C., Prospectus Number: PDC-01W01.
[44] Statement submitted to Committee staff by the U.S. Courts in May 21, 2010.
[45] Id.

Despite the overbuilt annex and the resulting underuse of space in the Prettyman courthouse, the Administration is now requesting funding to renovate the Prettyman courthouse at a total estimated cost of $288 million.[46]

Wilkie D. Ferguson Jr. United States Federal Courthouse, Miami, Florida

Wilkie D. Ferguson Jr. United States Federal Courthouse, Miami, Florida

The Ferguson United States Courthouse in Miami, Florida was another courthouse built in the last 10 years highlighted as overbuilt by the GAO. In 2000, the 10-year projection for judges was 33. There are currently 27 judges, including vacancies.[47] The courthouse was overbuilt by 238,000 square feet at an excess cost of $49 million plus $3.8 million in annual costs related to maintenance and operations.[48] It exceeded the authorized limit on construction by over 97,000 square feet.[49]

In this case, not only was the new courthouse overbuilt, but like with the new Annex in Washington, D.C., the new Miami courthouse was originally intended to supplement space in the existing David W. Dyer Federal Building and United States Courthouse, a historic building now abandoned by the U.S. courts.[50] The square footage of overbuilding calculated by the GAO did not take into account the space in the historic courthouse no longer in use by the Judiciary. Currently, the Dyer courthouse, placed on the National Register of Historic Places in 1983, is deteriorating and is in disrepair in a central area of Miami, Florida. GSA is now conducting a feasibility study to determine reuse options for the Dyer courthouse. The study is expected to be completed sometime in 2011.

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[46] U.S. General Services Administration's Five-Year Capital Plan, Fiscal Year 2011 Budget Request.
[47] Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs, GAO-10-417, June 2010, p. 28.
[48] Id. at p. 11.
[49] Id. at p. 18.
[50] Factsheet, U.S. Courthouse, Miami, Florida, U.S. General Services Administration.


David W. Dyer Federal Building and United States Courthouse, Miami, Florida: a historic building, abandoned and in disrepair after the new courthouse was built.

These cases are not anomalies when it comes to the courts' habit of over-projecting its space needs, due in part to poor data and methodology. Information received by the Committee staff from GSA on courthouses completed between 1995 and 2008 indicates that there were 17% more courtrooms built in courthouses than there were actual judges. While the Judiciary raises questions about some of the GAO's findings, arguing for example that the GAO retroactively applied courtroom sharing models not yet implemented by the Judiciary, the data clearly shows that without any sharing of courtrooms, courthouses have been routinely overbuilt.

Other Federal Buildings and Projects: Wasteful overbuilding is not confined to courthouses

Edith Green-Wyndell Wyatt Federal Building, Portland, Oregon

The American Recovery and Reinvestment Act (ARRA) provided GSA with $5.5 billion for its federal buildings program. However, instead of targeting those funds towards GSA's growing backlog of repairs and maintenance or obtaining needed government-owned space, and lowering the dependence on costly leasing, the ARRA requires GSA to spend $4.5 billion of those funds on converting federal buildings into High-Performance Green Buildings.[51]

One of the projects GSA selected to undertake with ARRA dollars is a $139 million[52] project to convert the Edith Green-Wyndell Wyatt Federal Building in Portland,

[51] Public Law 111-5.
[52] The project has increased by $6 million since originally proposed by GSA in its Spend Plan under the ARRA.

Oregon into a high-performance "green" building. This 18-story building, built in 1975, will be renovated to include a number of "green" features. The predominate feature will be a shade wall on the west façade intended to reduce energy consumption in the hotter months of the year in Portland. The original GSA design proposed a 250 foot tall green, living wall, which GSA has now replaced with a shade wall of aluminum rods.

The current building, green wall, and final design of the Green-Wyatt Federal Building in Portland, OR

The "greening" of the Green-Wyatt Federal Building will cost almost $375 per square foot, which would have been enough to construct a new building with high-performance energy features and may have resulted in more jobs created – the stated purpose of the ARRA. While GSA reportedly asserted there will be $280,000 of annual savings in energy costs, it is unclear how long – if ever – it will take for the taxpayer to realize a return on these energy efficiency investments.[53]

Over Reliance on Costly Private Sector Leasing: GSA spends hundreds of millions of dollars more for leasing rather than constructing space and loses $140 million annually on managing the leases

The reliance on leasing to meet federal space needs has increased significantly in recent years. Today, GSA leases more space than it owns. In Fiscal Year 2009, GSA reported that it leased 184 million rentable square feet while it only owned 177 million rentable square feet.[54] As with other management issues, the GAO has highlighted concerns regarding an overreliance on costly leasing to meet long-term federal space needs.[55] And, leasing is a key reason GAO placed federal real property on its High Risk list in 2003 and why it remains on the list today.[56]

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[53] *In Portland, Growing Vertical*, New York Times, January 30, 2010.
[54] State of the Portfolio 2009, U.S. General Services Administration, p. 28.
[55] *See* General Services Administration: Opportunities for Cost Savings in the Public Buildings Area, GAO/T-GGD-95-149, July 1995; General Services Administration: Comparison of Space Acquisition Alternatives—Leasing to Lease-Purchase and Leasing to Construction, GAO/GGD-99-49R, March 1999;

While leasing space to meet short-term needs or for smaller agencies may be more cost-effective, generally, the GAO has found that leasing space to meet long-term space needs is more expensive and provides the taxpayer with little return on the investment. When large federal agencies lease space that likely will be used for at least 20 or 30 years, the federal government often pays for the building many times over, without any equity in the building.

For example, in studies completed by the GAO, the GAO has consistently found that construction or lease-purchase (an option to own) would have saved money over leasing. In 1995, the GAO reported that GSA had entered into 55 operating leases for long-term needs, costing $700 million more than construction would have. In 1999, the GAO reported that for 9 major operating leases GSA had proposed, construction would have been the least-cost option in 8 cases and would have saved an estimated $126 million.[57] In 2008, GAO examined the cost-effectiveness of leasing decisions for seven GSA building leases and found that leasing was more costly over the long-term than construction for four of the leases.[58]

However, since the time of these earlier reports, the amount of leasing for meeting federal space needs has not decreased. Instead, it has increased, resulting today in GSA leasing more space than it owns. The impact of this overreliance on leasing is not just increased costs for space, but also the draining of resources that could be used to reinvest in federal assets.

In 1972, Congress enacted the Public Buildings Act Amendments and established the Federal Buildings Fund (FBF) within GSA to finance the operating and capital costs associated with federal buildings.[59] The intention was to create a steady and reliable source of funding to pay for repairs and the construction and purchase of new buildings. The primary source of funding for the FBF are rents paid to GSA by tenant agencies housed in GSA-owned buildings and facilities.[60] However, the federal space needs, including a backlog of repair and renovations, has generally outpaced the FBF income, often resulting in the need for additional appropriations to supplement the FBF.[61] This problem has been exacerbated by the increase in private leases that generate no income to the FBF.

Federal Real Property: Reliance on Costly Leasing to Meet New Space Needs Is an Ongoing Problem, GAO-06-136T, October 2005.

[56] High-Risk Series: Federal Real Property, U.S. General Accountability Office, GAO-03-122, January 2003; Federal Real Property: An Update on High Risk Issues, Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, U.S. General Accountability Office, GAO-09-801T, July 2009.

[57] Federal Real Property: Strategy Needed to Address Agencies' Long-standing Reliance on Costly Leasing, U.S. General Accountability Office, GAO-08-197, July 2008, p. 1.

[58] Id. at 14.

[59] Federal Buildings Funding Limitations and Their Implications, Congressional Research Service, March 21, 2008, p.1.

[60] 40 U.S.C. 592(b).

[61] Federal Buildings Funding Limitations and Their Implications, Congressional Research Service, March 21, 2008, p.1.

As the FBF receives less and less funding due to the increasing reliance on private leasing, less capital is available to invest in constructing and owning new space which would bring in new income to the FBF. However, the overreliance on leases not only means income is diverted away from the FBF, but GSA loses money on private leases, costing taxpayers. Lease payments for private leases are intended to "pass-through" GSA to the private landlord, with GSA charging an additional sum for operating and management costs. However, GSA loses money on private leases. In FY2009, GSA had a negative net operating income (NOI), the measure of lease performance, of 2.9%. With over half of GSA's properties privately leased, this translates into a loss of over $140 million.[62]

Contrasting the net loss from leases with assets that provide the greatest revenue for the FBF, the top federal buildings that benefit the FBF are owned facilities. In fact, the top ten producers of revenue and funds from operations (FFO) for the FBF make up 20% of the total funds from operations of GSA-owned facilities, generating nearly $300 million.[63]

Department of Transportation (DOT) Headquarters, Washington, D.C.

U.S. Department of Transportation Headquarters, Washington, D.C.

The DOT Headquarters in Washington, D.C. is a 2.1 million square foot leased facility built in 2007 to house the Department of Transportation (DOT) headquarters. The building is part of planned development of the Southeast Federal Center – 55 acres of property not more than a mile from the U.S. Capitol building. Formerly used as a Navy Yard, Congress enacted special legislation to provide flexibility to GSA in redeveloping the site.[64] The DOT project was the first cabinet-level headquarters to be designed and constructed in D.C. in more than three decades. The result is a building built on federal land, transferred to the developer, who in turn constructed the building leased back to the U.S. government with no right of ownership or to purchase. Very

[62] State of the Portfolio: 2009, U.S. General Services Administration, p. 38.
[63] Id. at 22.
[64] Southeast Federal Center Public-Private Development Act of 2000, Public Law 106-407.

likely, given that this is significant headquarters space, the taxpayer will pay for this structure several times over without any ownership interest in the building.

Federal Trade Commission Headquarters, Washington, D.C.

Instead of learning from the DOT project, the Administration is now proposing to lease 427,000 square feet for a new headquarters for the Federal Trade Commission (FTC) in Washington, D.C. Calling it an "operating lease" for a term of 15 years, the proposal would provide new "consolidated" space for FTC operations in D.C., while not actually consolidating all of its operations. The new leased space would include 144,000 square feet of special use space, such as hearing rooms and deposition rooms, making it more likely than not that this will be a long-term lease with FTC housed there for decades to come.

The Administration's proposal costs taxpayers in two key ways:

- It fails to fully consolidate the FTC into one efficient location; and
- It expands the amount of leased space for a long-term headquarters function.

Even given the upfront costs for constructing or purchasing a new consolidated FTC headquarters, ownership would cost the government $300 million less over the life of the project.[65] It would also free up for better use the historic "Apex" building on Pennsylvania Avenue in D.C., which the FTC proposes to retain. The Apex building, built 73 years ago, still houses the FTC and is located in what has become an active cultural triangle. While FTC proposes to retain this building in addition to leasing 427,000 square feet of space, this building would remain underutilized. With 306,000 gross square feet of space, only little more than half is usable.[66] 82% of the usable space is used for office space and less than 3% is actual hearing space.[67]

[65] Calculated from data received by Committee staff from the General Services Administration and other sources.
[66] Housing Plan for Apex Building, U.S. General Services Administration, Building ID DC0019.
[67] *See* id.

Historic Apex Building on Pennsylvania Avenue, NW, Washington.D.C.

In designating federal real property as a high risk area, the GAO noted that "… much of this vast and valuable asset portfolio presents significant management challenges and reflects an infrastructure based on the business model and technological environment of the 1950s. Many assets are no longer effectively aligned with, or responsive to, agencies' changing missions and are therefore no longer needed."[68] The concern about aging and outdated buildings that no longer align to their current missions and programs of agencies has been echoed by other experts, such as the National Research Council.[69]

GAO further noted that "[m]any of these assets and organizational structures are no longer needed; others are not effectively aligned with, or responsive to, agencies' changing missions. At the same time, technological advances have changed workplace needs, and many of the older buildings are not configured to accommodate new technologies."[70]

The proposal to meet FTC's current requirements through the leasing of new space, coupled with retaining this aging building, provides an example of wasted dollars and opportunities. Consolidation of all of FTC into new government-owned space more aligned with its current mission and programs would save money in the long-run, create efficiencies and provide an opportunity to make the Apex building available for better use in this cultural triangle in Washington, D.C.

Bureaucratic Hurdles to Ownership: Federal bureaucracy gives incentives for costly space solutions

[68] High Risk Series: Federal Real Property, U.S. Government Accountability Office, GAO-03-122, January 2003, Highlights.

[69] Statement of RADM David J. Nash, CEC, USN (Retired), Chair, Board on Infrastructure and the Constructed Environment, Division on Engineering and Physical Sciences, National Research Council, The National Academies Before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, U.S. House of Representatives, March 24, 2010.

[70] Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform, U.S. Government Accountability Office, GAO-07-349, April 2007, p. 22.

Unfortunately, budgetary scorekeeping has fueled the increase in the overreliance on costly leases and poor management decisions. Scorekeeping is the method through which the impact of pending or enacted legislation on the budget is measured.[71] The current application of scorekeeping rules makes leases appear to be cheaper than ownership options.

Generally, operating leases are scored in a way that takes into account only the cost of the first year's rent plus any cancellation costs, while construction, purchase or capital leases must be scored with the full costs upfront.[72] Operating leases must meet six criteria: (1) ownership remains with the lessor and is not transferred to the government; (2) there is no bargain-priced purchase option; (3) the lease term is not more than 75% of the life of the asset; (4) the present value of the lease payments over the life of the lease does not exceed 90% of the value of the asset; (5) the asset is general purpose not built to unique specifications; and (6) there is a private sector market for the asset.[73] When a lease fails to meet these criteria, it is typically classified as a capital lease and all of the lease costs over the term of the lease are scored upfront.[74]

To avoid triggering the "scoring" of the full costs upfront that would make the project look more expensive, agencies are reluctant to propose ownership solutions such as construction, purchase or even leasing with options to purchase. In addition, to fit within the definition of operating lease, agencies will propose leases of not more than 15 years, even for space being specially constructed or modified for their use and where it is very likely the agency will remain in the property for significantly longer than the 15-year term.

It appears the judgment of the Office of Management and Budget (OMB) plays a key role. OMB appears to creatively apply the criteria for identifying whether a lease is an operating lease or a capital lease, designating a lease like the FTC lease as a shorter-term operating lease. This avoids a real evaluation as to whether ownership versus leasing would be more cost-effective. Designating a lease as an operating lease implies a shorter-term use for the asset that does not usually necessitate a thorough review of all the options for providing space.

For example, the proposed leased space for the FTC headquarters in Washington, D.C. will include approximately 144,000 square feet of special use space (including hearing rooms, deposition rooms, and litigation work rooms). Notwithstanding that more than 40% of the proposed space will be special use space, tailored to the FTC and that the new space will serve a headquarters function making it very likely the FTC will be

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[71] Baselines and Scorekeeping in the Federal Budget Process, Congressional Research Service, November 28, 2008, p. 1.
[72] *See* The Budgetary Treatment of Leases and Public/Private Ventures, Congressional Budget Office, February 2003.
[73] *See* Id. and U.S. Office of Management and Budget Circular 11-A, Appendix B.
[74] The Cost of Scoring GSA's Real Estate Transactions, Office of Real Property Asset Management, U.S. General Services Administration.

housed in the new space well beyond the 15-year lease term proposed, OMB has scored this proposal as an operating lease, making it look cheaper than it will likely be.[75]

Failure to Capitalize on Market Opportunities: GSA buys high and sells low

GSA many times fails to take advantage of market conditions to acquire new space at low prices. Instead of over-relying on costly leases, GSA can realize savings through meeting space needs through purchasing property. While the current real estate market would be a prime opportunity for GSA to purchase properties at bargain-basement prices, GSA has plans for only one purchase.[76] At the same time, GSA continues to submit proposals to satisfy new space requirements with leased space.

Past experience has shown that strategic investment through purchase can save money in the long-run, provide needed space in lieu of costly leases, and give a good return to the taxpayer. For example, during the economic recession of the early 1980s, Congress directed GSA to take advantage of the depressed commercial real estate market by purchasing distressed office properties at bargain prices. In addition to the low acquisition costs, Congress expected to save millions of taxpayer dollars over time by housing federal employees in government owned as opposed to privately leased space.

Congress established the Building Purchase Program by designating funds from GSA's FBF for use in this purchase program through much of the 1980s. GSA made 13 opportunity purchases under the Building Purchase Program, totaling $305 million and adding 3.8 million square feet to its inventory, including 10 commercial office buildings and two special purpose building complexes.

Seven of the 10 commercial office buildings were quality modern buildings, for which GSA paid about 11% less than their total appraised value. The total acquisition costs for the 10 office buildings, including construction to prepare for occupancy, was less than GSA estimated it would pay to lease or construct equivalent space.

The GAO noted that "GSA has demonstrated that the Building Purchase Program can be an effective and economical means for acquiring modern office buildings in cities with a long-term federal presence"[77] and recommended that GSA continue to seek similar building purchase opportunities. GSA conducted a study 20 years after the initial purchase of nine of these assets and showed that through ownership of these buildings GSA saved $280 million for the taxpayers as compared to the alternative of leasing the space from the private sector. This inventory is valued today at over $500 million.

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[75] *See* GSA Prospectus – Lease: Federal Trade Commission, Washington, D.C., Prospectus Number: PDC-14-WA11.

[76] GSA is currently in the process of exercising a purchase option on a lease at Columbia Plaza, Washington, D.C.

[77] Building Purchases: GSA's Program is Successful But Better Policies and Procedures Are Needed, U.S. Government Accountability Office, GAO/GGD-90-5, October 1989, p. 2.

Similar to the situation in the 1980s, today we are in a buyer's market for real estate. Instead of losing money on too many costly leases or selling prime assets, GSA could be purchasing space at discount prices to house federal tenants. We know that "…attractive acquisition opportunities will present themselves in a transaction market where there will be distressed sellers and few buyers. GSA could find attractive buying opportunities and could potentially acquire quality, well-located office buildings for its own use at greatly reduced prices."[78]

Strategic purchasing in this real estate climate can not only benefit the federal government and taxpayer, but also local communities by acquiring and using property in development projects that may be stalled due to the economy – projects local communities intended to spur jobs and growth. Notwithstanding this potential, GSA has chosen not to use any of its $5.5 billion in stimulus funds for such strategic purchases.

Renegotiating Leases

Lease payments to private building owners is the GSA's single largest expense for housing federal employees, and the dramatic decline in commercial real estate prices creates a significant opportunity to save taxpayer dollars. In fiscal year 2011, the GSA will spend over $5 billion to house federal employees in 184 million square feet of privately owned office space.[79] While it may be cheaper to convert larger, long-term leases to government-owned space, there are many smaller or more temporary space requirements that warrant the use of leases. Given the large costs involved with GSA leasing, even modest reductions in lease rates can result in billions of dollars in taxpayer savings over ten years.

While the number of GSA leases has increased substantially in recent years, GSA has made limited improvements in its administration of those leases. For example, GSA's lease extensions and holdover leases far exceed industry averages and too often result in extremely high, short-term lease rates and holdover penalties. In addition to the direct cost increases associated with expiring and holdover leases, delayed leasing actions in the current depressed real estate market will result in missed market opportunities and substantially higher lease rates over the next decade.

In order to capitalize on the current market conditions, GSA should launch a major initiative to expedite and renegotiate the majority of its leases. For example, 60% of GSA's leases have expired or are expected to expire in the next three years.[80] In addition, many of GSA's leases provide for an opportunity to renegotiate at five years, even when they have a 10-year term. In many cases, market rates for leases have declined significantly from the market peak when the original leases were signed several years ago. As a result, GSA is in a position to save money by renegotiating many of those

[78] Statement of Dean A. Schwanke, Senior Vice President, Publications and Awards, Urban Land Institute before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, U.S. House of Representatives, March 20, 2009.
[79] FY2011 Budget Request, U.S. General Services Administration.
[80] State of the Portfolio: 2009, U.S. General Services Administration, p. a.27.

leases at lower rates. GSA should take advantage of the market to renegotiate leases and execute any new leases at reduced rates.

Conclusion

The mismanagement of federal real property costs the taxpayers billions of dollars each year. There are many hurdles to better management, including a lack of reliable data, budgetary disincentives like the scoring rules, and statutory and bureaucratic redtape. However, even when legislation is enacted to provide agencies with greater flexibility to cut through the red-tape, many times those agencies fail to take full advantage of that flexibility, suggesting that problems go beyond any legislative solution Congress could provide.

Getting a handle on our federal assets and using some basic common sense in investment decisions would go a long way in resolving many of these issues. In addition, making relevant data more transparent for the public would help hold agencies more accountable in their decision making.

Recommendations

The General Services Administration (GSA), in particular, must take dramatic steps to right-size its real property inventory and to improve its asset management strategy. GSA's current real estate portfolio is dominated by old, deteriorating properties that are unneeded, underutilized, or cost more to operate and maintain than they generate in rental income. The portfolio must be rebalanced to eliminate money losing properties and to replace costly private sector leases with modern and efficient office buildings that generate the revenue stream necessary to rehabilitate existing properties.

Required Actions

GSA has the statutory authority to take the following administrative actions*:*

- Dramatically increase utilization rates of GSA's owned inventory through consolidation, targeted renovations, and disposals.

- Dispose of excess properties by sale and reinvest proceeds in properties that will generate the highest rate of return for taxpayers. GSA should consider holding properties for improved market conditions if the operating costs are low and the market is expected to improve.

- Invest renovation, alteration, construction, and acquisition funds in projects that will generate the highest rate of return for taxpayers.

- Reduce reliance on long-term private leasing to house federal employees in markets with high rental rates.

- Take advantage of the current market recession to acquire new office space by purchase or construction in markets with long-term federal space needs and large numbers of federal employees housed in costly leased facilities.

- Reassess the need for or reuse of aging assets to ensure efficiency and cost savings.

- Renegotiate 60% of its leases within two years to take advantage of declining market rates.

III. Amtrak: A History of Failure on the Northeast Corridor

The Northeast Corridor: A history of Amtrak's failure and mismanagement of a critical national asset

The Northeast Corridor (NEC) is one of the most valuable transportation assets in the United States, providing the only continuous physical link, along with I-95, between the major population centers of Washington, D.C., Baltimore, Philadelphia, New York City, and Boston. The Northeast mega-region is the most densely populated area in the United States, with 18% of the nation's population living in just 2% of its land area.[81] Taken as a whole, the NEC region would be the sixth largest economy in the world with a GDP of $2.59 trillion, and a population equal to the United Kingdom.[82]

Amtrak, the government subsidized intercity passenger rail provider, owns and controls nearly the entire NEC. In 1976 Amtrak acquired most of the NEC assets from the freight rail operator Conrail as part of the disposition of the bankrupt Penn Central Transportation Company's assets. Conrail, the consolidated government-supported freight operator, did not want to operate passenger services, and essentially donated this valuable property to Amtrak.

Amtrak has proven itself to be poorly equipped to own and manage this critical asset. Other than in the NEC, Amtrak relies almost entirely on the privately owned freight railroad network. The nation's freight railroads host Amtrak on about 22,000 miles of track, while Amtrak owns only 650 miles of track nationwide. Of the 457 total

[81] http://www.america2050.org/northeast.html
[82] Making High-Speed Rail work in the Northeast Megaregion, University of Pennsylvania School of Design, Department of City and Regional Planning, Spring 2010.

miles of the NEC, Amtrak owns and controls 363 miles, with states controlling the remainder in portions of the route north of New York City.

Over the last three decades, Amtrak and the Federal Railroad Administration (FRA) have mismanaged two major capital improvement projects that have left the NEC far short of international high-speed standards, at a total cost to taxpayers of nearly $6 billion. The Acela, promoted by Amtrak as a high-speed train, averages only 78 miles per hour between DC and New York, and 66 miles per hour between New York and Boston. Internationally, high-speed trains can average 150 mph and many nations are upgrading systems to achieve 220 mph top speeds. Amtrak failed in even the simple task of purchasing the Acela trainsets, an acquisition that resulted in a major lawsuit, delays, cost overruns, and change orders to the trains that limited the effectiveness of the technology.

In late 2009, Amtrak proposed a third major capital improvement project to improve trip times on the NEC. This plan would require an additional investment of at least $19.5 billion, and would provide service that continues to fall far short of international high-speed rail standards, averaging only approximately 100 mph per hour between DC and New York. This lack of vision, combined with Amtrak's historical failure to execute capital projects, suggests that the United States should explore alternative solutions for future high-speed rail service on the NEC.

Amtrak wastes taxpayer money by failing to execute large scale capital projects and meet legislative goals

Amtrak has undertaken two major capital improvement projects on the NEC, the Northeast Corridor Improvement Project (NECIP) which was initiated in 1976, and the Northeast High-Speed Rail Improvement Project (NHRIP) which began in 1994. Both of these long term capital projects were completed over budget and did not meet original goals provided in legislation.

Capital Project	***Cost***
NECIP	$2.19 billion
NHRIP	$3.6 billion[83]
Total:	$5.79 billion

Northeast Corridor Improvement Project

The Railroad Revitalization and Regulatory Reform Act of 1976 (the 4R Act) established the NECIP and provided funding of $1.75 billion.[84] Funding was increased to

[83] $1.1 billion Acela acquisition and facilities, $717 million electrification, $652 million track & infrastructure

[84] The original $1.75 billion budget in the 4R Act was increased to $2.5 billion in the 1980 Passenger Railroad Rebuilding Act, and then reduced to $2.19 billion in a budgetary action by the Reagan Administration.

$2.19 billion due to cost overruns. The ultimate goal of the legislation was to achieve 2 hour and 30 minute trip times between DC and New York, and 3 hour trip time between New York and Boston.[85] As of 2010, Amtrak has failed to meet these trip time goals. In fact, today's Acela service between DC and New York averages 2 hours and 52 minutes, missing the mark set in NECIP by 22 minutes. Rather than focus resources on the creation of a high-speed system similar to those being developed in Europe and Japan in the same era, Amtrak and the FRA spent the majority of the federal funds on maintenance and repair of the south end of the corridor.[86]

Northeast High-Speed Rail Improvement Project (NHRIP)

In 1992, the Amtrak Authorization and Development Act (P.L. 102-533) required the implementation of 3-hour service between Boston and New York. In 1994, Amtrak and the FRA established the NHRIP, which carried an estimated price tag of $3.1 billion, which would grow to $3.6 billion due to cost overruns, while still failing to meet project objectives.

The main goals of the NHRIP were to create a 3-hour service between New York and Boston, which was to be accomplished primarily through electrification, the acquisition of the Acela trainsets, and various capital improvement projects. Amtrak did finally complete electrification in 2000, three years behind schedule. Amtrak changed electrification contractors in 1995 after their first contractor selected went out of business. Amtrak lost approximately two years of work time acquiring a second contractor.[87]

Amtrak has failed by a wide margin to meet the second milestone of 3-hour service between New York and Boston. In 2009, Acela service averaged 3 hours and 34 minutes, due in large part to the failure to execute many of the capital improvement projects in the 1994 master plan.

In 1996, as part of the NHRIP, Amtrak executed contracts with train manufacturers Bombardier and Alstom to build 20 high-speed trainsets and 15 electric high-horsepower locomotives, and construction of three maintenance facilities. The trainsets, locomotives, and facilities contracts totaled $730 million.[88] This figure would balloon to $1.1 billion by the time the project was completed.

GAO found that Amtrak did not effectively manage the Acela project, failing to keep the project focused, on-time, and on-budget.[89] Instead of purchasing "off-the-shelf," Amtrak instead chose a custom-designed train that contained many untested components.

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[85] GAO-04-94 Northeast Corridor Project February, 2004
[86] Id. at 9.
[87] Id. at 17
[88] http://www.gao.gov/htext/d05698t.html
[89] GAO 05-152 Acela's Continued Problems Underscore the Importance of Meeting Broader Challenges in Managing Large Scale Projects, GAO 05-698T Issues Associated with the Recent Settlement between Amtrak and the Consortium of Bombardier and Alstom

The Acela trains began delivery about a year late, due in part to Amtrak's countless change orders that began shortly after production commenced. All told, Amtrak ordered 9,000 engineering changes that increased costs, delayed production-just selecting draperies for the windows took two years-and added thousands of pounds of weight.[90]

One of the heavily promoted features of the Acela was its ability to tilt into curves, providing a more comfortable ride at higher speeds. While the system was originally designed for a 6.8° tilt, the cars were later redesigned four inches wider to accommodate wider seats and aisles, per Amtrak's request. Amtrak later learned that this change meant that if two Acela trains were going around a curve in opposite directions, and the tilt system on one train malfunctioned; the trains could impact each other. The tilt mechanism in the train had to be modified as a result, and speeds and trip times were further reduced.

Testing of the Acela was rushed, and Amtrak failed to identify a number of technical problems and defects, such as a brake problem that forced the entire fleet out of service between August and October 2002. This withdrawal cost the corporation an estimated $17 million in lost revenue. In 2005 Amtrak again had to withdraw the entire fleet for several months to repair cracks in the brake assemblies.

Example of a crack in spoke of WABTEC/SAB-WABCO supplied brake disc used on Acela coach car

Amtrak and the Acela manufacturers sued each other, each seeking $200 million in damages. The lawsuit ended in a negotiated settlement whereby Amtrak released $42.5 million of a $70 million payment that was previously withheld, and the manufacturer agreed to assume maintenance responsibilities earlier than anticipated. Amtrak spent more than $1 million on external legal counsel preparing for the settlement.

[90] http://www.nytimes.com/2005/04/24/national/24acela.html?_r=1&pagewanted=1

Amtrak's future plans for the NEC are inadequate

Amtrak's future plans for the NEC share many similarities with past efforts at modernization, but with an exponentially higher cost. The new Amtrak plan proposes only an incremental upgrade to the corridor, replacing antiquated bridges and tunnels, making station improvements and acquiring new rolling stock.[91] These investments will not produce a world class system, even by the year 2030.

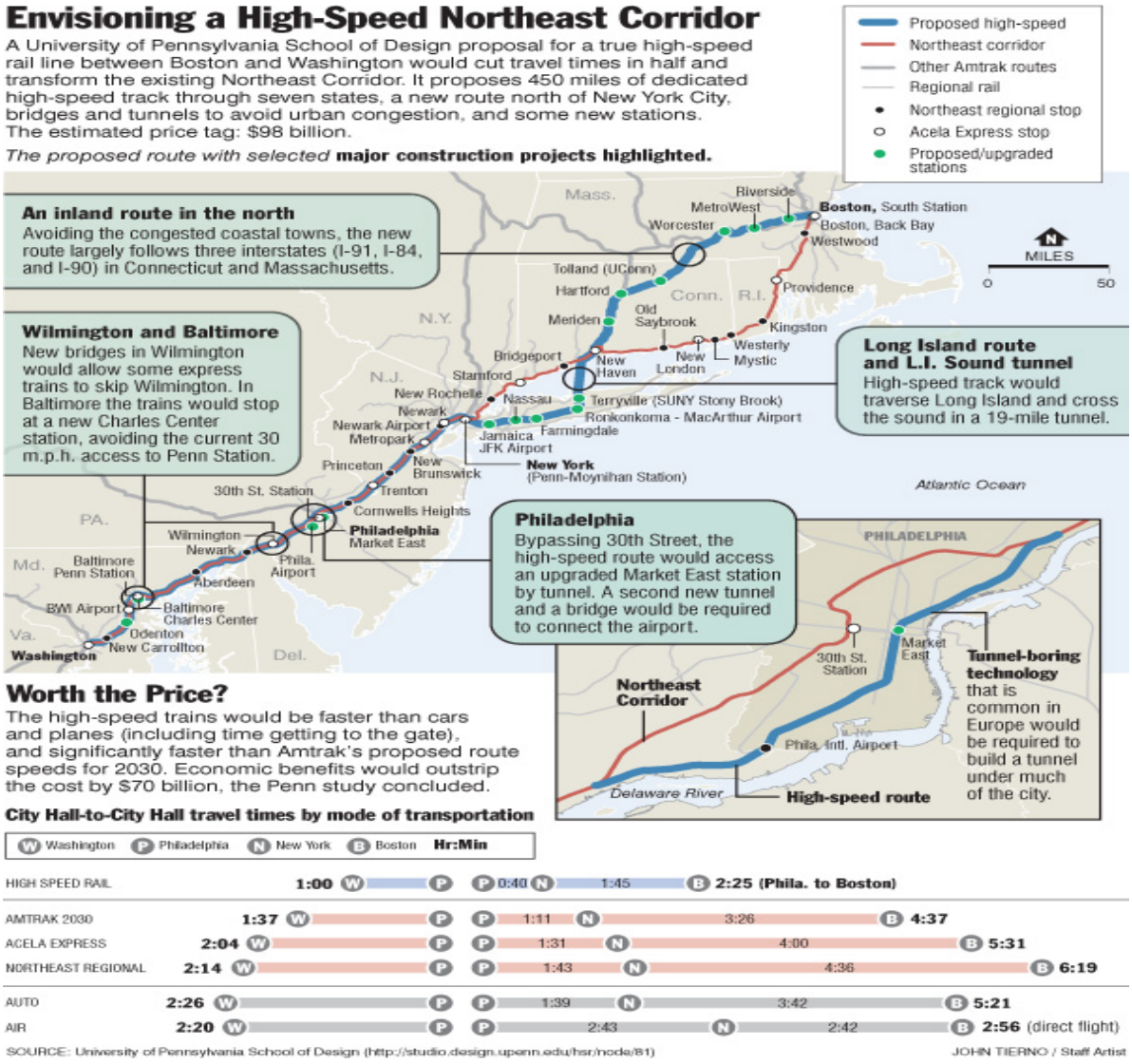
Amtrak issued a report in late 2009 that calls for a $19.5 billion investment over 20 years to bring trip times down to 2 hours and 15 minutes between New York and DC, and to 3 hours between New York and Boston (the same trip time goal provided in the 1994 NHRIP). The trip time between New York and DC would work out to an average of 100 mph, still far short of international standards. Amtrak has estimated that $7 billion of this capital plan would be devoted to modernizing Penn Station, and $2.3 billion is being budgeted for Acela's successor trainset.

Table 2: Northeast Corridor Trip Time Goals and Estimated Costs

	Current *(a)*	2018	2023	2030	
TRIP TIME GOALS					
Boston - New York	3:34	3:25	3:15	3:00	*(b)*
New York To Washington	2:52	2:35	2:30	2:15	
CAPITAL COSTS (MILLIONS)(*c*)					
		2010-18	2019-23	2024-30	
Infrastructure *(d)*					
Boston - New York		2,248	1,500	NA	*(b)*
New York To Washington		3,455	3,000	0	
Penn Capacity Expansion				7,000	*(e)*
Equipment *(f)*		860	720	720	
		6,563	5,220	7,720	

A recently released report by the University of Pennsylvania proposes the creation of two dedicated tracks from DC to Boston that would cut current trip times in half, creating 1 hour 30 minute service from DC to New York and 1 hour 45 minute service from New York to Boston. The plan would enable a six-fold increase in the frequency of service and ten-fold increase in capacity.[92] However, Amtrak is content to proceed with a much less ambitious plan that will limit the NEC region's economic development and rely almost exclusively on donations from taxpayers.

[91] "An Interim Assessment of Achieving Trip Times on the Northeast Corridor", October 16, 2010.
[92] Making High-Speed Rail work in the Northeast Megaregion, University of Pennsylvania School of Design, Department of City and Regional Planning, Spring 2010.



Amtrak includes the familiar refrain in their recent trip time report that the reason for their historical "fail(ure) to achieve... trip time goal(s) was the lack of adequate federal funding for necessary improvements to the Northeast Corridor infrastructure, equipment and facilities…" Despite the billions appropriated by the federal government, Amtrak has established a pattern of exceeding projects budgets and has failed to successfully execute large scale capital projects, and should look inward when assigning responsibility rather than blaming Congress.

Time and again, Amtrak has failed to invest the federal dollars adequately, despite being the exclusive intercity operator over the busiest passenger rail corridor in the United States. The time has come to look for an alternative to Amtrak's monopoly over NEC service and consider plans to bring true high-speed rail service to this critical national asset.

Recommendations

Amtrak has proven itself a failure at managing the Northeast Corridor capital programs. It is time to look for an alternative to Amtrak's monopoly over the corridor and consider plans to bring true high-speed rail service to this critical national asset.

The FRA should reissue a Request for Expressions of Interest for development of high-speed rail on the NEC, as directed under Section 502 of the Passenger Rail Investment and Improvement Act (PRIIA) of 2008 (Public Law 110-432), encouraging the private sector and the NEC states to partner in the development of a true high-speed rail system.

Congress should pursue legislative changes to the high-speed rail corridor program authorized under Section 501 of PRIIA to refocus federal high-speed rail spending away from incremental slower speed rail projects, and towards true high-speed systems.

Congress appropriated $10.5 billion for high-speed and intercity passenger rail programs. Of this amount, $8 billion has been awarded by the Administration to 78 projects. The remainder of the funding, $2.5 billion, will be awarded by October 2010. However, only $587 million has been obligated to States thus far. Some of the awarded projects, like the Ohio "Three C" rail service, have strong political opposition and may never get State approval to move forward. Any funds associated with troubled or languishing projects should be reallocated to true high-speed projects.

Required Actions

- Congress should hold public hearings and other meetings with Northeast Corridor officials to ensure that true high-speed rail alternatives are considered for the NEC.

- FRA should reissue a Request for Expressions of Interest for development of high-speed rail that is specific to the NEC.

- Congress should amend section 501 of PRIIA to refocus federal high-speed rail spending away from slower speed rail projects, and towards true high-speed systems.

- Congress should develop legislation to reallocate federal high-speed rail funds earlier than under current law if a State rejects a rail corridor project.

IV. Air Traffic Control: Improved Management of Facilities and People is Key

Background

The FAA has conducted numerous studies indicating the need to realign, consolidate and collocate air traffic control facilities as the air traffic control system is modernized (NextGen). In his July 2007 testimony before the House Aviation Subcommittee, Bruce Johnson, FAA Vice President of Terminal Services, stated,

> "A key element of the FAA's transformation into NextGen is consolidation of our facilities. The number and specific locations of many existing FAA facilities were determined by the capabilities and limitations of 1960's technology. In the subsequent four decades, the available technology has vastly improved, rendering the long-existing pattern of FAA facilities no longer the best configuration. Without consolidation, the FAA is tied to maintaining outdated facilities with outdated technology based on outdated 1960's radar boundaries. Further, consolidation lowers infrastructure costs, and helps improve safety and efficiency by making new technologies available for controllers. These savings and improvements mean fewer air traffic delays and lower costs for air travelers."[93]

According to the Department of Transportation Inspector General Scovel (DOT IG) in testimony before the House Aviation Subcommittee on April 21, 2010, "A major factor in both capital and operating costs for NextGen is the degree to which the Agency eliminates or consolidates FAA facilities."[94] The DOT IG pointed out that the "FAA must make critical decisions on facility requirements, which in turn will significantly impact the type and number of systems needed to support NextGen."[95] He further indicated that "continued delays in developing requirements and in making key program decisions will slow NextGen's progress…" and raise costs significantly. [96]

FAA Air Traffic Control Facilities: Wasting taxpayer money on unneeded and unnecessary facilities

The FAA is fully or at least partially responsible for 404 Terminal Staff Facilities (of which 338 are FAA-owned.) Currently, 33 of the facilities require replacement and 282 of the facilities require renovation or modernization. Before the FAA takes action to

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[93] Statement of Bruce Johnson, Vice President of Terminal Services before the Committee on Transportation and Infrastructure, Subcommittee on Aviation, on FAA's Aging ATC Facilities: Investigating the Need to Improve Facilities and Worker Conditions, July 24, 2007.

[94] Statement of The Honorable Calvin L. Scovel III Inspector General U.S. Department of Transportation, before the Committee on Transportation and Infrastructure, Subcommittee on Aviation, on Challenges in Meeting FAA's Long-Term Goals for the Next Generation Air Transportation System, page 5, April 21, 2010.

[95] Id.

[96] Id.

renovate or modernize any terminal facility, it must consider whether the facility is going to be needed with NextGen. Otherwise, the FAA will be pouring taxpayer money into a facility that no longer serves a useful purpose.

Cost Savings/Cost Avoidance Resulting from Facility Realignments

According to the FAA, the following realignments to support NextGen are currently in process:

- Dayton to Columbus
- Reno to Northern California
- West Palm Beach to Miami
- Abilene to Dallas Fort-Worth
- Muskegon, Lansing, Grand Rapids to Kalamazoo
- Mansfield, Youngstown, Toledo, Akron-Canton to Cleveland
- Champaign to Chicago

It is clear with fewer infrastructure inventories, the FAA would have less to maintain, thereby achieving cost savings. Additionally, the FAA anticipates facility realignments will result in the following cost savings or cost avoidances:

- Avoid unnecessary investment costs for new buildings by using available space in other existing buildings in the FAA inventory;

- More efficient use of common space square footage by realigning older, smaller facilities into one new facility;

- Saving on building maintenance and operation costs by reducing space inventory or by avoiding the increase of space inventory;

- Avoid unnecessary investment costs for new automation equipment by leveraging state of the art automation system capabilities to upgrade facilities which still operate with an older Automated Radar Terminal System (ARTS); and

- Avoid technical refreshment costs by managing automation equipment and leveraging existing automation capabilities.[97]

Despite its understanding of the need to make decisions on facility requirements and to move ahead with realignments, collocations, and consolidations, the FAA has been repeatedly stymied by labor as well as Congressional interference. If the FAA is to successfully implement NextGen and see the expected cost savings, cost avoidances, and safety improvements, it must develop clear facility requirements and move ahead with needed consolidations.

[97] Source: Federal Aviation Administration, August 2010.

Staffing to Traffic: Appropriately staffing air traffic control facilities to reflect air traffic levels will best utilize FAA human capital assets and avoid wasteful over- or under-staffing at its air traffic control facilities

Matching the number of controllers at each facility with traffic volume and workload, known as "staffing to traffic", is a central part of the FAA's National Airspace System (NAS) workforce management plan.[98] The idea is to increase the number of controllers at a specific facility as the number of operations increases, and to decrease the number of controllers as operations decrease. This will ensure the best utilization of resources.

Operations and staffing are not aligned

Since 2000, system-wide, air traffic has declined by 21 percent.[99] However, FAA staffing has increased at many facilities. The FAA claims that in anticipation of controller attrition, its staffing and new trainee hiring is well ahead of traffic levels. While this might be the case at some facilities, a quick review of the top 25 busiest air traffic control towers raises some question as to whether the FAA is following its own management plan and best utilizing tax payer dollars.

At Chicago O'Hare International Airport, the number of annual operations has dropped from 992,471 in 2004, to 827,899 in 2009, however the number of controllers has actually increased from 64 to 78. Likewise, at Washington Dulles International Airport, annual operations have dropped by almost 137,000 operations between 2004 and 2009, yet the number of total controllers increased by one from 38 in 2004 to 39 in 2009. Finally, Minneapolis/St. Paul International Airport saw a drop in the number of annual operations from 540,727 operations in 2004 to 432,604 operations in 2009, yet they increased the total number of controllers from 37 in 2004 to 41 in 2009.[100] The table below contains further details.

The FAA must follow its National Airspace System workforce management plan and achieve the best utilization of resources. While the FAA may be anticipating controller attrition and a return to a higher level of operations, the table below raises significant questions about whether the FAA is following its own management plan.

[98] "A Plan for the Future: 10-Year Strategy for the Air Traffic Control Workforce 2010-2019", page 5.
[99] Id. at p. 6.
[100] Source: Federal Aviation Administration, August 2010.

ID	Facility Type	End of Fiscal Year Staffing - Total Controllers and Annual Operations *includes CPCs, CPCITs, Developmentals and Acad. Grads* 2004	2005	2006	2007	2008	2009
ORD	TOWER WITH RADAR	**992,471**	**972,246**	**958,643**	**926,973**	**881,566**	**827,899**
Chicago O'Hare Int'l							
Total # Controllers		**64**	**62**	**62**	**63**	**72**	**78**
	CPCs	56	54	55	49	48	48
	CPCITs	8	8	6	10	19	19
	Developmentals	0	0	1	4	5	11
DFW	TOWER WITH RADAR	**814,494**	**718,207**	**702,722**	**686,711**	**655,306**	**638,782**
Dallas Fort Worth Int'l							
Total # Controllers		**56**	**52**	**51**	**56**	**71**	**65**
	CPCs	55	48	49	46	41	52
	CPCITs	1	4	2	8	18	5
	Developmentals	0	0	0	2	12	8
PHL	COMBINED TRACON TOWER	**474,624**	**536,153**	**515,868**	**499,683**	**492,038**	**472,668**
Philadelphia Int'l							
Total # Controllers		**89**	**83**	**84**	**82**	**96**	**99**
	CPCs	66	58	65	64	66	66
	CPCITs	22	25	13	11	9	8
	Developmentals	1	0	6	7	21	25
MSP	TOWER WITH RADAR	**540,727**	**531,947**	**475,633**	**453,566**	**449,972**	**432,604**
Minneapolis St Paul Int'l							
Total # Controllers		**37**	**41**	**39**	**46**	**41**	**41**
	CPCs	32	33	36	37	37	38
	CPCITs	5	8	1	0	4	3
	Developmentals	0	0	2	9	0	0
IAD	TOWER WITH RADAR	**502,519**	**553,021**	**424,127**	**419,127**	**391,626**	**365,585**
Washington Dulles Int'l							
Total # Controllers		**38**	**38**	**37**	**41**	**41**	**39**
	CPCs	27	29	30	29	34	34
	CPCITs	11	9	6	6	1	1
	Developmentals	0	0	1	6	6	4
VNY	TOWER WITH RADAR	**448,702**	**411,317**	**394,915**	**374,464**	**386,706**	**351,233**
Van Nuys							
Total # Controllers		**21**	**19**	**16**	**21**	**24**	**21**
	CPCs	17	16	12	13	16	17
	CPCITs	3	3	3	4	0	0
	Developmentals	1	0	1	4	8	4
BOS	TOWER WITH RADAR	**422,460**	**421,506**	**415,649**	**402,821**	**375,394**	**361,379**
Boston Logan Int'l							
Total # Controllers		**36**	**34**	**32**	**40**	**38**	**40**
	CPCs	25	30	28	27	34	34
	CPCITs	11	4	4	6	0	0
	Developmentals	0	0	0	7	4	6

Source: Federal Aviation Administration

The FAA's highly successful Contract Tower Program saves taxpayer dollars

The FAA Contract Tower Program has provided air traffic safety services at smaller airports since 1982. Currently, 246 airports in 46 states participate in the program; 230 are in the fully-funded base line program and 16 are in the cost-share program (see attached list).[101] Approximately three non-towered airports are expected to enter the program by the end of FY '11, subject to available funding.[102]

FAA contract towers account for 45 percent of all air traffic control towers in the United States and handle approximately 25 percent of control tower U.S. aircraft operations.[103]

All federal contract controllers are FAA-certified air traffic controllers who meet the identical training and operating standards as FAA-employed controllers. The vast majority of federal contract controllers are retired military or FAA controllers. Approximately 99 percent have FAA or military air traffic control experience.[104]

FAA controls and oversees all aspects of the federal Contract Tower Program, including operating procedures, staffing plans, certification and medical tests of contract controllers, security and facility evaluations. Federal contract towers operate together with FAA-staffed facilities throughout the country as part of a unified national air traffic control system.

The FAA Contract Tower Program has been studied and validated numerous times in the last 20 years by the DOT Inspector General (IG) and FAA safety audits, as well as by the National Transportation Safety Board. The IG also has verified the cost-effectiveness of the program to taxpayers.[105]

Neither the FAA nor the IG has completed a cost analysis of the FAA Contract Tower Program since 2003. However, if history is to be our guide, the cost to operate an FAA contract tower should be roughly 50 percent of the cost to FAA to operate a similarly-sized FAA-staffed visual flight rules (VFR) tower.

Recommendations

Without clear decisions on facility requirements, comprehensive facility planning and unobstructed facility plan implementation, the FAA will continue to waste taxpayer funds by maintaining either obsolete or inefficient air traffic control facilities. Additionally, some of the purported benefits of NextGen, including facility efficiencies and cost savings, are put at risk. It is important to note that this cannot be blamed solely

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[101] Source: U.S. Contract Tower Association, September 2010.
[102] Id.
[103] Id.
[104] Id.
[105] DOT IG reports AV-1998-147, May 18, 1998; AV-1999-094, May 4, 1999; AV-2000-079, April 12, 2000; AV-2002-068, December 14, 2001; AV-2003-057, September 4, 2003.

on the FAA—FAA labor groups and Congressional interference is also to blame. It is also unclear whether the FAA is complying with its own policy to align air traffic control staffing levels with aircraft operations at each facility, and therefore, taxpayer dollars may be at risk due to inefficient FAA oversight of their true staffing needs. This is an issue that should be closely monitored by Congress. Finally, the FAA's Contract Tower Program is cost effective and has been validated for both its safety and efficiency benefits numerous times over the last two decades. The FAA should explore ways to creatively utilize the Contract Tower Program.

Actions Required

- Congress must statutorily authorize a process where, after proper safety and business case reviews are conducted and input from interested parties is considered, a recommendation on facility realignments is submitted to Congress for its approval or disapproval.

- Congress must statutorily authorize the FAA to have the flexibility and authority to hire and assign air traffic controllers as needed based upon existing and forecasted traffic levels. Additionally, the FAA must carefully consider traffic levels prior to making hiring decisions.

- The FAA should explore ways to creatively utilize the Contract Tower Program.

V. NTSB Operates 20-Year Lease at a Loss

After losing money on 20-year Training Center lease, the NTSB must improve oversight of its assets and comply with all federal procurement requirements when entering into long-term leases in the future

The National Transportation Safety Board (NTSB) has a very small real property portfolio that includes leases for their regional and headquarters offices, and their Training Center located in Loudon County, Virginia. In addition, the NTSB has the authority to temporarily lease space (storage and otherwise) if needed to support an investigation.

In 2001, the NTSB signed a 20-year lease for a Training Center in Northern Virginia. At the time the lease was signed, the NTSB did not obtain budget authority for the net present value of the 20-year lease. While the NTSB has continued to increase the use of its Training Center—from 10 percent in fiscal year 2006 to 78 percent in fiscal year 2010[106], it still operates the Training Center at a loss. According to the Government Accountability Office (GAO), the Training Center revenues have increased and the Center's overall deficit has declined from about $3.9 million in fiscal year 2005 to about $1.9 million in fiscal year 2009.[107] However, the lease cost $2,343,000 in 2009 and the Training Center operated at a $355,000 loss after all expenses and revenues were considered.[108]

According to the GAO, the NTSB will never be able to entirely break even on the Training Center because a main function is to provide training to NTSB staff, which does not provide cost reimbursement. However, the true costs of the training (and all other areas of NTSB work) will be made clearer when the NTSB fully implements the GAO's recommendation to develop a full cost accounting system, which it is in the process of doing.

Recommendation

The NTSB has improved upon its record of recapturing lease costs through revenue streams, but GAO has recommended that the NTSB develop a full cost accounting system to better understand its balance sheet.

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[106] Source: National Transportation Safety Board, August 2010.

[107] Government Accountability Office, National Transportation Safety Board: Progress Made, Yet Management Practices, Investigation Priorities, and Training Center Use Should Be Improved (GAO-07-118), November 2007.

[108] Statement of Gerald I. Dillingham, Ph.D. before the Subcommittee on Aviation Operations, Safety, and Security, Committee on Commerce, Science, and Transportation, U.S. Senate, "National Transportation Safety Board: Reauthorization Provides an Opportunity to Focus on Implementing Leading Management Practices and Addressing Human Capital and Training Center Issues", (GAO-10-183T) table 2, p.16, October 20, 2009.

Action Required

- The NTSB must develop a full cost accounting system to track the true costs of staff training and continue to ensure the maximum utilization of the Training Center for the duration of the 20-year lease. GAO should continue to monitor NTSB's progress.

VI. Better Utilization of Highways Assets

Since the taxpayer-funded Highway Trust Fund is bankrupt, States and local governments need to consider alternative financing to build and maintain highway assets

While highways and interstates are not federally owned assets, they are often partially financed by federal funds and of great importance to the federal government. States and local governments, as highway and interstate owners, need to take a look at whether it makes sense for them to partner with the private sector to find ways to leverage revenue generated from toll road, toll bridge and tunnel facilities. States and local governments need to consider innovative financing methods to fund future transportation projects by taking advantage of the efficiencies and capital that the private sector can provide. But the federal government must also better define what role the private sector should play in financing infrastructure projects. Better leveraging existing transportation assets will allow us to improve and expand our nation's infrastructure.

In 2008, state and local governments collected more than $27 billion in revenues on more than 5,000 miles of toll roads, bridges, and tunnels in the United States.[109] More than 75 percent (4,101 miles) of the miles of toll roads, bridges, and tunnels are part of the Interstate System.[110] These facilities often represent untapped assets that could provide the owners of these facilities with funding needed to take on new road, bridge, and tunnel projects. Toll facilities typically have a stable revenue stream that makes them attractive to private sector investors.

In recent years the private sector has been willing to pay a large, upfront sum for the ability to operate a toll facility over a number of years. For example, a joint venture between Cintra of Spain and Macquarie of Australia paid Indiana $3.8 billion for the opportunity to operate 157 miles of the Indiana Toll Road.[111] In late 2005, Gov. Daniels launched an aggressive 10-year, $12 billion transportation plan, known as "Major Moves," to significantly improve and expand Indiana's highway infrastructure. A total of $2.6 billion was committed to Major Moves from the long-term lease of the Indiana Toll Road and the plan called for 104 new roadways by 2015 with 1,600 lane miles.[112] By the end of 2009, $900 million of the Indiana Toll Road lease was invested in 34 completed roadway projects now open to traffic and 16 additional roadways now under construction.[113] This arrangement allowed the State of Indiana to take on projects to improve and expand its highway infrastructure that it otherwise would not have had the resources to undertake.

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[109] Federal Highway Administration's Toll Facilities in the United States, August 2009, http://www.fhwa.dot.gov/ohim/tollpage.htm.
[110] Id.
[111] Toll Road Privatization Transactions: The Chicago Skyway and Indiana Toll Road, Indiana University, 2007.
[112] Indiana Department of Transportation, http://www.in.gov/indot/7039.htm.
[113] Indiana Department of Transportation, http://www.in.gov/indot/7039.htm.

Indiana Toll Road – Use of Proceeds	
Use of Lease Funds	**Amount**
State Police Post, Cars, Equipment and Salaries	$ 6,532,967
10-year Passenger Car Toll Freeze	$ 60,000,000
Bond Defeasance	$ 198,387,815
Transaction Costs	$ 24,066,500
Next Generation Trust Fund	$ 500,000,000
Northwest Regional Development Authority	$ 120,000,000
92 County Local Road & Bridge (MVH)	$ 150,000,000
7 Toll Road Counties	$ 240,000,000
INDOT Road and Bridge Projects	$ 2,606,720,039
Various Reserve Funds	$ 63,800,000.00
Total	$ 3,969,507,323

*Source: *Inside Indiana Business, http://www.insideindianabusiness.com/newsitem.asp?ID=18622.*

Also, in January 2005, the Skyway Concession Company, LLC (SCC) assumed operations on the Chicago Skyway with a 99-year operating lease that gave the City of Chicago a $1.82 billion cash infusion.[114] The terms of the lease stated that the proceeds would be used to stabilize the City's operating budget and provide funds for citywide capital improvement projects. City finance officials wanted to minimize the use of proceeds as a "one-shot" budgetary infusion as well as favoring any particular City ward in the distribution of capital improvement funding. More than 20 percent of the City's general fund budget in 2010 came from reserves made up of the proceeds of the Chicago Skyway agreement as well as other privatization agreements. As of December 31, 2009, $550 million remained from the $1.82 billion Chicago Skyway deal. As the City continues to face budgetary problems, there will be more pressure to raid these reserves.

[114] Road Privatization Transactions: The Chicago Skyway and Indiana Toll Road, Indiana University, 2007.

Chicago Skyway Privatization	
Use of Proceeds	**Use Amount**
Refund outstanding Skyway bond principal and interest	$453 million
Retire portion of outstanding GO debt	$392 million
Permanent operating budget rainy day fund	$500 million
8-year capital budget and operating budget stabilization fund	$475 million
Total	$1.82 billion
Source: Crains Chicago Business, November 2004	

Of course, states and local governments should not enter into these types of agreements haphazardly or without certain guarantees and protections. The public sector needs to ensure that the private partner is not able to increase toll rates beyond what is in the public interest. Steps must also be taken to ensure that these transactions include the proper protections to secure American interests and ownership. The federal government should better define what role the private sector should play in these public private partnerships. The creation of a federal clearinghouse of best practices in the next long-term surface transportation bill could provide guidance to states and local governments that are looking to partner with the private sector.

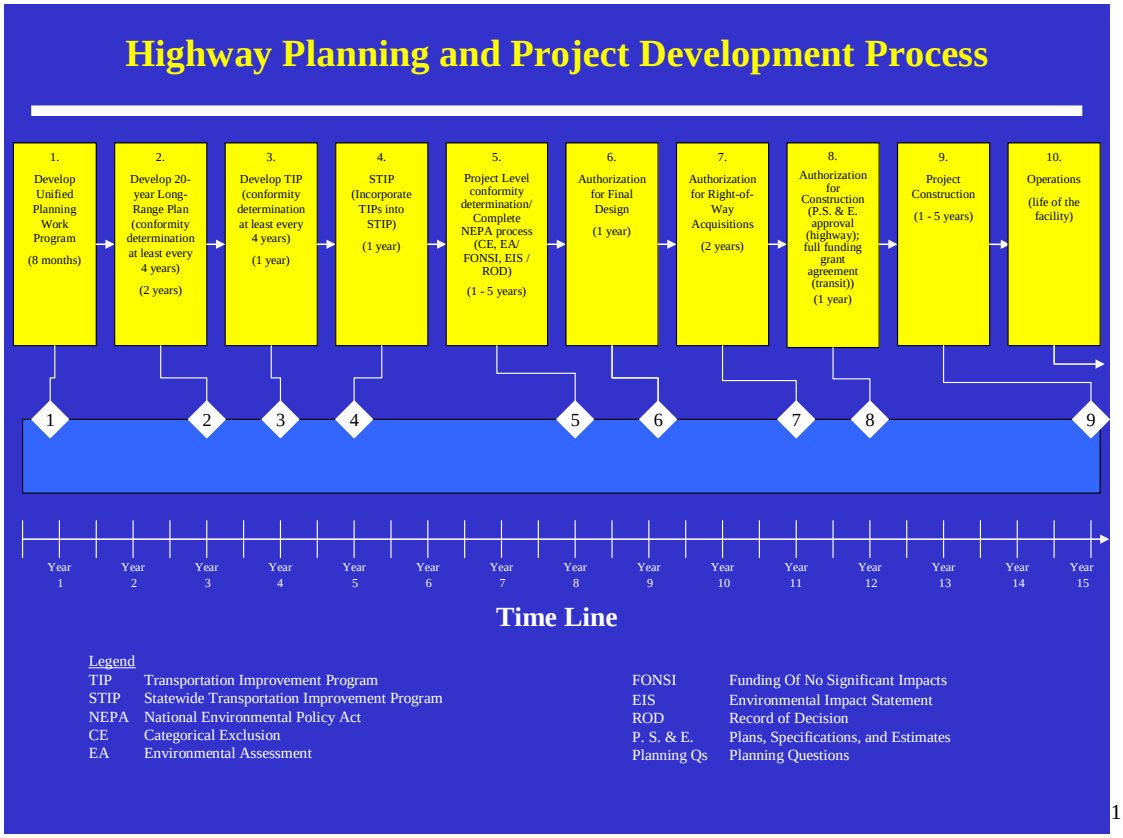
Saving money by building projects faster

Limited financial resources for transportation infrastructure can be more effectively utilized by speeding up the process for project approval. Most projects involving the federal government cost more because they get bogged down in the federal bureaucracy. Tom Skancke, member of the National Surface Transportation Policy and Revenue Study Commission, testified before the House Transportation Committee in 2008 that if you "add one federal dollar to a project, it adds 14 years to the project delivery time."[115]

Bureaucratic delays prevent many important infrastructure projects from breaking ground for several years, tying up precious transportation funding while project sponsors are mired in red tape as they navigate the complicated federal approval process. According to the "Highway Planning and Project Development Process" timeline put

[115] Statement of Tom Skancke, CEO, The Skancke Company and member of the National Surface Transportation Policy and Revenue Study Commission before the Committee on Transportation and Infrastructure, on the National Surface Transportation Policy and Revenue Study Commission Report: "Transportation for Tomorrow", January 17, 2008.

together by the Federal Highway Administration, the federal project delivery process can take up to 15 years from planning through construction.



[116]

Project delays can lead to dramatic cost and time overruns. When a project is delayed, the cost of the project increases because the cost of labor and materials increases over time. Mr. Skancke estimated that "[f]or a $1 billion project today in 2008 dollars, by the time that project is completed in 2022, the cost of that project to the American taxpaying public is an additional 3 to 4 billion dollars....If that $1 billion project took only five years instead of fourteen years to build, we could not only have the project earlier, we would have more money to authorize more projects."[117] With the growing national debt and a shrinking highway trust fund, the American taxpayer simply cannot afford to continue this unacceptable and wasteful trend.

There have been recent examples of expedited projects. After the I-35W bridge in Minneapolis-St. Paul collapsed in 2007, the new bridge was contracted to be built in just 437 days and actually came in on budget and ahead of schedule. This example can serve as a model for other major projects around the country.

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[116] Federal Highway Administration, November 2008.
[117] Statement of Tom Skancke, CEO, The Skancke Company and member of the National Surface Transportation Policy and Revenue Study Commission before the Committee on Transportation and Infrastructure, on the National Surface Transportation Policy and Revenue Study Commission Report: "Transportation for Tomorrow", January 17, 2008.

Flexibility for Stalled or Cancelled Projects

Transportation authorization and appropriations bills often designate funding to go to certain transportation projects identified as a priority for State and local officials. Unfortunately, funds for these projects can go unspent due to various reasons, such as a change in priorities at the State or local level, changes in the state of the economy, or changes in travel patterns. These types of changes can cause a project to be cancelled or cause a project's construction schedule to be substantially delayed.

Because funding for these specific projects is designated through an act of Congress, those designated federal funds are indelibly tied to those projects unless there is a subsequent act of Congress redirecting those funds. If a project is cancelled or substantially delayed, states and localities do not have the flexibility to move this money to other projects and as a result, the funding sits idle. While Congress can reprogram funding for projects that are cancelled or substantially delayed this only happens once every three to six years.

The Congressional Budget Office estimates that approximately $700 million in transportation projects designated in the Transportation Equity Act for the 21st Century in 1998 and the Intermodal Surface Transportation Equity Act in 1991 is sitting idle because the projects were cancelled or came in under budget. If States and localities had the flexibility to reprogram the funding for these projects once it has been determined that the project is either complete or the project has been cancelled then this funding could be put toward projects that would create jobs and improve our transportation system.

Recommendations

State and local governments should be provided maximum flexibility to develop innovative solutions to their unique transportation challenges. Owners of toll roads, bridges, and tunnels should be encouraged to partner with the private sector to find ways to better leverage existing revenue streams. However, we should ensure that these partnerships operate in a responsible way and ensure that proceeds from these partnerships are reinvested in infrastructure projects, not used to close general budget deficits.

With financial resources shrinking and the costs of major infrastructure projects increasing, utilizing our limited resources effectively is essential to addressing the nation's infrastructure needs. We must speed up the delivery time for transportation projects in order to maximize our investment in transportation infrastructure.

As Congress works to reauthorize the surface transportation programs, the legislation should include a 437-Day Plan for infrastructure projects, modeled after the expedited replacement of the I-35W bridge, in order to lower costs dramatically and stretch resources further. Congress should also explore ways to provide additional

flexibility for States and localities to reprogram funding when a congressionally designated project is cancelled or substantially delayed.

Action Required

- Congress should pass legislation to provide states and local governments maximum flexibility to develop innovative solutions to funding transportation infrastructure, including partnering with the private sector. This legislation should also require that the Department of Transportation establish a clearinghouse on innovative financing where states can access best practices and consult with DOT experts to ensure that any innovative financing solutions being considered are in the best interest of the state.

- As Congress works to reauthorize the surface transportation programs, the legislation should include a 437-Day Plan for infrastructure projects in order to lower costs dramatically and stretch resources further.

- When designating funding for specific projects in transportation authorization or appropriations bills, Congress should include language that allows the recipient of the funding to reprogram the funding to another project. Recipients should only be allowed to reprogram the funding if the congressionally designated project has been cancelled or has been delayed to the point that none of the funding will be used within six years of when the transportation authorization or appropriations bill was signed into law.

VII. Coast Guard Wastes Taxpayer Money on Futureless Icebreakers

The Coast Guard wastes taxpayer dollars to keep underutilized assets on life support, hoping for a budgetary miracle

The Coast Guard has three polar capable icebreakers: the HEALEY, the POLAR STAR, and the POLAR SEA. The HEALEY was built in 1990 and conducts scientific research in the Arctic. Historically the POLAR STAR and the POLAR SEA, the Coast Guard's two Class I icebreakers, conducted the break out for McMurdo Station, the National Science Foundation's base of operations in Antarctica. The POLAR STAR was commissioned in 1976, and the POLAR SEA in 1977. They were designed with a 30-year service life and neither vessel has ever undergone a significant midlife refit to extend that term of service.[118] As such, the propulsion, navigation, and habitability on both vessels are at the end of their useful lives.

The POLAR STAR has been in non-operating commissioned status since 2006, but is currently undergoing a refit in Todd Shipyard in Seattle. The POLAR SEA will go into non-operating commissioned status when the POLAR STAR comes out of the shipyard. However, mechanical problems forced the POLAR SEA to cancel its already limited operations for 2010. It is not expected to be operational until 2011.[119] Meanwhile, the HEALY does not possess the power or maneuverability to conduct unassisted polar ice operations, rendering the Coast Guard's Antarctic icebreaking capabilities essentially useless.[120]

In recent years, the funding to operate the Coast Guard's polar icebreakers was provided by the National Science Foundation. However, the National Science Foundation has not used either vessel for the McMurdo breakout since 2007, instead paying nearly $8 million annually to charter Russian and Swedish icebreakers to conduct the operation over the last several fiscal years.[121] The Director of the National Science Foundation testified before Congress that the Coast Guard polar icebreakers are a "fragile resource", explaining that as the vessels approach the end of their service life, they have become increasingly unreliable and too expensive to operate.[122] As a result, the National Science Foundation recently signed a five-year agreement with Sweden by which Sweden will be primarily responsible for McMurdo breakout operations.[123] The National Science Foundation stopped contributing towards the operations of the Coast Guard polar icebreakers in 2009.

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[118] Coast Guard Polar Icebreaker Modernization: Background, Issues and Options for Congress, CRS Report. July 2, 2010, p. 3.

[119] Icebreaker POLAR SEA Sidelined By Engine Troubles, *Coast Guard Compass (Official Blog of the U.S. Coast Guard)*, June 25, 2010.

[120] Polar Icebreakers in a Changing World: An Assessment of U.S. Needs, National Research Council. September 26, 2006, p.1-5

[121] Testimony of Dr. Arden Bement, Director, National Science Foundation. Subcommittee on Coast Guard and Maritime Transportation Hearing on Coast Guard Icebreaking. July 16, 2008.

[122] Id.

[123] Id.

The POLAR STAR and the POLAR SEA, at left

Even though neither vessel is currently capable of conducting icebreaking operations, the Coast Guard still anticipates spending a total of $26.8 million in each fiscal year 2010 and 2011 to maintain the POLAR SEA. [124] The POLAR STAR's retrofit is expected to cost $62.8 million and be complete by 2013, but the work does not include replacing the habitually failing propulsion system or providing necessary habitability upgrades.[125] The Coast Guard has not identified funds to conduct operations when the POLAR STAR comes out of the shipyard. The Coast Guard currently does not have an estimate on the cost to repair the POLAR SEA and return it to operational status.

In the event the POLAR SEA and POLAR STAR become completely operational again, the federal government lacks any policy and mission needs statement for the use of these assets. In fact, the last time the federal government produced a Presidential level declaration of policy regarding U.S. requirements for polar icebreaking was a report to Congress in 1990.[126] For many years, the Coast Guard has claimed to be preparing an exhaustive analysis of its mission needs in the Arctic and Antarctic, the so-called High Latitude Mission Study. Unfortunately, neither the Department of Homeland Security, nor the Office of Management and Budget have ever allowed the study to see the light of day. As such, the Coast Guard has no long term plan for its role in the Arctic, and therefore no mission requirements to use in assessing its capital icebreaker needs. It has ceased to play a role in the Antarctic. Finally, the Coast Guard's long-term capital plan has no provisions for icebreaker rehabilitation or construction.

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[124] Fiscal Year 2011 Congressional Budget Justification, United States Coast Guard. February 2010.
[125] Id.
[126] Polar Icebreakers in a Changing World: An Assessment of U.S. Needs, National Research Council. September 26, 2006, p. S-11.

Recommendation

It is time for the Coast Guard to retire the POLAR SEA and POLAR STAR, or decide the service has a polar mission in its future, define that mission, and determine what icebreakers they need to carry it out. Today they are wasting taxpayer dollars to keep underutilized assets on life support, while hoping for a budgetary miracle that the current climate of Coast Guard budget cuts won't provide. The Coast Guard's Class I icebreakers must either be replaced or abandoned as the current situation of the middle ground between the two is a waste of taxpayer dollars.

Action Required

- The Coast Guard has the statutory authority to administratively retire the POLAR SEA and POLAR STAR.

VIII. Army Corps of Engineers' Processes Are Costly in Time and Money

The Corps' planning process takes too long

The Water Resources Development Act (WRDA) of 2007 contained provisions intended to streamline the Army Corps of Engineers civil works project planning process. These projects for navigation, flood damage reduction, ecosystem restoration, and other purposes are critical to the nation's economy and environment. These planning efforts should not be needlessly delayed due to uncoordinated or inefficient reviews or failure to timely resolve disputes during development of these water resources projects. WRDA 2007 requires that for all Corps of Engineers project, reviews, analyses, opinions, permits, licenses, and approvals made by other federal, state, tribal, and local agencies shall be carried out concurrently to the maximum extent practicable. WRDA 2007 also contained provisions to better coordinate scheduling of federal, State, Tribal, and local actions for carrying out Corps of Engineers projects. The Corps of Engineers has drafted guidance on these WRDA 2007 provisions; however, they have not been made public. To date, it is unclear how the Corps has implemented these sections of law, but Corps projects continue to be unduly delayed by bureaucratic red tape.

The Corps of Engineers wetlands permitting process is costly and ridden with delays

The Corps of Engineers has lead responsibility under Section 404 of the Clean Water Act for issuing "wetlands" permits for discharges of dredged or fill material into navigable waters. The Corps' regulatory program is administered through 38 district offices, each of which handles applications in areas assigned to each office.

The wetlands permitting process is inefficient, burdensome, and wasteful of resources for both the Corps and applicants. The amount of time, effort, and resources required of applicants to obtain needed 404 permits, and of the Corps to process those permit applications, has long been substantial, and has continued to grow as a result of increased regulatory complexity, arbitrary and inconsistent permitting decisions, restrictive alterations to the wetlands permitting process and to the terms and conditions of many 404 permits, and the Corps' long-time failure to develop clear and reasonable rules for the program.[127]

A recent study published in the Natural Resources Journal found that it takes some two years for an applicant to prepare and obtain an individual 404 permit and one year to prepare and obtain a nationwide general permit.[128] According to the study, an individual permit application costs over $271,596 to prepare (not counting the costs of mitigation, design changes, carrying capital, and other costs), while the cost of preparing

[127] Much of this complexity in the wetlands permitting process and the Corps' failure to develop and implement clear and reasonable rules stem from two recent U.S. Supreme Court rulings known as *SWANCC* and *Rapanos*. Some have argued that these cases have further added to wetlands permitting burdens for applicants and the Corps.

[128] *The Economics of Environmental Regulation by Licensing*, by David Sunding and David Zilberman, 42 Natural Resources Journal 59 (2002).

the typical nationwide general permit application averages $28,915.[129] Over $1.7 billion is spent each year by the private and public sectors obtaining wetlands permits.[130] The permitting costs associated with the wetlands permitting process are large relative to the number of wetland acres affected.[131] Costs and delays of these magnitudes can cripple small businesses, waste taxpayer money, and prevent the Corps from engaging in more productive activities.

Expanding the scope of Clean Water Act jurisdiction to broaden the federal reach of the Clean Water Act over all waters and private land use, as has been proposed in recent Congressional proposals and encouraged by Administration officials, would mean a huge increase in 404 permit applications. Many agricultural, forestry, electric transmission, transportation, mining, land development, and other economic activities would be swept under Clean Water Act regulation for the first time under these legislative proposals. This would lead to further increased permitting costs and longer permitting delays for both applicants and the Corps.

Such a broad expansion of federal power would require enormous additional resources not provided by any of the legislative proposals; exacerbate an existing funding gap in the Corps' programs; lead to still-longer permitting delays; and increase the cost of, delay or stop construction projects nationwide and slow economic growth. Such an expansion also would undermine the traditional federal-state partnership that Congress established under the Clean Water Act over 37 years ago and usurp the role of states in protecting the waters within their borders.

Rather than seeking to expand jurisdiction, the Corps should develop a streamlined wetlands permitting process to reduce the program's permitting burdens and make it quicker, simpler, and more efficient to apply for and process a wetlands permit. As part of this, the Corps should develop common sense rules that would establish readily identifiable limits to federal jurisdiction over wetlands and other waters and that respect the rights of states, tribes, and local governments to manage their own water resources and land use. An efficient, more streamlined wetlands permitting process would save substantial time and tens of millions of dollars annually for both the Corps and the regulated community.

Without clear definitions to guide applicants and agency field staff, permitting decisions will continue to be arbitrary and inconsistent. Vague and ambiguous regulatory provisions will continue to cause confusion, deny the regulated community fair notice of what is required, and waste time and money, all with little benefit to the environment. This lack of clarity is unduly burdensome for critical public infrastructure and private projects.

In addition, section 214 of the Water Resources Development Act of 2000 authorizes the Army Corps of Engineers to accept funds from non-federal public entities

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[129] *Id*.
[130] *Id*.
[131] *Id*.

to process permits, thereby expediting public economic development activities as well as other projects. Section 214 does not remove any provisions or requirements in environmental and water resources law. Where it is used, section 214 makes the permit process faster as it allows the Army Corps of Engineers to devote more manpower to its regulatory activities. The authorization for the section 214 program expires on December 31, 2010. This program should be permanently authorized by Congress and the district offices of the Corps of Engineers should reach out to eligible entities and advise them of their opportunity to utilize the section 214 program for quicker decisions on their permit applications.

Taxpayer dollars could be saved with more efficient budgeting and appropriating in the Corps of Engineers program

For nearly two centuries, the Civil Works missions of the Corps have contributed to the economic vitality of the nation and have improved our quality of life. At the same time, the civil works side of the Corps represents an experienced engineering workforce that can be quickly mobilized to address a national defense threat or a natural disaster. Yet, the Corps of Engineers budget remains relatively constant from year to year. Projects are rarely funded at their full capability, resulting in drawn out construction schedules. This leads to an inefficient schedule and higher costs, with taxpayers footing the bill. In addition, further economic loss is experienced when this slower pace of project construction causes a delay in realizing the economic benefits the project can achieve only once it is constructed and operational. Projects are rarely completed on time and due to the inflated schedule regularly cost more than initially estimated. Congress and the Administration are more focused on spreading the limited dollars among a large number of projects rather than focusing on completing a few projects as efficiently as possible. As a result, projects cost more and economic benefits to the nation are delayed. Given the fact that the navigation projects and the flood damage reduction projects provide economic benefits to the nation, Congress and the Administration should place a higher priority on the Corps' work. The Administration should budget and the Congress should fund the Corps of Engineers based on their capability to carry out their mission, not arbitrarily set budgets that are unreflective of the nation's needs. In addition, budgets and appropriations should have as a priority completing projects on an efficient schedule.

Recommendations

WRDA 2007 directed the Corps to streamline its planning process so that feasibility studies could be done quicker and be less costly. The Corps needs to develop and implement final guidance to instruct its planners on how the improvements are going to be accomplished.

In order to provide some consistency to the permitting process of the Corps of Engineers, the Corps needs to develop and implement guidelines and rules that will streamline the process and give the regulated public some certainty and timeliness in the program. In addition, section 214 of WRDA 2000, which allows the Corps to accept

funds from non-federal public entities to pay for additional permit processing staff, should be made permanent.

Taxpayers would benefit from a Corps of Engineers program that was executed in a more efficient manner. By setting project priorities, the Administration and the Congress could concentrate limited federal dollars on fewer projects that could be completed in a timely manner. Since fewer projects would be funded in a given year, setting the priorities would be a fiscal and political challenge. The Administration, the Congress, and the affected interests who share in the cost of most projects should be involved in the priority-setting process.

Action required

- The Chief of Engineers needs to communicate to staff the need to place a high priority on completing the guidance associated with the WRDA 2007 provisions to streamline the planning process, getting it implemented throughout the Corps, and monitoring its effectiveness.

- The Chief of Engineers needs to communicate to staff the importance of producing guidance and rules to the field that will provide certainty and timeliness in the permitting process. Also, the Congress needs to take up and pass legislation, such as H.R. 4162 in the 111th Congress, that would make permanent section 214 of WRDA 2000.

- The Chief of Engineers should direct his staff to develop a consistent methodology for setting priorities for funding Corps projects that involves the Administration, the Congress, and the affected entities.

IX. Tennessee Valley Authority's Poor Management of Rich Resources

TVA does not have a comprehensive list of its assets or excess assets

In February 2004, the President signed Executive Order 13327, requiring federal agencies to carry out asset management plans. While TVA does report some information to the General Services Administration, it considers itself exempt from procurement and real property transaction rules. As such, TVA does not have a comprehensive list of its assets or a list of surplus assets.

TVA's employees misuse credit cards

In 2009 it was revealed in a report issued by TVA's Office of Inspector General (OIG) that employees used government issued charge cards to purchase items like video game systems, television sets, DVR recorders, DVD players and yard equipment for awards to power system employees; software to erase evidence of Internet usage for pornography or other unauthorized purposes; beer, wine, liquor and candy for TVA meetings for procurement supervisors and materials management employees, in violation of TVA board rules, and; a white noise system to cover road noise at a corporate apartment to allow for quieter sleeping conditions.[132] According to the OIG, TVA began giving employees purchasing cards in 1995 primarily as a way of making small-dollar purchases for immediate needs. But in fiscal 2007 alone, there were 2,240 purchases exceeding $5,000 made with employee credit cards, totaling nearly $23.9 million. At the time of the report, one in eight TVA employees possessed purchasing cards. The OIG made a number of recommendations to improve TVA's management of the charge cards and TVA officials have accepted most of those recommendations. To date it is unclear if TVA has taken adequate steps to ensure these types of wasteful activities are halted.

Recommendations

The TVA must carry out the recommendations of the OIG and restore public confidence that dollars are not being misused.

While TVA considers itself exempt from Executive Order 13227, it must to the maximum extent practicable achieve the same level of compliance as other federal agencies.

Actions required

- The TVA OIG should follow up its 2004 report with an update on how well TVA is carrying out its recommendations to better manage credit card use.
- The TVA Board should adopt a plan to manage assets in a manner similar to federal agencies under Executive Order 13327.

[132] Tennessee Valley Authority, Office of Inspector General Inspection Report: Review of TVA's Purchasing Card Program, January 20, 2009.

X. FEMA Continues to Waste Taxpayers' Money

More work needs to be done following Republican Staff Report on FEMA trailers

One year ago, the Committee's Republican Staff issued a report entitled, "*FEMA's Temporary Housing: Four Years After Katrina Thousands of Trailers Remain In Storage."* In that report, Committee staff determined FEMA had over 121,000 excess housing units in storage costing taxpayers hundreds of millions of dollars. Since that time, FEMA has taken a number of steps to address concerns raised in that report, including conducting bulk sales of the housing units. However, FEMA failed to adopt other recommendations made at that time.

Hurricane Katrina caused more damage than any other single disaster in U.S. history when it made landfall in 2005. 700,000 people were displaced and approximately 300,000 homes were destroyed or rendered uninhabitable. This catastrophe stretched the resources of government agencies at all levels.

Unfortunately, we found that more than four years after Hurricane Katrina, taxpayers were still footing the bill for the costs associated with unused temporary housing units (THUs) purchased for the 2004 and 2005 hurricane seasons, including Hurricanes Katrina and Rita.

FEMA purchased 230,000 THUs for the 2004 and 2005 hurricane seasons and, more specifically, over 145,000 following Hurricane Katrina, costing the taxpayer more than $2.6 billion.

While FEMA entered into contracts to purchase up to 135,000 new THUs for future catastrophic disasters, over 121,000 unused THUs sat in leased storage facilities awaiting disposal, costing taxpayers $100 million to $120 million annually.

Further complicating the issue was FEMA's own policy to restrict the use of travel trailers based on complaints about the possible effects of formaldehyde. Instead of testing each unit to determine suitability, FEMA issued a blanket policy prohibiting their use for housing. As a result, more than 100,000 travel trailers remained in storage, unused and costing the taxpayer hundreds of millions of dollars.

Recommendations issued in 2009

The October 2009 report recommended that FEMA should:

- ***Test unused THUs to determine if the housing restriction is warranted:*** The Centers for Disease Control and Prevention (CDC) conducted tests of 519 THUs for formaldehyde levels and the results varied dramatically by unit. FEMA's determination to restrict the use of all of the 104,000 travel trailers, based on these varied results of only 0.5% of the units, should be reevaluated, and perhaps actual testing of each unit should be conducted to determine suitability.

- ***Be accountable for the purchase costs of housing units:*** Precise numbers for the actual costs to purchase the unused THUs were not readily available and the methods of purchasing the THUs following Hurricane Katrina were haphazard, resulting in an inability to manage and account for costs.

- ***Improve oversight of storage and maintenance costs:*** As with the purchase costs, an accurate assessment of actual storage costs was not readily available. There should be improved accounting and management of the costs associated with storage and maintenance, an analysis of where costs could be reduced, and a plan for managing storage for future catastrophic events requiring large numbers of THUs.

- ***Improve the National Disaster Housing Strategy to adequately prepare for catastrophic disasters:*** FEMA released the National Disaster Housing Strategy in January 2009, pursuant to the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), but clear temporary housing solutions to a catastrophic disaster remain elusive. While solutions to such an event would likely require a variety of options, including the use of THUs, those options should be analyzed and articulated in the Strategy.

The report noted at that time that, while FEMA had taken some steps towards improvements for *future* disasters, FEMA must improve the management of its existing THUs, including an assessment of all the costs associated with their purchase, storage, and maintenance. FEMA should pursue ways in which the return to the taxpayer could be maximized either in the disposal process or in the reuse of certain THUs.

FEMA's Temporary Housing Unit (THU) Program

Background

The primary mission of the Federal Emergency Management Agency (FEMA) is "to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation."[133]

Following the declaration of a major disaster, certain authorities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act[134] (Stafford Act) are triggered to support FEMA's role as the lead agency in response and recovery. In particular, Section 408[135] of the Stafford Act authorizes FEMA to provide housing assistance to individuals and households impacted by a major disaster. This assistance may include financial assistance for individuals and households to rent temporary housing, repair

[133] 6 U.S.C. 313(b)(1).
[134] Public Law 93-288 (as amended); 42 U.S.C. 5121- 5207.
[135] 42 U.S.C. 5174.

existing homes, or reside temporarily in properties acquired by the government. Such assistance is limited to up to 18 months, unless the President determines there are "extraordinary circumstances" that are in the public interest.[136]

One solution for meeting the temporary housing needs of individuals impacted by major disasters includes the use of Temporary Housing Units (THUs). THUs include a variety of types of mobile homes and typically have been categorized into three standard models – manufactured homes (~ 840 square feet), park models (~ 374 square feet), and travel trailers (~ 256 square feet). The use of THUs as a temporary housing solution is typically chosen after other temporary housing solutions (e.g. rental property) are not available within a reasonable distance of the affected community.[137]

Table 1: Types of Temporary Housing Units (THUs)

	**Travel Trailer**
	**Travel Trailer**
	**Park Model with Loft**
	**Manufactured Home**

Costs

According to FEMA estimates reported by the DHS Inspector General, the cost over the lifespan of each travel trailer, park model, and mobile home is $26,379, $37,379, $52,634, respectively.[138] FEMA previously provided estimated storage and maintenance

[136] 42 U.S.C. 5174(c)(1)(B).
[137] *2009 Disaster Housing Plan*, Federal Emergency Management Agency.
[138] Management Advisory Report: FEMA's Housing Strategy for Future Disasters, Department of Homeland Security Inspector General, OIG-09-111, September 25, 2009, p. 3.

costs to the Senate Homeland Security and Governmental Affairs Committee which were referred to in a Senate report issued on June 1, 2009[139]. At that time, FEMA estimated that storage and maintenance costs were $1,000 per unit per year.[140] Based on this figure, the annual costs would have exceeded $121 million annually. However, the October 2009 report pointed out that there was much discrepency in the cost estimates for storage and maintenance raising serious questions about cost management and containment.

FEMA at that time provided a range of what it likely paid for each type of THUs, as follows[141]:

Table 4

THU Type	Average Cost Range
Mobile Home	$23,500 - $33,550
Travel Trailer from Manufacturer	$10,000 - $12,000
Travel Trailer "Off-the-lot" Retail	$15,000 - $19,000

In addition, FEMA provided an average cost of units purchased in 2007 and 2008, both "off-the-lot" and from manufactures, as follows:

Table 5

THU Type	Average Cost (2007 – 2008)
Manufactured Home	$43,600
Park Model	$21,111
Travel Trailer	$19,537

Notwithstanding this, FEMA entered into contracts to provide a capability to purchase additional THUs should such a large-scale event reoccur. FEMA indicated that it had the capability to purchase approximately 38,000 THUs and was in the contracting process to provide for the ability to purchase up to 135,000 to support a catastrophic event.[142] However, none of the more than 121,000 "excess" THUs identified by FEMA would be made available for current or future temporary housing needs.

Update

Since October 2009, FEMA began bulk sales of the 120,000 THUs and, as of this report, FEMA has sold all of the units it intended to sell. At the time of the last report, FEMA intended to sell all but 4,000 THUs. As of July 1, 2010, 46,311 THUs were still at storage facilities ready for pickup by the purchaser.[143] For each of FEMA's storage sites, the purchasers have a certain amount of time to remove their newly purchased

[139] Report of the Committee on Homeland Security and Governmental Affairs to accompany S. 713, U.S. Senate, Report No. 111-23.
[140] Id. at p.2.
[141] Received by electronic mail from FEMA to Committee staff on August 4, 2009.
[142] FEMA Response to Letter from House Committee on Homeland Security on June 8, 2009 and re-affirmed in Transportation and Infrastructure Committee Staff discussions with FEMA on August 26, 2009.
[143] Update received by electronic mail from FEMA to Committee staff on July 1, 2010.

THUs. The sites are in various stages of being cleared out with the last pickups expected in the Spring of 2011.[144] FEMA remains responsible for the storage costs until storage facilities can be closed.

While FEMA paid anywhere from $10,000 to $43,000 per THU, the THUs are being sold for prices ranging from $600 to $7,000 per unit. In addition, new standards FEMA has placed on its future procurement of THUs raises the cost per unit to a range of $45,000 to $75,000 before factoring in installation, maintenance, and deactivation costs.[145]

While FEMA has taken steps to minimize its costs by conducting bulk sales, it is selling the THUs at pennies on the dollar and incurring ongoing storage costs as the sites are cleared. In addition, FEMA failed to consider our recommendation to determine through actual testing which THUs could be reused and which needed to be disposed of. Conducting such tests could have minimized the potential costs in future disasters by avoiding the purchase of new THUs. Moreover, since the October 2009 report, management controls and records management still need improvement as they relate to the storage sites and THUs.[146]

[144] Update received by electronic mail from FEMA to Committee staff on September 8, 2010.
[145] Management Advisory Report: FEMA's Housing Strategy for Future Disasters, Inspector General, Department of Homeland Security, OIG-09-111, September 25, 2009, p.6.
[146] *See* FEMA Temporary Housing Property Management Controls, Inspector General, Department of Homeland Security, OIG-10-24, December 2009.

XI. FAA Training Academy Could Be Better Utilized

The FAA pays controller candidates to attend often redundant and costly training at the FAA Training Academy that could be more efficiently provided by universities, colleges and private institutions at lower cost to the federal government

In response to anticipated air traffic controller retirements, the FAA has been focused on hiring replacement controllers. The FAA recruits air traffic controller candidates from three pools. The first pool includes individuals who respond to an Office of Personnel Management (OPM) vacancy announcement. These candidates are referred to as off-the-street hires. They must pass an OPM exam to qualify for employment with FAA and must pass a 15-week initial training program at FAA's Academy in Oklahoma City, Oklahoma, before being assigned to a facility.[147] The second pool of candidates is made up of graduates of FAA-accredited collegiate programs who receive initial air traffic control training prior to being hired by FAA. In most cases, collegiate training initiative graduates must pass an initial 12-week controller training program at the FAA academy to begin work at their assigned facility.[148] Finally, the last pool of candidates consists of controllers with previous air traffic control experience, including both former Department of Defense (DOD) controllers and controllers fired in the 1981 strike. Candidates in this group are not required to attend initial controller training at the academy but may be required to take refresher training there.[149]

During their time at the Academy, an average of nine weeks according to the FAA, candidates are paid an annual salary of approximately $21,000.00; they also receive a per diem of $92.00 a day, and travel to and from the Academy (estimated at $650.00).[150] This works out to approximately just over $10,000 per new hire.[151] On average, 900 air traffic controller candidates attend training at the FAA Training Academy each year.[152]

Recommendation

The FAA should review its training policy to determine if it would be both more effective and efficient to have some candidates participate in an abbreviated training program at the Academy rather than paying them to attend a duplicative and lengthy training program. The FAA should also review its policy to pay candidates while they are attending training at the FAA Training Academy.

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[147] Government Accountability Office, "Air Traffic Control: FAA Needs to Better Prepare for Impending Wave of Controller Attrition" (GAO-02-591) June 2002.
[148] Id.
[149] Id.
[150] Source: FAA, September 2010; Note: the $21,000 annualized number is based on the GS1-Step 1 plus 18% locality. Former military controllers get Academy Grad pay while at the Academy, which would be about $44,000 annualized, including 18% locality.
[151] Source: FAA, September 2010.
[152] Id.

XII. Improving Security & Saving Money by Installing In-Line Baggage Screening Equipment

Installation Of In-Line, Automated Explosive Detection Systems For Checked Baggage Will Result In Improved Security Screening And Tremendous Cost Savings

Although aviation security is no longer within the Transportation and Infrastructure Committee's jurisdiction, the Transportation Security Administration (TSA) was created following the tragic events of September 11, 2001, and the Committee played a lead role in establishing the agency. TSA was directed by Congress to screen all checked baggage using explosive detection systems at airports by December 31, 2003.[153] The TSA deployed two types of screening equipment: explosives detection systems (EDS), which use computer-aided tomography X-rays to recognize the characteristics of explosives, and explosives trace detection (ETD) systems, which use chemical analysis to detect traces of explosive material vapors or residues.[154]

Testing by TSA, the Government Accountability Office (GAO), and the Department of Homeland Security Office of the Inspector General have repeatedly demonstrated that detection rates by EDS systems that are integrated into the automated checked baggage systems of our airports far out-perform either stand-alone EDS machines or ETD systems. The security benefits of such in-line EDS systems is well-known.

Reviews by both the TSA and the GAO have also demonstrated the enormous cost savings that can be achieved with the installation of in-line EDS systems. In fact, in a 2005 GAO report, it was noted that TSA's own analysis showed in-line EDS would reduce by 78 percent the number of TSA baggage screeners and supervisors required to screen checked baggage.[155] In that same report, the GAO stated that TSA's estimates show baggage screening operations at the nine airports receiving letters of intent (LOIs) will result in a savings to the federal government of $1.26 billion over seven years—and would recover the initial investment in 1.07 years—as a result of installing in-line rather than standalone EDS systems.[156] More recently, the TSA has indicated that at airports where the TSA has installed EDS in-line checked baggage systems, the TSA estimates cost savings of about $489 million between 2005 and 2010.[157]

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[153] Aviation and Transportation Security Act, P.L. 107-71 (November 19, 2001).

[154] Government Accountability Office, "Aviation Security: Systematic Planning Needed to Optimize the Deployment of Checked Baggage Screening Systems" (GAO-05-365) March 15, 2005.

[155] Id.
[156] Id.
[157] Source: TSA, September 2010.

Recommendation

The TSA should aggressively pursue installation of in-line EDS systems at the 30 busiest airports in terms of passenger enplanements that are not currently fully equipped with these systems. This would ensure the most effective and cost-efficient screening process is utilized for a majority of checked baggage screenings.

XIII. Conclusion: The Solutions are Common Sense

The federal government frequently fails to make good investment decisions to reduce costs and increase the return to the taxpayer. Billions of dollars could be saved if improvements are made in the management of federal real property and assets. In many cases, the solutions are common sense, making it that much more frustrating that wasteful spending and mismanagement continues.

To summarize, the federal government should:

- Take advantage of the current real estate market to rebalance its real estate portfolio, eliminate money losing properties, and reinvest proceeds in properties that will generate the highest rate of return for taxpayers. This strategy includes holding properties until market conditions improve if the operating costs are low.
- Focus on real estate projects that will generate the highest rate of return for the taxpayer, not necessarily the projects which have the greatest incentive for government action or inaction.
- Reduce reliance on private leasing to house federal employees.
- Expedite and renegotiate GSA leases to realize market opportunities and lower federal lease costs.
- Eliminate the excessive bureaucracy and red tape in the project approval process to allow projects to move forward more efficiently.
- Bring true, world-class high-speed rail to the Northeast Corridor (NEC), instead of allowing Amtrak to continue its pattern of spending huge amounts of federal funds on mismanaged, slow-speed rail service.
- Redirect stimulus funds obligated to slow-speed rail to projects that offer the potential for true high-speed service that will attract private sector participation and run at an operational profit.
- Properly adjust, according to existing and forecasted traffic levels and safety requirements, the FAA's air traffic control staffing levels, ensuring taxpayers' dollars are used most efficiently in managing the nation's air traffic.
- Develop clear FAA facility requirements and move ahead with needed relocations and consolidations.
- Review FAA's air traffic controller training and candidate pay policies.

- Creatively utilize the Federal Contract Tower Program.
- Expedite installation of automated, in-line explosive detection systems (EDS) for checked baggage at the remaining busiest airports to improve security, increase efficiency, and save taxpayer dollars.
- Require the NTSB to maximize the use of their training center to ensure its efficiency to the taxpayer.
- Encourage and allow state and local governments to utilize innovative financing tools, as opposed to continuing the overreliance on taxpayer-funded trust funds, to build and maintain highways.
- Define terms on which the private sector can bring its resources to bear in undertaking infrastructure projects.
- Retire or dispose of assets that have outlived their useful lives, allowing the government to reinvest or reallocate those taxpayer-funded resources to better spent programs.
- Routinely monitor assets and have a process in place to efficiently dispose of under-utilized or under-performing assets.