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INDEPENDENT LEASING AUTHORITIES: INCREASING OVERSIGHT AND REDUCING COSTS OF SPACE LEASED BY FEDERAL AGENCIES

(114–47)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

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

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Katherine W. Dedrick, Democratic Staff Director

July 1, 2016

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Economic Development, Public Buildings and Emergency Management
FROM:	Staff, Subcommittee on Economic Development, Public Buildings and Emergency Management
RE:	Subcommittee Hearing on "Independent Leasing Authorities: Increasing Oversight and Reducing Costs of Space Leased by Federal Agencies"

PURPOSE

The Subcommittee on Economic Development, Public Buildings and Emergency Management will hold a hearing on Wednesday, July 6, 2016, at 10:00 a.m., in 2167 Rayburn House Office Building on the Government Accountability Office's (GAO) reports on federal agencies with leasing authorities independent of the General Services Administration (GSA) and the use and potential taxpayer benefits of options to purchase real estate negotiated in GSA lease agreements.

BACKGROUND

The Committee requested that GAO conduct two reviews related to: (1) the independent leasing authorities of federal agencies and (2) GSA leases with purchase options. The results of these reviews will be detailed at the hearing.

V

GAO Reports and Findings

Independent Leasing Authorities

In fiscal year 2015, GSA leased 7,171 real estate assets, totaling 191 million rentable square feet costing the taxpayer more than $5.6 billion.[1] Despite GSA's role as landlord for the federal government, over the years, the number of federal agencies with their own authority to lease space has grown. There is no comprehensive list of agencies that have authority to lease space independent of GSA. While several lists have been produced over the years, none of them were exhaustive.

As part of the report requested by the Committee, the GAO surveyed 103 federal entities and of those, 60 entities self-reported as having independent leasing authority and 52 of those indicated they have authority to lease office and warehouse space. Thirty-seven of these agencies reported actually using their authority to lease 944 domestic offices and 164 warehouses totaling 20 million rentable square feet costing $586 million annually. Only 18 of these entities reported using GSA to lease a portion of their space.

Twenty-five entities with their own leasing authority are not members of the Federal Real Property Council (FRPC) and, therefore, are not required to submit real property data to the Federal Real Property Profile (FRPP) database.[2] In recent years, the Office of Management and Budget (OMB) issued memoranda in 2012, 2013, and 2015 requiring federal agencies to freeze and reduce their space footprint. However, these requirements only apply to those agencies on the FRPC. Of the 25 agencies with their own leasing authority that are not members of FRPC, 19 have used their authorities to lease 243 offices and warehouses composing more than 8 million rentable square feet and at a cost of approximately $293 million annually.

GAO also examined eight agencies in depth – reviewing the extent to which they had policies incorporating leading government leasing practices, comparing their lease rates and deals with those of GSA, and looking at their space utilization. GAO found that six of these agencies had policies that generally conformed with leading government leasing practices; however, there was no evidence in the leasing files that the policies were consistently followed. While GAO generally found that the rates for most agencies were less costly or comparable to GSA leases, seven of the eight agencies leased 43 percent more space per employee on average than GSA's standard of 218 rentable square feet per person.

Smithsonian and PBGC

The Smithsonian Institution and the Pension Benefit Guaranty Corporation (PBGC) are among the 25 agencies that have their own leasing authority and are not required to participate on the FRPC or submit data to the FRPP. The Smithsonian leases 50 offices and warehouses composed of 1.4 million rentable square feet, costing $41.6 million annually. The PBGC leases

[1] FY2015 State of the Portfolio Snapshot, U.S. General Services Administration.
[2] The Federal Real Property Council and the Federal Real Property Profile Database were established by executive order (E.O. 13327) in 2004 which only requires federal agencies covered by the Chief Financial Officers Act of 1990 to participate.

nine offices and warehouses, totaling over 500,000 rentable square feet, costing $28 million annually. The PBGC, however, recently determined it would work through GSA to consolidate and reduce three leases in D.C. for its headquarters functions, which compose the majority of its leased space. A prospectus is pending for approval before the Committee.

Purchase Options

Purchase options give an agency the choice to buy a building typically at the end of a lease term (or at shorter time intervals during a lease) and can be for a fixed-price (which may be discounted) or through an appraisal process at the time the option can be exercised.

Scorekeeping rules are established by OMB, the Congressional Budget Office, and the Senate and House Budget Committees to determine how certain Executive Branch and legislative actions will impact the budget of the federal government. Pursuant to the Budget Enforcement Act of 1990, Congress adopted scorekeeping rules on how real estate leases are to be recorded in the budget. The scorekeeping rules assume that agencies will exercise discounted purchase options and therefore they changed how leases with such options are scored. Specifically, OMB Circular A-11, Appendix B essentially requires that if a purchase option for less than fair market value is included in a lease (and the option can be exercised without specific legislative authorization), the lease must be scored as a capital lease. Therefore, an agency must have the full budget authority of the entire cost of the lease upfront when it executes a capital lease agreement. Compared to an operating lease for which an agency only needs the budget authority to cover the first year lease payment plus cancellation costs.

GAO identified and reviewed 17 examples of GSA leases from 1992 to 2014 that included purchase options and made the following findings:

- The scoring rules have effectively eliminated the use of discounted purchase options.
- The scoring rules have resulted in GSA using non-discounted purchase options less often because of the concern of the increased level of scrutiny.
- The scoring rules have led to the unintended consequence of creating a greater incentive to use operating leases.
- Three purchase options executed in recent years have resulted in at least $80 million in financial benefits to the federal government:
  - Columbia Plaza in Washington, D.C. purchased for $100 million (valued at $150 million).
  - USDA Center in Riverdale, Maryland purchased for $31 million (valued at $45 million).
  - IRS Annex in Detroit, Michigan purchased for $1, property (valued at $14.5 million).

Legal Pitfalls to Independent Leasing

There are various laws, in addition to procurement and contracting laws, that agencies must follow if they choose to use their own leasing authority. While GSA has the legal authority

to enter into long-term, multi-year leases, many other agencies with leasing authority do not.[3] Because of this, some agencies, have run afoul of some of these laws when exercising their independent leasing authority.[4] Specifically, an agency's leasing authority must be interpreted and applied in accordance with various laws such as the Anti-Deficiency Act (ADA) and the Recording Statute.[5] Generally, agencies must have explicit authority to either enter into long-term, multi-year leases or have sufficient no-year funding, *and* agencies be exempt from requirements like the ADA or they must have the budget authority for the full cost of the lease term upfront when executing the lease agreement.

The chart[6] below highlights basic questions agencies should answer prior to determining whether or not they have the legal authority to enter into any particular lease.[7] In order to lease real property for longer than five years and budget annually for the lease payments (as opposed to obligating funds for the entire lease term upfront) an agency must have multi-year leasing authority, specific budget authority for this purpose, and the lease must meet the tests for an operating lease under OMB Circular A-11.

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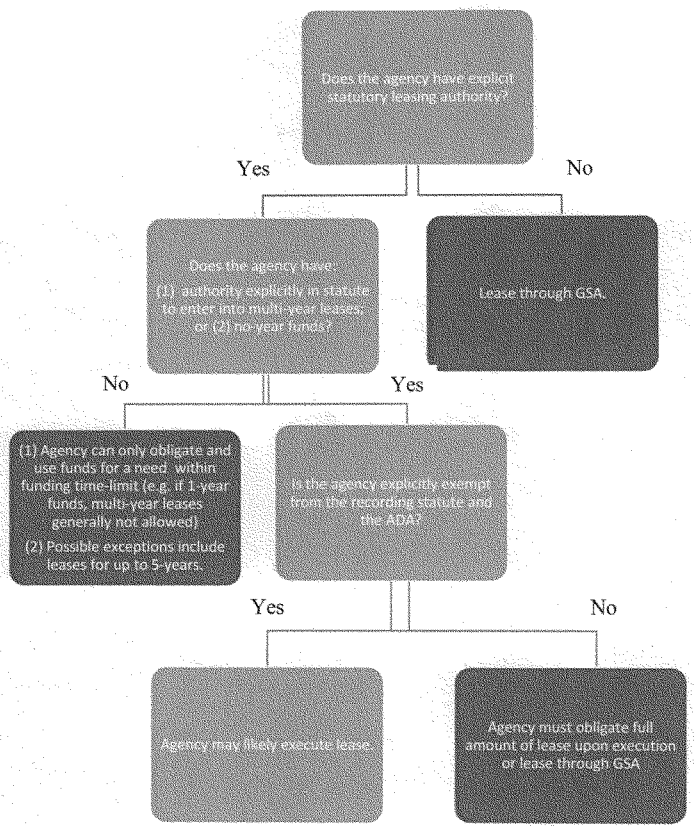
[3] Note that while GSA has the legal authority to enter into long-term leases, GSA leases remain subject to the scoring rules of OMB Circular A-11 which require that for certain leasing, such as capital leases, GSA must have the full budget authority available for the entire cost of the lease upfront.

[4] *See*, for example, Report of Investigation, United States Securities and Exchange Commission, Office of Inspector General, Case. No. OIG-553, May 16, 2011, pp. 77-81; National Transportation Safety Board, Application of Section 1072 of the Federal Acquisition Streamlining Act to Real Property Leases, GAO File B-316860, April 29, 2009; and Commodity Futures Trading Commission – Recording of Obligations for Multiple-Year Leases, GAO File B-327242, February 4, 2016.

[5] 31 U.S.C. 1341 and 31 U.S.C. 1501, respectively.

[6] Developed by Committee staff. This chart does not address the analyses for the purposes of scorekeeping for capital versus operating leases which is a separate evaluation that must also take place.

[7] This simplified chart is intended only to provide a general overview of issues and questions.



CONCLUSION

The hearing will focus on the GAO reviews, findings, and recommendations related to independent leasing authorities and purchase options.

WITNESS LIST

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

The Honorable W. Thomas Reeder Jr.
Director
Pension Benefit Guaranty Corporation

Mr. Chris Wisner
Assistant Commissioner for Leasing
Public Buildings Service
U.S. General Services Administration

Mr. John K. Lapiana
Deputy Under Secretary for Finance and Administration
Smithsonian Institution

INDEPENDENT LEASING AUTHORITIES: INCREASING OVERSIGHT AND REDUCING COSTS OF SPACE LEASED BY FEDERAL AGENCIES

WEDNESDAY, JULY 6, 2016

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2167, Rayburn House Office Building, Hon. Lou Barletta (Chairman of the subcommittee) presiding.

Mr. BARLETTA. The committee will come to order.

Since I became chairman of the subcommittee, the committee has worked with GSA on reducing the cost of leased space by negotiating better deals and reducing the real estate footprint.

We held a hearing and a series of roundtables with GSA, tenant agencies, and real estate experts on the large number of GSA leases expiring in the next 5 years and how we can take advantage of the current market to reduce costs to the taxpayer. We could save $500 million annually by just negotiating better lease deals.

As a result of these efforts, we introduced and the House passed H.R. 4487, the Public Buildings Reform and Savings Act, which includes a leasing pilot program which will give GSA the tools that it needs to more effectively lock in good lease deals.

But while we have been working to improve how GSA manages its leases, there are more than 50 other agencies with their own authority to lease office and warehouse space. And half of those agencies do not even have to comply with OMB's directives to reduce space or report their leases to the governmentwide Federal real property database.

For many of these agencies, there is little oversight of how they manage their leases. That is why the committee requested that the GAO do a review of these independent leasing authorities, including:

One, how they are used and managed;

Two, whether the agencies are getting good deals for the taxpayer;

Three, whether agencies are reducing their costs and space footprint; and

Four, whether agencies are acting within their legal authority.

While the GAO found that some of these agencies were able to get comparable leasing rates or even better than GSA, in part due to their use of real estate brokers, very often they leased more space than they needed.

In addition, there are serious questions about whether some of these agencies are exceeding their leasing authority, potentially running afoul of key laws such as the Anti-Deficiency Act.

The committee's investigation of the Securities and Exchange Commission's use of its leasing authority in 2011 revealed the pitfalls agencies can fall into. The SEC exceeded its leasing authority and wound up committing the taxpayers to a $500 million lease that it did not need and, ultimately, had to be bailed out with help from GSA. The SEC, the Commodity Futures Trading Commission, and the VA are just a few agencies that have run afoul of laws limiting their leasing authorities.

Intentional or not, agencies that do not have real property as their primary mission face serious legal risks. And it is critical, starting with this hearing, that this message is made clear to them.

Before an agency signs a lease, there are three basic questions it should ask:

One, does the agency have leasing authority?

Two, does the agency have either no-year funding or explicit authority to enter into multiyear leases?

And, three, does the agency have an exemption from the Anti-Deficiency Act and the recording statute?

While there are a few exceptions, if the answer to any of these questions is no, the agency may not have the legal authority to sign a lease or may have to obligate the full amount of the lease upfront.

This analysis is separate from the analysis for whether or not a lease is a capital lease for scoring purposes.

We hope to hear more from GAO about its findings and learn how agencies with their own leasing authorities are managing and using their leasing authorities.

We also asked the GAO to review the use of purchase options in GSA leases. If used strategically, purchase options could save significant taxpayer dollars.

The budgetary scoring rules enacted in the 1990s effectively ended the practice of negotiating discounted purchase options in lease agreements by labeling them as capital leases. As capital leases, the full cost of the lease must be obligated upfront, creating a disincentive to use them.

The result has been the taxpayer paying for a building several times over through lease payments without ever being able to gain an equity interest. For example, we will have paid nearly $2 billion for headquarters space for DOT when the current lease expires without accruing any equity.

By identifying and reviewing a number of purchase options in GSA leases, GAO found that in the options exercised in recent years there was an $80 million benefit to the taxpayer. The Public Buildings Reform and Savings Act includes a provision that would provide GSA with the ability to again include these options, where appropriate, in its leases.

I look forward to hearing more from GAO and from our other witnesses today on these issues.

Thank you.

I now call on the ranking member of the subcommittee, Mr. Carson, for his opening statement.

Mr. CARSON. Thank you, Chairman Barletta and Ranking Member DeFazio.

Welcome to today's hearing about the use of independent leasing authority, on behalf of subcommittee Chairman Barletta and I, who have requested two reports from GAO on the use of independent leasing authority by Federal agencies and the use of purchase options in leasing.

This hearing highlights some of the findings from both of these reports. I am especially interested in the assessment of how GSA manages the civilian real estate inventory and its ability to advise other parts of the Federal Government on leasing commercial office space and warehouse space.

In 1949, President Harry Truman signed a law that created the modern day GSA and consolidated several Federal agencies into one agency tasked with providing workplaces for Federal employees and administering supplies. Since GSA was created, it has grown into a real estate giant that leases over 8,000 property assets, totaling 191 million rentable square feet with annual costs of $5.6 billion.

However, in January 2003, GAO designated Federal real property management as a high-risk area due, in part, to the Federal Government's overreliance on costly leasing. The Federal Government's real estate portfolio was in need of oversight and corrective action.

To that end, the Office of Management and Budget issued memoranda in 2012, 2013, and 2015 requiring Federal agencies to freeze and reduce their space footprint. This administration's sustained efforts, coupled with the efforts of this subcommittee, have resulted in millions of square footage of underutilized and unneeded property being shed from the Federal real estate inventory. These efforts have saved money and have allowed precious resources to be better used to achieve agency missions.

While there has been progress in really right-sizing the Federal real estate inventory, last February the leadership of this committee wrote to GAO asking them to study how agencies with their own leasing authority independent of GSA are exercising that authority. As detailed earlier by the chairman, many of these agencies were not subject to the Freeze the Footprint or even Reduce the Footprint directives from OMB.

Though this group of agencies tended to get lease rates that were similar to GSA, many of them often acquired more space than GSA would typically allow.

Additionally, GAO has indicated that some of the agencies that have independent leasing authority do not necessarily have the legal authority to sign a long-term operating lease. Many of the agencies that GAO have examined are doing a good job, but there is still room for improvement and the opportunity to find additional savings in future lease agreements.

Today's testimony and dialogue should serve as guideposts to how agencies exercise their independent leasing authority going forward and how more effective use of purchase options can lower the cost of housing Federal agencies further.

I look forward to moving on with this discussion.

I yield back, Mr. Chairman.

Mr. BARLETTA. Thank you, Ranking Member Carson.

I now call on the ranking member of the full committee, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman, and thank you for putting scrutiny on this important issue, the costs and potential efficiencies that could be gained with enhanced leasing.

The review of the independent leasing authority certainly has merit, and I do not mean just to gloss over that and I look forward to hearing more about that, but the other issue which has really disturbed me for so many years is that some idiot at OMB in 1990 promulgated a rule which we have been bound by which is restricting the Government's ability.

We hear a lot about running Government like a business. Well, what business is going to go out, enter into a costly lease, and deny itself the opportunity to purchase at the end of that lease at a discounted price, therefore being perpetually forever locked into expensive leasing?

Well, brainiac down at OMB, you know, wrote this into a rule, which somehow has never gotten changed at OMB. I am not certain how we change OMB. I am working with Chairman Chaffetz on OMB reform because I keep running into them doing all sorts of things that do not make sense for the U.S. Government or the taxpayers of the United States of America.

But in this case I am pleased to see that our committee has a solution in H.R. 4487. I mean, you know, for the first time ever in I think it was 2008, the Federal Government began occupying more leased than owned space, and in almost every case that is the more expensive way to go, and it also deprives the Federal Building Fund of direct payments that would help for future acquisitions of space and for maintenance and repair of Federal assets.

So the bill, H.R. 4487, does not really address the idiots at OMB. It does not end-run around their rule, but that is at least an improvement. So I fully support H.R. 4487, and I am looking forward to hearing more.

And I would love anybody on the panel to justify what we are doing now by denying ourselves the authority to purchase at a discounted rate, and if anybody wants to volunteer that, I would be happy to discuss it with them.

Thank you, Mr. Chairman.

Mr. BARLETTA. Thank you, Mr. DeFazio.

On our panel today we have Mr. David Wise, Director of Physical Infrastructure Issues, Government Accountability Office; Mr. Chris Wisner, Assistant Commissioner for Leasing, Public Buildings Service, General Services Administration; the Honorable W. Thomas Reeder, Director, Pension Benefit Guaranty Corporation; and Mr. John K. Lapiana, Deputy Under Secretary for Finance and Administration, the Smithsonian Institution.

I ask unanimous consent that our witnesses' full statements be included in the record.

Without objection, so ordered.

Each of you is no recognized for 5 minutes. Mr. Wise, you may proceed.

TESTIMONY OF DAVID WISE, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; CHRIS WISNER, ASSISTANT COMMISSIONER FOR LEASING, PUBLIC BUILDINGS SERVICE, U.S. GENERAL SERVICES ADMINISTRATION; HON. W. THOMAS REEDER, DIRECTOR, PENSION BENEFIT GUARANTY CORPORATION; AND JOHN K. LAPIANA, DEPUTY UNDER SECRETARY FOR FINANCE AND ADMINISTRATION, SMITHSONIAN INSTITUTION

Mr. WISE. Chairman Barletta, Ranking Member Carson, and members of the subcommittee, I am pleased to be here today to discuss our work on Federal use of independent leasing authority for real property.

While GSA leases real property on behalf of many Federal tenants, Congress can provide independent leasing authority to Federal entities either through their enabling legislation or through an appropriations act. GSA tracks and reports on its tenants' real property holdings. However, less is known about the holdings of Federal entities that independently lease real property.

In 2004, the President issues an Executive order establishing the Federal Real Property Council, FRPC, composed of CFO Act Federal entities. OMB chairs the FRPC.

Goals of the FRPC include developing guidance, facilitating agency asset management plans, and serving as a clearinghouse for leading practices. The order also directed establishment of a governmentwide real property database, now called the Federal Real Property Profile, FRPP.

Today I would like to make four main points. One, in surveying 103 Federal entities, we found that of the 52 reporting leasing authority 25 are not required to report to FRPP, and there is a lack of coordination and information sharing with the FRPC.

Two, most of the 37 selected independent leases we reviewed were comparable to or lower than matched GSA rates.

Three, most selected entities' leasing policies generally align with leasing practices but lack documentation.

And, four, most selected entities exceeded GSA's recommended target for space allocation.

While not required, neither GSA nor OMB maintains a comprehensive list of Federal Government entities with independent leasing authority. FRPP offers a possible way to determine this, but the information is incomplete, as only the agencies in the FRPC are required to annually submit their real property information to FRPP.

Based on our survey, the 25 entities that are not members of FRPC reported in fiscal year 2015 that they leased space covering approximately 8.3 rentable square feet and costing about $293 million in annual rent.

FRPC members coordinate efforts and share leading practices in areas such as space allocation that OMB staff have said are critical

to reform efforts. However, the 25 non-member entities are excluded from FRPC efforts.

We also found that FRPC members were more likely to have leasing policies that aligned with the leading practices than non-members. Increasing FRPC participation would likely allow all Federal entities to benefit from the collaboration and sharing of leading practices.

Our related report that we issued today recommended that OMB establish efficient methods for including data from non-FRPC member entities to the FRPP and increase collaboration between FRPC member and non-member entities. OMB agreed with both recommendations.

We analyzed 37 selected independent leases across seven Federal entities. Of these 14 had rates that were less costly than matched GSA leases and 11 had comparable rates. The remaining 12 leases had rates that cost more than matched GSA leases. We identified several possible factors why some of the independent leases we analyzed were less expensive than matched GSA leases as follows.

GSA uses standardized lease documents that include clauses that can be more rigorous than the leases provided by private sector landlords.

Renovation or reconfiguration costs were more common in GSA leases than the independent leases in our sample.

The independent leases we analyzed had periods of free rent built into the leases more frequently than the matched GSA lease.

We developed a list of leading practices that Federal entities should incorporate into their real property leasing functions. These include: one, assessing need; two, planning ahead; three, ensuring best value; and four, analyzing and documenting lease budget effect.

We reviewed the extent to which eight selected Federal entities had policies that aligned with leading Government leasing practices. Although most of the selected entities had established policies consistent with leading Government practices, we found numerous instances where the lease files lacked evidence of support that the leading practices were actually used.

Specifically, we found that a high percentage of the entities' lease files lacked evidence for analyzing and documenting the budget effects of the lease. This is important because Federal entities must comply with the recording statute requires Federal agencies to record the full amount of their contractual liabilities, including leases, against funds available when the contract is executed.

Violations of the recording statute can also result in Anti-Deficiency Act violations if lease obligations exceed available budget authority at the time the lease is executed.

All of the eight entities we reviewed leased more office space per employee than GSA's recommended target of 150 square feet per employee. Twenty-eight of the thirty selected office leases we analyzed exceeded the GSA recommended target on average by a factor of two. Many of these leases had vacant office spaces, which can inflate the per person space allocation.

Greater involvement in FRPC could help these agencies learn and implement leading practices in space utilization.

This completes my prepared statement. I would be pleased to respond to any questions that you may have.

Mr. BARLETTA. Thank you, Mr. Wise. Thank you for your testimony.

Mr. Wisner, you may proceed.

Mr. WISNER. Good morning, Chairman Barletta, Ranking Member Carson, and members of the subcommittee. I am Chris Wisner, the Assistant Commissioner for Leasing at the General Services Administration's Public Buildings Service. I appreciate being invited here today to discuss GSA's efforts to provide cost effective leased space for our partner Federal agencies.

GSA's mission is to provide the best value in real estate to Government and to the American taxpayer. We currently have an inventory of 376 million square feet of space. Approximately half of that is leased, accounting for more than 8,300 leases across the country.

We seek to provide space for our partner Federal agencies and assist them in achieving their missions while best serving the public interest. As a part of the administration's management agenda, GSA prioritizes finding ways to maximize utilization of the existing federally owned inventory, including reducing the number of leases we hold in our portfolio. By dramatically improving utilization of our current inventory, we have saved millions of dollars for our partner Federal agencies and the general public.

GSA works closely with OMB to help implement the national strategy for the efficient use of real property, and the two agencies have been key coordinators of Freeze the Footprint and the current Reduce the Footprint initiatives. GSA is implementing Reduce the Footprint by helping other Federal agencies increase their office space utilization and minimize cost, including thoroughly implementing innovative workplace strategies.

One example of GSA's efforts is the Department of Homeland Security consolidation at St. Elizabeths due to be completed in 2021. The first phase of the project completed in 2013 consolidated the United States Coast Guard Headquarters at the St. Elizabeths campus. As a result, GSA was able to vacate several leases totaling nearly 1 million square feet.

When all three phases of the consolidation are completed, approximately 40 leases will be consolidated on the federally owned campus resulting in over $1 billion in savings.

GSA leasing support services contract, or GLS, continues to be a workforce multiplier and is a critical part of GSA's strategy in delivering space. This past September GSA awarded nine GLS contracts across the country, including two to two small businesses.

We anticipate GLS to be used for approximately 30 to 40 million square feet of our inventory, equating to approximately $100 million in rent cost avoidance to our partner Federal agencies.

GSA's goal for the leasing program is to make it easier for the real estate industry to do business with the Federal Government, for GSA to deliver space quicker to our Federal customer agencies, and for GSA to secure competitive lease rates.

GSA uses a comprehensive, deliberative process that ensures full competition and fair rental rates for the taxpayer, while taking into account such public interest as proximity to central business dis-

tricts and public transportation and supporting the mission requirements of GSA partners.

In an effort to improve the delivery of leased space in 2015, GSA rolled out is online offered portal known as the Automated Advanced Acquisition Program, or AAAP, in all U.S. markets. The goal for the platform is to make it easier for the real estate industry to do business with the Federal Government, for GSA to deliver space quicker to its Federal customer agencies, and for GSA to receive competitive rates.

AAAP's paperless, online offered submission process enables the Government to establish this goal. Since its inception in the GSA national capital region in 2005, the AAAP has conducted over lease transactions totaling over 4 million square feet and over $1.7 billion in total contract value.

Chairman Barletta, Ranking Member Carson, and members of the subcommittee, we strive to meet our customers' requirements in an efficient and transparent manner and are committed to reducing cost. Thank you for the opportunity to testify before you today. I will be happy to answer any questions.

Mr. BARLETTA. Thank you for your testimony.

Mr. WISNER. Thank you, sir.

Mr. BARLETTA. Mr. Reeder, you may proceed.

Mr. REEDER. Good morning, Mr. Chairman, Ranking Member Carson, Ranking Member DeFazio, and members of the subcommittee.

I am very pleased to appear before you today to discuss the Pension Benefit Guaranty Corporation and its engagement of the General Services Administration to secure a new headquarters lease for PBGC that reduces our space and consolidates our headquarters operations into a single location.

PBGC was established over 40 years ago by the Employee Retirement Income Security Act, or ERISA, to protect the retirement incomes of workers and retirees covered by private sector defined benefit pension plans. PBGC receives no taxpayer dollars. PBGC's operations are financed by insurance premiums, investment income, and assets and recoveries from failed plans.

PBGC covers more than 40 million Americans and more than 23,000 pension plans. We work with financially troubled employers that sponsor pension plans to help them preserve promised benefits and avoid plan failure.

For workers and retirees in plans that do fail, the agency's guarantee is critical to their retirement security. Today PBGC is responsible for the payment of current and future pensions for about 1.5 million Americans in 4,800 failed pension plans.

PBGC's staff come from diverse fields, including law, actuarial science, financial analysis, auditing, and information technology. The great service provided by our highly collaborative, talented and devoted workforce is well recognized by our customers.

In 2015, our customers' satisfaction score surpassed the scores of all Government agencies, as well as the best companies in the private sector.

PBGC began leasing its current headquarters space at 1200 K Street in 1992. As the demand for PBGC's services has grown, its Federal and contractor workforce has also expanded, and it's now

over 1,800 total Federal employees and contractors, and our headquarters has expanded to two additional nearby buildings here in Washington.

PBGC also leases space in Kingstowne, Virginia, to take advantage of lower rates for certain back office operations while maintaining proximity for headquarters staff, and we have a decreasing number of field offices.

In 1994 we had 17 field offices. Today we have only five as we continue to find opportunities to improve efficiency and further reduce our footprint.

Although ERISA technically gives us independent leasing authority, it was an obvious decision for us to go to the agency with the expertise, bench strength, and clear authority to obtain the best value for PBGC's premium payers and other stakeholders as we contemplated the expiration of our headquarters lease at the end of 2018.

Last year we submitted our program of requirements to the GSA, and in March of this year, PBGC met with GSA, and the broker assigned to PBGC's lease procurement to go over proposed timelines and additional information.

Last month GSA submitted the prospectus lease for PBGC's consolidated headquarters space to the committee, and we have begun discussing the prospectus with subcommittee staff. Although it is still early in the process, I believe we have established a sound working relationship with GSA. The PBGC and GSA teams have been working well together and communications are good. We are moving forward in accordance with the steps GSA and PBGC have agreed to, and we are making good progress.

PBGC is pleased to be partnering with GSA in seeking a consolidated headquarters location. Consolidating our headquarters into one building will not only reduce our footprint and our cost, but it will also improve effective communication and collaboration in serving our customers.

Again, I appreciate the opportunity to appear before you today and look forward to answering any questions you may have.

Mr. BARLETTA. Thank you for your testimony.

Mr. Lapiana, you can proceed.

Mr. LAPIANA. Thank you.

On behalf of the Smithsonian Institution, thank you, Chairman Barletta, Ranking Member Carson and members of the subcommittee, for the opportunity to testify before the subcommittee today.

The Smithsonian is the world's largest museum, education and research complex, consisting of 19 museums and galleries, the National Zoo, and nine research facilities. Millions visit us each year, but very few see the hard work happening away from the museums that makes it all possible, and much of that behind the scenes work is being accomplished in leased space.

The Smithsonian's leasing requirements are unique. Our combined need for collections storage, administrative offices, research, laboratory and exhibition space is unlike that of any other Federal agency.

We currently lease about 1.5 million square feet at an annual cost of approximately $52 million. This is a significant cost to the Smithsonian and, in turn, to the American public.

As a result, we take seriously our responsibility to spend these dollars wisely and transparently. We get our wisdom through in-house professional real estate staff and outside private sector experts who identify the most cost effective leasing opportunities through detailed studies of real estate markets and submarkets.

We recognize that by relying on both internal and external expertise the Smithsonian can best meet its unique space requirements, ensure competitive negotiations with lessors, and identify when consolidation makes the most economic or programmatic sense.

We believe that this reliance has resulted in leases at or below market rates. We also believe that the Smithsonian is obligated to demonstrate that its use of taxpayer dollars is responsible. As an entity with independent leasing authority, we are not required to file annual reports with the Federal Real Property Council, but we do so voluntarily as part of our commitment to follow best practices.

Our Board of Regents, too, recognizes the importance of following best practices and must vet and approve all leases by the Smithsonian with a net present value of $5 million or more. Six Members of Congress sit on the Board, and three of those congressional Regents are also members of the Board's Facilities Committee, which has primary oversight over the Smithsonian's leasing activities, among other duties.

In determining our leasing requirements, Smithsonian museums, research centers, and support offices are required to formally compile a detailed request of their needs. Once approved, our real estate office works with the unit to verify and refine the requirement and develop an appropriate space plan.

We will only look to leasing space if current Smithsonian assets are unavailable, insufficient, or inappropriate for the proposed use.

As the Smithsonian's inspector general noted in a 2014 audit report on leasing activities, "by monitoring the Smithsonian's use of leased office spaces the Real Estate Office successfully consolidated some spaces to reduce costs where possible."

A disciplined leasing process is particularly important in securing space to house the national collections. Since Congress established the Smithsonian in 1846, we have learned much about the proper care and preservation of diverse collections and have applied that learning to develop realistic space requirements.

And these requirements can vary dramatically among the 138 million items in our collections, from mosquitoes to daguerreotypes types to the space shuttle, but all must satisfy Smithsonian standards for temperature, relative humidity, ventilation, lighting, fire suppression, and security. Our stringent policies and our adherence to them reflect how seriously we take our obligation to preserve and protect the national collections.

Looking ahead, last year we issued a collection space framework plan to guide our current and future collection needs while providing renovation and construction strategies that in the end will eliminate our need for leased collection space. Pursuant to the framework, we are planning to construct an additional storage pod

at the Museum Support Center in Suitland, Maryland, and two new storage modules at the Udvar-Hazy Center in Chantilly, Virginia.

The first of those modules will initially serve as a temporary collection swing space during the revitalization of the National Air and Space Museum. A bill authorizing those projects has been referred to this subcommittee.

Our requirements for office space are less complex, but still carefully developed to ensure operational needs are met in a cost effective manner.

In addition to controlling leasing costs through competition, the Smithsonian is now pursuing a long-term cost savings strategy. Our current leased office holdings in DC are scattered across the metro area, creating operational inefficiencies and growing leasing costs.

To address this, we have aligned the termination dates of these leases with an eye toward consolidating space and creating savings. Proposals are now being evaluated in response to a nonbinding solicitation to consolidate Smithsonian administrative office space in the DC metro area.

We are conducting a cost-benefit analysis of all realistic options, from maintaining to status quo and extending those leases to outright purchase of a building, and we have also consulted with the GSA to identify suitable properties that may be available for consolidation within the Federal real estate portfolio.

As we look forward to the opening of the new National Museum of African American History and Culture this September and the renovation of the Air and Space Museum, and as our collections continue to grow, our need for space is greater than our budget will allow. For that reason, the Smithsonian will continue to seek efficiencies and consolidate our leased spaces in the most responsible and transparent manner possible.

Thank you for the opportunity to testify today, and thank you for your support of the Smithsonian Institution.

Mr. BARLETTA. Thank you for your testimony.

I will now begin the first round of questions limited to 5 minutes for each Member. If there are any additional questions following the first round, we will have additional rounds of questions, as needed.

Mr. Wise, one report issued by GAO today is a review of the independent leasing authorities of agencies outside of GSA, and a number of agencies like the SEC and the Commodity Futures Trading Commission, or CFTC, have exceeded their legal leasing authorities and run afoul of the law.

We want to alert the other agencies before they make mistakes.

If we could have the chart put up.

Generally, in order to determine if an agency has the obligational authority to sign a lease, GAO asks three questions:

First, does the agency have leasing authority?

Second, does the agency have either explicit multiyear leasing authority or no-year funds?

And, third, does the agency have explicit exemptions from the Anti-Deficiency Act and the recording statute?

Barring some exceptions, the answer to all of these questions must be yes for an agency to sign a long-term lease, and not to obligate the full cost of the lease upfront; is this correct?

Mr. WISE. Yes, sir. Yes, Mr. Chairman, that is correct.

Mr. BARLETTA. Mr. Wise, and to be clear, the evaluation of whether an agency has the obligational authority to sign a lease under the Anti-Deficiency Act is a separate evaluation from the scoring issue of whether a lease is a capital or an operating lease; is that correct?

Mr. WISE. Yes, Mr. Chairman. That is also correct.

Mr. BARLETTA. Mr. Wise, recently GAO reviewed the CFTC's use of its leasing authority. Can you elaborate on what GAO found?

Mr. WISE. Yes, Mr. Chairman. In the case of CFTC, it was a little bit of kind of putting the cart ahead of the horse. What happened with CFTC was they anticipated getting a great increase in their funding and then at the same time anticipated they would be hiring a lot more staff.

It did not happen. In the meantime, they leased the space, and as a result they ended up with a lot of very underutilized space and some significant obligations that could incur up to about $75 million in additional leasing costs.

As a matter of fact, I had an opportunity to visit the office in Kansas City that was one of the offices that was part of our review, and it was rather modest office space, but it included two floors, one of which had been emptied out.

Now, CFTC was trying to work with the landlord to see if it could sublease that space, but the landlord, of course, has probably relatively minimal interest in doing that since he is already being paid by CFTC, and these leases do not expire until 2025. So there is a significant issue there with the Recording Act.

Now, whether or not it is an Anti-Deficiency Act violation, that is something that is still being determined. Our report was issued back in May, and CFTC is still trying to work through those issues, but it was definite an issue with the Recording Act, and they got way ahead of themselves when it came to getting into obligations that were beyond the authority that they had.

Mr. BARLETTA. Mr. Reeder, the PBGC is now working through GSA to lease new headquarters space. Why did your agency decide to use GSA?

Mr. REEDER. As you can probably tell from my oral testimony, I am very proud of what the PBGC does. We are very busy and very adept at preserving pensions and protecting pensioners and paying timely benefits and maintaining high standards of stewardship.

And regarding stewardship and accountability, we believe that the GSA is more adept at obtaining the best value for our headquarters lease. Although we clearly meet the first two criteria that you mentioned, that we have express statutory leasing authority and we have no-year funds, the interpretation of the recording statute is unclear enough to us that we wanted to go with the GSA to have a clearer authority for our headquarters lease.

Mr. BARLETTA. Thank you.

Mr. Lapiana, I understand the Smithsonian is currently reviewing its leasing authority. As chairman of the subcommittee, it

seems the answer should be a simple one: work with GSA to meet your leasing needs.

When do you expect to have a decision on how the Smithsonian plans to proceed with its leases?

Mr. LAPIANA. Thank you.

Let me back up and just say that as we have entered into leases, we have done so in good faith, and we think we have very good grounds for doing so.

The issue was raised in the last few months about whether we had the budget authority to do so or not, and there was some lack of clarity. We are working with OMB right now in addressing those issues, and we will keep the committee apprised of our results there.

We are hopeful that it will be sooner rather than later.

Mr. BARLETTA. Thank you.

I will now recognize the ranking member, Mr. Carson.

Mr. CARSON. Thank you, Chairman Barletta.

Mr. Wise, is it fair to say that agencies that are responsible for procuring their own space tend to acquire more space per employee than when GSA procures space for other agencies? What do you think is the case?

Mr. WISE. Yes, in our review, Ranking Member Carson, we found that in most cases, almost all the independent leasing entities ended up allowing almost twice as much as the recommended 150 square feet per employee that GSA now recommends.

Mr. CARSON. In your mind, sir, should GSA be making greater use of purchase options to reduce the cost of housing Federal employees?

Mr. WISE. Well, it is certainly a possibility. The way we view it is that purchase options could be one more tool in the GSA toolkit that would potentially enable the Government to save money in acquiring space for its employees.

In our review we found a few cases where that has taken place, and there are a couple more in the pipeline that could potentially save money. I think as the chairman mentioned in his opening remarks, there was some significant savings for several properties over the past several years.

And so, yes, I think it could be an option that could be useful for the Government and could lead to some potential savings, although one needs to analyze the totality of the leasing environment.

Mr. CARSON. Thank you.

Mr. Wisner, how long on average does GSA occupy a building where GSA is the sole lease tenant?

Mr. WISNER. Sir, where we are the sole lease tenant, on average we are in the building between 26 and 27 years.

Mr. CARSON. How do other governments, either local or foreign, handle long-term leasing?

Mr. WISNER. My own personal information on these is Canada and Japan and England often own their Federal facilities.

Mr. CARSON. OK. And thanks you, sir.

And lastly, Mr. Reeder, can you elaborate on how PBGC came to the conclusion as to why it was in their interest to have GSA take over the lease consolidation efforts?

Mr. REEDER. As I mentioned earlier, we do think that they have the bench strength and the clear authority to negotiate a lease. Since we saw our lease ending in 2018, beginning in 2014 we began looking at all of the options we had, various leasing options and including a purchase option. Before making the decision to go to the GSA, we hired a space planner and architectural firm and began developing our program of requirements.

We made the decision to go with GSA fairly recently. So we did it in consultation in our own building as well as with OMB, as well as with GSA, and I think it is the right decision.

Mr. CARSON. Lastly, really this time, Mr. Lapiana, would the Smithsonian lose anything by going through GSA to meet their leasing needs for office and warehouse space?

And does the Smithsonian have the institutional knowledge to be an effective player in the commercial office real estate market?

Mr. LAPIANA. If I could answer your second question first, we believe we do, and as Director Reeder noted in the rationale for why PBGC looks to GSA, at the Smithsonian we do have the expertise. We do have the bench strength. We have diverse and unique leases and properties that we manage, and for us, the most efficient and effective and responsive way to enter into leases or at least seek leases is internally with outside experts.

We also rely on GSA as an important resource. As I mentioned in my testimony, we voluntarily report to the council because we know it is the best practice, and we are always open to discussing with GSA other opportunities that would make our leasing more efficient and cost effective.

Mr. CARSON. Yes, sir. Thank you, gentlemen.

I yield back, Mr. Chairman.

Mr. BARLETTA. And the Chair recognizes Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Wisner, let us just look at purchase options for a moment. If purchase options are included, does that invariably drive up the monthly rental cost? I mean, does the owner exact a premium at the beginning? And would it make it more difficult for you to negotiate if you were including the purchase option?

Mr. WISNER. Sir, each deal would need to be evaluated specifically, but it is my experience that when you are negotiating in the initial prior to award, purchase options can be built into leases. They are a point of negotiation.

We in the past have traded purchase options for free rent. We have traded purchase options for other things. So kind of all things being equal, it is what is important to the individual that you are negotiating against, what their financial requirements are, and what their institutions behind the lease want.

So if they are a long-term hold organization, they may not be as interested in a purchase option. If they are looking at a potential get GSA or get the Federal Government as a tenant and then sell the building, a purchase option may be of no consequence to them.

So every deal is specific, but my experience is that you can put purchase options on the table, yes.

Mr. DEFAZIO. So it could be a useful tool.

Mr. WISNER. Yes, sir.

Mr. DEFAZIO. And right now, as this committee has recognized, I mean, this is a little bit nonsensical. So let me just give a really simply, I know not realistic example. We have an operating lease for 30 years. We are going to pay $1 million a year, OK, $30 million outlay. We have a lease-purchase, and let us just say it worked the same way. You are going to pay $1 million a month, but at the end of 30 years, you get to purchase at a discount from the value of the property, and you would be able to continue tenancy, et cetera.

But the one with annual rent counts in this year's budget as $1 million and the other one counts as $30 million plus the purchase price; is that correct?

Mr. WISNER. Sir, scoring is not in my purview.

Mr. DEFAZIO. Yes.

Mr. WISNER. However, I can tell you that there must be an evaluation of the entire deal. So when we look at the deal, it is the value of the rent and whatever the purchase option is at the end, and it could score as a capital lease for us.

Mr. DEFAZIO. Right. And so what would be ideal would be we would look at all the same way. We would look at the obligation over time. So if we are going to rent it for a million bucks a year, we are going to say, well, it is going to cost $30 million to the taxpayers, and if we are going to rent it, you know, for less and have a lease-purchase, then you could say, well, gee, that is going to cost 50, except we would get an asset.

I mean, there has got to be a better way to do this. I mean, I think the rule was written, and maybe someone there can address it; I think the rule was written because at the time the Government used to actually more regularly build, acquire property and build structures when we knew we were going to have long-term needs because that is the most cost effective way to go.

But then the lease-purchase came along, which was less cost effective obviously, but what happened in writing a rule to try and level the playing field, we actually put the lease-purchase off the table and Congress, in its infinite wisdom, not having created capital budgets, does not hardly ever allow the purchase of property in the building of a structure. We would rather be idiots and pay a premium and end up with nothing.

Can anybody address that?

No? OK. Mr. Wise.

Mr. WISE. Yes, I do not know if I would characterize Congress quite that way, but in any case, the——

Mr. DEFAZIO. Do not call us idiots. I can call us idiots.

Mr. WISE. What happened is pretty much what you said. It leveled the playing field. It was an attempt to level the playing field, but then it took away the incentives for the lease-purchases, especially the discount lease-purchases.

And as a result, agencies moved more towards operating leases which only had to be accounted for, as you put it, 1 year at a time versus counting the totality, which put a pretty big hole in agency budgets.

So then you end up with a situation where agencies may be paying rent essentially ad infinitum.

I mean, we found cases where I think in one of our reports we found EPA renting a facility in Seattle for 60 years.

Mr. DEFAZIO. Well, EPA has not existed quite that long. Jimmy Carter was the EPA. That was not 60 years.

Mr. WISE. Well, anyway, renting for a long time in Seattle. In doing this work, we examined over 18,000 leases since the early 1990s, since the scoring rules came into effect. Validating your point, we only found 17 cases where lease-purchases were involved. Thus, the scoring rules had effectively taken away the incentive both for discount and for even lease-purchases.

Thus we are left with what we have today, which is a great over-reliance on leasing and, as you framed it, much higher costs in the long run to the Government, which is something we have talked about in many of our reports for this committee and for others.

Mr. DEFAZIO. Thank you.

Thank you, Mr. Chairman.

Mr. BARLETTA. Thank you.

The Chair recognizes Mr. Curbelo.

Mr. CURBELO. Thank you very much, Mr. Chairman, and I thank all the witnesses for their testimony today.

Mr. Wise, while the GAO report does not include an exhaustive list of agencies with leasing authorities, is there a particular reason why the VA is not included in the report?

And I will explain to you why I am asking you this question. I represent the southernmost district in Florida, and we have many veterans who live down on the Florida Keys, and oftentimes these people have to drive long distances in order to get the quality care they deserve. Sometimes they do not even get that, but that is a separate issue.

So I wanted to pose a question and see if there is anything we can do by working together to remedy this situation.

Mr. WISE. Yes, thank you for your question.

Actually I think the short answer to that is VA now goes through GSA for its leasing.

Mr. CURBELO. OK. So you do not foresee any role or any opportunity for us to work on this. I would have to be exclusively through GSA?

Mr. WISNER. I can take part of that answer from the GSA side. So the Veterans Administration has come to GSA for delegation of authority. We are using our authority to assist them in the acquisition of leased space for these requirements.

I am not familiar with the one in Florida, but we have approved a significant number of leases and lease actions with the Veterans Administration. They have done a lot of work to centralize their real estate program, and we have seen a significant amount of improvement over the couple of years that I have been involved with them.

Mr. CURBELO. OK. Well, I thank you, and I look forward to working with you to remedy this situation because, again, sometimes we have veterans driving 3 and 4 hours in order to get care, and if we can do anything to expand access to care, it would make a great difference to the people in my district and I am sure this is something that happens throughout the country.

So thank you both very much.

That is all I have, Mr. Chairman. Thank you.

Mr. BARLETTA. Thank you.

We will now begin the second round of questions.

Mr. Reeder and Mr. Lapiana, what steps have your agencies taken in the past to ensure you achieve the best lease rates for the taxpayers?

Mr. Reeder, do you want to start first?

Mr. REEDER. Yes. We began leasing our current headquarters back in 1992, and our field offices in our Kingstowne space were leased in a comparable timeframe. So as I implied earlier, we do not do a lot in the leasing arena and not often. It has been 24 years since we have leased our main space, and we follow procurement standards. We follow the regular procurement requirements, and we believe we have gotten competitive or below market rates on most of our leases, as has been shown by the GAO report.

But we believe that our turn towards the GSA will help us do that even better.

Mr. CURBELO. Mr. Lapiana?

Mr. LAPIANA. Thank you.

Before we even consider whether we should be seeking a lease, we do an internal needs analysis and make sure that within our portfolio we can accommodate the needs of the particular unit or museum.

After the needs analysis, both staff, real estate experts and outside consultants and brokers advise us on framing an RFP.

All of our leases are subject to competition, and it is a rigorous competition. We take it very seriously, and the Smithsonian is a very good tenant, and we get very good responses to our RFPs.

Once we get down to the best and final offers, we negotiate hard with our potential lessors. As I mentioned, we are a very good tenant, and the competition and the responses that we get reflect that, and our staff of experts look to use every available tool. Tenant improvement allowances, free rent, negotiation of escalation costs, it is all part of the final negotiation.

And we believe that in the end the proof is in that our leases are at or below market rates.

Mr. CURBELO. Mr. Wisner, how does GSA ensure that its tenant agencies do not lease more space than they need?

Mr. WISNER. Excuse me, sir. So we work with tenant agencies on their program requirements, and many of the tenant agencies have submitted the reduced footprint plans to OMB. They oftentimes have already set their space requirements, which is a really good way to enter into the program.

Sometimes we work with a customer agency who has not established their utilization rates or are in the process of establishing their utilization rates, and that is where we use the recommended square footage utilization that GSA has in place.

So we work with our customer agencies. We have units around the country that are workplace strategists. Their job is to help more efficiently plan the space, look for the most efficient ways to plan space, look for shares space, look for all opportunities with before we go to the market and run a competition.

So the goal is to get the program requirements locked in at a utilization rate that is significantly improved over where they are cur-

rently and get to the 150 square foot GSA standard that we are looking at, but we have many agencies that are below the 150 square foot standard right now.

Mr. BARLETTA. Mr. Lapiana, in your testimony you talk about the importance of minimizing lease costs. How much office space do you current lease and how many people do you house in that space?

And do you currently meet or exceed GSA's standard for space utilization?

Mr. LAPIANA. We have the vast majority of our office space in the metro DC area, and it is about 360,000 square feet. In general, it depends on the building, and I say that with respect to what we own and what we lease and what activities are going on in the building so that it is difficult for us to use the GSA office number across the board because not all of our activities and actually a majority of the space that we need is devoted to non-office or administrative functions.

However, in the end, staff-wise, FTE-wise, we are in the ballpark with respect to the GSA number. In preparing for this hearing, we were looking at that and anticipating a question like this. We have 6,300 employees, and we also have 6,500 volunteers and interns who are also using those spaces. We do not have the numbers with us yet but we would be happy to share it with the committee once we have collected the information.

So that when we make the calculations with regard to the GSA number, we are looking only at staff, but those interns and those volunteers, whom we could not run the Smithsonian without, are not in that calculation.

So we are actually very confident, even under a very conservative calculation, that we meet or are under the GSA number.

Mr. BARLETTA. I recognize Ranking Member Carson.

Mr. CARSON. Thank you, Chairman.

Mr. Wise, how can Federal real property leasing practices be better developed and shared across the entire community of Federal leases?

Mr. WISE. Mr. Carson, we recommended in our report that the FRPC, the Federal Real Property Council, is a good vehicle for doing this because they meet monthly. They discuss exactly the kinds of issues that are of interest to all real property managers. It acts like a clearing house, a forum for discussing the issues of the day for all senior Federal real property managers.

That said, we understand that, you know, putting a lot of small entities into the Federal Real Property Council could make it a little bit more unwieldy, but there is another potential vehicle we identified and have discussed during the course of our work, and that is the Small Business Council, which acts as sort of a subsidiary group to the FRPC.

We feel that the framework is actually in place to do that, and that is why we recommended that this would be, we think, an excellent idea in order to bring everybody into the tent, so to speak, and would help in terms of being able to implement leading practices and more efficiencies, thus enabling agencies to do a better job.

Mr. CARSON. Thank you.

Mr. Lapiana, the GAO found that many agencies with independent leasing authority often lease twice as much office space that GSA usually allows for office space. How does the Smithsonian allotment of office space per employee compare with the GSA standard of 150 square feet of office space per person?

Mr. LAPIANA. I think we reflect well against the GSA standard. As I mentioned, a smaller portion of our staff is administrative and in traditional offices. We have a lot of curators with collections who are in with the collections. In our number we have exhibit design and fabrication, and we have some museum space.

We have research laboratories, and we also have volunteers who actually turn out to be about half of our workforce.

Taking that all into account, we are very confident that we are at or better than the GSA number. However, it does come with these caveats of it is not just office space in the calculation. It is laboratories; it is libraries; it is exhibitions; it is exhibit fabrication and research.

Mr. CARSON. Thank you.

I yield back, Mr. Chairman.

Mr. BARLETTA. Thank you.

Mr. Wisner, as you know, the committee has been pushing GSA hard to increase your average lease terms to 10 years or more, and to increase your use of brokers to get better deals, and to work through your expiring leases while the market is still favorable for the Government.

Can you update us on those two efforts?

Mr. WISNER. Yes, sir. Internally we have established a policy for longer term leases. The goal here is 10-year leases or longer. Exceptions to a 10-year deal must be escalated through our management program.

So I have policies in place and I have approvals in place. We are executing longer term leases in markets where it does make sense, and that revolves around escalating markets, markets there were are opportunities to lock in now.

The second part of your question, excuse me. Do you mind repeating it?

Mr. BARLETTA. Sure.

Mr. WISNER. The broker?

Mr. BARLETTA. Yes.

Mr. WISNER. Yes, sir. So we established a new broker contract in September of this last year. We have nine new brokers across the country. We split the country into zones so we could give an opportunity for small businesses to compete on that contract.

The required tasking and measure within GSA is 50 percent of all of our leases that are commissionable events will be tasked to the broker contract. We have currently met our minimum obligation under the contract this year. We will continue to do that tasking. This contract runs for 5 years, and it is my expectation we will continue to task at that rate.

So the goal is 50 percent of all of our leases that are commissionable events will go to the brokers.

Mr. BARLETTA. Thank you.

Mr. Wise, GAO is issuing two reports today. One of them is purchase options and lease agreements. I was able to visit one of the

buildings you highlighted in that report, the IRS building in Detroit. We were able to purchase that building for $1. Can you talk briefly about your findings and the potential financial benefits of the purchase option?

Mr. WISE. Mr. Chairman, yes. There are really three key points to the report that we issued today that you referred to. As I had mentioned a little bit earlier, one key point is the scoring rules that have virtually kind of done away with the lease-purchase options and especially the discount purchase options.

As I had mentioned earlier, of the over 18,000 leases we looked at, we only found a handful, 17 or so, that tried to exercise that option.

And I would say that, you know, something else that we have been talking about during the course of this hearing is it certainly can be advantageous to the Government to be able to eventually acquire a building. I think Mr. DeFazio was alluding to that in his remarks.

The IRS building in Detroit was a good example. While the Government did pay rent for 20 years, at the end of the day, the Government acquired the building. So you have a long-term solution to housing the IRS office in Detroit. In that case it is, I think, one in the win column for the Government.

And as we talked about a little bit earlier, if that can be even as an option for the Government going forward, then there is a potential for additional savings.

We saw in the course of our work there are two other buildings that also saved substantial money. One was Columbia Plaza, which is about a block or so from the State Department, which the Government managed to come up with a savings of about $50 million from that exercise in the lease-purchase.

And another one was a USDA facility in Riverdale, nearby in Maryland here, which also saved about $14 million.

Then there are two other buildings during the course of our review we found that looked like they could have potential to save money going forward exercising an option. One is the Federal Energy Regulatory Commission building, which is located not far from Union Station, and that will have a lease-purchase option that will be open in 2025. The building has been appraised at $133 million and the option is for $20 million. So there is a potential savings there.

Again, as I mentioned earlier, these things have to be looked at in totality, once you get to that point, you know, looking at security issues, looking at seismic issues and other kinds of regulations that go into the Federal building regulations.

Another building that may have a potential savings is a National Oceanic and Atmospheric Administration facility out in College Park, Maryland, which also has a 2025 option. It has been assessed for $86 million with a $27 million option.

One can conclude that lease-purchase is simply another potential tool in the toolkit to try to help the Government rationalize its real property portfolio and end up with a situation where you are not just paying rent in perpetuity.

Mr. BARLETTA. Thank you.

I have no further questions. Ranking Member Carson?

Mr. CARSON. No, sir.

Mr. BARLETTA. I did not see Ms. Norton. The Chair recognizes Ms. Norton.

Ms. NORTON. Thank you very much, Chairman Barletta.

Indeed, I thank you for holding this hearing because I have had a long-term issue with independent leases apart from the expert agency that Congress said should do the leasing, and we have had some terrible mishaps when that was not done and agencies essentially acted like the world was theirs. They say let us see if we can find the best opportunity for us, not necessarily the best opportunity for the Government.

But in light of the fact that I have long been critical of agencies independently doing their own leasing, Mr. Wise, I was interested that you looked at 37 independent leases. It says "selected independent leases," but I assume that they were randomly selected, and found comparable to or lower than the GSA rates.

How do you account for that?

Mr. WISE. Ms. Norton, thanks for the question.

It could be any number of reasons for that. There are cases where they are looking at various properties. There may be they are willing to take property with fewer tenant improvements than, say, a Government property, or there could be a possibility that they will take it as is, which means that they are willing to shoulder some of the burden themselves or not get involved in big, expanded kinds of improvements. Location could also make a difference.

Ms. NORTON. But some of these may have been opportunities that perhaps anybody could have seen, and the agencies saw them and took advantage of them, and the kind of expertise that GSA is purported to have might not have been necessary to see these opportunities.

Mr. WISE. We learned in talking to GSA and others that there are somewhat more stringent requirements in GSA-related leases that have to do with security, that have to do with things like seismic requirements that may not be relevant for the independent leasing authority which may not necessarily get engaged in those kinds of things, and from what we understood——

Ms. NORTON. At least I would have thought security and all of that sort of thing was relevant for every leasing authority, particularly anywhere near the Nation's capital or the national capital region.

Mr. WISE. Well, there can be, but at least according to the GSA officials, the GSA standards can be somewhat higher for some of these things depending on the type of building and the location, as well as the environmental aspects of the building, like seismic and energy saving requirements and this sort of thing.

So those were reasons that we found during the course of our work, ma'am.

Ms. NORTON. This question would be, I suppose, both for Mr. Wisner and Mr. Wise.

I recall that in fact—this is an ongoing event—there is going to be development taking place at the old soldiers' home here in the District of Columbia. I believe that the DOD wants that to take

place as a way to support the soldiers' home and the soldiers who are there.

And it is interesting that they reached out to GSA and essentially gave GSA the authority. Now, this is DOD. DOD does some—some?—a great deal of construction of its own, but I believe, recognizing that this construction was occurring in an urban neighborhood, they might have felt that GSA was the best actor in this case.

So my question is: does GSA offer; do agencies come to GSA to seek their advice or should an agency which is not in the business of construction not seek their advice and perhaps ask GSA to, in fact, do the construction or the leasing for them?

I do not see the advantage to the Government of the SEC saying, "We are going to build ourselves a building," for example, to name an agency that did that in recent years.

Mr. WISNER. Yes, Ms. Norton. Thank you for the question.

GSA is happy to partner with our customer agencies and agencies that have their own leasing authority to provide expertise on market rates, to provide expertise on construction build-out and other things.

I am not familiar with the particular project that you are talking about because it is construction, but we are happy and willing to work with any agency out there.

On expertise, I would suggest that if we are using GSA authority, they must follow GSA regulations. We are the experts in real estate and that is our core mission. So this is the job of GSA or one of the jobs of GSA.

We are happy to support other real estate programs or other leasing organizations. We are also happy to work——

Ms. NORTON. Let me ask you this, Commissioner Wisner.

Mr. WISNER. Yes, ma'am.

Ms. NORTON. Suppose an agency does have the authority. You know who they are. Is there guidance form GSA available to agencies who have their own leasing authority? Surely they could do with some advice even if they do not ask for it.

Mr. WISNER. There is not guidance to use GSA. However, there are leasing——

Ms. NORTON. No, I do not mean use GSA. I am talking about agencies, none of whom are in the business of leasing or construction, who might never even think of GSA. All they think about is they have the authority. So let me go willy-nilly at it.

If they had a piece of paper that said let us see what the expert agency says is the way to approach this, would that not be useful to agencies who have such authority?

Mr. WISNER. Available to the public and available online——

Ms. NORTON. Say it again.

Mr. WISNER. Available to the public and available online are all of our leasing desk guides and our pricing policy guidance, yes, ma'am.

Ms. NORTON. All right. I just want to say that is not what I am talking about. I am talking about leasing authority, the kinds of issues to look for. The issues that, for example, Mr. Wise said some found apparently on their own and got comparable or rates that were even better.

One more question if I might. I had a roundtable last year because I have been concerned over a number of years with holdover and short-term leases, and there was, if anything, a backlog of such leases.

Actually the GSA did a report. I thought it was an excellent report. It showed very substantial progress being made in the elimination of holdover leases and a commitment to finding long-term solutions for all of the outstanding leases in this region, which is perhaps the most heavily leased region in the country, to find long-term solutions for leases expiring before September 30, 2017.

So Assistant Commissioner Wisner, I would like to ask you: are you on track to find long-term solutions? That means no short-term or holdover leases by September 30 of 2017.

And what strategy are you using to avoid a holdover or short-term leases in the future?

Mr. WISNER. Thank you, Ms. Norton.

So I will address the facts to start off with. We have reduced the number of holdovers by at least 50 percent in our portfolio. We are down to around 50 holdovers total. That does vary. It goes up a bit, and every month we watch it diligently.

Ms. NORTON. Is that where you expected it to be by this time, Mr. Wisner?

Mr. WISNER. I expect it to be lower than that. The internal goal for holdovers is zero. So we do have puts and takes in that list. We calculate number of months in holdover, which is extremely critical for us. That being said, a short-term holdover, 1 or 2 months to get us through a negotiation as opposed to an 18-month holdover where we are at a standstill. We are focused on the long-term holdovers, the critical issues around that. So we are focused around that as a metric across our entire portfolio.

As far as extensions, we have reduced the number of extensions that we have in place currently and led by our commissioner, every action that we have as far as an expiring lease will have a plan 3 years prior to its expiration. We will be reaching out to the customer agencies to put a replacement competitive action in place for each of those projects that we are currently considered.

We have increased the number of long-term solutions. I believe we are up to about 83 percent of all of our portfolio has long-term solutions in place or have long-term planning in place.

Ms. NORTON. What does it mean, a "long-term solution"?

Mr. WISNER. Long-term solutions means that we will have a competitive action that takes us to a new procurement that leads us to a longer term solution in the market. So it may be a 5-year solution in some cases where we only want to occupy the space for 5 years. It may be a 10-year firm solution or it may be even longer up to the level of our scoring requirements, but not to exceed.

So we have a very good plan in place, a very robust plan in place, and I am happy to share the documents with you.

Ms. NORTON. Does the new footprint, the reduced footprint help or hurt your timetable to get rid of short-term leasing?

Mr. WISNER. No, ma'am. I think this actually helps us. We work with customer agencies which can often be a protracted period of time to work on reducing the square footage, but overall we are reducing the amount of leases that we have in our portfolio. It has

gone down. We have reduced the amount of square footage that we have in our portfolio now.

That is reducing the stay in place option with customers. We must run a procurement. We must run a competitive procurement, and that oftentimes with the new square footage reduction drives us to new facilities or drives existing lessors to reduce the amount of square footage that they are offering to us.

So it is not precluding staying in place, but there is a competitive action that drives down the square footage and potentially can drive down cost or at least control cost.

Ms. NORTON. Thank you very much for your indulgence, Mr. Chairman.

Mr. BARLETTA. Thank you.

If there are no further questions?

Mr. CARSON. No.

Mr. BARLETTA. I would like to thank you for your testimony. Your comments have been helpful to today's discussion.

I would ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

I would like to thank our witnesses again for their testimony today.

If no other Members have anything to add, this subcommittee stands adjourned.

[Whereupon, at 11:48 a.m., the subcommittee was adjourned.]

United States Government Accountability Office

Testimony

Before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives

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FEDERAL REAL PROPERTY

Opportunities Exist to Enhance Information on and Coordination among Federal Entities with Leasing Authority

Statement of David Wise, Director
Physical Infrastructure Issues

GAO-16-763T

Chairmen Barletta, Ranking Member Carson, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on federal entities' use of independent leasing authority for real property. As the federal government's principal civilian landlord, the General Services Administration (GSA) leases real property on behalf of many federal tenants. However, independent leasing authority can be provided to federal entities either through their enabling legislation or through an appropriations act.[1] While GSA tracks and reports on its tenants' real property holdings, less is known about the holdings of federal entities that independently lease real property. To promote the efficient and economical use of federal government real property, in 2004 the President issued Executive Order 13327 establishing the Federal Real Property Council (FRPC) composed of executive branch departments and agencies covered by the Chief Financial Officers Act of 1990 (CFO Act), including GSA, and chaired by the Office of Management and Budget (OMB).[2] The executive order established FRPC with the goals of developing guidance, facilitating the implementation of agencies' asset management plans, and serving as a clearinghouse for leading practices. The executive order also directed GSA, in consultation with the FRPC, to establish and maintain a single, comprehensive database describing the nature, use, and extent of all real property under the custody and control of executive branch agencies. To meet this directive, GSA established the Federal Real Property Profile (FRPP).

[1]A provision in an annual appropriations act is presumed to be effective only for the covered fiscal year unless language in the act or the nature of the provision makes it clear that Congress intended for the provision to be permanent.

[2]Federal Real Property Asset Management, Exec. Order No. 13327, 69 Fed. Reg. 5897 (Feb. 6, 2004). Certain provisions of the executive order apply to executive branch departments and agencies listed in section 901 of title 31, United States Code: the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs; the Environmental Protection Agency; GSA; the National Aeronautics and Space Administration; the National Science Foundation; the Nuclear Regulatory Commission; the Office of Personnel Management; the Small Business Administration; the Social Security Administration; and the U.S. Agency for International Development. For the purposes of our report, we will be referring to this group of executive branch departments (including federal entities within the departments) and agencies included in the FRPC as "FRPC member agencies."

My statement is based on our report that was issued today on federal entities' use of independent leasing authority.[3] My statement, like the report, examines: (1) which federal entities have independent leasing authority and their use of this authority to lease office and warehouse space; (2) how selected independent leases compare to GSA leases in terms of cost; and (3) to what extent selected federal entities with independent leasing authority have leasing policies and practices that align with leading government leasing practices.

To conduct the work that is the basis for this statement, we administered a survey to 103 civilian federal entities.[4] We contracted with a real-estate consulting firm to perform analyses of the costs for a non-generalizable sample of independently leased offices and warehouses from eight selected federal entities and compared the selected leases against similar GSA leases in four different U.S. metropolitan areas. We reviewed lease documentation from federal entities to evaluate whether leading practices were used. We also evaluated these entities' space-use per employee against GSA's recommended space utilization target for the selected leases we reviewed. Lastly, we interviewed relevant officials from our selected federal entities, GSA, OMB, and the Small Agency Council. More detailed information on our objectives, scope, and methodology can be found in the issued report. We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[3]GAO, *Federal Real Property: Actions Needed to Enhance Information on and Coordination among Federal Entities with Leasing Authority*, GAO-16-648 (Washington, D.C.: July 6, 2016).

[4]GAO, *Federally Created Entities: An Overview of Key Attributes*, GAO-10-97 (Washington, D.C.: Oct. 29, 2009). Our survey universe included all federal entities identified in a prior GAO report on federally created entities such as executive departments, other executive branch entities, government corporations, and other federally established organizations in the executive branch that received an average of over $20 million in annual appropriations from fiscal years 2005 through 2008.

Twenty-five Federal Entities That Reported Having Independent Leasing Authority Are Not Consistently Tracked in FRPP

According to GSA officials and OMB staff, neither GSA nor OMB maintains a comprehensive list of federal government entities with independent leasing authority, and neither is required to do so. FRPP offers a possible way for determining which agencies have independent leasing authority since the FRPP has a data field that indicates if a federal entity uses its own authority to lease real property. However, this information is incomplete as only agencies in the FRPC are required to annually submit their real property information to the FRPP.

To obtain more complete and reliable information on federal entities with leasing authority, we surveyed 103 civilian executive branch agencies and other federal entities that met our selection criteria. Of the 103 surveyed entities, 52 reported having the authority to lease domestic office and warehouse space, and 25 of those entities are not members of the FRPC. The 25 entities that are not members of FRPC reported that they leased 243 offices and warehouses covering approximately 8.3-million rentable square feet of space and costing $303.4 million in annual rent as of October 1, 2015. (See table 1.)

Table 1: Selected Data about Federal Entities That Reported Having Independent Statutory Leasing Authority for Domestic Offices and Warehouses and Are Not Part of the Federal Real Property Council

	Offices and warehouses		
Federal entity	**Number**	**Rentable square feet**	**Annual rent ($)**
Federal Deposit Insurance Corporation	91	1,912,379	$47,161,467
Smithsonian Institution	50	1,487,394	$52,009,858
United States Postal Service	35[a]	701,613	$11,888,432
Tennessee Valley Authority	21	223,500	$2,973,000
Pension Benefit Guaranty Corporation	9	564,703	$28,222,074
Securities and Exchange Commission	8	1,882,484	$90,854,696
National Credit Union Administration	7	73,741	$1,456,317
United States Commodity Futures Trading Commission	4	434,679	$20,066,000
United States Holocaust Memorial Museum	4	10,528	$403,376
Federal Reserve Board	3	545,170	$21,689,150
Millennium Challenge Corporation	2	129,206	$8,300,000
National Transportation Safety Board	2	84,681	$2,715,075
Appalachian Regional Commission	1	21,626	$858,629
Farm Credit Insurance System Corporation	1	4,325	$155,813
Federal Retirement Thrift Investment Board	1	92,179	$5,236,601
Inter-American Foundation	1	14,332	$713,000

Federal entity	Offices and warehouses		
	Number	Rentable square feet	Annual rent ($)
Overseas Private Investment Corporation	1	116,487	$7,504,813
Peace Corps	1	6,500	$348,281
United States African Development Foundation	1	15,705	$803,502
American Battle Monuments Commission	—	—	—
Farm Credit Administration	—	—	—
National Endowment for the Arts	—	—	—
National Endowment for the Humanities	—	—	—
Railroad Retirement Board	—	—	—
United States Tax Court	—	—	—
Total	**243**	**8,321,232**	**$303,360,084**

Source: Information reported by the respective federal entities in a GAO survey. | GAO-16-763T

Note: This list of selected civilian federal entities with independent leasing authority was compiled from responses to a survey. These federal entities are those with independent leasing authority that are not part of the Federal Real Property Council. All reported figures were as of October 1, 2015.

[a]According to a United States Postal Service (USPS) official, USPS does not categorize its buildings as "offices." For the purposes of our review, we are using as a proxy. USPS's independently leased spaces where over 50 percent of the total square footage was used for administrative functions. These spaces may include office buildings, as well as small offices or administrative space located in non-office buildings. USPS does not lease warehouse space.

The FRPP's effectiveness as an oversight and accountability mechanism for entities with independent leasing authority is limited because only FRPC member agencies are required to report their real property data to the FRPP. Two non-FRPC-member entities voluntarily reported data on their independently leased offices and warehouses to FRPP in fiscal year 2014—the Smithsonian Institution and the Tennessee Valley Authority. The remaining entities' data were not included in the FRPP.

In our review, most of the federal entities that reported having independent leasing authority, outside the entities that are covered under the CFO Act, are members of the Small Agency Council. The Small Agency Council is a voluntary association of about 80 independent federal entities with generally fewer than 6,000 employees that represents the entities' collective management interests. The Small Agency Council provides these smaller federal entities a line of communication with key decision makers, including OMB. GSA officials who manage the FRPP said that the Small Agency Council may be able to help coordinate its members' involvement in the FRPP. For example, the Council could provide technical assistance to help its members collect and submit their

real-property data to the FRPP and facilitate the process on behalf of GSA and OMB.

Most of the 37 Selected Independent Lease Rates Were Comparable to or Lower than Matched GSA Rates

We analyzed 37 selected independent leases[5] across seven federal entities.[6] Table 2 shows that of these 37 leases, 14 (38 percent) had rates that were less costly than matched GSA leases and 11 (30 percent) had comparable rates. The remaining 12 leases (32 percent) had rates that cost more than matched GSA leases.

Table 2: Selected Independent Real Property Lease Rates Compared to Matched General Service Administration (GSA) Real Property Lease Rates, National Capital Region versus Other Metropolitan Areas

Metropolitan area	Number of leases	Leases Below GSA Rate	Leases Comparable to GSA Rate[a]	Leases Above GSA Rate
National Capital Region[b]	19	7 (37%)	5 (26%)	7 (37%)
Other areas[c]	18	7 (38%)	6 (33%)	5 (28%)
Total	**37**	**14 (38%)**	**11 (30%)**	**12 (32%)**

Source: GAO analysis of federal lease data. | GAO-16-763T

Note: All comparisons were made using the annual net present values per rentable square foot of the full terms of all leases.

[a]Due to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (±) 10 percent of the matched GSA rates as comparable.

[5]Our analyses matched a non-generalizable set of independent leases with at least one similar GSA lease to assess differences in matched leases' rental rates. Factors assessed in the determination of similarity for matched leases included the leases' square footage, location, starting year, duration, among other factors. For the matched analysis of independent leases with GSA leases, we performed the analysis with the annual net-present value for the full terms of the leases' rates per rentable square foot. Net present value is the sum of costs over a period of time, in this case a lease's term, adjusted using a discount rate.

[6]The seven federal entities included in our lease rate analysis were the Federal Aviation Administration (FAA), the Federal Deposit Insurance Corporation (FDIC), the National Aeronautics and Space Administration (NASA), the National Credit Union Association (NCUA), the Pension Benefit Guaranty Corporation (PBGC), the U.S. Coast Guard (USCG), and the U.S. Patent and Trademark Office (USPTO). One of our selected federal entities—National Oceanic and Atmospheric Administration (NOAA)—was not included in this analysis because its only selected lease did not require rent payments. As such, this unique aspect of the lease did not allow for us to find a comparable GSA lease.

[b]The National Capital Region includes Washington, D.C., and local jurisdictions in Maryland and Virginia.

[c]Includes Atlanta, Georgia; Los Angeles, California; and Miami, Florida, metropolitan areas.

Based on our analysis and interviews, we identified several possible factors that could be influencing why some of the independent leases we analyzed were less expensive than matched GSA leases.

- GSA officials said that GSA uses standardized lease documents that include clauses that can be more rigorous than the leases provided by private sector landlords. For example, GSA leases could include clauses with higher—and thus possibly more expensive—energy conservation, security, and seismic safety requirements.
- Tenant improvement allowances directly increased lease costs in about 64 percent of the matched GSA leases but only in about 43 percent of our analyzed independent leases.[7]
- The independent leases we analyzed had periods of free rent built into the leases more frequently than the matched GSA leases.
- Officials from a federal entity with independent leasing authority said that the use of private sector real estate brokers may have contributed to lower leasing rates because the brokers use the lowest offer as leverage to negotiate lower rates with other potential landlords.

[7]A tenant improvement allowance includes the costs of changes to leased spaces. These costs are associated with additions or alterations of the structure and base building systems that adapt the workspace to the specific uses of the tenant. The tenant typically bears these costs.

Most Selected Entities' Leasing Policies Generally Align with Leading Practices, But Lack Documentation

We reviewed the Federal Management Regulation, GSA policies and procedures, and other applicable documents to develop a list of leading practices that all federal entities should incorporate into their real property leasing functions to help ensure that mission needs are met in a cost-effective and transparent manner. In addition to leading practices, federal entities must follow all applicable laws related to real property management. (See fig. 1.) For example, the recording statute requires that federal entities record the full amount of their contractual liabilities, including for leases, against funds available at the time the contract is executed.[8] Previously, we found that two federal entities with independent leasing authority—the Commodity Futures Trading Commission and the Securities and Exchange Commission—did not fully comply with the recording statute in the way they recorded the lease obligations against funds available at the time the leases were executed.[9] Violations of the recording statute such as these can also result in Antideficiency Act violations if lease obligations exceed available budget authority at the time the lease is executed.

We reviewed the extent to which our eight selected federal entities had policies that aligned with leading government leasing practices and found that six had policies that generally aligned with these practices; two entities did not have any documented leasing policies.[10] Although most of the selected entities had established policies consistent with leading government practices, we found numerous instances where the lease files lacked evidence to support that the leading practices were actually used. We analyzed 30 selected lease files from 6 selected entities.[11] We

[8]31 U.S.C. §1501(a)(1). GSA, however, has the authority to record obligations for multiple-year leases on a year-to year basis. 40 § U.S.C. 585(a)(2).

[9]GAO, *Commodity Futures Trading Commission—Recording of Obligations for Multiple-Year Leases*, B-327242 (Washington, D.C.: Feb.4, 2016); GAO, *Securities and Exchange Commission—Recording of Obligation for Multiple-Year Contract*, B-322160 (Washington, D.C.: Oct. 3, 2011).

[10]To gain understanding about the extent to which federal entities with independent leasing authority have policies that align with leading practices, we reviewed our eight selected entities: FAA, FDIC, NASA, NCUA, NOAA, PBGC, USCG, and USPTO.

[11]For the analysis on leading practices we did not include leases that fell below GSA's Simplified Lease Acquisition Threshold of $150,000 net annual rent as some leading practices are not applicable for low value leases. All NOAA and USCG leases were omitted for this reason, as well as several other leases from other entities. More detailed information on our scope and methodology can be found in the full version of the report.

looked for documentation of 10 sub-practices within the four leading government leasing practices as shown in figure 1. The extent to which lease files documented alignment with the leading practices varied by entity, but no lease files contained evidence of full alignment with all the leading practices. Without documented evidence in the lease files that all of the leading practices and sub-practices were used in the acquisition of leased space, it is difficult to determine whether the federal entities performed the leading practices that would help them achieve the best lease rate in a competitive and transparent manner.

Figure 1: Percentage of Six Selected Entities' Lease Files That Documented the Use of Leading Government Practices for Leasing Federal Real Property

Leading practice	Sub-practice documentation	Alignment status		
Assess needs	Assess type and amount of space needed	● 30%	◐ 10%	○ 60%
	Consider future staffing needs	● 22%	◐ 19%	○ 59%
	Specify geographical area for needed space	● 40%	◐ 40%	○ 20%
Plan ahead	Document factors used to evaluate offers	● 23%	◐ 0%	○ 77%
	Document expected costs	● 47%	◐ 3%	○ 50%
	Document time frame for acquiring space	● 20%	◐ 3%	○ 77%
	Conduct market research	● 53%	◐ 0%	○ 47%
Ensure best value	Advertise need for space	● 13%	◐ 0%	○ 88%
	Justify other than full competition	● 35%	◐ 13%	○ 52%
Analyze and document the budget effects of the lease	Determine if lease qualifies as operating or capital lease	● 17%	◐ 0%	○ 83%

● In alignment ◐ In partial alignment ○ Not in alignment

Note: Percentages may not add up to 100 because of rounding. Also, the percentages listed are the percentages of lease files for which the particular sub-practice was applicable. All 10 sub-practices were not necessarily applicable to all 30 lease files. For example, if a lease was advertised, a sole source justification would not need to be included in the file.

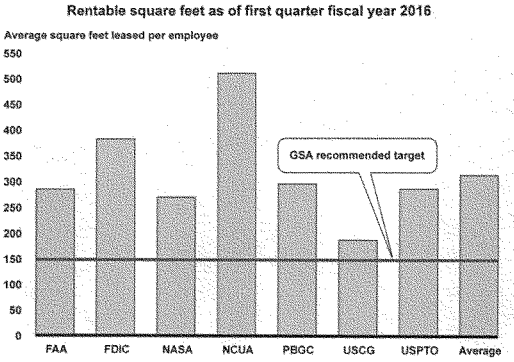
Source: GAO analysis of 30 selected lease files. | GAO-16-763T

All Selected Entities' Space Allocations Exceed GSA's Recommended Target

As shown in figure 2, all selected entities we reviewed leased more office space per employee on average than GSA's recommended target. According to GSA officials, GSA recommends that federal entities allocate approximately 150 rentable square feet per employee for office space. Twenty-eight of the 30 selected office leases analyzed for space allocation exceeded GSA's recommended target.[12] The 30 selected leases we reviewed averaged more than double the GSA recommended target per employee. Many of these leased offices had vacant spaces, which can inflate the per-employee space allocation.

[12]For the analysis on federal entities' space utilization we did not include warehouses since GSA's recommended target for office space is not applicable to that building type. Additionally, we did not include leases that had large non-office related spaces attached (such as server rooms), which can skew the amount of space allocated per employee. More detailed information on our scope and methodology can be found in the full version of the report.

Figure 2: Selected Federal Entities' Per-Employee Office Space Allocation Averages and GSA's Recommended Target



FAA: Federal Aviation Administration
FDIC: Federal Deposit Insurance Corporation
GSA: General Services Administration
NASA: National Aeronautics and Space Administration
NCUA: National Credit Union Administration
PBGC: Pension Benefit Guaranty Corporation
USCG: United States Coast Guard
USPTO: United States Patent and Trademark Office

Source: GAO analysis of 30 selected leases. | GAO-16-763T

Note: This analysis is based on information gathered from 30 lease files and interviews with entity officials. It excludes two office properties with significant non-office spaces attached and five warehouse properties.

Many Entities with Independent Leasing Authority Are Not Included in FPRC's Coordination and Information Sharing

FRPC members coordinate efforts and share leading practices, and OMB staff said that the FRPC has been critical to improving real property management since its creation through executive order in 2004. For example, OMB staff said that FRPC has created an effective forum for promoting more efficient space-use standards that are key to the success of the administration's real-property management reform efforts. However, FRPC's membership has remained limited to agencies covered by the CFO Act. We found that 25 federal entities that reported having independent leasing authority are non-CFO Act agencies. We also found that for the selected entities we reviewed, those that were FRPC member entities were more likely to have leasing policies that aligned with leading

practices than the entities that were not FRPC members. In addition, the two federal entities with the highest per-employee space allocation rates are not members of the FRPC. Increasing FRPC participation would allow all federal entities to benefit from the collaboration and sharing of leading practices. The Small Agency Council already coordinates with OMB on other policy matters and may offer a potential way to increase involvement in FRPC and FRPP as many of the non-FRPC federal entities with leasing authority are already members of the Small Agency Council.

In our issued report we recommended that the Deputy Director of the OMB—as chair of the FRPC—establish efficient methods for including data from non-FRPC member entities in the FRPP and increasing collaboration between FRPC member and non-member entities, including sharing leading real-property management practices. OMB concurred with both recommendations.

Chairmen Barletta, Ranking Member Carson, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions concerning this testimony, please contact David Wise, Director, Physical Infrastructure Issues, at (202) 512-2834, or at wised@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony include Keith Cunningham, Assistant Director; Catherine Kim; Hannah Laufe; Steve Rabinowitz; Malika Rice; Kelly Rubin; Janani Shankaran; Sean Standley; Michelle Weathers; and Crystal Wesco.

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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
"INDEPENDENT LEASING AUTHORITIES: INCREASING OVERSIGHT AND REDUCING COSTS OF SPACE LEASED BY FEDERAL AGENCIES"
JULY 6, 2016

TESTIMONY BY CHRIS WISNER

Good morning Chairman Barletta, Ranking Member Carson, and members of the Committee. I am Chris Wisner, the Assistant Commissioner for Leasing at the General Services Administration's (GSA) Public Buildings Service.

I appreciate being invited here today to discuss GSA's efforts to provide cost-effective leased space for our partner Federal agencies.

GSA's mission is to provide the best value in real estate to government and to the American taxpayer. We currently have an inventory of more than 374 million square feet of space. Approximately half of this is leased space, comprising more than 8,302 active leases across the country. We seek to provide space that assists our partner Federal agencies in achieving their missions while best serving the public interest.

As a part of this Administration's management agenda, GSA prioritizes finding ways to maximize utilization of the existing federally owned inventory, including reducing the number of leases we hold in our portfolio. By dramatically improving utilization of our current inventory, we have saved millions of dollars for our partner Federal agencies and for the public.

Shrinking the Government's Real Estate Footprint

GSA works closely with OMB to help implement the *National Strategy for the Efficient Use of Real Property*. GSA is advancing the Administration's Reduce the Footprint policy by helping other Federal agencies increase office space utilization and minimize operations, maintenance, and investment costs by targeting specific properties for disposals and consolidations.

In order to accomplish the goal of reducing the federal footprint, GSA is aggressively working to reduce the amount of leased space in its inventory, since leased space is often more costly than government-owned space. GSA proposes space reduction and consolidation options as tenant agencies require new or replacement leases. GSA also works with agencies to reduce their requirements and implement new and innovative workplace strategies that maximize space utilization.

GSA will also continue to develop new Client Portfolio Plans and update existing plans to identify and implement opportunities for customers to reduce space in leased and government owned buildings. Through these plans, GSA assesses agencies' current real estate portfolio

and develops action plans to increase asset utilization, as funding is available. GSA also works with agencies without a Client Portfolio Plan to reduce their space. We develop and utilize local portfolio plans and leverage market opportunities to help our customers consolidate and reduce real estate costs.

Since 2013, GSA has put a renewed emphasis on aligning projects aimed at reducing the Government's need for costly private sector leases with other required work to maximize the efficiency of its owned real property portfolio. Whenever possible, GSA seeks to consolidate government tenants within federally owned space rather than adding additional leased space to GSA's inventory. GSA is estimating a 1.3 million square foot reduction in leased space across its inventory between FY2017 and FY2018. This projection emphasizes GSA's efforts to better utilize space and to maximize project effectiveness by measuring improvements in space utilization.

GSA's new construction and acquisition program has also significantly reduced the Government's need for leased space. One of the most notable construction projects currently underway by GSA is the consolidation of the Department of Homeland Security at St. Elizabeths. This consolidation, due to be complete in 2021, has already had a positive impact. GSA completed the first phase of the project in 2013, consolidating headquarters components of the U.S. Coast Guard within the new Munro Building on the St. Elizabeths campus. As a direct result of project, GSA was able to vacate 955,712 rentable square feet of leased space. When all three phases of the consolidation are complete, DHS will have moved from more than 50 locations to fewer than 10.

To summarize, GSA's efforts to shrink the government's real estate inventory are having real effects. From FY2014 to FY2015, the leased portfolio decreased by 2.6 million square feet -- from 193.4 million square feet to 190.8 million square feet. GSA is helping the government reduce the federal footprint and save customer agencies money. Customers are looking for ways to consolidate space and minimize costs in this current budget climate and GSA is helping them achieve this goal by offering innovative solutions and technologies to reduce and optimize space.

GSA's Leasing Process

GSA constantly looks for ways to streamline, standardize, and simplify our leasing processes to minimize the costs associated with acquiring a lease when necessary. As of September 2015, GSA has an inventory of 8,302 active leases with 190.8 million rentable square feet under lease. Overall, GSA's goal for the leasing program is to make it easier for the real estate industry to do business with the Federal government, to deliver leased space quicker to its Federal customer agencies, and to receive competitive lease rates.

GSA leases space for most agencies, predominantly offices, laboratories, warehouses, and clinics. GSA uses a comprehensive, deliberative process that ensures full competition and fair rental rates for the taxpayers, while taking into account such public interests as proximity to

central business districts or public transportation and the mission requirements of GSA's agency partners.

In terms of cost to our partners, we strive to keep leasing costs at or below market levels and have developed comprehensive strategies to do so. We use standard industry benchmarks and market surveys to assure that we get the best value for our customers. We use published market sources to gain a better understanding of area markets. To reiterate, GSA's goal for the leasing program is to make it easier for the real estate industry to do business with the Federal government, for GSA to deliver leased space quicker to its Federal customer agencies and for GSA to receive competitive lease rates.

Competition

GSA and the House Transportation and Infrastructure Committee have been partnering closely to eliminate the barriers that GSA faced in reducing costly extensions and holdovers. GSA has been aggressively working with our customer agencies to emphasize the importance of earlier planning for upcoming lease expirations. The earlier development of customer agency requirements allows not only for the footprint reduction mentioned earlier, but also allows GSA to make significant progress in reducing costly extensions, securing longer term leases, and ensuring a competitive approach in our procurements. This year the number of extensions processed is down 25% from the same period last year, and we are seeing an upward growth in the number of long term leases signed (23% compared to 20% last year).

In FY2015 and FY2016, GSA established two important programs to ensure success. The "Lease Portfolio Planning" program tracks project planning nationwide for the entire inventory. GSA regions are tracked on their progress in collecting agency requirements, utilizing GSA's workforce multiplier and streamlining tools (GSA Leasing Support Services contract and the Automated Advanced Acquisition Program, both of which are discussed below), and planning for full and open competition in procurements. In 2015, GSA was planning for competitive procurements in only 40% of FY2017 projects. Through the hard work of GSA and our customer agencies, we now anticipate that number will be over 60%, and we are currently planning for further improvements in competitive procurements in FY2018 projects. While the Lease Portfolio Planning program tracks our planning, our new "Lease Competition" measure will track our results and measure success.

AAAP

In our efforts to improve the delivery of leased space, in 2015, GSA rolled out its online leasing platform, known as the "Automated Advanced Acquisition Program" (AAAP), in all markets in the United States. The goal for the platform is to make it easier for the real estate industry to do business with the Federal government, for GSA to deliver leased space quicker to its Federal customer agencies and for GSA to receive competitive lease rates. AAAP's paperless online offer submission process enables the Government to accomplish this goal. Since its inception in

the GSA National Capital Region in 2005, the AAAP has conducted over 200 lease transactions, totaling over 4 million square feet and over $1.7 billion in total contract value.

The AAAP enables building owners to complete a series of online questions and route the response to the correct location on the GSA lease form; the offeror then transmits the offer electronically to the Government in response to a generic Request for Lease Proposal. With the AAAP, the initial "traditional" procurement step of offer submission occurs prior to identifying the customer agency requirement, which saves time. The main difference between GSA's standard lease process and the AAAP is the order that the process steps occur. Once the GSA receives the customer agency requirement, GSA can access the AAAP's inventory of pre-competed offers and identify the successful offeror within a matter of days and proceed with lease award. From this point forward, the lease award process and tenant-improvement build-out process continues along the same path as the "traditional" method. The key to the AAAP is that the time savings comes at the beginning of the acquisition process.

GSA Leasing Support Service (GLS) Contract

In September 2015, GSA awarded nine GSA Leasing Support Services (GLS) contracts across the country, including two to small businesses. For this generation of the broker contract, GSA changed the award structure by increasing the number of contracts and awarding them by geographic zones instead of nationally. GSA believes that this will provide better service and market-specific expertise. This zonal approach also made it easier for small businesses to compete for prime awards, and helps brokers build better business relationships with GSA's lease contracting officers.

GLS, formerly the National Broker Contract, provides broker and leasing support services (i.e., market surveys, site visits, document preparation, negotiation) for GSA's contracting officers, and has, since FY2005, saved taxpayers approximately more than $250 million in rent cost avoidance through the reduction of federal agency rental payments. GSA anticipates that these savings will continue as GSA continues to leverage GLS services.

Independent Leasing Authority

While GSA manages a large portion of the Federal inventory, we do not manage all of it. According to the Federal Real Property Profile, GSA holds only about 10 percent of the government's overall real estate, and manages 41.8 percent (or approximately 194 million square feet) of the entire Federal Government's 464 million square feet of leased space.

Congress has provided leasing authority to other agencies, and GSA respects these independent leasing authorities. In our experience, some agencies with independent leasing authority exercise that authority and others have chosen to have GSA to execute their leases as they look to GSA for our leasing expertise. Having the option for agencies to voluntarily come to GSA for assistance with leasing rather than mandating GSA as the sole leasing authority has been a positive over the years.

Over the years, GSA has accepted responsibility for the execution of replacement leases for the Securities and Exchange Commission. Although SEC has independent leasing authority, SEC determined that GSA is in a better position to execute leases for SEC occupancy. More recently, two agencies with their own independent leasing authority, Commodities Future Trading Commission and Pension Benefit Guaranty Corporation, have asked GSA to support their leasing efforts. Using GSA for their lease procurements provides them benefits beyond the market and acquisition expertise we provide. Client agencies can reduce redundant facilities staff, shift lease execution risk to GSA and the Federal Buildings Fund, and tap the market expertise of our private sector broker network through the GLS contracts.

Conclusion

Chairman Barletta, Ranking Member Carson, and members of the Committee, we are dedicated to meeting our customer agency requirements in an efficient, transparent, and user-friendly manner. We are committed to streamlining the lease process and delivery of our projects by constant evaluation of our performance and by incorporating new technologies and approaches to improving efficiency. Thank you for the opportunity to testify before you today. I am happy to answer any questions.

Testimony of

THE HONORABLE W. THOMAS REEDER
DIRECTOR
PENSION BENEFIT GUARANTY CORPORATION

before the

HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

Hearing

"Independent Leasing Authorities: Increasing Oversight and Reducing Costs of Space Leased by Federal Agencies"
July 6, 2016

Mr. Chairman, Ranking Member Carson, and Members of the Subcommittee.

Good morning. I am pleased to appear before you today to discuss the Pension Benefit Guaranty Corporation (PBGC) and its engagement of the General Services Administration (GSA) to secure a new headquarters lease for PBGC that reduces our space costs and consolidates our headquarters operations into a single location.

PROTECTING PENSIONS

Before I talk about the agency's leasing efforts, I would like to share some information with you about PBGC's work to fulfill its statutory mission. The agency was established over 40 years ago by the Employee Retirement Income Security Act of 1974 to protect the retirement incomes of workers and retirees covered by private sector defined benefit pension plans. PBGC assumes responsibility for underfunded pension plans when sponsors can no longer afford them. PBGC receives no taxpayer dollars. Its operations are financed by insurance premiums, investment income, and assets and recoveries from failed plans.

PBGC protects the pension benefits of more than 40 million Americans. The agency runs two separately operated, separately financed pension insurance programs: one covering single-employer pension plans and another covering multiemployer pension plans. Under the single-employer program, PBGC protects about 30 million workers and retirees in over 20,000 pension plans. Under the multiemployer program, PBGC protects over 10 million workers and retirees in about 1,400 pension plans.

We work with financially troubled employers that sponsor underfunded pension plans to help them preserve promised benefits and avoid plan failure. Participants are best served when their pension plans remain ongoing and they receive their full, promised benefits rather than

potentially reduced amounts under PBGC's legal limits. Nonetheless, for workers and retirees in plans that do fail, the agency's guaranty is critical to retirement security.

Today PBGC is responsible for the current and future pensions of about 1.5 million people in 4,800 failed single-employer and multiemployer pension plans.

As of September 30, 2015, the single-employer and multiemployer programs reported balance sheet deficits of $24 billion and $52 billion, respectively. Last month PBGC issued two reports on the prospects of PBGC's insurance programs – the FY 2015 Projections Report (which is required by law to provide an actuarial evaluation of the future status of the insurance funds) and the Multiemployer Pension Reform Act Report (which is required by law to describe the premium amounts PBGC needs to sustain the multiemployer program). While the financial position of the agency's single-employer program is likely (but not certain) to improve, the multiemployer program, without reforms, is likely to run out of funds by 2025.

Since becoming PBGC's Director, I've had the opportunity to work alongside the talented and dedicated staff of the agency. Together, we are working to provide retirees with timely payments and to encourage employers to preserve and maintain defined benefit pension plans.

PBGC's staff come from diverse fields, including law, actuarial science, financial analysis, auditing, and information technology. The results of the highly collaborative work environment and devotion to mission do not go unnoticed by PBGC's customers. In 2015, retirees rated PBGC's customer service 91 (on a 100 point scale) in the American Customer Satisfaction Index survey. This score surpassed the best government agencies as well as the best companies in the private retail sector.

PBGC LEASING

PBGC has independent leasing authority under section 4002(b)(5) of ERISA and leased office space without the assistance of GSA for many years. It has generally been successful in its leasing efforts: GAO found that 60% of the PBGC leases it reviewed (including its main headquarters lease) contained rates below those of comparable GSA leases. The Corporation began leasing its current headquarters space at 1200 K Street, NW in 1992 (389,334 sq. ft.). As the demand for PBGC's services has grown, its workforce (federal and contractor) has also expanded. In 2004, the agency began leasing additional headquarters space across the street at 1275 K Street, NW (69,991 sq. ft.), and in 2014, the Corporation acquired office space at 1225 "Eye" Street, NW (11,922 sq. ft.). PBGC's three headquarters leases expire in December 2018. The agency is currently working with GSA to obtain a single, consolidated headquarters space for the agency.

Since 2003, PBGC also has leased space (28,128 sq. ft.) in Kingstowne, Virginia to take advantage of lower rates for certain back office operations while maintaining proximity for headquarters staff. The Kingstowne site houses our contractor-staffed Customer Call Center, which handles over 600,000 participant inquiries per year, as well as our Document Management Center, which processes millions of plan and participant documents and records. The Kingstowne location also serves as the agency's continuity of operations site.

In addition to its headquarters and Kingstowne operations, the Corporation leases field benefit administration ("FBA") offices. The Corporation started using FBA offices in the late 1980s. These FBA offices were generally located in areas where the Corporation had taken over large pension plans with high concentrations of participants in the immediate area. FBA offices enabled the agency to retain incumbent pension plan administration staff with invaluable institutional knowledge and community relationships, as well as accommodate walk-in traffic, in the days before electronic filing was available. At first, the agency did not lease FBA locations, but rather, contracted directly with service providers who provided space (paid for as overhead or a line item on the contract). In the mid-1990's, PBGC changed its approach and began directly leasing all FBA space and contracting separately for plan administration services. PBGC made this change to enhance its flexibility to expand or to contract FBA offices -- for instance, closing some offices and assigning work to other more cost-effective sites.

In 1994, the Corporation had 17 FBAs. At about that time, PBGC started reviewing whether to consolidate its FBA offices due to cost and other considerations. Since then, the Corporation has slowly reduced the number of its FBA offices as the number of large trusteed plans has gone down and advances in technology have enabled the Corporation to handle more pension administration work electronically and remotely. By 2000, the Corporation leased 11 FBA sites. In the last five years, the Corporation has taken additional steps to reduce the cost of its real estate portfolio. Today, the Corporation leases space for 5 FBAs (Coraopolis, PA; Miami, FL; Richmond Heights, OH; Sarasota, FL; Wilmington, DE) with a combined footprint of only 65,328 square feet (each is less than 15,000 square feet). We continue to look for opportunities to improve the efficiency of our field operations and further reduce our footprint.

PBGC DECISION TO WORK WITH GSA

With PBGC's headquarters lease expiring in December 2018, the agency began planning for a replacement lease in 2014. One of the first considerations for the agency was whether to continue to exercise its independent leasing authority or instead become a client of GSA. While it is still a small agency, PBGC has grown over the past decade as the need for its services and thus its workload has grown. PBGC's employees have a very full plate, providing retirement security, protecting pensions, and implementing best practices across its infrastructure, such as enterprise risk management. Cost was also a factor. In light of recent GAO decisions, we had questions about our authority to incrementally fund a long-term lease. After consulting with the Office of Legal Counsel (OLC), we determined that, although we have no-year funds available for a long-term lease, the Recording Statute (31 U.S.C. 1501) prevents us from incrementally funding it without express authority, which GSA has and PBGC does not. Therefore, with respect to our headquarters lease, it was an obvious decision for us to go to the agency with the expertise, bench strength and authority to obtain the best value for PBGC's premium payers and other stakeholders.

PBGC's EXPERIENCE WITH GSA

PBGC reached out to GSA in early 2014 to request assistance in analyzing the risks and benefits of procuring a new headquarters lease through GSA versus using the agency's own leasing authority. In April 2015, PBGC began working on its Program of Requirements ("POR") while

the agency reviewed several leasing strategies before deciding to have GSA procure its consolidated headquarters space. PBGC officially began working with GSA on its headquarters lease procurement in October 2015. At the initial kickoff meeting, GSA and PBGC discussed the roles and responsibilities of agency personnel in the leasing process. In November 2015, PBGC submitted its POR to GSA, allowing GSA to populate PBGC's Housing Plan as part of the prospectus submission. In March 2016, PBGC met with GSA and CBRE (the broker assigned to PBGC's lease procurement) to go over proposed timelines and additional information. GSA submitted the prospectus lease for PBGC's consolidated headquarters space to the Committee on June 9, 2016.

Although it is still early in the process, I believe we have established a sound working relationship with GSA. Since we are new to the GSA leasing function, it has been important for the two agencies to agree on roles and responsibilities GSA has worked collaboratively with us to refine our requirements and respected our role as a partner. They have been helpful in guiding us though the GSA leasing process. In turn, we bring to the table the lessons we learned from successful leasing; most notably, the importance of ensuring that procurement experts, legal experts and the real estate broker work as an integrated team. The PBGC and GSA teams have been working well together and communications are good. PBGC has weekly meetings with GSA to discuss the lease project. We are moving forward in accordance with the steps GSA and PBGC have agreed to and are making good progress.

An early lesson we have learned from working with GSA's process thus far is the importance of taking a disciplined approach to space savings that can be achieved through consolidation. Consolidating our headquarters into one building will also improve effective communication, and collaboration in serving our customers and stakeholders.

CONCLUSION

PBGC is pleased to be partnering with GSA in seeking a consolidated headquarters location. Having the prospectus in the Committee's hands is an important step. We look forward to working with the Committee and GSA to answer any questions you may have as we work toward our goal of obtaining a lease that will provide the best value for our stakeholders.

Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings and Emergency Management
U.S. House of Representatives

Testimony of John K. Lapiana
Deputy Under Secretary for Finance and Administration
Smithsonian Institution

July 6, 2016

Thank you, Chairman Barletta and Ranking Member Carson, for the opportunity to testify before the Subcommittee on Economic Development, Public Buildings and Emergency Management. Due to the steadfast support of Congress, the Smithsonian is able to tell our nation's story in relevant and compelling ways and inspire future generations of American scientists, artists, teachers, and leaders.

Background

The Smithsonian is the world's largest museum, education, and research complex, consisting of 19 museums and galleries, the National Zoological Park, and nine research facilities. While our visitors are familiar with our iconic objects, artworks, and animals, very few see the hard work and dedication happening behind the scenes enabling us to fulfill our mission for the increase and diffusion of knowledge.

Among federal agencies, there is nothing else quite like the Smithsonian. We employ over 6,000 people and 6,300 volunteers. We store, preserve, and make accessible a diverse range of collections, ranging from insects to spacecraft. We conduct cutting edge research on topics from astrophysics to zoonotic disease. And we run retail and dining operations for the 30 million visits we host every year.

To support this wide array of functions the Smithsonian leases space for administrative offices, collections storage, general storage, and research/laboratory space totaling approximately 1.5 million square feet at an annual cost of approximately $52 million.

This is a substantial amount of space that represents a significant cost to the Smithsonian and in turn to the American public. As such, we take seriously our responsibility to spend those dollars wisely and transparently.

The Smithsonian ensures competitive pricing for our leased spaces by utilizing detailed market studies of real estate submarkets, both independently and with the assistance of prominent commercial real estate firms that are selected through an intensive Request for Proposals (RFP) process. These firms give the Smithsonian access to a comprehensive range of capabilities, such as portfolio management and strategy; transaction management and brokerage; lease negotiation and administration; lease audit and recovery; real estate tax management; and space planning and utilization. This combination of internal and external expertise allows the Smithsonian to identify market comparables and properties best suited to fulfill our unique space requirements, and to ensure that property owners negotiate within a competitive environment.

While the Smithsonian maximizes its federal resources through competition and strives to improve efficiencies, it is equally important to demonstrate responsible use of taxpayer dollars. As an entity with independent leasing authority, we are not required to file annual reports with the Federal Real Property Council, but we do so voluntarily, as part of our effort to follow best practices.

Management of the leased portfolio

In order to determine our leasing requirements, the various units across the Smithsonian are required to formally submit a request to the Under Secretary or the Provost. Once a request is approved and funding is made available, our real estate Division coordinates with the unit and a project manager within Smithsonian Facilities to refine the requirement and develop an appropriate space plan suitable for the unit's needs.

As previously noted, some of the Smithsonian's space needs can be highly specialized. Over its long history, the Smithsonian has developed requirements suited to the proper care and preservation of the National Collections. These requirements can vary dramatically among the 138 million items in the collections and must meet precise standards for temperature, relative humidity, ventilation, lighting, fire suppression, and storage equipment, among others. The Institution has developed directives to properly distinguish the nature of the space and the exact conditions required. Additionally, we must also address any security needs associated with collections of significant value.

Our requirements for office space are less complicated, but are still carefully developed with each respective internal unit to ensure their operational needs are being met in a cost-effective manner.

With such a broad range of leasing needs, the Smithsonian takes great care to foster competition in lease transactions in order to control costs. This task is relatively simple for the leasing of office space, but more challenging with respect to collections space due to the limited number of

entities in the market capable of meeting the highly specific requirements for the management of scientific, historic, and artistic collections.

Office space

Notwithstanding our efforts to keep leasing costs under control through competition, the Smithsonian is pursuing a long-term leasing strategy to identify and achieve additional cost savings wherever possible. Our current leased office holdings are spread across several buildings located in Washington, DC and Northern Virginia. This dispersion of institutional functions contributes directly to operational inefficiencies. When coupled with rising lease rates, the result is a cost escalation to the Institution in a constrained federal budget environment. To combat this, the Smithsonian has systematically aligned the termination dates of these agreements in order to pursue an effective consolidation strategy.

Our own analysis indicates there are substantial costs savings to the Institution if we consolidate the majority of our office leases to one location through space and administrative efficiencies.

In an effort to identify and acquire suitable office space for a potential consolidation, the Smithsonian posted a non-binding Request for Proposals (RFP) and held discussions with the General Services Administration (GSA) to identify suitable properties within its portfolio. In the coming months, the Smithsonian will continue to explore all possibilities and to focus on this important cost-saving initiative.

Collections storage

In 2011, the Smithsonian launched an Institution-wide collections space planning initiative to document, analyze, and plan for addressing the Institution's current and future collections space needs in a pragmatic, strategic, and integrated manner. With these goals in mind, the Smithsonian established an interdisciplinary Collections Space Steering Committee to assess current collections space conditions and to develop a framework plan with near, intermediate, and long-term recommendations for addressing current and projected pan-Institutional collections space requirements.

As part of this initiative, the Smithsonian completed a first-of-its-kind survey of existing collections space, both owned and leased, representing more than 2.1 million square feet of space. The survey analyzed the condition of collections space, storage equipment, accessibility, environmental conditions, security, and fire safety. Based on this assessment, the Collections Space Framework Plan was issued in 2015 to serve as a roadmap to guide short- and long-term facilities capital, real estate, and collections care projects, providing renovation and new construction strategies that address unacceptable collections space conditions, allow for

decompression of overcrowded collections to make them more physically accessible, anticipate future collections growth, and reduce or eliminate reliance on leased space for collections storage.

As a part of our plan, we performed a survey of leased facilities on the East Coast, none of which met our stringent standards for temperature, relative humidity, and security for the long-term storage of collections. In addition, we have conducted a cost-benefit study which shows that owning collections storage facilities is much more cost effective and efficient than leasing.

Additionally, we have reached out to other agencies in the national capital region, such as the National Gallery of Art, Department of the Interior, and others on opportunities to partner on storage needs. These potential partnerships could improve efficiencies, reduce costs, and leverage the combined purchasing power of the agencies. We are currently in the process of formalizing a collections space forum of participating agencies with the goal to quantify individual storage needs based on common methodologies and to explore collaborative storage opportunities.

The Smithsonian has made significant progress in raising the level of collections care through facility capital projects. Construction of the Udvar-Hazy Center near Dulles Airport significantly increased both the storage capacity for and public access to the collections of the National Air and Space Museum (NASM). The National Museum of Natural History (NMNH) improved collections and laboratory space for invertebrate and paleobiology collections at the Mall museum. The construction of Pod 5 at the Museum Support Center (MSC) allows us to safely preserve and make accessible scientific specimens stored in alcohol and formalin. Renovations to the existing MSC Pod 3 provided collections space for three Smithsonian art museums as well as physical anthropology and other collections requiring specialized environments such as Antarctic meteorites and frozen tissue samples. The recent renovation and reopening of the Cooper Hewitt, Smithsonian Design Museum also resulted in a number of improved collections processing, conservation, and storage spaces.

To address near-term space requirements, the implementation of the Framework Plan calls for the construction of an additional storage Pod at MSC and the construction of two new storage modules adjacent to the Udvar-Hazy Center. The first of those modules will be critical as temporary collections swing space during the upcoming NASM Mall Building revitalization, and will then serve to relocate at-risk collections from the Paul E. Garber Facility. Bills authorizing those projects have been referred to this subcommittee.

Long-term, the Framework Plan supports a phased development of the Suitland and Dulles campuses. Each of these strategies will reduce, consolidate, and ultimately eliminate our need for temporary and leased collections space while also improving the environmental and security conditions for our collections.

Conclusion

As we prepare to open the new National Museum of African American History and Culture, renovate the National Air and Space Museum, and collections across the institution continue to grow, our need for space continues to expand. For that reason, we will continue to seek efficiencies and consolidate our leased spaces in the most responsible and transparent manner possible.

Thank you for the opportunity to testify today, and thank you for your support of the Smithsonian Institution.

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