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PROPOSED RELOCATION OF FEA TO BUZZARD POINT

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

ISSUES RELATING TO THE RELOCATION OF THE FEDERAL ENERGY ADMINISTRATION AND THE GENERAL SERVICES ADMINISTRATION'S COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

DECEMBER 17, 1976

Serial No. 94–163

Printed for the use of the
Committee on Interstate and Foreign Commerce

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Southwest Neighborhood Assembly:
Miller, Frederick L., Jr., counsel.
Stief, Kathleen, president.
Southwest/Southeast Advisory Neighborhood Commission, Gottlieb Simon, executive director.

PROPOSED RELOCATION OF FEA TO BUZZARD POINT

FRIDAY, DECEMBER 17, 1976

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2123, Rayburn House Office Building, Hon. John D. Dingell (chairman) presiding.

Mr. DINGELL. The subcommittee will come to order.

Last August the Congress enacted the Energy Conservation and Production Act. It directs the President to submit, by the end of 1976, a report of "recommendations for the reorganization" of Federal energy responsibilities. This includes the functions of the Federal Energy Administration which is scheduled to terminate in just 12 months.

During the recent Presidential campaign, President-elect Carter made it clear that he would propose an energy reorganization plan. President Ford also supported energy reorganization.

Even though the future of FEA and its functions are murky, at best, on October 29, 1976, the General Services Administration issued an order directing the FEA to relocate some of its offices to a leased building at Buzzard Point—the Chair might observe an appropriate name—in Southwest Washington, D.C.

Before this order was issued, at least three other agencies were invited by GSA to move to the same isolated location. In each case, the GSA said that the particular Federal Agency "is the most logical choice" for Buzzard Point. In each case, the Agency declined the GSA offer and this declination was allowed to stand.

On September 13, 1976, the GSA announced a moratorium on major acquisitions of leased office space in the Washington metropolitan area. According to the GSA, agency space requests are now nearly nonexistent.

Actually the vacancy at Buzzard Point is saving the taxpayers from the costs of agency relocation. Possibly President-elect Carter should order that the building remain vacant as a constant reminder to Federal agencies that their expansion plans may land them at Buzzard Point. Such a move could help to limit executive branch growth.

An August 25, 1976, "Fact Sheet" found in the files of OMB states that if the Treasury Department declined the then pending GSA offer, the other potential tenants for Buzzard Point are:

One: General Services Administration—region 3.

Parenthetically, in the view of the Chair, that seems to be a rather logical choice.

Two: Federal Trade Commission and the Federal Bureau of Investigation.

Three: Federal Trade Commission and the Consumer Product Safety Commission.

Four: Federal Bureau of Investigation, Law Enforcement Assistance Administration and the U.S. Department of Agriculture.

FEA was not listed as one of the potential tenants. However, in early October the FEA was approached by the GSA. After a meeting on October 8th, several FEA officials visited the building. All recommended against the move. On October 20, 1976, the FEA wrote the GSA that because of the above-mentioned reorganization potential, "we hope that you would find a more suitable, stable tenant for Buzzard Point."

Nine days later GSA ordered FEA to relocate. The GSA said this order was issued after an "extensive study undertaken by GSA to determine what agency or agencies are best suited" for Buzzard Point. At a November 22d news conference, the GSA Administrator repeated this statement.

Executive Order 11512 directs that the GSA be guided by several policies set forth in the order in assigning space to an agency. In order to see if the Executive order was complied with, we asked for a copy of the so-called study after that news conference and were told it was still being typed. We hope that the typing of it is completed so it may be presented to us today along with the date that typing was completed.

The GSA files, however, did include a September 24, 1976, briefing paper which was apparently used when several GSA officials met on the matter on October 28, 1976, with Administator Eckerd. The following GSA remarks in that paper will give some idea about the way space allocations are made by top GSA officials:

The FEA move of all of its offices to Buzzard Point would:

> Enable us to cancel a costly lease, free 230,324 square feet for reassignment, allow for continued consolidation of Treasury within 12th and Penn. enclave, FEA may be short lived and lease (at Buzzard Point) is short terms (5 years) thus we may be able to get rid of this building. Problem of getting Zarb out of his palatial office, FEA has no major outstanding space requests—move order would hit them cold, FEA has same union as Treasury."
>
> Enable us to satisfy three major outstanding space requirements (FTC, FBI, AGR.), would completely consolidate Agriculture's Food and Nutrition Service, AGR will go voluntarily, other may not, FBI no union—others have, added difficulty of fighting two or three agencies, cost of moving FBI high ($500,000).

A GSA move of some of its region 3 offices caused this comment:

> Outside agency concurrence not required would free ROB (318,737 square feet) for reassignment, GSA union may protest, may appear as if we are "eating crow".

Three things are clear:

First: GSA does not want to move to Buzzard Point because that agency does not want to eat crow.

Second: the GSA waived all cost considerations to get the FBI into the building because its employees are not unionized.

Third: GSA ordered the FEA to the building because it feared that FEA's union would get management to support an employee

protest just as Treasury did. Such an order would, they hoped forestall this.

I find this situation not just curious but appalling. Obviously, there was no compliance with the Executive order. Even more disturbing is the fact that GSA apparently realized that Federal employees had some concerns about this isolated area, but the GSA didn't want to deal with them. Instead, the GSA sought ways to circumvent both the employees and the unions.

In requesting OMB to testify today, I noted that one policy of the Executive order is that there be safe and healthful working conditions for employees. I also observed that the employees and their unions had expressed concern, through demonstrations, about safety and other factors at Buzzard Point. I pointed out that GSA's reply to these concerns was to kiss them off with a statement that employees don't like change. I asked if procedures have been established to allow employees an opportunity to express their views and fears. On December 14th the OMB replied as follows:

> No government-wide procedures have been established specifically related to the expression of employee views on work location matters. It is OMB's view that the establishment of such procedures is a management prerogative of agency heads. At the same time, OMB believes that employees should have an opportunity to express their concerns about safety, transportation and related matters to the head of their agencies for the latter's consideration in coming to a conclusion about a proposed office location. In fact, employees have been readily able to make their views known on proposed work locations. In the current case, for example, FEA employees have been vocal and, for example, have forwarded petitions stating their views to the OMB.

But the agencies have not established any such procedures even though such action clearly seems to be desirable. In FEA's case, the GSA order was issued before the FEA employees knew of the proposal. The employees have protested to FEA, but they have no access to OMB, except by petitions and through the FEA.

But what has the GSA done about employee concerns involving crime and transportation in the area?

When one union official protested the FEA move because of crime in the area, the Washington Star reports that a GSA official responded that this is not an unusually-high crime area. That official added that with the FBI there crime will probably drop—I have heard these fellows carry guns. Isn't that reassuring to the 2,000 or more employees of the FBI and FEA who are not agents and do not carry guns?

Our subcommittee asked Chief of Police Cullinane about the crime problem at Buzzard Point. He replied on December 7, 1976, saying that for statistical purposes the city is divided into Carney blocks. Buzzard Point is in Carney blocks 555 and 556. He said that the rate of crime in these Carney blocks is lower than in the more heavily populated Carney blocks 551 and 552 adjacent to Buzzard Point and through which everyone must pass to get to Buzzard Point. He then added that it is not possible to compare these blocks on the basis of a single factor such as crime, but he then added:

"When population in an area increases, the opportunity for criminal activity also increases."

[The correspondence referred to follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., November 30, 1976.

Chief MAURICE J. CULLINANE,
Metropolitan Police Department,
Washington, D.C.

DEAR CHIEF CULLINANE: Our Subcommittee is concerned about a recent General Services Administration order directing the Federal Energy Administration to relocate some of its operations to a new, privately-owned building at Two T Street, S.W., Washington, D.C., called Buzzard Point.

It is our understanding that present crime statistics show some crime in Carney blocks 555 and 556 where this building and another office building are located and a higher rate of crime in Carney blocks 551 and 552 where more people are located. There are about 2,000 people working in the area now. An additional 2,000 people can be expected once the Buzzard Point building is occupied.

It has been stated to us that the experience of your Department shows that crime occurrences in an area tends to increase as the working population of the area increases. We would appreciate knowing whether or not you agree with this statement generally. We would also appreciate your views and comments on the potential crime problem in these Carney blocks that might be expected and any suggestions you may have concerning actions to be taken by the Federal agencies and the working population to help prevent such crime.

We would appreciate your reply by Monday, December 6, 1976.

With best regards,

Sincerely,

JOHN D. DINGELL, *Chairman.*

GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT
Washington, D.C., December 7, 1976.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: In response to your correspondence dated November 30, 1976, this Department recently furnished to members of your staff crime statistics for Carney block 555 (Buzzard Point) and the neighboring reporting areas.

Our statistics indicate that the rate of crime in Carney blocks 555 and 556 are lower than in the more heavily populated Carney blocks 551 and 552.

We divide the city into 363 Carney blocks based on consideration of contiguity, traffic control, crime density, as well as resident and working population. It is not possible; therefore, to compare two of the Carney blocks on the basis of a single factor alone, whether it is crime or population. When population in an area increases, the opportunity for criminal activity also increases. Therefore, we change our patrol emphasis to add protection to that area.

I am enclosing a pamphlet titled "Always Think Prevention" which contains numerous suggestions dealing with crime prevention.

If I can be of further assistance to you in any way, please do not hesitate to contact me.

Sincerely,

MAURICE J. CULLINANE,
Chief of Police.

Mr. DINGELL. When the same union official protested about the lack of public transportation, the GSA said "Wouldn't it be foolish to start the buses before there are people to ride them." He failed to note that GSA waited until November 12, 1976, to ask Metro to add more bus service to this area. Also that official did not explain that intern-

ally GSA recommended that it acquire additional parking space at Buzzard Point at a substantial further cost to the taxpayers in order to treat these employees in the same manner as those at the nearby Trans Point building.

I am sure these employees and unions are not aware of a November 17, 1976, letter from Administrator Eckerd to Mr. Lynn about the FEA appeal. It states that the OMB staff "has been particularly helpful in indicating that upon receipt of the (FEA) appeal that they will have a decision within 7 to 10 days." The committee is curious whether or not this portends some indication of perhaps a decision already arrived at at GSA and OMB with regard to the future of FEA.

Mr. Eckerd also said:

> In our very cordial talks you have indicated that I have the ability to discuss matters such as this with the President. I have never used that privilege. However, I feel so strongly about this issue and I feel it is so embarassing to the Administration that I would like to discuss this with you and, if necessary, with the President if our decision is not upheld.

I note that on June 11, 1976, the GSA Administrator sent a similar letter to OMB indicating that OMB had given assurance that if proper procedures were followed the OMB agrees with the position that AID should be directed to move to Buzzard Point.

One gets the feeling that the employee petitions will be ignored by OMB and that the entire appeal to OMB is a pro forma exercise in futility.

Today we want to examine these and other issues relating to this relocation and to the validity of the lease itself. We will also examine the way the GSA complied with the National Environmental Policy Act in connection with this entire matter.

I note that a lawsuit is pending alleging that the GSA has not complied with the National Environmental Policy Act and that GSA is concerned that our hearing today may interfere with that suit. Let me make it clear, as the House author of the National Environmental Policy Act, that Congress and this subcommittee will not defer to the courts in determining whether or not there has been compliance with the National Environmental Policy Act by a Federal agency.

In addition, we want to examine the savings claimed by the GSA in moving the FEA to Buzzard Point. I note that the Administrator told the news media last month that the savings would be $1 million annually. These savings appear to be somewhat illusory since more recent evidence indicates that those savings may be slowly vanishing. At the very least the $1 million savings will be spread over 5 years, not 1. Also, no mention was made by the GSA that the cost of moving the FBI to Buzzard Point is substantial, because of special security needs such as $7,000 for a disintegrator, whatever that is.

In addition to this hearing, I asked the General Accounting Office to examine this matter. In particular, I asked the GAO to provide to me next month an opinion whether or not the lease for the Buzzard Point building was properly awarded. I think it prudent that the GSA not take steps to occupy the building until the GAO rules on the matter.

Our first panel at this oversight hearing today will be Mr. Frank Zarb, the FEA Administrator; and Mr. George Oberlander, of the National Capital Planning Commission.

I might note that Director Lynn of OMB was also scheduled today but in a phone conversation last night I agreed that because he and his policymakers are under stringent deadlines to make a budget case and he has a role as a decision-maker in this, he need not be here today; however, he has responded in a letter to our initial questions and will respond promptly to any additional questions we may have after this hearing. [Insert in the record at this point the correspondence with OMB, GAO, and others:]

[The correspondence referred to follows:]

CORRESPONDENCE BETWEEN CHAIRMAN DINGELL AND OMB

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., December 8, 1976.

Hon. JAMES T. LYNN,
Director,
Office of Management and Budget,
Washington, D.C.

DEAR MR. LYNN: Our Subcommittee plans to hold a hearing on December 17, 1976, concerning, the GSA order to relocate part of the functions of FEA at the Buzzard Point building in Southwest Washington, D.C. Our Subcommittee is concerned whether the ordered relocation was properly made in accordance with applicable provisions of law, whether it is in the best interest of the United States, whether legitimate concerns expressed by FEA employees and their representatives were considered prior to issuing this order, and whether such a move at this time is wise in light of President-elect Carter's announced plan to recommend reorganization of energy functions and possible elimination of some such functions.

The hearing will be in Room 2123 of the Rayburn House Office Building. It will begin at 9:30 A.M.

We request that you testify at the hearing and that you be accompanied by Mr. Richard Jenerette. If your schedule will not permit you to testify, please designate another OMB policy-making official to testify on your behalf. Please advise us by December 13 as to who the witness will be.

We request that your testimony cover the following matters:

1. Enclosed for your information is a copy of our December 6 letter to the GAO concerning the validity of the Buzzard Point lease. Please note the discussion on pages 2–3 concerning the GSA's responsibility under section 2(a) (2) and (7) of Executive Order 11512, which was drafted by the GSA and OMB, to consult. Do you agree with the GSA that "it was not necessary for GSA to coordinate the project with the NCPC or any other planning offices "because the developer had a building permit? Please explain your response.

2. Section 2(b) of the Executive Order provides for appeal to you from a decision by GSA to assign space to an agency. What, if any, procedures have OMB established to handle such appeals?

3. When you ruled in favor of the SEC in January, 1976, what consideration did you give to the fact that the GSA had a costly lease and no Federal tenants? Were you satisfied that the GSA had alternate tenants for the building? If so, please identify the agencies suggested by the GSA as possible tenants?

4. Section 2(a)(1) of the Executive Order directs the GSA and agency heads to give "due regard for . . . the maintenance and improvement of safe and healthful working conditions for employees." In the case of Buzzard Point, employees of several agencies, and their representatives, have expressed concern through demonstrations about "working conditions" at Buzzard Point. The GSA officials' reply is that employees "don't like change" and thus they oppose such relocations. They also state this is a concern of the agency head, not GSA.

Do you agree with the GSA and do you believe that this GSA reply is in accord with the requirements of the Executive Order? To what extent, and in what forum, should Federal employees or their representatives who raise legitimate concerns about safety, transportation, or other matters, be given an opportunity to challenge a management decision of the GSA and the affected Federal agency head, such as the FBI, to relocate? Have any procedures been established to allow the employees an opportunity to express their views and fears? If not, why not?

5. It has been repeatedly reported by the GSA and others that DOT employees are happy at Buzzard Point. We note, however, that several factors contribute to this.

First, DOT initiated a shuttle service in May, 1973, for its employees. Four buses are rented from GSA for this service at a cost of $71,859.19 in FY 1976. An estimated 1551 persons use it each day.

Second, DOT controls all of the parking space at the Trans Point building consisting of 254,069 sq. ft. This space will hold 650 vehicles. Casual visitors are not charged. DOT employees are charged $6.60 per month.

On October 24, 1972, DOT wrote to OMB requesting that "GSA be authorized to acquire" this space at the Trans Point building. DOT said:

"In developing plans for the building with GSA, we were advised by the GSA Project Officer that GSA could not complete the arrangement for leasing the garage space, in accordance with the terms of the lease, until approval is received from your office. The relatively isolated location of the Buzzard Point Building, coupled with the limited public transportation service in that area will increase the cost and commuting time of employees who use public transportation. This, in turn, will result in an increased use of private vehicles. In addition to problems associated with use of public transportation, we anticipate problems with the safety of employees who use street parking in that area, particularly during the winter months. In that the nearest Metro station will be approximately one mile from the building, we do not foresee any improvement to the situation in the future."

On January 12, 1973, OMB Deputy Director Frank C. Carlucci approved this request saying:

"In the near future we expect that OMB will issue a circular setting forth Government-wide policy concerning Federal parking facilities. While the provisions of the policy issuance are still under review, it is likely to require that employees who utilize Federal parking facilities in circumstances such as that at Buzzard Point will be charged a reasonable parking fee and that those fees when collected will be deposited to Miscellaneous Receipts in the Treasury of the United States. It must be clearly understood that a waiver of the current moratorium on the lease of employee parking facilities will not serve in any way to alter the need to conform to the provisions of that policy ultimately prescribed in an OMB circular on this subject."

This lease costs the taxpayers $266,000 annually for 20 years. The DOT employees do not pay this cost. They do pay all but the overtime costs of the valet service contract that DOT has to run the parking space. The overtime costs $5,529.50 annually.

We understand the Buzzard Point building will have 1,028 spaces.

GSA Regional Director Galuardi in a undated memorandum to Commissioner Panuzio said that the USDA is "aware of this situation" at DOT and "indicated they would like equal treatment." He added:

"Similar adjustments may be required for any other agency which is relocated to the Buzzard Point Building."

(a) Why should the taxpayers be asked to foot the costs of employee parking at an "isolated location" in order to provide "safety of employees," when there is another solution, namely don't occupy the Buzzard Point building?

(b) Also, how does the acquisition of parking by GSA at these buildings conform to efforts by EPA and the District Government to reduce the number of cars in the District?

(c) A February 13, 1975, GSA letter to EPA states OMB "is responsible for developing a national parking policy for Federal employees." Has that policy been developed? If not, why not?

6. We welcome your views and comments on any other matter relating to this problem you care to make.

Your summary statement for oral presentation should not exceed 6 pages, double spaced. Your detailed statement for the record may be any length. Please provide 5 copies of each to us by noon on December 16. Please bring 75 copies of each to the hearing for distribution by the Subcommittee.

With best regards,

Sincerely,

JOHN D. DINGELL, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., December 14, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of December 8, 1976, concerning a hearing of your subcommittee now scheduled for December 17 on the proposed relocation of certain offices of the Federal Energy Administration at Buzzard Point.

The Office of Management and Budget has received an appeal from FEA requesting the reversal of the General Services Administration's assignment of this space to FEA. In response to FEA's request for additional time to prepare the documentation of its appeal, we have extended the deadline for FEA's submission of its material until December 31, 1976. Upon receipt of this material along with any other documents that GSA may wish to submit, OMB will analyze the positions of GSA and FEA and complete its recommendations on the issue.

As you are aware, this is the most intense period of review in completing the 1978 budget which the President will submit to Congress on January 17, 1977. Because of the schedule pressures and constraints under which OMB is presently working in this regard, we would very much appreciate not having to prepare for and attend a hearing at this time. Your letter was quite specific about the questions you wish OMB to address and I am enclosing written answers to assist your subcommittee in its consideration of this matter. I trust this will provide the information you require. I would also be happy to answer similarly any additional questions the subcommittee might have on the assignment of space at Buzzard Point to FEA.

With best regards.

Sincerely yours,

JAMES T. LYNN,
Director.

Enclosure.

REPLIES TO QUESTIONS IN CHAIRMAN DINGELL'S DECEMBER 8, 1976, LETTER TO OMB DIRECTOR, JAMES T. LYNN (NUMBERING SEQUENCE FOLLOWS THAT IN LETTER)

1. Executive Order 11512 of February 27, 1970, governs the planning, acquisition and management of Federal space. Section 2(a)(7) requires:

Proposed developments shall be, to the greatest extent practicable, consistent with State, regional and local plans and programs; and Governors, local elected officials, and regional comprehensive planning agencies shall be consulted in the planning of such developments.

While this requirement clearly would apply to a new Federal building to be constructed by GSA, there may be some doubt in this instance since a private developer was undertaking the project. It is clear, however, that GSA was aware of and considered the views of the National Capital Planning Commission on Buzzard Point before it made its lease award decision. In a July 22, 1975, letter to OMB commenting on a draft OMB compendium of issues on the assignment of SEC to Buzzard Point, GSA states, in part:

"2. This item (a statement that GSA was unaware of NCPC's objections until May 29, 1975, just prior to GSA's award of the lease) tends to be misleading as it infers that, had NCPC's objections not been too late, an award at Buzzard Point would not have been made, whereas, NCPC's view was only one of many considered by GSA in the award decision and their view was not necessarily the major one in the decisionmaking process."

It appears to us that GSA did meet the "consultation" requirement, albeit in an informal manner. GSA's decision on the lease award, however, obviously represented a rejection of the opposing views of NCPC and others.

2. OMB has not established formal procedures for handling appeals from GSA space assignment decisions, largely because there have been very few such cases since E.O. 11512 was issued. We have handled appeals on a case-by-case basis, but certain common steps have been followed. We have insured that both GSA and the agency in question have copies of each other's documentation bearing upon the dispute and an opportunity to respond to the position advanced by the other side. In addition, OMB staff has met separately and jointly with both sides to amplify written submissions, provide each side an opportunity to state its case fully and insure that OMB has received sufficient information to undertake an analysis and reach conclusions.

Following this information-gathering phase, OMB staff have analyzed the issues in light of the policies and procedures specified in E.O. 11512. When OMB policy officers consider staff analysis and recommendations and reach tentative conclusions, we have usually informed GSA and agency officials of our conclusions and given them an opportunity to modify or withdraw their positions. Following this final consultation, and assuming no change in GSA or agency positions, we have proceeded to formally notify GSA and the agency of our decision.

3. When the decision upholding SEC's appeal was announced in January 1976 we considered the fact that GSA did have a lease and no tenants. However, occupancy was not scheduled until later in 1976 and GSA had advised us that they did have alternate tenants for the Buzzard Point building if the decision were made to uphold SEC's appeal. Thus, we foresaw no financial loss to the Government. GSA informed us that its own regional office or parts of the Department of Health, Education and Welfare were alternate tenants for the Buzzard Point building.

4. The Executive Order states that GSA and agency heads should give "due regard for * * * the maintenance and improvement of safe and healthful working conditions for employees." It is reasonable to assume that this requirement calls for GSA to assess a specific proposed location in light of its impact on Federal employees generally rather than on the employees of a specific agency. It should be the primary responsibility of an agency head, on the other hand, to give "due regard" to the location's possible effects on the employees of that agency. This distinction is based on two considerations: (1) for many space acquisition actions—such as construction or a large lease for multi-agency use—GSA may not know at the time of the decision exactly which agencies may eventually occupy the space; and (2) agency heads are responsible for the management of their agencies, including personnel, and therefore such an assessment is properly within their purview. One would logically expect, however, that the agency would convey to GSA its views on the effect of a proposed location on its staff.

No government-wide procedures have been established specifically relating to the expression of employee views on work location matters. It is OMB's view that the establishment of such procedures is a management prerogative of agency heads. At the same time, OMB believes that employees should have an opportunity to express their concerns about safety, transportation and related matters to the head of their agencies for the latter's consideration in coming to a conclusion about a proposed office location. In fact, employees have been readily able to make their views known on proposed work locations. In the current case, for example, FEA employees have been vocal and, for example, have forwarded petitions stating their views to OMB.

5. It should be noted that the Committees on Public Works of the Congress approved the GSA prospectus, which led to the Buzzard Point lease, including a provision for the acquisition of 250 parking spaces for employee parking. It is our understanding that other agencies now being considered for tenancy may request spaces beyond those already covered by the lease, but the Commissioner of GSA's Public Buildings Service, who must approve such requests, has not acted on any requests of this nature.

When OMB approved a waiver on employee parking at the Trans Point building it was with the expectation that a Government-wide policy would be issued in 1973. The expectation was that in facilities such as Trans Point, employees would be charged a reasonable fee. That policy has not been issued

for several reasons: responsibility for this and other functions was transferred from OMB to GSA in 1973 and back again to OMB in 1976; employee parking is an exceedingly complex issue involving urban and non-urban facilities, military and civilian facilities; and there is lack of agreement about the objectives for such a policy. For example, while some argue that charging market rate prices for parking would reduce the number of cars or increase carpooling, evidence is mixed. Carpooling is already prevalent to varying degrees at many Federal facilities and in situations where carpooling has become particularly advantageous, some of the carpooling members are drawn from public transit.

Acquisition of new office space anywhere will ential an increased number of cars. To not have that effect implies that all employees would either walk, bike or ride public transit to work—a situation which does not exist anywhere. Also, the District's codes which require certain amounts of off-street parking in new construction anticipate the use of cars for employees to a certain extent. GSA policies regarding carpooling would nevertheless apply at these facilities.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., January 6, 1977.

Hon. JAMES T. LYNN,
Director,
Office of Management and Budget,
Executive Office Biulding,
Washington, D.C.

DEAR MR. LYNNS Enclosed is a copy of a letter I sent today to the GSA concerning the Buzzard Point matter.

I understand that the FBI telephones are connected with the switchboard at the Hoover building, and the FBI believes that this situation must be continued when it moves to Buzzard Point. To achieve this, a cable must be run from the Hoover building to the C & P switch building in southwest and then to Buzzard Point. In understand, however, that C & P has advised the GSA and the FBI that this cannot be completed until July 1977, at the earliest. Thus, the FBI move will be delayed until then.

Then new cable will be installed at no cost to the Government, except through the rates paid by the Government. I think it would be unwise for the GSA to order such installation until it is certain that the FBI will, in fact, go to Buzzard Point. At the very least, such certainty will not occur until the GAO responds to our request for an opinion concerning the validity of the lease, etc., and until the lawsuit is resolved.

I request that the OMB look into this matter and indicate what safeguards you have instituted to insure that such installation will not be made if, in fact, the FBI never moves to Buzzard Point.

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., January 17, 1977.

Hon. JAMES T. LYNN,
Director,
Office of Management and Budget,
Executive Office Building,
Washington, D.C.

DEAR MR. LYNN: As you know, Executive Order 11035 of July 9, 1962 was rewritten in 1970 and re-issued as Executive Order 11512. The revised version amended the 1962 Order in several ways. One significant amendment was the addition of paragraphs (6) and (7) to section 2(a) of that Order. Those para-

graphs require that the GSA and other Federal agencies "shall be guided" in the acquisition of space by the following policies:

"(6) The availability of adequate low and moderate housing, adequate access from other areas of the urban center, and adequacy of parking will be considered, and

"(7) Proposed developments shall be, to the greatest extent practicable, consistent with State, regional, and local plans and programs; and Governors, local elected officials, and regional comprehensive planning agencies shall be consulted in the planning of such developments."

During our Subcommittee's December 17, 1976 hearing on the order issued by GSA directing the FEA to move part of its operations to Buzzard Point in Southwest Washington, D.C., the National Capital Planning Commission testified that it has held "discussions since 1975" with your agency and GSA concerning its role in the procurements of leased space by GSA. Since then we learned that those discussions were initiated after the NCPC wrote you on June 11, 1975 protesting the GSA's award of the lease for the Buzzard Point building. In that letter, the NCPC said the GSA action was "inconsistent" with the Comprehensive Plan" prepared and adopted pursuant to the National Capital Planning Act". The Commission further said:

"We believe that this action, if permitted to stand, will adversely affect the physical development of the city. We also believe that the established Federal planning process at the seat of the Federal Government will be seriously weakened if a Federal agency is permitted to take action with full knowledge that such action violates the plans for the development of the Nation's Capital."

Pointing to the 1970 Executive Order, the NCPC asserted that the GSA's action was also "inconsistent" with section 2(a)(7) of that order. The NCPC said:

"We believe that GSA's policy of limiting the conformance of such lease proposals to local zoning is also inconsistent with the Executive Order. *The Order clearly refers to plans and programs, not to zoning.* This is a major difference in interpretation of the Executive Order and GSA's sole emphasis on zoning has lead to this direct violation of the land use policies in the Comprehensive Plan." (Emphasis supplied.)

This is an important point, yet it seems to have been ignored by the GSA. In several letters and memoranda relative to the Buzzard Point matter, the GSA repeatedly stresses that the Buzzard Point building accords with local zoning and concludes that so long as there is zoning approval, the GSA may proceed without regard to NCPC protests. Indeed, a GSA Fact Sheet of June 27, 1975, which discusses the history of the solicitation, states:

"The interest and concerns of the National Capital Planning Commission have not been discussed here because they are not actually relevant. The Comprehensive Plan which has been mentioned does not preempt local zoning. Further, under the evolution of Home Rule and local planning functions, the proposed action would constitute a District "element" of the Comprehensive Plan as the property in question is privately owned. In any event, the final determination will have to be made by the District Zoning Commission which has not always agreed with recommendations of NCPC or the District's own Planning Office."

This statement completely ignores the requirement of the Executive Order which is binding on the GSA. Obviously, zoning is a factor. If the land on which a proposed commercial building is to be built is not zoned to permit such a building, the response to the solicitation would not be responsive. In the case of Buzzard Point, we understand that the land was zoned for industrial purposes and that commercial use is permitted within that zoning.

However, that zoning occurred before the comprehensive plan was initiated and this is not unusual in planning. The E.O. requires that GSA conform "to the greatest extent practicable" with the comprehensive plan. No mention is made in the E.O. of the zoning factor. Yet the GSA gives it overwhelming weight over the NCPC plan. In fact, there is no evidence that GSA made any attempt to conform to the plan "to the greatest extent possible". Thus, we do not agree with your statement of December 14, 1976 that GSA met the consultation requirement of the E.O.

The OMB apparently accepted the GSA statements in June and July, 1975 without challenge and let that agency ignore the Presidential directive. The NCPC made several recommendations in its June 11, 1975 letter to your

agency, including one urging that the lease be voided. The OMB held three meetings with NCPC and GSA on September 17, 1976, August 3, 1976 and September 22, 1976, but, as the NCPC testimony at our hearing shows, the GSA still has not been told by OMB to comply with the Presidential directive of section 2(a)(7) in carrying out its leasing program. In fact, your December 14, 1976 letter to this Subcommittee states that "there may be some doubt" about the application of the E.O. to buildings leased by GSA which are built by a "private developer".

There should be no such "doubt". The E.O. is not ambiguous. Section 1 clearly refers to "leased" space. This reference applies to all matters covered by the E.O.

Please explain why your agency has not long ago told the GSA that the E.O. is controlling in these situations, and not the zoning laws. Also please advise us when the OMB will correct the situation and inform GSA of its duty under the Executive Order.

Your December 14 letter to us states that no "government-wide procedures" have been established relating to the "expression of employee views on work location matters", and that this is a "management prerogative of agency heads". However, we note that section 11(a) of Executive Order 11491 requires that an agency and recognized labor organization "shall meet at reasonable times and confer in good faith with respect to... matters affecting working conditions". This would appear to include proposals to relocate some or all of an agency's employees to new space under the policy guidance of section 2(a)(1) of E.O. 11512. It would appear, therefore, that E.O. 11491 provides the "government-wide" procedure, at least insofar as it concerns employees represented by a labor organization.

The question, however, is (a) when should this meeting and conferring take place—before or after a GSA order is issued, and (b) what is the procedure for employees who are not represented by such an organization, such as those at the F.B.I. We request that OMB review this matter and provide a reply to (a) and (b).

We request a response to these issues prior to the OMB decision on the FEA appeal.

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 3, 1977.

Hon. THOMAS B. LANCE,
Director,
Office of Management and Budget,
Executive Office Building,
Washington, D.C.

DEAR MR. LANCE: On January 6 and 17, 1977, I wrote to your predecessor concerning a GSA Order issued last October directing the FEA to move part of its operations to the Buzzard Point building in Southwest Washington, D.C. The FEA has appealed the GSA Order and requested that the OMB reverse it.

In light of the impending reorganization of energy functions and other matters which I have raised at recent hearings by my Subcommittee on this matter, I believe the GSA Order should be rescinded. Also, I have not received a reply from your predecessor to either letter. I would appreciate an early reply.

Enclosed for your information is a copy of a February 1, 1977 memorandum from the National Capital Planning Commission. It is critical of the environmental assessment prepared by the GSA concerning the proposed move of any Federal agency to Buzzard Point. The memorandum buttresses my earlier criticisms of the GSA's failure to comply with the requirements of NEPA. It is pertinent to the FEA appeal.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington D.C., February 3, 1977.

Hon. JAMES R. SCHLESINGER,
Special Assistant to the President for
Energy Matters,
The White House,
Washington, D.C.

DEAR MR. SCHLESINGER: Enclosed is a copy of a February 3, 1977, letter to the Director of the Office of Management and Budget concerning an Order issued last October directing the FEA to relocate some, but not all, of its offices to Buzzard Point in Southwest Washington, D.C. Former Administrator Zarb appealed that order, but the OMB has not decided the appeal.

Our Subcommittee investigated the matter, including the acquisition by lease of the building, and we held a hearing in December. The GAO is also examining the lease for the subcommittee. As I said in the enclosed letter, the order should be rescinded. I urge that you support the FEA appeal.

With best regards,

Yours very truly,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., February 4, 1977.

Mr. SAMUEL E. BONSACK,
President, C & P Telephone Companies,
Washington, D.C.

DEAR MR. BONSACK: As I am sure you are aware, certain offices of the FBI are scheduled to move to the building at Buzzard Point in Southwest Washington, D.C., which is leased by the General Services Administration. We understand that there are special telephone requirements in connection with this move.

Enclosed for your information is a copy of a letter we sent to the Office of Management and Budget concerning this matter. We are concerned that no one incur any cost concerning these lines until it is certain that the FBI will move to Buzzard Point. The certainty of such a move is tied to the outcome of pending litigation and a GAO investigation.

We understand that this problem is divided into two parts—namely, the connection between the Hoover building in the Northwest and the C & P Southwest center and the connection between the C & P Southwest center and the Buzzard Point building. We would appreciate your response to the following:

1. We would like to know what the costs and the work timetable for each segment, considered separately, are estimated to be.
2. Which segment will be begun first?
3. Will the Government have to pay these costs? If the answer to this question is no, will these costs become a part of C & P's rate base?
4. Will the Government have to pay if the FBI does not move to Buzzard Point after the telephone line is installed?

We would appreciate your reply by February 21, 1977.

With every good wish,

Sincerely,

JOHN D. DINGELL,
Chairman.

CORRESPONDENCE BETWEEN CHAIRMAN DINGELL AND GAO

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., November 5, 1976.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office Building,
Washington, D.C.

DEAR MR. STAATS: I understand that the General Services Administration has issued an order to the Administrator of the Federal Energy Administration requiring the FEA to relocate its personnel at Buzzard Point. I am concerned about this proposal.

The FEA Act expires in December, 1977; the Agency is a likely candidate for reorganization as part of a general energy reorganization being considered by President-elect Carter. Such a move could be quite costly and, most importantly, have an adverse effect on the efficiency, effectiveness and morale of this Agency which would be detrimental to the public interest. Recent press reports have indicated that the GSA suggested that other agencies, including the SEC, the Agriculture Department and the Department of the Treasury, move to Buzzard Point, but they, unlike the FEA, apparently were not ordered to do so, and declined such suggestions.

I would appreciate your looking into the matter. I am anxious that you review all documents, memoranda, letters and other materials relating to the GSA's determination that the FEA must transfer to Buzzard Point, the authority for that determination and order, the adequacy of that determination, the reason, therefor, and such other factors, including the costs of the transfer and the costs to the FEA, for leasing this space versus its current lease costs, as may be pertinent. I request that you contrast the actions and procedures used by the GSA in ordering the FEA to accept the transfer with those used by the GSA in those cases where a mere suggestion was made that other agencies make the transfer and the basis for the GSA accepting declination in each case. Particular questions are involved in the actions of most Federal agencies, and that close liaison with those agencies may be critical.

Your early report in this Congress on this matter is needed because of the impending action by the GSA.

We are sending a copy of this letter to the FEA and the GSA and asking that they cooperate with the GAO.

With best regards,
Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE OF INTERSTATE AND FOREIGN COMMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C. December 6, 1976.

Hon. ELMER B. STATTS,
Comptroller General of the United States,
General Accounting Office Building,
Washington, D.C.

DEAR MR. STAATS: This supplements our November 8, 1976, letter to you concerning the relocation of a portion of the FEA to Buzzard Point in Southwest Washington, D.C.

I want to express my appreciation for the fine cooperation and assistance we have received from the GAO concerning this inquiry.

There are several matters that concern me about this relocation which I would like the GAO to examine and provide an opinion thereon by January 10, 1977.

1. VALIDITY OF LEASE AWARD

(a) *Background.*—The history of the lease award to Southwest Joint Venture shows that on March 24, 1974, the Securities and Exchange Commission re-

quested space for its headquarters and Washington regional offices. The space then occupied by the SEC at 500 N. Capitol Street was under a lease that would expire in April, 1976. A GSA proposed "Prospective For Proposed Lease", dated August 2, 1974, was transmitted to Congress. By Resolution of October 10, 1974, the House and Senate Committees on Public Works authorized the GSA to acquire space in Washington, D. C. "by lease for a term of 5 years with renewal options contingent upon approval" by said Committees "in the amount of $2,800,000 to house the consolidated operations of the Securities and Exchange Commission, in lieu of the estimated square footage and cost as described" in the August 2 prospectus. In approving this acquisition, Senators Baker and Randolph said, in an October 11, 1974, letter to the GSA, that they recognized that "a need exists to consolidate the offices" of the SEC, but they added:

"It is the Committee's position that the Federal Government should lease space under three conditions only: as a temporary measure, to meet special emergencies, or in special situations involving special uses. Long-term leasing should not be used by GSA for the acquisition of general office space. The Committee intends to base its future actions on prospectuses on this position."

On October 16, 1974, Senator Randolph re-emphasized their earlier position:

"I reiterate the Committee's position expressed in the October 11th letter from Senator Howard Baker and myself. Leasing is not normally in the best National interest and should be considered, at best, a temporary measure. Acting on this premise, the Committee limited terms of leases proposed for the Federal Energy Administration and Security and Exchange Commission to 5 years each. The Committees on Public Works will review continuation of each lease prior to execution of options."

On December 9, 1974, the GSA issued "Solicitation for Offers" No. 697, after receiving comments thereon from the SEC on December 3, 1974. On December 16, 1974, Dr. Lazlo N. Tauber trustee of District of Columbia Joint Venture, offered the GSA "two proposed buildings in the Southwest area" of D. C., including the Buzzard Point building.

A "Staff Paper" prepared on January 23, 1975, states that there was only one offer for "total consolidation of the SEC", and that the GSA received an offer from Union Center Plaza Associates for a building to be ready in March, 1976. The paper recommends that SFO 697 be amended to change the delivery date to July, 1976. This was done on January 31, 1975. The SEC was notified on January 27.

On February 6, 1975, the SEC questioned the delivery date which was 4 months after scheduled SEC lease expiration. In a February 27, 1975, reply, the GSA defended the decision to be "in the best interests of the Government". After receiving another letter of concern from the SEC, the GSA advised the SEC on April 2 that it had received "other acceptable offers for space and will conclude" negotiations by April 4, 1975. The GSA added:

"We will submit an offer to you by April 10 and, based on your approval, you can be assured we will select the best and most astisfactory offer to meet SEC's requirements. If SEC concurs in our selection, we will then make an award to the successful offeror, with whom we will develop a schedule for the completion of his building, and submit a copy of the schedule to you."

On March 24, 1975, Mr. R. I. Nixon, Special Assistant to the Commissioner for National Capital Area Affairs, was asked to contact the National Capital Planning Commission and the D. C. Government "on development plans for the Southwest and how the proposed Tauber building fit in with those plans". On April 3, 1975, the NCPC wrote to GSA recommending that GSA "not enter into an agreement leasing office space" in Square 666 which is part of the National Open Space System. In square 666 a "building permit has been issued" for the Tauber office building at Buzzard Point. This position was repeated by the NCPC in a May 29, 1975, resolution urging the GSA not to accept any bid for this square.

The GSA did not respond to the NCPC. In fact, a June 3, 1975, press release announcing the award of the lease to Tauber quotes the then GSA Administrator Sampson as follows:

"We recognize that there is opposition from some quarters to our selection of this site, including from the National Capitol Planning Commission. However, we were not made aware of NCPC's position until it was too late in the decision-making process. We fully respect the position of the Commission and will take that position into consideration in the future. But to back away from this transaction at this point would undermine our reputation in the marketplace."

Later, in a July 22, 1975, letter to the OMB, the GSA admitted receipt of the NCPC letter of April 3. The GSA told the OMB that when the NCPC discussed its May 29 resolution, the GSA said "the action came too late." The July 22 letter adds:

This action, as was pointed out during the May 29 discussion on the NCPC resolution, was not only too late, but misdirected. The facts were that on April 1, 1975, the developer secured an updated building permit from the D. C. Government without which he probably could not have been able to qualify for a lease award.

"The time to have limited or omitted consideration of Buzzard Point property would have been before the Solicitations for Offers were distributed, and in which such restrictions would have been noted. It is questionable whether the circumstances would have legally supported such an action."

There is no evidence that the GSA consulted with the NCPC prior to issuance of the SFO, although Mr. Wayne Cook met on May 20, 1975, with the NCPC, the National Park Service and other local governmental officials to hear their objections to this lease location. In fact, in a June 20, 1975 letter to the SEC, the GSA said:

"Section 5 of the National Capitol (sic) Planning Act of 1952 as amended, specified that any Federal projects within the National Capitol (sic) Region (NCR) obtain approval from the National Capitol (sic) Planning Commission (NCPC). In this case, since the developer obtained the building permit from the D. C. Government and since he met the requirements of the GSA Solicitation for Offers, it was not necessary for GSA to coordinate the project with the NCPC or any other planning offices. Since the developer had been issued a building permit by the D. C. Government, the building proposed obviously met the requirements of existing D. C. zoning ordinances."

On May 27, 1975, Dr. Tauber wrote GSA about the delay in awarding the lease saying:

"In my past experience of many years with G.S.A., no matter how long was the period between the so-called closing date and the date of award," at least we never knew what was going on behind the scenes, we never had any knowledge, what forces are against or for us. In the above Solicitation, however, basic facts of the greatest importance are of common knowledge; we learned from one of the offerors that we are knocked out of the box. It is common knowledge, that the Agency to occupy the building favors one site, and strongly opposes the other two locations, it is immaterial, that the rejection is stronger against Buzzard Point than the other site. They would not settle for less than the building next to them."

Dr. Tauber insisted that he would build and lease the building "as a matter of right" in the hope that the GSA "will be able to lease this building in its entirety or part of it." He added "that to our knowledge, G.S.A. is ready to make recommendations, but the resistance of others delays it."

Dr. Tauber was right about the "resistance" to awarding a lease. In a May 2, 1976, memorandum from the GSA Director for Space Management Division in Region 3 it was recommended to the Acting Assistant Commissioner, Office of Operating Programs "that SFO #697 be cancelled, and that we re-advertise for space in order to effect the consolidation of the SEC." The GAO has a copy of this memorandum. The memorandum lists 6 "major procurement problems * * * which make questionable the advisability of awarding a lease contract based on this SFO." They are:

1. One offer greatly exceeds the monetary limitations set forth in the Congressionally approved Prospectus.

2. The financial capability of one offeror is dubious.

3. One offeror faces strong opposition from local and government planning authorities.

4. We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder.

5. The administrative aspects of this procurement have delayed the award date to the point that delivery of a building by July, 1976 (specified in our SFO) is highly improbable. We have already asked all responsive offerors for a second one-month extension of the closing date of their offers.

6. The likelihood of a required complete Environmental Impact Statement of the proposed building site of the present low offeror would delay any award by

several more months, thereby making the July, 1976, delivery date impossible and rendering all offerors non-responsive.

The Subcommittee staff and yours have interviewed the writer and recipient of the memorandum. Both tend to discount it and state that, despite these "problems," the decision was made to award the lease. They apparently concurred in that decision. We have asked the GSA to produce the original copy of the memorandum.

No environmental impact statement was prepared. Indeed, in a statement submitted to the OMB on August 14, 1975, the GSA said:

National Environmental Policy Act of 1969

"The Act requires the filing of an environmental impact statement (EIS) with the Council on Environmental Quality for a direct major Federal action that would significantly affect the quality of the human environment. Neither the provisions of Section 102(2)(c) of the act nor GSA Order PBS 1095.1B requires an EIS as this is not a Federal project within the meaning of GSA regulations because it is not "lease construction," but a building committed for construction prior to the issuance of a Solicitation for Offers and prior to award. The Act does not apply to a private developer and the building would have been constructed whether or not the Government became the lessee. An environmental assessment was made, however, and a negative declaration was completed on the project, which indicates that the quality of the human environment will not be significantly affected."

As chief sponsor of NEPA in the House, I do not share the GSA's narrow interpretation of the law.

I note that this interpretation of the law is being challenged in court (see Southwest Neighborhood Assembly, et al. v. Eckerd, et al. (Civ. No. 75–1073).

It is true that an environmental assessment was prepared, but it was not initiated until May 28, 1975. It was completed in great haste on Sunday, June 1, 1975. On June 2, 1975, it was transmitted to the GSA Assistant Commissioner for Space and Planning and Management (PR) for "concurrence." A negative declaration was issued on June 3, 1975, the day the lease was awarded.

I note that "GSA Order PBS 1095.1B" was "cancelled and replaced" on May 19, 1975 by PBS Order 1095 "as an interim order." PBS 1095.1c which is attached thereto states that "actions normally requiring an environmental assessment" include procurement of space through "major lease-construction" and that:

"The Office of the General Counsel(L), and the Director of Environmental Affairs (PWA) must concur with the negative declaration before any further administrative action can be taken on the project."

The record shows that such concurrences was not obtained.

Also, on June 3, 1975, Mr. E. W. Eshbacker prepared a "To the Record" memorandum in which he said he was directed to prepare "all necessary documents to award the lease" for the SEC "by COB today, June 3, 1975." He added that the "Regional Administrator has been assured that the negative declaration * * * will be fully executed prior to award."

In another June 3 memorandum "To the Record," Mr. Eschbacker said the Regional Administrator "met this morning (6/3/75)" with the SEC Chairman "to advise him of the GSA's decision" and that the SEC chairman then "indicated he would not give concurrences in this location and inquired as to his appeal process." I understand that this meeting took place before the award was actually made. Subsequently, the SEC appealed to the OMB and on January 3, 1976, the OMB ruled:

"In accordance with the provisions of Executive Order 11512 we have considered the Securities and Exchange Commission's (SEC) request for review of the General Services Administration's (GSA) decision to relocate the SEC at Buzzard Point. Because of GSA's failure to adhere to the procedures required and intended by the Executive Order, with regard to the right of appeal, we have concluded that the SEC should not be assigned the space at Buzzard Point. We suggest that GSA meet with the SEC promptly to explore what steps need to be taken to resolve their space requirements."

Shortly thereafter, the lessor of the building housing the SEC asked the GSA to resume negotiations for the SEC's continued use of leased space at 500 No. Capital Street. The lease was extended on April 20, 1976.

There is also a question about the GSA's June 3, 1975, finding on Standard Form 1036 that this lease is in the best interest of the Government." Enclosed is a copy of a GSA worksheet which the SEC copied for its appeal to the OMB. It shows, in addition to the rental rate, some overtime costs and other award factors. The SEC, in its brief to the OMB, commented on the overtime cost factors as follows:

"Overtime costs are a clearly definable set of costs whose effect can be easily calculated. The GSA worksheet (Exhibit 16) indicates that Buzzard Point would charge $125 an hour for overtime versus $80 n hour for Union Center Plaza, As our earlier discussion of staff overtime work stated, continuation of the normal overtime patterns of our staff requires that a building operate until midnight every night, on both Saturday and Sunday. If we have correctly interpreted the overtime rates, operation of the two buildings for those hours each year would cost $40,000 for Union Center Plaza, and $62,500 for Buzzard Point annually. This translates into nine cents and fourteen cents per square foot respectively."

The SEC concludes that the impact of overtime raises the rate by $.14 for Buzzard Point and $.09 for Union Center Plaza. At this juncture, the difference between the two bids is quite small. The SEC said that other costs would make the Buzzard Point building more costly. The GAO should review the SEC contentions in its July 18, 1975 brief to the OMB (Part IV).

(b) *Subcommittee Comment.*—Executive Order 11512 of February, 1970 (35F.R.3979) imposes on the GSA responsibilities to consult with certain Federal agencies (sec. 2(a)(2)) and local officialsand regional planning agencies (sec.2(a)(7)) and requires that "to the greatest extent practicable," proposed developments "shall be" consistent with local plans and programs (sec. 2(a)(7)). It also states that before acquiring space, the GSA "shall consult" with the affected agency and "shall advise the agency head in writing of his intended course of action." The courts have held that this Executive Order is not an internal housekeeping document, but is a valid document that must be complied with by the GSA, see *Brookhaven Housing Coalition* v. *Kunzig*, 341F. Supp. 1026(1972).

The above background discussion clearly shows that GSA failed to comply with the requirements of the Executive Order in making this lease award. It also shows that the relevant Congressional committees would not have authorized this lease acquisition for the GSA to use as it sees fit in assigning space to Federal agencies. The Committees made an exception because of the specific SEC need. The GSA know before the lease was awarded that the SEC disagreed with the GSA and would appeal to the OMB. Despite this, the GSA awarded the lease with the result that it now has an unoccupied building which few agencies want and which was authorized by two Congressional committees for the SEC alone and not other agencies.

The GSA has also failed to follow its own requirements for the preparation of environmental assessments.

I request that you review this matter and advise the Subcommittee whether or not the lease was properly awarded by the GSA. If you determine that it was not, please explain what the GSA should do and indicate what will be the expected consequences to the Government of that decision. We note that the GSA plans to assign part of this building to the FBI. You may want to advise the GSA that any effort to achieve that objective before you reply to my request may be detrimental to the United States should you conclude that the lease was not properly awarded.

2. ECONOMIC ANALYSIS

Enclosed is a copy of a letter we sent to the GSA concerning its analysis of various alternatives or combinations concerning the use of the Buzzard Point building. The GSA will provide a copy of its reply to you for your review and comment thereon to us. The GSA has said that, based on its analysis, a "partial consolidation" of the FEA "was in the best interest of the Government."

I am sending a copy of this letter to the GSA and the OMB for their information.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., February 1, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

DEAR MR. STAATS: You will recall that on December 6, 1976 I wrote to you requesting an opinion concerning the validity of the GSA lease on the Buzzard Point building in Southwest Washington, D. C. and an economic analysis of the proposed move by the FEA to Buzzard Point. I asked for a reply by January 10, 1977. Subsequently, it was agreed that the reply would be delayed until the end of January. To date, however, I have not receive your response and hope it will not be delayed beyond this week.

There have been some statements made by the GAO staff that the GAO did not want to rule on the "validity" issue because of pending litigation. In my opening statement at our Subcommittee's December 17, 1976 hearing, I commented on this possibility as follows:

"I note that a lawsuit is pending alleging that the GSA has not complied with the National Environmental Policy Act and that the GSA is concerned that our hearing today may interfere with that suit. Let me make it clear, as the House author of the National Environmental Policy Act, that the Congress and this Subcommittee will not defer to the courts in determining whether or not there has been compliance with the National Environmental Policy Act by a Federal agency."

It is equally clear that the Subcommittee will not defer to the court concerning the question of the validity of the lease. A review of the plaintiff's complaint and other documents available to the court shows that the details mentioned in my December 6 letter to the GAO and at our hearings last month concerning this issue were not discussed by the plaintiffs as part of the NEPA lawsuit. I expect the GAO to deal with them and provide a timely opinion thereon regardless of the outcome of this lawsuit by citizen plaintiffs. Moreover, this opinion should not be delayed pending a resolution of that lawsuit.

Again, I request the opinion this week. If you are unable to do so, please advise me in writing stating a date certain when the opinion will be forthcoming. However, do not construe this as a suggestion that I would look with kindness to a delay of several more weeks.

With every good wish,
Sincerely,

JOHN D. DINGELL,
Chairman

GENERAL ACCOUNTING OFFICE,
COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 7, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy
and Power,
Committee on Interstate and Foreign
Commerce,
House of Representatives

DEAR MR. CHAIRMAN: Reference is made to your letter of December 6, 1976, supplementing a previous letter dated November 5, 1976, concerning the partial relocation of the Federal Energy Administration (FEA) to the Buzzard Point building, which has been leased by the General Services Administration (GSA) in Southwest Washington, D.C. In your December 6 letter, you requested our opinion as to the validity of GSA's least of the Buzzard Point building and our comments on a GSA economic analysis of various alternatives for using the Buzzard Point building.

As agreed with your Subcommittee staff, our response is divided into two reports. This letter deals with the validity of GSA's lease of the Buzzard Point building. Our comments on GSA's economic analysis of various alternatives for using the Buzzard Point building are in a separate report.

BACKGROUND

On March 24, 1974, the Securities and Exchange Commission (SEC) requested that GSA provide 434,771 square feet of space for the expansion and consolidation of SEC's head-quarters and Washington regional offices. At that time, part of SEC's offices were at 500 North Capitol Street, NW., Washington, D.C., under a lease which was scheduled to expire in April 1976.

GSA determined that there was no space in its inventory which would satisfy SEC's request, and, therefore, in accordance with section 7(a) of the Public Buildings Act of 1959, as amended, 40 U.S.C. §606(a) (Supp. V, 1975), submitted a prospectus for a proposed SEC lease to the House and Senate Committees on Public Works. The prospectus, dated August 2, 1974, stated in part:

"This prospectus proposes the acquisition of about 403,000 occupiable square feet of space, which includes space for the parking of 271 vehicles in a building(s) in Washington, D.C. *The space will house the consolidated operations of the Securities and Exchange Commission (SEC).* The proposed leasehold(s) will be for a period not to exceed twenty (20) years at a total estimated annual cost of about $2,471,500. Additionally, the lease(s) will contain escalation clauses providing for adjustments in the annual rental rate based on tax and operating cost increases (or decreases)." [*Emphasis added.*]

By Committee Resolutions dated October 10, 1974, the House and Senate Committees on Public Works approved the acquisition by lease of approximately 460,000 square feet of office and parking space in Washington, D.C., at an estimated annual cost of $2.8 million "to house the consolidated operations of the Securities and Exchange Commission." The Resolutions restricted the lease to a 5-year term, with a possibility of renewal options, rather than the 20-year term requested by GSA. In a letter to the Administrator of GSA dated October 11, 1974, Senators Jennings Randolph and Howard H. Baker, Jr., the Chairman and the Ranking Minority Member of the Senate Public Works Committee, gave the following explanation of the Committee's action:

"It was with reluctance that the Committee approved the two leases for additional office space in Washington, D.C. This Committee has long recognized that leasing is not normally in the best interest of the nation or the taxpayers. While we recognize that a need exists to consolidate the offices of the Federal Energy Administration and the Securities and Exchange Commission, the Committee agreed to approve these leases for a term of five years, with a provision for additional five-year options.

"We anticipate that the General Services Administration will use this time to plan and develop Federally owned space that these and other agencies can use as permanent headquarters.

"It is the Committee's position that the Federal government should lease space under three conditions only: as a temporary measure, to meet special emergencies, or in special situations involving special uses. Long-term leasing should not be used by GSA for the acquisition of general office space. The Committee intends to base its future actions on prospectuses on this position."

On December 9, 1977, GSA issued Solicitation for Offers (SFO) No. 697 to procure either 460,000 square feet of space in Washington, D.C., for full consolidation of SEC or 263,000 square feet of space within six blocks of 500 North Capitol Street, NW., for partial consolidation of SEC. The Solicitation had SEC's concurrence.

To generate competition, the SFO was later amended on January 31, 1975, to extend the delivery date for the space from July 1975 to July 1976. GSA notified SEC of the extension as follows in a letter dated January 27, 1975:

"We have received only a single offer [for a building at 400 North Capitol Street, NW.] in response to solicitation #697 for the total consolidation of the SEC in one building. This offer is exorbitant. Therefore, we have determined that it is in the best interests of the government to amend solicitation #697 so as to provide for a delivery date of July 1, 1976, thereby assuring more competition and a favorable rental rate."

On February 6, 1975, the Chairman of SEC sent a letter to the Administrator of GSA expressing his "grave concern over the space problems of the SEC and the current status of GSA's efforts to resolve them." The Chairman also questioned the decision to extend the delivery date for the space to be leased for SEC.

By letter of February 27, 1975, the Administrator of GSA defended the delivery date extension as being in the best interests of the Government. The Administrator further said that the Acting Regional Administrator, Region 3, would meet the Chairman of SEC at the Chairman's convenience to discuss SEC's consolidation.

On March 20, 1975, the Chairman of SEC wrote another letter to the Administrator of GSA expressing concern about the procurement. In a letter dated April 2, 1975, the Administrator of GSA advised that the negotiations for the space would conclude by April 4, 1975. The letter added:

"We will submit an offer to you by April 10[1] and, *based on your approval*, you can be assured we will select the best and most satisfactory offer to meet SEC's requirements. *If SEC concurs in our selection, we will then make an award* to the successful offeror, with whom we will develop a schedule for the completion of his building, and submit a copy of the schedule to you." [Italics added.]

On March 24, 1975, the Special Assistant to the Commissioner for National Capital Area Affairs, Public Buildings Service (PBS), GSA, spoke to officials of the National Capital Planning Commission (NCPC) and the District of Columbia Government regarding development plans for Southwest Washington, D.C., and whether the proposed Buzzard Point building, which at that time had not been constructed, would be consistent with those plans. By letter of April 3, 1975, NCPC responded in part:

"The Comprehensive Plan for the National Capital designates Square 666 [the site of the proposed Buzzard Point building] as part of the National Open Space System. Objectives of Comprehensive Plan policies related to the National Open Space System are to expand the inventory of existing open space in public ownership and particularly to have all waterfront properties along the Potomac and Anocostia Rivers within the District of Columbia as a part of the National Open Space System under the jurisdiction of the National Park Service. Square 666 is currently zoned M which in addition to manufacturing uses permits office uses. However, office use at this location is highly inappropriate and contrary to previously adopted planning policies as well as to more detailed policies being formulated at this time.

* * * * * * *

"It is strongly recommended that the General Services Administration not enter into an agreement leasing office space in a building proposed to be constructed in Equare 666." [Emphasis added.]

In a May 2, 1975, memorandum from the Director of the Space Management Division of Region 3, GSA, it was recommended to the Acting Assistant Commissioner, Office of Operating Programs, GSA, that SFO No. 697 be cancelled and that GSA readvertise for space in order to effect the consolidation of SEC. The memorandum lists the following "major procurement problems * * * which make questionable the advisability of awarding a lease contract based on this SFO":

"1. One offer [for a building at 400 North Capitol Street, NW.] greatly exceeds the monetary limitations set forth in the Congressionally approved Prospectus.

"2. The financial capability of one offeror [for a building at Union Center Plaza] is dubious.

"3. One offeror [for the Buzzard Point building] faces strong opposition from local and governmental planning authorities.

"4. We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder.

"5. The administrative aspects of this procurement have delayed the award date to the point that delivery of a building of July, 1976 (specified in our SFO) is highly improbable. We have already asked all responsive offerors for a second one-month extension of the closing date of their offers.

"6. The likelihood of a required complete Environmental Impact Statement of the proposed building site of the present low offeror would delay any award by several more months, thereby making the July, 1976, delivery date impossible and rendering all offerors non-responsive."

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[1] The date for "best and final" offers in response to SFO No. 697 was later extended to May 30, 1975.

Despite this recommendation, GSA proceeded with the procurement pursuant to SFO No. 697.

According to an SEC document submitted to the Office of Management and Budget (OMB) regarding the procurement, in a telephone conversation in May 1975, the Chairman of SEC and the Administrator of GSA discussed three offers that had been submitted to GSA in response to SFO No. 697: 1) an offer by Southwest Joint Venture (SJV) for the Buzzard Point building, 2) an offer by Union Center Plaza Associates for Union Center Plaza East, and 3) an offer by Raymond C. Brophy, Inc., for a building at 400 North Capitol Street, NW. The Chairman told the Administrator that the Buzzard Point building was unacceptable to SEC, that the Union Center Plaza building would bea reasonable resolution of SEC's needs, and that the 400 North Capitol building was the most desirable of the three.

On May 29, 1975, 5 days before the lease award was made, NCPC passed a resolution which stated in part:

"Whereas, Square 666 has been designated as part of the National Open Space System by the Parks and Recreation Facilities Chapter of the Comprehensive Plan for the National Capital;

"Whereas, the draft report of the Interagency Task Force on South Capitol Street/Buzzard Point recommends the acquisition of Square 666 by the National Park Service and its development as part of the National Park Open Space System;

"Whereas, the owner of Square 666 has proposed the construction of a high-rise office building on that square;

"Whereas, the General Services Administration recently solicited bids for additional leased office space and *received the lowest bid thereon from the owner of this square;*

* * * * * * *

"*Be it resolved,* That the National Capital Planning Commission finds that the construction of an office building on Square 666 contravenes the Comprehensive Plan for the National Capital adopted by the Commission and would be inconsistent with the sound and orderly development of the Nation's Capital and with the Federal interest in creating continuous public open space along the Potomac and Anacostia Rivers in the District of Columbia.

"*Be it further resolved,* That *the Commission urges the General Services Administration not to accept any bid for leased space in an office building proposed to be constructed on Square 666.*" [Emphasis added.]

On June 3, 1975, the Acting Chief, Metropolitan Operations Branch, Space Management Division, PBS, wrote a memorandum for the record stating that he had been directed to prepare all necessary documents to award the lease by the close of business that day. After it was determined that the lowest responsive offer was submitted by SJV for the Buzzard Point building, the Chairman of SEC was notified by letter that SJV would receive the lease award and was asked to concur with the selection of the Buzzard Point building. On the same day, despite the fact that SEC officials again informed GSA of SEC's opposition to the selection of the Buzzard Point building, GSA awarded a 5-year lease, with three 5-year renewal options, to SJV.

A GSA news release dated June 3, 1975, supplied the following explanation from the Administrator of GSA regarding the selection of the Buzzard Point building:

" 'We recognize that there is opposition from some quarters to our selection of this site,' Sampson said, 'including from the National Capitol Planning Commission. However, we were not made aware of NCPC's position until it was too late in the decision-making process. We fully respect the position of the Commission and will take that position into consideration in the future. But to back away from this transaction at this point would undermine our reputation in the marketplace.' "

After being notified of the selection of the Buzzard Point building, SEC appealed GSA's relocation decision to the Office of Management and Budget in accordance with section 2(b) of Executive Order 11512, 3 C.F.R. §100 (1970), *reprinted in* 40 U.S.C. §490, at 9415 (1970). In a letter to the Administrator of GSA dated January 3, 1976, OMB ruled:

"In accordance with the provisions of Executive Order 11512 we have considered the Securities and Exchange Commission's (SEC) request for review

of the General Services Administration's (GSA) decision to relocate the SEC at Buzzard's Point. Because of GSA's failure to adhere to the procedures required and intended by the Executive Order, with regard to the right of appeal, *we have concluded that the SEC should not be assigned the space at Buzzard's Point.* We suggest that GSA meet with the SEC promptly to explore what steps need to be taken to resolve their space requirements." [Emphasis added.]

As a result of OMB's ruling, GSA is now planning to relocate some of the offices of FEA and other Federal agencies to the Buzzard Point building. FEA has appealed GSAs decision to OMB, and the appeal is currently under consideration.

LITIGATION REGARDING GSA'S LEASE OF THE BUZZARD POINT BUILDING

On July 3, 1975, a lawsuit was filed challenging GSA's lease of the Buzzard Point building. *Southwest Neighborhood Assembly* v. *Eckerd*, No. 75–1073 (D.D.C., filed July 3, 1975). The plantiffs in the lawsuit allege that GSA failed to prepare an environmental impact statement as required pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. §4332(2)(C) (1970), and its implementing guidelines issued by the Council on Environmental Quality (CEQ), 40 C.F.R. §1500 *et seq.* (1974). Further, plaintiffs contend that, contrary to the requirements of Executive Order 11512, GSA failed to consult in a substantive manner with NCPC, the District of Columbia Government and other agencies regarding the procurement, and that the Buzzard Point lease contravenes local plans and programs for the Buzzard Point area. The plaintiffs also argue that GSA failed to give material and adequate consideration to the efficient performance of the missions and programs of SEC and other agencies that would be relocated to the Buzzard Point building, and that GSA failed to give due regard to the convenience of the public served and to the maintenance and improvement of safe and healthful working conditions for affected Federal employees in accordance with Executive Order 11512. Other violations of the Executive Order, such as failure to give adequate consideration to the accessibility of the site from areas of the District of Columbia and failure to advise the Chairman of SEC prior to the site selection decision of GSA's intended course of action, are also alleged. Finally, the plaintiffs contend that GSA's actions or inactions during the procurement violated some of its own regulations in GSA Order PBS 1600.1, "Acquisition of Leasehold Interests in Real Property."

Based on the above allegations, the plaintiffs, in their amended complaint, have asked the court to enter a judgment:

"1. declaring that the Buzzard Point agreement was entered into in violation of law,

"2. permanently enjoining defendants [GSA] from implementing the Buzzard Point agreement,

"3. directing defendants to rescind or terminate said agreement, and

"4. granting such other and further relief as to the Court may seem just and proper."

In his answer to the plaintiffs' complaint, GSA denied the above allegations and subsequently, filed a motion to dismiss the case or, in the alternative, for summary judgment in GSA's favor. In its motion, GSA contends that the plaintiffs have no standing to bring the action and that the issues raised by the plaintiffs are moot. Further, GSA argues that the plaintiffs have failed to join an indispensable party, SJV, and, even if the court were to decide that the plaintiffs have standing to sue, they would not win the case on the merits of their allegations.

Subsequently, the plaintiffs also filed a motion for summary judgment. The plaintiffs' motion concluded:

'We ask the Court to deny defendant's motion to dismiss or in the alternative for summary judgment and to grant plaintiffs' motion for summary judgment ordering:

"1. That GSA shall prepare an environmental impact statement forthwith in full compliance with NEPA and the CEQ Guidelines on the decision to lease and proceed with federal use and occupancy of the building at issue herein;

"2. That GSA shall take all necessary steps to immediately, and in a continuing fashion, comply with all pertinent provisions of Executive Order 11512;

"3. GSA shall not permit, assist or in any way facilitate occupancy of the subject premises by any federal agency until such time as the above responsibilities are met and the Court, which will retain jurisdiction of this action, has entered an order allowing such occupancy."

We understand that the court later asked the parties to submit depositions by December 14, 1976, concerning the issue of whether the Buzzard Point building would have been constructed had SJV not been awarded the lease.

On December 28, 1976, the plaintiffs filed a supplemental pleading in further support of their motion for summary judgment. This pleading raised the issue of GSA's failure to comply with GSA Order PBS 10.951C, which requires the concurrence of certain GSA officials with an environmental assessment and negative declaration—a determination that an environmental impact statement is not required for a project—before further action is taken on a project. This issue was discussed in a December 17, 1976, hearing held by your Subcommittee, and selected pages of the transcript of that hearing were submitted to the court by the plaintiffs. The plaintiffs conclude that GSA's failure to comply with the Order rendered the lease award illegal.

We have been informally advised that GSA is currently preparing a response to the above supplemental pleading. Further, we understand that some of FEA's employees have retained legal counsel and intend to join the lawsuit as plaintiffs to challenge the Buzzard Point lease and GSA's proposed relocation of FEA to the Buzzard Point building. Additional issues may be raised by the FEA employees if they are permitted to join the lawsuit.

DISCUSSION

Several issues raised in your December 6, 1976, request are currently in litigation in the *Southwest Neighborhood Assembly case.* As mentioned earlier, the court has before it the questions of whether an environmental impact statement should have been prepared prior to the lease award, whether the requirements of Executive Order 11512 were met, whether the lease should be rescinded or terminated, and whether GSA's failure to comply with its own regulations in issuing an environmental assessment and negative declaration renders the lease illegal.

Our Office generally declines to offer our judgment on issues that are litigation in the courts. Exceptions to this policy have generally been restricted to circumstances where the courts have expressed a desire to receive or await our opinion. B–141539, December 26, 1972. In the absence of special circumstances, we think it would be inappropriate to volunteer an opinion of how we might adjudicate the rights of the several parties concerned about GSA's lease of the Buzzard Point building. They have chosen the U.S. District Court for the District of Columbia as the forum to decide the dispute, and are availing themselves of the procedures offered by the court to resolve disputed facts, such as the taking of depositions. The record upon which the court bases its ruling may differ from, indeed may be more complete than, the information we have gathered. Even the issues ultimately joined by the parties for decision may substantially depart from those now addressed to the court or identified in this letter. For these reasons, we believe we should not offer opinions on the matters related to the *Southwest Neighborhood Assembly* case.

However, we do offer certain observations on the issues not currently in litigation in order to provide the assistance you have requested to the extent that our observations remain congruent with our stated policy.

PROSPECTUS APPROVAL FOR THE SEC LEASE

Regarding the prospectus approval for the SEC lease, you have noted that the Public Works Committees did not authorize the SEC lease acquisition with the intention that GSA assign the acquired space to any Federal agency. It appears that the Committees approved the lease acquisition because of a specific SEC need, and, although GSA knew of SEC's objections to the Buzzard Point building, it still awarded the lease to SJV. The result of this decision appears to be that GSA now has an unoccupied building which few agencies care to use. This raises a question of whether, upon OMB's ruling that GSA could not relocate SEC to the Buzzard Point building, the validity of the lease was affected, since the prospectus and congressional approval

expressly contemplated a lease of office and parking space for the consolidation of SEC.

We have found no other expressions of congressional intent concerning the lease in question. Neither the three appropriation acts for GSA covering the period of time since the prospectus was approved nor the legislative histories of those acts contain anything helpful in resolving this question. The three appropriation acts only appropriate lump-sum amounts to GSA for all space rental, and there does not appear to be any reference to or restriction on the use of the Buzzard Point building in either the acts, the hearings in support of the acts, or the budget justifications supplied by GSA. See Pub. L. No. 93–381, 88 Stat. 613, August 21, 1974; Pub. L. No. 94–91, 89 Stat. 441, August 9, 1975; and Pub. L. No. 94–363, 90 Stat. 963, July 14, 1976.

The relevant statutory language governing prospectus submissions for leases is in 40 U.S.C. §606(a) (Supp. V, 1975):

"* * * No appropriation shall be made to lease any space at an average annual rental in excess of $500,000 for use for public purposes if such lease has not been approved by resolutions adopted by the Committee on Public Works of the Senate and the House of Representatives, respectively. * * *"

This sentence was added to 40 U.S.C. § 606(a) by section 2(4) of the Public Buildings Amendments of 1972, Pub. L. No. 92–313, 86 Stat. 216, June 16, 1972. It was based on a similar approval procedure for lease-construction contracts, which had been in previous GSA appropriation acts starting with fiscal year 1963.

The significance of the language added to 40 U.S.C. §606(a) was explained as follows by Congressman Kenneth J. Gray, who introduced the bill in the House and served as one of the House managers for the bill (H.R. 10488, 92d Cong., 2d Sess.):

"Fourth, the bill would require the Administrator of GSA to submit a prospectus for approval by the House and Senate Public Works Committees whenever he proposes to secure leased space for which he pays an average annual rental in excess of $500,000. This is a tightening of congressional control over present leasing laws. At the present time, Congress has no control over leasing of public buildings. We feel this should be brought under control so we can monitor the amount spent for leased space where it is not feasible to construct a new building." 118 *Cong. Rec.* 13500 (1972).

Congressman Gray's statement appears to be the best explanation of the legislative intent behind the pertinent language of 40 U.S.C. §606(a). However, it does not treat the effect that potentially limiting language in a prospectus and its approval may have on a project where the appropriation acts providing funds for the project contain no such limitation.

A case in which a similar issue was raised before the GAO is *Matter of LTV Aerospace Corporation*, 55 Comp. Gen. 307 (1975). There, the Navy received a lump-sum appropriation for research and development of a new Navy combat fighter aircraft. The conference report which led to passage of the appropriation act stated that the funds should be used by the Navy to produce a derivative of the selected Air Force Combat Fighter design. However, the Navy awarded contracts for the development of an F–18 fighter, which was not a derivative of the Air Force Combat fighter, the F–16. In deciding that the contract awards were valid, we said:

"We think it follows from the above discussion that, as a general proposition, there is a distinction to be made between utilizing legislative history for the purpose of illuminating the intent underlying language used in a statute and resorting to that history for the purpose of writing into the law that which is not there.

"If a statute clearly authorizes the use of funds for the procurement of 'military aircraft' without restriction, it must be construed to provide support for the validity of procuring any such aircraft. The fact that the legislative history makes clear that one type of military aircraft rather than another is to be acquired does not restrict the unequivocal grant of authority carried in the statute itself. To be binding as a matter of law, an intention to so restrict the legal availability of the funds provided would have to be expressed in the statute. However, if the issue is whether a particular aircraft is in fact a 'military aircraft,' as that term is used in the statute, resort to legislative history is required.

"An accommodation has developed between the Congress and the Executive branch resulting in the appropriation process flexibility discussed above. Funds

are most often appropriated in lump sums on the basis of mutual legislative and executive understandings as to their use and derive from agency budget estimates and testimony and expressions of intent in committee reports. The understandings reached generally are not engrafted upon the appropriation provisions enacted. To establish as a matter of law specific restrictions covering the detailed and complete basic upon which appropriated funds are understood to be provided would, as a practical matter, severely limit the capability of agencies to accommodate changing conditions.

"As observed above, this does not mean agencies are free to ignore clearly expressed legislative history applicable to the use of appropriated funds. They ignore such expressions of intent at the peril of strained relations with the Congress. The Executive branch—as the Navy has recognized—has a practical duty to abide by such expressions. This duty, however, must be understood to fall short of a statutory requirement giving rise to a legal infraction where there is a failure to carry out that duty.

"Accordingly, for the reasons discussed above, we believe that the Conference Committee statement on which LTV relies constitutes, in effect, a 'directive' which parallels and complements—but, in a strict legal sense, remains distinct from—the actual appropriations made. Therefore, it is our conclusion that the Navy's award of contracts to MDC and GE did not violate Title V of the 1975 DOD Appropriations Act and in that regard the contracts cannot be considered illegal." 55 Comp. Gen. at 325–36.

GSA's prospectus for the SEC lease was approved by resolutions of the House and Senate Public Works Committees. We do not consider the effect of those resolutions on GSA's lease of the Buzzard Point building significantly greater than the effect of the conference report on the contracts in *Matter of LTV Aerospace Corporation.*

However, because of the apparent intention of the Public Works Committees in approving the SEC lease prospectus, we believe GSA should have taken certain action to reduce the risk of frustrating that intention. In this instance, after becoming aware of SEC's objections to the Buzzard Point building, GSA should have given SEC a reasonable opportunity to exercise its appeal rights under Executive Order 11512 before awarding the lease to SJV.

Further, GSA could have informally discussed the proposed Buzzard Point lease with the Committees on Public Works prior to the lease award. The following language in SFO No. 697 suggests that GSA could have kept the offers open an additional 120 days in order to advise the Committees of objections to the Buzzard Point building:

"* * * However, in the event this solicitation results in an offer where the average annual rental exceeds $500,000, such offer shall remain open for 120 days beyond the date specified for acceptance elsewhere in this solicitation. This will afford the Government time to submit a prospectus to the appropriate committees of Congress pursuant to the Public Buildings Amediment [ic] of 1972."

COMMUNICATIONS BETWEEN OFFERORS AND BETWEEN GSA AND SJV DURING NEGOTIATIONS FOR THE LEASE

Another issue raised in your December 6, 1976, request, and elaborated on further during informal discussions with your Subcommittee staff, is whether there were improper communications between two offerors who responded to SFO No. 697 or between GSA officials and SJV during the negotiations for the procurement.

With respect to communications between offerors, the May 2, 1976, memorandum from the GSA Director of the Space Management Division of Region 3, quoted earlier, described the following problem relating to the procurement:

"4. We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder."

The conversations referred to above were apparently reported in an internal memorandum of the Westwood Management Corporation dated April 16, 1975. We understand that SJV is affiliated with the Westwood Management Corporation. The April 16 memorandum reads in part:

"11. On April 9, 1975, Tauber [trustee for SJV] received a call from a Mr. Ben Weiner, mortgage broker who advised him that Mr. Sheldon Bernstein [an official with Union Center Plaza Associates] had come to him to assist in obtaining a mortgage on a building of theirs which they were going to build for G.S.A. Weiner advised Bernstein that in light of the fact that he could not raise any money, he might interest a private investor and mentioned Tauber's name. Bernstein mentioned he would be glad to talk to him because Tauber had been 'knocked out of the box' in connection with his offer for the same project. Weiner inquired if Tauber wanted to meet Bernstein. Tauber called him back and advised that he would meet him and set up a meeting for 2:30 PM on April 10, 1975 at Jefferson Memorial Hospital.

"12. The meeting was held and attended by Mr. Sheldon Bernstein, his son Steven Bernstein, Bobby Kaufman, Warren Montouri, Dr. Tauber and Weiner. At the outset of the meeting Tauber questioned Bernstein as to what he ment [sic] by the expression 'knocked out of the box' and Bernstein explained that it was Baseball slang for having been eliminated. Bernstein then went into great detail indicating that he did not have a building permit, financing, agreement with general contractor. * * *

"13. On April 11 late in the afternoon Tauber called Bloominstein [a GSA official] and told him of his distress with Bernstein in quoting he had been 'knocked out of the box'. * * *

We have no information that the two offerors entered into any type of business arrangement for submitting proposals in response to SFO No. 697. Further, at the December 17, 1976, hearing of your Subcommittee, a GSA attorney indicated that a lawsuit was later filed by Mr. Bernstein against Dr. Tauber alleging that Dr. Tauber improperly found out what Mr. Bernstein's offer was. We understand that the lawsuit was subsequently dismissed when it was shown that throughout the entire negotiations for the Buzzard Point lease, SJV was the low offeror.

We have found nothing in SFO No. 697 or the Federal Property Management Regulations which required submission of a Certificate of Independent Price Determination in connection with the SEC lease procurement, as is required for procurement of supplies and services subject to the Federal Procurement Regulations. In this regard, section 1–1.004–1 of the Federal Procurement Regulations (FPR) (1975) states:

"*Leases of real property.*

"The FPR apply to leases of real property only to the extent explicitly stated in specific FPR provisions * * *."

Certificates of Independent Price Determination are required as follows by FPR §1–1.317(a) (1965):

"In order to promote full and free competition for Government contracts, the following certification shall be included in all (1) invitations for bids and (2) requests for proposals or quotations * * *."

Despite the broad scope of this language, it does not explicitly cover leases of real property as required by FPR §1–1.004–1. Thus, it does not appear that the offerors who responded to SFO No. 697 were required to submit Certificates of Independent Price Determination.

Our opinion has also been requested as to whether GSA had any obligation to investigate the communications between offerors when it became aware of them. There appear to be no statutes or regulations specifically requiring GSA to investigate allegations of improper communications between offerors. Nevertheless, in the interest of protecting the integrity of the competitive procurement process, we believe GSA should have taken some action in this situation to ensure that such conversations did not prejudice the interests of the Government or any of the offerors. In this regard, our Office had held that where GSA's space requirements are competed, all responding offerors are entitled to have their offers evaluated in an impartial and equitable manner, and no offeror may obtain an undue advantage which is not contemplated or authorized by the solicitation or selection procedures and which prejudices other offerors. B–180431, May 20, 1974.

According to GSA officials in testimony before your Subcommittee on December 17, 1976, the offers GSA received in response to SFO No. 697 did not indicate that there had been collusion between any of the offerors for the purpose

of restricting competition on the SFO. Further, after being informed of the conversations between offerors, a GSA official reviewed the documents relating to the procurement and found no evidence indicating improper conduct by any of the offerors.

However, in a letter to GSA dated May 27, 1975, Dr. Tauber had stated:

" * * * In the above solicitation [No. 697], however, basic facts of the greatest importance are of common knowledge: we learned from one of the offerors that we are 'knocked out of the box'.* * * "

Further, the resolution passed by NCPC 5 days before the lease award stated that the lowest offer in response to SFO No. 697 had been submitted by the owner of Square 666 in the District of Columbia. Square 666 is the site of the Buzzard Point building.

On the basis of the present record it appears that GSA officials, in addition to reviewing the procurement documents, should have investigated whether there were improper communications between offerors or there was a lack of confidentiality of offers, and determined more convincingly whether the interests of the Government or any of the offerors had been prejudiced.

With regard to whether there was favoritism in GSA's negotiations with SJV, we have found nothing during the course of our review which shows that SJV received favorable treatment in comparison with the other offerors.

SEC'S ECONOMIC COMPARISON OF THE ALTERNATIVES TO THE BUZZARD POINT LEASE

Another question in your December 6 request is whether the Buzzard Point lease is in the best interests of the Government, a finding made by GSA in awarding the lease to SJV. In this regard, you have requested that we review Part IV of SEC's brief in support of its appeal to OMB, entitled "Request for Reversal of the GSA Decision to Relocate the SEC to Buzzards Point."

Part IV of SEC's brief is entitled "The Economics of the Decision Made Versus Available Alternatives" and concludes, in part, that GSA rejected an offer which appears clearly favorable to SJV's offer. Essentially, SEC contends that, even using GSA's criteria for the lease award:

"1. GSA rejected an offer which, by any reasonable standards, is superior;

"2. They did not give adequate consideration to the SEC's needs and preference."

Enclosed is Exhibit 16 of SEC's brief, with emphasis supplied by SEC, showing a worksheet comparing the Buzzard Point building and the Union Center Plaza building. In six of the seven criteria listed for the comparison, the Union Center Plaza building appears to be preferable.

Also, SEC made an economic comparison of the Buzzard Point building and the Union Center Plaza building taking into account such factors as additional overtime costs and professional travel time necessary to carry out SEC's contact with other Government agencies. Based on this comparison, the SEC brief concludes that Union Center Plaza, rather than costing $59,000 more per year than the Buzzard Point building, costs $60,000 less per year. With respect to overtime, we could not verify SEC's calculation that the Government will incur costs of $62,500 annually for the Buzzard Point lease because, among other things, an overtime rate has not yet been established for that building.

Although several of the factors discussed in the worksheet and in Part IV of SEC's brief appear to be reasonable considerations for evaluating offers for the SEC lease, Schedule A of SFO No. 697, "General Outline of Space Requirements," states in part:

"11. In evaluating offers received in response to this solicitation only the rental rate offered for the initial lease term will be considered. However, negotiations will be conducted to obtain the most reasonable rental offer possible for both the initial term and the renewal period."

The above statement appears to conflict with Schedule D of SFO No. 697, "Miscellaneous Provisions," which reads in part:

"10. *AWARD FACTORS*

"In determining which offer will be most advantageous to the Government, *the contracting officer shall consider the following factors in addition to the rental proposed* and conformity of the space offered to the specific requirements.

"a. Susceptibility of the design of the space offered to efficient layout and good utilization.

"b. The effect of environmental factors, including the physical characteristics of the building and the area surrounding it, and the efficient and economical conduct of agency operations planned for the requested space, including the cost of telephone installation and operation during firm term of the lease, transportation, guard and messenger service.

"c. Consideration will be given to the availability of adequate low and moderate income housing, adequate access from other areas of the urban center, and adequacy of parking to offered location.

"d. Consideration will be given to the need for development and redevelopment of areas and the development of new communities and the impact section [sic] of the offer will have on improving social and economic conditions in the area.

"e. Consideration will be given to the consistency of the proposed development at the location offered with state, regional and local plans and programs.

"f. The availability of public transportation and number of parking spaces.

"g. Adequate food service facilities must be available, either in the building in which the space offered is located, or within reasonable walking distance therefrom as determined by the Government (normally the Government lunch period does not exceed 30 minutes).

"h. The effect of environmental factors on the efficient and economical conduct of agency operations planned for the space and the safety of the visitors and occupants. These factors include the physical characteristics of the buildings, the location and distance above or below grade of the offered space in the building, the type of business and activities of other occupants, the surrounding area and the type of commercial, mercantile or other activity which may contribute to a higher fire potential than the usual office-type functions. Such activities may include, but are not limited to, enclosed garages, shops, storage areas of hazardous materials, manufacturing concerns, automotive repair shops. and multiple types of occupancy buildings." [Italic added.]

Thus, it is not apparent from the face of the solicitation how much weight, if any, GSA should have given to the above award factors before making the lease award. This is contrary to the principle, frequently stated by our Office, that in properly prepared solicitations offerors will be advised of the relative importance of technical, price and other evaluation factors in relation to each other. The reason for this rule is to provide all offerors with the information necessary to properly prepare their proposals, *See, e.g., Matter of Minjares Building Maintenance Company*, 55 Comp. Gen. 865, 872 (1976); and B–149610, December 11, 1962.

In view of the court proceedings and the fact that we have not requested the parties to comment to us, we are not prepared to state whether GSA issued a legally defective invitation by not giving adequate notice of the award factors to be weighed in making the lease award.

In our opinion, GSA and SEC should have worked together more closely and thoroughly in preparing an SFO and in making the lease award. For example, questions concerning location should have been aired and, if possible, resolved prior to the lease award. Had this been done, a lease award more satisfactory to all parties concerned might have resulted.

TERMINATION OF THE LEASE

Finally, you have asked our opinion as to the expected consequences to the Government in the event a decision is made to terminate the Buzzard Point lease. If the Buzzard Point lease were terminated, absent a court ruling that the award of the lease was illegal, GSA could be potentially liable for the lease amount less any rent SJV received in mitigation from subsequent tenants of the Buzzard Point building during the remainder of the lease term.

We trust that this response will be of assistance to you in your review of GSA's proposed relocation of FEA to the Buzzard Point building.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General
of the United States.

Enclosure.

SEC EXHIBIT SHOWING A GSA WORKSHEET EVALUATING THE BUZZARD POINT AND UNION CENTER PLAZA BUILDINGS[1]

Criterion	Buzzards Point	Union Center Plaza
1. Rental Rate:		
a. Fully serviced [1]	$5.5454	$5.62.
b. Government pays utilities.	5.6089	5.79.
2. Overtime:		
a. Fully serviced	125	80.
b. Excluding utilities	50	37.50.
3. Availability of low- and moderate-income housing.	The site is located at the extreme end of the Buzzard Point peninsula somewhat isolated from the city proper. Low- and moderate-income housing is available within walking distance on a limited basis in the area south of M St., SW. Otherwise, bus or car use would be necessary from elsewhere in the District or nearby suburbs.	The site is located on North Capitol St. in Northeast within walking distance of considerable low- and moderate-income housing including many new housing units in the vicinity of Gonzaga High School.
4. Availability of parking and public transportation.	The building will have garage space available capable of parking approximately 840 cars. Off street parking is generally available due to the lack of development in the area. Bus service is available but on a limited basis. The closest Metro subway station would be located at Fourth and M SW. (12 blocks away) which would require shuttle service. Taxi cabs available only by telephone request.	The building will have 200,000 ft² of garage space capable of parking approximately 700 cars. Bus service is good as the building is located on the highly traveled North Capitol St. Metro subway service will be available at Union Station which is within a walking distance of 4–5 blocks. Taxi cabs are generally available.
5. Effect on development in site area and consistency with local plans.	1900 Half St. SW., is in the South Capitol St./ Buzzard Point area, which is currently under review for redevelopment purposes by the Municipal Planning Office of the D.C. Government and the National Capitol Planning Commission. Both agencies have notified GSA in writing that they do not consider the construction of a large office building on this site to be in keeping with the city's policy to encourage new office construction in the downtown urban renewal area.	Union Center Plaza East is located in an authorized urban renewal area and is, therefore, situated in the vicinity deemed best for office development by agencies such as the National Capital Planning Commission and the District Government's Municipal Planning Office. The proposed building is 1 of a proposed 5-building complex 2 of which have been constructed and are occupied.
6. Availability of food service	The building will have a cafeteria as part of the lease agreement. A nearby building leased to the Government has cafeteria and lounge facilities. These are the only eating facilities within walking distance located in the area. The nearest commercial eating facilities are located at Waterside Mall at Fourth and M SW.	The building will have a cafeteria as part of the lease agreement. In addition 2 other buildings that are part of the development project have cafeterias. The developer intends to construct a hotel with a restaurant on the site in time for the Bicentennial Year. Several restaurants, cafeterias, and a drug store are available within a 3–4 block radius of the proposed building site.
7. Environmental impact	The proposed building will be all electric and comply with all local codes. The site is located on the Anacostia River and would disrupt any plans for park, recreational, or natural use. As such, the proposed development project is opposed by NCPC and the D.C. Government Planning Office. In addition, the Comprehensive Plan for the National Capital designates this site as part of the National Open Space System.	The proposed building will be all electric and comply with all local codes. The site is located in a commercial redevelopment area, consistent with State, regional, and local plans and programs.

[1] SEC reformatted the GSA worksheet, and the rental rates in SEC's exhibit do not reflect GSA's analysis of the final offers as of May 30, 1975. GSA's analysis shows an average effective rental of $5.49 1 ft² for office and parking space for the Buzzard Point building and $5.62 1 ft² for Union Center Plaza. However, for only office space, GSA's analysis shows an average effective rate of $6.54 1 ft² for the Buzzard Point building and $6.50 1 ft² for Union Center Plaza.

GENERAL ACCOUNTING OFFICE,
COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 7, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power,
Committee on Interstate and Foreign Commerce,
House of Representatives

DEAR MR. CHAIRMAN: In your letter of December 6, 1976, you requested us to review the General Services Administration's economic analyses of various

alternatives or combinations concerning the use of the leased building at Buzzard Point in Washington, D.C. Your office requested a report by the end of January 1977. The agency did not make its analyses available to us until January 4, 1977. In view of the limited time available, our review of the analyses was restricted primarily to interviewing agency officials, testing the accuracy of calculations, and identifying the major cost factors influencing the ranking of alternatives. The question about the validity of the lease award will be discussed in a separate report.

We noted that the analyses prepared by General Services contained several minor errors. There were calculations and typing errors and also variances between data shown in the analyses and the space assignment records. These errors and variances did not materially affect either the estimated net costs or savings for the nine alternatives considered by General Services or the overall ranking of these alternatives as shown in the enclosure.

BACKGROUND

In March 1974, the Securities and Exchange Commission requested space from General Services to consolidate its operations into one or two closely located buildings. At General Services' request, the Committees on Public Works, in October 1974, approved a prospectus for acquiring space for the Commission in Washington, D.C., through a 5-year lease at an estimated annual rental of $2.8 million.

Although the Commission on December 9, 1974, did concur in a General Services solicitation for offers to procure 460,000 square feet of space in Washington, D.C., for full consolidation of the Commission or 263,000 square feet within six blocks of 500 North Capitol Street, N.W., for partial consolidation, it wanted General Services to lease space in a building at 400 North Capitol Street, NW. General Services considered the rental offer for that building to be excessive and also in excess of the $2.8 million annual rental in the approved prospectus.

On June 3, 1975, General Services awarded a 5-year lease, with three 5-year renewal periods, to the Southwest Joint Venture, a partnership, for space in a building to be located at Buzzard Point. The annual rental was $2.7 million. However, the Government was to have free use and occupancy of the office space and garage space for the last 4 months and 12 months, respectively, of the 5-year lease term. The term was later established as August 15, 1976, to August 14, 1981. This resulted in an effective annual rental of about $2.5 million, or about $210,000 a month.

General Services asked the Commission on June 3, 1975, to concur in the Buzzard Point location, but the Commission appealed the space assignment decision to the Office of Management and Budget. On January 3, 1976, the Office of Management and Budget ruled the Commission did not have to relocate at Buzzard Point because General Services had not adhered to the right to appeal procedures required and intended by Executive Order 11512.

As a result, General Services had to find another tenant. It offered the building to the Agency for International Development, the Treasury Department, the Department of Agriculture, and the Federal Bureau of Investigation. Only the Federal Bureau of Investigation agreed to accept space in the building. The building still has not been occupied, although it was available for the Government's occupancy on August 15, 1976. General Services negotiated an agreement with the lessor to have the rent-free period transferred from the end to the beginning of the lease. The inability of the Government to occupy the building when it became available decreased the period of effective occupancy provided in the lease. The effective rental for the 4-months ended December 15, 1976, was about $840,000.

On October 29, 1976, General Services using assignment authority in Executive Order 11512, ordered the Federal Energy Administration to move some of its offices to the Buzzard Point building. On December 30, 1976, the Federal Energy Administration appealed this decision to the Office of Management and Budget. The Office is currently considering the matter.

ECONOMIC ANALYSIS

In considering potential tenants for the Buzzard Point building, General Services compared the first year costs [or savings] it would incur in moving various Federal offices there. Major cost factors considered were: Leases to be

canceled on vacated buildings; lease cost avoided by filling expansion requirements at Buzzard Point rather than leasing new space; space modifications in the Buzzard Point building to meet occupant agencies' special requirements, such as computer installations; and space modifications in vacated buildings to make them ready for new occupants (known as "backfill").

Costs for moving furniture, files, and similar items were not included because all Federal offices under consideration are located in the Washington metropolitan area and General Services assumed that the costs to move them would not vary greatly. Also, costs associated with the efficiency of consolidated agency operations, building location, employee morale, or subsidized employee parking were not included in the analyses. We recognize that it may not be possible to quantify some of these factors.

The General Services analyses considered nine offices or combinations of offices. The offices generally were considered because the agencies had either requested new space or asked General Services specifically for space in the Buzzard Point building. Results of the analyses ranged from a net savings of about $584,000 to a net cost of about $4,236,000 (see enclosure).

The alternative which was estimated to save about $584,000 included certain offices of the Federal Energy Administration, the Federal Bureau of Investigation, and the Energy Research and Development Administration.

Major factors which influenced the ranking of the nine alternatives were:

Estimated $1.1 million annual savings based on the assumption that the lease is not renewed for a building at 2000 M Street, NW., which is occupied by the Federal Energy Administration. This savings affected alternatives 1, 2, and 3.

Relatively low backfill costs for alternatives 1, 2, and 3.

High costs of special alterations, such as $700,000 for a printing plant for alternatives 7 and 9, and $1.1 million for a computer facility for alternative 8.

As stated previously the analyses contained calculation and typing errors. In addition, in several instances the space assigned to an agency in a building had changed since the analyses were prepared. The General Services space assignment records are periodically updated and show only the current assigned space. Therefore, the assigned space shown on the analyses did not always agree with current space assignment records.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General
of the United States.

Enclosure.

ESTIMATED FIRST YEAR NET COSTS OR SAVINGS IN RELOCATING VARIOUS FEDERAL OFFICES TO BUZZARD POINT

Alternatives	Number of buildings now occupied		Estimated first year net cost or saving to the Government
	Government-owned	Leased	
1. Federal Energy Administration (partial consolidation)—Federal Bureau of Investigation—Energy Research and Development Administration	1	5	[1,2] —$584,445
2. Federal Energy Administration (partial consolidation)—Federal Bureau of Investigation—Department of Agriculture	3	5	[1] —9,710
3. Federal Energy Administration (total consolidation)	2	3	[1] 108,625
4. Federal Trade Commission—Federal Bureau of Investigation—Department of Agriculture	3	6	[3] 334,055
5. Federal Bureau of Investigation—Law Enforcement Assistance Administration—Department of Agriculture	3	4	[4] 1,492,235
6. Agency for International Development		7	[4] 1,535,345
7. General Services Administration, region 3 (partial consolidation)	1	2	[5] 2,311,065
8. Department of the Treasury	3	10	[5] 2,893,295
9. General Services Administration, region 3 (total consolidation)	1	2	[5] 4,235,835

[1] Relatively low backfill costs were estimated for alternatives 1, 2, and 3 because space in the old Post Office building, which is Government-owned, is scheduled to be renovated and a lease for a building at 2000 M St. NW., Washington, D.C., will not be renewed. Also, there is an estimated $1.1 million annual savings assuming this lease is not renewed.

[2] Analyses assume that there will be an annual savings of about $400,000 for alternative 1, if space needed for expansion requirements of Energy Research and Development Administration is not leased.

[3] For alternative 4, analyses assume that there will be an annual savings of about $1.2 million if space needed for Federal Trade Commission is not leased.

[4] Our calculation shows estimated net cost of $1,497,235 for alternative 5 and $1,491,170 for alternative 6.

[5] Relatively high costs of space modifications to the Buzzard Point building for special requirements of occupant agencies affect net costs of alternatives 7, 8, and 9.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 8, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: Thank you for your Agency's February 7, 1977 letters concerning the Buzzard Point matter. Enclosed is a copy of my letter transmitting these letters to the GSA. Please note that I have asked the GSA to provide a copy of its reply to you for your review and comment thereon to the Subcommittee. Also enclosed for your information is a copy of a February 1 memorandum from the National Capital Planning Commission concerning the 1975 environmental assessment prepared in connection with a June 3, 1975 lease award.

I want to again express my appreciation for the excellent work performed by the GAO in connection with this matter. At the same time, I want to note that our staff has discussed the need for further efforts on the part of the GAO concerning the economic analyses issue.

Mr. Keller's letter refers to a pending lawsuit and concludes that:

"In the absence of special circumstances, we think it would be inappropriate to volunteer an opinion of how we might adjudicate the rights of the several parties concerned about GSA's lease of the Buzzard Point building."

First. As Chairman of this Subcommittee, I have never asked the GAO to "adjudicate the rights" of any parties to the lawsuit. However, I have requested that the Subcommittee, as part of its energy oversight and legislative responsibilities, receive the best possible advice, including rulings from an arm of the Congress, namely the GAO. In this case, we have requested your opinion on whether the lease has been validly issued. This request grows out of our Subcommittee's investigation and hearing concerning the Buzzard Point matter and not out of any lawsuit.

Second. I note the GAO policy to decline to comment on issues in litigation. I disagree with that policy in connection with a Congressional request. Moreover, I believe "special circumstances" exist here.

The present litigation was initiated in 1975. At that time employees of the SEC were parties. Later they withdrew from the suit. The suit has dragged on for many months with little indication that it will be finanlized very soon. Indeed, as Mr. Keller observes, on January 14, 1977, the Coalition of FEA Employees Against Transfer to Buzzard Point filed a motion to intervene in this suit. We understand that the Government has not replied to the motion and the court has not acted on it.

This situation was tolerable until last August. But since then, the continued vacancy of the building is costing the Government money. The GAO letters show that since last August about $1 million in effective lease costs have resulted.

The plaintiffs have moved that the Government not occupy the building until the suit is resolved. Clearly, so long as it is possible that the court might rule in the plaintiffs favor and/or grant the above motion, it would not be in the public interest for the GSA to spend money to move any agency into the building. If the GAO holds that the lease was not properly issued, the GSA can take steps now to rescind or terminate the lease and give the SJV an opportunity to obtain other tenants and thus save money for the taxpayer. But, the GAO's failure to rule on the issue leaves the entire matter in the hand of the litigants and the court. That, in our judgment, is not in the best interest of the U. S. taxpayers because there is no assurance when this litigation will be finished.

Third. We do not defer to the plaintiffs and the GSA concerning this issue. We do not know that the record before the court is adequate or that the court will consider and decide the specific issues that we have raised in our letter to the GAO.

Accordingly, we again request your opinion on this matter as early as possible.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

CORRESPONDENCE BETWEEN CHAIRMAN DINGELL AND THE FBI AND C&P TELEPHONE

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 05, 1977.

MR. CLARENCE KELLY,
Director, Federal Bureau of Investigation,
J. Edgar Hoover FBI Building,
Washington, D.C.

DEAR MR. KELLY: I wish to bring the enclosed press release and correspondence to your attention in connection with the proposed move of the Washington Bureau to the Buzzard Point building in southwest Washington, D.C.

The validity of the lease of the Buzzard Point building is in serious question and is presently being considered by the courts in litigation involving the General Services Administration and by the General Accounting Office. I have expressed concern to both the Office of Management and Budget and the GSA concerning the move of any federal agency into the Buzzard Point building prior to the resolution of this matter. The court and/or the GAO may rule that the lease is invalid or that an Environmental Impact Statement must be prepared, thus delaying occupancy of the building.

I wanted you to be aware of this situation. You may wish to discuss this proposed move and its timetable with both the OMB and the GSA to insure that the costs to the taxpayer are not further increased.

I understand that roughly 150 non-agent employees of the FBI's Fingerprint Identification Section are currently scheduled by the GSA to move to Buzzard Point in mid-March. Since these employees generally fall in the lower portion of the salary scale. I am concerned about the steps you have taken to provide adequate transportation and/or parking facilities for these people. As you know, public transportation to Buzzard Point is nearly nonexistent and parking at the building is expensive.

I also understand that these offices are being moved to make room for a Freedom of Information office in the Hoover building. This move to Buzzard Point of the Identification Division so soon after they moved from 2nd and D Streets, S.W. to the J. Edgar Hoover building seems to indicate a possible lack of long range planning and a possibility of extra costs to the taxpayer.

I would appreciate your response to these matters before this move takes place.

With every good wish,
Sincerely,

JOHN D. DINGELL,
Chairman.

Enclosures.

C&P TELEPHONE,
Washington, D.C., February 18, 1977.

HON. JOHN D. DINGELL,
Chairman,
Subcommittee on Energy and Power of the
Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR MR. DINGELL: In Mr. Bonsack's absence from the country, I amreplying on his behalf to your letter to him of February 4, 1977 inquiring about telephone service to be furnished to the FBI at the Harkins building in Southwest Washington, D.C.

We have been discussing the FBI's communications needs at the new location with representatives of the Bureau. Several alternatives each providing the Bureau with different communications capabilities, are currently under consideration but no final decision has yet been made.

Under one alternative, the Telephone Company would provide Centrex service essentialy by means of off-premises extensions from the service now furnished in the Hoover building. This method would entail the construction of additional and unusual facilities between C&P's Downtown central office and the Southwest central office. The costs of these facilities will be approximately $250,000 and, under the Company's tariffs, would be passed on directly to the

Government whether or not the Bureau ultimately occupies the space in the Harkins building. Under this method the telephone service would be ready approximately eight months from the date of the customer's order.

A second alternative would be to provide Centrex service from C&P's Southwest central office to the FBI premises in the Harkins building. Several modifications to this basic proposal are available and are being reviewed by the Bureau to determine whether they will meet its needs. None of these would involve the construction of any unusual facilities and hence the Government would be required to pay only the normal tariff rates applicable to this type of service. The service could be provided within three months from the customer's order but could take longer, depending on the complexity of any modifications selected by the Bureau.

Under either of the foregoing alternatives, no additional facilities will be required the Southwest central office and the Harkins building.

Sincerely yours,

W. E. FISHER,
Vice President.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., February 23, 1977.

HON. JOHN D. DINGELL,
U.S. House of Representatives

DEAR CONGRESSMAN DINGELL: I have received your letter of February 15, 1977, in which you enclosed material that you wished to bring to my attention in connection with the proposed move of certain Bureau elements to the Buzzard Point Building.

The housing needs of this agency are provided us by the General Services Administration (GSA) with whom we have been in contact regarding our mission requirements including parking and transportation to the Buzzard Point facility. We are assured by those responsible for supplying such services that our needs will be provided.

The Bureau, by letter dated November 30, 1976, accepted a GSA offer of space at the Buzzard Point Building to accommodate our Washington Field Office and that component of our Identification Division known as the Civil Prints and Card Index.

The 1974 Amendments to the Freedom of Information/Privacy Acts (FOI/PA), effective February 19, 1975, and September 27, 1975, respectively, have substantially impacted upon the Bureau's available resources. As of February 11, 1977, the Bureau had received since January, 1975, 31,592 FOI/PA requests. Although 23,500 requests have been handled, involving the review and release of millions of pages, a backlog of 8,092 requests remains, the equivalent of approximately 8.5 million pages of work. To eliminate this backlog and develop a capability to make timely responses to future requests, the Bureau is establishing a permanent operation of 375 persons to be known as the FOI/PA Branch. Additionally, 200 law-trained Special Agents will be utilized on a "special" during the remainder of Fiscal Year 1977 to assist in disposing of the backlog.

The Bureau's commitment to this operation was outlined before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, on September 19, 1976. It has necessitated the move of personnel and files comprising the Civil Prints and Card Index from the Hoover Building to space at Buzzard Point. There is insufficient room at the Hoover Building to house an expansion of our FOI/PA needs. Completion of the permanent expansion of the FOI/PA Branch (with annual costs of approximately $6 million) and commencement of the temporary "special" (one-time costs of approximately $6.5 million), may only be achieved following this move.

Both the importance of this legislation and the commitment of the Bureau to the successful implementation of thees laws caused this heretofore, unforeseeable expansion.

Failure to implement the move of the Civil Prints and Card Index as now scheduled will prevent the Bureau from being able to meet commitments to Congress as outlined above.

Sincerely yours,

CLARENCE M. KELLEY,
Director.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., March 9, 1977.

MR. CLARENCE KELLEY,
Director,
Federal Bureau of Investigation,
J. Edgar Hoover FBI Building,
Washington, D.C.

DEAR MR. KELLEY: Enclosed is a copy of a February 18, 1977 letter from W. E. Fisher, Vice President of C&P Telephone Company responding to an inquiry regarding the telephone requirements of the FBI at the Buzzard Point building in Southwestern Washington.

Two alternatives are presented. The first would cost $250,000. This cost would be passed on to the Government. The second reportedly would not cost any more than the normal tariff rates. On a cost basis, the second alternative would appear to be more beneficial to the Government.

We would appreciate your response to the following:

1. Which of the two alternatives is preferred by the Federal Bureau of Investigation?

2. If the first alternative is preferable, what specific benefits or services does this alternative offer that the second one does not?

3. Has a commitment been made to C&P Telephone Company regarding one of the alternatives? If so, when is work scheduled to begin?

We would appreciate your response to this inquiry by March 21, 1977.

With every good wish,

Sincerely,

JOHN D. DINGELL,
Chairman.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., March 21, 1977.

HON. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power
of the Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Receipt is acknowledged of your letter of March 9, 1977, inquiring about telephone requirements for the FBI at the Buzzard Point Building in Southwest Washington, D.C.

I am pleased to provide you with a copy of a letter from the FBI to Chesapeake and Potomac (C&P) Telephone Company advising them of our acceptance of the second alternative mentioned in C&P Telephone Company's letter to you on February 18, 1977.

The FBI reviewed the various options for telephone service at the Harkins Building and found the second alternative to be the most cost-effective for the Government and also provides the operational requirements of the FBI's Washington Field Office. It is our understanding telephone service can be provided on or about September 1, 1977.

The move of the Washington Field Office from the Old Post Office Building to the Harkins Building is expected to commence upon installation of telephone service.

If you have further questions regarding this matter, please feel free to contact me.

Sincerely yours,

CLARENCE M. KELLEY,
Director.

Enclosure.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., March 21, 1977.

To: Mr. Mervyn L. Yonkers, Sales Manager, Chesapeake and Potomac Telephone Company, Washington, D.C.
From: Jay Cochran, Jr., Assistant Director FBI, Scientific and Technical Services Division
Subject: Telephone facilities, Harkins Building

Reference your letter dated February 15, 1977, and subsequent discussions held to develop the best possible telephone arrangement for th Washington Field Office (WFO) which will be moving into the Harkins Building in the near future.

The FBI has reviewed the various options relative to telephone service at the Harkins Building, and we have determined option number two as outlined in your leter of February 15, 1977 and discussed in detail in a subsequent meeting on March 14, 1977, will meet the telephone requirements for WFO. It is the FBI's understanding this service will be available on or about September 1, 1977, and full satellite operation will be available during the first quarter of 1978. At a later date, members of my Communications staff will meet with you and personnel from General Services Administration (GSA) to discuss final arrangements as to installation dates and nonrecurring telephone charges involved in the forthcoming move.

The FBI looks forward to working with the C&P Telephone Company and GSA on this complex move and if additional information is desired, please contact Messrs. David H. Haller or Harry F. Louderback on telephone number 324-4113.

Mr. DINGELL. I also note that a representative of OMB is here today by reason of our discussion and at the direction of Mr. Lynn to listen and take notes although he will not testify. That person is Mr. Richard Jeanneret.

The Chair is pleased to welcome our first panel.

Mr. Zarb, we are happy to see you with us. If you would introduce yourself for the purposes of the record and those who are with you.

TESTIMONY OF HON. FRANK G. ZARB, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION, ACCOMPANIED BY MARTIN D. HOWELL, ASSOCIATE ADMINISTRATOR, OFFICE OF MANAGEMENT; ERIC FYGI, GENERAL COUNSEL; AND GEORGE H. F. OBERLANDER, DIRECTOR, FEDERAL REVIEW DIVISION, NATIONAL CAPITAL PLANNING COMMISSION, ACCOMPANIED BY TERRENCE M. O'CONNOR, ASSISTANT GENERAL COUNSEL

Mr. ZARB. Mr. Chairman, on my right is Eric Fygi from our General Counsel's office and Mr. Martin Howell who is responsible for the management and operations at FEA.

Mr. DINGELL. Mr. Howell is known to the Chair.

Mr. Oberlander, I understand, is also here from the National Capital Planning Commission. Mr. Oberlander, you are certainly welcome. If you will come forward to the witness table and identify yourself for the purpose of the record and those who you have accompanying you.

Mr. Zarb, I understand you have an engagement downtown which will require your presence elsewhere but you are going to leave Mr. Fygi and Mr. Howell.

Mr. ZARB. Yes, sir.

Mr. DINGELL. Gentlemen, in view of the fact this is an investigative hearing we will be administering the oath to all who are present. Do any of you have any objections to being sworn?

You will note that copies of the rules of the committee are there at the table for your purposes if you wish. If any of you desire counsel at the table with you, you may express your wish toward that end at this time.

Gentlemen, if there is no objection, then the Chair will ask you all to rise.

If you will rise, please.

Do each of you solemnly swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ZARB. I do.

Mr. HOWELL. I do.

Mr. FYGI. I do.

Mr. OBERLANDER. I do.

Mr. O'CONNOR. I do.

Mr. DINGELL. Mr. George H. F. Oberlander, Director, Federal Review Division, National Capital Planning Commission, is accompanied by Mr. Terrence O'Connor who is Assistant General Counsel for the Commission.

Mr. O'Connor, you are also welcome.

Could the Chair ask, do you appear in the role of counsel or to testify?

Mr. O'CONNOR. Counsel.

Mr. DINGELL. Well, you are appearing as counsel for the Commission as opposed to appearing as counsel for Mr. Oberlander?

Mr. O'CONNOR. Counsel to Mr. Oberlander. There really is no difference.

Mr. DINGELL. Well, then if you appear as his counsel, you may advise him in any fashion you deem appropriate and we won't have you testify. You may regard yourself as not being under oath. If it is necessary, we will administer the oath to you at a time later.

Gentlemen, I guess we should recognize Mr. Zarb in connection with his appearance.

Mr. Zarb, you may consider yourself recognized for such statement as you wish to give the committee.

TESTIMONY OF HON. FRANK G. ZARB, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION

Mr. ZARB. Thank you, Mr. Chairman. I am sorry I do have to leave. The odyssey at Qatar continues and that is the reason for my having to get back downtown.

Inasmuch as my presence is limited in time, with your permission I would submit my statement for the record and answer any questions you have for me before I have to leave.

Mr. DINGELL. All right. I think that is eminently acceptable. I guess the Chair should just ask, is your statement the truth?

Mr. ZARB. Yes, sir.
Mr. DINGELL. Very well.
[Mr. Zarb's prepared statement follows:]

STATEMENT OF FRANK G. ZARB, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION

Mr. Chairman, I appreciate the opportunity to appear before this subcommittee today on the subject of the proposed relocation of approximately 825 FEA emloyees to Buzzard Point in Southwest Washington.

As you are aware, the General Services Administration has directed the relocation of all FEA employees located in buildings other than the New Post Office Building, 12th and Pennsylvania Avenue, N.W., to the Buzzard Point location. This action would affect more than 42 percent of the FEA Headquarters staff.

The Offices concerned are now located at:

(1) 2000 M Street, N.W. (including the Office of Regulatory Programs, the Office of Exceptions and Appeals and the Office of International Energy Affairs).

(2) The Vanguard Building—1111 20th Street, N.W. (certain sections of the Office of Energy Conservation and Environment).

(3) 1726 M Street, N.W.—(The Strategic Petroleum Reserve Office).

(4) The Old Post Office Building—11th & Pennsylvania Avenue, N.W. (certain offices of the Office of Energy Conservation and Environment).

The GSA decision was communicated by letter dated October 29, 1976. Because I believed it raised serious issues affecting efficiency and effectiveness of FEA's statutory responsibilities, I have requested the President, through the Director of the Office of Management and Budget, to review the GSA determination to relocate the specified FEA personnel. Pursuant to an agreement with OMB, FEA will submit all supporting documentation for this review to OMB by December 31, 1976. We are now in the process of preparing that supporting documentation, and expect that this will assist in evaluating thoroughly the implication of the action directed by GSA.

One extremely important set of considerations concerning the proposed move is the relationship of such a move to the anticipated reorganization of the Federal government's energy functions and on the discharge of critical energy programs and responsibilities during both the period of reorganization and thereafter. The Energy Conservation and Production Act (ECPA), passed in August, requires a report to Congress on energy reorganization by December 31, 1976. In addition, the President-elect has announced his intention to propose reorganization of energy functions early in his term. The FEA Act expires on December 31, 1977, and the ECPA which extended the Federal Energy Administration Act recognizes the impending reorganization of Federal energy functions. In extending the FEA for a limited period last summer, the Congress clearly evidenced its intention to act promptly on a major reorganization. In fact the Conference Report accompanying the ECPA specifically states that the limited extension "allows ample time for planning and implementation of a reorganization plan for Federal responsibilities for energy activities." Thus, an energy reorganization is not a remote prospect; instead, it seems a virtual certainty before the end of next year.

While we know that there will be a reorganization, it is far from clear which agencies will be included in the reorganization and what its effect will be on the existing functions of the array of agencies that may be involved. A physical move of any organizations performing energy functions before the impending reorganization would seem to cause unnecessary expense and disruption unless, by mere chance, the move were to locate organizations exactly in harmony with how their functions would be arranged by the reorganization, a highly unlikely occurrence.

Moreover, I believe evaluation of the merits of any proposal to relocate an agency such as FEA, which deals extensively with the public and conducts a great many public hearings, must consider carefully the accessibility of that location by either public or private transportation. In the first 10 months of this year, we had approximately 8300 participants at FEA hearings, and many more than that number of people have attended meetings on FEA matters before the Office of Regulatory Programs and the Office of Exceptions and Appeals. The less contact FEA has with the public—consumers, industry, citi-

zens groups, and State and local governments—the less able we are to carry out our statutory functions effectively and responsibly. Because the public is vitally affected by the direction of energy programs, it is imperative to assure full opportunity for the public to express its viewpoint on proposed regulatory energy actions. In a public hearing on this matter which FEA conducted on November 22, we received numerous comments from the affected public which confirm our concern that any proposed relocation must take into account public participation and representation in agency decisions. Those comments were uniformly critical of this particular relocation. For example, one attorney, who represents numerous consumer groups, stated:

"The consumers' groups cannot afford to let FEA move to Buzzard Point. We cannot afford the cost of commuting there. We cannot afford the extra cost that it would put on the consumer groups to get someone over there that could get statements, talk to people involved with issues as often as we must in order to counteract the incredible array of lobbyists on the other side of the issues."

Similar comments were received from other interests which participate in FEA proceedings. Additionally, the Emergency Economics Controls Committee on Administrative Law of the American Bar Association informed us by letter that it unanimously was opposed to the move, and that it was the view of the committee "that such a relocation would have an adverse effect upon the functioning of the agency and, more importantly, the public."

It should also be noted that, unlike most agencies, FEA has a statutory obligation to hold public hearings any time a rule, regulation, or order is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, numerous public hearings by FEA are not a luxury but are a legally essential part of the regulatory process.

Next, Mr. Chairman, I feel it is crucial to consider the effect such a relocation would have on the functioning of the FEA. Since its inception in June, 1974, FEA has had more than its share of disruptions, which frankly, have inhibited the full development and prompt execution of a coherent national energy policy. In the period of time that I have been Administrator, there have been five occasions on which either our organic legislation (The Federal Energy Administration Act of 1974), or our basic programmatic legislation (the Emergency Petroleum Allocation Act of 1973) have expired or been extended at the "11th hour". While I do not suggest fault for these events, it remains a fact that this uncertainty has been more than a minor obstacle to the smooth functioning of the agency. In my opinion, the proposed relocation would be an equally unsettling disruption, which must be very carefully considered against the likelihood that reorganization could rapidly make obsolete any decisions made today.

I might add at this point, that even with the disruptions, FEA's personnel have performed admirably under difficult circumstances and are the most dedicated group of individuals with whom I have ever been associated. Mr. Chairman, in my opinion, one of the greatest dangers of the proposed relocation would be the effect such a move would have on the morale of these employees. To compound the problem, many of the employees have reemployment rights with former Federal agencies under the FEAA and EPAA—they have the absolute right to return to their former agencies. Thus, unlike most agencies whose employees may threaten to seek other employment, our personnel have the immediate ability to obtain other employment without having the burden of seeking out positions in a competitive job market. An example of the jeopardy that FEA would face exists most clearly in FEA's Office of Regulatory Programs, which is responsible for discharging the oil pricing and allocation functions, including compliance, under the EPAA and EPCA. In this office alone 218 employees have reemployment rights. This figure represents 61 percent of the 353 employees in the unit.

In conclusion, I believe these hearings are considering a most important subject which affects the government's ability to discharge its energy responsibilities. I would like to thank you, Mr. Chairman, both on my behalf and on behalf of all FEA employees and the public served by FEA, for your personal interest in this matter.

I would be pleased to answer any questions.

[Correspondence of FEA and GSA follows:]

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., November 12, 1976.

Hon. JAMES T. LYNN,
Director,
Office of Management and Budget,
Washington, D.C.

DEAR JIM: On November 1, 1976, the General Services Administration (GSA) provided us with notice that, pursuant to Executive Order 11512, it will assign office space at 1900 Half Street, S.W. to stipulated FEA operations at the earliest practicable date. Section 2(b) of the Executive Order affords me the right to appeal that determination to the President within 30 days by means of a written request through the Director of the Office of Management and Budget. On November 5, 1976, I informed you that I intended to exercise that right of appeal.

Immediately after the GSA determination was issued, my staff undertook diligent and vigorous efforts to prepare an appeal. However, after examining the GSA determination from which the appeal must be filed we have concluded that the decision is so deficient on its face that a proper appeal cannot be formulated.

Under section 2(a) of Executive Order 11512, any GSA determination such as the decision that FEA Officer be relocated must be based on an evaluation of the following factors:

(1) Material consideration shall be given to the efficient performance of the missions and programs of the executive agencies and the nature and function of the facilities involved, with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

(2) Consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area. In determining these conditions the Administrator shall consult with and receive advice from the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and others, as appropriate;

(3) Maximum use shall be made of existing Government-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies;

(4) Suitable privately owned space shall be acquired only when satisfactory Government-owned space is not available, and only at rental charges which are consistent with prevailing rates in the community for comparable facilities;

(5) Space planning and assignments shall take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration;

(6) The availability of adequate low and moderate income housing, adequate access from other areas of the urban center, and adequacy of parking will be considered; and

(7) Proposed developments shall be, to the greatest extent practicable, consistent with State, regional, and local plans and programs; and Governors, local elected officials, and regional comprehensive planning agencies shall be consulted in the planning of such development.

The GSA determination not only fails to reflect any findings of fact whatever based on those mandatory standards, but even fails to discuss the applicability of those factors to the determination which it recited in its October 29, letter. Therefore, since a proper determination has never been issued in this matter by the GSA I would request that the GSA decision be rescinded at this point and, if necessary be returned to the GSA for further proceedings which conform to the standards established in the Executive Order.

Sincerely,

FRANK G. ZARB,
Administrator.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., April 13, 1976.

Mr. JOHN F. GALUARDI,
Regional Administrator,
Region III,
General Services Administration,
Washington, D.C.

DEAR MR. GALUARDI: Since the inception of the Federal Energy Administration (FEA), the continuing problem of finding a suitable building arrangement to house the entire FEA Headquarters complement has presented serious problems. In anticipation of the pending FEA FY 76 Supplemental and FY 77 Budget Amendment requests, which were developed to support the provisions of the recently enacted "Energy Policy and Conservation Act," the increase in Headquarters staffing as proposed in this budget will significantly impact the existing FEA buildings in the Washington, D.C. area. In order to satisfy this additional space requirement and concurrently consolidate FEA programs presently dispersed in five downtown buildings into three buildings; 75,000 square feet of office and related support space will be required. It is anticipated that in implementing the proposed realignment and providing the required expansion space, FEA will release to the GSA three buildings we currently share with other Government tenants. The total space to be released consists of 65,910 square feet; so the net effect will reflect an increase of only 9,000 square feet of space to FEA. I would hope that if you proceed with this request, the space obtained would be in a new building not more than five blocks from the Federal Building at 12th Street and Pennsylvania Avenue, Northwest.

I would like to meet with you on this matter at your earliest convenience so that the preliminaries you may require to proceed with this request may be satisfied.

Sincerely,

THOMAS E. NOEL,
Assistant Administrator,
Management and Administration.

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 25, 1976.

Mr. THOMAS E. NOEL,
Assistant Administrator,
Management and Administration,
Federal Energy Administration,
Washington, D.C.

DEAR MR. NOEL: Reference is made to your letter of April 13, 1976, in which you requested a partial consolidation of the Federal Energy Administration (FEA) activities currently housed in 5 downtown Washington, D.C. locations, as well as expansion space needed to satisfy a proposed increase in your Headquarters staffing.

Inasmuch as your expansion requirements are difficult to ascertain at this time and the fact that our records indicate the overall utilization rate for FEA is 178, your request for expansion space is not justified. The estimated 9,000 square feet of expansion space you requested would house approximately 60 people and these people could easily be absorbed in your present space, improving your overall utilization rate to 172. When your pending budget request are approved, you will be able to define in detail your new space requirements. At that time, should your needs justify an increase in excess of the estimated 9,000 square feet, we will be happy to assign additional space to you in the Old Post Office Building.

In regards to your request for partial consolidation, I have asked our Planning Staff to include your request, along with other pending requests for consolidation, in their overall housing plan for the Washington Metropolitan area. Any major space request such as this requires time to properly plan, review requirements, and then possibly seek Congressional approval. Therefore, please submit your projected space needs, including a list by grade (supervisory or non-supervisory) of all FEA employees in Washington, D.C., so that a complete review and evaluation of your request can be made.

Please be assured that your housing problems are of concern to us and we

will work with you in whatever way possible to satisfy your needs. If we can be of further assistance, please have a member of your staff contact Cindy D'Agostino, Space Management Division, on 472-1137.

Sincerely,

JAMES F. STEELE, Jr.,
Regional Commissioner,
Public Buildings Service and Acting Assistant Commissioner,
Office of Operating Programs.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., June 28, 1976.

Mr. JOHN F. GALUARDI,
Regional Administrator,
Region III,
General Services Administration,
Washington, D.C.

DEAR MR. GALUARDI: Reference is made to the letter of May 25, 1976, signed by Mr. Steele of your staff. The Federal Energy Administration (FEA) anticipates an increase of 254 new positions in the Headquarters. The largest number of these new positions would be located in the buildings at 2000 M Street, N.W., and 1726 M Street, N.W. These buildings cannot accommodate this increase of personnel.

In Mr. Noel's letter to you dated April 13, 1976, he mentioned a consolidation of FEA. To be more specific, our current plan is to consolidate from five (5) buildings to three (3), and at the same time program the 254 new positions into the consolidated space.

FEA is currently assigned space in the Federal Building at 12th Street and Pennsylvania Avenue, N.W.; 2000 M Street, N.W.; 1726 M Street, N.W.; the Vanguard Building; and, the Old Post Office Building. The most significant position increases will occur with the Office of Regulatory Programs at 2000 M Street, N.W., and the Office of Strategic Petroleum Reserve at 1726 M Street, N.W. The increase of 139 new positions at 2000 M Street, N.W., would necessitate moving a current tenant out of the building. FEA will release the Vanguard Building, the building at 1726 M Street, N.W., and the Old Post Office Building to accommodate whomever GSA elects to move from 2000 M Street, N.W.

The final realignment would place all FEA programs currently split between buildings, into contiguous space at three (3) downtown locations. In order to accomplish this consolidation, we request GSA to lease and assign enough space at 6th and E Streets, N.W., to accommodate 410 employees. FEA in turn would release approximately 66,000 square feet of office space in the Old Post Office, 1726 M Street, N.W., and the Vanguard Building to GSA.

By reducing the number of buildings from five (5) to three(3) and releasing approximately 66,000 square feet of space, and at the same time increasing the Headquarters staff by 254 positions, a significant improvement in the per capital utilization rate will occur. We do not anticipate the overall utilization rate to exceed 170 in any building.

Enclosed is a GSA standard form 81 requesting 75,000 square feet of office and related space. The Headquarters staffing plan you requested will be sent to you under separate cover. Please do not hesitate to contact me if you have any questions or if you would like to meet to discuss this request,

Sincerely,

JOHN A. HILL,
Deputy Administrator.

Enclosure.

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., July 14, 1976.

Mr. JOHN A. HILL,
Deputy Administrator,
Federal Energy Administration,
Washington, D.C.

DEAR MR. HILL: Thank you for your letter of June 28, 1976 concerning the space needs of the Federal Energy Administration (FEA). Our regional space

management staff has been reviewing your requirements in conjunction with our overall housing plans for Washington, D.C., for some time.

We are currently faced with two major problems in satisfying agency space needs. The first is a limited funding situation for leasing new space which necessitates giving priority to those agencies with life safety problems or new programs. The second concerns the fact that GSA is currently making numerous space adjustments in the Washington, DC, area which requires a careful review of the complicated backfill plan to insure maximum economy and still meet agency needs.

Therefore, we feel we will be able to meet any expansion needs FEA may have when its program is confirmed by the Congress by providing space within our inventory. Every attempt will be made to provide as much consolidation as possible near your existing location as we recognize the benefits of close geographical consolidation.

In order to begin planning at the earliest possible date, members of our space management division will contact your staff shortly to review the alternatives and analyze FEA's current space holdings to make sure they are being utilized to the fullest.

Sincerely,

JOHN F. GALUARDI,
Regional Administrator.

Mr. DINGELL. The chair will recognize counsel for purposes of asking questions.

Mr. FINNEGAN. Mr. Zarb, in answer to some of the questions that the subcommittee raised, the GSA indicated that FEA has an outstanding spare requestion of over 300,000 square feet which was dated in 1974. I wonder if you agree that this is still outstanding and has not been met at this point?

Mr. ZARB. It has not been met obviously since we are in any number of buildings in Washington. I suppose it has not technically been withdrawn.

Mr. HOWELL. If I may, this has been partially fulfilled by the assignment of an additional floor at 20th and M Streets, space at 1726 M Street, the Vanguard Building, and space in the old Post Office Building.

Mr. FINNEGAN. So you really don't think it is outstanding at this time?

Mr. HOWELL. I do not think it is outstanding at this time.

Mr. ZARB. Wait a minute. I think in fairness to everybody here it was clear in 1974, to my predecessor anyway, that putting FEA in one location had some benefits and there clearly were initiatives from FEA indicating that that would be a useful idea. However, at that point in time we were looking at an FEA that was going to continue in its current form for some years and those were the assumptions underlying that particular judgment.

Mr. FINNEGAN. As you know, Executive order 11512 requires that before the GSA makes a determination, that agency is supposed to consult with the head of the affected agency. I wondered if you believe that the consultation in this instance with you was adequate?

Mr. ZARB. I guess I would have to say the answer to that question is no, and I ought to add that that should not be read as critical of GSA and there was an unfortunate breakdown of communications.

I had been given to understand that we were going to have a consultative session of the two Administrators after staff had completed. Unfortunately, a letter went over to GSA which indicated that I agreed with certain comments and the Administrator read that as

meaning that I no longer required a meeting and I had already made up my mind, so because of that unfortunate misunderstanding the consultation process was not completed.

[Executive order No. 11512 follows:]

PLANNING, ACQUISITION, AND MANAGEMENT OF FEDERAL SPACE

EXECUTIVE ORDER NO. 11512 (35 F.R. 3979; 3 CFR)

By virtue of the authority vested in me by the Federal Property and Administrative Services Act of 1949, as amended [F.C.A. 40 §§ 471 and notes—475, 481, 483, 484, 485–492, 511–514, 521–524, 531 and note—535, 751–759; 41 §§ 5, 251–254, 255, 257–260; 44 § 2901 et seq.], and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Administrator of General Services (hereinafter termed "the Administrator") shall initiate and maintain plans and programs for the effective and efficient acquisition and utilization of federally owned and leased space located in the States of the United States or in the District of Columbia or in Puerto Rico (hereinafter termed "in the United States"), and for which the Administrator is responsible. The Administrator shall prepare and issue standards and criteria for the use of such space and shall periodically undertake surveys of space requirements and space utilization in the executive agencies and initiate actions and formulate programs to meet the essential space requirements of executive agencies. In carrying out these functions, the Administrator shall (a) coordinate proposed programs and plans for buildings and space with the Bureau of the Budget, (b) obtain from the Civil Service Commission, the Office of Emergency Preparedness, and the Department of Defense any information in the possession of those agencies which may bear upon such programs and plans, (c) coordinate proposed programs and plans for buildings and space in a manner designed to exert a positive economic and social influence on the development or redevelopment of the areas in which such facilities will be located, (d) seek the cooperation of the heads of the executive agencies concerned with any of the foregoing, and (e) annually submit long-range plans and programs for the acquisition, modernization, and use of space for approval by the President.

SEC. 2. (a) The Administrator, and the heads of executive agencies, shall be guided by the following policies for the acquisition, assignment, reassignment, and utilization of office buildings and space in the United States:

(1) Material consideration shall be given to the efficient performance of the missions and programs of the executicve agencies and the nature and function of the facilities involved, with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

(2) Consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area. In determining these conditions the Administrator shall consult with and receive advice from the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and others, as appropriate;

(3) Maximum use shall be made of existing Government-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies;

(4) Suitable privately owned space shall be acquired only when satisfactory Government-owned space is not available, and only at rental charges which are consistent with prevailing rates in the community for comparable facilities;

(5) Space planning and assignments shall take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration;

(6) The availability of adequate low and moderate income housing, adequate access from other areas of the urban center, and adequacy of parking will be considered; and

(7) Proposed developments shall be, to the greatest extent practicable, consistent with State, regional, and local plans and programs; and Governors,

local elected officials, and regional comprehensive planning agencies shall be consulted in the planning of such developments.

(b) The Administrator shall plan, acquire, and manage space in the United States upon his determination that such actions will serve to improve the management and administration of governmental activities and services, and will foster the programs and policies of the Federal Government. Prior to making such determinations, the Administrator shall consult with the heads of the executive agencies concerned and take into account their requirements, consistent with the criteria stated here and his other responsibilities. The Administrator shall advise the agency head in writing of his intended course of action and notify him that in the event of disagreement the affected agency head may within thirty days make a written request for review of the matter, through the Director of the Bureau of the Budget, to the President.

SEC. 3. The heads of executive agencies shall (a) cooperate with and assist the Administrator in carrying out this responsibilities respecting buildings and space, (b) take measures to give the Administrator early notice of new or changing space requirements, (c) seek to economize in their requirement for space, and (d) review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be carried on elsewhere without excessive costs or significant loss of efficiency.

SEC. 4. The provisions of this order shall be subject to applicable provisions of law (including applicable provisions of any reorganization plan).

SEC. 5. Executive Order No. 11035 of July 9, 1962 [1962 Public Laws and Administrative Material, p. B116], is hereby superseded.

RICHARD NIXON.

February 27, 1970.

Mr. FINNEGAN. The GSA also indicates that the combination of offices at Buzzard Point set forth by the GSA in their letter of October 29, 1976, is the only logical combination to affect a partial consolidation of FEA. Also the GSA states that your staff was consulted about this combination at an October 8th meeting with GSA which I understand Mr. Howell attended.

Do you agree that this is the best consolidation even on a partial basis?

Mr. ZARB. No, I guess I can't say that I do at this time. My judgment in this matter is completely colored by the question of organization. It is abundantly clear to me that there is going to be some organizational change in the energy enterprise in the next several years. A spokesman in the Congress for the President-elect and the President-elect himself has said that he anticipates certain changes, and as a result, just for good management and economics, I would not encourage moving people around and running the risk that you have to move them around again when this process was completed and wasting that kind of money when a delay of 6 to 12 months will make the new organization clearer or at least it will be clearer whether we are going to have one or not and then judgments with respect to the space can and should be made.

Mr. FINNEGAN. Isn't it reasonable to assume that that reorganization could very well end up either changing or abandoning functions or adding new functions?

Mr. ZARB. No question about that. There are several data centers, for example, which would be affected with the duplication of various offices if the consolidation would take place.

One notion that is being talked about is a Department of Energy and Natural Resources. If that was the way that was finally elected, then, of course, there would be massive shifts because the Depart-

ment of Interior would form the base. I am not suggesting that that is the way it is going to go, but I say until those questions are cleared up it makes little sense to me to move people around town.

Mr. FINNEGAN. Isn't it also true, in any event, that portions of FEA have been moved around in recent times? There have been some moves in the past 2 years; is that correct?

Mr. ZARB. Yes.

Mr. FINNEGAN. So this would be an additional move that raises some question of efficiency and economy?

Mr. ZARB. Of course, that is why it is so urgent to answer these organizational questions. As you know, five times in the last 2 years we have almost expired in the 11th hour and were restored. It seems to me that the time has come to stabilize that question and then to stabilize the space issue.

Mr. DINGELL. I remember those bills altogether too well, Mr. Zarb.

Mr. FINNEGAN. I quote to you an answer to the subcommittee's letter from the GSA which says:

> During the meeting of October 8, 1976, the possibility of FEA's being assigned the entire Buzzard Point was brought up but it seemed apparent that FEA would not consider vacating the new Post Office building. In addition, during a luncheon meeting on November 29, 1976, between Mr. Zarb and Mr. Eckerd, the offer for total consolidation at Buzzard Point was reiterated.

[See GSA statement, answer to question 6, p. 139.]

Mr. FINNEGAN. Is that your understanding of the situation?

Mr. ZARB. I guess I ought to say I don't recall that as an offer of the bulk of our discussion surrounding the issue of reorganization and how imminent that looked or whether or not the total motion should be held up pending that resolution. There could have been some discussion about total consolidation, but it certainly was not the main frame of our discussion and I certainly don't recall it as being a specific offer. In any case, my answer would have been the same.

Consolidate what? Given the fact that the FEA expires a year from now; a year from the last day of this month and the next 6 months, there is going to be lots of reorganization talk. So my answer still would have been let's wait and see what we have to move before we move it.

Mr. FINNEGAN. No further questions.

Mr. DINGELL. Mr. Zarb, I think in view of the fact that you have business elsewhere we will excuse you. If there are additional questions, you will respond by letter?

Mr. ZARB. Yes.

Mr. DINGELL. We thank you for being present to assist the subcommittee this morning.

Mr. ZARB. Thank you.

[The following material was received for the record:]

FEDERAL ENERGY ADMINISTRATION RESPONSES TO QUESTIONS IN SUBCOMMITTEE LETTER OF DECEMBER 8, 1976

Question 1. On March 13, 1975, we understand you submitted a proposal to the GSA to consolidate the FEA "in two principal downtown locations" and on April 19, 1975 and May 2, 1975, the GSA deferred decision on your

request. Please explain your proposal and the GSA's actions thereon. Please indicate the status of that proposal.

Answer. The FEA proposal consisted of consolidating all FEA headquarters operations in two principal downtown locations: the Federal Building at 12th and Pennsylvania Avenue, N.W. and the 2000 M Street location. In order to accomplish this consolidation it was necessary to increase the floor area at 2000 M Street by one floor and the Federal Building by 10,000 square feet.

On May 2, 1975, GSA assigned an additional floor of the 2000 M Street building to FEA to implement the consolidation. However, the Department of the Treasury was unable to release 10,000 square feet in the Federal Building to FEA. Consequently, FEA retained the space in the Old Post Office to satisfy the additional space requirement.

Accordingly, the suggested consolidation was carried out in part; however, because of space constraints at these two locations, FEA has since that time acquired a small amount of space at two locations near the 2000 M Street building to satisfy expanded space needs.

Question 2. Is there an outstanding request on GSA Form 81 for space to consolidate some or all of the FEA functions? If so, when was that made and what happened to it?

Answer. Yes. The request for space (copy attached) was made on June 28, 1976. In that request, FEA anticipated an increased space need of approximately 9,000 square feet. We proposed to accomplish this by giving up space at the Old Post Office, 1726 M Street, N.W. and the Vanguard Building and retaining new space at 6th and E Street, N.W., or any space within 10 minutes walking distance of 12th and Pennsylvania Avenue, N.W. which would meet our needs.

GSA advised FEA in writing on July 14, 1976, that (a) GSA was in a limited funding situation for leasing new space except for life-safety problems or new programs, and (b) it was making numerous space adjustments in the Washington, D.C. area which required a careful review of the complicated backfill plan to insure maximum economy and still meet agency needs.

GSA specifically stated that space would be provided if Congressional action warranted such space and every attempt would be made to provide as much consolidation as possible near FEA's existing location as they "recognize the benefits of close geographical consolidation." The July 14, 1976 letter from John P. Galuardi of GSA to Mr. John A. Hill of FEA was the last communication in writing from GSA concerning the FEA's June 28, 1976 request for space.

Question 3. On October 20, 1976, a letter from the FEA to the GSA indicates that the FEA met with the GSA to discuss the proposed relocation to Buzzard Point. Who participated in that meeting from the GSA and the FEA?

Answer. GSA attendees: Terry Chambers, Deputy Administrator, John F. Galuardi, Regional Administrator, and Earl Eschbacher, Space Management. FEA attendees: Martin D. Howell, Associate Administrator for Management; and Ernest J. Vajda, Office of Administrative Programs.

Question 5(b). The October 29 letter proposes to consolidate FEA's functions at four locations. Was the FEA consulted in determining whether or not this particular consolidation was appropriate? If not, please indicate, if you know, how the GSA arrived at this conclusion and if an alternative consolidation would be more efficient.

Answer. The FEA was not specifically consulted on GSA's decision to consolidate the FEA functions currently assigned space in the four outplaced buildings, but was asked to have office heads consider moving there. FEA does not know precisely how the GSA arrived at this conclusion.

An alternative consolidation such as that requested in the June 28, 1976 request, which would locate all FEA headquarters operations within 10 minutes walking distance of the 12th and Pennsylvania Avenue Building, would appear to permit more efficient operation of FEA.

Question 5(c). The October 29 letter states that the FEA Headquarters Building "is not being considered" for consolidation. Do you know of any reason why it should not be considered for consolidation?

Answer. We do not know of any reason why a total consolidation, including the New Post Office Building, should not be considered. If such a total consolidation is not feasible, a partial consolidation must take into consideration the proximity of the FEA Headquarters to any proposed new location.

While the Buzzard Point Building would remain unsuitable for FEA's needs, from a management perspective a single building consolidation would certainly be preferable to a partial one in which the buildings are at such distant locations.

Question 5(d). We understand that with some modification all of the FEA could be housed at Buzzard Point. Do you agree that if the objective is "consolidation", such an approach is far more efficient and reasonable than mixing the FEA with the FBI and USDA?

Answer: From the standpoint of the objectives of consolidation it would be more logical to place all FEA Headquarters operations at one location. While the Buzzard Point location itself would impair the functioning of the agency, it would certainly be an improvement from a management standpoint, over the GSA proposed partial consolidation at a location so distant from the New Post Office Building.

Question 6(a). The lease for Buzzard Point provides for 271 parking spaces. How many of those spaces would the FEA need for official vehicles, the handicapped, FEA executives, visitors, and employees?

Answer. Current best estimates indicate that FEA would require at least 185 of the 271 parking space available. The suggested breakdown by category is:

Official vehicles—4
Handicapped—4
Executive spaces—10
Visitor spaces—10
Employee carpools—157

The carpool spaces were calculated on 4-man carpools with 75% of the employees requiring private vehicle transportation arrangements. This high percentage carpool figure is the direct result of poor public transportation that exists in the Buzzard Point Sector of Washington, D.C. Also, due to the poor access to Buzzard Point, this estimate may need to be amended upward upon further review.

Question 6(b). On October 24, 1972, the Under Secretary of the Department of Transportation asked OMB that "GSA be authorized to acquire the garage" space at the Trans Point Building, previously known as Buzzard Point. The DOT said:

"* * * The relatively isolated location of the Buzzard Point Building, coupled with the limited public transportation service in that area will increase the cost and commuting time of employees who use public transportation. This, in turn, will result in an increased use of private vehicles. In addition to use of private vehicles. In addition to problems associated with use of public transportation, we anticipate problems with the safety of employees who use street parking in that area, particularly during the winter months. In that the nearest Metro station will be approximately one mile from the building, we do not foresee any improvement to the situation in the future."

Subsequently, the OMB granted this request. Does the FEA plan to make a similar request? If so, what will be the cost to the Government?

Answer. FEA has yet to determine whether such a request would be necessary. After review of the GSA decision to relocate portions of FEA to Buzzard Point is completed, should the decision be sustained, FEA will be required to consider this matter.

The approximate additional cost to the FEA for 185 parking spaces would be approximately $102,500. This is based on 185 spaces equating to 55,700 square feet at an estimated rental rate of 1.84 per square foot annually.

Question 7. As you know, the GSA has properly expressed concern about the high rental at 2000 M Street. Enclosed is a GSA table concerning office space at that location. It indicates that the space per person for the FEA and other agencies is apparently higher than the GSA standard. What action has the FEA taken or plans to take to reduce the amount of space it now uses at this location in order to bring it more in line with the GSA norm and save money for the Government?

Answer. FEA currently has 620 employees housed at the 2000 M Street location. This building was previously occupied by the Cost of Living Council and the tenant layout of that building was accepted by the FEA. The physical constraints placed on FEA by this partition plan have not allowed the Agency to come down to the GSA norm without expensive building alterations. The

largest FEA program at that location, the Office of Regulatory Programs is operating at a per capita utilization rate of 148. The smaller programs at that location are housed in larger areas. It was anticipated in the past that many of these programs would grow into their space assignment with increased staffing. However, the Office of Regulatory Programs was the only program at 2000 M Street that increased significantly. Once the issue of Buzzard Point is resolved, FEA fully intends to realign this building and improve the internal distribution of space.

Question 8. A review of several GSA leases indicates that agency does not include any standard or provision for the proper insulation of buildings under GSA lease. In some cases, the Government may pay utility costs. In such cases, there is little incentive to the lessor to conserve energy. Similarly, when the lessor assumes utility costs, there is little incentive for the Government to conserve energy. Have you discussed this conservation problem with the GSA? If so, what steps have been taken or planned to remedy this situation? If not, we urge that you do so and provide us with a report of your discussions, etc.

Answer: GSA currently does have a provision in its lease solicitation for all new construction (55,000 Btu's per square foot per year) that requires a building to be energy efficient, including adequate insulation. We understand that this provision, however, is not contained in their lease solicitation for existing buildings, and existing leased buildings are not required to be insulated or energy efficient. It is estimated that approximately 1 million feet of the 15 million feet that is coming up for renewal in the next 18 months will be new construction.

FEA has had extensive discussions of this problem with GSA. We are presently studying the policies and practices of leasing in the Federal government in order to make recommendations to the President, as required by the Energy Policy and Conservation Act (EPCA) Section 381(a)(2)) concerning the development of a 10 year building plan for energy conservation in Federally owned and leased facilities.

Mr. DINGELL. Mr. Oberlander.

TESTIMONY OF GEORGE H. F. OBERLANDER

Mr. DINGELL. Mr. Oberlander, do you have a prepared statement, sir?

Mr. OBERLANDER. Yes, I do Mr. Chairman. I have two statements, one a more fully detailed statement for the record which has a number of attachments and the summary statement I would like to read, if I may.

Mr. DINGELL. Without objection, we will insert your longer, formal statement into the record and we will recognize you for reading the briefer summary thereof.

The Chair does ask you, is your long statement the truth?

Mr. OBERLANDER. Yes, it is.

Mr. DINGELL. Very well.

Mr. OBERLANDER. I am pleased to testify on behalf of David M. Childs, the Chairman of the Commission, in response to your inquiries with respect to the GSA proposal to relocate part of the functions of the Federal Energy Administration to the privately constructed new office building on square 666 at Buzzard Point, SW. A detailed statement submitted for the record provides the committee with the planning background for the South Capitol Street-Buzzard Point area, including recent planning activities.

The Commission is the central planning agency for the Federal Government in the National Capital Region. Among its principal functions are the preparation and adoption of Federal elements—and the Federal interest review of local elements—of the comprehen-

sive plan for the National Capital. In addition, the National Capital Planning Act of 1952 requires Federal and District of Columbia agencies, prior to the preparation of construction plans for proposed developments or buildings or to commitments for the acquisition of land, to consult with the Commission in the preparation of such plans and programs. Unfortunately—and of particular relevance to this hearing—the Planning Act does not require review by the Commission of the proposed acquisition of leased space by the Federal and District governments.

Let me now respond to the subcommittee's questions.

The first question raised in Chairman Dingell's letter of December 8 asked the Commission's position in regard to the contention of GSA that, notwithstanding section 2(a)(7) of Executive Order 11512, "it was not necessary to GSA to coordinate the project with the National Capital Planning Commission * * *". We disagree.

As the central planning agency for the Federal Government in the National Capital region, NCPC is "a regional comprehensive planning" agency within the meaning of section 2(a)(7). The statutory definition of the "National Capital" establishes the regional focus of the Commission: "the 'National Capital' means the District of Columbia and territory owned by the United States within the environs." The "environs" consist of Montgomery and Prince Georges Counties, Arlington, Fairfax, Prince William, and Loudoun Counties and all cities within these counties.

The Commission's comprehensive planning responsibilities have been described above. It is clear that the Commission's function, to use the terms of section 2(a)(7) of the Executive Order, is comprehensive planning; its scope is regional. Parenthetically, the Office of Management and Budget recognizes the Commission's regional planning responsibilities by prescribing a regional referral-type role for NCPC in circular A–95 (revised) for projects involving land or water use and development or construction in the National Capital region.

As the history of the building at Buzzard Point indicates, GSA did in fact consult with NCPC. A copy of the Commission's earliest response dated April 3, 1975, is attached; it urged GSA not to lease the building.

The June 3, 1975, memorandum by R. I. Nixon, of GSA, states that Mr. Conrad, the Commission's Executive Director, "expressed disappointment in the decision" by GSA to lease space in square 666. That very day, a letter over Mr. Conrad's signature was sent to Mr. Sampson informing him of the Commission's resolution opposing the leasing of space in square 666 adopted at the May 29, 1975, meeting of the Commission. That Mr. Conrad never agreed to such leasing should be clear. The Commission was informed of the decision when it received the June 3, 1975, GSA news release.

The Executive Director's response on April 3 to a GSA inquiry should not be construed as "an opportunity to object or agree." NCPC was not given an opportunity to respond adequately or in a timely fashion. As GSA states in its letter of July 22, 1975, to OMB: "The time to have limited or omitted consideration of Buzzard Point property would have been before the Solicitations for Offers were

distributed," that is on December 9, 1974. Yet GSA did not contact NCPC until March 1975 which, by GSA's admission, was a time too late for comment by NCPC to be meaningful.

The third question seeks the Commission's views on a statement in the environmental assessment which implies that "NCPC has made many plans for the area, none of which have [sic] ever been acted upon."

If "acted upon" means "adopted," the implication is incorrect because NCPC has adopted at various times elements of the comprehensive plan for the guidance of Federal agencies—the most recent plan adopted in part in 1967 was not included in the planning history in the Assessment.

If, however, "acted upon" means "implemented" or "carried to fruition," the implication is correct because NCPC's statutory function is plan preparation and not implementation. Implementation of these plans is possible only if Federal agencies follow the comprehensive plan. GSA had an opportunity to act consistent with the comprehensive plan but chose instead to lease the building at Buzzard Point.

With respect to the question of the socioeconomic impact of the building, two analyses are required, that is, the impact on the immediate area—Buzzard Point/South Capitol Street area—and the impact on a larger area extending to the downtown area. The Buzzard Point/South Capitol Street area is basically an industrial area with few residences. The interagency task force on South Capitol Street/Buzzard Point determined the population (1970 census) to be 3,974, living in 1,155 total housing units. Of the total population, 2,175, or more than 50 percent, were dependent—that is, under 18 or over 62.

The building will have little, if any, social impact on this population. For example, no relocation of existing residents was required; the area's schools will probably not be impacted. The economic plant will be minimal. Since the Federal employees to be located in the building will be existing Federal employees transferred from other locations, no new jobs for the area's residents will be created.

To the extent this building serves as a catalyst for further office building in the area—increasing land values as a result—the existing industries in the area may be driven out. These industries—scrap yards, warehousing, fuel storage, power generation and distribution—may not be allowed or welcomed in other parts of the District. The office building could, therefore, in the long run, have an adverse impact on the existing economy of the area.

The building also could have an adverse impact on the redevelopment of the area by using a disproportionate share of the limited available traffic capacity of the area's streets.

In terms of the social economic impact of the building on the downtown area, the building would have an adverse impact on the economic structure of downtown. Office uses at Buzzard Point contribute to office sprawl and create competition with the downtown office area. They also compete with other existing or programed employment areas, such as Capitol Hill, the Southwest Employment Center, Fort McNair, the Southeast Federal Center, and the Navy Yard.

In addition, new development should be located to encourage maximum use of the multibillion dollar public investment in Metrorail. Locating offices far from Metro stations reduces the potential use of Metrorail and, in the long run, increases Metro's cost.

A detailed statement which includes a discussion of the planning background of South Capitol Street/Buzzard Point and recent planning activities in the area has been submitted for the record.

In conclusion, I would like to read the Commission's resolution on South Capitol/Buzzard Point—Square 666 adopted May 29, 1975:

Whereas, Square 666 in the District of Columbia, bounded by the Anacostia River, T Street, Water Street, and U Street, S.W., is part of an area designated "Regional/National Park Area" by the General Land Use Objectives: 1970/1985 element of the Comprehensive Plan for the National Capital;

Whereas, Square 666 has been designated as part of the National Open Space System by the Parks and Recreation Facilities Chapter of the Comprehensive Plan for the National Capital;

Whereas, the draft report of the Interagency Task Force on South Capitol Street/Buzzard Point recommends the acquisition of Square 666 by the National Park Service and its development as part of the National Park Open Space System;

Whereas, the owner of Square 666 has proposed the construction of a high-rise office building on that square;

Whereas, the General Services Administration recently solicited bids for additional leased office space and received the lowest bid thereon from the owner of this square; and

Whereas, acceptance of such bid may facilitate the construction of the building, which would be inconsistent with the Comprehensive Plan and the recommendation of the Interagency Task Force: be it

Resolved, That the National Capital Planning Commission finds that the construction of an office building on Square 666 contravenes the Comprehensive Plan for the National Capital adopted by the Commission and would be inconsistent with the sound and orderly development of the Nation's Capital and with the Federal interest in creating continuous public open space along the Potomas and Anacostia Rivers in the District of Columbia: be it further

Resolved, That the Commission urges the General Services Administration not to accept any bid for leased space in an office building proposed to be constructed on Square 666: be it further

Resolved, That the General Services Administrationis requested to institute procedures for consultation with the Commission prior to the solicitation of proposals for the leasing of space to the Federal Government in the National Capital Region in order to insure that such solicitations conform to the Comprehensive Plan for the National Capital and to other plans and policies for the sound and orderly development of the National Capital.

I welcome any questions that the committee may have.

Mr. DINGELL. Without objection, the documents referred to in your earlier testimony will be inserted in the record in full.

[Mr. Oberlander's prepared statement and attachments follow:]

STATEMENT OF GEORGE H. F. OBERLANDER, DIRECTOR, FEDERAL REVIEW DIVISION, ON BEHALF OF DAVID M. CHILDS, CHAIRMAN, NATIONAL CAPITAL PLANNING COMMISSION

Mr. Chairman and members of the Committee: My name is George Oberlander. I am the Director of Federal Review for the National Capital Planning Commission. Accompanying me today is Terrence M. O'Connor, Assistant General Counsel. I am pleased to testify on behalf of David M. Childs, the Chairman of the Commission, in response to your inquiries with respect to the GSA proposal to relocate part of the functions of the Federal Energy Administration to the privately constructed new office building on Square 666 at Buzzard Point, S.W. In addition, this statement provides the Committee with the planning history for the South Capitol Street-Buzzard Point Area and the Commission's policy statement on Square 666 in which the Commission determined that the

office building is inconsistent with the Comprehensive Plan for the National Capital.

The Commission is the central planning agency for the Federal government in the National Capital Region. Among its principal functions are the preparation and adoption of Federal elements—and the Federal interest review of local elements—of the Comprehensive Plan for the National Capital. In addition, the National Capital Planning Act of 1952 requires Federal and District of Columbia agencies, prior to the preparation of construction plans for proposed developments or buildings or to commitments for the acquisition of land, to consult with the Commission in the preparation of such plans and programs. Unfortunately—and of particular relevance to this hearing—the Planning Act does not require review by the Commission of the proposed acquisition of leased space by the Federal and District governments.

RESPONSES TO SUBCOMMITTEE'S QUESTIONS

The first question raised in Chairman Dingells' letter of December 8 asked the Commission's position in regard to the contention of GSA that, notwithstanding Section 2(a)(7) of Executive Order 11512 "it was not necessary for GSA to coordinate the project with the National Capital Planning Commission * * *". We disagree.

As the central planning agency for the Federal government in the National Capital Region, NCPC is "a regional comprehensive planning" agency within the meaning of Section 2(a)(7). The statutory definition of the "National Capital" establishes the regional focus of the Commission: "the 'National Capital' means the District of Columbia and territory owned by the United States within the environs." The "environs" consist of Montgomery and Prince George's Counties, Arlington, Fairfax, Prince William, and Loudoun Counties and all cities within these counties.

The Commission's comprehensive planning responsibilities have been described above. It is clear that the Commission's function, to use the terms of Section 2(a)(7) of the Executive Order, is comprehensive planning; its scope is regional. Parenthetically, the Office of Management and Budget recognizes the Commission's regional planning responsibilities by prescribing a regional referral-type role for NCPC in Circular A-95 (Revised) for projects involving land or water use and development or construction in the National Capital Region.

As the history of the building at Buzzard Point indicates, GSA did in fact consult with NCPC. A copy of the Commission's earliest response dated April 3, 1975 is attached; it urged GSA not to lease the building.

The June 3, 1975 memorandum by R. I. Nixon of GSA (copy attached) states that Mr. Conrad, the Commission's Executive Director, "expressed disappointment in the decision" by GSA to lease space in Square 666. That very day, a letter over Mr. Conrad's signature was sent to Mr. Sampson informing him of the Commisison's resolution opposing the leasing of space in Square 666 adopted at the May 29, 1975 meeting of the Commission. That Mr. Conrad never agreed to such leasing should be clear. The Commission was informed of the decision when it received the June 3, 1975 GSA news release.

The Executive Director's response on April 3 to a GSA inquiry should not be construed as "an opportunity to object or agree". NCPC was not given an opportunity to respond adequately or in a timely fashion. As GSA states in its letter of July 22, 1975 to OMB: "The time to have limited or omitted consideration of Buzzard Point property would have been before the Solicitations for Offers were distributed", i.e. on December 9, 1974. Yet GSA did not contact NCPC until late March, 1975 which, by GSA's admission, was a time too late for comment by NCPC to be meaningful.

The third question seeks the Commission's views on a statement in the Environmental Assessment which implies that "NCPC has made many plans for the area, none of which have [sic] ever been acted upon."

If "acted upon" means "adopted", the implication is incorrect because NCPC has adopted at various times elements of the Comprehensive Plan for the guidance of Federal agencies (the most recent plan adopted in part in 1967 was not included in the planning history in the Assessment). If, however, "acted upon" means "implemented" or "carried to fruition", the implication is correct because NCPC's statutory function is plan preparation and not implementation. Implementation of these plans is possible only if Federal agencies follow the Com-

prehensive Plan. GSA had an opportunity to act consistent with the Comprehensive Plan but chose instead to lease the building at Buzzard Point.

With respect to the question of the socio-economic impact of the building, two analyses are required, i.e. the impact on the immediate area (Buzzard Point/South Capitol Street area) and the impact on a larger area extending to the downtown area. The Buzzard Point/South Capitol Street area is basically an industrial area with few residences. The Interagency Task Force on South Capitol Street/Buzzard Point determined the population (1970 Census) to be 3,974, living in 1,155 total housing units. Of the total populatioin, 2,175, or more than 50 percent, were dependent (i.e., under 18 or over 62).

The building will have little, if any, social impact on this population. For example, no relocation of existing residents was required; the area's schools will probably not be impacted. The economic impact will be minimal. Since the Federal employees to be located in the building will be existing Federal empoyees transferred from other locations, no new jobs for the area's residents will be created.

To the extent this building serves as a catalyst for further office building in the area (increasing land values as a result) the existing industries in the area may be driven out. These industries (scrap yards, warehousing, fuel storage, power generation and distribution) may not be allowed or welcomed in other parts of the District. The office building could, therefore, in the long run, have an adverse impact on the existing economy of the area.

The building also could have an adverse impact on the redevelopment of the area by using a disproportionate share of the limited available traffic capacity of the area's streets.

In terms of the socio-economic impact of the building on the downtown area, the building would have an adverse impact on the economic structure of downtown. Office uses at Buzzard Point contribute to office sprawl and create competition with the downtown office area. They also compete with other existing or programmed employment areas, such as Capitol Hill, the Southwest Employment Center, Ft. McNair, the Southeast Federal Center, and the Navy Yard.

In addition, new development should be located to encourage maximum use of the multi-billion dollar public investment in Metrorail. Locating offices far from Metro stations reduces the potential use of Metrorail and, in the long run, increases Metro's cost.

PLANNING BACKGROUND OF SOUTH CAPITOL STREET-BUZZARD POINT

As part of the Commission's continuous planning effort, attention has been given for some time to the South Capitol Street corridor and the immediate adjoining areas. At about the time that redevelopment in the Southwest Urban Renewal Area was nearing completion and proposals were being made for the rebuilding of the Naval Weapons Plant as the Southwest Federal Center, new interest developed in the areas South Capitol Street and Buzzard Point) between these two projects. Here, at one of the most important gateways to the Nation's Capital, were rundown row-houses, warehouses, open storage yards, oil tanks and poorly maintained vacant lots.

As development proceeded and the office portions within the Southwest Urban Renewal Area became increasingly occupied, it appeared necessary to identify nearby areas which could accommodate additional office demand. The first studies of the South Capitol Street-Buzzard Point areas were undertaken in the early 1960's. The South Capitol Street corridor was then conceived of as a new Federal office precinct. Simultaneously, the adjacent Buzzard Point area was seen to have good residential possibilities, particularly if designed to capitalize on the waterfront location.

During 1965, the rebuilding of the South Capitol Street corridor and Buzzard Point was proposed by the Commission. The Commission's "Proposed Physical Development Policies for Washington, D.C." recommended that South Capitol Street become a spine of Federal buildings which would constitute, along with the planned Federal development at the Weapons Plant to the east and part of Buzzard Point to the west, a Federal quadrangle employing as many as 50,000 persons.

"The Proposed Comprehensive Plan for the National Capital" (February 1967) reiterated the development policies for the South Capitol Street contained in the 1965 report. The blocks on either side of South Capitol Street,

from Eye to P Streets, were proposed as a Federal complex accommodating 55,000 employees. South of P Street, a large boat landing-basin was proposed. To the west, the Buzzard Point area was to become a new residential community.

Since GSA advised the Commission that it did not foresee the need for large amounts of Federal space in the proposed South Capitol Street Federal complex, the Commission modified the proposal when it adopted the "General Land Use Objectives: 1970/1985" element of the Comprehensive Plan for the National Capital. It reduced the office building sector (which was no longer exclusively Federal) to the blocks between Eye and M Streets and designated the remainder of the South Capitol Street frontage, between M and P Streets, for predominantly residential development at a density of over 120 dwelling units per net acre. The marina site, at the end of South Capitol Street, remained part of the overall plan as part of the Regional/National park system. Buzzard Point, with the exception of two large blocks designated for a consolidated PEPCO facility, was to be developed for residential use at a density of 60 to 120 dwelling units per net acre. A more detailed statement on the planning history for this area is attached.

RECENT PLANNING ACTIVITIES

In February 1973, as a result of several zoning applications within the general area, an Interagency Task Force, composed of representatives of various District and Federal agencies, was established to produce a detailed overall plan for the area. In response to community concerns, the planning area was expanded to include both the South Capitol Street corridor and the entire Buzzard Point area. Attached is the Alternative Strategies developed by the Interagency Task Force (dated March 6, 1975) for a plan for the South Capitol Street-Buzzard Point area of the District of Columbia.

BOARD OF ZONING ADJUSTMENT APPLICATIONS FOR SQUARE 666 AND SQUARE 613

In order for a private developer to obtain a building permit for an office structure in conformance with the existing zoning, the developer must apply to the District of Columbia Board of Zoning Adjustment for approval of any roof structures on the building. It is in this manner that the Planning Commission becomes formally aware of a private developer wishing to apply for a District building permit to construct an office building.

In March 1971, Mr. Edward Mernone made application for a roof structure and reduction in the parking requirement for an office building to be located in Square 613 at the intersection of First and V Streets, S.W. This building, now named the Transpoint Building, is currently leased by the General Services Administration and occupied by the Department of Transportation. The construction of that building, although in conformance with the general industry zoning, is not in conformance with the land use objectives of the Comprehensive Plan for the National Capital. When the Commission was made aware that the General Services Administration was interested in leasing a part or all of the Transpoint Building, we informed representatives of GSA of the Commission's land use policies in this area and asked them not to enter into any lease with regard to this building. We were informed that the negotiations for the lease had already been completed and that the favorable rental was to the benefit of the Federal government; since the owner had a building permit, such local approval was all that was necessary. We were assured by GSA that in the event it was interested in additional leased facilities in this area, it would notify us to that effect prior to any negotiations. In addition, a small staff committee, which included the Executive Director of the Commission, was established to review at the earliest possible time any such lease interest. This committee has never met.

In July 1972, the Commission became aware of another Board of Zoning Adjustment application for Square 666 at the intersection of T and Half Streets, S.W., filed by the Maloney Concrete Company ftor a 25 percent reduction in the parking requirements for this building and the approval of the roof structures. This application was withdrawn before the Board of Zoning Adjustment and refiled in February 1976. The Commission learned of the GSA leasing of the Square 666 building in a news release. On May 29, 1975,

the Commission adopted the following Resolution on South Capitol Street/Buzzard Point—Square 666:

"Whereas, Square 666 in the District of Columbia, bounded by the Anacostia River, T Street, Water Street, and U Street, S.W., is part of an area designated "Regional/National Park Area" by the General Land Use Objectives: 1970/1985" element of the Comprehensive Plan for the National Capital;

"Whereas, Square 666 has been designated as part of the National Open Space System by the Parks and Recreation Facilities Chapter of the Comprehensive Plan for the National Capital;

"Whereas, the draft report of the Interagency Task Force on South Capitol Street/Buzzard Point recommends the acquisition of Square 666 by the National Park Service and its development as part of the National Park Open Space System;

"Whereas, the owner of Square 666 has proposed the construction of a high-rise office building on that square;

"Whereas, the General Services Administration recently solicited bids for additional leased office space and received the lowest bid thereon from the owner of this square; and

"Whereas, acceptance of such bid may facilitate the construction of the building, which would be inconsistent with the Comprehensive Plan and the recommendation of the Interagency Task Force.

"*Be it resolved,* That the National Capital Planning Commission finds that the construction of an office building on Square 666 contravenes the Comprehensive Plan for the National Capital adopted by the Commission and would be inconsistent with the sound and orderly development of the Nation's Capital and with the Federal interest in creating continuous public open space along he Potomac and Anacostia Rivers in the District of Columbia.

"*Be it further resolved,* That the Commission urges the General Services Administration not to accept any bid for leased space in an office building proposed to be constructed on Square 666.

"*Be it further resolved,* That the General Services Administration is requested to institute procedures for consultation with the Commission prior to the solicitation of proposals for the leasing of space to the Federal government in the National Capital Region in order to insure that such solicitations conform to the Comprehensive Plan for the National Capital and to other plans and policies for the sound and orderly development of the National Capital."

Attached is the Commission's statement before the Board of Zoning Adjustment on the application for reduction of parking and approval of the roof structures for Square 666.

In conclusion, we thank the Committee for this opportunity to present the Commissions position on this matter.

RESOLUTION ON SOUTH CAPITOL STREET/BUZZARD POINT—SQUARE 666

Whereas, Square 666 in the District of Columbia, bounded by the Anacostia River, T Street, Water Street, and U Street, S.W., is part of an area designated "Regional/National Park Area" by the General Land Use Objectives: 1970/1985" element of the Comprehensive Plan for the National Capital;

Whereas, Square 666 has been designated as part of the National Open Space System by the Parks and Recreation Facilities Chapter of the Comprehensive Plan for the National Capital;

Whereas, the draft report of the Interagency Task Force on South Capitol Street/Buzzard Point recommends the acquisition of Square 666 by the National Park Service and its development as part of the National Park Open Space System;

Whereas, the owner of Square 666 has proposed the construction of a high-rise office building on that square;

Whereas, the General Services Administration recently solicited bids for additional leased office space and received the lowest bid thereon from the owner of this square; and

Whereas, acceptance of such bid may facilitate the construction of the building, which would be inconsistent with the Comprehensive Plan and the recommendation of the Interagency Task Force.

Be it resolved, That the National Capital Planning Commission finds that the construction of an office building on Square 666 contravenes the Comprehensive Plan for the National Capital adopted by the Commission and would be inconsistent with the sound and orderly development of the Nation's Capital and with the Federal interest in creating continuous public open space along the Potomac and Anacostia Rivers in the District of Columbia.

Be it further resolved, That the Commission urges the General Services Administration not to accept any bid for leased space in an office building proposed to be constructed on Square 666.

Be it further resolved, That the General Services Administration is requested to institute procedures for consultation with the Commission prior to the solicitation of proposals for the leasing of space to the Federal government in the National Capital Region in order to insure that such solicitations conform to the Comprehensive Plan for the National Capital and to other plans and policies for the sound and orderly development of the National Capital.

INTERAGENCY TASK FORCE ON SOUTH CAPITOL STREET/BUZZARD POINT

Report to Sponsoring Agencies: D.C. Department of Highways and Traffic; D.C. Municipal Planning Office; D.C. Office of Housing and Community Development; D.C. Public Schools; Military District of Washington; National Capital Planning Commission; National Park Service; Redevelopment Land Agency; and Washington Metropolitan Area Transit Authority

Subject: Planning Rationale for Designation of Square 666 as Public Open Space

The current proposal for development of an office building on Square 666 is highly inappropriate and contrary to previously adopted planning policies as well as to more detailed policies being formulated at this time. Located within the boundaries of the Sectional Development Plan Area as proposed by the Interagency Task Force, Square 666 is currently zoned M (general industry) which in addition to manufacturing uses permits office uses.

Office use at this location is inconsistent with the Comprehensive Plan for the National Capital adopted by the National Capital Planning Commission. This plan designates the square as part of the National Open Space System which includes a marina located at the foot of the Frederick Douglass Memorial Bridge. Office use on Square 666 is also inconsistent with more detailed land use recommendations now being formulated for the entire South Capitol Street/Buzzard Point Area by the Interagency Task Force, a joint District and Federal agency effort. This effort is being conducted in consultation with a Citizens Advisory Board composed of area residents and a Property Owners Committee composed of area property owners. It was initiated on February 14, 1973 and is expected to beconcluded in the near future.

On March 6, 1975 the Interagency Task Force made an informational presentation to the Planning Commission of three alternative land use and zoning plans proposed for the area. These alternatives are currently being circulated for review and comment, and within the next few months the Task Force is expected to recommend a plan for the area. Although final recommendations have not been formulated, a Task Force position on the proper use of Square 666 is unequivocal: all three land use alternatives recommend development of this square as park and open space.

Serious traffic problems and associated environmental problems would be caused by office development. Information from a building permit application filed in January 1975, indicates that office development on Square 666 would generate as many as 3,000 employees and 665 parking spaces. According to a traffic study done by the Task Force, the area south of M Street (including Square 666) has special traffic problems, because it is isolated by the river, Fort McNair and the Navy Yard. Consequently, there is no physical connection with the local street system. Access via local service roads into the area is also likely to be restricted, since it may interfere with the vehicle approach pattern planned for the Douglass Memorial Bridge. Furthermore, there is no rail rapid transit station proposed to serve the area. However, the isolation of the area encourages development of recreational and supportive retail uses, since these uses create a more 24-hour type population not dependent on rush hour accessibility.

Traffic trips generated by the proposed building would reduce the available limited arterial traffic capacity for redevelopment recommended in other parts of the South Capitol Street/Buzzard Point area. Construction of the proposed office building would therefore jeopardize the city's chances of redeveloping a larger area that has tentatively been marked for such redevelopment. This larger area is vital to the city in that it would provide for much needed residential construction. As is generally recognized, office use absorbs a greater portion of available traffic capacity than does residential development. An office building at the proposed location could mean the loss of vital development opportunities for the city because of traffic constraints. In all three alternatives proposed by the Task Force, provision is made for limited office uses in a more appropriate location along South Capitol Street in order to serve the predominantly residential development proposed.

Offices on Square 666 would contribute to office sprawl and would cause damaging competition with the Central Employment Area (which has a significant amount of unutilized development potential within the existing zoning envelope) and with other existing or programmed employment areas. These areas include Capitol Hill, the Southwest Employment Center, Fort McNair, the Southeast Federal Center and the Navy Yard.

In addition, adopted public policies encourage office development in selected areas served by the rapid rail system. Major public investments are being made to insure accessibility. New office construction should be so located as to maximize this investment. Locating offices far from Metro stations reduces the potential use and in the long run makes the Metro system more costly.

An office building at the proposed remote location would not apparently be feasible unless supported with a government lease. The owner of the property has been tentatively planning to build an office building for the past several years as applications for building permits date back to 1972. Construction apparently has not gone forward because of the lack of a tenant.

A low bid for a government lease is possible because land in the area of the proposed office building is priced for industrial uses in accordance with its M zoning classification. Land in the downtown area, which would be more suitable for high density office construction, is priced higher than land priced principally for light industrial use. Developers seeking to develop in programmed office employment areas are put to an unfair disadvantage when competing with developers who build in areas that have not been programmed for such use and who consequently have lower land costs.

Short-run economy should not be the overriding factor influencing decisions regarding leased space. Impact on the city and effect on the employees to be located at the facility should be major considerations.

While the proposed draft plan calls for eliminating most of the existing M or CM zoning, there are two areas where CM or M zoning is being recommended. These areas are located south of Potomac Avenue, S.W. and north of I Street, S.E. This zoning is recommended because of the legitimate need for land for limited heavy commercial purposes in this part of the city and for relocation sites for small industrial concerns located in other parts of the Plan Area. For example, PEPCO maintains a major generating plant below Potomac Avenue, and it is recommended that the Metro Bus Storage Facility be relocated from South Capitol and N Streets, S.E. to north of I Street, S.E. Random development of office space in these areas designed for specific heavy commercial purposes would be detrimental to the overall redevelopment of the area and contrary to plan goals of building a viable and balanced community.

To support these proposed plan goals the Interagency Task Force has recommended a change in the text of the District of Columbia Zoning Regulations which would reduce the potential for office development in M and CM zone districts. Because of the cumulative nature of the District's Zoning Regulations any commercial use permitted in the C-4 zone district is allowed in the M or CM districts at the same density as uses first permitted in those districts. This thas produced a situation where land that is essentially intended to be used for heavy commercial, light manufacturing or other industrial uses could be developed for office use. The impact of an office building can be very different in contrast to that of heavy commercial or light industrial use. Moreover, land that is essentially intended to be used for heavy commercial and light industrial purposes should not be in the position of competing with land intended for office use.

In addition to the planning considerations discussed above, for the past year NCPC staff have been involved in a detailed study of the entire length of shoreline of the Potomac and Anacostia Rivers within the District of Columbia. As a result a staff draft has been prepared entitled "Proposed Shoreline Acquisition and Development Policies and Programs." This staff proposal is undergoing final review at the present time. Regarding Square 666 the proposal recommends acquisition by the National Park Service and development as part of the National Open Space System.

In brief, uses allowed under existing zoning and office uses currently proposed for Ssuare 666 are not compatible with adopted basic policies contained in the Comprehensive Plan for the National Capital, detailed land use and zoning policies currently being formulated through the Interagency Task Force for the South Capitol Street/Buzzard Point Area of the District of Columbia, and proposed shoreline acquisition and development policies and programs developed in draft form by NCPC staff. Appropriate use of the parcel is its acquisition and development as part of the National Open Space System, thus providing for public access to potential waterfront amenities.

PUBLIC BUILDINGS SERVICES,
Washington, D.C., June 3, 1975.

Attention: Special Assistant to the Commissioner—PN
Subject: Buzzard Point Building—

ADMINISTRATOR: As directed, I have made contact with the four persons below with the following results.

Ben Gilbert, Director, D.C. Office of Planning, regrets that he did not fully understand all that was involved in the matter. Being more aware now he realizes that he was not wise in sending the letter or approving the resolution. He said he would not do so if he had it to do over. Also, he now feels that with the assurances given on the set-back and easement the community will actually be benefited.

Andre Buckles, Staff Assistant, Domestic Council, understands the decision perfectly and were he in the same position and with the same circumstances would do exactly the same thing. He feels GSA has done an outstanding job coordinating its affairs with the District of Columbia. He thanks the Administrator for keeping him informed.

Julian Dugas, City Administrator, is glad to hear of the decision and would be disappointed if it had been otherwise. He said he could speak for the Mayor in the same respect.

Charles Conrad, Executive Director, National Capital Planning Commission, expressed disappointment in the decision, but understands the circumstances under which it was made. He hopes that with the development of a Federal Employment Plan for the National Capital Area similar situations may be avoided. I gave him your assurance that we would continue to work closely with him to that end.

R. I. NIXON,
Special Assistant to the Commissioner
for National Capital Area Affairs.

HISTORY

The South Capitol Street/Buzzard Point Area of the city is a dramatic example of unfulfilled intentions. The original plan for Washington developed by Pierre L'Enfant in 1791 envisioned the area—with its 130 foot wide South Capitol Street leading from the banks of the Anacostia River to the Capitol, its mercantile establishment on the canal system and its proposed great plaza and major municipal center at South Capitol and G Streets in the vicinity of Garfield Park—as a major focal point of the city. It visualized a strong residential character for the Buzzard Point neighborhood, predominately oriented to mercantile and shipping activity areas along the river, thereby harmoniously interrelating residential and commercial uses. The plan expressed two important relationships: first, it provided for a specific and important rela-

tionship between the monumental city and the river; secondly, it provided for a harmonious relationship between the residential/commercial city and the river.

Further planning for the area was directed primarily toward efforts to dredge the river channel and improve the canal; however, by 1900 the canal was abandoned and filled. Shortly thereafter the 1902 McMillan Plan represented new basic planning for the area. Ignoring the municipal center/mercantile feature suggested by L'Enfant, this Plan accepted further extensions of railroad connections across the area. However, the McMillan Commission was more interested in the waterfront districts and the strengthening of commercial activity there. In order to accomplish this they proposed the development of a major commercial quay and elevated park drive extending along the shoreline from James Creek (adjacent to Fort McNair) to Massachusetts Avenue with the major portion oriented to a section of Potomac Avenue between South Capitol Street and the Navy Yard.

A review of the first zoning map of the city shows that the area was zoned in 1920 to accommodate industrial uses. Industrial zoning has existed there since that time.

National Capital Planning Commission involvement in the area began in 1928 with the publication of the Potomac Parks Plan by the Commission, then known as the National Capital Park and Planning Commission. This Plan proposed that the area should contain one of the three principal commercial waterfront districts, the other two being Georgetown and Alexandria. Moreover, in special plans to support this commercial emphasis the Garfield Park Area (proposed site of the municipal center in the L'Enfant Plan) was proposed to be developed as the city's major railroad freight yard, thus making it comparable to the major railroad passenger handling facility located at Union Station.

In 1950 the Commission published the Comprehensive Plan for the National Capital and its Environs, which anticipated major industrial development in the area. This plan also incorporated the Southwest Urban Renewal Program to the west.

As development proceeded office portions within the Southwest Urban Renewal Area became increasingly occupied and use of the Weapons Plant site was reevaluated. It appeared necessary to identify nearby areas which could accommodate additional office demand and consequently new studies of the South Capitol Street/Buzzard Point and Weapons Plant Area were undertaken by the National Capital Planning Commission in the early 1960's. Restoring the Capitol-river connection of the L'Enfant Plan was considered possible through the development of a new Federal office precinct in the South Capitol Street Corridor. Simultaneously, the adjacent area was seen to have good residential possibilities, particularly if designed to capitalize on the development of an organic relationship with the waterfront.

In 1965 the rebuilding of the South Capitol Street Corridor and Buzzard Point was proposed by the National Capital Planning Commission. The NCPC report, Proposed Physical Development Policies for Washington, D.C., recommended that South Capitol Street become a spine of Federal Bhildings which would constitute, along with the planned Federal development at the Weapons Plant to the east and part of Buzzard Point to the west, a Federal quadrangle employing as many as 50,000 persons. It was proposed that residential development be laced through and around these Federal centers.

Subsequent planning efforts have expressed a basic continuity with the 1965 proposed policies. However, emphasis has shifted to favor less intense office development and more extensive residential development. The proposed Comprehensive Plan for the National Capital (February, 1967) reiterated the development policies for the South Capitol Street Corridor contained in the 1965 report. From Eye to P Streets the blocks on either side of South Capitol Street were proposed as a Federal complex accommodating 25,000 employees. South of P Street a large boat landing-basin was proposed in lieu of the 1965 proposal for a quay/plaza at the foot of South Capitol Street. West of South Capitol Street the Buzzard Point Area continued to be proposed as a new residential community.

In addition, a Metro line was proposed on an east-west alignment under M Street with a station stop planned at the intersection of M and South Capitol Streets. The transit element was intended to provide a stimulus for new de-

velopment and to relate the South Capitol Street Area to the Downtown physically in the same manner the Capitol dome visually ties that area to Capitol Hill.

Since the General Services Administration did not foresee the need for large amounts of Federal space in the proposed South Capitol Street Federal complex, the National Capital Planning Commission modified its proposal in 1969. This modification, contained in a statement of land use objectives adopted by the National Capital Planning Commission, reduced the office building sector (which was to be no longer exclusively Federal) to the blocks between Eye and M Streets and designated the remainder of the South Capitol Street frontage, between M and P Streets, for predominantly residential development with a density of over 120 dwelling units per net acre. The marina site at the terminus of South Capitol Street remained part of the overall scheme as part of the Regional/National Park system. Buzzard Point, with the exception of two large blocks to accommodate a consolidated PEPCO facility, was to be developed for residential use at a density of 60 to 120 dwelling units per net acre. The area between South Capitol Street and the Weapons Plan was proposed to have a similar residential character.

Circulation of Draft South Capitol Street Sectional Development Plan was authorized by the National Capital Planning Commission on June 29, 1972. This staff document was a more detailed statement of the land use objectives adopted earlier by the National Capital Planning Commission and intended to help provide a vehicle for changing industrial zoned areas to residential areas with some office development. (No action was taken.)

In November, 1971 the District of Columbia Zoning Commission approved a request for a change in zoning from R-4 (low density residential) to R-5-D (high density residential). This property is bounded by South Capitol Street, Half Street, S.W., O and P Streets, S.W.

On February 14, 1973 an Interagency Task Force composed of representatives of various District and Federal agencies was established to produce a detailed overall plan for the area. In response to community concerns the planning area was expanded to include not only the South Capitol Street Corridor studied by the staff of the National Capital Planning Commission in 1972, but the whole of the Buzzard Point Area as it is defined in the current planning effort. The Interagency Task Force has worked with a Citizens Advisory Board and a Property Owners Committee.

In May, 1973 a report titled Planning Framework for the South Capitol Street/Buzzard Point Area of the District of Columbia was prepared for use in detailing a draft plan. This document contained such items as: historical planning background information, suggested general objectives and a suggested outline approach for developing plan content.

In April, 1974 a status report containing the results of the planning effort to that time was published by the Interagency Task Force. It contained organizational information, physical, social and economic data and preliminary proposals. The present report is a further refinement of the effort.

STATEMENT OF GEORGE H. F. OBERLANDER, DIRECTOR OF FEDERAL REVIEW, NATIONAL CAPITAL PLANNING COMMISSION ON APPLICATION OF SOUTHWEST JOINT VENTURE FOR SPECIAL EXCEPTION TO PERMIT A 25 PERCENT REDUCTION OF PARKING OR, IN THE ALTERNATIVE, A VARIANCE FROM THE ACCESSIBILITY REQUIREMENTS OF SECTION 7206.5 OF THE ZONING REGULATIONS AND APPROVAL OF ROOF STRUCTURES, OFFICE BUILDING, WATER STREET BETWEEN T AND U STREETS, S.W. LOT 15, SQUARE 666 (BZA CASE NO. 11977)—FEBRUARY 18, 1976

Mr. Chairman and members of the Board: My name is George H. F. Oberlander and I am Director of Federal Review for the National Capital Planning Commission. I appear in opposition to the application for special exception to permit a reduction of parking or, in the alternative, a variance from the accessibility requirements for parking spaces which would permit the construction of an office building at the premises of Water Street between T & U Streets, S.W., Lot 15, Square 666.

Attached to this statement is the resolution adopted by the Planning Commission on May 29, 1975, in which the Commission determined that the construction of an office building in Square 666 contravenes the Comprehensive

Plan for the National Capital and is inconsistent with the sound and orderly development of the Nation's Capital and with the Federal interest in creating continuous public open space along the Anacostia River in the District of Columbia. The issue before the Board today is not whether an office building should be constructed on this site. However, the Planning Commission believes it imperative for the Board to fully recognize the adverse impact that granting a special exception or a variance would have on the use of the structure proposed to be built and on traffic conditions in the area in the context of the scale of the office building to be constructed.

As you may know, the General Services Administration annuonced on June 3, 1975 that it had contracted to lease a proposed nine-story building in Square 666 to house the new headquarters of the Securities and Exchange Commission. However, on January 3, 1976 the director of the Office of Management and Budget determined that the SEC's Headquarters staff should not be moved to Buzzards Point. Since the Board of Zoning Adjustment has no authority with regard to the occupancy on this site, this statement deals with the requested exception from the schedule of requirements set forth in section 7203.2 and a variance from the accessibility requirements in section 7206.5 of the Zoning Regulations. It is our opinion that informed consideration of the application requires an understanding of the needs of the prospective occupants of the building under construction. To that end, the Commission wrote to the Board on January 28, 1976 suggesting a delay of today's hearing until GSA has determined which Federal agency or agencies will occupy the building. To date GSA has not made such a determination. Accordingly, we renew our request that this hearing be recessed until the Federal tenant or tenants of the building are selected.

MR. CHAIRMAN: In view of the Board's decision to continue the hearing—and without prejudice to the Planning Commission's further procedural rights in this matter—I will present a partial statement identifying the information which we believe essential to a proper decision on this application.

Under current GSA policy about 250 spaces would be leased for employee parking in a building of this size. GSA regulations require that most of these spaces be allotted to car pools. GSA estimates that about 1,000 employees would use these 250 spaces. The average of 4 employees per vehicle would appear to be excessively high in the light of the current average of 1.41 persons per commuting vehicle during the peak hours. An undertermined number of the leased spaces would be used for official vehicles and visitor vehicles or by agency officials whose duties require working hours not conducive to car pooling. With minimal Metrobus service to this isolated site, it is fair to conclude that substantially all employees, whether in carpools or not, will arrive at work by private automobiles. The Municipal Planning Office estimates that the proposed building will accommodate over 2100 employees at a ratio of one space for each 2.3 employees if the number of spaces required by the regulations (910) is provided, or at a ratio of one space for each 3.1 employees (682 spaces) if the 25% reduction in the required parking is granted. These ratios are unattainable in view of the building's location. Further, the Metro rail rapid transit system under construction will offer no relief to dependence on the automobile for access to this site.

A traffic study undertaken by the Inter-Agency Task Force on South Capitol Street-Buzzard Point indicates that the area south of M Street, S.W., (including Square 666) has special traffic problems because it is isolated by the Anacostia River, Ft. McNair and the Navy Yard. Consequently, access into the area is very restricted and the major arterial, South Capitol Street, the only approach to the Douglass Memorial Bridge, is congested over the Anacostia River. Traffic generated from Square 666 would further reduce the already limited arterial traffic capacity required for development of other parts of South Capitol Steet-Buzzard Point area.

The most recent traffic survey undertaken by the D.C. Department of Transportation concurs in the earlier finding that the building "will subject the community to increased traffic." This study, the first phase of a more extensive traffic analysis, also finds that "there is no surplus (traffic) capacity available for, the predominant directional demand".

For these and related reasons, SEC appealed the decision to relocate it to the proposed office building. SEC currently has more than 70,000 visitors each year,

21% of whom come by private automobiles and 69% by taxi cab. The remaining 10% walk or arrive by Metrobus at SEC's current location, which is well served by public transportation. If SEC had been required to occupy the Square 666 building, the percentage of those who arrive by car and cab would have risen to 100%. I cite what might have happened had SEC been assigned to this location to emphasize our strong contention that we cannot intelligently testify on, and you cannot appropriately consider, the application without information about the special characteristics and needs of the Federal occupant or occupants of the building.

In the Board's consideration of this application the zoning regulations identify several criteria for judging the appropriateness for reducing the required parking spaces. Among these criteria are the nature and location of the stuctue, the maximum number of employees, guests, customers, or clients who can reasonably be expected to use the proposed structure at one time, the amount of traffic congestion existing or which the structure can reasonably be expected to create in the neighborhood, the quantity of existing public, commercial, or private parking other than curb parking on the property or in the neighborhood which can reasonably be expected to be available when the structure is in use and the criteria that any modification on the amount of required parking shall be consistent with the spirit and purpose of the regulations.

It is clearly evident that the application of these criteria to this case support only the conclusion that a reduction in the number of required parking spaces is not warranted. With respect to the alternative request for a variance, the applicant has not established a basis upon which a variance can be granted under the regulations or relevant case law. Indeed it is impossible to ascertain from the application the variance which the applicant seeks. Is it to permit the applicant to provide the required parking space by utilizing some or all of the required 14 foot aisle sace in the parking garage? If so, does the applicant intend the use of "attendant parking"? In any event, the parking of 200 automobiles in the aisles would make the garage complete inoperative. A large number of the employees who would come to the site by automobile, may be rquired to use their automobile during working hours and therefore move in and out of the garage frequently. Moreover, single agency and its employees would result in hundreds of individuals attempting—with little success—to enter or leave the garage at the same time.

We respectively recommend that the Board of Zoning Adjustment deny the application. If the number of parking spaces required by the regulations cannot be achieved, the applicant should reduce the total floor space of the proposed office building to an amount which more nearly reflects the intensity of development for which this isolated site is appropriate.

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C., January 28, 1976.

BOARD OF ZONING ADJUSTMENT,
Government of the District of Columbia,
District Building,
Washington, D.C.

Re: BZA Application No. 11977: Application of Southwest Joint Venture

GENTLEMEN: We are in receipt of a copy of a letter requesting that BZA Application No. 11977 be placed on the Board's public hearing agenda for February 18, 1976. This request is based on the previous agreement that a further hearing await the District of Columbia Department of Transportation study of traffic conditions in the area surrounding the subject property. Although the study is not completed, it is our understanding that the Department nevertheless contemplated testifying on the capacity of the existing streets and highway network.

Since the original scheduled hearing of this case November 19, 1975, the prospective major tenant of the building under construction (for which a reduction in the required parking is applied for) has been changed. At that time it was the intention of the General Services Administration to house the new headquarters of the Securities and Exchange Commission in this building. On January 9, 1976 the Federal Office of Management and Budget determined that the Securities and Exchange Commission would not be relocated to this site.

We have been in contact with the General Services Administration to ascertain which other Federal agency might possibly be relocated to this location since the General Services Administration has contracted to lease the building under construction. As of this date, the representatives of the General Services Administration have not been in a position to identify the Federal agency that would possibly be relocated to this site. In order for us to intelligently assess the applicant's request for reduction in the required parking at this location, it is essential that we know the nature, employee grade level and parking characteristics or requirements of the proposed Federal tenant. Since this is not possible at this time, we urge the Board to further delay the hearing on this application until the General Services Administration has notified the Planning Commission of the prospective Federal tenant. Once it is known which Federal agency will be relocated to this site, it will be possible for us to then prepare the testimony necessary to address the issue of whether or not a reduction in the required parking is appropriate.

Sincerely yours,

GEORGE H. F. OBERLANDER,
FOR CHARLES H. CONRAD,
Executive Director.

NATIONAL CAPITOL PLANNING COMMISSION,
Washington, D.C., April 3, 1975.

Mr. ARTHUR F. SAMPSON,
Administrator of General Services,
General Services Administration,
Washington, D.C.

DEAR MR. SAMPSON: This letter is in response to your request for information regarding planning policies for the Buzzard Point Area of the District of Columbia, and specifically these policies related to Square 666 where a building permit has been issued for construction of an office building at 1900 Half Street, S.W.

The Comprehensive Plan for the National Capital designates Square 666 as part of the National Open Space System. Objectives of Comprehensive Plan policies related to the National Open Space System are to expand the inventory of existing open space in public ownership and particularly to have all waterfront properties along the Potomac and Anacostia Rivers within the District of Columbia as a part of the National Open Space System under the jurisdiction of the National Park Service. Square 666 is currently zoned M which in addition to manufacturing uses permits office uses. However, office use at this loction is highly inappropriate and contrary to previously adopted planning policies as well as to more detailed poliices being formulated at this time.

Random office development in the South Capitol Street/Buzzard Point Area and particularly on Square 666 where the building permit application calls for 3,000 employees and 665 parking spaces, could produce serious traffic problems with resulting environmental problems and promote damaging competition with the Central Employment Area and other existing and programmed employment areas. There is no rail rapid transit station proposed to serve the area, and because the area is isolated, vehicular access by both the private and public sector is severely limited. However, the isolation of the area encourages development of residential and recreational uses proposed in the Comprehensive Plan, since these uses create a more 24-hour type population not dependent on rush hour accessibilty. Provision for employment on Square 666 contradicts adopted public policies encouraging office development in the Downtown Area which is highly accessible and has a significant amount of unutilized development potential within the existing zoning envelope.

In brief, proposed office uses in Square 666 are not compatible with basic policies adopted by the Commission and detailed land use and zoning proposals currently being formulated through the Interagency Task Force for the South Capitol Street/Buzzard Point Area of the District of Columbia. This task force was established by Federal and District agencies and trade responsible for forwarding detailed plan recommendations to the Planning Commission and District of Columbia Government. All the alternatives prepared by the Task Force include Square 666 in open space and the adjoining areas in an indus-

trial classification in order to retain some of the existing industries in the area. It is anticipated that in June the Planning Commission will have before it a Sectional Development Plan on the Buzzard Point area an prepared by the Task Force. The recommendations of the Commission will then be forwarded to the District of Columbia Zoning Commission.

It is strongly recommended that the General Services Administration not enter into an agreement leasing office space in a building proposed to be constructed in Square 666.

Sincerely,

CHARLES H. CONRAD,
Executive Director.

Mr. DINGELL. Before the Chair recognizes Mr. David Finnegan, counsel to the subcommittee, for purposes of questions, the Chair would like to ask if you have achieved any cooperative agreement with the General Services Administration with regard to acquisition of property or leasing of property in the area over which you have responsibility?

Mr. OBERLANDER. Well, if the GSA intended to acquire property, the Planning Act of 1952 would require the General Services Administration to submit that proposed acquisition to the Commission for its approval.

Mr. DINGELL. You said to acquire?

Mr. OBERLANDER. That is correct.

Mr. DINGELL. Now, I would like you to tell me what the word "acquire" means.

Mr. OBERLANDER. That is a legal question which I, as a planner——

Mr. DINGELL. To purchase an interest in the land by leasehold, easement, or otherwise.

Mr. OBERLANDER. Well, I will refer that to Terry O'Connor who is an attorney. I can tell you from the planning perspective and from the practice of the Commission, we have not interpreted the acquisition of the lease or the leasing of buildings to be "acquisition of land."

Mr. DINGELL. Well, if I am going to acquire space, I can acquire it by purchase; isn't that right?

Mr. OBERLANDER. I believe so.

Mr. DINGELL. If I am going to acquire space, I can acquire it by lease and I have practically the same rights over the property during the tenure of my lease as I do if I own the property in question, do I not?

Mr. OBERLANDER. I think you are right.

Mr. DINGELL. How is it that you are properly interpreting the statute then if this be so?

Mr. OBERLANDER. Well, the Planning Act was written in 1952 and at that time the majority of Federal space was really in the acquired space. The Congress authorized the Federal agency to acquire land to build Federal buildings.

Mr. DINGELL. I remember, and then we went into that very unfortunate practice of leased purchase.

Well, let me read you the definition of "acquire" from Webster's Seventh New Collegiate Dictionary, which I assume is a respected source.

Acquire. 1. To come into possession of often by some uncertain or unspecified means.

2. To come to have as a characteristic, trait, ability (as by sustained effort or through environmental forces) (an acquired physical characteristic).

The synonym is "get," g-e-t.

Now does that "acquire" limit you to purchase?

Mr. OBERLANDER. Well, I would have to refer to our General Counsel and his interpretation.

Mr. DINGELL. I would prefer to listen to your General Counsel right now.

Mr. OBERLANDER. Terry.

Mr. O'CONNOR. Mr. Chairman, the Planning Act of 1952, section 5, specifically uses the term "commitments for the acquisition of land to be paid for in whole or in part from Federal or District funds."

Mr. DINGELL. How does that exclude leasehold?

Mr. O'CONNOR. The interpretation since 1952 has consistently been that this is the outright acquisition of land.

Mr. DINGELL. Let's get down to simple fact. How am I to assume that you do not have an older, as opposed to correct interpretation? We are discussing here the simple meaning of the word "acquire."

Mr. O'Connor. I believe in a lease the acquisition is of a building if the argument is carried out.

Mr. DINGELL. You are a lawyer. When you lease you acquire not only the building but a lease in the land and within the terms of the lease you acquire the full enjoyment of the property. The building is on land.

Now, am I in error or not? It has been a while since I practiced law, but I remember my old professor of real property made that quite clear to me. Has the law changed since I went to law school?

Mr. O'CONNOR. No, sir.

Mr. DINGELL. Am I right or in error?

Mr. O'CONNOR. I believe you are correct, sir.

Mr. DINGELL. All right. Do you want to correct yourself as to the interpretation? What does "acquire" mean?

Mr. OBERLANDER. Mr. Chairman, I think to try to directly answer you, the interpretation that the Commission has put on that word is an acquisition of land or buildings.

Mr. DINGELL. Well, do you acquire land or buildings by lease?

Mr. OBERLANDER. Again, the interpretation——

Mr. DINGELL. Let me put it this way. We have a problem here. Either you are right in your interpretation of the law or I am wrong in my interpretation of the definition. Now, who is right and who is wrong?

Mr. OBERLANDER. I would like you to be right because the Commission is very much interested in having authority to consult with GSA on the leasing of office space.

Mr. DINGELL. All you have to do is throw a pile of old opinions out the window and go by the dictionary, and I think you are all right.

Mr. Oberlander. In fact, we are preparing legislation to be introduced in the Congress to that effect.

Mr. DINGELL. Well, why is legislation necessary when the dictionary is quite clear? Do you have legislative history that denies you this right?

Mr. OBERLANDER. It has historically——

Mr. DINGELL. Don't tell me about administrative history, let's talk about the English language.

Mr. OBERLANDER. Well, the best that I can answer your question is that our General Counsel has interpreted——

Mr. DINGELL. Don't tell me about your General Counsel. Let's go to Webster. With all respect for your learned Counsel, I must confess that the word "acquire" is a very simple, well understood English word. You can acquire by lease, by purchase of the fee, and you can acquire it by month-to-month tenancy. Am I in error on that assumption?

Mr. OBERLANDER. No; you are quite right.

Mr. DINGELL. Then how can you tell me that your interpretation of the statute is correct? Is there any prohibition with regard to my interpretation in the 1952 statute?

Mr. OBERLANDER. No; I don't believe so. The only answer that I can give is that we believe the intent of the act in 1952——

Mr. DINGELL. Where do you find the intent clearly expressed? I understood that where the language of the statute is quite clear that we do not look behind the language of the statute to get to what the intent of Congress was. Now, am I again in error on this? It is a fairly simple fact.

Mr. OBERLANDER. I agree with you.

Mr. DINGELL. Well, since we are in splendid agreement here, what then remains except for you to interpret your statute in light of simple, ordinary English?

Mr. OBERLANDER. Well, the only response I can give is that the interpretation that we have been giving——

Mr. DINGELL. Let's not talk about ancient interpretations which we agreed do not conform with English. Let us address ourselves more correctly to what is simple English. I think we are in agreement that you did not conform with simple English, or am I in error?

Mr. OBERLANDER. You are not in error.

Mr. DINGELL. Well, I am always glad to be helpful to agencies when they come here before the committee to see that they properly exercise their jurisdiction—as a matter of fact, that is one of the things we are trying to accomplish here with regard to the other agencies.

I want you to ask your very learned Counsel to explain to me the dichotomy between his interpretation of law and his interpretation of English and to present to me, as a result of your appearance here today, an explanation of why you have this curious and arcane interpretation of your statute. Give us some appreciation of how I am to construe English to say that which it does not by reason of long-established Agency interpretation and which is not entered in the dictionary.

Mr. OBERLANDER. I would be very glad to have that in written form.

Mr. DINGELL. It would be much appreciated. We will ask the GAO to give us a ruling on this particular point.

[Correspondence with NCPC follows:]

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C.

Subject: Authority of the National Capital Planning Commission to review the procurement of leased space by the General Services Administration.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives.

You have asked for our views as to whether the procurement of leased space by GSA constitutes an "acquisition of land" within the meaning of Section 5 of the National Capital Planning Act of 1952, as amended (40 U.S.C. 71 *et seq.*) so as to make such leasing activities subject to review by NCPC. We have concluded that the Commission's enabling legislation, as currently drawn, does not provide such authority.

The legislative history provides little guidance to the interpretation of the phrase.[1] The report accompanying the bill is silent on the issue (H.R. Rept. No. 2164, 82d Cong., 2d Sess. (1952)) as are the floor debates. There are no printed hearings on the bill enacted into law.

It is a principle of statutory construction that "information about contemporaneously * * * facts * * * is relevant to a quest for legislative intent. [citation omitted]" Sands, *Sutherland Statutory Construction*, sec. 49.01, 228–9. The most important consideration behind our interpretation is that, at the time of enactment of the Planning Act, over 85 percent of GSA controlled space in the National Capital Region was "owned", presumably in Federal public buildings, compared with less than 15 percent in "leased" space in privately owned facilities. The comparable 1973 figures are 60 percent and 40 percent, respectively. Although data is not readily available for "land" as contrasted with "space", the addition of Federal facilities in the Region not under GSA control (e.g. National Institutes of Health and National Naval Medical Center, Bethesda; Walter Reed Army Medical Center; Beltsville Agricultural Research Center; Andrews Air Force Base; National Park Service lands, including The Mall, East and West Potomac Park, Rock Creek Park, George Washington Memorial Parkway) would substantially increase the percentage of "owned" over "leased". It is clear that the acquisition with which the Act's draftsmen were concerned is the acquisition in fee of sites for public buildings and other Federally owned facilities. To construe the Act to apply to leased space does violence to contemporaneous facts.

Consideration should also be given to a "long-continued contemporaneous and practical interpretation of a statute by the executive officers charged with its administration [since it] constitutes an invaluable aid in determining the meaning of a doubtful statute [citations omitted]" Sands, *Sutherland Statutory Construction*, sec. 49.03, 233. "Where there has been a long-continued administrative interpretation of a statute which has two or more possible reasonable interpretations, the rulings of the administrative body should be controlling [citations omitted]". Sands, *Sutherland Statutory Construction*, sec. 49.04, 235.

The conclusiveness of a contemporaneous and practical interpretation depends on three elements: "(1) that the interpretation originated from a reliable source; (2) that the interpretation was made at or near the time of the enactment of the statute; and (3) that the interpretation has continued for a long period of time and received wide acceptance and following. Where these factors are present * * * the rule serves as one of the most definite and reliable sources of statutory meaning." Sands, *Sutherland Statutory Construction*, sec. 49.04, 235–6.

NCPC, as the agency administering the Planning Act, is a reliable source, Sands, *Sutherland Statutory Construction, sec.* 49.05, 238; the interpretation that leased space is not subject to NCPC review was made shortly after the time of enactment; and the interpretation is of long standing and is generally accepted. In fact, this interpretation is shared by the ranking Minority members of the Senate and House Committees on the District of Columbia for the 94th Congress who introduced legislation to give the Commission authority over leased space.

The question has not been subjected to date to judicial review. Courts, however, in other contexts, have interpreted the phrase "acquisition of land"; see

[1] A statute's ambiguity is not a prerequisite to analysis of legislative history. Sands, *Sutherland Statutory Construction*, sec. 48.01, 182 (4th ed. 1973).

cases cited in *Black's Law Dictionary* 41 (4th ed. 1951); 1A *Words and Phrases*, 556 (Permanent ed. 1964). These definitions do not pertain, however, to government property acquisition and, therefore, are not dispositive.

Focusing on the meaning of "acquire" in terms of government acquisition of real property, it is generally accepted that the power of a governmental body to acquire implies the power to acquire by lease or by fee. *Langley* v. *Police Jury*, 201 So. 2d 300 (La. App. 1967); 10 McQuillin, *Municipal Corporations*, Section 28.10. The theory is that authority to do the greater implies the authority to do the lesser. By analogy, the authority to review acquisition of land in fee could, as we understand you to have suggested, imply the authority to review the acquisition of land by leasehold.

This interpretation is consistent with common law real property theory that a leasehold is in fact an interest in real property, 49 *Am Jur* 2d, Landlord and Tenant, sec. 1, 41 (1970 ed.); and that a lease is a conveyance of real property, 1 *Friedman on Leases*, Sec. 1.1 (1973 ed.). This interpretation is also not dispositive, however, for two reasons.

First, as Friedman explains:

"The theory of a lease as a conveyance * * * fitted in well with the ancient farm lease. The lease was essentially of land; the house was incidental * * *. This theory becomes absurd when applied to the modern urban lease, which is not of land but likely to be of a *space* or part of the space of a upper floor of a building."

Second, it is elementary property law that the leased premises must be identified. 1 *Friedman*, Sec. 3.1. From this identification a determination of what specifically has been obtained by the lease is possible. This requires an examination of the lease in each instance. Friedman says, "The ultimate question is that of intent". (*Id.*) In the case of GSA, to use Friedman's dichotomy, the acquisition is of "space" and not "land". 1 *Friedman*, Sec. 3.1, 20. The U.S. Senate Committee on Public Works Resolution, October 10, 1974, and Prospectus for Proposed Lease, Prospectus Number PDC–75021, indicate that GSA's intent is to not lease the subjacent land but only space, a practice common in private sector leasing of space in shopping centers. 1 *Friedman*, Sec. 3.1, 23. GSA's leasing activities do not involve the acquisition of a leasehold in land but rather the acquisition of a leasehold in space.

For these reasons, we are of the view that Section 5 of the Act does not authorize Commission review of the acquisition of space by lease by GSA in privately owned facilities.

D. H. SHEAR,
General Counsel.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., January 17, 1977.

MR. CHARLES H. CONRAD,
Executive Director,
National Capital Planning Commission,
Washington, D.C.

DEAR MR. CONRAD: Enclosed is a copy of a letter we have sent to the Office of Management and Budget relative to the NCPC's role under section 2(a)(7) of Executive Order 11512.

I have received an undated memorandum from the NCPC's General Counsel relative to my questioning of the NCPC's witness at our December 17, 1976, hearing on Buzzard Point. The memorandum concludes that 40 U.S.C. 71d(a) "does not authorize Commission review of the acquisition of space by lease by GSA in privately owned facilities."

The opinion is not adequate and for this reason I reject it.

The opinion fails to discuss Executive Order 11512 which clearly requires, as the NCPC has previously said, that GSA consult with regional planning bodies. Since home rule, the NCPC is such a body. The Executive Order is binding on the GSA.

The opinion cites no legislative history for its conclusion. Instead, it cites some historical data and concludes from these data that it is "clear" that

Congress was only concerned with fee acquisition at the time of enactment of the 1952 law. No legislative history is cited to show that Congress was even aware of such data or considered these data in enacting the law in 1952. Actually, one can reasonably reach a different conclusion if it is assumed that Congress was aware of these data which showed some GSA leasing, namely that the term "acquisition" was used to cover both fee and lease acquisition.

The opinion states that the NCPC interpreted the law soon after enactment and reached this conclusion, but the date of that interpretation is not cited, nor is a copy thereof provided for our review.

The opinion adds that this narrow view of the NCPC statute is shared by a single Member of Congress who introduced a bill last year on this subject. There is no indication that Congress accepted that view which was apparently derived from correspondence with the General Counsel of NCPC, making this comment somewhat self-serving.

The opinion fails to recognize that the NCPC did, in fact, review the GSA's proposed acquisition of lease space at Buzzard Point.

It fails to discuss the applicability of the National Environmental Policy Act of 1969 to the 1952 law. I expressly asked at our hearing last month that the NCPC consider the 1969 law in preparing this legal opinion. I pointed out that the 1969 law provides that it is "supplementary" to existing statutes and that it requires all agencies to review their policies and procedures to make them conform with the intent and purpose of the 1969 law.

The only cases cited in the entire opinion supports the interpretation I expressed at the hearing. Yet, your General Counsel states that this interpretation is "not dispositive" and turns to an esoteric discussion of a lease of land versus a lease of space. I note that *Bouvier's Law Dictionary* 3rd Revision, states (Vol. 11, p. 1888):

"*What may be leased.*—Anything corporeal or incorporeal lying in livery or in grant may be the subject-matter of a lease; Shepp. Touchst. 268; and therefore not only lands and houses, but commons, ways, fisheries, franchises, estovers, annuities, rent charges, and all other incorporeal hereditaments, are included in the common-law rule. Among the rights springing from or connected with lands, other than the ordinary forms of real estate, which have been held to be the subject-matter of a tenancy, is the use of a public wharf; Board of Com'rs of Pilots v. Clark, 33 N.Y. 251; the right to flow lands; Morrill v. Mackman, 24 Mich. 279, 9 Am. Rep. 124; right of fishing; Com. v. Weatherhead, 110 Mass. 175; pews in a church; Van Houten v. First Reformed Dutch Church, 17 N. J. Eq. 126; all timber, grass and berries found or grown upon the land for a term of years; Freeman v. Underwood, 66 Me. 229; right of taking stone out of a quarry; Brainerd v. Arnold, 27 Conn. 617; and the making of such a lease is a contract that the lessee will work the quarry; Watson v. O'Hern, 6 Watts (Pa.) 362."

I do not understand why the NCPC takes such a narrow view of its 24-year-old authority. Clearly, the GSA does not take such restrictive views of its law when it serves the GSA purpose. I suggest that the NCPC General Counsel become more imaginative and recognize that GSA practices and policies have changed in 24 years, even though its statutes remain about the same.

I request that the NCPC reconsider this matter and respond by January 31, 1977.

Sincerely,

JOHN D. DINGELL.

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C., January 31, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, House Office Building Annex No. 2, Washington, D.C.

DEAR MR. DINGELL: In response to your letter of January 17 to Mr. Conrad, I asked our General Counsel to review and respond to your additional questions and concerns. A copy of his memorandum to me, dated January 28, 1977, is enclosed for your review and information. In addition, I understand that you have requested and the General Counsel has furnished you his views on the applicability of the National Environmental Policy Act of 1969 to the National Capital Planning Act of 1952, as amended.

As indicated in Mr. Oberlander's memorandum to you of January 12, 1977, and the attachments thereto, the Commission has been discussing the desirability of Commission review of GSA leasing activities with representatives of the Office of Management and Budget. The discussions have focused on approaches which would amend Executive Order 11512 or provide for a new Executive Order or which would amend the Planning Act to grant such authority to the Commission.

Since the Commission has been actively seeking to review major Federal leasing proposals in the National Capital Region for some time, we regret that this cannot be done under our existing statutory authority. Since we share a common objective, I urge you to support appropriate amendments to the Planning Act which would provide for Commission approval of major Federal leasing proposals in the Region. Such legislation was introduced in the last session by Senator Mathias and by Congressman Gude.

Sincerely yours,

DAVID M. CHILDS,
Chairman.

Enclosure.

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C., January 28, 1977.

[Memorandum]

To: David M. Childs, Chairman
From: Daniel H. Shear, General Counsel
Subject: Authority of the National Capital Planning Commission to review the procurement of leased space by the General Services Administration

I have a copy of Congressman Dingell's letter of January 17 to Mr. Conrad requesting NCPC to reconsider our opinion that Section 5 of the National Capital Planning Act of 1952, as amended, does not authorize Commission review of the acquisition of space by lease by the General Services Administration in privately owned facilities.

Since his letter raises several points which he believes make the opinion inadequate, I would like to respond to them.

The opinion does not discuss Executive Order 11512 because I understood the request to be for our views as to whether the word "acquisition" in the Planning Act could be construed to authorize NCPC review of GSA leased space; the Executive Order is not relevant to that issue. However, I am informed that the role of the Commission under the Executive Order was discussed at the hearing of Mr. Dingell's Subcommittee on December 17, 1976.

The opinion "cites no legislative history for its conclusion" because, as the opinion states, the legislative history was examined and found to be silent on the point. The statement that "NCPC did, in fact, review the GSA's proposed acquisition of lease space at Buzzard Point" cannot be considered as proof of NCPC's authority. This acquisition of space was not formally submitted by GSA to NCPC as a normal course of conduct; it came to the attention of the Commission's Executive Director through an informal GSA request for information regarding planning policies for the Buzzard Point area.

The opinion "fails to discuss the applicability" of NEPA to the Planning Act because, again, the opinion dealt with the narrow question of an interpretation of the word "acquisition". Our reading of the transcript indicated that Mr. Dingell desired a separate opinion on the NEPA issue. We have furnished him with such an opinion, a copy of which is attached.

I do not believe that the "discussion of a lease of land versus a lease of space" can fairly be termed "esoteric". Quite the contrary. As the legal authority on leases (Friedman) states, the "ultimate question is that of intent" and the opinion addressed that very crucial point.

Mr. Dingell properly calls attention to the lack of a basis in the opinion for the statement that "the interpretation that leased space is not subject to NCPC review was made shortly after the time of enactment" of the Planning Act. Examination of the minutes of Commission meetings from August 1952 (subsequent to passage of the Planning Act) to January 1960 did not disclose a formal opinion on the question either issued by the General Counsel or adopted by the Commission. The examination did, however, establish that no lease proposals were reviewed by the Commission despite the fact that 1.2 million square feet

of leased space were acquired by GSA during that period. The examination also disclosed that the Commission, on March 19, 1953, recommended that proposed amendments to the Federal Property and Administrative Services Act of 1949 which would authorize GSA to enter into lease purchase agreements for Federal space include an amendment whch, according to the meeting's minutes, would leave "no doubt that the Commission will be given an opportunity to advise and consult on such projects" since "there is some question that the Commission would have authority over land leased with an option to buy". If the Commission, less than a year after passage of the Planning Act, doubted its jurisdiction over acquisitions of land by lease (with an option to buy), it can be inferred that the Commission equally doubted its authority over acquisitions of space by lease in privately owned facilities.

With respect to the legislation on this subject introduced in the 94th Congress, it should be noted that the bill was drafted at the request of Senator Mathias following hearings of the Senate Committee on the District of Columbia on the "State of the Potomac River".

DANIEL H. SHEAR,
General Counsel.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 3, 1977.

Mr. DAVID M. CHILDS,
Chairman,
National Capital Planning Commission,
Washington, D.C.

Dear CHAIRMAN CHILDS: I appreciate your prompt response to my January 17, 1977 letter. I also appreciate receiving the February 1, 1977 NCPC memorandum concerning the GSA environmental assessments. It is helpful.

I do not, as you urge, support amendments of the type suggested by your agency to Senator Mathias because I do not agree that they are needed. Congress has enough to do without spending time on matters that could be resolved administratively. I feel certain the Senator would share my view if he had the opportunity to review the matter as deeply as my Subcommittee has done thus far. Moreover, section 14(c) of the bill gives the NCPC a veto of Federal lease acquisitions which I do not think is appropriate or desirable. Such veto does not exist in the case of NCPC review of fee acquisitions.

I believe that your agency is too timid in its attitude toward its scope of responsibilities. This timidness is detrimental to the people who live in, and visit, the Washington, D.C. region. If you imaginatively pursued the course of action I suggest, no one could successfully challenge the NCPC. Toy my knowledge, no one but the NCPC takes this narrow view of the 1952 law. In fact, until we raised this issue last month, it is apparent that no one at the NCPC ever considered this matter in a formal way. No opinions were written until 1977 and they have not been reviewed by the public or anyone but this Subcommittee. I have expressed disagreement with them which, at the very least, is an indication that the matter is not "crystal clear" as you suggest. The doubt should be resolved in favor of review.

The NCPC should stand up to the GSA and administratively assert that it has the authority to "review" leases of the Buzzard Point type. We are not asking the NCPC to trample on someone's rights. We are asking that the agency be bold, not timid. If you assert your "review" responsibility, who will challenge you? The GSA? We would hope not, after its experience with Buzzard Point. Remember, the NCPC "review" does not give NCPC a veto over the GSA.

The General Counsel's January 28, 1977 opinion concerning NEPA shows a great lack of familiarity with NEPA, the Counsel on Environmental Quality's NEPA guidelines and the many court decisions under NEPA. We suggest that the General Counsel review the August 30, 1970 report of the House Committee on Government Operations (H. Rept. 91–1433, pp. 1415) and the opinion, *Zabel* v. *Tabb*, 430 F 2d 199. Both discuss the application of NEPA to Federal laws, including those provisions of NEPA other than section 102(C). There are other decisions on this matter that are more relevant than the "attorney fee" discussion in the *Greene County* Case.

The General Counsel cites section 105 of NEPA and concludes that it "merely states the obvious: that existing law is not repealed". We call to the attention of the General Counsel the third annual report of the CEQ (pp. 224–225) which obviously disagrees with the NCPC. It states:

"NEPA contains strong directives to Federal agencies to follow this new policy. Section 102(1) authorizes and directs that, to the fullest extent possible, * * * the policies, regulations and public laws of the United States shall be interpreted and administered in accordance with the policy of the Act. *The legislative history of NEPA indicates that the phrase to the fullest extent possible at the outset of section 102 is intended to excuse compliance only when another statute expressly precludes or makes action required by NEPA impossible.* Section 102(1) is supplemented by section 102(2)(B), which directs agencies to give appropriate consideration to environmental values in all decisions; by section 103, which directs Federal agencies to review existing policies and practices to bring them into line with the Act; and by section 105, which declares that the policies and goals of NEPA are supplementary to those set forth in existing authorizations of Federal agencies.

"Together, these provisions tell the agencies to add a new criterion—effect on the environment—to those against which they have traditionally tested their actions. The far-reaching result is that agencies whose statutory mandates previously did not call for attention to the environmental effects of their actions are now required to take those effects into account. *And agencies whose mandates previously directed their attention only to certain facets of the environment now have a responsibility as broad as the environmental policy declared in NEPA.*" [Italics supplied.]

No one suggests that the NCPC should reach out to New York or anywhere beyond the National Capital Region. But, clearly, the NCPC should use its authority, as supplemented by NEPA, in that region to the fullest. Apparently, the NCPC had not done this until Buzzard Point.

We request that the NCPC promptly submit the General Counsel's opinion, together with my January 17 letter and this letter, to the CEQ for review and that the CEQ provide its views thereon to the Subcommittee. Plase advise us when you have done this.

We have several problems with the General Counsel's second memorandum concerning the term "acquisition".

1. The opinion states that Executive Order 11512 is "not relevant" to the issue, but fails to explain why. I assume that the NCPC agrees that the Order is applicable to the NCPC. If so, I fail to understand why it is "not relevant" to this issue.

2. The opinion states that NCPC "review" of lease space at Buzzard Point acquisition "was not formally submitted by GSA to NCPC". The General Counsel said that the NCPC, in "administering" the 1952 Act, interpreted it in a manner that would preclude such "review". The "review" of the Buzzard Point lease proposal by the NCPC shows that the NCPC broke its own administrative practice of not reviewing such leases.

We do not understand the comment that the Buzzard Point matter "was not formally submitted" to the NCPC. The NCPC's June 11, 1975 letter states:

"The Commission's land use policies for this part of the city were previously reiterated by the Commission's Executive Director in an April 3, 1975 letter to the Administrator of General Services. A copy of the letter is also enclosed. As you will note, this letter was in response to Mr. Sampson's request for information regarding planning policies for the Buzzard Point area and Square 666."

Surely, the NCPC does not require more than this to initiate its "review" process.

3. The General Counsel states that between August, 1952 and January 1960, there was no "opinion" by NCPC on the matter and that the Commission did not review lease proposals during that period. The opinion refers to some 1953 minutes, but fails to enclose a copy of those minutes for our review. We request them.

This discussion shows some vague doubt as to the scope of the NCPC authority many years ago, but that is not persuasive. The situation is analogous to the one described by the Fifth Circuit in *Zabel* v. *Tabb, supra,* which involved a permit of the Army's Corps of Engineers and a statute enacted in 1899. The Court said:

"We hold that nothing in the statutory structure compels the Secretary (of the Army) to close his eyes to all that others see or think they see. The establishment was entitled if not required, to consider ecological factors and, being persuaded by them to deny that which might have been granted routinely five, ten or fifteen years ago before man's explosive increase made all, including Congress, aware of civilization's potential destruction from breathing its own polluted air and drinking its own infected water and the immeasurable loss from a silent-spring-like disturbance of nature's economy."

Clearly, there is nothing in "statutory structure" of the 1952 Act that "compels" the negative attitude expressed by the NCPC to this Subcommittee. Like the Corps, what was normal for the NCPC in the 1950's and the 1960's is not normal today. The Corps changed its ways. Surely, the NCPC could do the same.

We understand that, in 1971, the GSA established a committee to review GSA acquisition plans with NCPC. Please identify the committee and advise us who are the members of the committee and indicate when the committee has met. Also, please provide a copy of the minutes of such meetings and a copy of all letters, memoranda, etc., in the NCPC files concerning that committee.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. DINGELL. You are familiar, I assume, with the National Environmental Policy Act of 1969, are you not?

Mr. OBERLANDER. Yes, I am.

Mr. DINGELL. Now, it literally requires you to give the broadest environmental interpretation to your responsibilities, does it not?

Mr. OBERLANDER. Yes.

Mr. DINGELL. Well, you can tell us how you have failed to give the broadest environmental interpretations to this interpretation of yours and why you have done so?

Mr. OBERLANDER. I believe it refers back to whether leased office space really could come under the Planning Commission.

Mr. DINGELL. We have already disposed of that question. Let us now address the subject of NEPA. I get the feeling, and I say this with all respect because I think you are a good man, that you bow to ancient and hoary interpretation instead of looking at the clear statute and considering what simple English means.

Mr. OBERLANDER. That may very well be.

Mr. DINGELL. Again, I would appreciate your giving us a more detailed comment on this. Your interpretation of the statutes in light of environmental policy so we can have a clear understanding.

In any event, if I understand English correctly, just to summarize the portent of our discussions, when one acquires he may acquire by purchase; am I correct?

Mr. OBERLANDER. Yes.

Mr. DINGELL. He may acquire by lease, am I correct, referring to real property? Is this an erroneous interpretation of the law?

Mr. OBERLANDER. Well, again I do not want to interpret the law since that is not my function.

Mr. DINGELL. Well, let us then address ourselves to simple English. I assume this is simple English and that I am not in error with regard to applying it. I can acquire an interest in real property by lease or by purchase; am I correct?

Mr. OBERLANDER. It is an interest in the property, yes.

Mr. DINGELL. Very well.

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The Chair recognizes Mr. Finnegan.

Mr. FINNEGAN. Thank you, Mr. Chairman.

Mr. Oberlander, on September 8, 1971, Mr. Arthur F. Sampson who was then Commissioner of Public Buildings Service at GSA spoke before the Washington Board of Realtors at the Statler Hilton Hotel in Washington, D.C., in which he said, and I quote:

> Meeting Executive Order 11512 is a most significant policy change. Prior to the Executive Order, the cost of space was practically the sole criterion for acquisition. This is no longer the case. Location is now very significant. For example, if lease space is available in a redevelopment area or a "new town," we will give preference to that space if price is relatively comparable to the price of suitable space in another area of the city. Our current solicitations for space include the following award factors in addition to price:
>
> The need for development and redevelopment of areas and the impact the project will have on improving social and economic conditions in the area.
>
> The consistency of the proposed development with that of state, regional, and local plans and programs.
>
> The availability of low and moderate income housing, public transportation, and adequate access from other areas of the urban center.

Now, Mr. Oberlander, that is essentially his interpretation of the Executive order which, I must say, was made within a year's time after the order was issued.

Do you believe that the GSA in this case complied with that interpretation? For example, is the area considered a redevelopment area?

Mr. OBERLANDER. No; it is not an urban renewal or redevelopment area.

Mr. FINNEGAN. Do you think constructing this building at Buzzard Point is really improving the social and economic condition of the area?

Mr. OBERLANDER. I believe in the statement we made we feel it will not have any measurable impact on socioeconomic conditions.

Mr. DINGELL. Didn't you indicate in your resolution it would have an overall adverse effect on the Capitol area environs?

Mr. OBERLANDER. Yes; in the sense that we would like to concentrate new office buildings in areas surrounding the downtown area because these are areas east of the White House which are relatively depressed and that is the area which is in downtown urban renewal areas. We would like to encourage new office buildings being built.

Mr. FINNEGAN. Was this proposed development consistent with State, regional, and local plans?

Mr. OBERLANDER. It is not, in our opinion, consistent with the National Capital Planning Commission's comprehensive plan. The comprehensive plan shows for this South Capital/Buzzard Point area a predominantly residential area with a major park facility, including square 666 as part of this park area. We pointed this out to GSA in the resolution of the Commission.

Mr. DINGELL. Did you submit that to them prior to the time the lease was executed or subsequent thereto?

Mr. OBERLANDER. We submitted that to them on May 29, 1975, or a day or 2 after that date. I do not know when the lease was actually entered into.

Mr. DINGELL. How about the digging and the building?

Mr. OBERLANDER. Beg pardon?

Mr. DINGELL. How about the building and the construction?

Mr. OBERLANDER. The building had been under construction prior to May 29th.

Mr. DINGELL. When did GSA initiate their discussions with regard to that?

Mr. OBERLANDER. I do not know that. We had testified in the extended statement. We have a copy of the testimony that I gave to the local Board of Zoning Adjustment at which time the private property owner had applied to the local government for approval of roof structure and a reduction in the parking for this particular building. Now, that was done——

Mr. DINGELL. Reduction in parking?

Mr. OBERLANDER. Yes; a 25 percent.

Mr. DINGELL. From what to what?

Mr. OBERLANDER. A reduction of the required parking by 25 percent. I don't recall the actual number. I can look it up.

Mr. DINGELL. I just parenthetically get the impression that there are certain requirements with regard to parking which are imposed. Can you tell me what those are?

Mr. OBERLANDER. For the size of the building that this was constructed they were, I believe, requiring some 900 parking spaces and the property owner wanted a reduction of some 25 percent of that. I can furnish the specific number. I don't have it.

Mr. DINGELL. We will discuss this with GSA.

Mr. OBERLANDER. And we testified to the Board of Zoning Adjustment on this application. The GSA had nothing really to do with that aspect of it at this time.

Mr. DINGELL. At this point that you are aware of?

Mr. OBERLANDER. Yes; we were aware of it since we have a representative on the Board of Zoning Adjustment who is a NCPC staff member and we testified on this application on February 18, 1976.

Mr. DINGELL. But you are not aware whether GSA had engaged in any negotiations with the owner of the Buzzard Point building as of the time that the application was made regarding the parking requirements, are you?

Mr. OBERLANDER. I am not, no.

Mr. DINGELL. I see.

Mr. OBERLANDER. But the Board of Zoning Adjustment did grant this reduction and also approved the roof structures and, therefore, on the basis of that the owner was allowed a building permit.

It does conform to the local zoning regulations and this is where the problem arises. The comprehensive plan envisions a change in the use of that area from its general warehousing industrial type nature to a predominantly residential area where commercial facilities would support the residential park and marina facility along with the Anacostia River. However, the zoning at the time of the construction of the building and at the present time is general industrial, which permits this type of office building and that is the problem of the difference of interpretation in the Executive order between local plans and local zoning. There is clearly a case here where there is an inconsistency between the existing zoning and the adopted plan for the area.

Mr. FINNEGAN. Mr. Oberlander, let me follow that up. To my knowledge, there is no correspondence between you and the GSA which says that the NCPC's use cannot be accepted because this is zoned for industrial development and, therefore, this office building by right can be put in there. The Executive order is fairly clear that the National Capital Planning Commission is a named body in that order and that you are to be consulted. It does not make any difference whether that is consulted because of a zoning matter or a plan as long as there is a GSA action; isn't that correct?

Mr. OBERLANDER. Well, we are part of that Executive order in terms of construction on local plans. That Executive order is a nationwide Executive order and I don't believe that it really spells out the words "National Capital Planning Commission" to be consulted but we are——

Mr. FINNEGAN. But you are the local planning in this local area, you are the local planning agency on the Federal level; is that correct?

Mr. OBERLANDER. Prior to June of 1974, we were the local planning as well as the Federal. As a result of the Home Rule Act Amendments the District Government now is a local planning agency and we continue to be the Federal Planning agency.

Mr. FINNEGAN. But the regional planning agency in this area——

Mr. OBERLANDER. The regional planning, yes, and my statement addressed that point.

Mr. FINNEGAN. So you should have been consulted if you read the Executive order; is that correct?

Mr. OBERLANDER. That is our interpretation, yes.

Mr. FINNEGAN. You are not arguing with the fact that you should be consulted?

Mr. OBERLANDER. No.

Mr. DINGELL. Was the District government at any time consulted in this matter concerning their responsibilties with regard to planning and zoning that you are aware of?

Mr. OBERLANDER. Not specifically. The memordandum that I referred to in our statement did also mention the Director of the Municipal Planning Office, Mr. Ben Gilbert, who also expressed his opinion. The Mayor is a member of the Planning Commission and Mr. Gilbert sits in for him on the Commission. Mr. Gilbert did vote for this resolution opposing the leasing of this office building in May of this year.

Mr. DINGELL. You say the city did oppose this?

Mr. OBERLANDER. The city representative on the Planning Commission voted for the resolution, yes, thereby opposing the leasing of this office building.

Mr. DINGELL. I would assume that is still their position?

Mr. OBERLANDER. I could not say at this point.

Mr. DINGELL. All right.

Mr. FINNEGAN. Mr. Oberlander, in the press release of June 3, 1975, announcing the award of the lease to Southwest Joint Ventures, Mr. Sampson, who I quoted earlier, stated:

> We recognize that there is opposition from some quarters to our selection of this site, including from the National Capital Planning Commission. However, we are not made aware of NCPC's position until it was too late in the

decision-making process. We fully respect the position of the Commission and will take that position into consideration in the future. But to back away from this transaction at this point would undermine our reputation in the marketplace.

Now, you have testified that you sent a letter to the GSA in April of 1975. You also quote a letter from GSA dated July 22, 1975, which is after the award of the lease, that says, "The time to have limited or omitted consideration of Buzzard Point property would have been before the solicitation for offers were distributed;" is that correct?

Mr. OBERLANDER. Yes.

[The material referred to follows:]

U.S. GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 3, 1975.

The U.S. General Services Administration today contracted to lease a nine-story building under construction in Southwest Washington as a new headquarters for the Securities and Exchange Commission.

The building will provide 380,000 square feet of office space and indoor parking for 250 autos. The site is adjacent to the Anacostia River and within the boundaries of T, U and Half streets southwest. It will allow the 1,500 SEC employes to remain in a single location.

The offer, from Southwest Joint Venture was the lowest of three. The net effective rate is $5.49 per square foot fully serviced or about $2.56 million annually.

GSA Administrator Arthur F. Sampson said, "The decision to lease the building at this location meets GSA's commitment to Mayor Washington to continue to locate federal facilities in the District of Columbia whenever possible." He pointed out that the successful offeror had agreed with the National Park Service to develop a 25-foot easement along the Anacostia River as a public bike and pedestrian path.

"We recognize that there is opposition from some quarters to our selection of this site," Sampson said, "including from the National Capitol Planning Commission. However, we were not made aware of NCPC's position until it was too late in the decision-making process. We fully respect the position of the Commission and will take that position into consideration in the future. But to back away from this transaction at this point would undermine our reputation in the marketplace."

The SEC will be moving from its present location at 500 N. Capitol Street, N.W. because the lease for office space there expires next year. The new building already is under construction and will be ready for occupancy in time to meet SEC needs. 400 N. Capitol St. Associates, the current lessor, was one of the offerors to provide space for the SEC, but its offer exceeded the annual limitation of $2.8 million placed on GSA by the Congress in a prospectus it approved. The other offer of space came from Union Center Plaza Associates for 825 N. Capitol St. at an effective rate of $5.62 per square foot.

The contract with Southwest Joint Venture calls for three five-year renewal options at the base rental fee. It contains provisions for lease escalation on the basis of increased taxes and operating costs.

Mr. FINNEGAN. Now, I might add that there are other suggestions to that effect in memoranda on this matter to the Office of Management and Budget from the GSA.

As a matter of fact, as I understand the situation in this case, there was a prospectus prepared by the GSA in 1974 which was sent to the Congress in August of 1974. It said in essence that GSA is planning to acquire a lease area for the Securities and Exchange Commission in Washington, D.C. That prospectus was approved for the Congress by the Public Works Committees on October 10, 1974, by resolution. That resolution approved the GSA going for-

ward on the prospectus. It also stated the dollar limitation on what GSA had to spend for this particular lease, the amount of square footage, and named the SEC. Is that your understanding of the situation?

Mr. OBERLANDER. I do know that such a prospectus was prepared and the Congress did approve it. However, at the time it was prepared the Planning Commission was not aware of it nor did it ever see the prospectus.

Mr. FINNEGAN. All right.

Now, as a matter of fact, neither did the bidders, or they should not have; is that correct? If they knew what the dollar limitation in the resolution was, would that have affected their bid?

Mr. OBERLANDER. It may have, yes.

Mr. FINNEGAN. Do you know whether they knew about the resolution?

Mr. OBERLANDER. I beg pardon?

Mr. FINNEGAN. Do you know whether the bidders knew about the resolution?

Mr. OBERLANDER. I do not know.

Mr. FINNEGAN. Is there any indication that before the solicitation was made that the Buzzard Point area would be one of those buildings included?

Mr. OBERLANDER. Not to my knowledge.

Mr. FINNEGAN. If that is the case, then how could NCPC have even reviewed the effect of this solicitation on Buzzard Point?

Mr. OBERLANDER. Well, we could not because we were not aware of it as such.

Mr. FINNEGAN. So, as a matter of fact, the first time that the Buzzard Point building became an issue, in fact, was when a bid was submitted to GSA in February, I believe, of 1975; isn't that correct?

Mr. OBERLANDER. Yes, but again we were not specifically aware of that.

Mr. FINNEGAN. That is all right, but in fact Buzzard Point didn't exist in the minds of anybody at the GSA or anywhere else until they had actually received the bid; isn't that correct?

Mr. OBERLANDER. Yes.

Mr. FINNEGAN. They certainly didn't unless something wrong happened. It certainly should not have been conceived as the potential area at the time the solicitation was prepared, right?

Mr. OBERLANDER. That is correct.

Mr. FINNEGAN. Therefore, when the solicitation was prepared, your NCPC regarding a solicitation for planning in Washington, D.C., really would not have been very meaningful; isn't that correct?

Mr. OBERLANDER. It would be rather late, yes.

Mr. FINNEGAN. It would not be very useful, would it? I mean, you are planning for Washington, D.C. What does that mean? That is anywhere in Washington, D.C., the 10 square miles?

Mr. OBERLANDER. The lease had not yet been entered into.

Mr. FINNEGAN. One hundred square miles.

The lease had not been entered into and therefore there was no actual commitment. So the bid was made in February of 1975. The Commission wrote a letter in April 1975.

Now, are you trying to tell us that you don not agree with the GSA view that this letter was late? That is only approximately 2 months, less than 2 months, between the time the bid was submitted to GSA, and it was not public that Buzzard Point was one of those being considered?

Mr. OBERLANDER. Yes.

Mr. FINNEGAN. That you submitted your comments?

Mr. OBERLANDER. Right.

Mr. FINNEGAN. So then you did submit something on April 3?

Mr. OBERLANDER. Absolutely.

Mr. FINNEGAN. And you then do not agree with the GSA, do you, that at the time when the award was made that these comments were too late?

Mr. OBERLANDER. We don't believe that our comments were made too late in the process. I should also mention that it has not been mentioned here yet that another building had been leased by GSA, the Trans Point Building a few blocks away from this which the Commission also advised GSA was inappropriate to lease.

After that lease had been entered into we were assured by representatives of GSA that they would notify us in a timely fashion if they needed additional space in this area or other areas of the city. That has not really happened in connection with the square 666.

Mr. DINGELL. Was that done by letter or orally?

Mr. OBERLANDER. It was done orally.

Mr. DINGELL. It was done orally. Who advised you orally, can you tell me?

Mr. OBERLANDER. We have the GSA Administrator on the Commission and Mr. Ray Nixon, the assistant to the Commissioner, sits in for him and I believe that it was in his statement to us.

Mr. DINGELL. Is that reflected in the minutes of the Commission?

Mr. OBERLANDER. I don't believe it is reflected in the transcript or the minutes of the meeting, no.

Mr. DINGELL. I see. We will inquire into that matter.

Mr. FINNEGAN. I believe Mr. Nixon is supposed to be here today.

When you wrote your letter on April 3, how did you find out about the Buzzard Point?

Mr. OBERLANDER. We were actually requested by Mr. Sampson's office for information.

Mr. FINNEGAN. Who contacted you? How was that contact made?

Mr. OBERLANDER. I don't recall other than maybe Mr. Nixon asked for this information. I don't recall that specifically. The letter that we sent to Mr. Sampson on April 3 was endorsed by the National Park Service in addition to ourselves and it attempted to respond to the request for information regarding the planning policies in this area.

Mr. FINNEGAN. Were you also informed that there was another building under consideration; namely, one at the Union Center Plaza Association?

Mr. OBERLANDER. No. To my recollection, we were not informed.

Mr. FINNEGAN. So the GSA did not consult you on that alternative bid?

Mr. OBERLANDER. No.

Mr. FINNEGAN. And NCPC never made any comments on that proposal?

Mr. OBERLANDER. No.

Mr. FINNEGAN. Is there any reason why that you know of?

Mr. OBERLANDER. Well, again it goes back to the interpretation of lease space.

Mr. FINNEGAN. Mr. Oberlander, I guess I have to disagree with you. You can't make that interpretation on one side and not apply it on the other. You said that the GSA did contact you in the case of Buzzard Point. Now, if they contacted you there and it is the same bid solicitation, why should they not also do so for Union Center?

Mr. OBERLANDER. Well, the reason, I believe, was that there was an ongoing detailed planning study for the entire Buzzard Point/South Capitol Street area. GSA was aware of this. I mentioned the interagency task force that was working on a detailed plan and I believe because of that GSA was more inclined to notify us with regard to that planning activity rather than the other building.

Mr. FINNEGAN. But that suggests a very haphazard method within which GSA decides or even your agency decides that you will be consulted or not consulted. It seems to me since 1970 there should have been some way to work it out. How does the Congress and the citizens get to know what your views are if you are going to work in this kind of fashion?

Mr. OBERLANDER. Well, we have been discussing with GSA and OMB the Commission's role in leased office space.

Mr. FINNEGAN. When were those discussions initiated?

Mr. OBERLANDER. Over the last 3 years.

Mr. FINNEGAN. You mean for 3 years? That is a long time.

Mr. OBERLANDER. Well, I am not telling tales out of school. There is opposition to the Commission being involved in review of leased office space.

Mr. FINNEGAN. Where is the opposition coming from?

Mr. OBERLANDER. Primarily from the General Services Administration.

Mr. FINNEGAN. Why are they opposed to your being involved?

Mr. OBERLANDER. They are concerned that if they have to inform us at an early stage in the lease negotiations that the property owners that are being solicited will gain information which will up the price of the lease.

Mr. FINNEGAN. In this case they consulted you. They did consult you within roughly 6 weeks after the bid and they were still in negotiations. It was public that there were bids at that time, was it not?

Mr. OBERLANDER. That is true.

Mr. FINNEGAN. At least they made it public by telling you.

Mr. OBERLANDER. Well, it was made public before they actually told us. We were aware of the bid solicitations as they were being made public so we were not involved earlier.

Mr. FINNEGAN. How would the possibility of your agency reviewing the proposed bids that have been made public influence the price or the dollar value for the GSA—or the award?

Mr. OBERLANDER. I personally would not concur in that opinion that the price of the lease would be higher because of the NCPC review, but that is, to my understanding, the opinion of GSA.

Mr. FINNEGAN. Is there any correspondence between you, OMB, and GSA over this whole issue.

Mr. OBERLANDER. I would have to trace our records. I don't believe that it is as precise as the discussion you and I are having right now, but we have over some time been dealing with GSA and OMB on what is the proper role of NCPC.

Mr. FINNEGAN. Has the public been informed of this view?

Mr. OBERLANDER. No.

Mr. FINNEGAN. Don't you think that is a good idea to do so?

Mr. OBERLANDER. Yes, sir.

Mr. DINGELL. How are the requirements of the National Environmental Policy Act being complied with in connection with this review?

Mr. OBERLANDER. When there is a major Federal action affecting the human environment, yes, the act is being used and applied by us.

Mr. DINGELL. I am prepared to take your word, but I would like to ask what are the particular mechanisms for the application of the National Environmental Policy Act in connection with this particular kind of action for the leasing or the purchase of office space? Is there any clear policy in NCPC?

Mr. OBERLANDER. Yes.

Mr. DINGELL. Or at GSA?

Mr. OBERLANDER. Yes.

Mr. DINGELL. Would you enunciate your policy first and then GSA's policy as you understand it, please?

Mr. OBERLANDER. I would be glad to submit for the record our written policies regarding the Environmental Quality Act.

Mr. DINGELL. I would very much like that and it would be very helpful to the subcommittee. It would also be helpful if you could give us a brief enunciation of how you do it and also how GSA does it so we can have that before us when we inquire of GSA and their conduct in this matter.

[The following memorandum was received for the record:]

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C., January 28, 1977.

[Memorandum]

To: Honorable John D. Dingell, Chairman,
Subcommittee on Energy and Power,
Committee on Interstate and Foreign Commerce.

From: Daniel H. Shear, General Counsel,
National Capital Planning Commission.

Subject: Applicability of the National Environmental Policy Act of 1969 to the National Capital Planning Act of 1952, as amended.

Our memorandum to you dated January 12, 1977 concludes that Section 5 of the National Capital Planning Act of 1952, as amended, does not authorize review by the National Capital Planning Commission of the acquisition of space by lease by the General Services Administration in privately owned facilities. You have also requested our opinion as to whether the National Environmental Policy Act of 1969 (42. U.S.C. 4331 *et seq.*) authorizes the Commission to review GSA leasing activities. Our view is that such review by NCPC is not authorized by NEPA.

You have referred specifically to Section 105 of NEPA which provides:

"The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies."

We are of the view that NEPA requires the Commission to supplement the planning review criteria mandated by the Planning Act (for example, con-

sistency with the Comprehensive Plan for the National Capital) with the criteria of NEPA and the implementing guidelines of the Council on Environmental Quality (for example, environmental values along with economic and technical considerations). As a result, plans and projects properly within the purview of Commission's decision-making process are now reviewed and evaluated with criteria mandated by the Planning Act and NEPA. In short, NEPA supplements the Planning Act's decision-making process; it does not enlarge the types or classes of plans, projects, developments, undertakings, or activities subject to that process.

The legislative history of Sec. 105 supports this interpretation. The only part of the legislative history addressing that section is a short paragraph in the Statement of the Managers on the part of the House which was part of the Conference Report on the bill which became NEPA (H. Rept. 91–765, 91st Cong. 1st Sess. (Dec. 1969); U.S. Code, Cong. and Admin. News (1969) 2768). The paragraph reads as follows:

"Section 105:

"This section declares that the policies and goals set forth in the bill are supplementary to those set forth in existing authorities of Federal agencies. The effect of this section, which is a slightly revised version of section 103 of the Senate bill, is to give recognition to the fact that the bill does not repeal existing law. This section does not, however, obviate the requirement that the that the Federal agencies conduct their activities in accordance with the provisions of this bill unless to do so would clearly violate their existing statutory authorizations."

This explanation indicates that Sec. 105 merely states the obvious: that existing law is not repealed. Thus, rather than conferring supplementary authority on the NCPC to review environmental aspects of GSA leasing, we interpret that section simply to mean that none of the existing authority of NCPC is repealed.

The explanation does, however, mention "the requirement that the Federal agencies [comply with NEPA] unless to do so would clearly violate their existing statutory authorizations". This "requirement" is presumably the requirement in Sec. 102 that Federal agencies carry out NEPA "to the fullest extent possible". This phrase, in the words of the managers on the part of the House, "is intended to assure that all agencies of the Federal Government shall comply [with NEPA] 'to the fullest extent possible' under their statutory authorizations and that no agency shall utilize an excessively narrow construction of its existing statutory authorizations to avoid compliance". U.S. Code, Cong. and Admin. News, 2770. The managers twice use the phrase "statutory authorizations", thereby indicating that a threshold analysis of an agency's authority must precede any application of NEPA's procedural requirements to that authority. In terms of the Planning Act, the threshold question is whether leasing activities are subject to NCPC review. We have concluded that such leasing is not within its review authority.

In *Greene County Planning Board* v. *FPC*, (CA 2d, 1972) 455 F 2d 412, cert den 409 U.S. 849, 34 L. Ed. 2d 90, 93 S Ct. 56, intervenors attempted to buttress their request for attorney's fees from the FPC by citing the organic act of the FPC as supplemented by NEPA's "to the fullest extent possible" language. The court at 426 turned aside this attempted overreaching of statutory authority:

"* * * we perceive no basis in [the FPC's organic act] to extend the Commission's power to include paying or awarding the expenses or fees of intervenors. We would need a far clearer congressional mandate to afford the relief requested * * *"

Any attempt to use NEPA to bootstrap the Commission's authority to include GSA leasing activities would run afoul of *Green County*.

Other cases bear out the interpretation that the phrase "to the fullest extent possible" refers to the Commission's planning review procedures and not to its substantive concerns. *Silva* v. *Romney* (CA 1, Mass) 473 F 2d 287; *Atlanta Gas Light Co.* v. *FPC*, 476 F. 2d 142; *Environmental Defense Fund, Inc.* v. *U.S. Corps of Engineers*, (D.C. Miss 1972) 348 F Supp 916; *Calvert Cliffs Coordinating Committee, Inc.* v. *U.S. AEC* (D.C. Cir. 1971) 146 App. D.C. 33, 449 F 2d 1109.

The Greene County case concludes that NEPA may not be used as a vehicle for bureaucratic overreach. Obviously if the NCPC were to cite NEPA as authority for reviewing an environmental assessment on the location of Federal public buildings in Baltimore or New York, the Commission would be clearly overreaching its jurisdiction, which is limited to the National Capital Region.

Similarly, the Commission has no recourse to NEPA as authority for overreaching into review of GSA leasing activities.

For these reasons, we conclude that NEPA does not authorize Commission review of the acquisition of space by lease by GSA in privately owned facilities.

DANIEL H. SHEAR,
General Counsel.

Mr. OBERLANDER. We are involved in an environmental impact statement if it is a major Federal action affecting the human environment.

Mr. DINGELL. If I am the GSA Administrator and I am going to lease a building that is going to house 500 or 1,000 or 2,000 employees, is that a major action affecting the human environment?

Mr. OBERLANDER. That determination under the act is first made by the Federal Agency.

Mr. DINGELL. Don't you have any input into that judgment?

Mr. OBERLANDER. Not in the initial decision. That is left up to the individual Federal Agency proposing the action.

Mr. DINGELL. Do you ever comment that an environmental impact statement is necessary in matters of these kinds?

Mr. OBERLANDER. Yes, we do.

Mr. DINGELL. Do you? At what point do you make that comment?

Mr. OBERLANDER. When the project is submitted to us after the determination by the Agency as to whether or not it is a major Federal action.

Mr. DINGELL. Supposing the Agency says it is not a major Federal action and you say it is, what happens then?

Mr. OBERLANDER. We are not the enforcement agent.

Mr. DINGELL. You do have a right to make that comment, do you not?

Mr. OBERLANDER. We would make that comment upon the action that the Planning Commission is being asked to take, yes.

Mr. DINGELL. You have the National Environmental Policy Act as being binding upon your Agency, do you not?

Mr. OBERLANDER. Absolutely.

Mr. DINGELL. And you do have a right to comment on the action of other Agencies, do you not, in connection with their environmental assessments and statements?

Mr. OBERLANDER. Yes, or in lieu of a statement we require a description of the impact on the environment.

Mr. DINGELL. Did you take any of those steps in connection with the environmental impact statements via GSA in connection with the leasing of the building at Buzzard Point?

Mr. OBERLANDER. No, we did not.

Mr. DINGELL. Why?

Mr. OBERLANDER. Because it was not a project somebody mentioned to the Commission under section 5 of the National Capital Planning Act.

Mr. DINGELL. You mean in connection with the acquisition?

Mr. OBERLANDER. That is correct.

Mr. DINGELL. Well, we have already had some discussion as to the merit of your interpretation of that statute.

Mr. OBERLANDER. That is right.

Mr. DINGELL. Did you have any discussions with them regarding whether or not an impact statement should have been filed on this matter?

Mr. OBERLANDER. No, we have not.

Mr. DINGELL. You did not. In retrospect I am curious. Don't you think that you probably should have?

Mr. OBERLANDER. Yes, we probably should have. It goes back again to the fact that this one has not been a project submitted to the Commission of its review either under the Planning Act or under the Executive order.

Mr. DINGELL. Well, this, I assume, is going to be the subject of some discussions inside the Commission in light of your counsel's interpretation as opposed to Mr. Webster's interpretation of the simple English verb acquire.

Mr. OBERLANDER. Absolutely.

Mr. DINGELL. Can you give us the dates of the meetings with OMB and GSA regarding the NCPC role over the past 3 years?

Mr. OBERLANDER. I would be glad to.

Mr. DINGELL. Dates and who participated and when and so forth.

Mr. OBERLANDER. I will be glad to submit that for the record, yes.

[The following information was received for the record:]

NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20576

NCPC File No. 1440

January 12, 1977

M E M O R A N D U M

TO: Honorable John D. Dingell, Chairman
Subcommittee on Energy and Power
Committee on Interstate and Foreign Commerce
U.S. House of Representatives

FROM: George H.F. Oberlander, Director G.H.F.O.
Federal Review Division

SUBJECT: Dates of and participants in discussions involving OMB, GSA and NCPC on the role of NCPC in the procurement of leased space by GSA

In response to your request for the above-referenced information, the following information is provided on the principal discussions.

On June 11, 1975, the Chairman of the Commission, David M. Childs, sent the Director of OMB a letter which, inter alia, urged NCPC review of GSA leasing of space. A copy of the letter is attached.

At a September 17, 1975 meeting between the Commission's Executive Director, Charles H. Conrad, and Peter Fannon of OMB, methods of effecting such NCPC review were discussed. One possible method discussed was an Executive Order.

On August 3 and September 22, 1976, meetings were held between NCPC and GSA at which NCPC review of leased space was discussed. Participants were Mr. Childs, Mr. Conrad, and Messrs. Panuzio and Nixon of GSA.

Also attached for your information are two pieces of correspondence between Commission staff and the Congress. The first is a memorandum to Warren Brown, Professional Staff Member, Committee on the District of Columbia, U.S. Senate, from Daniel H. Shear, the Commission's General Counsel, Subject: Amendments to National Capital Planning Act of 1952, as amended. The second is that between Senator Mathias and the Commission staff regarding a survey, undertaken by Commission staff at the request of Senator Mathias, of possible conflicts of Federal leasing activities in the National Capital Region with local land use plans.

Attachments,

NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20576

IN REPLY REFER TO:
NCPC File No. 0845

JUN 11 1975

Honorable James T. Lynn, Director
Office of Management and Budget
Executive Office of the President
Executive Office Building, Room 252
Washington, D.C. 20503

Dear Mr. Lynn:

As the newly appointed Chairman of the National Capital Planning Commission, I regret that one of my first duties is to bring to your personal attention the fact that the General Services Administration has taken an action in the District of Columbia that is inconsistent with the Comprehensive Plan for the National Capital and would also appear to be inconsistent with Executive Order 11512 relating to the Planning, Acquisition and Management of Federal Space.

On June 3, 1975, GSA announced that it had contracted to lease a proposed nine-story building on Buzzard Point in Southwest Washington as the new headquarters for the Securities and Exchange Commission.

The site--Square 666 in the District of Columbia--is bounded by the Anacostia River, T Street, Water Street, and U Street, S.W., and is designated as part of the National Open Space System by the Parks and Recreation Facilities Chapter of the Comprehensive Plan for the National Capital prepared and adopted pursuant to the National Capital Planning Act. The GSA action is, therefore, inconsistent with the Comprehensive Plan's policies and proposals for the development of a waterfront park and public open space along the Anacostia River in the Nation's Capital. We believe that this action, if permitted to stand, will adversely affect the physical development of the city. We also believe that the established Federal planning process at the seat of the Federal Government will be seriously weakened if a Federal agency is permitted to take action with full knowledge that such action violates the plans for the development of the Nation's Capital.

This matter was discussed at length by the full Commission on May 29, 1975, prior to GSA's action. Following this discussion, the Commission adopted a resolution, a copy of which is enclosed, which (1) determined that the construction of an office building on Square 666 would contravene the Comprehensive Plan and would be inconsistent with the sound and orderly development of the Nation's Capital and with the Federal interest in creating continuous public open space along the Potomac and Anacostia Rivers in the District of Columbia; (2) urged GSA not to accept any bid for leased space in an office building to be constructed on Square 666; and (3) requested GSA to institute procedures for consultation with the Commission prior to the solicitation of proposals for the leasing of space to the Federal government in the National Capital Region in order to insure that solicitations conform to the Comprehensive Plan and to other plans and policies for the sound and orderly development of the National Capital.

As a member of the Commission, GSA's representative participated in this discussion at the Commission meeting and had full knowledge and understanding of the inconsistency of this proposed action with the Comprehensive Plan and with the Commission's resolution.

The Commission's land use policies for this part of the city were previously reiterated by the Commission's Executive Director in an April 3, 1975 letter to the Administrator of General Services. A copy of the letter is also enclosed. As you will note, this letter was in response to Mr. Sampson's request for information regarding planning policies for the Buzzard Point area and Square 666. At that time, the inconsistency of the proposed lease with the Comprehensive Plan and with the detailed land use and zoning proposals currently being formulated through an Interagency Task Force for the South Capitol Street/Buzzard Point Area were described. At that time, it was also strongly recommended that GSA not enter into an agreement leasing office space in a building proposed to be constructed in Square 666.

The proposed leasing was also opposed by the Municipal Planning Office of the District of Columbia Government. The Director of that office indicated in a recent undated letter to Mr. Sampson that "the site (Square 666) is not appropriate for intensive office development." A copy of this letter is also attached.

The GSA contract to lease this building on this site would also appear to be inconsistent with three policies expressed in Executive Order 11512 as follows:

1. Policy 7 provides that "proposed developments shall be, to the greatest extent practicable, consistent with State, regional, and local plans and programs; and Governors, local elected officials, and regional comprehensive planning agencies shall be consulted in the planning of such developments".

Federal encouragement and support of development in Square 666 in the District of Columbia that is inconsistent with the Comprehensive Plan would appear to be clearly inconsistent with the Executive Order. Other opportunities exist for Federal leasing of private office space on other sites in the District that would be consistent with land use plans and development policies for the city. It is not, therefore, necessary for the Federal Government itself to encourage or support private development that is inconsistent with the Comprehensive Plan.

The Commission has strongly supported the policy in the Executive Order regarding inter-governmental coordination of Federal, state, local and regional plans and programs. In the National Capital Region, the Commission has followed this policy to the maximum extent possible in its review of Federal plans in the Region and in its referral of Federal master plans or major modifications thereto to the local governments, the state clearing houses, and the Metropolitan Washington Council of Governments for review and comment. We, therefore, believe it is important to preserve the integrity and credibility of the Executive Order in the National Capital Region.

We believe that GSA's policy of limiting the conformance of such lease proposals to local zoning is also inconsistent with the Executive Order. The Order clearly refers to plans and programs, not to zoning. This is a major difference in interpretation of the Executive Order and GSA's sole emphasis on zoning has lead to this direct violation of the land use policies in the Comprehensive Plan.

2. Policy 2 in the Executive Order provides that "consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of areas and the development of new communities and the impact a selection will have on improving social and economic conditions in the area. In determining these conditions the Administrator shall consult with and receive advice from the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and others, as appropriate."

The Commission, the National Park Service and the District of Columbia Government have been preparing detailed land use and zoning proposals for the last two years aimed at upgrading and improving the character and quality of the entire South Capitol Street/Buzzard Point area. In view of this extensive effort, now rapidly nearing completion, we do not believe that adequate consideration was given in this case to either local or Federal land use and development policies in this section of the city.

3. Policy 6 in the Executive Order provides that "the availability of adequate low and moderate income housing, adequate access from other areas of the urban center, and adequacy of parking will be considered".

Square 666 is a relatively isolated site that is not well served by major streets or by metrobuses and it will not be adequately served by the new Metro train system. The proposed tenant, the Securities and Exchange Commission, has already indicated its objections to the proposed site because of its poor location.

In view of the inconsistency of this Federal action with the Comprehensive Plan for the National Capital and its apparent inconsistency with Executive Order 11512, we urge that the Office of Management and Budget take the following actions:

1. initiate a review of the actions of the General Services Administration and, if possible, void the contract to lease the building on Square 666;

2. direct the General Services Administration to take no future actions in the National Capital Region that are inconsistent with the Comprehensive Plan for the National Capital;

3. amend Executive Order 11512 by adding a paragraph as follows:

> "Proposed developments within the National Capital Region shall also be consistent with the Comprehensive Plan for the National Capital"; and

4. establish a process for the review of proposed Federal leasing in the National Capital Region by the National Capital Planning Commission. Although historically insignificant, Federal leasing activities in the Region in the last decade have been very significant--with direct impact on the distribution of Federal employment within the Region and on Federal, state, local and regional plans and programs for the area.

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In view of the importance of this matter, we would appreciate an opportunity to discuss these recommendations further with you or appropriate members of your staff.

Sincerely yours,

SIGNED

David M. Childs
Chairman

Enclosures

MEMORANDUM

TO: Warren Brown, Professional Staff Member
Committee on the District of Columbia
United States Senate

224-8797

FROM: Daniel H. Shear, General Counsel

SUBJECT: Amendments to National Capital Planning Act of 1952, as amended

In accordance with your request, we have prepared the enclosed draft bill amending the National Capital Planning Act of 1952, as amended, to (1) add Charles County, Maryland, to the National Capital Region, as defined in the Act, and (2) provide for National Capital Planning Commission approval of Federal leasing proposals in the Region that meet the following criteria:

1. Any proposal involving 100,000 gross square feet of floor area or more in a single building.

The proposed 100,000 gross square feet cutoff figure would limit such a review to major leasing proposals in the Region. If such a policy had existed in recent years, it would, for example, have involved only a relatively small number of GSA's current leases but it would have insured that the most significant leasing activities would be subject to a planning review. To further illustrate the impact of this proposal, in 1973 GSA had a total of 665 outstanding leases in the Region. Sixty-nine, or 10.3%, of these involved 100,000 square feet or more of floor area.

2. Any proposal involving 50% or more of all rentable space in a single building.

In a recent survey of twelve randomly selected private office buildings constructed during the past 10 years in the Central Employment Area of the District of Columbia and its nearby Arlington County, Virginia, it was found that GSA leased 70% of the floor space in seven of these buildings and between 10 and 17% in the other five. Such leasing activity clearly indicates the significance of Federal leasing within the private real estate market and the major influence such leasing has on private office building trends.

3. Any proposal involving a location where a concentration of Federal employees in leased space exists or is proposed in one or more buildings in the same square or on the same street frontage or within two blocks of the proposed site.

This criteria is considered essential in order to preclude any concentration of leased space and Federal employment resulting from a number of relatively small leases in a particular location within the Region without a planning review by the Commission and the affected jurisdiction.

The draft bill also provides that upon receipt of such proposals, the Commission shall refer them, through the A-95 clearinghouse process, to the appropriate officials in the affected jurisdiction or jurisdictions for review and comment prior to Commission action thereon. This referral would be consistent with that now followed for Federal land acquisition and development proposals and would be a positive response to local concerns regarding Federal leasing commitments in their jurisdictions without a prior planning review.

DANIEL H. SHEAR

General Counsel

Enclosure

DHShear:rn:4/6/76

cc: Robert O. Harris
David M. Childs
CHConrad
DFBozarth
GHFOberlander
DHShear

D R A F T
4/6/76

A BILL

To amend the National Capital Planning Act of 1952, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 6, 1924 (43 Stat. 463), as amended by the Act of April 30, 1926 (44 Stat. 374), Sections 1 and 2 of the Act of July 19, 1952 (66 Stat. 781), the Act of September 25, 1962 (76 Stat. 575), and Section 203 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774) (40 U.S.C. 71-71i, 72, 73, 74) (D.C. Code, secs. 1-1001 to 1013) is further amended by (1) inserting in Section 1.(b) thereof the word "Charles," immediately preceding the word "Montgomery" and (2) adding a new Section 6, immediately following Section 5, to read as follows:

"Sec. 6.(a) The proposed acquisition by lease by the head of any agency of the executive branch of the Government or by officers, employees, and organizational units under the jurisdiction of such agency head, or by the Postmaster General, of space within the National Capital Region shall be submitted to the Commission for approval if such proposed acquisition

"(1) involves 100,000 gross square feet of floor area in a single building; or

"(2) involves 50 percent or more of all rentable space in a single building; or

"(3) would result in a concentration of Federal employees in one location. Such a concentration shall be deemed to occur where such

proposed acquisition, together with previously federally-owned or leased space, aggregates (a) 100,000 gross square feet of floor area in a single building, or (b) 50 percent or more of all space in a single building, or (c) 100,000 gross square feet of floor area in two or more buildings in the same square or block or on the same street frontage within two squares or blocks of the building or buildings which such acquisition is proposed.

"(b) Each such proposed acquisition shall be referred by the Commission for review and comment to the state and areawide planning and development clearinghouses, established in furtherence of Title IV of the Intergovernmental Cooperation Act of 1968, in the jurisdiction in which such space is proposed to be located and to appropriate local public officials in such jurisdiction."

THOMAS F. EAGLETON, MO., CHAIRMAN
DANIEL K. INOUYE, HAWAII — CHARLES MC C. MATHIAS, JR., MD.
ADLAI E. STEVENSON, ILL. — DEWEY F. BARTLETT, OKLA.
JOHN GLENN, OHIO — JAKE GARN, UTAH
ROBERT HARRIS, STAFF DIRECTOR AND GENERAL COUNSEL

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NCPC

United States Senate
COMMITTEE ON
THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20510

August 4, 1976

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FILE NO. 1440
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DUE DATE 9-1-76

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OTHER

Mr. Charles H. Conrad
Executive Director
National Capital Planning
Commission
1325 G Street N.W.
Washington, D.C. 20576

Dear Mr. Conrad:

Thank you for responding to my questions about the possible conflicts of Federal leasing activities in the National Capital Region with local land use plans. Your letter of June 2, 1976 contained the results of a thorough investigation of this issue, and the detailed information you provided will continue to be helpful in my review of appropriate Congressional action.

In response to some of the points that were raised during the recent Senate District Committee hearings and in the results of your research, I introduced S. 3677 on July 20, 1976. It is my hope that this bill to give NCPC authority to review Federal leasing plans will bring the National Capital Planning Act of 1952 into line with the realities of 1976. Without authority over Federal leasing activities, it appears that the National Capital Planning Commission will find it increasingly difficult to effectively serve as the central planning agency for the Federal Government in the National Capital Region.

I would appreciate any comments you would care to offer about S. 3677. Although time remaining before the adjournment of Congress is short, I would like to explore the possibility of moving forward with this legislation as soon as possible. A response by September 3, 1976 will be most helpful as the Senate Committee on the District of Columbia reviews this legislation.

With best wishes.

Sincerely,

Charles McC. Mathias, Jr.
United States Senator

CM:wbdw

94TH CONGRESS
2D SESSION

S. 3677

IN THE SENATE OF THE UNITED STATES

JULY 20, 1976

Mr. MATHIAS introduced the following bill; which was read twice and referred to the Committee on the District of Columbia

A BILL

To amend the National Capital Planning Act of 1952, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(b) of the Act of June 6, 1924, as amended (40 U.S.C. 71), is amended by deleting "Montgomery" and inserting in lieu thereof "Charles, Montgomery,".

(b) Such Act is further amended by adding immediately at the end thereof the following new section:

"LEASES

"SEC. 14. (a) Any proposed lease involving the acquisition by the head of any department or agency of the execu-

tive branch of the Government or by officers, employees, and organizational units under the jurisdiction of such department or agency head, or by the Postmaster General, of space within the National Capital Region shall be submitted to the Commission for its consideration if such proposed acquisition—

"(1) involves one hundred thousand gross square feet of floor area in a single building;

"(2) involves 50 per centum or more of all rentable space in a single building; or

"(3) would result in a concentration of Federal employees in one location.

"(b) Such a concentration for purposes of clause (3) of subsection (a) shall be deemed to occur where such proposed acquisition, together with existing federally owned or leased space, aggregates (1) 100,000 gross square feet of floor area in a single building, (2) 50 per centum or more of all space in a single building, or (3) 100,000 gross square feet of floor area in two or more buildings in the same square or block or on the same street frontage within two squares or blocks of the building or buildings within which such acquisition is proposed.

"(c) The Commission shall have a one hundred and twenty day period within which to consider any such proposed lease. If, within such period, the Commission approves

such lease, such lease shall take effect in accordance with the terms thereof. If, within such period, the Commission disapproves such proposed lease, such lease shall not become effective. If the Commission fails to approve or disapprove any such proposed lease within such period, such lease shall become effective in accordance with the terms thereof upon the expiration of such period.

"(d) Each such proposed lease shall be referred by the Commission for review and comment to the ~~Senate~~ State and area-wide planning and development clearinghouses, established in furtherance of title IV of the Intergovernmental Cooperation Act of 1968, in the jurisdiction in which such proposed space is located and to appropriate local public officials in such jurisdiction.".

Mr. DINGELL. Let me read you one section of the National Environmental Policy Act which I think is rather interesting and I think important. This is Section 4335 of Title 42, U.S. Code. It says:

§ *4335. Efforts supplemental to existing authorizations.*

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies. (Pub. L. 91–190, title I, § 105, Jan. 1, 1970, 83 Stat. 854.)

Now, in addressing yourself to the questions we have before us, I would ask that you keep this citation carefully in mind. Public Law 91–190, section 105, was signed by President Nixon on January 1, 1970, with the pronouncement that this was the beginning of the decade of the environment. I trust that you will keep both the language of this statute, the language of Mr. Webster and the language of Mr. Nixon in signing that in mind with regard to your comments to the subcommittee on the meaning of the word acquire.

Mr. OBERLANDER. Yes, sir.

Mr. Finnegan.

Mr. FINNEGAN. Just one last question. In answer to the chairman, have you actually seen the environmental assessment that was prepared in connection with this lease?

Mr. OBERLANDER. I personally have not seen it, no.

Mr. FINNEGAN. Has any official of NCPC seen it?

Mr. OBERLANDER. I don't believe so.

Mr. DINGELL. Was it ever provided to you, do you know?

Mr. OBERLANDER. Not formally or informally.

Mr. FINNEGAN. Do you know what procedures, if any, the GSA has for making their environmental assessments public or available to your agency?

Mr. OBERLANDER. Only in connection with submitted projects or master plans that the GSA intends to undertake.

Mr. FINNEGAN. Well, in this case since you wrote some letters on this particular project, don't you think it would have been appropriate for the GSA to have reviewed that assessment and given you a copy of it?

Mr. OBERLANDER. Yes.

Mr. FINNEGAN. Would you obtain a copy of that assessment and provide to us your views on that assessment?

Mr. OBERLANDER. We will.

Mr. FINNEGAN. Do you agree with the comments made therein?

Mr. OBERLANDER. Yes, be glad to.

Mr. FINNEGAN. Thank you very much.

I have no further questions.

[The following memorandum was received for the record:]

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C., February 1, 1977.

[Memorandum]

To: Hon. John D. Dingell, Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives.

From: George H.F. Oberlander, Director, Federal Review Division.

Subject: Request of NCPC Witness at December 17, 1976 Hearing on "Environmental Assessments" of GSA Leasing Square 666.

At the December 17, 1976 Committee hearing dealing with the GSA leasing of office space at Two T Street, S.W. (Square 666), you requested "our views"

on the environmental assessments prepared by the General Services Administration for such Federal action. The views provided in this memorandum are those of the staff of the Commission since the assessment has not been submitted for Commission consideration.

As a matter of fact, the assessment provided us by the General Services Administration included two assessments, the first dated June 1, 1975 entitled Environmental Assessment—Proposed Lease, Tauber, Washington, D.C." and the other dated July 28, 1976, entitled "Environmental Assessment, Proposed Relocation and Consolidation of the Department of Treasury, Bureau of Government Financial Operations and Bureau of Public Debt at Two T Street, S.W., Washington, D.C."

The June 1, 1975 Assessment concerned the leasing of office space to house the Securities and Exchange Commission and was prepared after a proposal had been received from Dr. Tauber prior to the construction of a building to be located on Square 666. The July 28, 1976 Assessment, which contains as appendix A the negative environmental declaration for the proposed lease of the Tauber property and the June 1, 1975 environmental assessment, concerns the proposed relocation of several Treasury Department Office activities and their proposed consolidation in the new building at Two T Street, S.W.

In our opinion, neither assessment contains direct quantification of the environmental impact of either the proposed building or the relocation of Federal employees at the specific site. In addition, neither assessment provides any quantification of environmental impacts for alternatives that could be considered in determining whether such alternatives offered a means of mitigating any adverse impacts of the proposed actions. It is our opinion that, in the absence of data and information on the relative scale of traffic and air quality impacts on the square in question in comparison with other alternative locations for housing the Securities and Exchange Commission and Treasury employees, the somewhat favorable general conclusions of the assessments cannot be substantiated.

One of the most significant deficiencies in the first assessment is that this assessment discusses impacts only in the context of the existing conditions and not in relationship to the environment (or land uses) proposed for this area by the Comprehensive Plan for the National Capital.

Thus, even though the building project and the housing of Federal employees in Square 666 may be considered an improvement over the existing conditions on the neglected vacant site before construction, the construction of an office building and the use of the space by the Federal Government may preclude a more appropriate planned community in the Buzzard Point area and over time seriously adversely affect the opportunity for achieving the real potential of this area. In this respect neither assessment contains any evaluation of the impacts that alternative land uses on square 666 could have on the environment.

The most significant deficiency of the July 28, 1976 assessment is the generalized nature of the transportation impact analyses and the conclusions to the effect that adverse and positive traffic impacts at the Square 666 site probably would be off-setting. In view of the relative isolation of this site, in comparison to the existing Treasury Department work locations and more adequate metrobus service available at the existing locations, it appears that relocation to square 666 would require an increase of metrobus transfers, which in our opinion would result in the adverse impact of shifting some bus riders to automobiles. A more detailed and careful analysis of work trips than that contained in the July 28, 1976 assessments is required to reach any meaningful conclusion on the traffic impacts in the proposed Federal action.

It is hoped that the views contained in this memorandum will be helpful and with this information we have completed responding to the outstanding information that was requested as part of the December 17, 1976, public hearing. I would be most pleased to discuss this in greater detail with you if you so desire.

Mr. DINGELL. Gentlemen, the Committee thanks you for your assistance to us today. We would request that you remain briefly with us, it may be that we will have some additional questions to raise after we have heard from GSA.

Gentlemen, thank you all. We appreciate your presence.

We will now call panel 2, Mr. Vincent L. Connery, president, National Treasury Employees Union, accompanied by Messrs. Klepner, Goldman, and Spilane; and Mrs. Kathleen Stief, president, Southwest Neighborhood Assembly, accompanied by Messrs. Simon and Fields.

Ladies and gentlemen, if you would come forward to the witness table.

In view of the fact that we are swearing all witnesses this morning, does anyone have any objection to being sworn?

The Chair will assume that your nonresponse indicates that there is no objection thereto so the Chair observes for your benefit that each of you have the right to have counsel at the committee table with you if you so desire and that copies of the rules of the committee are there available to you if you feel the need thereof.

The Chair further advises if you feel that there will be any matter which will tend to degrade, defame, or incriminate any of you, you have the privilege of requesting a closed meeting.

Is there any objection to the Chair swearing all the witnesses this morning?

TESTIMONY OF VINCENT L. CONNERY, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, ACCOMPANIED BY JERRY D. KLEPNER, DIRECTOR OF COMMUNICATIONS; AND KATHLEEN STIEF, PRESIDENT, SOUTHWEST NEIGHBORHOOD ASSEMBLY, ACCOMPANIED BY GOTTLIEB SIMON, EXECUTIVE DIRECTOR, SOUTHWEST/SOUTHEAST ADVISORY NEIGHBORHOOD COMMISSION; LEON B. FIELDS, EXECUTIVE DIRECTOR, SOUTHWEST COMMUNITY HOUSE; AND FREDERICK L. MILLER, JR., COUNSEL

Mr. MILLER. Mr. Chairman, I am Frederick L. Miller, Jr., and I am counsel to Mrs. Stief and appear as counsel.

Mr. DINGELL. If you are counsel, then it would be improper for me to administer the oath. There is no problem with your appearing as her counsel, so long as you respect the bounds with which the counsel may appear.

Then, ladies and gentlemen, if you would all rise, please.

Do each of you swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CONNERY. I do.

Mrs. STIEF. I do.

Mr. KLEPNER. I do.

Mr. SIMON. I do.

Mr. FIELDS. I do.

Mr. DINGELL. Starting at your left and my right over here next to our reporter, would each of you give your names to our reporter for purposes of the record, and so that the Chair can know who we are talking to, and we will go forward.

Mr. SIMON. I am Gottlieb Simon, executive director, Southwest/Southeast Advisory Neighborhood Commission.

Mr. FIELDS. I am Leon B. Fields, executive director, Southwest Community House, a resident of Southwest.

Mrs. Stief. I am Mrs. Kathleen Stief, president of the Southwest Neighborhood Assembly.

Mr. Miller. Frederick Miller, counsel to Mrs. Stief and the Southwest Neighborhood Assembly.

Mr. Connery. Vincent L. Connery, president, National Treasury Employees Union. I am accompanied by Mr. Klepner.

Mr. Dingell. We thank you for being with us.

I guess we should hear first from Mr. Connery and Mr. Klepner. Gentlemen, do either of you have a prepared statement?

Mr. Connery. Yes.

Mr. Dingell. I assume, Mr. Connery, you will be giving the prepared statement for both of you.

Mr. Connery. Yes, sir.

Mr. Dingell. You may consider yourself recognized for purposes of presenting your statement.

TESTIMONY OF VINCENT L. CONNERY

Mr. Connery. Thank you, Mr. Chairman.

My name is Vincent L. Connery. I am president of the National Treasury Employees Union. Our union is the nationwide exclusive representative of the employees of the Federal Energy Administration.

At the outset, we want to make it very clear that NTEU strongly opposes the proposed relocation of certain FEA offices to the Federal building at Buzzard Point in Southwest Washington, D.C. We believe that such a move would have a highly detrimental effect on the morale of FEA employees as well as the agency's ability to efficiently pursue its mission.

Our union, though we represent all FEA workers in Washington, D.C., was never consulted by the General Services Administration before it selected FEA to occupy the Buzzard Point building.

Five agencies have already refused to move to the site, the Securities and Exchange Commission, the Agency for International Development, the Treasury Department's Bureau of Government Financial Operations and Bureau of Public Debt, and, most recently, the Agriculture Department's Food and Nutrition Service. Each of these agencies, when asked by GSA to move to Buzzard Point, declined for the reasons that the area is unsafe, inaccessible, inconvenient for the employees and the public, and would impair the ability of the agency to accomplish its mission.

With this long history of justified refusals from other agencies, GSA took a different tactic with the FEA. Instead of being invited by GSA to move, as were the other agencies, FEA was ordered into the building under a little known and seldom used provision found in Executive Order 11512.

This provision empowers the GSA Administrator to plan, acquire and manage space as he sees fit in order to improve the management and administrative efficiency of governmental activities. Hence, GSA claims that relocating FEA would promote cost efficiency and better enable FEA to carry out its mission by consolidating the scattered offices into one building.

What GSA seemingly has forgotten are certain other provisions of the same Executive order. These require GSA to consider the following factors before ordering an agency to move:

One: The convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

Two: The adequacy of parking and access from other parts of the urban area; and

Three: The efficient performance of the mission and programs of the executive agency.

The building, located at 1900 Half Street SW., lies in an industrial waterfront neighborhood, which includes a powerplant, concrete plant, and a scrap yard. Half Street is aptly named; it is not paved, but is covered with gravel. There are no sidewalks, curbs, or even smooth edgings on the street. When two of our staff members visited the site last week, beer cans and other debris were strewn about the premises, several windows in the buildings were boarded.

GSA officials claim that there is no crime problem at Buzzard Point. This, of course, is true since the building is currently vacant and there are few people who work or live in the immediate area surrounding Buzzard Point. However, the truth is that the Southwest area of the city that surrounds Buzzard Point is one of the highest crime areas in our community.

The Southwest area comprises the first police district. Of the city's seven districts, the first, in fiscal year 1975, ranked third in homicides, third in rapes, and first in assaults with deadly weapons. It is especially interesting that in the same period the first district had the highest incidence of auto theft and the second-highest number of larcencies from parked cars.

Clearly, serious crime problems do exist at this location. The addition of hundreds of employees to the area, with the simultaneous influx of cars, valuables, and office equipment, will be an inviting target for potential criminals.

In its zeal to find a tenant for Buzzard Point, however, GSA has failed to consider the practical effects of these conditions on the employees. What happens to the man who, on a daily basis, walks through a dangerous neighborhood just to reach his bus stop? What goes through a woman's mind when she walks alone to her car after dark, or works overtime in a largely empty building in this kind of area?

Such fears can turn a productive group of employees into a captive work force—an unproductive work force. Overtime work will be dreaded, rather than something that is desired, because of the possibility of personal harm. We can safely predict that many FEA workers, after experiencing the conditions at Buzzard Point, will seek employment elsewhere while the Agency will be severely hindered in its ability to recruit qualified personnel.

Whether an employee drives to the building or seeks to use public transportation, the additional commuting time for many will be double or even triple the present amount.

Ironically, the proposed move would force many employees out of the carpools they now share with non-FEA workers. Thus, people

whose job it is to help foster the efficient use of energy will themselves be required to engage in a highly inefficient mode of fuel consumption.

Furthermore, poor public transportation will also force many employees to drive, exacerbating an already limited parking situation. Only two buslines serve the area, and one runs only during rush hour.

GSA claims that Metro will provide more bus service to Buzzard Point when there are more people who need service there. However, we know of no definite commitment on Metro's part to do so, nor have we seen any timetable for initiating this service. It could possibly take years, and in the meantime the employees would still be faced with inadequate public transportation.

Likewise, the inaccessibility of Buzzard Point will be a major burden, not only to the employees, but to the public. FEA, more so than most agencies, has a high degree of public contact as well as a great deal of interaction with other Government offices. Thus, the move will make it extremely difficult and inconvenient for the public and other Federal employees to transact their business with FEA, placing another strain on the mission of this agency.

How can GSA claim that this move will improve FEA's mission? How can they say that an area with high crime, poor parking, inadequate public transportation, and little or no eating or shopping facilities is a safe and healthful atmosphere?

To us, the reason behind all of this is obvious. GSA did not suddenly decide that Buzzard Point was perfect for the FEA. They knew they were stuck with a white elephant that no one wanted. To be saddled with a $2 million lease and having been refused by five other agencies, GSA chose FEA as its sacraficial victim, because they thought that FEA would be an easy Agency to coerce.

FEA's very existence has been tenuous for the past year and the President-elect has announced, but not specified, his plans to reorganize the Federal Government's energy structure.

In light of President Ford's public pronouncement that, during this transition period in our Government, he wishes to take no actions that would handicap the new administration, we believe that it is imperative that this move be stopped now. NTEU has recently filed an appeal with the President, under Executive order 11512, to rescind the GSA order and prohibit any tampering with this agency for the remainder of his term of office.

In the meantime, GSA should forthrightly admit that it has made a large mistake in acquiring this totally unwanted leasehold. We believe that a committee with power of inquiry should gather the facts and circumstances which led GSA to lease this disaster and set up procedures to avoid such wasteful acquisition in the future.

The fact that nearly every Agency to which the building was offered on an optional basis has summarily declined to exercise that option is, in and of itself, ample evidence that the building is a very bad deal. For GSA to turn and attempt to force a hostage Agency into such a building is more than a bad deal. Common sense dictates that no deal is far better than a bad deal.

Thank you very much.

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[Mr. Connery's prepared statement follows:]

STATEMENT OF VINCENT L. CONNERY, PRESIDENT,
NATIONAL TREASURY EMPLOYEES UNION

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Our union, though we represent all FEA workers in Washington, D.C., was never consulted by the General Services Administration before it selected FEA to occupy the Buzzard Point building.

Five agencies have already refused to move to the site, the Securities and Exchange Commission, the Agency for International Development, the Treasury Department's Bureau of Government Financial Operations and Bureau of Public Debt, and, most recently, the Agriculture Department's Food and Nutrition Service. Each of these agencies, when asked by GSA to move to Buzzard Point, declined for the reasons that the area is unsafe, inaccessible, and inconvenient for the employees and the public, and would impair the ability of the agency to accomplish its mission.

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What GSA seemingly has forgotten are certain other provisions of the same Executive Order. These require GSA to consider the following factors before ordering an agency to move: The convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees; the adequacy of parking and access from other parts of the urban area; and the efficient performance of the mission and programs of the executive agency.

The building, located at 1900 Half Street, S.W., lies in an industrial waterfront neighborhood, which includes a power plant, a concrete plant, and a scrap yard. Half street is aptly named; it is not paved, but is covered with gravel. There are no sidewalks, curbs or even smooth edgings on the street. When two of our staff members visited the site last week, beer cans and other debris were strewn about the premises, several windows in the building were boarded, and many of the beams that support the garage already appeared to be rusting.

GSA officials claim that there is no crime problem at Buzzard Point. This, of course, is true since the building is currently vacant and there are few people who work or live in the immediate area surrounding Buzzard Point. However, what these same GSA officials have conveniently omitted is that the Southwest area of the city that surrounds Buzzard Point is one of the highest crime areas in our community.

The Southwest area of the city comprises the First Police District. Of the city's seven districts, the First, in fiscal year 1975, ranked third in homicides, third in rapes, and first in assaults with deadly weapons. It is especially interpreting that in the same period the First District had the highest incidence of auto theft and the second-highest number of larcenies from parked cars.

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walks alone to her car after dark, or works overtime in a largely empty building in this kind of area?

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To us, the reason behind all of this is obvious. GSA did not suddenly decide that Buzzard Point was perfect for the FEA. They came to the striking realization that they were stuck with a white elephant that nobody wanted. Being saddled with an empty building with a $2.5 million lease, and having been refused by five other agencies, GSA chose FEA as its sacrificial victim, because they thought that FEA would be an easy agency to coerce.

FEA's very existence has been tenuous for the past year and the President-elect has announced, but not specified, his plans to reorganize the Federal government's energy structure.

In light of President Ford's public pronouncement that, during this transition period in our government, he wishes to take no actions that would handicap the new administration, we believe that it is imperative that this move be stopped now. NTEU has recently filed an appeal with the President, under Executive Order 11512, to rescind the GSA order and prohibit any tampering with this agency for the remainder of his term of office.

In the meantime, GSA should forthrightly admit that it has made a large mistake in acquiring this totally unwanted leasehold. We believe that a committee with power of inquiry should gather the facts and circumstances that led GSA to lease this disaster and set up procedures to avoid such wasteful acquisition in the future.

The fact that nearly every agency to which the building was offered on an optional basis has summarily declined to exercise that option is in and of itself ample evidence that the building is a very bad deal indeed. For GSA to turn and attempt to force a hostage agency into such a building is more than a bad deal: it is appalling. Common sense distates that no deal is far better than a bad deal.

Mr. DINGELL. Thank you very much, Mr. Connery, for your very helpful testimony.

Mr. Klepner, did you have any comments you wish to add?

Mr. KLEPNER. No, I don't at this time.

Mr. DINGELL. We now have Mrs. Stief, Mr. Fields, and Mr. Simon. Do you have any particular order in which you would like to testify

or do you choose to designate any of your number to speak on behalf of the three of you?

Mrs. STIEF. I will be speaking on behalf of all three organizations.

Mr. DINGELL. Then we recognize you at this time.

TESTIMONY OF KATHLEEN STIEF

Mrs. STIEF. Thank you.

The Southwest Neighborhood Assembly, the Southwest/Southeast Advisory Neighborhood Commission and the Southwest Community House are grateful for your invitation to testify on behalf of the residents of southwest Washington.

The southwest community is concerned about the leasing decisions of GSA in the southwest and how these actions have affected our residential community.

As background information, the General Land Use Objectives: 1970/1985 adopted on December 11, 1968, by the National Capital Planning Commission (NCPC) designates the Buzzard Point and South Capitol Street between P and M Streets as predominant residential development density. South Capitol Street between M and I Streets is designated as independent employment center, indeed an area in which GSA could accept a lease without putting residential and park planning in jeopardy. The waterfront area is designated as a regional/national park which would be continuous from Fort McNair to the U.S. Arboretum, making the Anacostia River and its shore one of the city's prime centers of outdoor recereation.

In May 1975, GSA was considering the lease of a building at 1900 Half Street, Southwest, from Southwest Joint Venture, which lists Dr. L. Tauber as a trustee. At this time, May 1975, the Southwest Neighborhood Assembly in a letter asked NCPC to urge the Administrator of General Services not to accept the bid for leased space in the office building proposed to be constructed. The assembly also urged that the work of the Interagency Task Force on South Capitol Street/Buzzard Point that had been an ongoing effort for more than 2 years to be considered and ruled on before any development that would obviously be contradictory to three alternatives presented in the task force's report of March 1975 could proceed.

Although an earlier protest had been sent to GSA on April 3, 1975, NCPC on May 29, 1975, passed a resolution concerning the site of Southwest Joint Venture's building—square 666—which in part stated:

1. Square 666 is part of an area designated "Regional/National Park Area" by the General Land Use Objectives 1970-1985 element of the Comprehensive Plan for the National Capitol.

2. The building contravenes the Comprehensive Plan adopted by the Commission and would be inconsistent with the sound and orderly development and with the Federal interest in creating continuous public open space along the Potomac and Anacostia Rivers.

3. * * * Urges GSA not to accept any bid for leased space in an office building proposed to be constructed on Square 666.

Throughout all these deliberations by NCPC, GSA's representative on the Commission was aware of these various concerns.

Ben Gilbert, Director of the Municipal Planning Office, government of the District of Columbia, wrote to Mr. Sampson of GSA

that such intensive development of office space . . . as it is proposed would be detrimental to the overall redevelopment of the area. There would be serious traffic and environmental problems which would interfere with the goal of creating a viable and balanced community.

To the southwest community it appeared that GSA was not concerned about our community's objections nor those of NCPC and the D.C. government. GSA was only concerned about legal matters such as compliance with zoning laws. GSA asked and obtained from the developer proof that the building being constructed on the site was in compliance with D.C. zoning laws.

In November 1971, the southwest community discovered that the construction of a GSA-leased office building was about to commence at the tip of Buzzard Point. The land's owner is Dr. L. Tauber. GSA had ignored the previously described residential and park planning for Buzzard Point by leasing an office building on square 613 which is where the Department of Transportation is today or a section of it.

The assembly stated its concern to D.C. officials in a letter of November 3, 1971. Again, in a letter to NCPC on June 9, 1972, the Southwest Neighborhood Assembly and the Southwest Community House reiterated their previous request that NCPC prepare a sectional development plan for Buzzard point.

This is a quote from the letter of June 9:

> Our goals as a community are first, the protection of our residential neighborhood from further impaction due to development of another adjacent area into high density office buildings or commercial uses. Office construction has started on Square 613 and as you know there is nothing in the current zoning of Buzzard's Point to prevent that development from spreading northward. Transportation to the Point * * * would overwhelm us with traffic and pollution. $185 million of Government funds, massive human relocation, and years of planning and development went into the creation of the New Southwest. It would be tragic if that massive effort * * * were to be impaired by serious deterioration of its environment.

The next GSA invasion into the southwest community took place when GSA accepted a lease for two tower buildings at Waterside Mall from the developers Bresler and Reiner late in 1974 or early in 1975. These towers are designated as residential apartment buildings in the Southwest Urban Renewal Plan and in NCPC's general land use objectives. The net result has been an increase in commuter traffic in southwest and a proliferation of fast-food establishments at Waterside Mall to serve the Federal Government workers rather than a shopping center that meets the day-to-day needs of southwest residents as called for in the Southwest Urban Renewal Plan. How does GSA justify leasing buildings as offices in violation of adopted plans?

The southwest community is also aware that Dr. L. Tauber owns another piece of property at Buzzard Point which he intends to develop. His letter of December 16, 1974, to GSA describes this property as located at the southeast corner of First and V Streets, Southwest. Are we to assume that the situation of overcrowding with traffic, et cetera, will only become worse since more is to come?

The letter of December 16, 1974, also suggested that the consolidation of the First and V Streets property with the 1900 Half Street property if we are able to obtain a special zoning exception. It is

also interesting to note that the letterhead of the December 16, 1974, letter says District of Columbia Joint Venture, Bethesda, Md. While the GSA-lease announcement of June 3, 1975, states that the lease at 1900 Half Street, Southwest, is with Southwest Joint Venture. Why was there a change in the name of the developer?

In dealing with environmental and physical effects of the building at Buzzard Point, it should be noted that the residential streets in southwest were never designed for the volume of traffic that will be generated with the occupancy of the second large office building. The building will have 2,000 employees and approximately 700 cars.

The Interagency Task Force on South Capitol Street/Buzzard Point Report on March 6, 1975, page 46, states:

> Large scale and random office development could produce serious traffic problems and occupy space that in terms of the public welfare be better utilized with recreational or residential uses (for example, the waterfront).

The southwest has seen an increase in traffic through our residential streets. Within the past 2 years there has been injury to children 8, 9, and 12 years of age by vehicles on roads used to get to Buzzard Point.

The residents of Half Street, Southwest, within the past year have been successful in petitioning the D.C. Department of Transportation to allow parking on both sides of their street so they could park near their homes.

This past Monday, December 13, 1976, it was brought to the attention of the southwest community that GSA on November 19, 1976, had written to WMATA general manager, Theodore Lutz requesting WMATA to initiate the necessary administrative action to approve the route adjustment of buses serving the area. The letter also states that:

> Problems caused by onstreet parking can be solved by eliminating the parking and both the D.C. Department of Transportation and the National Parks Service has informally agreed to prohibit on-street parking where necessary to facilitate bus movements.

In light of the above described on-street parking maneuvers of GSA, we ask "when will GSA ascertain the concerns of southwest residents and take steps to mitigate problems raised by southwest residents?" Thus, GSA has once more ignored the plight of southwest residents.

The southwest community is opposed to the removal of on-street parking from our residential streets to accommodate bus service to GSA's employment center at Buzzard Point. The people of southwest were there years before that building was ever built. A petition opposing removal of on-street parking was circulated in the area of the community most directly affected. This would be the area 4 and 5 blocks from the building and in a period of 2 days the signatures of 100 southwest residents were obtained in support of the petition. Since yesterday we have obtained the names of 37 more and now we have 137 residents in that immediate area that have signed this petition.

We suggest that express bus service to Buzzard Point be provided utilizing South Capitol Street and its service road thereby returning residential streets to the community.

Fort Myer has closed its streets to commuters during rush hours. Even the traffic flow design of the southwest urban renewal area is such that the main traffic flow is kept off of most residential streets by the use of dead-end streets.

GSA should become more community minded. Perhaps GSA could learn from the example set by the military district of Washington when it reassesses its proposed expansion of Fort McNair into the Buzzard Point area. Major General Robert Yerks, Commander of the Army's Military District of Washington wrote to the Assembly on January 5, 1976, that:

> After careful consideration of the views of the Assembly * * * the Department of Defense has withdrawn its requirement for the Tempo site * * * and any remaining future requirement for new construction will be accommodated within the boundaries of Fort McNair. I am convinced that this decision is in the best interest of the military community and of our splendid neighbors here in southwest Washington.

The Assembly expressed its views about Ft. McNair's proposed expansion in a letter to GSA on September 12, 1975. The letter we received in reply dated October 1, 1975, states:

> As GSA formulates its plans, we will carefully consider the views of your committee. We also will take into acount the position of NCPC concerning this matter.

Time will tell if GSA will consider our views as it plans for the Tempo area which was to have been used during the Bicentennial Year. As the Bicentennial Year draws to a close, will decision be made about the property?

In order to insure orderly and timely development in the Buzzard Point area, the interagency task force—March 6, 1975 report, page 129—suggested, although not legally binding, as a prerequisite to approving private development applications that public improvements needed to support private development or to minimize any adverse impacts of that development which are under construction. That is the public improvements.

In closing, we would like to say that the southwest is deeply troubled by the actions of GSA and the consequences which have affected the day-to-day life of our community. Throughout all this leasing activity, GSA has yet to hold any public discussions with the community to indicate its intent. Nor does GSA appear to be concerned about what it is doing to the residents of southwest and southwest as a community.

Thank you for your interest in these matters.

Signed by myself as president of the Southwest Neighborhood Assembly; by Mr. Leon Fields, executive director of the Southwest Community House; and Mr. Wesley H. Long, chairperson of the Southwest/Southeast Advisory Neighborhood Commission.

Thank you.

Mr. DINGELL. The committee thanks you for your presence. We are grateful for your very helpful and well thought-out statement.

The Chair observes that your associates there at the table, Mr. Fields and Mr. Simon, also have views, I suspect, on this matter. Gentlemen, do you desire to make any additional comments at this time?

Mr. FIELDS. Not at this time.

Mr. SIMON: No, Mr. Chairman.

Mr. DINGELL. You are, however, in full support of the statement just read by Mrs. Stief?

Mr. FIELDS. We are in full support.

Mr. SIMON. No, Mr. Chairman.

Mr. DINGELL. You have given us a very powerful statement and we thank you.

The Chair recognizes Mr. Finnegan for questions.

Mr. FINNEGAN. Mr. Connery, are you aware that located next to the Buzzard Point building there is a building called Trans Point Building which houses DOT employees?

Mr. CONNERY. Yes.

Mr. FINNEGAN. The Chairman wrote to DOT on November 30, 1976, about the Trans Point Building and the particular parking situation at that building. They indicated that the Department of Transportation presently controls all of the parking space at the Trans Point Building consisting of 254,069 square feet. They also indicated that they have a service contract with a firm to provide parking management and that the Departmental employees are charged $6.60 per month in accordance with this management contract.

They further add that there are 2,300 employees working at the Trans Point Building.

[The following correspondence was supplied for the record:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., November 30, 1976.

Hon. WILLIAM S. HEFFELFINGER,
Assistant Secretary for Administration,
Department of Transportation,
Washington, D.C.

DEAR. MR. HEFFELFINGER: As you know, our Subcommittee is examining the actions by the General Services Administration in ordering portions of the FEA to relocate to the Buzzard Point building in Southwest Washington, D.C. We understand that portions of DOT have been located at the Trans Point building since May 1973.

Our Subcommittee staff and representatives of the General Accounting Office have requested some data from DOT concerning transportation and parking at that facility. You have asked that we request the data in writing. We are happy to accommodate your request; however, we request that the following data be provided to our Counsel, Mr. David B. Finnegan, by close of business on December 2, 1976:

1. We understand that DOT runs a shuttle service to and from the Trans Point building. We request that you provide a statement showing: (a) the date the shuttle service was initiated; (b) the initial cost of that service; how many vehicles are used for that service; (c) the annual cost of that service; (d) the estimated number of riders using the service each day; and (e) the daily timetable of the shuttle service.

2. In a January 12, 1973 letter to Under Secretary James M. Beggs, the Office of Management and Budget indicated "no objection to the lease of necessary parking space" within the Trans Point building by the GSA as requested by DOT. We request that you provide to us a copy of all correspondence between DOT and OMB and GSA concerning the leasing of this space and all other letters, memoranda, etc., within DOT files concerning that leasing.

3. Please advise us as to whether or not DOT insisted on obtaining such OMB approval as a condition to DOT relocation to the Trans Point building.

4. How many square feet of parking space does DOT control, and how many

official and employee vehicles park daily? Please provide to us a copy of your rules or criteria establishing who may park in these spaces.

5. How much does DOT charge employees or visitors to park in the building?

6. Please provide to us a copy of your contract covering valet services and insurance for this parking operation.

7. How many DOT employees work at this facility?

8. In your telephone conversation with our Counsel, you said that if OMB had not approved the leasing of space, you would have "condemned" the space as you did elsewhere. Please explain what you meant by this, and cite the statutory authority for doing it.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 1, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power,
Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: This letter is in response to your inquiry of November 30 concerning the management and operation of the Department of Transportation's Trans Point Building located at 2100 Second Street, SW., Washington, D.C.

This response is keyed to your letter of inquiry, and our response is as folows:

1.a. *The Date Shuttle Service was Initiated.*—The shuttle service was initiated in May 1973. The Department of Transportation entered into a reimbursable agreement with the Department of Defense to participate in an existing shuttle service. Shortly after this arrangement, two additional buses were rented from the General Services Administration to complete the needs of the Department of Transportation.

1.b. *The Initial Cost of the Service, and How Many Vehicles are Used for the Service.*—The Department of Transportation incurred no initial cost. We requested the General Services Administration to rent buses, and we have no knowledge as to their initial cost.

There are now four buses rented from the GSA for the shuttle service.

The joint service with the Department of Defense was discontinued in November 1973 at the request of the Department of Defense.

1.c. *The Annual Cost of the Service.*—The cost of the shuttle service for FY 1976 was $71,859.19.

1.d. *The Estimated Number of Riders Using the Service Each Day.*—1551 per day.

1.e. *Daily Timetable of the Shuttle Service.*—We have included a detailed timetable of the shuttle service, which is incorporated in the Department of Transportation telephone book. You will note from the timetable that the shuttle service also serves the Environmental Protection Agency and the headquarters of the Department of Health, Education and Welfare, as well as the three buildings of the Department of Transportation.

2. Please find enclosed five pieces of correspondence concerning this building between the Department of Transportation, the Office of Management and Budget, and the General Services Administration.

We are continuing to search the files for any additional correspondence mentioned in Paragraph 2, but within the time constraints of your inquiry, these available memoranda are submitted.

a. Letter from William S. Heffelfinger, Assistant Secretary to Ronald E. Zechman, Acting Assistant Commissioner, GSA, dated October 5, 1972.

b. Letter from James M. Beggs, Deputy Secretary, DOT, to Caspar W. Weinberger, Director, OMB, dated October 24, 1972.

c. Letter from Frank C. Carlucci, Deputy Director, OMB, to James M. Beggs, Deputy Secretary, DOT, dated January 12, 1973.

d. Letter from James F. Steele, Jr., Acting Director, Space Management Division, GSA, to Walter C. Hayhurst, Chief, Buildings Engineering and Design Division, DOT, dated February 9, 1973.

e. Letter from Walter C. Hayhurst, Chief, Buildings Engineering and Design Division, DOT, to James F. Steele, Jr., Acting Director, Space Management Division, GSA, dated February 20, 1973.

3. The assignment of the Trans Point Building to the Department of Transportation occurred prior to the approval of the Office of Management and Budget of the parking space.

4. The Department of Transportation presently controls all of the parking space at the Trans Point Building consisting of 254,069 square feet.

The present parking configuration utilized by the Department of Transportation will accommodate 650 automobiles.

Rules and Criteria, CFR, 41-C-101-20.117 and DOT Order 1700.19B.

5. The Department of Transportation does not charge casual visitors for parking in its facility.

Departmental employees are charged $6.60 per month in accordance with its parking management contract.

6. Please find enclosed the contract concerning parking management that covers the Trans Point building, as well as the other two headquarters buildings of the Department of Transportation.

7. There are apporximately 2300 employees working at Trans Point.

8. This concerns a conversation between Mr. David B. Finnegan and myself, and I regret that there appears to be a misunderstanding. Apparently, I gave the impression that the Department would have condemned its parking space in Trans Point if the Office of Management and Budget had not approved the leasing of the space. This, in fact, did not happen, and we are without authority to have done so.

A condemnation proceeding did occur in the acquisition of the parking in a headquarters building located at Seventh and D Streets, S.W. when a satisfactory lease and price could not be negotiated by the General Services Administration and the owner of the lease.

The condemnation occurred as a result of the impasse over terms and conditions.

Subsequently, the Department of Transportation condemned the same space for a short period of time. This condemnation has since been negotiated away, and the General Services Administration holds the lease without benefit of of condemnation with the owner of the lease.

Sincerely,

WILLIAM S. HEFFELFINGER.

Mr. FINNEGAN. Now, in reviewing this matter with the Department of Transportation, we learned that on January 12, 1973, the Deputy Director of the Office of Management and Budget, Mr. Frank C. Carlucci, wrote to the then Under Secretary of Transportation, Mr. Beggs stating that he had no objections to the lease of necessary parking space within the Buzzard Point building by the General Services Administration.

Prior to that the Department of Transportation had written to the Office of Management and Budget asking for an opportunity to purchase this particular lease space and saying, in fact, that because there was a problem of safety they needed additional parking spaces for the area. This lease space, according to the information provided to us by the Department of Transportation, costs the GSA approximately $266,000 per year. This money is not reimbursed by the employees.

Now, in light of that history at the Trans Point Building, don't you think that the employees of the FEA which you represent and probably those of the FBI would want to be treated equally in connection with Buzzard Point?

Mr. CONNERY. I most certainly do.

Mr. FINNEGAN. Would it not be reasonable to expect that they would want to be charged no more than the $6.60 per month for parking?

Mr. CONNERY. Of course.

Mr. FINNEGAN. Well, the Tauber lease or the Buzzard Point lease, of course, acquires 271 parking spaces at Buzzard Point. The GSA has informed us, however, that of those 271 spaces some will be devoted toward official parking for handicapped persons, et cetera, and some for employee parking. Obviously, that is not going to be enough to handle all the employees that would be housed at Buzzard Point. The Tauber lease, however, provides that additional space may be rented to the individual employees at a reasonable fee, according to the lease, of $25 per month.

Do you think the FEA employees would be willing to pay $25 a month while the people next door are paying $6.60 per month?

Mr. CONNERY. Well, I have enough confidence in their commonsense to know that they would oppose that very strenuously.

Mr. FINNEGAN. So that you would imagine, anyway, that pressures would be forthcoming to have the GSA do what they did at the Trans Point Building; that is, to acquire, with OMB approval possibly, additional lease space at an additional cost to the Government; is that correct?

Mr. CONNERY. Yes.

Mr. FINNEGAN. I see.

Mr. CONNERY. At considerable additional cost, I might say.

Mr. FINNEGAN. The result will be that the savings suggested by the GSA would be somewhat reduced insofar as FEA is concerned?

Mr. CONNERY. That is correct. I can also add that our experience nationwide with the General Services Administration has been that they consistently exhibit no concern—no concern whatsoever—for Government employees.

Mr. FINNEGAN. One additional question I guess I can throw out to all of you. One of the concerns that has been expressed by the employees in addition to parking has been the matter of public transportation.

Now, although we are not sure about the FEA, yesterday we found out that the average grade level excluding agents at the FBI, which is one of the agencies scheduled to move to Buzzard Point, is about a GS-5, according to the FBI.

We understand that the GSA has been saying that they have consulted with Metro to provide additional bus service. We also understand that presently the bus service is not very good in that area. Have any of you been talking to GSA to find out to what extent they have been successful in urging additional bus service and what will be necessary to obtain that additional bus service?

Mr. CONNERY. Well, I read a summary of my statement. I submitted my full statement previously for the record and in that statement I noted that GSA never mentioned this matter to us, even though we are the exclusive representative of all FEA employees. They never made any effort or attempt to get in touch with us in any way.

Mr. DINGELL. What does your contract as representative of the employees say about matters of the kind that we are discussing?

Mr. CONNERY. We have not concluded the negotiation of a contract, Mr. Dingell.

Mr. DINGELL. You have not completed your contract yet?

Mr. CONNERY. No.

Mr. DINGELL. As I understand it, you have two contracts; one is the Government contract and one is the contract with regard to the particular agency and installation.

Mr. CONNERY. No.

Mr. DINGELL. No?

Mr. KLEPNER. Last spring NTEU won exclusive recognition for the entire Federal Energy Administration. We are right now in the midst of negotiating a contract for the entire agency. There will be one contract covering FEA nationwide. However, under the Executive order system under which the Federal labor relations program exists, we do not have the right to negotiate the move of an agency from one facility to another.

Mr. DINGELL. I am not talking about the right to negotiate, but don't you at least get some notice?

Mr. CONNERY. This is one of the problems we have had under the Executive order. Our exclusivity exists within the agency which directly employs these people. GSA, on the other hand, is a zone above that. We have no right.

Mr. DINGELL. You say they are a zone above it to the right or left?

Mr. CONNERY. Right. The Government takes the position that our rights under the Executive order, as the union representative, extends only to the employing agency of the employees; therefore, GSA can come and go as they wish and frequently, as I mentioned before, do without any compunction as to how their moves will affect Government employees.

Mr. DINGELL. They manifested some remarkable behavior in this manner into which we will shortly be inquiring.

Mr. Finnegan.

Mr. FINNEGAN. In his opening statement, Mr. Connery, the chairman quoted from a letter that he received dated December 14 from the Director of the Office of Management and Budget, Mr. James T. Lynn. Mr. Lynn stated:

> No government-wide procedures have been established specifically relating to the expression of employee views on work location matters. It is OMB's view that the establishment of such procedures is a management prerogative of agency heads. At the same time, OMB believes that employees should have an opportunity to express their concerns about safety, transportation and related matters to the head of their agencies for the latter's consideration in coming to a conclusion about a proposed office location. In fact, employees have been readily able to make their views known on proposed work locations. In the current case, for example, FEA employees have been vocal and, for example, have forwarded petitions stating their views to OMB.

Now, as I understand the situation, the GSA contacted FEA, as they testified earlier today, on October 8 or on the first part of October and there was a meeting with FEA officials on October 8, 1976. Subsequent to that meeting there was an opportunity for certain FEA officials to survey the Buzzard Point building. On October 20 the FEA responded to GSA suggesting that they would rather not go to that building because of reorganization proposals and so forth. Nine days later GSA ordered FEA to go to the building.

Now, in that process was there any opportunity that you know of for the head of the affected agency, namely FEA, to consult with the

employees and to obtain an expression of the employees' views, or did they contact you at that time?

Mr. CONNERY. No, they did not as an agency. The employees or, our membership in other words, did.

Mr. FINNEGAN. When did that take place, do you know?

Mr. CONNERY. In this ensuing period. We were totally aware of the antipathy that the FEA employees had to Buzzard Point. As a matter of fact, prior to that there had been a rumor that IRS was being considered as one of the designees for this building and this brought up a roar from IRS. I had contacted IRS officials, the Commissioner and others, and was assured that under no circumstances would IRS ever contemplate a move to Buzzard Point.

Mr. FINNEGAN. That brings me to my next question. In the case of the Treasury Department it is my understanding from the correspondence that we have reviewed at GSA and elsewhere that a letter was written to the Treasury Department in June of this year suggesting that they were a good choice, the most logical choice as the chairman has pointed out, to go to Buzzard Point. From that point on there ensued a great deal of discussion at Treasury with GSA and apparently with representatives of the employees and your union. As a result of those discussions and for other reasons in September the Treasury Department declined the offer.

Now, the press release states that the offer was declined and mentions that there was some concern about the size of the Buzzard Point building, but they also expressed some concern about the problems associated with employees.

[The letter and press release referred to, follow:]

Mr. GEORGE DIXON,
Deputy Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

DEAR MR. DIXON: The General Services Administration has made a careful and thorough review of all possible alternatives for the use of the building at 2 T Street, SW., Washington, DC.

We have concluded that the most logical tenants for this building are elements of the Department of the Treasury's Bureau of Public Debt and the Bureau of Government Financial Operations. Such an assignment would essentially consolidate these two bureaus from more than a dozen scattered locations into a single building.

We therefore propose to assign this building to the aforementioned bureaus and look forward to an early and favorable response from your Department.

Sincerely,

JOHN F. GALUARDI,
Regional Administrator.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., September 13, 1976.

POTOMAC OVERLOOK BUILDING

The Treasury Department has declined the General Services Administration's offer of the Potomac Overlook Building on Buzzard Point in southwest Washington.

Fiscal Assistant Secretary David Mosso said that the building was evaluated for possible occupancy by the Washington staff of the Bureau of Government Financial Operations and the Bureau of the Public Debt, 2300 employees in total. He said that intensive consideration of potential costs and savings led to the conclusion that the contemplated move would not be advantageous.

The Potomac Overlook Building was somewhat limited with respect to total space needed for the operations involved and also with respect to space that could be adapted to essential computer installations. A further consideration was the relative difficulty of access to the Potomac Overlook Building by way of public transportation. The two bureaus have a high proportion of low-salaried positions and high dependence on public transportation.

The Bureau of Government Financial Operations and the Bureau of the Public Debt constitute the Fiscal Service of the Treasury. They have custody of the government's cash; issue, pay and reconcile Treasury checks; administer the public debt; maintain the central accounts of the government; and perform other central financial services.

Mr. FINNEGAN. There was a procedure, as the OMB has suggested, for the employees at least to express themselves to the agency head; is that correct? At least in the Treasury situation you had some opportunity.

Mr. KLEPNER. There is no procedure. There is no mandatory requirement within the Federal Government that an agency or GSA negotiate with the union representative concerning a move from one facility to another.

There is a consultative mechanism. However, consultation has a very broad definition and there have been instances in other agencies when the employee's union representative has been called in 24 hours in advance of implementation and told: "Here is what we intend to do, what do you think?"

Of course, such consultation is a very meaningless procedure and, because of the confines under which we have to operate in the Federal Government Executive order program, those types of things are permitted to go on and do go on.

Mr. DINGELL. Well, can you advise us what the precise mechanism for consultation on this matter is? I am not here to advocate necessarily that you ought to be able to dictate where you are going to work while you are employed by the Federal Government, but since there is a consultative mechanism here of some sort, tell us what it is.

Mr. CONNERY. Well, the consultative mechanism, I believe, is as disingenuous as Mr. Lynn's letter. The fact is, as Mr. Klepner indicated, the Government has taken the position that consultative rights consist merely of being told perhaps 24 hours or a week in advance.

Mr. DINGELL. What is the language of this consultative mechanism?

Mr. CONNERY. The language of the Executive order, I believe, requires that the Government agency and the employees concerned meet and confer with the exclusive representatives on personnel policies and practices which affect their working conditions.

Mr. DINGELL. Would you submit the precise language of that to us, please?

Mr. CONNERY. Yes.

Mr. DINGELL. Both the GSA and the employing agency; is that right?

Mr. CONNERY. Pardon?

Mr. DINGELL. I said that the language about consultation applies to both the GSA and the employing agency; is that right?

Mr. CONNERY. No.

Mr. DINGELL. Just to the employing agency?

Mr. CONNERY. Yes. As far as I know, yes.

Mr. DINGELL. I see. Well, submit that to us, please, and also the statement as to whether it applies only to the employing agency or to GSA as well, would you please?

Mr. CONNERY. Yes, I would be very happy to.

[The following letter was received for the record:]

NATIONAL TREASURY EMPLOYEES UNION,
Washington, D.C., January 17, 1977.

Hon. JOHN D. DINGELL,
Chairman, Committee on Interstate and Foreign Commerce,
Chairman, Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power, U.S. House of Representatives, House Office Building Annex No. 2, Washington, D.C.

DEAR CONGRESSMAN DINGELL: This is in response to your request for additional information to supplement my testimony given before your Subcommittee on December 17, 1976. Specifically, you asked two questions relating to the obligation for NTEU to be consulted regarding the move of FEA Headquarters.

First you asked for the specific language in Executive Order 11491, as amended, which provides for the right to consult. (Attachment). Section 9 of the Order contains the only reference to consultation. It grants "national consultation rights" to a labor organization which represents a substantial number of employees but is not the exclusive representative. Since NTEU holds exclusive rights to represent FEA employees nationwid, Section 9 is inapplicable. The rights of an exclusive representative are set forth in Section 11(a). It provides as follows:

"Sec. 11. Negotiation of agreements. (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual; published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Council and which are issued at the agency headquarters level or at the level of a primary national subdivision; a national or other controlling agreement at a higher level in the agency; and this Order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this Order, to assist in such negotiation; and execute a written agreement or memorandum of understanding."

Thus, FEA is obligated to meet with NTEU regarding personnel policies and practices and matters affecting working conditions. The real question presented herein is whether or not the move of the FEA Headquarters fits within the ambit of Section 11(a) of the Order. The scope of Section 11(a) is limited by Sections 11(b) and 12(b) of the Order. Section 11(b) excludes from the obligation to meet and confer matters involving budget. The decision to move various offices of FEA in the Washington Metropolitan area into one facility located at Buzzard Point involves budgetary considerations and would therefore be excluded. Additionally, the decision to move the Headquarters involves the efficiency of government operations and therefore is excluded from the obligation to meet and confer pursuant to Section 12(b)(4) of the Order. Thus, based on the foregoing, the FEA would not be obligated to meet and confer with NTEU regarding the decision to move FEA Headquarters.

Second, you ask whether or not GSA had any obligation to confer with NTEU. The Assistant Secretary of Labor for Labor-Management Relations in interpreting E.O. 11491, as amended, has stated that the obligation to meet and confer only extends to the agency with which the labor organization has exclusive recognition. In *U.S. Civil Service Commission and National Treasury Employees Union*, A/SLMR No. 642 (1976) the National Treasury Employees Union, who was the exclusive representative for Internal Revenue Service employees, filed an unfair labor practice charge alleging that the Civil Service Commission violated the Order by conducting interviews with employees and not permitting union representatives to be present. In his decision the Assistant Secretary stated that "I find the CSC under the circumstances of these cases, is not 'Agency Management' within the meaning of Section 2(f) of the

Order with respect to the employees of the two Internal Revenue Service activities involved herein. Therefore, the CSC, in the context of these cases was under no obligation under Section 10(e) of the Order to afford Complainant representation at the interviews in question."

Therefore, by analogy, GSA similarly is not Agency Management within the meaning of Section 2(f) of the Order, and therefore owes no obligation to meet and confer with NTEU pursuant to Section 11(a) of the Order.

If I can be of any further assistance, please advise.

Respectfully submitted,

VINCENT L. CONNERY,
National President.

Mr. DINGELL. I find myself curious. If the employing agency is consulted, or told, 24 hours in advance, and I don't know which I would rather have happen to me, I assume this necessarily requires GSA to notify the employing agency in sufficient time so that these matters could be brought to the attention of the employees union; am I correct?

Mr. CONNERY. Yes, sir.

Mr. DINGELL. Am I to infer this was done here or not?

Mr. KLEPNER. We were not consulted concerning the move itself. We found out about the move through a group of employees who were very concerned.

Mr. DINGELL. You were not consulted by FEA or GSA?

Mr. KLEPNER. Neither.

Mr. DINGELL. You are aware of the fact that FEA appears to be at least as distressed about the fact as you are?

Mr. KLEPNER. Yes, but there is no language in the Executive order that requires GSA to consult with anybody. The Executive order only goes between the employing agency and the employees.

In terms of consultation it has a very loose definition. Consultation is whatever the agency chooses for it to be.

Mr. DINGELL. I have been using the dictionary this morning and I think it has had a rather enlightening effect on folks in this room, including the Chair. I don't want to get into this question so the Chair is going to recognize counsel again.

Mr. FINNEGAN. I think, though, what was also enlightening this morning is that the Director of OMB says that it is OMB's view that establishment of procedures is a management prerogative of the Agency heads implying that at least there should be some sort of procedure.

Now, in the case of the Treasury move, as I understand the situation, no order was issued to move the Agency, rather it was suggested that they might move there. Through whatever procedure that existed at that time, either formal or informal, the employees did have time to express their views. There were approximately 2 months during which the employees did express themselves through demonstrations or in whatever way they could, but that is not the case in the situation involving the FEA, as I understand it.

The GSA contacted, as I stated earlier, the FEA. There were some discussions with the management of FEA, but during these discussions from October 8th to the time that the FEA sent their letter

on October 20th, I assume that the employees were not consulted by FEA or anyone else.

[The letter referred to follows:]

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., October 20, 1976.

MR. TERRY CHAMBERS,
Deputy Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. CHAMBERS: At the conclusion of our October 8, 1976, meeting, we agreed that the Federal Energy Administration (FEA) would consider occupancy of the Buzzard Point Building by its program elements currently located in leased office space. During the past week, my staff showed the space to a cross section of senior program managers and received written comments and recommendations.

The most common comments dealt with the remoteness of the building, its inaccessibility, and the desolation of its surrounding environment. I concur with these comments, as do Frank Zarb and John Hill. An additional negative aspect would be the large cost (approximately $400,000) associated with relocating our data and telecommunications equipment currently located at 20th and M Streets, and the necessity to construct a new computer room at the proposed site.

The White House and the Congress have expressed strong interest in consolidation of all energy-related agencies currently scattered around Washington, D.C., early in 1977. An FEA move to Buzzard Point at this time might well complicate such a consolidation and require a second major move of FEA personnel soon after the dust settles at Buzzard Point. This would seriously affect Agency morale and efficiency. Therefore, given the factors above, we hope that you would find a more suitable, stable tenant for Buzzard Point.

Enclosed are the written responses I received to give you a feel of the reaction to the walk-through of the building. In closing, I would like to say again that we at FEA appreciate the many courtesies and services extended to us by GSA in general and Jack Galuardi in particular.

Sincerely,

MARTIN D. HOWELL,
Associate Administrator, Management.

Mr. CONNERY: That is correct.

Mr. FINNEGAN. After the letter was sent on October 20th by FEA, I think it is reasonable to assume that FEA management felt the matter was ended based on past history and did not expect an order to move. Is that a reasonable assumption, do you think?

Mr. KLEPNER. Well, it is possible.

Mr. FINNEGAN. Then after the order on October 29 FEA did set up a procedure in the form of a hearing in which your people had an opportunity to express themselves. Again, don't you think that FEA and its employees should have been treated as Treasury and its employees were?

Mr. CONNERY. Absolutely.

Mr. FINNEGAN. After hearing from the employees?

Mr. CONNERY. That is what I tried to make clear in my summary. We do indeed.

Mr. FINNEGAN. I think that gets me where I wanted to go.

Do you ladies and gentlemen have any further comments on what we said?

Mr. SIMON. I would like to make just one brief observation. I know that there has been a great deal of concern expressed about

the neighborhood in which this building is to be located and I hope it is generally understood that southwest Washington is a somewhat diverse area. The immediate area in which the Buzzard Point building is to be located is, in fact, one highly lacking in amenities and esthetic appeal and is, in fact, one of the reasons why the neighborhood has sought to have parkland there and which we regard the GSA building, the GSA moves to be detrimental to our best interests.

As I say, southwest is a very diverse area and, as a matter of fact, I would simply like to point out that this building in which we are here today is, in fact, in southwest.

Mr. DINGELL. Mr. Klepner, Mr. Connery, Mr. Miller, Mrs. Stief, Mr. Fields, Mr. Simon, we thank you for your presence and your assistance to the committee today.

Mr. CONNERY. Thank you, Mr. Chairman.

Mr. DINGELL. It will be necessary for the committee to take a brief recess as the Chair has a couple items of business to transact. We will return shortly. We will sit until approximately 1 o'clock at which time we will recess for lunch.

In the meantime the committee will stand in recess for a period of about 5 to 10 minutes.

[Brief recess.]

Mr. DINGELL. Panel 3 is the General Services Administration.

Is Mr. Eckerd here today?

Mr. GALUARDI. He is not.

Mr. DINGELL. Have we got enough room at the table? I recognize the complexity of the situation we have here logistically, gentlemen, so we will let you sit at the place of your choice. If you will reserve a place for Mr. Eckerd, it may be that he will appear during the course of the proceedings.

Gentlemen, it would be appreciated if you could all be up at the table with us because I am not sure who we are going to be asking questions of before this matter ends. Mr. Finnegan and I feel it is quite important that you all be here because it saves rushing back and forth and confusing the proceedings.

I guess we will leave that middle space for Mr. Eckered. If we need more space, gentlemen, we will get another table up here.

Ladies and gentlemen, you will observe copies of the rules of the committee available to you at the committee table. Any and all of you are entitled to have counsel and if you so desire you may express yourselves at this particular time.

I guess we might just as well commence with administering the oath and then we will ask you each to identify yourselves from your left to your right.

If you would all please rise.

Do each of you swear that the testimony you will give will be the truth, the whole truth and nothing but the truth, so help you God?

[All responded affirmatively.]

Mr. DINGELL. Would you please identify yourselves from your left over here and my right across.

TESTIMONY OF I. JACK GURAL, DIRECTOR OF PLANNING, PUBLIC BUILDING SERVICE, REGION 3, GENERAL SERVICES ADMINISTRATION; DORIS FRANKENFIELD, DEPUTY DIRECTOR, SPACE MANAGEMENT; JOHN K. BLUMENSTEIN, SPACE PLANNING AND MANAGEMENT; JOHN F. GALUARDI, REGIONAL ADMINISTRATOR; R. I. NIXON, SPECIAL ASSISTANT TO THE COMMISSIONER; EDWARD KIDWELL, DIRECTOR, SPACE MANAGEMENT DIVISION; EARL W. ESCHBACHER, CHIEF, METROPOLITAN BRANCH, SPACE MANAGEMENT DIVISION; MICHAEL FOWLER, REALTY SPECIALIST; ANDREW KAUDERS, DIRECTOR, ENVIRONMENTAL AFFAIRS; ROBERT DOWNS, SPACE MANAGEMENT DIVISION; AND WAYNE COOK, ENVIRONMENTAL PROJECT SPECIALIST, PLANNING STAFF, ACCOMPANIED BY ANTHONY BORWICK AND ARNOLD HESPE, COUNSEL, AND JOHN V. MULLIGAN, ASSISTANT GENERAL COUNSEL

Mr. GURAL. I. Jack Gural. I am director of planning, Public Building Service, region 3.

Mrs. FRANKENFIELD. Doris Frankenfield, Deputy Director, Space Management Division, General Services Administration, region 3.

Mr. BLUMENSTEIN. John K. Blumenstein. I work in the Office of Space Planning and Management for the Public Building Service.

Mr. BORWICK. Anthony Borwick. I appear as counsel.

Mr. DINGELL. Then it is not necessary that you be sworn unless you so desire. You are appearing here as attorney or counsel.

Mr. BORWICK. Yes.

Mr. DINGELL. As opposed to appearing as a witness.

Mr. BORWICK. Yes.

Mr. DINGELL. Very good.

The next gentleman, sir.

Mr. BORWICK. The next gentleman is Mr. Arnold Hespe, counsel.

Mr. GALUARDI. John F. Galuardi, Regional Administrator, General Services Administration, region 3.

Mr. NIXON. R. I. Nixon, Special Assistant to the Commissioner, Public Building Service.

Mr. KIDWELL. Edward Kidwell, Director, Space Management Division, Public Building Service, region 3.

Mr. ESCHBACHER. Earl W. Eschbacher, Chief, Metropolitan Branch, Space Management Division, Public Building Service, region 3.

Mr. FOWLER. Mike Fowler, Realty Specialist.

Mr. MULLIGAN. Assistant General Counsel, Public Building Service.

Mr. KAUDERS. Andrew Kauders, Director, Environmental Affairs.

Mr. DOWNS. Robert Downs, region 3, Space Management Division.

Mr. COOK. Wayne Cook, Environmental Project Specialist, Planning Staff, Public Building Service, General Services Administration, region 3.

Mr. DINGELL. Does that complete our witnesses?

Well, ladies and gentlemen, Mr. Eckerd is not here today?

Mr. GALUARDI. No, he is not.

Mr. DINGELL. Can you tell me where he is? He was invited by the committee to be present.

Mr. GALUARDI. Mr. Eckerd had long standing plans for this period of time and is not able to be here. I believe that he sent a letter to you explaining the situation. I hope you have received it this morning. [See p. 475.]

Mr. DINGELL. I received it, I must confess, with some distress and less than adequate satisfaction. Is he away on business or is he away on pleasure?

Mr. GALUARDI. I am not sure. I am not privy to that.

Mr. DINGELL. Can anyone tell us whether he is away on business or pleasure? Is he on official travel orders for official duty?

Mr. GALUARDI. I am not aware, sir, since I am not in the central office.

Mr. DINGELL. I see. We would much appreciate it if you would see to it that this information is submitted to us so that we will know. Can you tell us where he is?

Mr. GALUARDI. I am not sure of that, sir, except I know he is leaving town or has left town.

Mr. DINGELL. Mr. Forsythe is here. Can you tell us where he is, Mr. Forsythe?

Mr. FORSYTHE. Sir, he is out of town, I do not know where.

Mr. DINGELL. We understand he is in Tampa. It has been brought to my attention that the climate is better down there than it is up here.

Mr. GALUARDI. Since we report to Mr. Eckerd, he does not report to us, we don't know where he is.

Mr. DINGELL. All of you report to the committee, gentlemen, and so I am aware of who reports to who. I hope Mr. Eckerd is equally aware that he reports to us as opposed to the other way around. In any event, we would like to have a precise statement of where he is and whether he is on official business or pleasure. If there are travel orders in this instance, we would like to have those presented to us together with the information as to flights and so forth, including the date and time of his departure and when the travel arrangements and so forth were made. [See p. 476.]

Since I assume we will be going this afternoon, I think it will be helpful if we all had it by this afternoon when we reconvene at 1 o'clock. I guess, since Mr. Forsythe is in the Office of Congressional Affairs, this responsibility falls upon him or whoever at the agency would like to assist us in these particulars. Mr. Phillips will cooperate with Mr. Forsythe or anybody designated by the agency in order that we might have full and mutual cooperation in obtaining an adequate record on this matter. Toward this end the Chair directs that the correspondence between Mr. Eckerd and the present occupant of the chair be inserted in the record. [See p. 475.]

Gentlemen, do any of you have a prepared statement?

Mr. GALUARDI. I have a prepared statement, Mr. Chairman.

Mr. DINGELL. Then you are recognized for the purposes of presenting that prepared statement.

Mr. GALUARDI. I would prefer just to hand it in as a matter of record.

Mr. DINGELL. I think that would be acceptable and without objection the statement will appear in the record.

The Chair asks you, is the statement the truth?

Mr. GALUARDI. It is to the best of my knowledge, sir.

Mr. DINGELL. Very well.

[Mr. Galuardi's prepared statement follows:]

STATEMENT OF
JOHN F. GALUARDI,
REGIONAL ADMINISTRATOR,
REGION 3,
GENERAL SERVICES ADMINISTRATION

Mr. Chairman, we appreciate the opportunity to testify before your sub-committee today on the relocation of components of the Federal Energy Administration to 1900 Half Street, SW. We should like, first, to present you with a brief history of the procurement of and subsequent events surrounding this building.

On March 25, 1974, the Securities and Exchange Commission (SEC) submitted to the General Services Administration (GSA) an official space request asking that its somewhat scattered facilities be consolidated into a single location.

Working with the SEC, GSA then submitted to the Public Works Committees of the Congress a prospectus requesting authorization to proceed with the SEC consolidation. This prospectus was approved by Congress on October 10, 1974, authorizing GSA to lease approximately 460,000 square feet of space (including parking) within Washington, DC, at an estimated annual rental of $2,800,000 for a firm 5-year term.

On December 9, 1974, GSA issued a Solicitation for Offers (SFO), in which SEC concurred, to procure space for either full or partial consolidation with delivery of space by July 1975. Under the initial SFO only one offer for total consolidation (unresponsive because it exceeded the prospectus limitation) was received. This offer was made by the owners of 400 North Capitol Street, who are also the owners of SEC's present headquarters, insisting that the Government vacate

500 North Capitol Street on April 20, 1976, upon the expiration of the lease. In effect, this meant that partial consolidation could no longer be considered.

Our knowledge of the market had made us aware of the fact that by amending the SFO to allow for a delivery date of July 1976, competition could be generated. Therefore, the SFO was thus amended on January 31, 1975.

In addition to the still non-responsive offer for 400 North Capitol Street, 2 other offers, which could allow for the total consolidation of the SEC, were received.

Following extensive negotiations with all offerors, an award was made on June 3, 1975, to the Southwest Joint Venture, the lowest responsive, responsible offeror, for a building in the initial stages of construction at 1900 Half Street, SW. The building is in the area delineated by the SFO, it meets all of the prospectus and SFO requirements, and was properly zoned and permitted by local officials. Despite this, SEC informed GSA on June 3, that it would appeal GSA's decision to the Office of Management and Budget (OMB).

On January 3, 1976, OMB ruled that SEC did not have to relocate to 1900 Half Street on the grounds that GSA had failed to inform SEC of its right of appeal.

Based on a meeting in late February and subsequent telephone conversations between officials of GSA and the Agency for International Development (AID), GSA formally offered the building to AID on April 9, 1976. However, AID did not make a final response to the offer.

During June, 1976, GSA was approached by the Department of Treasury, which advised GSA informally that Treasury would like to consider the new building to house 2 of its components. Therefore, on June 30, 1976, GSA simultaneously withdrew its offer from AID and formally offered the building to Treasury. On September 13 Treasury declined GSA's offer making the point that 1900 Half Street is a bit small for the operations it had intended to house there.

Throughout the remainder of September and most of October, GSA showed 1900 Half Street to various Government agencies, and considered the space needs of these agencies. The agency which expressed most interest in the building was the Department of Agriculture (USDA), which, in early January, had submitted to GSA a request for 150,000 square feet of space at the Buzzard Point Building. On October 19, GSA made a formal offer of this space to USDA, but to date has not received a reply either accepting or rejecting our offer.

The Federal Energy Administration (FEA) had requested consolidation

of its facilities in April, 1974. In recent meetings between FEA and GSA officials, both total and partial consolidations of FEA at Buzzard Point were discussed. It was GSA's feeling that, although the FEA did not wish to move from its main headquarters operation in the New Post Office, partial consolidation would be considered seriously. Because the lease on 2000 M Street, FEA's secondary location, was due to expire on November 30, and the cost of renewing FEA's space there would be in excess of $1,000,000 annually, and the fact that FEA would eventually have to vacate the Old Post Office, GSA determined that sufficient space would be assigned at Buzzard Point to effect a partial consolidation of that agency. Therefore, on October 29, GSA so advised FEA.

In the meantime, as noted above, USDA has not yet made its decision on whether to accept space at Buzzard Point. Because the Federal Bureau of Investigation (FBI) Washington Field Office, presently housed in the Old Post Office, had also expressed an interest in relocating to Buzzard Point, on November 24, we offered the FBI 3 floors in the new building to replace its space at the Old Post Office and to allow for some necessary expansion in the new Hoover Building. This offer was accepted in writing on November 30, 1976, and the FBI and GSA are currently planning the move into the Buzzard Point Building.

Now, if you have any questions, we shall be happy to answer them or to furnish the desired information for the record.

Question 1. (a) Executive Order 11512 states that GSA "shall initiate and maintain plans" for the effective and efficient utilization of space in plans suggest where a consolidation FEA should be located? Please provide to us a copy of those plans.

We believe that here is a line of type missing in the question and that it should read:

Executive Order 11512 states that GSA "shall initiate and maintain plans" for the effective and efficient utilization of space in the States of the United States or in the District of Columbia. Do those plans suggest where a consolidated FEA should be located? Please provide to us a copy of those plans.

GSA maintains a five-year plan for all ten of GSA's Regions and the National Capital Region (NCR). These plans are, on the one hand, fairly specific about the estimated total amount of space required within a region but on the other hand, indefinite about the particular agencies which will occupy the space.

The plans are indefinite about space for a particular agencies because the agencies themselves are unable to forecast, with any degree of certainty increases in staffing levels, approvals of new programs, changes in national priorities which affect agency operations, or congressional mandates of new programs. For these reasons, GSA does not make detailed plans for a particular agency.

However, GSA has found that a reasonable estimate of future total space requirements can be forecast, based on historical space requirements and other factors, regardless of which agencies expand, contract, are abolished or created.

Consequently, although GSA is unable to predict with any degree of certainty what changes in the programs, personnel and other aspects of an agency will occur, GSA can estimate collectively the total space requirements for all agencies.

A copy of GSA's five year plan for the NCR dated August 4, 1976 is attached for your information. (Attachment No. 1)

Question 1. (b) The Order also directs GSA to prepare and issue "standards and criteria" for the use of space. Please provide to us a copy of them and show how they were applied in the case of FEA.

Standards and criteria for the use of space have been in existence for a number of years and are published in the Federal Property Management Regulations, Subchapter D, Subpart 101-17.3 (attachment No. 2). These standards are generally applied at the time that a layout of the space to be occupied is being prepared, and are based on staffing patterns provided by the affected agency. When discussing consolidation of several locations, the cumulative total of the locations being considered is used as the planning figure for the amount of space required for consolidation, pending completion of the layout. However, when there is an obvious abuse of space utilization in a given location, a more intensive effort would be made initially to identify the specific square footage required. In the case of FEA, information was requested from that agency on May 25, 1976, relative to its staffing so that an analysis could be made (attachment No. 3). This information was never received by GSA.

Question 2. When did FEA file with the GSA a space request causing your agency to move towards a consolidation of FEA?

By space request dated April 16, 1974, (attachment No. 4) FEA requested 329,000 square feet of space for total consolidation. Based on this request, GSA prepared a prospectus in the amount of 378,750 square feet of space of which 78,750 square feet was for parking (attachment No. 5). This prospectus was submitted to the Committees on Public Works on September 25, 1974, and approved subject to deletion of the parking on October 10, 1974 (attachment No. 6). The subsequent issuance of SFO No. 694 (concurred in by FEA) resulted in the acquisition of approximately 300,000 square feet of space in a building at 20 Massachusetts Avenue, NW., Washington, DC, on February 21, 1975. Just prior to award, newly appointed FEA Administrator, Mr. Frank Zarb, indicated a preference for remaining in the New Post Office Building and also indicated that FEA's space requirements were expanding and that they might have a need for an additional 100,000 square feet of space. When it bacame apparent that this projected requirement could be valid and that total consolidation could not be effected in the new building, it was decided that GSA would pursue a course of a two building collocation; the New Post Office Building and space at 2000 M Street, NW. for FEA. Because of this decision, the building under consideration for award was offered to the newly formed Energy Research and Development Administration (ERDA) to meet their immediate need for consolidation and expansion. ERDA accepted the building at 20 Massachusetts Avenue on January 30, 1975, and an award was made on February 21, 1975. The consolidation of ERDA then allowed components of that agency to be relocated from 2000 M Street, thereby making expansion space available to FEA in that building.

Is it normal for the GSA to make space assignment without such a request?

Yes, GSA has this authority. When circumstances dictate that an agency relocation or consolidation is in the best interest of the Government, GSA has the responsibility to take such action.

Question 3. Executive Order 11512 requires that the GSA "consult" with the agency head prior to making an assignment of space. When did the GSA first "consult" with Mr. Zarb?

Failing in numerous attempts to have a meeting set up with Mr. Zarb, Mr. Eckerd personally called Mr. Zarb on October 6, 1976, to ask that Mr. Zarb meet with him to discuss the Buzzard Point proposal. However, because of his heavy schedule, Mr. Zarb was unable to meet with Mr. Eckerd, but agreed to have Mr. Martin Howell, Deputy Administrator, meet with officials of GSA. Consequently, Mr. Terry Chambers, Deputy Administrator, GSA, Mr. John F. Galuardi, GSA Regional Administrator. amd Mr. Earl Eschbacher, Contracting Officer, met with Messers. Howell and Vajda of FEA on October 8, 1976. At this meeting, FEA was given the option of either total or partial consolidation at Buzzard Point. However, it was GSA's understanding that they did not want to distrupt their headquarters operations located in the New Post Office Building, but that they would consider partial consolidation at Buzzard Point. At the conclusion of this meeting, Messers. Howell and Vajda toured the facility with Mr. Eschbacher. On October 12 and 14, 1976, the major program managers of the activities in the four locations to be consolidated toured the building with representatives of GSA. Therefore, not only was FEA consulted concerning the assignment of space in the Buzzard Point Building, but they were also given the opportunity to personally inspect the facility and consolidate their entire operation at this location.

Question 4. Your October 29, 1976 letter to Mr. Zarb states that the GSA conducted an "extensive study. . .to determine what agency or agencies are best suited to be housed at 1900 Half Street". Please identify the persons in GSA who conducted that study and provide a copy of that study to us. Those persons should also be at our hearing for questions.

All of the participants who helped in preparing the various housing plans for 1900 Half Street have been requested to attend this hearing. Mr. Robert Downs and Mr. Michael Fowler are here today. A copy of this study is attached (attachment No. 7).

Question 5. The October 29 letter states that "partial consolidation of FEA is in the best interests of the Government and the taxpayer".

(a) What is the basis for this conclusion?

On April 13, 1976, Mr. Thomas E. Noel, Assistant Administrator of FEA, stated in a letter to GSA that partial consolidation of the FEA was required because "the continuing problem of finding a suitable building arrangement to house the entire FEA Headquarters complement has presented serious problems." (attachment No. 8).

In our May 25 response to Mr. Noel, we said that

> "In regards to your request for partial consolidation, I have asked our Planning Staff to include your request, along with other pending requests for consolidation, in their overall housing plan for the Washington Metropolitan area. Any major space request such as this requires time to properly plan, review requirements, and then possibly seek Congressional approval. Therefore, please submit your projected space needs, including a list be grade (supervisory or non-supervisory) of all FEA employees in Washington, D.C., so that a complete review and evaluation of your request can be made." (attachment No. 3)

Furthermore, in our letter of October 29, 1976, we explained that

> "Consolidating the FEA from these 4 locations into a single building will obviously effect a more efficient and functional operational organization, not to mention the cost effectiveness of such a consolidation.
>
> B. The lease on 2000 M Street expires on November 30, 1976. In order to renew the lease on this space, a Congressionally approved prospectus would be required. Indications are that the rental rate for a new lease would be substantially higher than the usual rate for Government-occupied space in Washington, DC. This could set a precedent which would adversely affect all future Government space acquisitions or lease renewals. By relocating FEA to 1900 Half Street, we will avoid such far-reaching adverse economic impacts.
>
> C. A prospectus for the complete renovation of the Old Post Office Building has been submitted by GSA. Upon its approval, all activities housed in this building will have to be relocated." (attachment No. 9).

(b) Why did you select this combination of locations to consolidate?

This combination of locations is the only logical combination to effect a partial consolidation of FEA, because it consists of all of FEA's locations with the exception of its main headquarters building.

(c) Was Mr. Zarb consulted on this?

During the meeting on October 8, 1976, Mr. Zarb's designees were consulted regarding the possibility of partially consolidating its activities at Buzzard Point.

Question 6. The October 29 letter states that the FEA headquarters building "is not being considered" for consolidation. We fail to understand why since we understand that with some modifications in the building, the FEA could be consolidated there. Please explain. Was FEA consulted concerning this decision?

During the meeting of October 8, 1976, the possibility of FEA's being assigned the entire Buzzard Point building was brought up, but it seemed apparent that FEA would not consider vacating the New Post Office Building. In addition, during a luncheon meeting on November 29, 1976, between Mr. Zarb and Mr. Eckerd, the offer for total consolidation at Buzzard Point was reiterated.

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Question 7. (a) We understand that on April 13, 1976, the FEA asked to consolidate some of its functions. On May 5, 1976, Mr. Kidwell of GSA said in a note, "What about Buzzard Point for FEA as a consolidated location in lieu of AID." On May 25, 1976, the GSA wrote FEA rejecting a portion of the FEA request as "not justified" and at the same time requested projected FEA space needs, including a list by grade of all FEA employees. Please explain what caused GSA to change that position five months later and whether GSA obtained the needed data?

In a letter to GSA Regional Administrator Galuardi (attachment No. 8), Mr. Thomas E. Noel, FEA Assistant Administrator for Management and Administration, requested 75,000 square feet of space for the purpose of consolidating its activities out of 1726 M Street, 1111 20th Street, and the Old Post Office Building, plus providing 9,000 square feet of expansion space (while Mr. Noel's letter does not identify these buildings, subsequent conversations with FEA staff did). Our response of May 25, 1976, (attachment No. 3) indicated that the 9,000 square feet of expansion space was not justified since current space holdings, in terms of total square feet, were adequate to house the additional 60 positions projected at that time. Information was also requested relative to personnel employed so that an analysis of the agency's needs could be made. Consideration of FEA for occupancy of Buzzard Point was not a reversal of the above position, since the rejection referred only to the expansion space. GSA's offer of 190,000 square feet was, moreover, in keeping with FEA's stated desire to consolidate its locations, since it will reduce the number of locations not from 5 to 3, as requested by FEA, but from 5 to 2. The 190,000 square feet represent the cumulative total of the four affected locations. The actual square footage assigned will be predicated on a layout of the offices to occupy the space.

Question 7 (b) The GSA's May 25 letter states that the FEA "overall utilization rate" of space at 2000 M Street is too high. This criticism also appears to apply to the other four agencies using this building, including GSA. Why shouldn't these four agencies be relocated by GSA and, at the same time, FEA be required to improve its space utilization in order to reduce the amount of space that can be occupied in this building and save money?

It is recognized that the other occupants of the 2000 M Street building have high utilization rates. However, one of the Commissions is due to vacate its assignment on December 3, 1976, and will not, therefore, require space after that date. The National Center on Productivity is expanding its staff and will improve its utilization in this manner. The Renegotiation Board, while somewhat loose, is not sufficiently in excess of the standards to warrent realignment. Under present plans, GSA would vacate the space assigned to it and improve its utilization at its new location. The foregoing assumes that negotiations to remain in this reduced amount of space in 2000 M Street are successful. If not, then these activities will also be relocated.

Question 8. The GSA has repeatedly contended that in comparison, the cost of office space at Buzzard Point is cheaper than that at 2000 M Street (see November 22, 1976 Fact Sheet). However, this comparison is derived by combining office and parking space, plus some free rental at Buzzard Point to arrive at a cost of $5.49 per square foot. Actually, the office space cost at Buzzard Point, with utilities, is about $7.00 per square foot. That appears to be quite high for an isoldated area such as Buzzard Point and possibly not out of line with the higher costs of 2000 M Street, which is not isolated. We would appreciate your comments. Which location is, in fact, "first class office space"?

The final office rental rate offered by Southwest Joint Venture and accepted by GSA was as follows:

> $7.00 per square foot fully serviced and 4 months free rent resulting in an effective rate of $6.53 per square foot fully serviced.

The best offer to date for 2000 M Street is $6.10 per square foot excluding utilities and certain other services which are estimated to cost the Government $2.16 per square foot making a total fully serviced rate of $8.26 per square foot.

The difference, therefore, between Buzzard Point and 2000 M Street is $1.73 per square foot or approximately $214,600 per annum for the FEA occupied space (or $1,073,000 over a five year period).

GSA leases first class modern office space for all federal agencies. Both 2000 M Street and Buzzard Point are first class modern office buildings, however, GSA does not allow any premium for location in making a cost comparison of rental rates. Otherwise, federal agencies would be forcing GSA to lease the highest priced space in Washington, DC under the guise that the price for this space was "not out of line" for the location.

Question 9. The GSA press release of September 13, 1976 announces "a moratorium on major acquisitions of leased office space" in this area until the "Buzzard Point problem is resolved".

(a) Please define the term "major acquisitions of leased" space.

The term "major acquisitions of leased space", in the context in which it was used by the Administrator in his news release of September 13, 1976, means any requirement which could be satisfied through the assignment of space in Buzzard Point. Obviously, it would not be prudent to fill the building by satisfying numerous small requests. However, it would be even less prudent to continue to acquire space in satisfaction of requests that could be housed in an existing leased building.

(b) Did the GSA have any requests for such acquisitions of space pending on September 13? Have you received any since then?

Yes. See attached list of SF-81 space requests (attachment No. 10).

(c) Would such "major acquisitions" require authorization by the House and Senate Public Works Committees, and is it realistic to believe that such Committees would approve such acquisitions in light of their comments in approving the SEC prospectus in 1974?

Some major acquisitions would, of course, require authorization by the House and Senate Public Works Committees. Further, these committees have in fact approved other lease acquisition prospectuses. These are as follows:

HEW - 180,000 square feet, October 10, 1974
FEA - 300,000 square feet, October 16, 1974
FTC - 160,000 square feet, June 29, 1976

Question 10. Is the Buzzard Point facility an all-electric building? What, if any, provision is included in Solicitation 697 and others for the proper insulation of the buildings lease be GSA? If none, please explain why. What incentive is there for the lessor to conserve on energy and utility costs when the lessor is not responsible for such costs? What incentive is there for the Federal agency to conserve energy when the lessor pays such costs?

The Buzzard Point Building is an all-electric building which was designed after the energy crisis of 1973-74. It includes such features as insulated windows which are both double glazed and tinted, the parking levels adjoining office floors are thermally insulated, and the building HVAC system is zoned horizontally with 8 units per floor allowing for minimal energy use during periods of overtime. Solicitation for Offers No. 697, which is part of the lease agreement, contains the following energy conservation provisions:

"In view of the present fuel shortages, and the emphasis on energy conservation, the following operating practices should be followed:

Heating Season: During the heating season, temperatures shall be 65 to 68 degrees F.

Airconditioning Season: During the airconditioning season, temperatures shall be maintained from 80 to 82 degrees F.

At other times when heat is not required: During these times, temperatures shall be allowed to vary from 65 to 82 degrees F.

Areas having excessive heat gain or heat loss or affected by solar radiation at different times of the day, shall be independently controlled so that the interior temperature conditions stipulated can be maintained. Temperatures in all spaces will be maintained without drafts and airconditioning equipment noises.

Energy Conservation Operating Practices - In view of the critical need for energy conservation, the following operating practices are to be followed:

Fifty foot-candles in all office areas; a minimum of 100 foot-candles in drafting rooms and engineering rooms, and a minimum of 25 to 30 foot-candles in toilet, public reception, and storage areas.

Lower levels of lighting may be specified by the Government prior to award through the adoption of non-uniform lighting standards to the lighting systems. All light fixtures shall be controlled by wall

switches conveniently located on columns or walls adjacent to door openings. In open office areas, not over six fixtures shall be controlled by one switch. In corridors and spaces with more than one entrance, three-way switches shall be provided. Ballasts are to be rapid-start, thermally protected, voltage regulating type UL and ETL approved. All building entrances must be adequately lighted outside.

Whenever the energy situation warrants a modification of operating practices within the design criteria set forth above for heating, airconditioning, mechanical ventilation, and lighting, the lessor shall upon written notice from the Government take necessary action to provide the required services not later than 30 days after receipt of said notice.

Payment to the lessor or adjustment to the rental will be considered only when it can be clearly demonstrated that increased costs have resulted as a direct result of the Government's action. In any event, additional payments or rental increases will be limited to the increased costs directly attributed to the change in operating practices and any resultant increase in utility consumption."

These provisions have resulted in energy savings of 20 to 30 percent according to GSA nationwide studies. These provisions, however, are performance specifications and not design criteria, such as proper "insulation". Our SFO does not proscribe how a building is to be constructed, but rather the level of service or performance the owner must deliver. This places initiative and responsibility on the owner. And since the Government's lease is for a fully serviced building, the lessor is required to pay all utility bills. He must minimize energy useage in order to maintain the lowest possible utility bills. This is even more critical to the lessor since there is no rental escalation for three years and even then it is a negotiated amount based on projections and not an indemnification for past increases. In contrast is such a building as 2000 M Street, where the Government pays the utilities. Here the lessor has almost no incentive, other than prolonging the life of his mechanical equipment, to conserve energy. Combined with GSA energy conservation guidelines for occupant agencies, the lease agreement at Buzzard Point provides the best arrangement for minimizing energy consumption.

Question 11. The GSA Fact Sheet of November 22, 1976, states that if the lease at 2000 M Street is not renewed, the taxpayers "would save " $1 million "annually in rental expenditures." An undated "Cost Comparison of Alternative Housing Plans" for FEA, prepared by GSA, states:

The relocation of FEA from four of its five present locations into 190,000 square feet of space at 1900 Half Street will result in a significant reduction in the cost of space for FEA and significant savings to the Government. Over five years, the Government would save a little more than one million dollars in the cost of FEA space by relocating them to 1900 Half Street. (Emphasis supplied).

Clearly, a savings of $1 million annually is significantly greater than such a savings spread over five years. Please explain this apparent discrepancy.

Both cost saving statements are correct because they measure a different set of costs. In the November 22, 1976, GSA Fact Sheet it is assumed that space at 1900 Half Street is already in GSA's inventory but not occupied. By relocating FEA into this vacant space, the lease on FEA's space at 2000 M Street would not be renewed, resulting in a reduction of GSA's total rental expenditures by $1 million dollars annually.

The Cost Comparison of Alternative Housing Plans compares the cost of housing FEA at 2000 M Street versus the cost of housing FEA at 1900 Half Street. This comparative analysis only addresses the actual cost of housing FEA either at the present location or at 1900 Half Street. This analysis shows a saving of $1 million dollars in FEA's space costs over five years if it were relocated to 1900 Half Street. This analysis does not consider the overall effects on GSA's rental budget, only the cost of housing part of one agency.

This question has a preamble relating to the shuttle bus service and parking arrangement for the Department of Transportation (DOT) at the Transpoint Building. The parking was arranged directly with the Office of Management and Budget (OMB) and the background data is already included in the preamble. It should be noted OMB has not issued the Government-wide policy on Federal parking facilities referred in their memorandum of January 12, 1973. The moratorium on leasing referred to in this memorandum is still in effect.

There is a statement included that "the Buzzard Point Building will have 1028 spaces, of which 271 are under the Tauber Lease". There are slightly less than 800 parking spaces shown on the building plans. Of this total, a requirement for 271 spaces was included in the prospectus approved by the Congressional committees and subsequently included in the lease. The intention was to have 250 spaces for employee parking and 21 for official use, including visitors.

Question 12. (a) Why should the taxpayers be asked to foot the costs of employee parking at an "isolated location" in order to provide "safety of employees?"

The 250 parking spaces included in the lease were determined by making an analysis of the needs of employees to provide viable alternative for the home-to-work trip. Consideration was given to the location although it cannot be truly characterized as isolated since it is adjacent to Fort McNair and Tempos A,B, and C which formerly housed 2000 to 3000 employees. In addition, there is bus service to the area. Should the agency located in the building require more employee parking, the agency head would certify to GSA additional parking is needed to assure the operating efficiency of his agency. An exception could then be given to the OMB imposed moratorium and GSA would make a study to determine how many additional spaces can be justified for leasing by the Government. This is in effect the procedure the Department of Agriculture set in motion and the memorandum to the Commissioner of Public Buildings Service was to determine if a waiver would be favorably considered.

It should be noted there are additional spaces in the building which have not been leased by the Government and which, under the lease, will be made available to employees in the building. The total number of spaces included in the building is determined by zoning requirements, not GSA.

Question 12. (b) Have you considered these costs in stating to the news media that there will be a savings of $1 million over five years by relocating FEA.

The cost of the 271 parking spaces in the lease is included in the cost of the lease. All lease costs were considered in our cost analysis.

Question 12. (c) How does the acquisition of parking by GSA at these buildings conform to efforts by the Environmental Protection Agency (EPA) and the District Government to reduce the number of cars in the District.

By the references to "these buildings" it is presumed the question includes the Transpoint Building. As noted above, the parking at the Transpoint Building was arranged by DOT directly with OMB.

It is GSA's intention at the Buzzard Point Building to aggressively require nearly all parking assignments to be based on the number of persons in a carpool. The only exception would be a very limited number for handicapped employees, executives and employees with unusual hours. This would be in compliance with the regulations on employee parking promulgated at the request of FEA in 1974.

GSA has been cooperating with the Council of Governments in the reduction of auto useage as part of the Air Quality Control Plan for the Washington Metropolitan Area. The goal is to reduce vehicle miles traveled and by aggressively promoting and insisting on carpooling we believe considerable progress has been achieved.

Question 12. (d) How many parking spaces will the FEA and FBI require for official vehicles, visitors and the handicapped?

The lease already includes 21 spaces for official use, including Government-owned vehicles and visitors. Handicapped spaces are included as employee parking with these employees having first priority.

The FBI has been requested to provide information to GSA on the number of Government vehicles to be located at Buzzard Point so an appropriate number of parking spaces can be obtained. Since this is an official requirement, similar to the need for any other type of space such as laboratory or storage, we will obtain any additional spaces which are needed. Visitor parking will be handled in a similar manner.

With respect to FEA, the requirements for official parking will be worked out in a like manner at an appropriate time.

Question 13. In the GSA response to the SEC appeal to OMB, the GSA promised to work with METRO to provide better bus service. We note that GSA did not formally request better transportation until November 19, 1976. In that letter, we note that GSA expects the D.C. Department of Transportation "to prohibit on-street parking when necessary." What effect will this have on local residents and on DOT employees parking on the streets?

Since prior to the occupation of the Transpoint Building, GSA has been coordinating the need for transit service in this area with the Washington Metropolitan Area Transit Commission. Much of this activity is accomplished through meetings and other informal communications. The recent letter was prepared to facilitate WMATA making a shift in the bus route to provide direct "front door" service to the Buzzard Point Building as is given at Transpoint. The letter resulted from several discussion with WMATA, DCDOT and the National Park Service concerning sections of V Street, Half Street and S Streets over which the rerouted bus line would operate and was intended to serve as a catalyst in starting the procedure for rerouting the existing bus line.

The area in question is adjacent to the intersection of V and Half Streets where on-street parking restricts the roadway width to less than two lanes. This would be removed to permit bus movements. A similar situation could develop at Half and S Streets if there is an increase in the use of on-street parking generated by the new building occupants. Relatively few spaces will be eliminated and those that are removed are actually interferring with auto movement in the area.

There can be no effect on local residents as the nearest residential area is several blocks from this location, north of Q Street. As previously noted, only a small percentage of the on-street parking will be affected. Since more than an ample number of garage spaces are available at a nominal price in Transpoint, the only effect on DOT employees will be to slightly increase the walking distance since additional on-street parking is available in the area.

Question 14. What is the current status of the prospectus for 2000 M Street?

A prospectus for an extension of the lease at 2000 M Street effective December 1, 1976, has been signed off by the Commissioner of Public Buildings Service and is in the Administrator's office for final signature, after which it will be submitted to the Public Works Committees of the Congress. This prospectus states that the actual square footage and term will be fixed after OMB rules on the appeal of FEA of their assignment of space at Buzzard Point.

Question 15. What was the actual and budget cost of utilities and cleaning at 2000 M Street for FY 1976 and the transition period? If the costs were higher than the budget estimate, please explain why.

Estimated FY 1976 cleaning costs were $209,900, actual $296,851. The building was over staffed due to a reduction in ceiling positions and cost exceeded the budget estimate due to this over staffed situation.

Estimated FY 1976 utility costs were $370,600, actual $205,050. Savings effected by emphasis on utility conservation (mild heating season) and overestimate of $25,000 for overtime needs which were not worked.

Estimated transition period cleaning costs were $49,800, actual were $79,039. Continuing over staffed situation with attrition reducing staffing at approximately 6 positions per year.

Estimated utility cost for the transition period were $57,900, actual $82,000 of which $3,080 were reimbursed for overtime service. Estimate was based upon projection of FY 1976 without due regard to higher electrical usage in these very warm summer months for air conditioning and change in demand charge by PEPCO during mid FY 1976.

August 4, 1976

ATTACHMENT 1

SPACE REQUIREMENTS PROJECTIONS
(FIGURES IN THOUSANDS)

Region 3 (NCR)

	PAST YEAR 1976	TRANSITION QUARTER	CURRENT YEAR 1977	BUDGET YEAR 1978	1979	1980	1981	1982
1. Space Inventory, Beginning of Year- Total	58,916.7	61,807.9	62,720.3	63,312.3	64,012.3	64,580.3	64,929.8	65,756.8
(A) Government-owned	32,806.4	34,205.9	34,575.6	34,562.8	34,562.8	33,901.6	33,651.1	33,878.1
(B) Leased	26,092.3	27,575.3	28,118.0	28,722.8	29,422.8	30,652.0	31,252.0	31,852.0
(C) Space Occupied in USPS Buildings	18.0	26.7	26.7	26.7	26.7	26.7	26.7	26.7
2. Space Changes								
A. Construction								
(1) From starts prior to 1977	1,259.4	369.7	9.5	-0-	-0-	-0-	-0-	-0-
(2) From 1977 starts	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
(3) From 1978 starts	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
(4) From 1979 starts	-0-	-0-	-0-	-0-	-0-	-0-	264.1	-0-
(5) From 1980 starts	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
(6) From 1981 starts	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
(7) From 1982 starts	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
(8) Total Completion	1,259.4	369.7	9.5	-0-	-0-	-0-	264.1	-0-
B. Other Additions	32.1	-0-	-0-	-0-	-0-	-0-	-0-	-0-
C. Disposals	- 237.0	-0-	- 22.3	-0-	- 661.2	- 250.5	- 37.1	-0-
D. Adjustments (FY 1976 only)	+345.0	-0-	-0-	-0-	-0-	-0-	-0-	-0-
E. Net change in G/O space	1,399.5	369.7	-12.8	-0-	-661.2	-250.5	+227.0	-0-
F. Leasing								
(1) Lease executions								
(a) Existing space	2,115.7	764.9	755.1	700.0	500.0	600.0	600.0	700.0
(b) Lease construction	-0-	-0-	-0-	-0-	1,007.7	-0-	-0-	-0-
(2) Lease cancellations	200.9	222.2	150.3	-0-	278.5	-0-	-0-	-0-
(3) Adjustments (FY 1976 only)	-431.8	-0-	-0-	-0-	-0-	-0-	-0-	-0-
G. Net change in leased space	+1,483.0	+542.7	+604.8	700.0	1,229.2	600.0	600.0	700.0
H. Net change in USPS bldg. occupancy	+8.7	-0-	-0-	-0-	-0-	-0-	-0-	-0-
I. Total net additional space provided	+2,891.2	+912.4	+592.0	+700.0	+568.0	+349.5	+827.0	+700.0
3. Space Inventory, End of Year- Total	61,807.9	62,720.3	63,312.3	64,012.3	64,580.3	64,929.8	65,756.8	66,456.8
(A) Government-owned	34,205.9	34,575.6	34,562.8	34,562.8	33,901.6	33,651.1	33,878.1	33,878.1
(B) Leased	27,575.3	28,118.0	28,722.8	29,422.8	30,652.0	31,252.0	31,852.0	32,552.0
(C) Space Occupied in USPS Buildings	26.7	26.7	26.7	26.7	26.7	26.7	26.7	26.7
4. Space Requirements								
(A) Total	62,720.3	62,720.3	63,312.3	64,012.3	64,580.3	64,929.8	65,756.8	66,456.8
(B) Additional or Reduced	43,803.6	+912.4	+ 592.0	+ 700.0	+ 568.0	+ 349.5	+ 827.0	+ 700.0

ATTACHMENT 2

SUBPART 101-17.3 SPACE STANDARDS, CRITERIA, AND GUIDELINES

Subpart 101-17.3—Space Standards, Criteria, and Guidelines

§ 101-17.300 Scope of subpart.

This subpart identifies those factors affecting office layout which must be considered in connection with achieving more efficient layouts and better space utilization.

§ 101-17.301 Space allowances.

Space allowances are derived from specific studies of the operations of the agencies, and are directed toward providing each employee with enough space to work efficiently.

§ 101-17.302 Use of occupancy guides.

The objectives of the occupancy guide program are to improve agency operations and promote economic and prudent utilization of Government-controlled space through the development and application of occupancy standards and criteria for specific agencies and activities. Each occupancy guide represents an agreement between GSA and the agency as to the latter's space requirements and is written in terms which permit nationwide application. The criteria contained in occupancy guides will be used as a basis for estimating agency space requirements for those agencies for which guides have been published and allowances are considered to be maximum. Occupancy guides will be reviewed jointly by GSA and the agencies and revised to conform with the allowances contained in this Subpart 101-17.3.

§ 101-17.303 Use of space allocation allowances.

(a) The space allowances listed in §§ 101-17.304-1 and 101-17.304-2 are to be used in space planning for agencies or components thereof for which occupancy guides have not been published. In addition, these allowances are applicable for all agency headquarters activities.

(b) Work station space allowances listed in § 101-17.304-1 shall not necessarily be used as criteria for assigning space to individuals. Rather, they should be used to estimate that portion of the total office space that is required for work stations.

§ 101-17.304 Office space allowances.

The amount of office space developed by application of these allowances should normally be sufficient to house office elements of executive agencies. It is recognized, however, that agency functions and needs and physical variations in buildings will cause deviations in the determination of the amount of space assigned, and its division into private, semiprivate, open areas, or other uses will be based upon a templated layout which reflects the optimum use of the space and the workflow requirements of the using agency.

§ 101-17.304-1 Work station space allowances.

Grade	Type of assignment (supervisory means supervision of or frequent meetings with three or more employees within the office confines)	Office space allowance (square foot per person)
GS 1 to 6		60
GS 7 to 11	Nonsupervisory	75
GS 7 to 11	Supervisory	100
GS 12 to 13	Nonsupervisory	100
GS 12 to 13	Supervisory	150
GS 14 to 15	Nonsupervisory	150
GS 14 to 15	Supervisory	225
GS 16, 17, and 18		300

[1] Head of agency and deputy (departmental) not prescribed.

§ 101-17.304-2 Administrative support space allowances.

The following space allowance table is to be used in determining the amount of administrative support space required in office space planning. Although work stations may be interspersed in administrative support areas, allowances for administrative support areas may not be added to allowances for work stations except where support area furniture exceeds the capacity of the work station area.

PART 101–17 ASSIGNMENT AND UTILIZATION OF SPACE

101–17.304–2

SPACE ALLOWANCE TABLES

TABLE I.—*Common furniture and equipment*

Item	Size (Inches)	Allowance (square feet)
Bookcase	13 x 33	6
Bookcase, unitized	22 x 13	4
Cabinet, storage, wardrobe	18 x 24	6
Do	18 x 36	9
Do	24 x 36	11
Cabinet, stationary	13 x 36	9
Cabinet, filing (letter size)	15 x 25	7
Cabinet, filing (legal size)	18 x 25	8
Cabinet, filing (safe)	19 x 28	9
Cabinet, filing (map, plan)	36 x 48	24
Do	38 x 60	30
Chair, side		5
Costumer (hat tree)		4
Credenza (not part of a work station)	18 x 66	15
Locker, clothing	18 x 21	6
Do	36 x 21	12
Safe (1-door)	21 x 23	8
Do	42 x 36	10
Safe (2-door)	42 x 36	18
Stand, dictionary		4
Stand, office machine	18 x 18	5
Do	18 x 34	9
Do	24 x 36	12
Table	14 x 26	4
Do	24 x 36	12
Do	30 x 60	25
Do	34 x 60	30
Do	36 x 72	35
Valet rack	20 x 30	8
Do	20 x 51	14
Shelving	12 x 36	9
Do	18 x 36	10
Do	24 x 36	11

TABLE II—COMMON FUNCTIONS

Item:	*Allowance*
Conference and meeting rooms.	On 50 percent time/use basis at 20 square feet per person, based on average number of persons in attendance.
Classrooms and training rooms.	Desk/arm chair at 10 square feet per person. Desk and chair at 40 square feet per person.
Reception areas.	Based on average visitor load at 10 square feet per person.
Exhibit areas, internal duplicating, libraries, mailrooms, supply rooms. rooms.	Actual measurement of equipment plus circulation.

§ 101–17.305 Storage space allowances.

Storage space shall be estimated by application of the allowances in § 101–17.304–2 where standard storage equipment (file cabinets, shelving, and safes) is used. When such is not the case (such as bulk storage of furniture, equipment, and supplies), a careful estimate of the space requirement must be made by on-site inspection, giving due consideration to warehousing techniques.

§ 101–17.306 Special space allowances.

To the extent possible, space for special use shall be estimated on the basis of specialized standards, such as those for laboratory equipment. Distributors of specialized equipment can readily provide information on space required to house particular items of equipment, and their advice should be sought whenever possible. The criteria contained in § 101–17.304 may be used to estimate space required for conference rooms, classrooms, and training rooms.

§ 101–17.307 Private office space allowances.

Private offices should be provided only when there is a demonstrated functional need. They should be only large enough for the occupant to conduct his normal business in an efficient manner and with a reasonable degree of dignity. The normal maximum allowance for private offices is 300 square feet, but this should be considered only in instances in which it is necessary for the occupant to confer frequently with sizable groups of people, and a conference room is not convenient.

87-962 O - 77 - 11

ATTACHMENT 3

25 MAY 1976

Mr. Thomas E. Noel
Assistant Administrator
Management and Administration
Federal Energy Administration
Washington, DC 20461

Dear Mr. Noel:

Reference is made to your letter of April 13, 1976, in which you requested a partial consolidation of the Federal Energy Administration (FEA) activities currently housed in 5 downtown Washington, D.C. locations, as well as expansion space needed to satisfy a proposed increase in your Headquarters staffing.

Inasmuch as your expansion requirements are difficult to ascertain at this time and the fact that our records indicate the overall utilization rate for FEA is 178, your request for expansion space is not justified. The estimated 9,000 square feet of expansion space you requested would house approximately 60 people and these people could easily be absorbed in your present space, improving your overall utilization rate to 172. When your pending budget requests are approved, you will be able to define in detail your new space requirements. At that time, should your needs justify an increase in excess of the estimated 9,000 square feet, we will be happy to assign additional space to you in the Old Post Office Building.

In regards to your request for partial consolidation, I have asked our Planning Staff to include your request, along with other pending requests for consolidation, in their overall housing plan for the Washington Metropolitan area. Any major space request such as this requires time to properly plan, review requirements, and then possibly seek Congressional approval. Therefore, please submit your projected space needs, including a list by grade (supervisory or non-supervisory) of all FEA employees in Washington, D.C., so that a complete review and evaluation of your request can be made.

Please be assured that your housing problems are of concern to us and we will work with you in whatever way possible to satisfy your needs. If we can be of further assistance, please have a member of your staff contact Cindy D'Agostino, Space Management Division, on 472-1137.

Sincerely,

/s/ James E. Zaiser

JAMES F. STEELE, JR.
Regional Commissioner
For Public Buildings Service and
Acting Assistant Commissioner
Office of Operating Programs

cc:

Official File - 3MRMD
Read File - 3MRMD
Director, SMD - 3MR
Regional Commissioner - 3P

3MRMD:CD'Agostino:ct:5/22/76:x21137

Concurrence:

Director, Space Mgmt. Div. - 3MR — Date 5/24

5/21/76 3MC

ATTACHMENT 4

FEDERAL ENERGY OFFICE
WASHINGTON, D.C. 20461

APR 16 1974

OFFICE OF THE ADMINISTRATOR

Mr. H. D. Harvell
Assistant Commissioner of
Operations Programs (PM)
General Services Administration
18th and F Streets, N. W.
Washington, D. C. 20405

Dear Mr. Harvell:

Mr. Simon is sending a letter to Mr. Sampson asking for a revised total of 329,000 square feet to consolidate the Headquarters staff of the Federal Energy Office in Washington. This is an update of a previous letter for space sent to GSA on March 29, 1974, which requested a total of 300,000 square feet.

Pursuant to Mr. Ink's subsequent request to Mr. Pouliot, the new Assistant Administrator for Management, I am providing you with additional backup justification to support the latest projected personnel staffing figure for Headquarters Federal Energy Office, which is 2,110 people on board by close of business June 30, 1974. This will require a total of 329,000 square feet.

As you are aware, we are now housed principally in the New Post Office Building at 13th and Pennsylvania Avenue, N. W., and in the Winder Building at 17th and F Streets, N. W. You have requested that we vacate the Winder Building as soon as possible. The Federal Energy Office personnel housed in the Winder Building comprise the Operations and Compliance component of the Federal Energy Office. The staffing requirement for that component, through June 30, 1974, is 400 people. This figure is included within the total Federal Energy Office figure of 2,110.

We thus will need at least a temporary location for the Winder Building staff very soon. My suggestion is that we use the space at 2000 M Street, N. W., which is being vacated by the Cost of Living Council for that purpose.

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

Moreover, we have a current urgent request for immediate temporary space for Operations and Compliance overflow, approximating between 25 and 45 people. Mr. Hilliard, of your staff, has shown us space at 1612 K Street, N. W., which is satisfactory to us. I talked to Mr. Wayne Roy, of your office last week, and he indicated to me that the findings of the recent GSA survey of Federal Energy Office space in the NPO Building indicated that we still have some space available, and that GSA could not entertain any further space requests until we filled up to 1,250 people in the NPO. We have made our own space survey, and have found that we actually have on board, in this building as of April 9, 1974, 1,019 people. This is 231 people short of Mr. Roy's target of 1,250, and at the rate we are bringing people on board in the Federal Energy Office, within the next thirty days we will probably hit 1,250 in this building. If we do not have additional space by then, we will not be able to bring aboard any more staff.

I trust that this additional justification, coupled with Mr. Simon's letter to Mr. Sampson, and the accompanying SF-81 which we are sending to you today, will provide satisfactory backup information to enable you to act on our space request which we made in Mr. Simon's letter to Mr. Sampson of March 29, 1974, and to immediately commit the space at 1612 K Street, N. W. to us for the Operations and Compliance staff overflow.

Sincerely yours,

J. W. Morava

J. W. Morava
Director
Office of Administrative
Services

Attachments

REVISED JUNE 1961
PRESCRIBED BY
GENERAL SERVICES ADMINISTRATION
FPMR (41 CFR) 101-20.102

4/16/[illegible] | FEO-74-3

REQUEST FOR SPACE

Submit this form in triplicate to the office of General Services Administration having jurisdiction over the area in which the requested space is located.

3. REQUESTING DEPARTMENT OR AGENCY
Federal Energy Office

4. ADDRESS OF REQUESTING DEPARTMENT OR AGENCY
Washington, D. C. 20461

5. SPACE REQUESTED AT (*Give city and State*)
Washington, D. C.

Check applicable box below

☐ IF NO GOVERNMENT-CONTROLLED SPACE IS AVAILABLE, REQUESTING AGENCY WILL ACQUIRE NEEDED SPACE UNDER ITS ACQUISITION AUTHORITY.

☐ IF NO GOVERNMENT-CONTROLLED SPACE IS AVAILABLE, REQUESTING AGENCY WISHES GSA TO PROCEED WITH ACQUISITION OF REQUESTED SPACE.

6. SPACE TO BE OCCUPIED BY (*Bureau, division, branch, etc.*)
Federal Energy Office

7. TO:
General Services Administration
Public Buildings Service
Office of Operating Program Space Management Division
Assignment and Utilization Branch
Washington, D. C. 20405

8. ARE FUNDS AVAILABLE FOR REIMBURSEMENT FOR RENT AND/OR SERVICES?
☒ YES ☐ NO

9. TYPE OF REQUEST (*Check one*)
☐ NEW ☐ RENEWAL ☒ SUPPLEMENTARY AGREEMENT

10. TERM OF OCCUPANCY
FROM: As soon as possible . 19
TO: ☒ INDEFINITE
☐ _____ . 19

11. TYPE OF SPACE DESIRED
☒ GENERAL PURPOSE
☒ SPECIAL PURPOSE
☐ LAND

12 EMPLOYEES TO OCCUPY SPACE	NUMBER	DO NOT USE THIS SPACE
A. Office Employees:		
Group 1; GS-1—GS-6	835	
Group 2; GS-7—GS-11	659	
Group 3; GS-12 and above	616	
Total in Office Space	2,110	
B. Nonoffice Employees		
Total All Employees	2,110	

13. SPACE DETAILS	SQUARE FE
A. Office	295,400
B. Files	3,500
C. Storage or Warehouse	5,000
D. Other (*Explain in Remarks*)	25,300
Total	329,200
E. Land required (*State in square feet or acres*)	

14. FACILITIES NEEDED AND SPECIAL REQUIREMENTS (*Furnish detailed information; attach additional sheet if necessary*)

Additional space in the New Post Office Building, 12th & Pennsylvania Ave., N. W.

15. JUSTIFICATION FOR SPACE REQUESTED (*Continue on reverse if necessary*)

This space is required for the consolidation and expansion of the Federal Energy Office.

16. REMARKS (*Continue on reverse if necessary*)

Block 13.D.

Library	8,000	sq. ft.	Mail Room	1,000	sq. ft.
Duplication	5,000	sq. ft.	Audio/Visual	1,500	sq. ft.
Health Unit	2,500	sq. ft.	Supply	2,000	sq. ft.
Conference Areas	4,500	sq. ft.	Credit Union	800	sq. ft.
			TOTAL	25,300	sq. ft.

17. I certify that the space requested above is necessary for the proper functioning of the agency named

NAME OF AUTHORIZED REQUESTING OFFICIAL (*Typed*)
J. W. Morava

TITLE Director, Office of Administrative Services

SIGNATURE OF AUTHORIZED REQUESTING OFFICIAL
J W Morava

ACTION BY GENERAL SERVICES ADMINISTRATION

☐ SPACE OFFERED FOR REVIEW (*See attached statement or report*)

☐ NO GOVERNMENT-CONTROLLED SPACE AVAILABLE. AGENCY MAY PROCEED WITH ACQUISITION UNDER ITS ACQUISITION AUTHORITY.

☐ NO GOVERNMENT-CONTROLLED SPACE IS AVAILABLE. GSA IS PROCEEDING TO ACQUIRE SPACE REQUESTED.

NAME OF AUTHORIZED OFFICIAL (*Typed*)

TITLE | DATE

SIGNATURE OF AUTHORIZED OFFICIAL

81-104

ATTACHMENT 5

PROSPECTUS NUMBER: PDC-75021

PROSPECTUS FOR PROPOSED LEASE
UNDER THE PUBLIC BUILDINGS ACT OF 1959, AS AMENDED

LEASED OFFICE SPACE METROPOLITAN WASHINGTON, D.C.

1. DESCRIPTION OF PROPOSED PROJECT:

This prospectus proposes the acquisition under a lease arrangement of approximately 378,750 occupiable square feet of space, of which 78,750 square feet will be for parking of 225 vehicles to house the consolidated headquarters operations of the Federal Energy Administration (FEA). The proposed lease will be for a term not to exceed 20 years at an estimated annual cost of approximately $2,368,000, including all services and utilities. The lease will contain an escalator clause providing for adjustments in the annual rental rates based on tax and operating cost increases (or decreases). It is expected to commence on or about January 1, 1975.

2. COMPREHENSIVE PLAN:

a. PROJECT NEED:

The proposed space is needed to consolidate FEA operations from the locations they were temporarily provided during the "energy crisis" in late 1973 and early 1974. The temporary locations were provided by deferring housing plans for other Government agencies. A consolidation of all FEA operations will alleviate its current operating problems resulting from separated locations and also provide approximately 11,000 square feet of expansion space to satisfy present space needs.

While Congressional authorization for FEA's programs at this time extends to June 30, 1976, it is reasonable to assume that these programs will continue and expand well beyond that date. Project Independence, for example, which pursues a major national objective of energy self-sufficiency will continue into the 1980's. Other FEA continuing functions will include maintaining the National Energy Information Center, contingency planning for future fuel disruptions, and programs involving energy conservation and research and development. It is estimated that Project Independence alone will encourage estimated investments of $700 billion in the vast domestic energy potential of the United States. All of these functions will require substantial staff and facilities beyond FY 1976 to provide continued Government management on energy related matters. Plans for dealing with energy production shortages, expansion of readily usable energy sources, implementation of voluntary and mandatory energy conservation programs, and the need to expedite the development of energy resources to meet the energy needs of the Nation are manifestly not short-term efforts.

PROSPECTUS NUMBER: PDC-75021

a. PROJECT NEED: (Cont'd)

The FEA, with 1,940 employees, presently occupies 70,190 square feet of leased space at 2000 M Street, N.W., and 218,654 square feet of Government-owned space in the New Post Office and the New Executive Office buildings. The physical separation of staff components reduces the effectiveness and efficiency of the Executive Branch in dealing with FEA priorities, resulting in delays in the communication process and the flow of documents. Key Federal, state and local officials, as well as industrial representatives, have difficulty in locating FEA staff members in these separate buildings.

FEA management problems are further compounded by the major renovation work presently in progress in the New Post Office Building, constructed over 40 years ago, where the major portion of their components occupy approximately 213,500 square feet of space. Staging requirements for this renovation, which will continue through 1975, have already caused considerable disruption of important energy programs through the shifting of personnel to different locations in the building. The renovation work is requiring the relocation of many FEA employees from the New Post Office Building to temporary quarters in the adjacent Old Post Office Building causing a fragmentation of the staff.

These problems can be eliminated or alleviated by locating the agency at a single location.

The space in the New Post Office was originally planned for utilization by the Treasury Department to consolidate certain elements of the Internal Revenue Service including additional expansion space. The plan was postponed in order to meet the immediate, urgent requirement to house FEA. Consolidation of FEA to another location will allow the General Services Administration to follow through on the original planned occupancy of this building by the Treasury Department.

Previous studies in other agencies located in areas with relatively poor transit service indicates an employee parking requirement of about 350 spaces for this agency. However, assuming a location with good transit service, the requirement for employee parking for this agency, based on extensive carpooling, could most likely be reduced to about 200 spaces. Therefore, this proposed lease includes 225 parking spaces, of which 25 are for official vehicles and visitors, and the balance for employee parking.

The zoning requirements with respect to parking for a building of this size vary between one space for each 600 square feet and one space for each 1800 square feet, depending on the exact location of the building.

b. DISCUSSION OF ALTERNATIVES:

1. Utilization of Government-owned space.

FEA's total present space need is approximately 300,000 square feet. This amount of satisfactory Government-owned space is not presently available or expected to become available in GSA's inventory.

2. Construction of a Government-owned building.

It would take approximately four to five years to obtain the necessary approvals, acquire land, finance, design, and construct a building for occupancy by FEA. The need to renovate the New Post Office Building precludes the continued use of this building by FEA and makes it necessary to obtain replacement space as soon as possible.

3. Purchase of an existing building.

There are no known buildings being offered for purchase or exchange that would meet the requirements of FEA. Therefore, this is not considered a viable alternative.

4. Five-year short-term lease with concurrent Federal construction.

While this is a feasible alternative, it is considered unlikely that funds will be available in the next two to three years to start construction of a new Federal Office Building for FEA.

5. Acquisition of leasehold interest.

GSA has conducted a market survey to identify buildings which are available for lease and are suitable with respect to location, amount of space and delivery date. Several buildings which can provide the needed accommodations have been identified. Therefore, upon approval of this prospectus, GSA plans to enter into a lease for the required space in accordance with the authority contained in Section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended.

3. ESTIMATED MAXIMUM COST:

Estimated Net Average Rental	$1,888,000
Estimated Cost of Services	480,000
Estimated Total Annual Cost	$2,368,000

PROSPECTUS NUMBER: PDC-75021

4. CURRENT HOUSING COSTS:

For agency to be housed in the proposed leased space.

	Area (Sq. Ft.)	Annual Cos
a. Government-owned Space:		
Operation, maintenance and upkeep.....	218,654	$ 612,521
b. Leased Space (one location):		
Net Average Rental.....	70,190	374,113
Cost of Services.....	-	198,638
Total Annual Cost.....		$1,185,272

5. SPACE PLAN:

The space to be leased is to be occupied entirely by personnel of the headquarters operations of the FEA. Therefore, no Washington, D.C. housing plan is attached. Existing housing is reflected in Exhibit A.

6. STATEMENT OF NEED:

It has been determined that the need of the Federal Government for space to house the headquarters operations of the FEA cannot be satisfied by utilization of existing property now owned by the Government.

Submitted at Washington, D.C. on SEP 2 5 1974

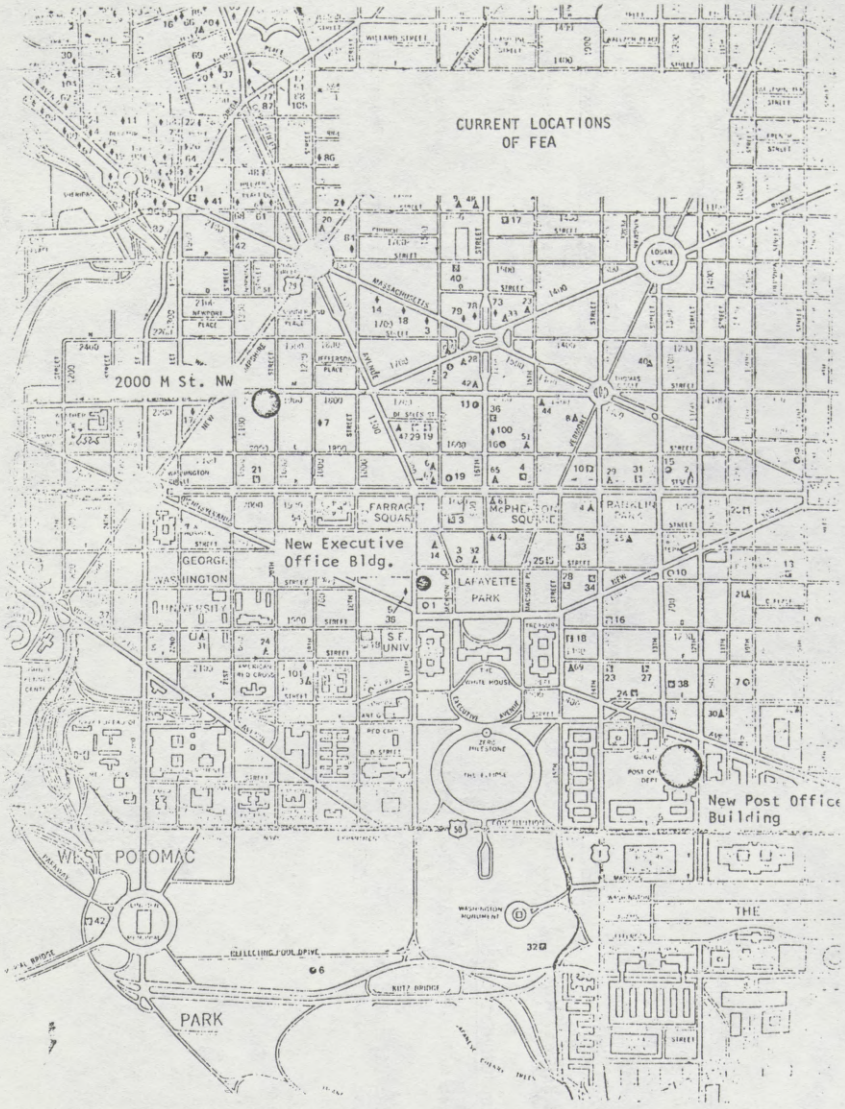
Recommended: John F. Galvanda
Acting Commissioner, Public Buildings Service

Approved : [signature]
Administrator of General Services

II. LEASE ANALYSIS

EXHIBIT A (Cont'd)
FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C.

LOCATION	SQ. FT.	ANNUAL COST	EXPIRATION DATE	CANCELLATION RIGHTS	QUALITY RATING	CLASS OF SPACE	DISPOSITION
2000 M Street, N.W.	70,190	$572,751	11-30-76	None	95	First Class	Reassign
III. GOVERNMENT-OWNED BUILDINGS							
New Post Office	213,504	$591,406	N/A	N/A	98	First Class	Reassign
New Executive Office Building	5,150	$ 21,115	N/A	N/A	100	First Class	Reassign


CURRENT LOCATIONS
OF FEA
2000 M St. NW
New Executive
Office Bldg.
LAFAYETTE
PARK
New Post Office
Building
WEST POTOMAC
PARK
THE

93r Congress
2nd Session

ATTACHMENT 6

United States Senate

COMMITTEE ON PUBLIC WORKS

COMMITTEE RESOLUTION

RESOLVED BY THE COMMITTEE ON PUBLIC WORKS OF THE UNITED STATES SENATE,

That pursuant to Section 7 of the Public Buildings Act of 1959, as amended, the proposed leased office space for the Federal Energy Administration in Washington, D.C, a description of which is attached hereto, and by this reference made a part hereof, is approved as amended by deleting 225 parking spaces and limiting the lease term to five years with renewal options contingent upon the Public Works Committees approval.

Adopted: October 10, 1974

Jennings Randolph

Jennings Randolph Chairman.

ATTACHMENT 7

BUZZARD POINT POTENTIAL TENANT MATRIX
1900 Half Streets, SW.

Agency	Sq. Ft. Required	Present Annual Rt.	Rental Savings Lease Cancels.	Rent saved by Assigning Space at B.P. in lieu of Leasing New Space	Cost of Backfill Alterations	Cost of Puplicating Spec. Alts. at B. P.	Net Cost To Gov't
F E A (Presently at 5 locations)	392,072	$1,261,954	$1,092,995	-	$1,151,620	$ 50,000	$ 108,625
FTC-FBI-AGR. (10 locations)	389,646	1,192,633	114,372	$1,406,000	1,240,055	500,000	334,055
FBI-LEAA-AGR (7 locations)	379,082	1,184,206	-	190,000	1,187,235	500,000	1,492,235
AID (8 locations)	354,930	1,825,740	214,655	-	1,450,000	300,000	1,535,345
GSA-R3, Partial (3 locations)	318,373	112,207	-	-	1,591,865	719,200	2,311,065
Treasury (13 locations)	367,409	644,345	61,780	-	1,783,295	1,110,000	2,893,295
GSA-R3, total (3 locations)	354,875	112,207	-	-	1,774,375	3,024,400	4,798,775

1. FEA

Present Location(s)	Sq. Ft.	Annual Rent	Expiration	Rental Savings -Cancellation	Rental Savings-Not Leasing	Backfill Alterations	Specials	Net Cost	Backfill Tenant
New P.O.	201,729	—	—	—	—	$1,008,645	—	$1,008,645	Treasury
Old P.O.	37,685	—	—	—	—		—	—	—
2000 M St., [illegible]	124,063	$1,092,995	11/30/76	$(1,092,995)	—	—	—	(1,092,995)	—
[illegible]	7,870	45,646	11/3/79	—	—	39,350	—	39,350	Labor
17[illegible]	20,725	123,313	8/31/78	—	—	103,625	— 50,000*	103,625 50,000	NSF
	392,072	$1,261,954	—	$(1,092,995)	—	$1,151,620	$50,000	$ 108,625	

* [illegible] Estimate-cost for all locations.

[illegible] free 230,324 square feet for reassignment, enable us to cancel a costly lease at 2000 M Street, allow for continued consolidation of [illegible] their enclave at 12th and Penn. area, FEA may be short lived and lease is short term (5 years) - we might get out of this building.

2. FTC - FBI - AGR. (Food & Nutrition)

Present Location(s)	Sq. Ft.	Annual Rent	Expiration	Rental Savings -Cancellation	Rental Savings- Not Leasing	Backfill Alterations	Specials	Net Cost	Backfill Tenant
FTC Indianna Bldg.	19,445	$ 122,892	1/31/83	---	$(1,216,000 for	$ 97,225	---	$ 97,225	Unidentified
Star Bldg.	18,725	112,350	9/5/82	---	outstanding	93,625	---	93,625	Unidentified
Penn. Bldg.	36,599	206,052	3/31/77	---	160,000 sq. ft.	182,995	---	182,995	Cancel lease
Gelman Bldg.	32,915	76,728	2/28/81	---	FTC requirement)	164,575	---	164,575	Nat. Trans. Study Comm.
1726 M St., NW.	14,265	84,876	8/31/78	---		71,325	---	71,325	Unidentified
FBI Old P.O.	116,635	---	---	---		---	500,000	500,000	Vacant
AGR. 500 12th St, SW.	78,622	482,239	7/2/80	---		393,110	---	393,110	AGR.
Gelman Bldg.	920	4,996	2/28/81	---		4,600	---	4,600	Unidentified
Auditors Annex	27,520	---	---	---		137,600	---	137,600	AGR.
Main Annex	19,000	---	---	---		95,000	---	95,000	AGR.
Expansion	25,000	---	---	---	(190,000)	---	---	(190,000)	---
	389,646	$1,192,633	---	---	$(1,406,000)	$1,240,055	$500,000	$334,055	

Remarks: This would free 211,412 square feet for reassignment, enable us to satisfy the following outstanding space requirements: FTC (160,000 sq. ft.) Agriculture (125,000 sq. ft. consolidation plus 25,000 sq. ft. expansion) FBI (133,000 sq. ft.) AGR. management would voluntarily go - other two may not, would completely consolidate AGR's Food and Nutrition Service in Washington, FBI special alterations at Buzzard Point would be costly $500,000. This would not effect FEA, LEAA, AID, GSA or Treasury.

3. FBI - LEAA - AGRICULTURE

Present Location(s)	Sq. Ft.	Annual Rent	Term	Rental Savings -Cancellation	Rental Savings Not Leasing	Backfill Alterations	Specials	Net Cost	Backfill Tenant
FBI Old P. O.	116,635	——	——	——	——	——	$500,000	$500,000	Vacant (second class space)
LEAA 633 Indiana Ave.	82,255	$519,652	1/31/83	——	——	$411,275	——	411,275	FTC
Chester Arthur Bldg.	29,130	176,819	1/14/84	——	——	145,650	——	145,650	FTC
AGR 500 12th St. SW	78,622	482,739	7/2/80	——	——	393,110	——	393,110	AGR
Gelman	920	4,996	2/28/81	——	——	4,600	——	4,600	AGR
Auditors Annex	27,520	——	——	——	——	137,600	——	137,600	Unidentified Commission
Main Auditors	19,000	——	——	——	——	95,000	——	95,000	AGR.
Expansion	25,000	——	——	——	(190,000)	——	——	(190,000)	AGR
	379,082	$1,184,206	——	——	($190,000)	$1,187,235	$500,00	$1,492,235	——

Remarks: Would free 379,082 sq. ft. for reassignment, satisfy the following outstanding space requirements FBI (90,000 sq. ft), LEAA (133,000 sq. ft.), and AGR (125,000 sq. ft. consolidation plus 25,000 sq. ft. expansion requirement), potential difficulty of fighting two or three agencies, FBI has no union, LEAA and AGR have unions, high cost of duplicating FBI specials at B.P. ($500,00), AGR management would go voluntarily - others uncertain, this action would effect FTC by satisfying one half of their outstanding (160,000 sq. ft. request) by backfilling them at 633 Indiana Avenue, it would not effect AID, MEA, Treasury or GSA.

4. AID

Present Location(s)	Sq. Ft.	Annual Rent	Expiration	Rental Savings--Cancellation	Rental Savings Not Leasing	Backfill Alterations	Specials	Net Cost	Backfill Tenant
State Annex II	30,682	82,227	5/31/78	——	——	$153,410	——	$153,410	State
Architect Bldg.	28,835	183,102	11/30/76	(183,102)	——	——	300,000	(183,102)	——
Universal North	75,825	462,532	11/14/79	——	——	——	——	679,125	CAB
Rosslyn Plaza E	38,930	272,510	9/10/81	——	——	194,650	——	194,650	AGR.
Pomponio Plaza	71,885	319,888	10/6/77	——	——	359,425	——	359,425	DOD
Rosslyn Plaza C	72,678	374,291	9/15/77	——	——	363,390	——	363,390	To Be Determined
1401 Wilson Blvd.	12,175	75,728	4/30/77	(31,553)	——	——	——	(75,728)	——
1311 So. Fern (Warehouse)	23,920	55,462	11/3/78	——	——	——	——	——	DOD
	354,930	1,825,740	——	($214,655)	——	$1,450,000	$300,000	$1,535,345	——

Remarks: Would consolidate AID from eight locations, two leases could be cancelled and six backfilled (344,602 sq. ft.) single tenant would be easier to administrate, AID employees may resist, AID managements position is uncertain. Would Agr. on a limited basis, would not effect FTC, LEAA, FBI, Treasury, FEA or GSA.
consolidate

5. GSA Region 3 Partial*
(Minus Computers and Communication Center)

Tenant Location(s)	Sq. Ft.	Annual Rent	Expiration	Rental Savings -Cancellation	Rental Savings-Not Leasing	Backfill Alterations	Specials	Net Cost	Backfill Tenant
HUD	301,292	---	---	---	---	$1,506,460	$719,200**	$2,311,665	Many possible
Reporter's Bldg.	9,373	$ 57,644	11/30/80	---	---	46,865	---	46,865	EEN/OE
Bicentennial Bldg.	7,708	54,563	2/28/86	---	---	38,540	---	38,540	HUD
	318,373	$112,207	---	---	---	$1,591,865	$719,200	$2,311,665	

* Would leave communication center and computers in ROB
** GSA print shop, credit union, mail room, PBS Store

Remarks: Outside agency concurrence not required, backfill of ROB would provide expansion/consolidation for agencies in SW (HUD, DOT, AGR. etc.), Federal Plaza could also be used to consolidate FEA, AID AGR. (Food and Nutrition) or satisfy outstanding FTC, FBI, and LEAA requirements

FEA (Partial), FBI, ERDA

Present Location(s)	Sq. Ft.	Annual Rent	Term	Rental Savings-Cancellation	Rental Savings -Not Leasing	Backfill Alteration	Specials	Net Cost	Backfill Tenant
FEA Old P.O.	37,685	---	---	---	---	---	---	---	Vacant (second class ?
2000 M St., NW.	124,063	$1,092,995	11/30/76	($1,092,995)	---	---	---	($1,092,995)	----
Vanguard Bldg.	7,870	45,646	11/3/79	---	---	$ 39,350	---	39,350	Labor
1725 M St., NW.	20,725	123,313	8/31/78	---	---	103,625	---	103,625	NSF
FBI Old P.O.	116,635	---	---	---	---	---	$500,000	500,000	Vacant
ERDA Railway Labor Bldg.	51,865	317,248	10/31/80	---	---	259,325	---	259,325	Labor
Letter Carriers Bldg.	6,250	34,375	9/4/77	---	---	31,250	---	31,250	SEC
Expansion	56,000	425,000	---	---	($425,000)	---	---	(425,000)	---
	421,093*	$2,038,577	---	($1,092,995)	($425,000)	$433,550	$500,000	($ 584,445)	--

Remarks: Would free 86,710 square feet for reassignment, satisfy two major outstanding space requests FBI (90,000 sq. ft.), ERDA (56,000 sq. ft.), would lower FEA's utilization rate, would partially consolidate FEA and enable us to terminate a costly lease, FEA does not have space request into GSA - they must be consulted with, FBI has no union - others do, FBI special alterations are costly ($500,000). This would not effect AID, AGR., GSA, Treasury, or LEAA.

* Would contract to 380,000 to occupy Buzzard Point.

FEA (Partial), FBI, Agriculture

Present Location(s)	Sq. Ft.	Annual Rent	Term	Rental Savings -Cancellation	Rental Savings- Not Leasing	Backfill Alterations	Specials	Net Cost	Backfill Tenant
FEA Old P.O.	37,685	---	---	---	---	---	---	---	Vacant (second class s
2000 M St. NW.	124,063	$1,092,995	11/30/76	($1,092,995)	---	---	---	($1,092,995)	---
Vanguard Bldg.	7,870	45,646	11/31/79	---	---	39,350	---	39,350	Labor
1725 M St., NW.	20,725	123,313	8/31/78	---	---	103,625	---	103,625	NSF
FBI Old P.O.	116,635	---	---	---	---	---	$500,000	500,000	Vacant
Agr. 500 12th St., SW.	78,622	482,239	7/2/80	---	---	393,110	---	393,110	Agr.
Gelman Bldg.	920	4,996	2/28/81	---	---	4,600	---	4,600	Unident.
Auditors Annex	27,520	---	---	---	---	137,600	---	137,600	Agr.
Main Auditors	19,000	---	---	---	---	95,000	---	95,000	Agr.
Expansion	25,000	---	---	---	(190,000)	---	---	(190,000)	---
	458,040*	$1,749,189	---	($1,092,995)	(190,000)	773,285	$500,000	$ (9,710)	---

Remarks: This would free 179,657 square feet for reassignment, enable us to satisfy the following major outstanding space requests: Agriculture (150,000 sq. ft.), would partially consolidate FEA and totally consolidate Agriculture (Food and Nutrition), FEA does not have space request into GSA - they must be consulted with, Agr. management will go voluntarily, FBI may not, FBI has no union, other do, FBI special alterations costly ($500,000). This would not effect FTC, LEAA, AID or GSA.

* Would contract to 380,000 to occupy Buzzard Point

DEPT. OF TREASURY - PROPOSED RELOCATION TO "POTOMAC OVERLOOK"

Locations Treasury Will Release To GSA

Present Location	Assignment	Annual Rent	Lease Term	Cancellation	Rental Offset	Alter/Back-Fill Cost	Specials	Net Cost To GOVT	Possible Backfill
1. Global Bldg. 1025 Vermont Ave.	7,765	$ 48,143	3/31/79	None	0	$ 38,825		38,825	Commissions
2. McPherson Sq. 1425 K St. NW	3,750	22,087	9/21/86	None	0	18,750		18,750	VA
3. 1612 K St. N.W.	5,310	31,594	5/31/78	None	0	26,550		26,550	Dept of Interior
4. 1325 G St. N.W.	2,400	13,872	3/6/81	None	0	12,000		12,000	NCPC
5. 711 14th St N.W.	1,785	10,710	8/31/81	None	0	8,925		8,925	
6. 1625 Eye St. N.W.	10,750	61,780	5/29/77	60 Dayson Part	61,780	0		0	Commerce
7 1331 G St. N.W.	22,000	100,540	5/24/81	None	0	110,000		110,000	Commissions
8. 1100 Vermont Ave	19,050	99,822	2/13/77	None	0	95,250		95,250	CSC
9. G.A.O. Bldg.	147,066	—	----	----	0	735,330	$1,110,000*	1,845,330	GAO
10. Liberty Loan 14th & D SW	95,845	—	—	—	0	479,225		479,225	Agriculture
11. Auditors Bldg. 14th & C SW	6,315	—	—	—	0	31,575		31,575	Agriculture
12. Warner Bldg 501 13th St. N.W.	28,648	158,709	1/6/84	None	0	143,240		143,240	FFA
13. Vanguard Bldg 1111 20th St. N.W.	16,725	97,088	11/3/79	None	0	83,625		83,625	Labor
	367,409	$644,345				$1,783,295	$1,110,000	2,893,295	

Locations Treas. Will Backfill

1. Columbia Plaza	2,320	$ 12,876	4/21/94	None	-	None	
2. 1900 Penn Ave.	12,280	79,300	6/30/80	None	-	None	
3. Washington Bldg	18,962	151,200	6/30/80	None	-	None	
4. Treasury Annex (Not GSA)	66,730	—	—	—	-	None	
5. E & P Annex (Not GSA)	154,757	—	—	—	-	None	

* Estimated Cost For Computer Area of 18,500 ☐ at $60/☐

ATTACHMENT 8

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

APR 13 1976

OFFICE OF THE ASSISTANT ADMINISTRATOR

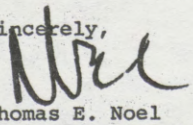
Mr. John F. Galuardi
Regional Administrator
Region III
General Services Administration
7th and D Streets, S.W.
Washington, D. C. 20405

Dear Mr. Galuardi:

Since the inception of the Federal Energy Administration (FEA), the continuing problem of finding a suitable building arrangement to house the entire FEA Headquarters complement has presented serious problems. In anticipation of the pending FEA FY 76 Supplemental and FY 77 Budget Amendment requests, which were developed to support the provisions of the recently enacted "Energy Policy and Conservation Act," the increase in Headquarters staffing as proposed in this budget will significantly impact the existing FEA buildings in the Washington, D.C. area. In order to satisfy this additional space requirement and concurrently consolidate FEA programs presently dispersed in five downtown buildings into three buildings; 75,000 square feet of office and related support space will be required. It is anticipated that in implementing the proposed realignment and providing the required expansion space, FEA will release to the GSA three buildings we currently share with other Government tenants. The total space to be released consists of 65,910 square feet; so the net effect will reflect an increase of only 9,000 square feet of space to FEA. I would hope that if you proceed with this request, the space obtained would be in a new building not more than five blocks from the Federal Building at 12th Street and Pennsylvania Avenue, Northwest.

I would like to meet with you on this matter at your earliest convenience so that the preliminaries you may require to proceed with this request may be satisfied.

Sincerely,



Thomas E. Noel
Assistant Administrator
Management and Administration

ATTACHMENT 9

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

PROSPECTUS FOR PROPOSED ALTERATION
UNDER THE PUBLIC BUILDINGS ACT OF 1959, AS AMENDED

OLD POST OFFICE
12TH AND PENNSYLVANIA AVENUE, NW WASHINGTON, DC

1. SUMMARY OF PROPOSED PROJECT:

This prospectus provides for repairs and alterations which should be undertaken at this building for its continued use in providing adequate housing for Federal agencies and to preserve a historic landmark. Major items to be provided include installation of a new heating, ventilating, and air-conditioning system (HVAC); replacement of domestic water, sewer, and electric distribution systems; repair of slate and composition roofs; restoration of the roof level skylight; renovation of the first floor area of the courtyard; installation of required firesafety, lifesafety and provisions for handicapped modifications; modernization of elevators; recapture, through rehabilitation, of significant areas of presently unassignable space; limited renovation of existing office areas; architectural preservation of culturally significant features of the building; and repair and/or replacement of building foundations. This work is to be accomplished within five years after approval of this prospectus. It does not include (1) the day-to-day preventive maintenance and recurring repairs, including painting and pointing, which must be undertaken annually to keep the building in a tenantable condition, (2) alterations to the building and its equipment which may be occasioned by future space reassignments which cannot be identified at this time, and (3) repairs and replacements which may be occasioned by an emergency or breakdown which interrupts use of the building.

2. ESTIMATED AUTHORITY REQUIRED:

Authority required.....$18,011,000

3. DESCRIPTION AND JUSTIFICATION OF WORK:

From the time of the 1929 Mellon Commission Plan, which created the enclave known as the Federal Triangle, the Old Post Office Building has survived a number of demolition schemes. The most recent, only a decade ago, followed the Pennsylvania Avenue Plan - 1964. This called for completion of the Federal Triangle segment behind the Internal Revenue Service Building. With the publication of this plan, the building's demolition was seemingly assured, consequently no major alteration or repair projects have been undertaken since 1964. Only work necessary to preserve its ability to minimally house Federal agencies from year-to-year has been accomplished.

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

Beginning in the early 1960's, public and private groups voiced a new interest in preserving the building. Its architectural features, among them the 315 foot tall clock tower which dominates Pennsylvania Avenue between the Capitol and the White House and its vast interior court, surrounded by spacious galleries at each floor, were seen as something unique among Federal buildings. Because of these features and its location within the Federal Triangle, the Old Post Office was placed on the National Register of Historic Places and was declared a District of Columbia Category II Landmark. The Pennsylvania Avenue Plan - 1974 recognized its character, and considers the rehabilitation of the building a key factor in its plan for the revitalization of the entire area.

With these elements known, the General Services Administration (GSA), has determined to proceed with this proposed preservation project. This project envisions both preserving the originality of the structure while adapting it, insofar as possible, for modern use. In the design and implementation of this project, the guidelines and spirit of the "Public Buildings Cooperative Use Act of 1976," P.L. 94-541, will be closely followed. The spaces created or refurbished will be assigned to those Federal agencies interested and involved with Historic Preservation, the Fine and Applied Arts, and National Capital Planning, as shown on the attached Housing Plan (Exhibit B).

The Old Post Office is presently heated and cooled by a variety of means, most predominantly an archaic one-pipe radiator system and window airconditioners. In order to reduce the consumption of energy, reduce operating and maintenance costs, and provide a proper, balanced working environment for Federal employees, it is necessary to install a central, zoned HVAC system for the entire building. Such a system will also allow the presently unoccupied ninth floor to be used for general office space and will further increase the assignable areas in the basement. As a part of the original plan for completing the Federal Triangle, a chiller location, as well as supporting electric service, was installed in the adjacent Internal Revenue Service Building. It is anticipated that this installation will be used for serving the Old Post Office.

As a necessary part of the HVAC work, an energy analysis will be performed to investigate various options for minimizing the energy required to operate the building. Those systems which are found to be the most energy effective, and having the greatest return on investment, will be installed. The "Energy Conservation Guidelines for Existing Office Buildings" will be used for the analysis and design of modifications.

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

The entire domestic water and sewer system is severely deteriorated throughout the building. New piping, valves, fixtures, etc., will be installed to provide service to toilets, drinking fountains and other locations. In a related item of work, the old, unsanitary and deteriorated existing toilet rooms will be renovated and new ones will be constructed for the basement, first and ninth floors where none are presently available. Insofar as possible, the renovation will include reuse of existing marble partitions and wainscots to aid in retaining the character of the original building. At the time that the domestic water system is replaced, the interior storm water system from rain leaders, area drains, etc., will also be replaced.

Present electric service into the building is insufficient. In addition, most of the existing panelboards and branch circuit wiring is obsolete, too old to reuse, and does not meet current code provisions. The electric service capacity must, therefore, be increased and the existing switchboards rearranged for more efficient utilization. Where possible, existing transformers and bus ducts will be reused. A new distribution system for 120 volt receptacles and the existing lighting system is required with its concomitant wire closets. The present telephone system is inadequate. A new conduit system with new telephone wire closets will be designed to serve tenant needs more adequately.

The existing slate and composition roof is long past its useful life, as can be seen by the rain damage on the ninth floor. The slates are loose and/or broken and, therefore, also constitute a hazard to pedestrians. The composition surfaces are dried, cracked and torn. The entire roof must be repaired, including the replacement of flashing, gutters, drains and strainers.

The main section of the roof once consisted of a large ornamental skylight which provided natural illumination to the inner court and its circumferential corridors. After many years of increasingly serious leakage, the skylight's glazing was removed and the whole area covered with a standing-seam aluminum roof. The wrought iron skylight frame is still in place, however, and in apparently good condition. Because the skylight was an intrinsic part of the building's original architectural concept, and is such an important visual element in its proposed renovation, the skylight should be restored. This will involve reglazing the existing structural frame with appropriate materials, sealing all sources of potential leaks, and painting the frame itself.

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

The first floor area of the inner court, which originally housed the main mail sorting room, is also covered by a secondary skylight. Through the years this space was subdivided, the glass painted, and the wrought iron frame encumbered by additional elements unrelated to the original function. This prospectus proposes the use of this space as a public exhibits area for the art oriented agencies to be housed in the building. To achieve this use, all of the elements added to the skylight frame, as well as its glass covering, are to be removed. The remaining main trusses and purlins will then function as a base for the courtyard sprinklers and lighting system, as well as a spatial element to retain the court's original sense of scale.

As designed, and as it exists today, the building does not meet fire and lifesafety regulations. A number of actions, including construction of four new fire stairs, installation of sprinklers throughout the building, installation of a fire/smoke detection and alarm system, enclosure of the monumental stair and elevator towers and the creation of two, 2-hour rated corridors on the first floor must be undertaken. In addition to these, modifications to the HVAC system and a smoke control ventilation system in the courtyard should make the open corridors usable in the event of an emergency. Other actions will provide a fire pump system, an emergency generator, and a standpipe loop connecting the new stairwells. In every instance the installation of these items will be done in such a manner as to leave the public spaces of the building (i.e., lobbies, corridors, etc.) as close to their original appearance as possible.

For a number of years, the ninth floor of this building has been abandoned: it is not only deteriorated, but it has neither heat nor light; and is not served by elevators. This prospectus proposes that the entire floor be renovated, and brought into tenantable condition including replacement of wood floors; lights; doors and hardware; patching of the deteriorated walls and ceilings; tying into the new HVAC system; and the addition of new toilets.

The existing passenger elevators in the building require manual operation, are old, and need constant maintenance to remain in usable condition. The two shuttle elevators between the eighth and ninth floors have been removed so that only their shafts remain. Of the three existing freight elevators, only one is required and the other two should be removed so that the space they occupy may be put to better use. The elevators and their operational features are to meet the latest applicable code provisions, and the shafts are to be repaired as required. All decorative wrought and cast iron screens are to be retained and used around the remodeled shafts to retain the lobbies original appearance. The new elevator cabs and doors will be designed to be harmonious with the structure's historical status. In each instance, new elevators of an appropriate type are to be installed in the existing shafts.

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

Facilities for the handicapped will be provided in accordance with P.L. 90-480 to include modified toilet rooms, drinking fountains, telephones, a new ramp and power door as well as lowered elevator controls.

The existing courtyard exhibits excessive levels of echoing. Steps will be taken to alleviate this problem within the context of the present decorative scheme by using appropriate acoustical material in the infill panels of the balconies.

Some 90 percent of the floor finishes within the building are in a deteriorated condition. This will be corrected, as applicable, by cleaning, patching, repair and/or replacement in public, corridor, and office spaces.

Architectually, the building is in poor to fair condition with some areas, such as the basement, in such disrepair as to be unusable. Depending upon location, work involved in architectural restoration will include new partitions, ceilings, lights, doors and hardware. In order to most fully utilize available space within the upper floors of the building, as well as to simplify the installation of the new HVAC system, all transverse partitions on floors two through eight, not required for firesafety, are to be removed. The resultant areas, after patching, will allow use of open space design to promote flexibility and increase the actual assignable areas on each floor. A graphic information and directional signage system for effective visual communication will be designed and installed throughout the building.

The Old Post Office presently has four mezzanines of varying sizes, one at each corner of the building. These have, historically, proven unacceptable for assignment because of their poor condition, limited ceiling height and difficult access. The prospectus proposes that these existing mezzanines, be refurbished and that additional mezzanine space be constructed on the 12th and 11th Street sides and along the C Street end of the building.

The Old Post Office is a masonry bearing wall and steel frame building supported by stone piers on short timber piles. Dewatering operations by Metro, as well as during construction of the J. Edgar Hoover Building, have lowered the ground water table around these timber piles. Under such conditions the piles are vulnerable to decay and their deterioration can lead to settlement of the supported structure. The last inspection of the Old Post Office revealed no settlement damage, although this remains a possibility. GSA engineers have estimated that 30 percent of the foundations will require repair and/or underpinning. In order to determine the full scope of the deterioration a consultant has been hired by GSA to further investigate the situation.

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

The Old Post Office, located at 12th Street and Pennsylvania Avenue, NW, was completed in 1899. It is of Romanesque Revival Style with Gothic overtones, and exhibits such features as arched entrances and fenestration, turrets, and the heavily rusticated base which were popular at the time of its construction. Arranged around a sky-lighted, monumental court are nine levels of office space with spacious corridors. The first floor courtyard space was used as the main post office work room, and it too was covered with a skylight.

At the present time, the building houses elements of the Federal Bureau of Investigation. The present occupiable area of the building is 207,100 square feet. This will be increased through this prospectus to 232,500 square feet by utilizing recoverable space on the ninth floor, the basement, and by extending the present mezzanines. There are approximately 140,000 employees housed in 31,931,000 square feet of Government-owned space and 115,800 employees housed in 26,563,000 square feet of leased space in the Washington, D.C., metropolitan area. There are approximately 675 of these employees housed in this building presently, and the proposed housing plan calls for an occupancy of some 1,330 employees. The building thus provides an essential part of the comprehensive space plan for housing the Federal population of this area for the foreseeable future.

4. DISCUSSION OF ALTERNATIVES:

a. Replace the building with a new modern structure.

This monumental building is a major component of the Federal Triangle, the Pennsylvania Avenue Plan - 1964, and is listed in the National Register of Historic Places. Because of these factors, as well as intense public interest in its preservation, the demolition of the building should not be considered. The minimal replacement cost of $28,360,500, including the site, also precludes consideration of this alternative. The cost effectiveness ratio of new construction to altered space is 1.14 to 1.00.

b. Provide a similar amount of space in a modern leased building.

The cost effectiveness ratio of this alternative is not applicable for the reasons stated in 4a., above.

c. Proceed with the repair and alteration project.

Because of the aforementioned consideration, this proposed alteration project is the most feasible course of action. The projects proposed in this prospectus will ensure the continued productive use of this unique building as a home for the arts oriented Government agencies, and is considered the most reasonable alternative. Further, as noted in paragraph 5, below, this proposed alteration will reduce rental space in Washington, D.C., by 217,560 occupiable square feet at an annual savings of $1,261,925.

5. CURRENT HOUSING COST:

	Occupiable Area	Annual Cost
a. Government-owned Operation, Maintenance, and Upkeep Costs	207,100	$ 859,617
b. Leased Space* Rent and Other Cost	217,560	$1,261,925

*Current leased costs for agencies to be housed in the building after project completion.

6. COMPREHENSIVE HOUSING PLAN:

This is a repair and alteration project. The building is presently being vacated, and after completion of the project, will be backfilled by Government agencies oriented to the arts and historic preservation. There will, therefore, be a major influx of personnel, and this is covered in Exhibit B.

7. ENVIRONMENTAL DATA:

In the development of this project, studies will be made to determine that the project will be accomplished in strict compliance with the purposes and intent of Executive Order 11514 "Protection and Enhancement of Environmental Quality" and will comply with the requirements of Section 102(2) of the National Environmental Policy Act of 1969 (P.L. 91-190), as amended, and the guidelines prescribed by the Council on Environmental Quality.

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

8. STATEMENT OF NEED:

It has been determined for the reasons stated in paragraph 4.c., that the only viable alternative is to proceed with the proposed repair and alteration project.

Submitted at Washington, DC, on _____

Recommended: Nicholas B. Ramyri
Commissioner, Public Buildings Service

Approved: _____
Administrator of General Services

PROSPECTUS NUMBER: PDC00292
BUILDING NUMBER : DC0029ZZ

SUPPLEMENTAL DATA

PROSPECTUS FOR PROPOSED ALTERATION

PROJECT UNDER THE PUBLIC BUILDINGS ACT OF 1959, AS AMENDED

OLD POST OFFICE
12TH AND PENNSYLVANIA AVENUE, NW — WASHINGTON, DC

1. Building Statistical Information

Date Built:	1899
Site Area:	61,400 sq.ft.
Building Area Gross:	420,023 sq.ft.
Occupiable Area, Present:	207,100 sq.ft.
Occupiable Area, Potential:	232,500 sq.ft.
Parking Spaces:	
Spaces for Government-owned or for official cars	32
Spaces for the Handicapped	3
Spaces for Visitors or Contractors	0
Spaces for Employee Carpools	0
Spaces for Other Employees	32
Acquisition Cost of Land and Buildings:	$ 3,502,165
Replacement Cost:	$28,360,500
Construction	$17,437,500
Site and Expenses	$10,923,000
Number of Employees Presently in Building:	675
Number of Employees Projected for Building:	1,330
Annual Cost of Operation, Maintenance and Repair:	$859,617
Useful Life, Renovated Building:	30 years
Useful Life, New Building:	50 years

2. Authority Data

Authority required: $18,011,000

Cost of this Project - $\frac{\$18,011,000}{420,023 \text{ GSF}}$ = $42.88/GSF

Cost Effectiveness Ratios

$\frac{\text{Leased Space}}{\text{Altered Space}}$ = Not Applicable

$\frac{\text{Construction}}{\text{Altered Space}} = \frac{\$32,622,300}{\$28,678,800} = 1.14$ (Construction)

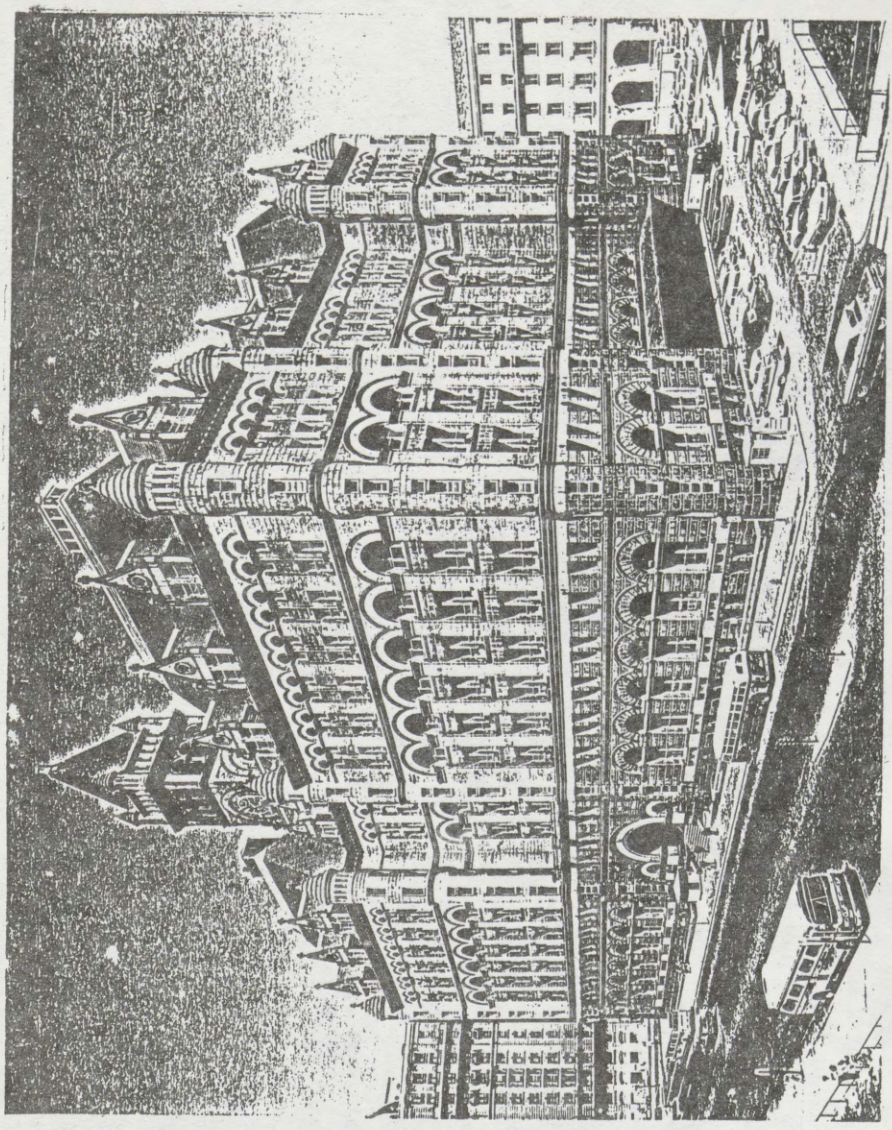
BUILDING NAME	ADDRESS	NUMBER
Old Post Office	12th St. & Penn. Ave. NW Washington, DC	DC0029ZZ

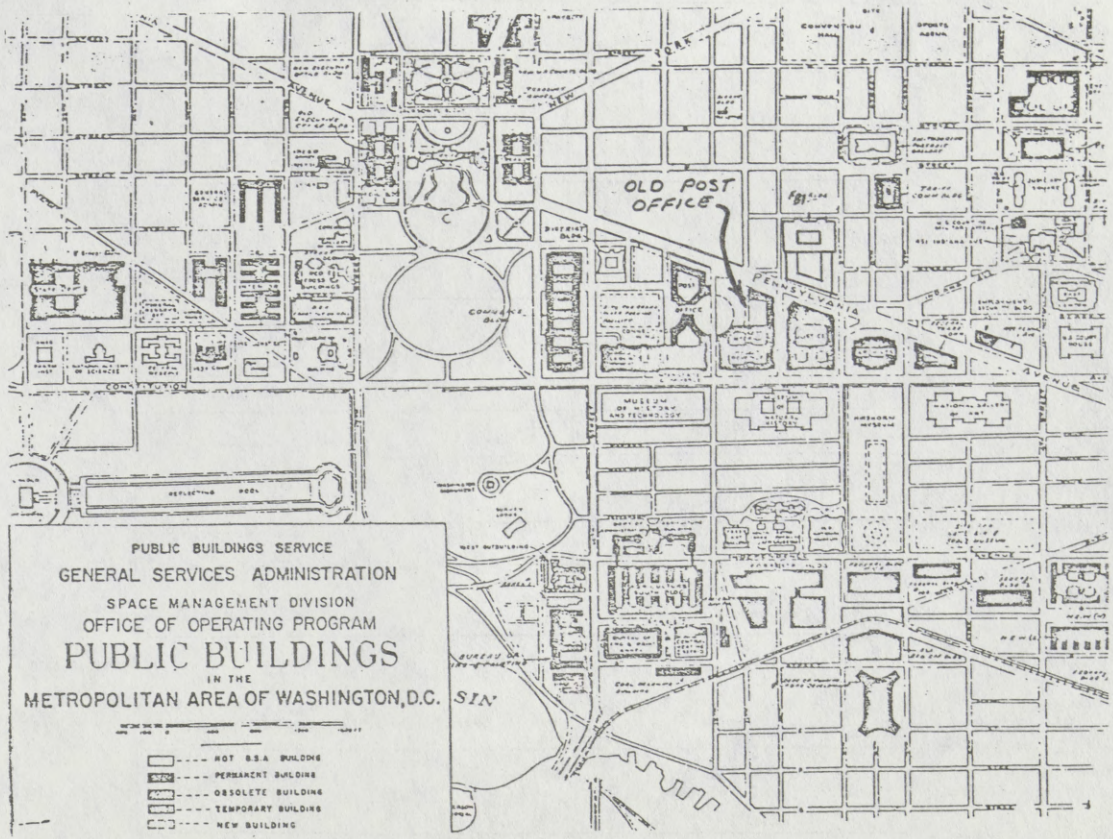
DESCRIPTION OF WORK	PROPOSED PROSPECTUS (CURRENT ESTIMATE)
Demolition	$ 734,000
Structural Modifications	50,000
HVAC System (Including 9th Floor and Courtyard)	4,053,000
Replace Domestic Water, Sewer, and Storm Sewer	60,000
Install Sprinkler System and Fire Pump	376,000
Replace Electric System	1,060,000
Install Fire Detection and Alarm System and Emergency Generator	248,000
Improve Lighting System, Light 9th Floor and Basement	185,000
Construct Fire Stairs, Enclose Elevator Lobbies and Create B-Label Corridors at First Floor	126,000
Modernize and/or Install Toilets (Including 6 new toilets)	206,000
Replace Roof Skylight	262,000
Replace Slate and Composition Roof and Install New Rain Leaders	630,000
Handicapped Facilities	50,000
Modernize Elevators and remove two freight elevators	685,000
Renovate Building (Basement through 9th floor) work to include repair of floors, ceilings, walls, preservation of skylight on first floor, remove and install lighting and partitions.	4,908,000
Expand mezzanines at South end and sides of building	78,000
Foundation repairs	2,500,000
Design and supervision	1,800,000
TOTAL	$ 18,011,000

87 962 367

COMPREHENSIVE HOUSING PLAN EXHIBIT B

Old Post Office		Washington, DC			DC0029ZZ	
AGENCY	NUMBER OF EMPLOYEES	MOVING FROM	SQ. FT. OF SPACE	MOVING TO	SQ. FT. OF SPACE	FUTURE USE OF SPACE
National Endowment for the Arts	325	Columbia Plaza Office Building	58,655	Old Post Office	60,000	
National Endowment for the Humanities	375	Shoreham Building	67,595	Old Post Office	65,000	
Pennsylvania Avenue Development Corporation	30	Pennsylvania Ave. Building	5,255	Old Post Office	6,000	
Advisory Council on Historic Preserv tion	50	1522 K St., NW.	18,065	Old Post Office	17,000	
National Capital Planning Commission	300	1325 G St., NW.	56,850	Old Post Office	48,000	
Department of the Interior, Office of Archaeology and Historic Preservation	100	1100 L St., NW.	11,140	Old Post Office	11,000	
Expansion space					25,500	Public Use
Total leased space to be vacated			217,560			
Federal Bureau of Investigation	675	Old Post Office	82,000	1900 Half St. S.W.	82,000	
Total assignable space in Old Post Office after completion					232,500	




OLD POST OFFICE
PUBLIC BUILDINGS SERVICE
GENERAL SERVICES ADMINISTRATION
SPACE MANAGEMENT DIVISION
OFFICE OF OPERATING PROGRAM
PUBLIC BUILDINGS
IN THE
METROPOLITAN AREA OF WASHINGTON, D.C.
NOT GSA BUILDING
PERMANENT BUILDING
OBSOLETE BUILDING
TEMPORARY BUILDING
NEW BUILDING

PENDING SF-C STATUS REPORT

ATTACHMENT 10

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
CENTRAL INTELLIGENCE AGENCY	Washington, DC		R	9,000	RDC76345	6/3/76
CIVIL SERVICE COMMISSION		Y	X	55,000	RDC76174	11/17/75
DEFENSE/ DEPARTMENT OF		Y	R	5,700	RDC76402	9/9/76
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION		N	X	92 pkg.	RDC76260	2/11/76
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION				840	RDC76380	7/19/76
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION				7,000	RDC77025	11/8/76
FEDERAL HOME LOAN BANK BOARD		Y	X	-282	RDC77024	11/8/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds available;
c) Unless otherwise specified in the SQUARE FOOTAGE column, all space req
* Subject to availability of funds

PENDING SF-81 STATUS REPORT

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
FEDERAL TRADE COMMISSION	Washington, DC	Y	X R	280,500 160,000	RDC75181	3/27/75
FEDERAL TRADE		Y	N	1,275	RDC76398	8/6/76
FEDERAL MARITIME COMMISSION		S	X	5,800	RDC75217	5/12/75
GENERAL ACCOUNTING OFFICE		G	X	100,000	RDC75253	6/17/75
GENERAL ACCOUNTING OFFICE				3,500	RDC76383	7/30/76
GENERAL ACCOUNTING OFFICE		N	R	6;000	RDC76392	7/30/76

TES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for [illegible]; N = No funds [illegible]

PENDING SF-81 STATUS REPORT

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
GENERAL ACCOUNTING OFFICE	Washington, DC	Y	N	8,000	RDC76396	8/6/76
GENERAL SERVICES ADMINISTRATION Federal Supply Service		N	N	8,300 25 pkg.	RDC76421	9/7/76
GSA/ PBS Heating Operation and Transmission Area- Steam Distribution Complex and Meter Shop		N	Y R	16,300	RDC77016	11/4/76
HEALTH, EDUCATION AND WELFARE		Y	X	6,240	RDC76328	5/15/76
HOUSING AND URBAN DEVELOPMENT/ Headquarters		N	X	10,000	RDC76378	7/19/76
INTERIOR, DEPARTMENT OF		N	X	10,000 warehouse	RDC77014	11/4/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds

PENDING SF-81 STATUS REPORT

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
INTERIOR/ DEPARTMENT OF Bur. of Mines	Washington, DC	Y	X	1,645	RDC76282	3/26/76
INTERIOR, DEPARTMENT OF Bur. of Mines		N	N	9,165	RDC76283	3/26/76
INTERIOR, DEPARTMENT OF Bur. of Mines				4 pkg.	RDC76368	6/28/76
INTERIOR, DEPARTMENT OF Bur. of Mines				2000 storage	RDC76369	6/28/76
INTERIOR, DEPARTMENT OF Geo. Survey		N	R X	22.650	RDC76431	9/13/76
JUSTICE, DEPARTMENT OF		Y backfill in leased space.	X	2,500	RDC77007	10/18/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds available;
c) Unless otherwise specified in the SQUARE FOOTAGE column, all space req

PENDING SF-81 STATUS REPORT

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
JUSTICE, DEPARTMENT OF DEA	Washington, DC	N	X	2,880	RDC76414	8/27/76
JUSTICE, DEPARTMENT OF/ FBI			N	90,000	RDC76195	12/24/75
JUSTICE, DEPARTMENT OF/ FBI		Y	N	2,100	RDC77001	10/18/76
JUSTICE, DEPARTMENT OF/ Immigration and Naturalization Service		G	X	6,000	RDC76215	1/16/76
JUSTICE, DEPARTMENT OF/ Immigration and Naturalization Service		N	E	10,000	RDC76401	8/12/76
JUSTICE, DEPARTMENT OF/ Immigration and Naturalization Service		N	X	3,000	RDC76412	8/27/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds available
c) Unless otherwise specified in the SQUARE FOOTAGE column, all space req

		MDS	PE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
LABOR DEPARTMENT Occupational Safety and Health Administration	Washington, DC	G	X	29,525	RDC76425	9/10/76
LABOR RELATIONS BOARD		N	R	6,600	RDC77008	11/12/76
LIBRARY OF CONGRESS		G	X	16,590	RDC75204	4/28/75
NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE		Y	X	11,950	RDC76336	6/3/76
NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFER		G	X	750	RDC77022	11/8/76
NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE		N	X	3,400	RDC76395	7/30/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds available
c) Unless otherwise specified in the SQUARE FOOTAGE column, all space req
* Subject to availability of funds.

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
OCCUPATIONAL SAFETY HEALTH REVIEW COMMISSION	Washington, DC	Y	X	4,800	RDC77017	11/12/76
QUADRENNIAL COMMISSION		G	N	2,540	RDC77021	11/8/76
SMALL BUSINESS ADMINISTRATION		N	X	4,000 warehouse space.	RDC77005	11/4/76
STATE DEPARTMENT		Y	N	300	RDC77005	10/18/76
TRANSPORTATION, DEPARTMENT OF/ FHA		Y	R	3,100	RDC76405	8/12/76
TRANSPORTATION, DEPARTMENT OF/ OIS		G	X	3,900	RDC76304	4/15/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds available;
c) Unless otherwise specified in the SQUARE FOOTAGE column, all space requ
* Subject to availability of funds.

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
TREASURY/ ATF	Washington, DC	N	X	520	RDC76408	8/27/76
TREASURY/ ATF		Y	N	3,925	RDC77015	11/2/76
TREASURY/ Public Debt		R N	Y	22,590	RDC77028	11/11/76
TREASURY/ U.S. Secret Service		Y	R	23,725	RDC76430	9/8/76
U.S. COURTS/ Administrative Office		Y	R X	12,000	RDC76436	10/8/76
UNITED STATES DEPARTMENT OF AGRICULTURE		G	X	150,000	RDC76262	2/19/76

NOTES: a) TYPE of request: N = New; X = Expansion; R = Replacement
b) FUNDS: Y = Yes for funds allocated for leasing; N = No funds available;
c) Unless otherwise specified in the SQUARE FOOTAGE column, all space requ

PENDING SF-81 STATUS REPORT

AGENCY/BUREAU	LOCATION	FUNDS	TYPE	SQUARE FOOTAGE	CASE NO.	DATE RECEIVED
UNITED STATES DEPARTMENT OF AGRICULTURE		G	X	3,710	RDC76302	4/15/76
U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION		N	N	56,000	RDC76379	7/19/76
U.S. FISH AND WILDLIFE SERVICE		N	X	3,000	RDC76386	7/27/76
U.S. INDIAN CLAIMS Commission		N	R	10 pkg.	RDC76225	1/22/76
UNITED STATES INFORMATION AGENCY				200	RDC77026	11/8/76
VETERANS ADMINISTRATION		N	R	2,505	RDC76315	5/3/76

NOTES: a) TYPE OF [illegible]

[Correspondence with GSA follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., November 5, 1976.

Hon. JACK M. ECKERD,
Administrator, General Services Administration, General Services Building, Washington, D.C.

DEAR MR. ECKERD: Enclosed is a copy of a letter I have sent today to the General Accounting Office concerning a reported order that the Federal Energy Administration transfer its personnel to Buzzard Point. I request that you cooperate with the GAO.

In addition, I would like to know whether or not the GSA, in searching for candidates for this facility, considered moving itself into the Buzzard Point building and, if so, the reasons that this alternative was refused. I subscribe to the general theory that every man should be required to bury his own dead horse and I see no reason why this rule should not apply to GSA as well.

Sincerely,

JOHN D. DINGELL, *Chairman.*

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 1, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. DINGELL: Thank you for your letter dated November 5, 1976, concerning the Federal Energy Administration's (FEA) partial consolidation to a leased facility located at 1900 Half Street, Washington, DC (Buzzard Point).

You may be assured that the General Services Administration (GSA) will cooperate to the fullest extent with the General Accounting Office (GAO) in any inquiry with regards to this matter.

An extensive study was undertaken by GSA to determine what agency or agencies are best suited to be housed in the building. Both a partial and total consolidation move of GSA to the building was investigated thoroughly and found to be considerably more costly than the FEA consolidation as well as other alternatives.

We are also in receipt of your letter dated November 19, 1976, requesting additional information on the above subject matter. A reply is currently being prepared and will be forthcoming.

We wish to again thank you for your interest and welcome the opportunity to provide both the GAO and yourself any and all information pertaining to this matter.

Sincerely,

JACK ECKERD,
Administrator.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., November 19, 1976.

Hon. JACK M. ECKERD,
Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: On November 16, 1976, the Federal Energy Administration issued a notice of a public hearing concerning your October 29 Order directing the FEA to relocate some of its offices to Buzzard's Point.

The FEA invited you or your designee to testify and to be a member of the panel holding the hearing. On November 17, Commissioner Nicholas A. Panuzio declined that invitation. He said:

"Since this is primarily an exercise to determine the effect on your agency, there is no purpose served by our appearance at such an internal meeting.

"Our decision was made after a thorough analysis of your agency's needs and with the taxpayer in mind. We do not believe that the needed discussion about your agency's move can best be done by publicity.

"We would certainly be willing to meet with you or your representative to discuss the planning for the move.

"Mr. Eckerd does want to keep this problem in its proper perspective and will hold a news conference to explain our decision-making process so that the general public may weigh all the options that the Government has."

I find this response incredible. In one breath he deplores the use of "publicity" to discuss the FEA move and in the next he announces that in order to keep the problem in its "proper perspective" GSA will hold a "news conference * * * so that the general public may weigh all the options." One can only conclude that the GSA does not object to "publicity" so long as it creates it.

The FEA should not be required to expend its limited manpower and other resources to conduct a public fact-finding hearing about a matter that properly is under your jurisdiction. Federal employees, their representatives and others have expressed concern about the move to Buzzard's Point. They have raised questions concerning transportation, safety and other matters. But, to my knowledge, the GSA has not seen fit to hold a public hearing to air those concerns or to consider whether or not they are meritorious and, if so, what will be done to mitigate them. This is the duty of your agency and the Office of Management and Budget. The FEA should not have to assume this duty, although I applaud that agency for filling the void, at least in part. But I am sure this will not satisfy employees of other agencies slated for Buzzard's Point.

I have asked the GAO to review this entire matter, starting from the time the GSA executed a lease at Buzzard's Point. I am particularly concerned because the Senate Public Works Committee Resolution of October 10, 1974 approving a lease of 460,000 square feet states that such acquisition was solely "to house the consolidated operations of the Securities and Exchange Commission." Despite this, the OMB concluded last January, on the basis of a procedural technicality, that "the SEC should not be assigned the space at Buzzard's Point." The OMB let six months pass before making this earth-shaking decision. In the meantime, the building was nearing completion and the GSA was nearing the day when it must begin to pay a high annual rental. I want to know more about this situation.

I also want to know what realistic likelihood there is that the GSA will begin renovation of the Old Post Office Building *before* the end of 1977.

In the meantime, I think it would be prudent for the GSA and OMB to hold a public hearing before any agency is required to move to Buzzard's Point. I support efforts to improve social and economic conditions in the southwest area of the District, but this should not be done in a vacuum. Transportation and other factors, such as morale, must be considered also for efficient operation of the affected agencies.

With best regards.

Sincerely,

JOHN D. DINGELL,
Chairman.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., November 12, 1976.

Hon. JACK M. ECKERD,
Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: The Federal Energy Administration has scheduled a public hearing on November 22, 1976 to consider the effects on the public and on the efficient performance of FEA's statutory responsibilities of a directive issued by the General Services Administration that certain FEA offices be consolidated

in a building at Buzzard's Point in Southwest Washington. A copy of the notice announcing this hearing is enclosed for your information.

In view of the fact you issued the determination to the FEA, we would very much appreciate your attending the public hearing in order to explain in detail the reasons underlying the decision which the General Services Administration made. In case your schedule will not permit your personal appearance, we would be happy to arrange for your designated representative to make this presentation.

Thank you for your cooperation in this matter.

Sincerely,

DAVID G. WILSON,
Acting General Counsel.

NOVEMBER 16, 1976.

Hon. JACK M. ECKERD,
Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: I am writing to supplement our recent letter inviting GSA participation in the public hearing scheduled for November 22, 1976, which will consider the effects of the proposed relocation of certain offices of the Federal Energy Administration to Buzzard's Point in Southwest, Washington.

In addition to having GSA testimony, we would be pleased to have a GSA representative as an observer at the hearing, and if you choose, we would be pleased to have a GSA representative serve on the panel that will preside at the hearing. The GSA representative on the panel would assure that GSA would have full opportunity to question the witnesses.

FEA hopes that it will have the benefit of GSA participation in the public hearing—as witness, panel member, or both. It would be appreciated if you or your designee would contact me (566–9199) within the next few days to work out the necessary arrangements.

Sincerely,

MICHAEL F. BUTLER,
General Counsel.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 17, 1976.

Mr. DAVID WILSON,
Acting General Counsel,
Federal Energy Administration,
Washington, D.C.

DEAR MR. WILSON: Mr. Eckerd has asked me to respond to your letter of November 12, 1976. We would like to commend you for your openness in holding a public hearing on the Federal Energy Administration's move to a new facility at Buzzard Point. You certainly have every right and a responsibility to properly check on how this affects your operation.

Since this is primarily an exercise to determine the effect on your agency, there is no purpose served by our appearance at such an internal meeting.

Our decision was made after a thorough analysis of your agency's needs and with the taxpayer in mind. We do not believe that the needed discussion about your agency's move can best be done by publicity.

We would certainly be willing to meet with you or your representative to discuss the planning for the move.

Mr. Eckerd does want to keep this problem in its proper perspective and will hold a news conference to explain our decision-making process so that the general public may weigh all the options that the Government has.

I do hope that when this appeal process is complete, that we can work together in a positive way to achieve the best possible answer to your space needs.

Sincerely,

NICHOLAS A. PANUZIO,
Commissioner.

87-962 O - 77 - 14

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 3, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. DINGELL: Thank you for your letter dated November 19, 1976, concerning the transfer of certain elements of the Federal Energy Administration to the leased facility located at 1900 Half Street, SW. (Buzzard Point).

The General Services Administration will continue, as it has in the past, its efforts to fully inform any and all interested parties as to the facts involved in this matter. We are enclosing a fact sheet for your information highlighting events from 1974 until the present.

We have been assisting Mr. David Finnegan, Counsel to the Subcommittee on Energy and Power, in his research on this matter and are also providing the General Accounting Office complete and detailed information to assist them in their response to your request for a review of this entire matter.

In response to your question on the realistic date for starting renovation of the Old Post Office Building, the following is the current and projected status. The Office of Management and Budget approved the project on November 11, 1976, and the Congress will be requested to approve it for our Fiscal Year 1978 program. Assuming Congressional approval as requested, the actual renovation work should begin during Fiscal Year 1978.

Sincerely,

JACK ECKERD,
Administrator.

Enclosure.

FACT SHEET—BUZZARD POINT OFFICE BUILDING

March 5, 1974.—The Securities and Exchange Commission (SEC) submitted a space request to GSA for consolidation of its facilities.

Oct. 10, 1974.—Congress approved a prospectus for either full (460,000 square feet) or partial consolidation (160,000 square feet) at an estimated annual rental of $2,800,000 for total consolidation for a firm five year term within the District of Columbia.

Dec. 9, 1974.—GSA issued a Solicitation for Offers (SFO), in which SEC concurred, to procure space for either full or partial consolidation with delivery of space by July 1975.

Under the initial SFO only one offer was received for total consolidation and two offers for partial.

Offer for total consolidation was non-responsive because it exceeded prospectus limitation.

Owners of building offered for total consolidation (400 North Capitol Street), also own 500 North Capitol Street, SEC's present headquarters. Their agent informed GSA that we could not renew lease on SEC's present headquarters beyond April 20, 1976, when lease expired. Owners insisted building was to be sold and Government must vacate.

This refusal by the owners to renegotiate for 500 North Capitol Street meant that GSA had no choice other than to consolidate SEC totally in a single building.

Jan. 31, 1975.—In order to generate maximum competition, the SFO was amended to extend the delivery date for the required space from July 1975 to July 1976.

GSA received 3 offers (including 400 North Capitol Street) which could provide for total consolidation.

Of the 3 offers, the one for 400 North Capitol remained non-responsive.

June 3, 1975.—After extensive negotiations, an award was made to the Southwest Joint Venture, the lowest responsive, responsible offeror, for a building in the initial stages of construction at 1900 Half Street, SW.

Building is in area delineated by the SFO, it meets all of the prospectus and SFO requirements, was properly zoned and permitted by local officials.

Entire procurement process was routine from inception to award.

June 3, 1975.—SEC informed GSA of its intention to appeal our decision to OMB.

July 18, 1975.—SEC filed its appeal with OMB. SEC's primary objection was the alleged inaccessibility of the location.

Jan. 3, 1976.—OMB, on a technicality (the fact that GSA had failed to notify SEC in writing of its right to appeal our decision) ruled that SEC did not have to relocate to 1900 Half Street.

Early April 1976.—Agency for International Development (AID) approached GSA regarding possibility of being assigned the building to fulfill its long-standing request for partial consolidation.

April 9, 1976.—GSA formally offered building to AID.

Opposition from AID employees, who objected to the building's location—its lack of amenities such as restaurants, shops, etc. led to a stalemate. Emotional outcries from AID employees kept AID's top management from making a decision.

June 11, 1976.—GSA was contacted by Department of Treasury regarding use of the new building to house its Bureau of Public Debt and its Government Financial Operations.

June 24, 1976.—Deputy Secretary of Treasury Dixon advised GSA by phone that Public Debt and GFO would move into Buzzard Point Building if it were offered to them.

June 30, 1976.—GSA withdrew offer from AID and made formal offer of building to Treasury.

Again, strong employee opposition from Treasury personnel, based mainly on the building's supposedly isolated location, caused Treasury's Fiscal Assistant Secretary to decline GSA's offer on September 13, 1976.

Sept. 15, 1976 to Oct. 29, 1976.—GSA showed building and/or discussed possibility of consolidation at 1900 Half Street with more than a half dozen agencies. Of these agencies, only the Department of Agriculture asked specifically for space in the building. The other agencies showed no interest.

Oct. 19, 1976.—Formal offer of approximately 150,000 square feet to Department of Agriculture in response to their request for same in the Buzzard Point Building.

Oct. 29, 1976.—Based upon an analysis made by GSA to determine what agency or agencies including GSA were best suited to be housed in the building, it was determined that a partial consolidation of the Federal Energy Administration (FEA) was in the best interest of the Government and that their functions housed in the Old Post Office Building (37,685 square feet), 2000 M Street, NW. (124,063 square feet), 1725 M Street, NW. (20,725 square feet), and the Vanguard Building (7,870 square feet) would be consolidated into space at 1900 Half Street (Buzzard Point). Therefore, in accordance with Executive Order 11512 of February 27, 1970, an order was issued directing FEA to Buzzard Point.

Nov. 24, 1976.—Formal offer of approximately 170,000 square feet to FBI for their Washington Field Office and certain filing functions housed in the J. Edgar Hoover Building.

Mr. DINGELL. The Chair recognizes Mr. Finnegan for the purpose of asking questions.

Mr. FINNEGAN. Just to set the record straight, may I ask a few questions as to history. It is my understanding that in March 1974 the GSA received a request for space from the Securities and Exchange. Commission. Is that your understanding also, Mr. Galuardi?

Mr. GALUARDI. That is true. We had received a request for space even before that but there was also one on March 25, 1974.

Mr. FINNEGAN. And that is what you call standard form 81, is that correct?

Mr. GALUARDI. Yes, it was.

Mr. DINGELL. Without objection, the document referred to will be inserted in the record at this point.

REQUEST FOR SPACE

Submit this form in triplicate to the office of General Services Administration having jurisdiction over the area in which the requested space is located.

1. DATE OF REQUEST	2. AGENCY REQUEST NUMBER	3. REQUESTING DEPARTMENT OR AGENCY
March 25, 1974		Securities and Exchange Commission
4. ADDRESS OF REQUESTING DEPARTMENT OR AGENCY		5. SPACE REQUESTED AT (Give city and State)
500 North Capitol Street, Washington, D.C.		

Check applicable box below.

IF NO GOVERNMENT CONTROLLED SPACE IS AVAILABLE REQUESTING AGENCY

- ☐ WILL ACQUIRE NEEDED SPACE UNDER ITS ACQUISITION AUTHORITY
- ☒ WISHES GSA TO PROCEED WITH ACQUISITION OF REQUESTED SPACE

6. SPACE TO BE OCCUPIED BY (Bureau, division, branch, etc.)

Headquarters Offices and
Washington Regional Office

7. TO: Mr. J. Wayne Roy, Acting Director
Space Management Division, Office of Operating Programs
Public Buildings Service
General Services Administration
Washington, D.C. 20405

8. ARE FUNDS AVAILABLE FOR REIMBURSEMENT FOR RENT AND/OR SERVICES?
☒ YES ☐ NO

10. TERM OF OCCUPANCY
FROM: , 19 TO: ☒ INDEFINITE ☐ , 19

9. TYPE OF REQUEST (Check one)
☒ NEW ☐ RENEWAL ☐ SUPPLEMENTARY AGREEMENT

11. TYPE OF SPACE DESIRED
☒ GENERAL PURPOSE ☐ SPECIAL PURPOSE ☐ LAND

12. EMPLOYEES TO OCCUPY SPACE

A. OFFICE EMPLOYEES	GROUP 1 GS 1-6	GROUP 2 GS 7-11	GROUP 3 GS 12 & ABOVE	TOTAL IN OFFICE SPACE	B. NON OFFICE EMPLOYEES	TOTAL ALL EMPLOYEES
NUMBER	506	350	644	1500	0	1,500

Do not use this space

13.	A. OFFICE	B. FILES	C. STORAGE OR WAREHOUSE	D. OTHER (Explain in Remarks)	F. TOTAL	E. LAND REQUIRED (In Sq. Ft. or Acres)
SPACE DETAILS				Parking		
SQUARE FEET	308,321		12,000	114,450	434,771	

14. FACILITIES NEEDED AND SPECIAL REQUIREMENTS (Furnish detailed information; attach additional sheet if necessary)

Space requirements for ADP equipment will be provided as separate supplemental submission at a later date.

(See attachment)

15. JUSTIFICATION FOR SPACE REQUESTED (Continue on reverse if necessary)

(See attachment)

16. REMARKS (Continue on reverse if necessary)

Included in other space in Item 13D are 6 official parking spaces; 12 visitor parking spaces and an appropriate allowance for employee parking spaces.

17. I certify that the space requested above is necessary for the proper functioning of the agency named

NAME OF AUTHORIZED REQUESTING OFFICIAL (Typed)
Richard J. Kanyan

TITLE
Service Officer

SIGNATURE OF AUTHORIZED REQUESTING OFFICIAL
Richard J. Kanyan

ACTION BY GENERAL SERVICES ADMINISTRATION

- ☐ SPACE OFFERED FOR REVIEW (See attached statement or report)
- NO GOVERNMENT-CONTROLLED SPACE IS AVAILABLE
- ☐ AGENCY MAY PROCEED WITH ACQUISITION UNDER ITS ACQUISITION AUTHORITY
- ☐ GSA IS PROCEEDING TO ACQUIRE SPACE REQUESTED

NAME OF AUTHORIZED OFFICIAL (Typed)

TITLE | DATE

SIGNATURE OF AUTHORIZED OFFICIAL

81-105

STANDARD FORM 81
Feb. 1970 Edition
General Services Administration

Mr. DINGELL. The Chair recognizes counsel.

Mr. FINNEGAN. It is also stated under the Public Buildings Act, as amended in 1972, that in any case where there is a lease acquisition going to exceed $500,000 that you are required to prepare a prospectus, is that correct?

Mr. GALUARDI. It is $500,000 annual rental and we are required to submit it to the Public Works Committees of the House and Senate.

Mr. FINNEGAN. We understand that prospectus was submitted on August 2, 1974, is that also correct?

Mr. GALUARDI. Yes.

Mr. FINNEGAN. I further understand that the prospectus was then approved by both the Senate and House in a resolution dated October 10, 1974, for the lease of space for the Securities and Exchange Commission and that the lease established a ceiling of $2.8 million. Is that also correct?

Mr. GALUARDI. That is correct.

[The prospectus and congressional resolution follow:]

SEE ATTACHED SHEET FOR FURTHER DISTRIBUTION

AUG 2 1974

Honorable Jennings Randolph
Chairman, Committee on Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the provisions of the Public Buildings Act of 1959, as amended, there is submitted for consideration by the Committee a prospectus which proposes acquisition of a leasehold interest for Securities and Exchange Commission in Washington, D.C.

Submission of this prospectus has been coordinated with the Office of Management and Budget in accordance with the provisions of Executive Order 9384, dated October 4, 1943.

Sincerely,

Arthur F. Sampson
Administrator

cc:
PRPF
3A, A(2), Research Asst. - A, AL, AD, ALC, ALCL, B, L, LB, Copy Code 4 - Shipp (PR), Galuardi (PD), Pearson (PFB), Innamorati (Pavel (PBI), Meyers (PFB), Melnik (PFP), Penlani (PRPP), Nixon (PN), Whitlock (PRM) Gaskins (PRL), Harvell (PM), Sorg (PMC), Roy (PMR),

PRP:ESCHWALLENBERG:vmh 6/25/74 x.33211

PRP 7/15

Enclosure

PR 7/16 PM 7/17/74 LB 7/17 PFB 7/18
PF 7/19 PL 7/19 P
L 7/22/74

PD 7/22

ALC

Submitted 10-10-74
House Approved - 10-10-74
Senate Approved - 10-10-74

PROSPECTUS NUMBER: PDC-74121
PROJECT NUMBER : LDC-74621

PROSPECTUS FOR PROPOSED LEASE
UNDER THE PUBLIC BUILDINGS ACT OF 1959, AS AMENDED

LEASED OFFICE SPACE SECURITIES & EXCHANGE WASHINGTON, D.C.

1. DESCRIPTION:

This prospectus proposes the acquisition of about 403,000 occupiable square feet of space, which includes space for the parking of 271 vehicles in a building(s) in Washington, D.C. The space will house the consolidated operations of the Securities and Exchange Commission (SEC). The proposed leasehold(s) will be for a period not to exceed twenty (20) years at a total estimated annual cost of about $2,471,500. Additionally, the lease(s) will contain escalation clauses providing for adjustments in the annual rental rate based on tax and operating cost increases (or decreases).

2. COMPREHENSIVE PLAN:

a. PROJECT NEED:

There is a need for suitable and adequate permanent space for consolidation of SEC.

The SEC presently occupies 275,712 square feet of leased space, including 3,385 square feet of parking, at three scattered locations with a total annual cost of $1,389,711 and 11,940 square feet of Government-owned space at two locations. Its headquarters staff is located primarily at 500 North Capitol Street where it occupies 169,090 square feet of space under a lease which expires April 20, 1976.

The SEC is handicapped by having its staff, records, and facilities split between five separate locations. Communication problems have become severe. The Commission's divisions are interdependent and organizational realignments cannot solve the difficulties. Space assignments must be constantly juggled to meet even the minimum needs. The Commission is beset also by constantly growing requirements for space to house the voluminous records which statutes require it to keep. These records must be located close to the staff members who use them.

A consolidation of all SEC operations into one or two closely located buildings will alleviate its current operating problems by improving communications between offices, by reducing travel time between buildings, by locating records in the same building as personnel, and by making the agency's administrative services readily available to all staff members.

The proposed project also will provide space for planned growth in personnel. SEC had 1,100 employees in Washington on June 30, 1973. For Fiscal Year 1974, it was authorized 1,279. SEC is planning for 1,335 personnel for Fiscal Year 1975, and an increase to 1,500 for Fiscal Year 1976, when the new space would be occupied.

PROSPECTUS NUMBER: PDC-74121
PROJECT NUMBER : LDC-74621

a. PROJECT NEED: (Cont'd)

Additionally, the proposed lease will provide 271 parking spaces of which 21 are for official vehicles and visitors, and the balance for employee vehicles.

b. DISCUSSION OF ALTERNATIVES:

1. Utilization of Government-owned buildings.

There are no Government-owned buildings or other space in GSA's inventory in the Washington area currently available nor is it anticipated that any will become available to satisfy the requirements of the SEC.

2. Construction of Government-owned building.

In view of the substantial backlog of construction projects in the National Capital Region requiring the expenditure of capital funds and ongoing commitments with respect to buildings under construction, construction of a building is not considered a viable alternative in relation to the total funding capabilities of GSA.

3. Acquisition of leasehold interest.

A present value analysis comparing direct Federal construction with leasing has been prepared. The analysis indicates that acquiring the space under a lease arrangement is significantly less costly than public building construction. A copy of the analysis is attached as Exhibit A. Therefore, it is planned to enter into a lease for the required space in accordance with the authority contained in Section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended.

3. MAXIMUM ESTIMATED COST:

	Area (Sq. Ft.)	Annual Cost
Estimated Net Average Rental.....	403,000	$1,978,700
Estimated Cost of Services.....	-	492,800
Estimated Total Annual Cost.....		$2,471,500

4. CURRENT HOUSING COSTS:

For agency to be housed in proposed leased space.*

a. Leased Space:	Area (Sq. Ft.)	Annual Cost
Rent (3 locations).....	275,712	$ 976,066
Services.....	-	413,645
Total Annual Cost.....		$1,389,711

*A Lease Analysis is attached as Exhibit A.

PROSPECTUS NUMBER: PDC-74121
PROJECT NUMBER : LDC-74621

4. CURRENT HOUSING COSTS: (Cont'd)

	Area (Sq. Ft.)	Annual Cost
b. Government-owned Space:		
Operation, maintenance and upkeep.....	11,940*	$ 17,891
Total Annual Cost.....		$1,407,602

*Located in two obsolete buildings scheduled for future demolition.

5. SPACE PLAN:

The occupancy by SEC in the proposed leased space will not result in the relocation of other Federal agencies or affect the housing of agencies in the Washington metropolitan area; therefore, no comprehensive housing plan is attached.

6. STATEMENT OF NEED:

It has been determined that the need for space of the Federal Government in this area cannot be satisfied by utilization of existing suitable property now owned by the Government.

Submitted at Washington, D.C. on AUG 2 1974

Recommended: _____
Commissioner, Public Buildings Service

Approved : _____
Administrator of General Services

EXHIBIT A
SECURITIES & EXCHANGE COMMISSION
WASHINGTON, D.C.

I. PRESENT VALUE COST SUMMARIES FOR ALTERNATIVE METHODS OF ACQUISITION:
(in thousands of dollars)

Item	30 Years 7%
PURCHASE:*	
Improvements	$34,534
Site, design, etc.	23,331
Repair and Improvement	2,165
Property Taxes	13,282
Subtotal	$73,312
Less residual value	-6,459
Total	$66,853
LEASE:*	
Total annual payments**	$22,795
PURCHASE CONTRACT:*	
Annual payments**	$49,863
Repair and Improvement	2,165
Property Taxes	13,282
Subtotal	$65,310
Less residual value	-6,459
Total	$58,851

*Operation and maintenance costs are borne by the Government and are assumed to be identical for all three acquisition methods. Therefore, they are omitted in this comparison. Imputed premiums are estimated to be negligible relative to other costs and therefore omitted.

**Analysis includes the application of a deflator to each annual payment thereby showing payments in constant dollars based on the initial annual payment. Then, each constant dollar payment is discounted at 7 percent.

EXHIBIT A (Cont'd)
SECURITIES & EXCHANGE COMM
WASHINGTON, D.C.

II. LEASE ANALYSIS

LOCATION	SQ. FT.	ANNUAL COST	EXPIRATION DATE	CANCELLATION RIGHTS	QUALITY RATING	CLASS OF SPACE	DISPOSITIO
500 N. Capitol St., Washington, D.C.	169,094 (Office) 600 (Parking)	$893,636.00	4-20-76	NONE	85	First Class	Retain or Dispose
1020 11th St., Washington, D.C.	66,203 (Office) 32,785 (Parking)	$460,787.00	5-31-80	NONE	87	First Class	Reassign
Ballston Tower 3 4015 Wilson Blvd. Arlington, Va.	7,030 (Office)	$ 35,288.00	4- 1-81	NONE	94	First Class	Reassign
TOTAL	275,712	$1,389,711.00					

III. Government-owned Buildings

LOCATION	SQ. FT.	ANNUAL COST	CLASS OF SPACE	DISPOSITION
Auditors Building - Annex 2	3,610	$9,061	Storage	Future Demolition
Navy Yard Annex 197	8,330	$8,830	Storage	Future Demolition
TOTAL	11,940	$17,891		

United States Senate
COMMITTEE ON PUBLIC WORKS
WASHINGTON, D.C. 20510

For Information
AL
A+AL
A-Fenster AO
REPLY DUE: 10-25-74

October 11, 1974

Honorable Arthur F. Sampson
Administrator
General Services Administration
General Services Building
18th and F Streets
Washington, D. C. 20405

PM
Oct 16 3 10 PM
ADMINISTRATOR MAIL & FILE
RECEIVED GSA

Dear Mr. Administrator:

It was with reluctance that the Committee approved the two leases for additional office space in Washington, D. C. This Committee has long recognized that leasing is not normally in the best interest of the nation or the taxpayers. While we recognize that a need exists to consolidate the offices of the Federal Energy Administration and the Securities and Exchange Commission, the Committee agreed to approve these leases for a term of five years, with a provision for additional five-year options.

We anticipate that the General Services Administration will use this time to plan and develop Federally owned space that these and other agencies can use as permanent headquarters.

It is the Committee's position that the Federal Government should lease space under three conditions only: as a temporary measure, to meet special emergencies, or in special situations involving special uses. Long-term leasing should not be used by GSA for the acquisition of general office space. The Committee intends to base its future actions on prospectuses on this position.

We urge GSA to review its plans and develop a program, within the intent and scope of the Public Buildings Act of 1972, to acquire for Federal ownership the necessary additional office space.

We appreciate your cooperation in this matter.

Yours Sincerely,

Jennings Randolph
Chairman

Howard H. Baker, Jr.
Ranking Minority Member

RECEIVED

3

JENNINGS RANDOLPH, WEST VA.
JOSEPH M. MONTOYA, N. MEX.
MIKE GRAVEL, ALASKA
LLOYD BENTSEN, TEX.
QUENTIN N. BURDICK, N. DAK.
DICK CLARK, IOWA
JOSEPH R. BIDEN, JR., DEL.

HOWARD H. BAKER, JR., TENN.
JAMES L. BUCKLEY, N.Y.
ROBERT T. STAFFORD, VT.
WILLIAM L. SCOTT, VA.
JAMES A. MC CLURE, IDAHO
PETE V. DOMENICI, N. MEX.

M. BARRY MEYER, CHIEF COUNSEL AND CHIEF CLERK
BAILEY GUARD, MINORITY CLERK

United States Senate

COMMITTEE ON PUBLIC WORKS
WASHINGTON, D.C. 20510

October 16, 1974

PR
107150

Honorable Arthur F. Sampson
Administrator
General Services Administration
Washington, D.C.

Dear Mr. Sampson:

Pursuant to the Public Buildings Act of 1959, as amended, the Committee on Public Works of the United States Senate amended and approved the following three prospectuses on October 10, 1974.

1. Purchase contract construction for a Courthouse, Federal Office Building and Parking Facility in Fort Lauderdale, Florida.

2. Leased Office Space for the Federal Energy Administration in Washington, D.C.

3. Leased Office Space for the Security Exchange Commission in Washington, D.C.

I reiterate the Committee's position expressed in the October 11th letter from Senator Howard Baker and myself. Leasing is not normally in the best national interests and should be considered at best a temporary measure. Acting on this premise, the Committee limited terms of leases proposed for the Federal Energy Administration and Security and Exchange Commission to 5 years each. The Committees on Public Works will review continuation of each lease prior to execution of options.

An original and one copy of each resolution are attached.

Truly,

Jennings Randolph
Chairman

RECEIVED
OFFICE OF THE ADMINISTRATOR
Oct 22 2 17 PM '74
GSA

RECEIVED
Oct 23 10 29 AM '74

CHIEF ASSISTANT
TO THE COMMISSIONER
PBS

3

93rd Congress
2nd Session

United States Senate
COMMITTEE ON PUBLIC WORKS

COMMITTEE RESOLUTION

RESOLVED BY THE COMMITTEE ON PUBLIC WORKS OF THE UNITED STATES SENATE,

That pursuant to the provisions of Section 7 of the Public Buildings Act of 1959, as amended, the acquisition of space in Washington, D.C. by lease for a term of 5 years with renewal options contingent upon approval by the Committees on Public Works, in the amount of approximately 460,000 square feet at an estimated annual cost of $2,800,000 to house the consolidated operations of the Securities and Exchange Commission, in lieu of the estimated square footage and cost as described in the prospectus therefor dated August 2, 1974, is hereby approved.

Adopted: October 10, 1974

GPO 51-143-4

Jennings Randolph

Jennings Randolph Chairman.

Committee on Public Works
Congress of the United States
House of Representatives
Room 2135, Rayburn House Office Building
Washington, D.C. 20515
TELEPHONE: AREA CODE 202, 225-2472

File

December 20, 1974

Washington, D.C.

RICHARD J. SULLIVAN, CHIEF COUNSEL
LLOYD A. RIVARD, ENGINEER CONSULTANT
LESTER EDELMAN, COUNSEL
CARL R. SCHWARTZ, JR., CONSULTANT—
PROJECTS AND PROGRAMS
CLIFTON W. ENFIELD, MINORITY COUNSEL
ROBERT K. DAWSON, ADMINISTRATOR

The Honorable Carl Albert
Speaker of the House
House of Representatives
Washington, D.C.

My dear Mr. Speaker:

Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the Committee on Public Works of the United States House of Representatives on October 10, 1974, approved the following prospectuses.

Purchase Contract Projects

- Dayton, Ohio - Courthouse and Federal Office Building (revised)
- Roanoke, Virginia - Federal Building (revised)
- Huron, South Dakota - Federal Office Building (revised)
- Pittsfield, Massachusetts - Federal Office Building
- Jackson, Mississippi - Federal Office Building (amended)
- Fort Lauderdale, Florida - Courthouse and Federal Office Building and Parking Facility (amended)
- Manchester, New Hampshire - Federal Office Building (revised)

Direct Federal Construction Projects

- Lukeville, Arizona - Border Station Facility (revised)
- Laredo, Texas - Border Station Facility (revised)

Alteration Projects

- Nashville, Tennessee - U. S. Courthouse
- Tucson, Arizona - U. S. Post Office and Courthouse
- Fort Worth, Texas - Fort Worth Federal Center

RECEIVED
ADMINISTRATOR'S
MAIL & FILES
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PBS

Lease Projects

Honolulu, Hawaii - 1833 Kalakaua Avenue (amended)
Rockville, Maryland - 11800 Old Georgetown Road
San Juan, Puerto Rico - 255 Ponce de Leon Avenue
Washington, D.C. - 1111 20th Street, N.W.
Dallas, Texas - Department of Health, Education and Welfare
Washington, D.C. - Securities and Exchange Commission (amended)

Sincerely yours,

John A. Blatnik, M.C.
Chairman

Enclosures

cc: House Appropriations Committee
Senate Public Works Committee
General Services Administration

Mr. FINNEGAN. What was the next step that the GSA took toward the development of a solicitation for bids?

Mr. GALUARDI. Well, the central office first advises the regional office that they may proceed with the acquisition and this was done. The regional office then prepares a solicitation for offers and submits this solicitation for offers to the marketplace in an attempt to satisfy the prospectus requirement.

Mr. FINNEGAN. I understand, as you say, the solicitation was in fact sent out in December 1974. Do you have an exact date for that?

Mr. GALUARDI. The solicitation for offers was sent out on December 9, 1974, to nineteen potential offers.

[The information referred to follows:]

GENERAL SERVICES ADMINISTRATION,
PUBLIC BUILDINGS SERVICE,
Washington, D.C., December 9, 1974.

Offers are solicited under Section 302(c)(10) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, for the leasing of 460,000 or 263,000 net usable square feet of space, plus or minus five percent at one location in accordance with the following attachments: Instructions to Offerors, Schedules A, B, C, and D, Standard Forms 2 and 2A, as modified, GSA Forms 1217, 1364, and 1732.

For occupancy: 120 days from submission of approved layouts, or about July, 1975.

Offers will be received until: December 17, 1974.

If you are interested in offering space for consideration by the General Services Administration, please submit your best offer on the enclosed GSA Form 1364 to the General Services Administration, 3EMR, Washington, DC 20405. Envelope should be identified in the lower left corner with the words "PMRA Offer to General Lease Specifications and Requirements No. 697." There will be no public bid opening and all offers will be kept strictly confidential. The Government shall have a minimum of 60 days from the date of receipt to offers to make an award. However, in the event this solicitation results in an offer where the average annual rental exceeds $500,000, such offer shall remain open for acceptance 120 days beyond the date specified for acceptance elsewhere in this solicitation. This will afford the Government time to submit a prospectus to the appropriate committees of Congress pursuant to the Public Buildings Amendment of 1972.

These specifications and requirements will be made a part of the lease. Any award under the terms and conditions of this Solicitation for Offers is contingent upon the availability of funds within the limitations contained in the Treasury, Postal Service, and General Government Appropriation Act, 1975, and if funds are not available, no award will be made.

Sincerely,

EARL W. ESCHBACHER,
Acting Chief, Metropolitan Operations Branch,
Space Management Division.

Mr. DINGELL. Mr. Galuardi, we seem to be having a little difficulty here. I am not sure whether it is the policy of the GSA to refuse to respond to the questions of Congress. You heard my request directed to you and also to GSA as to the whereabouts of Mr. Eckerd. One of our staff members, Mr. Phillips, just spoke to Mr. Harrison who, I understand, advised him that it was none of their business as to where Mr. Eckerd is. Am I correct in appreciating that this is GSA's policy?

Mr. GALUARDI. I am not privy to what conversations you just had, sir.

Mr. DINGELL. You are appearing on behalf of the GSA, are you or are you not?

Mr. GALUARDI. Yes, I am, sir.

Mr. DINGELL. Am I to infer that the whereabouts of a Government employee is none of the business of a committee of the Congress?

Mr. GALUARDI. I do not know the rule on that. I would have to ask my counsel.

Mr. DINGELL. Well, maybe your counsel wants to tell us.

What is the policy of the GSA pertaining to the whereabouts of Federal officials? I have inquired, is he on business?

Mr. BORWICK. Mr. Chairman, we have been advised that Mr. Eckerd is not in town.

Mr. DINGELL. We appear to be somewhat in agreement on that. Now having settled upon that point, inform me now at this point, if you please, is it the policy of Government Agencies not to tell Congress where Federal officials are? If he is on leave, he may advise us. Is he on leave or is he on personal business?

Mr. BORWICK. I have no personal knowledge. We will try to find out.

Mr. DINGELL. What is the policy of GSA with regard to these points? Do you cooperate with committees of the Congress on advising us where your officials are or not?

Mr. BORWICK. I don't think it is possible.

Mr. DINGELL. What was that?

Mr. BORWICK. We are trying to be as cooperative as possible.

Mr. DINGELL. I think we are are getting closer together. Advise me, if you please, what is the policy of GSA? Do you preclude congressional committees from being informed as to the whereabouts of officials of your agency when they are on official business?

Mr. BORWICK. Not at all. We will try to find out.

Mr. DINGELL. Then directing ourselves now to the comment that Mr. Harrison made, and we will afford him an opportunity to appear before this committee very shortly, is this matter any business of this committee or is it not?

Mr. BORWICK. I will not dispute that the matter is the business of the committee, Mr. Chairman.

Mr. DINGELL. We intend to invite Mr. Harrison back so he can amplify on his comments but I am trying to find this out from somebody. We have a lot of folks here from GSA. You are here speaking as counsel, which I applaud, but I am trying to find out who is speaking to this point. Do you or does Mr. Galuardi or does somebody else?

Mr. GALUARDI. I believe you asked the question what our policy is. I don't believe you will find a written statement in any of our handbooks or regulations or anything else which says there is or is not a policy with regard to our appearing before the committee.

Mr. DINGELL. No, no, no. With regard to whether it is any business of this committee as to where the important officials of your agency happen to be.

Mr. GALUARDI. I am sure the chairman will recognize we do not have such a written policy in the General Services Administration.

Mr. DINGELL. Well, who here is going to go out and call the Administrator's office and get the information as to where he is and get that information back to us? I am calling for volunteers. Who is the senior official of the GSA here today?

Mr. GALUARDI. I am.

Mr. DINGELL. I guess you just volunteered.

Mr. GALUARDI. I was looking for Mr. Forsythe.

Mr. DINGELL. You can designate somebody to call. I understood Mr. Harrison was the congressional liaison. I am not sure whether he takes his responsibilities seriously but I assure you that he will have an opportunity to explain to the committee both the seriousness of his view related to his responsibilities and perhaps discuss this matter with the incoming Administrator at a time very shortly after January 21.

Mr. GALUARDI. I have asked Mr. Borwick to do as you suggested, sir.

Mr. DINGELL. That would be appreciated, Mr. Borwick. Would you do that for us, please. I suspect now would be a good time to get this chore out of the way so we can go to a more pleasant and harmonious hearing.

Mr. Finnegan.

Mr. FINNEGAN. Thank you, Mr. Chairman. As I understand it the solicitation for offers based on the prospectus went out publicly in December 1974. Do you have an exact date?

Mr. GALUARDI. It is December 9, 1974.

Mr. FINNEGAN. As I think you indicated, the SEC had reviewed that solicitation and had occurred in it prior to it being submitted to the public, is that correct?

Mr. GALUARDI. Yes. The record reflects that there is an official from SEC who had concurred in that SFO.

Mr. FINNEGAN. Now is my understanding also correct that one offer received in response to that was from 400 North Capitol and that there were additional offers?

Mr. GALUARDI. There was one offer for a total consolidation and then there were several offers for partial consolidation received at this time.

Mr. FINNEGAN. Is it my understanding that the offer called for a total consolidation immediately? Is that correct?

Mr. GALUARDI. The solicitation called for the space to be delivered by July of 1975.

Mr. FINNEGAN. By July 1975.

Mr. GALUARDI. Yes.

Mr. FINNEGAN. Am I informed correctly that when the offer was received from 400 North Capitol that the GSA concluded that the response was "exorbitant" in a letter to the SEC?

Mr. GALUARDI. Well, the response which was received was in excess of the authorized limit of the prospectus and in our view was also exorbitant for what GSA wished to pay for space.

[The following letter was received for the record:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 27, 1975.

Hon. RAY GARRETT,
Chairman,
Securities and Exchange Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: The General Services Administration has taken action to procure space to satisfy the expansion and consolidation needs of the Securities and Exchange Commission (SEC) in accordance with your Standard Form

81 dated March 25, 1974, and pursuant to a Congressionally approved prospectus.

We have received only a single offer in response to Solicitation #697 for the total consolidation of SEC in one building. This offer is exorbitant. Therefore, we have determined that it is in the best interests of the Government to amend Solicitation #697 so as to provide for a delivery date of July 1, 1976, thereby insuring more competition and a favorable rental rate.

In this regard, the Solicitation will be amended on January 31, 1975, with new offers due in by February 17, 1975.

We shall keep you apprised of the results of our amended Solicitation.

Sincerely,

JOHN F. GALUARDI,
Acting Regional Administrator.

Mr. FINNEGAN. I understand that on December 16, 1974, the GSA received a letter from the District of Columbia Joint Venture signed by Dr. Lazlo N. Tauber, is that correct?

Mr. GALUARDI. I am not aware of that. I would have to ask staff.

My staff tells me that, yes, we did receive such a letter.

Mr. FINNEGAN. Is my understanding also correct that in that letter Dr. Tauber indicated that he had two possible buildings in the southwest area of the District of Columbia which he would like to offer in response to the request for bids?

Mr. GALUARDI. That is correct, sir.

Mr. FINNEGAN. Do I also understand that one of those two buildings was the one to be located at 1900 One Half Street in the southwest otherwise known as Buzzard Point?

Mr. GALUARDI. That is correct, sir.

[The following letter was received for the record:]

DISTRICT OF COLUMBIA JOINT VENTURE,
Bethesda, Md., December 16, 1974.

GENERAL SERVICES ADMINISTRATION,
Public Buildings Service,
Washington, D.C.

Attention: Mike Fowler

GENTLEMEN: We would like to offer in response to your request for listings due December 17, 1974, two proposed buildings in the Southwest Area of the District of Columbia.

One location would be at the southeast corner of First and V Streets, Southwest, and would have a net leasable square footage of 81,630. The other location would be at 1900 ½ Street, Southwest, approximately 500 yards from the first location and having a net leasable square footage of 314,584.

In the event we are able to obtain a special zoning exception for the property at 1900 ½ Street, Southwest, we would be able to consolidate the total above areas equaling 396,214 into the one location at 1900 ½ Street, Southwest.

If you have any questions or desire any added information on the above locations, please do not hesitate to call.

Very truly yours,

LASZLO N. TAUBER, MD.,
Trustee.

Mr. FINNEGAN. All right. Now following that, as I understand the situation, you also received on December 27 another offer from Union Center Plaza, is that correct?

Mr. GALUARDI. That is correct, sir.

Mr. FINNEGAN. Can you tell us what that offer was for?

Mr. GALUARDI. It would be for a building to be built at North Capitol and H Street.

Mr. FINNEGAN. Now were either of the two offers that you received from the District of Columbia Joint Venture or the Union Center

Plaza responsive to the solicitation that was sent out on December 9?

Mr. GALUARDI. They were not offers. I believe maybe you have stated the word "offer" in there and they were not offers as I understood it under our solicitation because they could not meet—they were letters of interest is what we construed them to be.

My staff is advising me that the two pieces of correspondence received, one from Dr. Tauber and one from the Union Center Plaza, were listings in response to an advertisement which we had placed in December and were not offers to the solicitation for offer.

Mr. FINNEGAN. I have here in front of me the letter dated December 27, 1974, signed by Mr. Steven H. Bernstein, Subject: PMRA Offer to General Lease Specification and Requirements, No. 697, and he says:

"DEAR MR. BLUMENSTEIN: The attached is our response to Request No. 697. We take no exceptions to the specifications. If you should desire any additional information, please do not hesitate to call the undersigned.

Attached to that offer is a form which is a GSA form dated December 9, 1974, referring to solicitation No. 697. Isn't that a response to the offer?

[The letter and attachment referred to follow:]

UNION CENTER PLAZA,
December 27, 1974.

Mr. JOHN K. BLUMENSTEIN,
Chief, Eastern Metro Unit, Space Management Division, Office of Operating Programs, General Services Administration, Public Building Service, Washington, D.C.

Subject: PMRA Offer to General Lease Specifications and Requirements #697

DEAR MR. BLUMENSTEIN: The attached is our response to Request #697.

We take no exceptions to the specifications.

If you should desire any additional information, please do not hesitate to call the undersigned.

Sincerely,

MELVIN COHN,
Managing Partner.
Union Center Plaza Associates,
STEVEN H. BERNSTEIN.

Attachment

(1)

GENERAL SERVICES ADMINISTRATION - PUBLIC BUILDINGS SERVICE

PROPOSAL TO LEASE SPACE
TO THE UNITED STATES OF AMERICA

No. 697 | Date 12-9-74

In response to and subject to the provisions of the solicitation dated [illegible] and the Standard Form 2-A1, and to all other terms and conditions incorporated therein, the undersigned hereby offers and agrees, upon acceptance of this proposal by the Government within the period stated, the undersigned hereby offers and agrees, upon acceptance of this proposal by the Government within the period stated, to lease to the United States of America the following described premises and appurtenant rights, to be used for such purposes as determined by the General Services Administration.

1. DESCRIPTION OF PREMISES

A. BUILDING NAME AND ADDRESS (Include ZIP code)

EAST - UNION CENTER PLAZA
(Section 3-B

B. SPACE IN ENTIRE BUILDING — NET USABLE SQUARE FEET

OFFICE	STORAGE	OTHER (Specify)
555,000 sq. ft.	-0-	200,000 Garage

C. NO. OF FLOORS	D. TYPE OF CONSTRUCTION	E. LIVE FLOOR LOADING (Lbs./Sq. Ft.)	F. AGE OF BUILDING	G. DATE FOR OCCUPANCY
11	Concrete & Masonry	70 lbs.	New	Bldg. being developed by Own

2. AMOUNT OF NET USABLE SPACE OFFERED AND SQUARE FOOT RATE

	INITIAL TERM (1) SQUARE FEET	(2) SQ. FT. RATE PER YEAR	(3) SUBTOTAL	RENEWAL PERIOD(S) (4) SQ. FT. RATE PER YEAR	(5) SUBTOTAL
a. OFFICE	555,000	x $ 6.24	= $3,463,200*	$ 6.24	= $3,463,200*
b. STORAGE	-0-	x $	= $	$ -0-	= $
c. SPECIAL	-0-	x $	= $	$ -0-	= $
d. TOTAL	550,000	6.24	TOTAL $3,463,200	Use Sq. Ft. shown under (1) with above rate to compute this	TOTAL $3,463,200

e. COMPOSITE SQUARE FOOT RATE PER ANNUM

(3)d ÷ (1)d $ | (5)d ÷ (1)d $

ATTACH A FLOOR PLAN, TO SCALE, SHOWING THE SIZE AND LOCATION OF THE OFFERED SPACE (See Schedule B). LIST AREAS, ROOM, AND FLOOR NUMBERS.

SEE ATTACHED PLAN

3. POSSESSION OFFERED — SPACE WILL BE ALTERED IN ACCORDANCE WITH SPECIFICATIONS AND READY FOR OCCUPANCY ON — DATE

4. TERM OF LEASE

		NUMBER OF YEARS	
A.	INITIAL	5	FROM The exact date will be established by supplemental Agreement after acceptance of all the space. TO (Inclusive date)
B.	RENEWAL OPTIONS	YEARS EACH 5	NUMBER OF OPTIONS ONE

5. DAYS NOTICE REQUIRED

A. TO RENEW LEASE	B. TO TERMINATE LEASE
180 Days	180 Days

6. ACCEPTANCE PERIOD — THE REQUEST STATES A MINIMUM PERIOD FOR ACCEPTANCE BY THE GOVERNMENT. — GOOD UNTIL — DATE July, 1975

7. ALTERNATES (See Schedule A)

GSA DC 67 18603

GSA MAY 67 [illegible]

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

LESSOR'S ANNUAL COST STATEMENT

IMPORTANT - Read "Instructions" on reverse of form.

-697 | 12/09/75

3. NET RENTABLE AREA (Sq. ft.) | 3A. ENTIRE BUILDING 550,000 sq. ft. | 3B. LEASED BY 380,000

4. BUILDING NAME AND ADDRESS (No., street, city, State and zip code no.)

EAST UNION CENTER PLAZA (BLDG. 3-B)

SECTION I - ESTIMATED ANNUAL COST OF SERVICES AND UTILITIES FURNISHED BY LESSOR AS PART OF RENTAL CONSIDERATION

SERVICES AND UTILITIES	LESSOR'S ANNUAL COST FOR (a) ENTIRE BUILDING	(b) GOV'T.-LEASED AREA	FOR GOVERNMENT USE ONLY (c)
A. CLEANING, JANITOR AND/OR CHAR SERVICE			
5. SALARIES	275,000	189,750	
6. SUPPLIES (Wax, cleansers, cloths, etc.)			
7. CONTRACT SERVICES (Window washing, waste and snow removal)			
B. HEATING			
8. SALARIES			
9. FUEL ("X" one) - [ ] OIL [ ] GAS [ ] COAL [ ] ELECTRIC			
10. SYSTEM MAINTENANCE AND REPAIR	25,000	17,250	
C. ELECTRICAL All*			
11. CURRENT FOR LIGHT AND POWER (Including elevators)	330,000	228,000	
12. REPLACEMENT OF BULBS, TUBES, STARTERS	15,000	10,350	
13. POWER FOR SPECIAL EQUIPMENT			
14. SYSTEM MAINTENANCE AND REPAIR (Ballasts, fixtures, etc.)	25,000	17,250	
D. PLUMBING			
15. WATER (For all purposes) (Include sewage charges)	15,000	10,500	
16. SUPPLIES (Soap, towels, tissues not in 6 above)			
17. SYSTEM MAINTENANCE AND REPAIR	20,000	13,800	
E. AIR CONDITIONING			
18. UTILITIES (Include electricity, if not in C 11)			
19. SYSTEM MAINTENANCE AND REPAIR	40,000	27,600	
F. ELEVATORS			
20. SALARIES (Operators, starters, etc.)			
21. SYSTEM MAINTENANCE AND REPAIR	50,000	34,500	
G. MISCELLANEOUS (To the extent not included above)			
22. BUILDING ENGINEER AND/OR MANAGER	60,000	41,400	
23. SECURITY (Watchmen, guards, not janitors)			
24. SOCIAL SECURITY TAX AND WORKMEN'S COMPENSATION INSURANCE	12,000	8,280	
25. LAWN AND LANDSCAPING MAINTENANCE			
26. OTHER (Explain on separate sheet)			
27. TOTAL	$867,000	$ 598,680	$

SECTION II - ESTIMATED ANNUAL COSTS OF OWNERSHIP EXCLUSIVE OF CAPITAL CHARGES

28. REAL ESTATE TAXES	450,000	x x x x	
29. INSURANCE (Hazard, liability, etc.)	35,000	x x x x	
30. BUILDING MAINTENANCE AND RESERVES FOR REPLACEMENT	400,000	x x x x	
31. MANAGEMENT	140,000	x x x x	
32. TOTAL	$1,025,000	x x x x	$

LESSOR'S CERTIFICATION - The amounts entered in Columns (a) and (b) represent my best estimate as to the annual costs of services, utilities and ownership.

33. SIGNATURE OF [ ] OWNER [X] LEGAL AGENT

EAST UNION CENTER PLAZA

By Steven H. Bernstein

SECTION III - APPROVAL OF STATEMENT BY AUTHORIZED GOVERNMENT REPRESENTATIVES

The undersigned certify that the amount shown in Item 27(c) represents the reasonable value of the services and utilities which amount may be properly deducted in determining net rent for the purposes of the Economy Act.

TYPED NAME AND TITLE	SIGNATURE	DATE
34A.	34B.	34C.
35A.	35B.	35C.

GSA DC 65-2361

GSA FORM

8. ADDITIONAL REMARKS OR CONDITIONS WITH RESPECT TO THIS OFFER

Note (*)

(2)

The bid will be at $6.24 sq. ft. plus all utilities with the Government to have as many 5-year options to renew the lease as it chooses. The Government has the option to purchase the building at the end of 10 years for $25,000,000. In addition the Government can accumulate 3 months free rent for every 5-year rental period. Carpet & drapes will be included.

To the extent the above is non-responsive, then it shall be stricken.

9. ATTACHMENTS SUBMITTED WITH THIS OFFER

FLOOR PLAN AS REQUESTED

10. THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDA, IF ANY, TO THE REQUEST. *(Give number and date of each addendum received.*

11. OFFEROR REPRESENTS *(Not required in cases of advertised leases in which the aggregate amount of rental does not exceed $25,000 or in negotiated leases in which the aggregate amount of rental does not exceed $2,500. Aggregate rental is defined in Schedule D).*

THAT HE ☐ HAS, ☒ HAS NOT, EMPLOYED OR RETAINED ANY COMPANY OR PERSON *(other than a full-time bona fide employee working solely for the Offeror)* TO SOLICIT OR SECURE THIS LEASE, AND

THAT HE ☐ HAS, ☒ HAS NOT, PAID OR AGREED TO PAY ANY COMPANY OR PERSON *(other than a full-time bona fide employee working solely for the Offeror)* ANY FEE, COMMISSION, PERCENTAGE OR BROKERAGE FEE, CONTINGENT UPON OR RESULTING FROM THE AWARD OF THIS LEASE; AND AGREES TO FURNISH INFORMATION RELATING THERETO AS REQUESTED BY THE CONTRACTING OFFICER. *(For interpretation of this representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Chapter 1, subpart 1-1.5.)*

12. OFFEROR OPERATES AS ☐ INDIVIDUAL ☒ PARTNERSHIP ☐ CORPORATION *(If checked, give state)* STATE D.C.

13. NAME AND ADDRESS OF OWNER OF RECORD *(City, state and Zip code)*	14. OFFEROR'S INTEREST IN PROPERTY *(Owner, agent, etc.)*	
Union Center Plaza Assoc.(EAST) 1828 L St., N. W., Suite 505 Washington, D. C. 20036	15. NAME AND ADDRESS OF OFFEROR *(Include Zip code)* Union Center Plaza Assoc.(EAST) 1828 L St., N. W., Suite 505 Washington, D. C. 20036	16. TELEPHONE *(Area code and No.)* (202) 833-1111
17. EMPLOYER'S IDENTIFICATION NO./OR SOCIAL SECURITY NO. 52-60 78601	18. OFFEROR *(Signature)*	19. DATE 12-27-74

(3)

BIDDER AFFILIATION AND IDENTIFYING DATA

In connection with reporting identical bids to the Attorney General (see 41 CFR 1-1.1605), each bidder shall furnish the following information by filling in the appropriate blocks:

(1) Is the bidder owned or controlled by a parent company as described below?
[ ] Yes [X] No

(For the purpose of this bid, a parent company is defined as one which either owns or controls the activities and basic business policies of the bidder. To own another company means the parent company must own at least a majority (more than 50%) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the bidder, such other company is considered the parent company of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.)

(2) If the answer to (1) above is "Yes," bidder shall insert in the space below the name and main office address of the parent company.

N/A	N/A
Name	Address

(3) Bidder shall insert in the applicable space below, if he has no parent company, his own Employer's Identification Number (E. I. No.) (Federal Social Security Number used on Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941) or, if he has a parent company, the E. I. No. of his parent company.

Bidder's E. I. No. 52-60 78601

Parent Company's E. I. No. _____

Union Center Plaza Assoc. (East)	697
Name of Bidder	Invitation No.

Mr. BLUMENSTEIN. Yes.

Mr. DINGELL. Are you aware of that, Mr. Galuardi?

Mr. GALUARDI. May I see the document, sir?

Mr. FINNEGAN. Surely.

Mr. GALUARDI. I am advised it is an offer under the solicitation and it was considered nonresponsive because of the delivery date.

Mr. FINNEGAN. I see. Now as I understand it, on January 23, 1975, a GSA staff paper was prepared regarding these offers. I understand that this paper was prepared by Mr. Blumenstein. Is that correct?

Mr. GALUARDI. Mr. Blumenstein says he did prepare one.

Mr. FINNEGAN. I would appreciate it if you wouldn't shake your head; the record won't show that.

What was the substance of that memorandum, Mr. Blumenstein?

Mr. BLUMENSTEIN. Could I see a copy of that?

Mr. FINNEGAN. Yes.

Mr. BLUMENSTEIN. The only offer that was responsive was the offer for 400 North Capitol Street. However, it exceeded the dollar limitation in the prospectus and the offer was also for a very high rate, much higher than we had been paying and we felt we should pay for space in the area.

In addition, the building that SEC at that time was housed in, 500 North Capitol Street, the lease was due to expire April 20, 1976. The owners of that building indicated to us that they would not consider negotiating an extension because they were interested in selling the building and wanted the Government to vacate it so our option to have a partial consolidation was precluded. We therefore were unable to proceed to make an award under the given circumstances.

I felt that the letter from Dr. Tauber and the offer from Union Center Plaza indicated that there was interest in the real estate market in developing space for the Government and I recommend that we amend the SFO to extend the delivery date so we could entertain offers and see if we could develop a viable solution to our problem.

Mr. FINNEGAN. I note in the staff paper you just referred to that you said only one offer was for total consolidation of the SEC under the total solicitation; namely, that submitted for 400 North Capitol Street. Was the offer by Mr. Bernstein an offer for total consolidation?

[The staff paper referred to follows:]

STAFF PAPER

This is to advise that I believe we should immediately proceed to amend our Solicitation #697 for the SEC and make the delivery date July 1976. I believe this would be in the best interests of the Government for the following reasons:

1. SEC is currently housed at 500 North Capitol Street under a lease due to expire April 20, 1976. The owners as represented by Mr. Ray Brophy are interested in selling the building, and therefore will neither make an offer for a lease extension nor give any assurance that they will even consider an extension.

2. There is only one offer for total consolidation of SEC under the existing Solicitation; namely that submitted for 400 North Capitol Street, also by Mr. Brophy as agent for the owners. His offer is as follows: a. $8.48 excluding utilities; b. $9.82 fully serviced; c. annual utility adjustment; and d. five year with one five year renewal.

3. If the owners of 500 North Capitol Street refuse to extend we must relocate (or condemn) and right now there is only 400 North Capitol for which the rental is very excessive. In addition, by being agents for both buildings, Mr. Brophy has a great deal of leverage. He can preclude our second option of staying at 500 North Capitol and consolidating 210,000 square feet nearby. In fact Brophy will not submit an offer on 210,000 square feet.

4. We have received an offer from Union Center Plaza Associates for a building they are breaking ground on next month for delivery in March 1976. Based on past experience this date is not unrealistic. Their offer is as follows: a. $5.92 excluding utilities ($6.24 with three months free rent for each five year period); b. five year term with three five year renewals at the same rate; c. 400,000 square feet with expansion capability; d. 200,000 square feet of garage space available; and e. includes carpeting and drapes.

5. By amending the Solicitation to extend the delivery date to July 1976, the Government could save $2.56/square feet based on current offers or approximately $1,024,000 per *year*. However, action must be taken quickly given the time constraints of the existing lease at 500 North Capitol Street.

Mr. GALUARDI. Yes, it was.

Mr. BLUMSTEIN. Yes.

Mr. GALUARDI. But you didn't mention that in the memorandum?

Mr. BLUMENSTEIN. Well, he could not meet the July 1975 delivery date because the building did not exist at the time.

Mr. GALUARDI. North Capitol of course was not responsive either because it was over the figure established by the Congress, is that right?

Mr. BLUMENSTEIN. Yes.

Mr. GALUARDI. He was responsive to the solicitation but the solicitation does not tell the amount of dollars so therefore it would be responsive to the solicitation but not within our legal authority to award the contract.

Mr. FINNEGAN. Now, I refer back to an earlier memorandum which was dated January 7, 1975 prepared by Mr. Fowler. Is Mr. Fowler here?

[The memorandum referred to follows:]

STATUS REPORT—SECURITIES AND EXCHANGE COMMISSION LEASE PROCUREMENT

Advertisement for space appeared in major newspapers on the weekend of November 15, 1974. At about the same time, GSA conducted a market survey to identify possible locations in Washington, D.C., which could meet the space requirements of SEC.

Solicitation for Offers No. 697 was drafted and finally concurred in by SEC on December 9, 1974. The SFO was subsequently sent to 19 potential lessors, with a cut-off date for offers of December 27.

In response to our SFO, three offers were received. They are as follows:

1. 6th & E Streets Joint Venture (The Bicentennial Building): Building is located at 6th & E Streets, N.W. It contains 275,000 sq. ft. of office space, 70,000 sq. ft. of garage space, and 25,000 sq. ft. of uncommitted commercial space. The space is offered at $6.35 per sq. ft. for office space, and $3.00 per sq. ft. for garage space. This does not include any meterable utilities.

2. Jack R. Courshon—The Casimir Pulaski Building, 20 Mass. Ave., N.W. This building contains 220,500 sq. ft. of office space, 1,000 sq. ft. of storage space, and 53,000 sq. ft. of parking space. They are asking $5.99 a sq. ft. for office space (if the Government pays all utilities), and $7.25 a sq. ft. if the lessor pays utilities. This is for a firm 5 year lease, with a 5 year renewal option at $8.25 per sq. ft. (Government pays all utilities) or $9.00 per sq. ft. (lessor pays utilities). Lessor intends to lease garage to a commercial operator, but with the assurance that sufficient parking (for 175 cars) be allotted to Government employees, who will pay the "going commercial rate" for the spaces.

3. Raymond C. Brophy, Inc.—Agent for 400 North Capitol Street, N.W. Brophy has offered GSA the entire building (477,704 sq. ft.) less the amount

of space a cafeteria will require. For a five-year term, the owners are asking $8.88 per sq. ft. for office space and $3.50 per sq. ft. for storage space (4,160 sq. ft.). This does not include meterable utilities for which the tenant is expected to pay. Parking situation is the same as in two above.

Offers 1 and 2, either of which could satisfy SEC's needs if we retain 500 North Capitol Street, (SEC's present headquarters) have been discussed several times by GSA and the lessors in regard to another solicitation. Their present offers, it seems, are reasonably firm, but further negotiations will be conducted in order to try to convince the lessors to lower their prices. We hope to begin negotiations with Brophy this week. His building is the only one which can effect complete consolidation of SEC within a single building, but his initial offer is obviously beyond reason for the Government.

Mr. FOWLER. Yes.

Mr. FINNEGAN. That list states in response to our SFO three offers were received and they are as follows: Sixth and E Streets Joint Venture, Jack R. Courshon and Raymond C. Brophy. Again in that memorandum there is no mention of Mr. Bernstein's office. Is there any particular reason? Were all of those other three offers responsive?

Mr. FOWLER. The 400 North Capitol was the only one that could satisfy SEC, the others would be only for partial consolidation.

Mr. FINNEGAN. Since they were for partial consolidation, they were really not responsive either, were they?

Mr. FOWLER. They were responsive in that they could if we were allowed to remain at 500 North Capitol Street and the other two buildings were large enough to house the remainder of SEC. Again 500 North Capitol Street made it known to us that we could not—at the time they said we could not remain in their building upon the expiration of the lease.

Mr. FINNEGAN. Were you aware of Mr. Bernstein's offer when you wrote this memorandum?

Mr. FOWLER. No, sir, to the best of my recollection I was not.

Mr. FINNEGAN. What was the relationship between you and Mr. Blumenstein at that time?

Mr. FOWLER. At the time I worked for Mr. Blumenstein.

Mr. FINNEGAN. You worked for Mr. Blumenstein.

Mr. FOWLER. Yes.

Mr. FINNEGAN. Mr. Blumenstein prepared this memorandum, I presume, for people to make some decisions. Can you tell me why Mr. Blumenstein's memorandum was not included?

Mr. BLUMENSTEIN. I don't know other than the Bernstein offer just could not be considered because he could not deliver the building and perhaps that was why it was not mentioned.

Mr. FINNEGAN. Actually then, the information was not accurate in that it did not reflect that Mr. Bernstein had also submitted an offer, is that correct?

Mr. BLUMENSTEIN. I would like to see the document that we are referring to if that is all right.

Mr. FINNEGAN. The memorandum?

Mr. BLUMENSTEIN. Yes.

Mr. FINNEGAN. It is from your files, you should have it.

Mr. BLUMENSTEIN. I would conclude that since the Bernstein offer just could not be considered, that is why it was not in the memorandum. It is not really a memorandum, it is a status report.

Mr. FINNEGAN. Pardon me?

Mr. BLUMENSTEIN. It is a status report.

Mr. FINNEGAN. But that is part of the status; the fact that you received an offer from Bernstein, whether it could or could not be considered is part of the status. The others were in the same category, were they not?

Mr. BLUMENSTEIN. It is part of the record, yes.

Mr. FINNEGAN. Then on January 15, 1975, Mr. Fowler prepared—again I am not sure what you call this. It is "Consolidation of SEC." It states:

> Negotiations are in progress for the acquisition of up to 460,000 square feet of space to consolidate SEC in one of two buildings. To date we have received one revised offer and are awaiting revised offers from two other prospective offerors. It is anticipated that negotiations will be concluded by February 15 with a recommendation of award two weeks thereafter.

What was the basis for that memorandum?

Mr. FOWLER. It was the status report I had been requested to write.

Mr. FINNEGAN. Who requested it?

Mr. GALUARDI. This is a uniform procedure that they have in the region 3 area in which we report problems and programs through me to the Administrator of GSA. Each one prepares what they have within their current workloads, what they consider items of significance, and I believe that is what Mr. Fowler prepared.

Mr. FINNEGAN. In this particular case, Mr. Fowler, who requested it?

Mr. FOWLER. I really don't know.

Mr. GALUARDI. This is not a request because it is a requirement. The requirement is placed on everybody and has in the long distant past been done so.

Mr. FINNEGAN. Mr. Fowler used the word "request" and that is why I asked the question.

That document states that "Negotiations are in progress to consolidate SEC in one of two buildings. To date we have received one revised offer and are awaiting revised offers from two other prospective offerors."

How did you arrive at that conclusion, Mr. Fowler? What offerors were you talking about?

Mr. FOWLER. I should imagine that the previous statement about the Sixth and E Street, the Pulaski Building, and the 400 North Capitol Street Building.

Mr. FINNEGAN. This statement of yours does not seem to be in accord with what Mr. Blumenstein is recommending on January 23 which is about 8 days later. What happened during that 8-day period, do you know?

Mr. Blumenstein?

Mr. BLUMENSTEIN. Well, we held a negotiating session with Mr. Brophy on 400 North Capitol Street and I think that resulted in him submitting a revised offer.

Mr. FINNEGAN. That was held when?

Mr. BLUMENSTEIN. I would have to check the file on that.

Mr. FINNEGAN. All right. Would you supply that record when you have an opportunity to check?

Mr. BLUMENSTEIN. Yes.

[The following material was received for the record:]

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

NEGOTIATION RECORD
(Real Property Acquisition)

PROJECT	PARCEL
SEC CONSOLIDATION	697

OWNERS

NAME	ADDRESS	PHONE NO.
RAYMOND BROPHY	400 NORTH CAPITOL STREET	872-1120

PERSONS CONTACTED

NAME	TITLE	DATE

REMARKS

John Blumenstein and I met today with Mr. Brophy, who agreed to do the following:

1) Submit an offer reflecting price if Bldg. is lessor-operated. I informed him that all services must be reflected in rental rate.

2) Submit offer for the 210,000 # requirement as well as the 380,000 # offer already submitted.

3) Attempt to offer a rate which is more realistic than $ 3.88 /ft.

Mr. Brophy said that he thinks that, barring the unforeseen, his Bldg. will be ready by July, 1975.

ACTION TAKEN AS RESULT OF THIS CONTACT

SIGNATURE	TITLE	DATE
J.W. Fowler	Realty Specialist	1-9-75

GSA FORM OCT 62 1848

RAYMOND C. BROPHY, INC.
REALTOR · INVESTMENT REAL ESTATE SUITE 408, 1150 SEVENTEENTH STREET, N.W., WASHINGTON, D.C. 20036, (202) 872-1120

January 16, 1975

General Services Administration
PMR
Washington, D. C. 20405

Attention: Mr. John K. Blumenstein

Reference: Amended Bid to Offer No. 697

Gentlemen:

On December 20, 1974, a Bid by this office was made to GSA in response to your Solicitation Offer No. 697. The subject of the Bid was NORTH CAPITOL PLAZA, located at 400 North Capitol Street, Washington, D. C.

On January 9, 1975, I met with Mr. John Blumenstein and Mr. Michael Fowler, who requested that an Amended Bid be submitted, based on the following:

1. The amount of space be 380,000sf (GSA Measurement), plus or minus 5%.

2. Submit a Bid for 210,000sf (GSA Measurement), plus or minus 5%.

3. The Initial Term be Five (5) Years; with one 5-Year Option.

4. The rental quoted include utilities, i.e., electricity.

   Our Bid of December 20, 1974, was based on the entire building; for a period of 20 years, exclusive of electricity.

On January 13, 1975, Mr. Blumenstein requested of me by phone that I contact the Owners of 500 North Capitol Street Office Building (presently SEC Headquarters), and submit with their approval, a rental

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proposal to GSA for the extension of one 5-Year Term, upon expiration in April 1976.

I have had extensive discussions with the Owners of 500 North Capitol and they have decided not to submit a Bid and/or initiate negotiations with GSA for an extension of U. S. Government occupancy beyond the present expiration date contained in the existing Lease. (This, I believe, to be April 20, 1976.) This was neither an arbitrary or a hasty decision.

This office, representing the Owners of 500 North Capitol, is and has been in prolonged negotiations for some months with two separate organizations who have expressed a serious interest to purchase this property. One prospect's strong preference is to purchase (as soon as possible); and, the other prefers to lease for a period of years, and then to exercise an Option to Purchase. The Owners believe that in view of existing negotiations with recognized and financially responsible organizations, that in good faith, they could not initiate negotiations with GSA for an extension of its Lease. Further, the Owners feel that to do so would jeopardize either a most attractive purchase price and/or a market rental for a period of years with a subsequent purchase based upon fair market appraisal.

The Owners, in consultation with lending institutions involved with 400 North Capitol, have concluded that for sound business reasons and other considerations, if GSA does not wish to Lease the entire project, that negotiations be held with GSA for the larger block of space, i.e., 380,000ℊ. For this reason, the Owners declined to submit a Bid for the block of 210,000ℊ. Therefore, the following will relate only to the 380,000ℊ.

AMENDED BID TO OFFER NO. 697

I. SPACE:

380,300ℊ (approximately) GSA Measurement.

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II. LOCATION:

First Floor, excluding retail: 34,286℔;
Ground Floor, 16,166℔ (approximately 30% of area);
Entire Floors 2 through 5, totalling 236,582℔; and portions of the 6th, 7th, and 8th floors, totalling 93,308℔.

The 6th, 7th, and 8th floors will be either in the "North" or "South" towers of the building. The Owners retain the option to make this determination and will do so within thirty (30) days.

III. TERM:

Five (5) years, with one 5-Year Option to Renew.

IV. BASE RENTAL:

$8.48 per ℔ per annum, exclusive of electricity.

V. ALTERNATE TERM:

Ten (10) years with no Option to Renew.

VI. ALTERNATE RENTAL:

$7.48 per ℔ per annum, exclusive of electricity.

VIII. OTHER CONSIDERATIONS:

380,000℔ represents approximately 80% of the rentable area. The balance will logically be leased to "non-Government" tenants, i.e., law firms, corporations, associations, labor unions, etc. For this reason, the Owners must have no restrictions placed upon them by GSA with regard to type of tenant, length of lease, and other related lease considerations.

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In addition, the Owners and their Architect must approve the type, size, and placement of any Government signs (building exterior, grounds, or lobby), placement of Reception Desk and Government security procedures, in the Main Lobby and Entrance areas.

The foregoing is to allow the Owners to market the balance of the Building to private Tenants on the basis of a "private" office building. Obviously, these matters will be subject to review and discussion by all appropriate parties.

We have recently determined by the building's Mechanical Engineer and Architect, that the 380,000ℊ in the areas outlined above, can be separately metered, i.e., electricity.

However, based upon your request that the Bid Rental include utilities, $1.34 per ℊ (GSA Measurement) would be required in addition to the above-stated rentals. Based upon existing data and in consultation with PEPCO, an electrical cost of $1.15 per ℊ (WREB Measurement) would, and is being projected. Because GSA and WREB Method of Measurements differ by approximately 14.3% (at 400 North Capitol), the electric cost chargeable to the approximate 380,000ℊ for GSA is projected at $1.34.

The Owners, in their projection of utility charges, must of necessity, assume the maximum useage, and a percentage of incandescent fixtures. Should there be energy conservation programs instituted by the District of Columbia or Federal Government, GSA or the Agency in tenancy, which would reduce consumption, the savings would and do inure to the Owners. Due to the substantial space requirement involved, the Owners believe that it would prove beneficial to the Federal Government if GSA would allow separate metering; thus having complete control of useage and conservation programs.

Should GSA insist on Owners providing electricity within the rental, the Owners wish to have annual adjustment (up or down) of these costs.

RAYMOND C. BROPHY, INC.

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All other fixed operating expenses would be adjusted at three-year periods.

In summary, a 10-Year Term inclusive of utilities, at a rental of $8.82 relates to a $7.50 WREB Measurement. This rate is well below those rates being negotiated at present in comparable buildings, i.e., quality of design, material, workmanship and mechanical elevator systems, etc., which are either under construction or recently completed: these buildings particularly have incurred recent extraordinary additional expenses in costs of money, labor and materiel.

The foregoing Amended Proposal is being submitted for your review until February 18, 1975. If there have been no binding agreements between the parties prior to that date, this Offer will be withdrawn and no further negotiations with GSA are intended or planned.

All terms and conditions other than those amended herein, contained in the Bid submitted on December 20, 1974, remain in effect.

If there are any questions or you have need of additional data and information, please call me.

The Owners, as well as their Agent, are prepared to extend to you their assistance and fullest cooperation in your deliberations on 400 North Capitol Street.

Very truly yours,

RAYMOND C. BROPHY
Agent for Owners

RCB:ssg
Copy to: 400 North Capitol Associates

Mr. DINGELL. Who was it you said submitted the revised offer?

Mr. BLUMENSTEIN. 400 North Capitol Street Associates.

Mr. FINNEGAN. Now I understand that subsequent to your staff paper GSA did in fact amend its solicitation, is that correct?

Mr. BLUMENSTEIN. Yes, sir.

Mr. FINNEGAN. When did that amendment take place?

Mr. BLUMENSTEIN. As I recall, it was January 31.

Mr. GALUARDI. January 31, 1975. We mailed the letter to all those who had received the solicitations originally amending the delivery date to July 1976.

Mr. FINNEGAN. Before we go further let me identify some people, Mr. Galuardi, that you might help us with—people whose names appear here, some of whom I understand are not now with GSA.

First Mr. Fanske. Can you tell me who he is?

Mr. GALUARDI. He is the Special Assistant to the Administrator of GSA.

Mr. FINNEGAN. And he was on board at the time all of this was being considered?

Mr. GALUARDI. He has moved around in several jobs so at a particular time period I am not so sure where he would have been.

Mr. FINNEGAN. Was he a special assistant to Mr. Sampson who was the Administrator at that time?

Mr. GALUARDI. I would have to find out for the record because he has been in and out.

Mr. FINNEGAN. Would you provide to us a list of his different employment during the entire lease period?

Mr. GALUARDI. We would be glad to do that for the record.

[The following information was received for the record:]

Mr. Fanske has been Special Assistant to the Administrator since October, 1974.

Mr. FINNEGAN. Miss Mary Foster, who is she?

Mr. GALUARDI. Mary Foster was also a Special Assistant to the Administrator of GSA.

Mr. FINNEGAN. Was she a special assistant to Mr. Sampson?

Mr. GALUARDI. At that time she was.

Mr. FINNEGAN. And during this period of the consideration of the lease, is that correct?

Mr. GALUARDI. Yes.

Mr. FINNEGAN. Mark Morse.

Mr. GALUARDI. Mark Morse was also a Special Assistant to the Administrator, but again in the time period I am not too sure whether he was there.

Mr. FINNEGAN. Let me ask this question. Did any of you ladies or gentlemen have any correspondence or discussions with any of these three people during this period of the handling of this lease; that is, between the time the solicitation was put out and the actual award of the lease?

Mrs. FRANKENFIELD. I don't recall.

Mr. FINNEGAN. Mr. Blumenstein.

Mr. BLUMENSTEIN. I remember once we had to deliver a copy of one of the offers to Mr. Morse and it was so noted on the offer.

Mr. FINNEGAN. Deliver a copy of what?

Mr. BLUMENSTEIN. One of the offers.

Mr. FINNEGAN. Can you tell us which one it was?

Mr. BLUMENSTEIN. I would have to check the file.

Mr. FINNEGAN. Do you have the file there to check?

Mr. GALUARDI. Mr. Chairman, if I could perhaps do some housekeeping here. Could I move Mr. Blumenstein down here and move another witness up here and then move a microphone down there?

Mr. DINGELL. I think that would be very appropriate and helpful to all of us. Certainly.

Mr. FINNEGAN. Before Mr. Blumenstein responds there are two other persons I will need identified.

Is there a Mr. Meisen in GSA?

Mr. GALUARDI. Yes.

Mr. FINNEGAN. What was his position at GSA?

Mr. GALUARDI. Mr. Meisen had several jobs. He was the Assistant Commissioner for the Office of Construction Management and then for a period of time he was the Acting Commissioner of Public Buildings Service and at this time he had that title, Acting Commissioner of Public Buildings Service.

Mr. FINNEGAN. There is a man named Thomas.

Mr. BLUMENSTEIN. What is his first name?

Mr. FINNEGAN. Patrick.

Mr. GALUARDI. Patrick Thomas is in region 3 and works under Mr. Gural in planning.

Mr. FINNEGAN. So I should start again. Let me ask you, Mr. Gural. Did you have any contacts with any of these people during this period?

Mr. GURAL. None whatsoever.

Mr. FINNEGAN. You had no contacts with any of them?

Mr. GURAL. No.

Mr. FINNEGAN. That includes Mr. Meisen, Mr. Morse, Miss Foster, and Mr. Fanske?

Mr. GURAL. No contacts.

Mr. FINNEGAN. No contacts whatsoever?

Mr. GURAL. No.

Mr. FINNEGAN. Are you aware of anybody else having contacts at that time?

Mr. GURAL. Not that I know of in my office.

Mr. FINNEGAN. Next, Mr. Blumenstein.

Mr. BLUMENSTEIN. I found a copy of the offer.

Mr. FINNEGAN. What was that offer?

Mr. BLUMENSTEIN. It was dated March 24, 1975.

Mr. FINNEGAN. Whose offer was that?

Mr. BLUMENSTEIN. It was Southwest Joint Venture.

[The document referred to follows:]

SOUTHWEST JOINT VENTURE,
Bethesda, Md., March 24, 1975.

Mr. EARL W. ESCHBACHER,
Acting Chief, Metro Operations Branch, Space Management Division, Office of Operating Programs, Washington, D.C.

Re: Solicitation Number 697

DEAR MR. ESCHBACHER: This is to amend our offering in response to your Solicitation Number 697 under paragraph b.1 that is 380,000 square feet of net

usable space plus 81,500 square feet of parking space (sufficient for 270 vehicles) plus or minus five percent at one location.

1.a. Office space offered: 381,125 square feet.

1.b. Parking space offered 81,500 square feet (sufficient for 270 vehicles).

2.a. Office space offered at $6.10 per square foot, with an additional free rent, for the last two months at the end of the fifth year. This will give an annual effective rate of $5.8966 per square foot.

2.b. Parking space offered at $0.795 per square foot with an additional free rent, for the last two months at the end of the fifth year. This will give an annual effective rate of $0.7695 per square foot.

This quotation is based upon the Government assuming the payment of all utilities. The average for a and b is $4.99 per square foot.

The overtime rate if the Government assumes payment of all utilities is $50.00 per hour.

However, if we are to assume the payment of utilities, then the rent will be increased by $1.50 per square foot to $7.60, and the rate for overtime will be $125.00 per hour, and we will eliminate the two months free rent.

The above offering is valid until April 10, 1975. It is of considerable import to us to have a decision by that date and if a decision is not made by that date, we may be forced to change both the date of completion and the price.

Accordingly, we would appreciate your advice as to when the bids will be closed in terms of best and final offers and when predicated on such the closing award will be made.

Very truly yours,

LASZLO N. TAUBER, M.D.,
Trustee.

Mr. FINNEGAN. And you provided to him a copy of that at that time?

Mr. BLUMENSTEIN. Yes; on March 26.

Mr. FINNEGAN. Did he indicate why he needed that?

Mr. BLUMENSTEIN. No; he did not, but we are supposed to so note that if we do that.

Mr. FINNEGAN. Is it normal for you to provide something like that to a special assistant?

Mr. BLUMENSTEIN. I have not done it before.

Mr. FINNEGAN. That was the only time that it was done?

Mr. BLUMENSTEIN. It is the only time in my experience that I provided a copy of an offer to Mr. Morse.

Mr. DINGELL. Were these sealed bids or open bids?

Mr. BLUMENSTEIN. No; they are not sealed bids. It is a negotiated offering but the offers are kept confidential.

Mr. GALUARDI. The agency must keep it confidential.

Mr. DINGELL. That is confidential from whom?

Mr. GALUARDI. From other bidding parties and from the public.

Mr. FINNEGAN. Mr. Blumenstein, you are the chief negotiator. Did you have an opportunity during any time of the consideration of this lease to provide any memoranda or other notes or information to any of these people?

Mr. BLUMENSTEIN. I believe we also provided them what we call an abstract of the offer. It was something we would prepare and it would list the offers and certain factors such as the rate and the footage.

Mr. FINNEGAN. When were those provided and to whom?

Mr. BLUMENSTEIN. It was about the same time. I could check in the file as to when these were prepared and I believe that they were provided them.

Mr. FINNEGAN. Would you have a notation as to who you gave them to in the file?

Mr. BLUMENSTEIN. I can't say for sure but I believe we gave them to the same people.

Mr. DINGELL. To who, please?

Mr. BLUMENSTEIN. To Mr. Morse.

Mr. FINNEGAN. To Mr. Morse.

Mr. BLUMENSTEIN. Yes.

Mr. FINNEGAN. Who was he again, sir?

Mr. GALUARDI. He was a Special Assistant to the Administrator.

Mr. FINNEGAN. Who was the Administrator at that time?

Mr. GALUARDI. Mr. Sampson was the Administrator.

Mr. DINGELL. Was it the ordinary practice to make documents of this kind available to the Special Assistant to the Administrator?

Mr. GALUARDI. Well, I would have to presume that a request from the Special Assistant to the Administrator would also have been that the Administrator had requested it but I would not be able to state as fact whether or not that was the case.

Mr. DINGELL. Was he anywhere in this bidding chain? Was this handled by the region or was this handled by Mr. Sampson? As I understood, Mr. Sampson was the Administrator. Did he delegate this responsibility to the region or did he conduct these affairs himself?

Mr. GALUARDI. The delegation of the authority in the manual states that the region will conduct the negotiations. However, the Administrator having delegated the authority could at any time remove the delegated authority and also could, I suppose, as a matter of information in any case being conducted on anything in the General Services Administration ask for and receive any reports that we may have, including offers.

Mr. DINGELL. Was this a regular practice, to send his Special Assistant down to inquire into these bidding processes?

Mr. GALUARDI. I would not know, sir, because they did not come through me and I don't know whether they were practiced or not.

Mr. DINGELL. Maybe Mr. Blumenstein could respond.

Mr. GALUARDI. Wait a minute. They just corrected me on this. There was a problem. The function of the Space Management Division at one time was in the central office.

Mr. DINGELL. Was it at the time we are directing your attention to?

Mr. GALUARDI. This is what I am trying to find out here because when I became the Regional Administrator in October, I believe—I was Acting Administrator in October of 1974 and it was shortly after, in that same period, that the functions were transferred from the central office to the regional office but they were physically in the central office at the time.

Mr. DINGELL. But the functions were transferred prior to the time that this bidding process took place.

Mr. GALUARDI. I would have to get the record to find out the exact date that the letter of authorization of the transfer of the functions of the central office occurred. I don't remember.

Mr. DINGELL. Would you do that for us, please?

Mr. GALUARDI. I will.

I am advised the date was October 21, 1974.

Mr. DINGELL. Can you advise us whether it is currently a regular practice inside the agency to have this kind of review vested in the Special Assistant to the Administrator as the bidding proceses go forward?

Mr. GALUARDI. I would not know, sir, because I am not in the Office of the Administrator. To the best of my recollection since I have been the Regional Administrator I am not aware of any instances in which they have asked me for offers of ongoing leases.

Mr. DINGELL. It would be fair to say, then, that in your experience it is an unusual practice?

Mr. GALUARDI. Not having occurred during my period, no.

Mr. DINGELL. Yes. Since Mr. Eckerd is not here to answer, it becomes a little difficult for us to find out what the policies of the agency are, but perhaps we can get that information from him at a time later.

The Chair recognizes counsel again.

Mr. FINNEGAN. I just want to have the record straight. I had started to ask, Mr. Gural, whether you had any contacts with any of these people or were you present with them or involved with them in any matters concerning this solicitation from the date of the solicitation until the actual award?

Mr. GURAL. Not that I am aware of.

Mrs. FRANKENFIELD. No.

Mr. FINNEGAN. Mr. Steele.

Mr. STEELE. To the best of my recollection from the time the solicitation was issued to the date of award I became involved in this process on approximately April 22. As I recall, I did have meetings in which Mr. Meisen was in attendance on at least one occasion and possibly Mr. Fanske was in attendance. Those meetings were held with the Administrator of GSA.

Mr. FINNEGAN. Do you know when those meetings took place?

Mr. STEELE. As I recall, in early May.

Mr. FINNEGAN. Early May.

Mr. STEELE. Yes.

Mr. FINNEGAN. Do you know if there were any meetings, Mr. Mulligan?

Mr. MULLIGAN. Sir, to the best of my recollection on June 2, the day before the lease was awarded, I had a discussion with Mary Foster.

Mr. FINNEGAN. Could you tell the committee at this time what that discussion was?

Mr. MULLIGAN. Yes. I had before me the environmental assessment for the proposed lease. I had some problems with the assessment and I had been told that the Administrator's office was anxious to get the approval process completed in-house by the end of the day. Since I had these problems I decided to call Mary Foster in the Administrator's Office and state these problems and ask for some more time. I placed a call during midday, I believe. My recollection is a little fuzzy as to the precise time, and to the best of my recollection she returned the call later in the afternoon.

Mr. FINNEGAN. Before we ask what your problems were, can I ask you for what reason you were reviewing the environmental assessment at that point?

Mr. MULLIGAN. Under the internal GSA procedures at that time, environmental assessments were to be reviewed by the Office of General Counsel.

Mr. FINNEGAN. What was the significance of that review? What was the requirement of your GSA regulations in that regard?

Mr. MULLIGAN. I am not sure I understand your question. The regulation itself just requires review.

Mr. FINNEGAN. All right. Let me step back a little bit. What was your problem with the particular assessment?

Mr. MULLIGAN. My basic problem with the assessment was that it was not clear to me upon reading it whether in fact that building would have been built except for the Government lease or whether in fact the owner was going to build the building whether he had a Government lease or not. I felt that that information was critical in reviewing the assessment.

Mr. FINNEGAN. I see. Did you impart that information to Mary Foster?

Mr. MULLIGAN. No. I didn't. The purpose of my call was to ask for some more time. When the call was returned she asked me if I was going to sign off on the assessment and I told her I was not.

Mr. FINNEGAN. Say that again.

Mr. MULLIGAN. I told her I was not going to sign off on the assessment at that time. She said OK and the conversation ended.

Mr. FINNEGAN. Is my understanding correct that under the GSA internal regulations that someone in the General Counsel's office was required to sign off before the assessment, the negative declaration, was approved?

Mr. MULLIGAN. That is correct, sir.

Mr. FINNEGAN. And you did not sign off?

Mr. MULLIGAN. That is correct, sir.

Mr. FINNEGAN. What happened after that?

Mr. MULLIGAN. I believe that I then called a number which was on the buck slip which transmitted the assessment to me and told them that I would not concur in it. I then talked to Andy Kauders who is our Environmental Director, Environmental Affairs, at GSA and advised him that I would not sign off on it and I believe that I hold him the reasons why.

Mr. FINNEGAN. What happened after that?

Mr. MULLIGAN. Well, the environmental assessment was picked up by my office.

Mr. FINNEGAN. Do you recall from whom?

Mr. MULLIGAN. I don't believe I was in the office when it was picked up.

Mr. FINNEGAN. Is that your sole contact with any of these people?

Mr. MULLIGAN. Concerning this matter, yes, sir.

Mr. FINNEGAN. Concerning the entire lease, is that correct?

Mr. MULLIGAN. Yes.

Mr. STEELE. You asked a question during this whole time and I am not sure I had all the list of players you had. You had Mr. Morse, Mr. Thomas, Mr. Fanske. Who was the other one?

Mr. FINNEGAN. Morse, Foster, Fanske, Meisen, Thomas.

Mr. STEELE. One of these persons, I just would like to correct the record, came under my supervision after April 22, that being Mr.

Thomas. I had no discussions as I recall during this time with him about the matter.

Mr. FINNEGAN. You had no conversations with Mr. Thomas?

Mr. STEELE. Not to my knowledge.

Mr. FINNEGAN. Mr. Nixon?

Mr. NIXON. I understand you are talking in terms of the nature of the contact being with respect to the solicitation for offers because obviously in the line of normal communications I would have contacted many of these people over the same period of time with respect to other than this particular matter. I recall only one instance and that would have been probably within 48, 36, or 24 hours in advance of the actual decision or the signing of the agreement or the contract and that was in the course of a meeting with the then Administrator, Mr. Sampson. I am reasonably sure that some, not necessarily all, of these people mentioned were present and it did involve, of course, the matter of the relationship of the action as it would relate to the National Capital Planning Commission, the relations with the city and other matters which were a part, as I understood, of the administrative determination that was reached by Mr. Sampson in his making the award.

Mr. FINNEGAN. When did you say that meeting took place?

Mr. NIXON. It was in Mr. Sampson's office to the best of my recollection within a matter of at most 48 hours in advance of the actual award. It may have been even a day before.

Mr. FINNEGAN. Do you know who the other participants might have been?

Mr. NIXON. I know Mr. Galuardi and Mr. Eschbacher. Mr. Meisen may have been. My recollection is that Mr. Shipp was and I believe probably Mr. Steele. Each of us were in some manner participants in the administrative decision that was to be reached either in the realty area or in the planning area or the relations therein.

Mr. FINNEGAN. What took place at that time?

Mr. NIXON. Well, as my recollection goes, he asked each of us——

Mr. FINNEGAN. He being who?

Mr. NIXON. He, Mr. Sampson, reviewed pretty much the matters that had occurred up to that point in the solicitation, the matters that would bear on his responsibility to make a judgment. I don't recall particularly or specifically the questions that may have applied to others. I believe each one of them probably could relate to that. Mine related to the question of what was the force and effect of the comprehensive plan of the National Capital with respect to what action he would take and I advised him that inasmuch as it was a lease the comprehensive plan did not govern the action. He also inquired with respect to the imminence or the viability of the proposal contained in the comprehensive plan that the area be returned to open space. He wanted to know what the potential was of that being affected—in effect the property being acquired and converted or returned to open space—and I advised him that from my contacts with the Park Service and from a review of the product of the task force there did not appear to be at least within the next 15 years any viability of that property being so acquired for that purpose.

Mr. DINGELL. Could I ask at this point, what was the reason that you advised that in the event of a lease there would be no need to consult with the National Capital Planning Commission?

Mr. NIXON. Well, notwithstanding the discussion between the Chair and the National Capital Planning Commission representative this morning, I believe we have held and our counsel has held and I believe even the counsel of the National Capital Planning Commission has held——

Mr. DINGELL. We have some differences on that.

Mr. NIXON. I understand, but the differences were in the manner I expressed them contrary to what the Chair's opinion was and I feel that the Commission's authority really as it relates to GSA's operations under section 5 of the Planning Act is in lieu of zoning authorization which is unique to this area.

Mr. DINGELL. In lieu of——

Mr. NIXON. It is in lieu of zoning and it is not really contained in the National Capital Planning Act, it is an act of 1928 which relates to the District of Columbia and it places the functions of the acquisition of property by the Federal Government for the purpose of construction or transfer under the jurisdiction of the National Capital Planning Commission and this is unique, Mr. Chairman. We do operate, and not necessarily always popularly, on the basis of eminent domain in any other jurisdiction other than the District of Columbia.

Mr. DINGELL. Well, is the word acquire a part of your interpretation?

Mr. NIXON. I don't want to get into semantics, Mr. Chairman.

Mr. DINGELL. I don't either.

Mr. NIXON. Actually our function in leasing is not acquiring, it is procuring, and I don't know what you would find in the dictionary on that.

Mr. DINGELL. Well, you would find several things.

You say that the word acquire means to procure?

Mr. NIXON. Actually the function that we perform in leasing is a function under the National Property Administrative Services Act in which our responsibility is set out as a procurement just as if we are procuring pencils or paper or anything else and as a result it is not covered by the National Capital Planning Act in the District of Columbia.

Mr. DINGELL. Why?

Mr. NIXON. Because actually I think jurisdictionally, Congressman, while one is under the jurisdiction of the District Committee the other is under the jurisdiction of the Government Operations Committees which very zealously require us to adhere to our procurement procedures.

Mr. DINGELL. Which one requires you to adhere to the procurement procedures?

Mr. NIXON. The Federal Property and Administrative Services Act which is one of the reasons that I think we have many of the problems that we are having today because while many of these things do appear to be probably quite public the process that has been discussed and is being discussed up to this point is very zealously held within the Agency and is not subject to public disclosure. I would have been seriously criticized had I gone to the Planning Commission during this process and divulged who the offerors were.

Mr. DINGELL. Well, I am reading from Black's Law Dictionary which, as I am sure you gentlemen are aware, says:

> Acquire. To gain by any means, usually by one's own exertions; to get as one's own; to obtain by search, endeavor, practice or purchase; receive or gain in whatever manner; come to have.

Then on down here as a footnote it says:

> To become owner of property; to make property one's own. To gain ownership of. Broad meaning including both purchase and construction; acquisition being the act of getting or obtaining something which may be already in existence, or may be brought into existence through means employed to acquire it.

On down here, "Sometimes used in the sense of 'procure.'"

Without getting into a semantical bog, how is a lease any different than a purchase?

Mr. MULLIGAN. Mr. Chairman, I would agree with you that the term acquire in its common usage includes the acquisition or, if you are acquiring real property, can include the acquisition of leasehold interest. However, in applying the rules on statutory interpretation, interpretation of statutes, I am aware that some courts, especially in recent years, have gone behind the plain meaning of statutory language.

Mr. DINGELL. Clear language?

Mr. MULLIGAN. I was surprised when I first read it several weeks ago in, I think, Southerland nonconstruction statutes because like you, Mr. Chairman, I recall from my law school days that when the language of the statute is clear you should not resort to legislative history to obtain its meaning.

Mr. DINGELL. Would you cite us a case on that point?

Mr. MULLIGAN. I don't have any cases with me.

Mr. DINGELL. When you find them. I think I would enjoy reading a novelty like that.

Mr. MULLIGAN. I was quite surprised to find it myself but apparently in recent years that has been the trend.

Mr. DINGELL. Has there been any interpretation in this particular statute in that regard?

Mr. MULLIGAN. I have no idea, Mr. Chairman.

Mr. DINGELL. Well, am I in error in my understanding that acquire is a fairly simple English verb whose meaning is well understood?

Mr. MULLIGAN. The common meaning of acquire is understood by both you and me, we agree on it, but that is not to say that the General Counsel of the National Capital Planning Commission could not reach a conclusion that the term acquisition or acquire as used in the statute based on legislative history was not intended to include the acquisition of leasehold interest.

Mr. DINGELL. I have asked you to tell us the difference between plain English and legislative intent, and I intend to get that answer here in due course. I must confess that I have been interpreting statutes now for about 20 years and I have been practicing law for almost 30 years and trying a good number of lawsuits and handling a lot of real property matters when I was practicing law in the old days.

I am curious. Does acquire mean that you get by purchase only and not by lease in common legal parlance?

Mr. MULLIGAN. I would agree in common legal parlance that is what it means. Its use in this particular statute, I would of course have to defer to the General Counsel of the Commission but there is——

Mr. DINGELL. Let me ask you this question. Is there anything in the remarkable legal history of this statute that would require either of us to assume that they were using any other than the ordinary meaning of the word acquire—in simple English or in ordinary legal parlance as found in Black's?

Mr. MULLIGAN. I have not researched the statute, Mr. Chairman.

Mr. DINGELL. If you could, sometime when you get a chance in the next day or so, let us know about that point because I am curious. I have always assumed that the English language was a tongue that was spoken with fairly common meaning across this country although I understand that we are divided by a common language from the English. Be that as it may I would like to have your statement on that.

Mr. MULLIGAN. I will be glad to do it, sir.

Mr. DINGELL. I find this a remarkable interpretation.

The Chair recognizes counsel.

Mr. FINNEGAN. At this point, Mr. Nixon, I understand that the GSA did in fact consult the NCPC concerning the Buzzard Point offer. Did the GSA consult them concerning the offer by Mr. Bernstein?

Mr. NIXON. Did we consult with NCPC? I may have consulted with them in terms of the potentials of what might have been but I did not discuss the solicitation or the offers.

Mr. FINNEGAN. I think you heard earlier that they were asked in March to comment on the impact of the Buzzard Point offer.

Mr. NIXON. That is right but that was information seeking, I hope, rather than information giving.

Mr. FINNEGAN. All right. Did you ask for that same information in connection with the Bernstein proposal? Were you the one who contacted the NCPC?

Mr. NIXON. To any extent that they were contacted, I was the one.

Mr. FINNEGAN. You were the liaison. Did you contact them concerning the Bernstein proposal?

Mr. NIXON. I don't recall that I did.

Mr. FINNEGAN. Any particular reason why you would not?

Mr. NIXON. Other than the fact that I would not have had any reason to believe that they would be interested or concerned in the Bernstein proposal but I did have a reason to believe that they would be interested.

Mr. FINNEGAN. How do you form that judgment, on a case by case basis?

Mr. NIXON. Because, of course, on this particular case I had also been present in relatively the same position on the earlier Buzzard Point matter.

Mr. FINNEGAN. Mr. Kidwell, did you have any contacts with these people during this period?

Mr. KIDWELL. I don't recall having any contacts on this specific subject although that does not preclude the fact that I could have.

Mr. FINNEGAN. You didn't meet with them at any time?

Mr. KIDWELL. Not to my recollection although it could have been possible.

Mr. FINNEGAN. Mr. Eschbacher.

Mr. ESCHBACHER. Yes. I was in attendance also with Mr. Blumenstein. I know Miss Foster and the Administrator, Mr. Sampson, were there. I don't recall the other individuals. Mr. Long was also there as I recall.

Mr. FINNEGAN. All of those. You did not write any memoranda or other data?

Mr. ESCHBACHER. No.

Mr. FINNEGAN. No notes?

Mr. ESCHBACHER. No, I didn't.

Mr. FINNEGAN. Mr. Fowler.

Mr. FOWLER. No, sir.

Mr. FINNEGAN. You had no contacts with them at all? You didn't attend any meetings and you didn't send any memoranda or notes to any of these people?

Mr. FOWLER. I sent the ordinary problem and program items weekly status reports from time to time which go through channels—my boss, the chief, the Director. How far they may get I have no idea.

Mr. FINNEGAN. You did not send any to Mr. Morse, Miss Foster, Mr. Fanske?

Mr. FOWLER. I know that we supplied Mr. Morse with one or two spread sheets showing the offers that we had received.

Mr. FINNEGAN. When was that done?

Mr. FOWLER. In late winter, spring. I don't really recall.

Mr. FINNEGAN. Was this done before or after the solicitation was amended?

Mr. FOWLER. It was done after the solicitation was amended—I am pretty sure it was.

Mr. FINNEGAN. You are pretty sure it was?

Mr. FOWLER. Yes.

Mr. FINNEGAN. Is there any way you can ascertain?

Mr. FOWLER. From the files. It should be noted in the file on our copies.

Mr. FINNEGAN. When you have a moment would you check?

Also, are you aware of anybody else that may have contacted any of these people?

Mr. FOWLER. No.

Mr. FINNEGAN. Through memoranda, program notes, whatever you call those various things?

Mr. FOWLER. No, I am not, sir.

Mr. FINNEGAN. Mr. Blumenstein.

Mr. BLUMENSTEIN. As I previously stated, I did give Mr. Morse copies of the offer I had mentioned before.

Mr. FINNEGAN. When?

Mr. BLUMENSTEIN. March 24, 1975, from Southwest Joint Venture.

[See letter dated March 24, 1975, p. 239.]

Mr. FINNEGAN. What was the purpose of giving it to him? Do you know what he wanted it for, what he used it for?

Mr. BLUMENSTEIN. I believe he wanted it for briefing status, the status of the negotiations.

Mr. FINNEGAN. I see. Again, is that unusual that he would have asked for that from your standpoint?

Mr. BLUMENSTEIN. That was the only way.

Mr. FINNEGAN. Mr. Kauders, did you have any contacts with these people?

Mr. KAUDERS. I also was in attendance at that meeting.

I believe you mentioned Mr. Meisen in your list.

Mr. FINNEGAN. Yes.

Mr. KAUDERS. I met with, I believe, Mr. Meisen and in his absence Mr. Peyton regarding the environmental assessment and only the environmental assessment.

Mr. FINNEGAN. When was that?

Mr. KAUDERS. In the 3 or 4 days preceding and the day of the signing of the negative declaration by Mr. Peyton.

Mr. FINNEGAN. What was the purpose of that meeting?

Mr. KAUDERS. To convey to Mr. Peyton my findings having reviewed the environmental assessment.

Mr. FINNEGAN. What was your position at that time?

Mr. KAUDERS. I was Director of Environmental Affairs.

Mr. FINNEGAN. Was it normal for you to have to review the assessment?

Mr. KAUDERS. That is correct.

Mr. FINNEGAN. And did you review it at this particular time?

Mr. KAUDERS. That is correct.

Mr. FINNEGAN. Did the regulations require that you approve it before the negative declaration was signed?

Mr. KAUDERS. Yes.

Mr. FINNEGAN. Did you approve it?

Mr. KAUDERS. Excuse me.

Mr. FINNEGAN. Did you approve it?

Mr. KAUDERS. No, I did not concur in the negative declaration.

Mr. FINNEGAN. Why didn't you concur?

Mr. KAUDERS. I had a number of questions on the negative declaration that I felt I needed additional information on before I could make a determination.

Mr. FINNEGAN. Can you tell us what your comments were?

Mr. KAUDERS. The assessment did not give me enough information at that time on the traffic impacts of locating Federal employees there. I was concerned about access from public transportation. I had some questions relating to the parking at the site and the impact of people coming to the site and air quality under the Clean Air Act. I had a number of other questions that needed clarification. Some of these questions were addressed in an amendment or redrafting of the assessment.

Mr. DINGELL. Am I correct in appreciating that when the assessment was finally made, however, it found no adverse environmental impact?

Mr. KAUDERS. No. I think the assessment indicated that there would be some adverse impacts, the quantification of which was not clear to me at the time.

Mr. DINGELL. Well, there is a difference between an environmental assessment and an environmental impact statement, is that correct?

Mr. KAUDERS. Yes.

Mr. DINGELL. As I understand the guidelines of the Council on Environmental Quality and the practices in Government with regard to this, where the assessment finds an adverse effect then the environmental impact statement is the next step, is that correct?

Mr. KAUDERS. If the assessment indicates that it has a significant adverse impact on the quality of the human environment, yes.

Mr. DINGELL. Did the assessment find that there was a significant adverse impact?

Mr. KAUDERS. No, it didn't satisfy me that there was a significant adverse impact.

Mr. DINGELL. It did not satisfy you that there was or was not?

Mr. KAUDERS. Was not. The assessment did not when I read it. In my reading of it I was not convinced that there was a significant adverse impact.

Mr. DINGELL. You were convinced?

Mr. KAUDERS. That there was not.

Mr. DINGELL. That there was not. All right.

What should have happened at this point? Should this not have triggered an environmental impact statement?

Mr. KAUDERS. After I indicated my initial questions some additional data was supplied in the assessment which was ultimately signed which addressed a number of my questions.

Mr. DINGELL. What was that initial data and what were the questions that it addressed?

Mr. KAUDERS. The questions basically are the ones that I just indicated to you relating to traffic impacts, parking, the impact on air quality of the region.

Mr. DINGELL. Did it address other questions? I mean did the additional data address all the questions that you had raised?

Mr. KAUDERS. I don't remember.

Mr. DINGELL. Did it not address all the questions that you raised? You said that it substantially responded to the questions you raised. Were there any questions which you had raised that it did not respond to?

Mr. KAUDERS. At that point it was a matter of degree. I think all the questions were addressed but whether they were satisfactory or not——

Mr. DINGELL. What was your view at that particular time, remembering that you are under oath?

Mr. KAUDERS. At the time I last saw the assessment prior to its being signed there were still, I felt, some questions that needed resolution. There were questions, yes.

Mr. DINGELL. What were those, if you please?

Mr. KAUDERS. Relating to traffic, access by public transportation.

Mr. DINGELL. Did you make these views available to those who signed the assessment?

Mr. KAUDERS. Yes, sir.

Mr. DINGELL. What was the response to your action of making those views available?

Mr. KAUDERS. The assessment was in fact revised to address some of those issues or——

Mr. DINGELL. To address some you say. Was it revised to address all?

Mr. KAUDERS. No.

Mr. DINGELL. It was not. In what particular was it not revised to address?

Mr. KAUDERS. Well, it addressed them all, but whether it addressed them satisfactorily——

Mr. DINGELL. Then let us go to the question of those which it did not satisfactorily address, and again I have to remind you that you are under oath, if you please.

Mr. KAUDERS. The assessment as finally signed did not in my view fully address the impacts of traffic or public transportation to the site.

Mr. DINGELL. Air pollution?

Mr. KAUDERS. Air pollution relating to the Clean Air Act.

I felt that the section relating to adverse impacts that could not be avoided needed some additional work.

Mr. DINGELL. Who signed the environmental assessment?

Mr. KAUDERS. It was signed by Mr. Peyton as Acting Commissioner.

Mr. DINGELL. Was he the regular signer of those documents? Who under the practices at GSA signed the environmental assessment?

Mr. GALUARDI. Whoever is Commissioner at the time.

Mr. DINGELL. The Commissioner or who is acting in his place?

Mr. GALUARDI. Yes.

Mr. DINGELL. Who was the Commissioner at that time?

Mr. KAUDERS. Mr. Meisen was then Acting Commissioner.

Mr. DINGELL. And he was not there?

Mr. KAUDERS. He was not there.

Mr. DINGELL. All right.

[The document referred to follows:]

GENERAL SERVICES ADMINISTRATION,
JUNE 2, 1975.

Acting Assistant Commissioner for Operating Programs (3M).

Environmental Assessment for proposed lease, Tauber Property.

Mr. Loy M. Shipp, Jr., Assistant Commissioner for Space Planning and Management (PR).

The attached environmental assessment and negative declaration covering a proposed lease acquisition at the Tauber Property are submitted in accordance with PBS Order 1095.1B for your concurrence.

Alternatives to the proposed action, the probable adverse impacts on the environment, the relationship between the local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and the irreversible and irretrievable commitment of resources were considered. A more detailed analysis is neither necessary nor justified for the proposed lease acquisition.

JAMES F. STEELE, Jr.,
Acting Assistant Commissioner for Operating Programs.

87-962 O - 77 - 17

ENVIRONMENTAL ASSESSMENT
PROPOSED LEASE, TAUBER PROPERTY
WASHINGTON, D.C.

GENERAL SERVICES ADMINISTRATION
OFFICE OF OPERATING PROGRAMS
REGION 3
JUNE 1, 1975

I. INTRODUCTION

A. Statement of Purposes

The purpose of this document is to assess the probable environmental impacts of the leasing of approximately 365,000 occupiable square feet of office space and 95,000 square feet of parking.

B. Objective of the Project

The objective of this project is to provide the Securities and Exchange Commission (SEC) with suitable, adequate, and permanent space for expansion and consolidation.

Presently the SEC is handicapped by having its staff, records, and facilities split among five separate locations. Communication problems have become severe. The commission's divisions are interdependent, and organizational realignments cannot solve the difficulties. Space assignments must be constantly juggled to meet even minimum needs. The commission is beset also by constantly growing requirements for space to house the voluminous records which statutes require it to keep. These records must be located close to the staff members who use them.

A consolidation of all SEC operations into one building will alleviate its current operating problems by improving communications

among offices, by eliminating travel time among buildings, by locating records in the same building as personnel, and by making the agency's administrative services readily available to all staff members who use them.

The proposed project also will provide space for planned growth in personnel. SEC had 1,100 employees in Washington on June 30, 1973. For Fiscal Year 1974, it was authorized 1,279. SEC is planning for 1,335 personnel for Fiscal Year 1975, as well as an increase to 1,500 for Fiscal Year 1976, when the new space would be occupied.

C. History and Background of the Project Development

The SEC presently occupies 275,712 square feet of leased space, including 33,385 square feet of parking, at three scattered locations with a total annual cost of $1,389, 711 and 11,940 square feet of Government-owned space at two locations. Its headquarters staff is located primarily at 500 North Capitol Street, where it occupies 169,090 square feet of space under a lease which expires April 20, 1976.

A prospectus proposing the acquisition of about 403,000 occupiable square feet of space, including space for the parking

of 271 vehicles, in a building in Washington, DC, was submitted to the Committees on Public Works of the Congress on August 2, 1974.

During Committee hearings on this project, the size of the proposed acquisition was expanded to 460,000 occupiable square feet, including space for parking 271 vehicles. The committees approved the expanded prospectus on October 10, 1974.

D. History and Background of the Area

1. Community Profile

Washington, DC, is located beside the Potomac River at the boundary between the Tidewater and Piedmont regions of the Atlantic seaboard. The city is set in a natural topographic bowl formed by the intersection of the Potomac and Anacostia River Valleys.

Washington plays three important roles: It is the capital city of the Nation and the seat of the Federal Government; it serves as the home of more than 700,000 people; and it is the central city of a major metropolitan region.

2. Summary of Population, Economic, and Growth Characteristics

The Washington, D.C., metropolitan area was, until just recently, one of the Nation's most rapidly expanding areas. From the country's eleventh largest metropolis in 1950, it rose to tenth by 1960 and to seventh by 1970. In 1970, the estimated population of the Washington, D.C., Standard Metropolitan Statistical Area (SMSA) was 2,839,153.[1]

The National Capital Regional Planning Council's Regional Development Guide, 1966-2000 projects a population of 5.28 million for this SMSA by the year 2000. Recently, however, studies by regional planning agencies indicate that, largely because of declining birth rates, population in this SMSA may not be growing so rapidly as was previously projected.

Economically, the Washington area has been and will continue to be heavily dependent on the Federal Government. Federal civilian employment accounts for about 30 percent of the total labor force.

When uniformed military employment is included, Federal employment accounts for even more of the labor force in this

[1]See Appendix A.

area. This total does not include the employees of organizations such as unions and trade associations that locate in Washington because it is the seat of the Federal Government.

II. DESCRIPTION OF THE PROPOSED PROJECT

A. General Overview of the Project

The project consists of acquisition by lease of 365,000 occupiable square feet of office space and 95,000 square feet of parking.

B. Project Description and Program

1. Purpose of the Facility

a. Agencies to be housed

The project is exclusively for the consolidations of the SEC.

b. General Functions of the agency to be housed

The SEC is a regulatory agency created under authority of the Securities Exchange Act of 1934. The general objective

of the statutes administered by the SEC is to provide the public with the fullest possible disclosure of investment policies and procedures, as well as to protect the interests of the public and investors against malpractices in the securities and financial markets.

3. Site of proposed facility

The site for the proposed leased facility is a 110,988 square foot tract of land located in the southwestern portion of the city, bounded by Water Street on the west, T Street on the north, the Anacostia River on the east and U Street on the south.[2]

III. Environmental Impact of the Proposed Project

A. Urban Systems Setting and Impact

1. Transportation

a. Streets and Traffic

Setting

Commuter traffic in Washington, DC, area, as in most urban areas, creates the greatest vehicular demand on the regional roadway network. Peak hour congestion is common on the routes serving the DC Metropolitan area. Rapid growth with diffusion of both employment and residential centers, combined

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[2]See map A

with a minimal transit system, have required commuter reliance on private automobiles.

The majority of the employees who arrive at the site will arrive in the general area by automobile. Direct access to the site will generally be via M or P Streets.

Impact

The streets immediately adjacent to the site are generally lightly traveled at present. However, there will be increased traffic congestion on M Street, as well as on the arterial routes leading to the general area, such as South Capital Street.

Since the proposed project is on a peninsula-like area, one can describe the automobile access to the site as limited and poor in character.

b. Mass Transportation

The proposed site will be served by one main route, the "70" line MetroBus., which uses 1st and 2nd Streets as the access route to the area.[3] There are presently 14 trips into the area during rush hour in the morning and 13 trips departing the area during the afternoon rush hour. Employees located at the proposed site will be required to walk approximately two blocks to the bus service.

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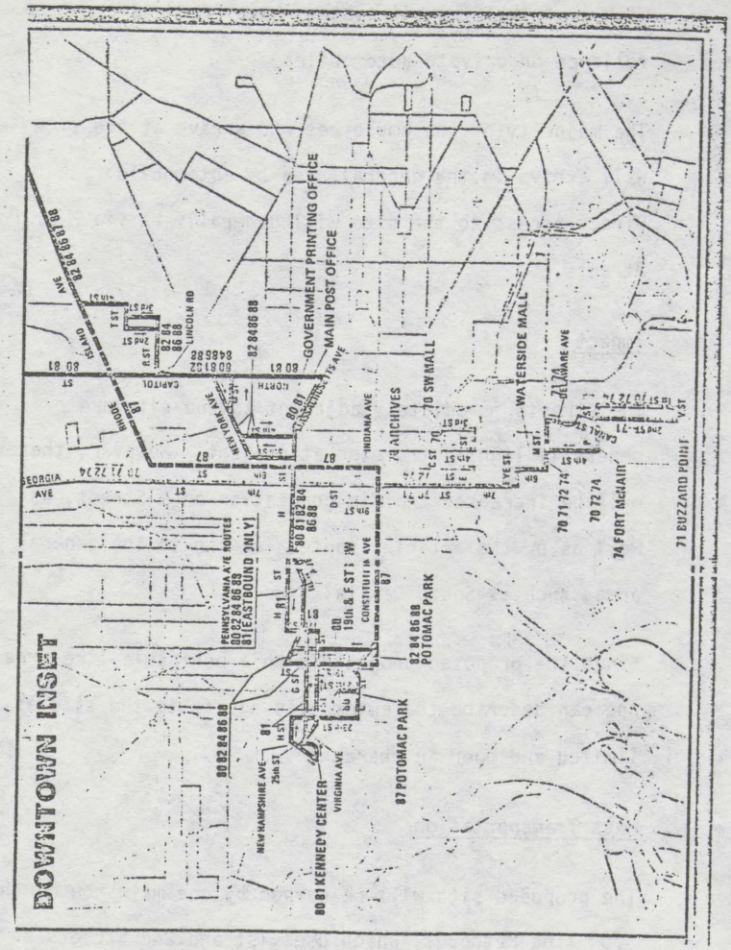
[3] See map B


DOWNTOWN INSET
GOVERNMENT PRINTING OFFICE
MAIN POST OFFICE
WATERSIDE MALL
70 SW MALL
70 ARCHIVES
INDIANA AVE
DELAWARE AVE
CAPITOL
NORTH
NEW YORK AVE
LINCOLN RD
RHODE
ISLAND
AVE
GEORGIA
AVE
PENNSYLVANIA AVE ROUTES
80 82 84 86 88
81 (EASTBOUND ONLY)
80 81 82 84
86 88
80 81 82 84
86 88
19th & F ST NW
CONSTITUTION AVE
82 84 86 88
POTOMAC PARK
87 POTOMAC PARK
80 82 84 86 88
NEW HAMPSHIRE AVE
25th ST
VIRGINIA AVE
80 81 KENNEDY CENTER
70 71 72 74
70 72 74
74 FORT McNAIR
71 BUZZARD POINT

c. Parking

Setting

Current available parking in the area is limited to vacant lots and on-street parking. This parking is generally unsatisfactory due to the industrial even hazardous nature of the surrounding land uses.

Impact

The number of parking spaces to be included in the project will be determined primarily by the zoning regulations of the District of Columbia. It is planned to lease some 21 parking spaces for offical vehicles and visitors. Under current policy, it is anticipated about 250 spaces will be leased for employee parking. Regulations will require most of these parking spaces to be allotted to carpools. Based on experiences at other locations where rigid control is exercised to assure carpooling is the highest priority for obtaining parking, it is anticipated that over 1,000 of the employees would use these 250 spaces. However, with the minimal bus service available to the site, it is assumed most of the 1,500 employees will drive to work. Many employees may park either in vacant lots or on the adjacent streets in the area because they do not wish to carpool or to pay any fee for parking although parking in excess of what GSA will lease will be available in the building.

2. Electrical Services

Setting

Electrical service for the proposed project will be provided by the Potomac Electric Power Company (PEPCO). Although PEPCO presently relies exclusively on fossil fuels for power generation, the company expects to augment this system with nuclear power capabilities by the mid-1980's.

Electrical service to the new project will be provided by the Buzzard's Point, which is located in square 661, only one block away from the proposed construction site. Recently PEPCO acquired Square 603 just north of Potomac Avenue, SW, to be used as a conduit storage area. This facility, with its related underground transmission and distribution facilities, presently supplies electric service to a variety of Federal buildings and installations. It also provides service to the entire Southwest area and to Southeast, DC, south of Independence Avenue, as well as supplying electrical service to the Anacostia and Harvard areas in the District of Columbia.

Placed in service in 1933 with installation of its first generating unit, the facility has so developed over the years that it now houses six generating units and 16 combustion turbines installed as recently as 1968.

These generating units are operated by means of a low-sulfur grade residual fuel oil which helps reduce air pollution. PEPCO's estimated total capital investment at this location is $51,500,000. Approximately one-half of this facility is capable of being converted to coal operations, although extensive modification of the site would be required.

The Buzzard Point plant serves three functions. First, it is a source of generation for the electric system as a whole and provides increased reliability with minimum energy losses by having generation produced near the load center. This type of equipment must be located on a body of water which can be used for cooling the steam when it is released from the turbines. Second, the plant serves as switching point for high voltage cables which tie the various loads and generating stations together. Cables radiate in all directions from the present location. Third, the plant distributes power to localities throughout a major part of the Metropolitan area.

Impacts

The impact of the proposed project on the Buzzard Point plant and rest of the PEPCO system will be insignificant.

3. Gas and Fuel Oil Services

Setting

Distribution of natural gas in the Washington, DC, area is provided by the Washington Gas Light Company. As of March 1972, a moratorium was placed on any further expansion of this service to new users. Under normal circumstances, gas will not be made available to the site unitl major new supplies of natural gas are available to the Washington Gas Light Company.

Fuel oil distribution in the Washington Metropolitan area is provided by several private contractors.

Impact

It is assumed that natural gas will not be used by the project, and thus there will be no impact.

The availability of number 2, low-sulfur fuel oil is monitored by the Federal Energy Administration (FEA). Approval will be needed from the FEA to secure supplies from a private fuel oil distributor, if the building uses fuel oil for heating. FEA indicates that, at present, low-sulfur fuel oil demand has been steady, rather than growing, and there would be no great difficulty in securing the needed supply.

4. Water System

Setting

The proposed project is served by the District of Columbia Municipal Water Supply. The District water source is the Potomac River Drainage basin. During fiscal year 1971, an average of 161 million gallons per day was consumed in the District. Under normal circumstances when there is no drought, the City's water supply should be adequate, but during periods of drought, there may likely be shortages. Although there have been periods of concern, a lack of adequate supply for essential needs has not occurred. The pumping station at the upper end of the Potomac River Estuary would be reserved for emergency conditions when normal river flow cannot satisfy demands for water.

Impact

It has been estimated that the proposed project will have 1,500 employees. Assuming an average water consumption of 20 gallons per employee per day, there would be an estimated increased demand of 30,000 gallons per day for water consumption. This would have an insignificant impact on the approximately 161 million gallons per day normally consumed in the District.

5. Fire Protection

Setting

The District of Columbia Fire Department has 32 fire stations. The fire station primarily responsible for the Buzzard Point area of the city is located at Half and M Streets, SW. It contains one engine company with two pumper trucks. The fire station at 6th & D Streets, SW, has secondary responsibility for the area; and because it has a hook and ladder truck; will respond to fires in high-rise structures.

The District of Columbia Fire Department has an excellent fire insurance rating from the American Insurance Company Underwriters because of its equipment and personnel.

Impact

The proposed project will receive adequate fire protection and will have an insignificant impact on the resources of the DC Fire Department.

6. Sanitary Sewage System

Setting

Sewerage treatment for the District is handled by the Blue Plains Waste Water Treatment Plant. This plant is now operating over capacity. During the first half of fiscal year 1973, the plant handled an average daily flow of 295.6 million gallons per day (MGD), although its capacity is presently 240 MGD. Approximately 131 MGD of the flow emanates from the District, with the remainder coming from nearby Maryland and Virginia suburban jurisdictions. The plant is currently being expanded and improvements are being made in the quality of treatment.

A total plant expansion program, including tertiary treatment for the 309 MGD capacity, is scheduled for completion in December 1977. The District's allocation of this volume is planned to be 135 MGD.

Current trends indicate that the expanded plant's capacity may be reached by the time construction of the new project is completed. Because of this situation, the District and the Washington Suburban Sanitary Commission have agreed to joint use of a treatment plant or plants that would be build by WSSC. Additional capacity would be available when these regional treatment

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are constructed by WSSC. One of the facilities which is scheduled for completion in September 1978 is the Montgomery County Sewage Treatment Plant at Dickerson, Maryland. It is expected to handle an average daily flow of 60 MGD.

Impact

Because the proposed facility, basically, will provide office space and will have no special-purpose space requiring a great volume of water, it is assumed that sewerage flow will equal water consumtion which was previously calculated to be 30,000 gallons per day. This additional volume is insignificant when compared to the approximately 131 MGD flow which emanates from the District into Blue Plains.

The present sewerage demand of the District is less than its allotment. Sewer hookups are currently available, and no moratoria on hookups are planned.

However, even though the sewerage generated by this facility is less than .03 percent of the total flow from the District to Blue Plains and about .01 percent of the total flow from the Region to Blue Plains, any additional sewerage to Blue Plains canot be treated properly.

7. Storm Drainage

Setting

The District of Columbia is totally within the limits of the Potomac River Watershed. The two major tributaries of the Potomac River within the District are Rock Creek and the Anacostia River. Storm water on the site of the proposed project currently drains directly into the Anacostia River.

Impacts

District of Columbia officals have indicated that storm water on the proposed project, when it is constructed, will continue to drain directly into the Anacostia River. The site is currently partially row ground with little vegetation. There will be very minimal changes in the rate of storm water run-off on the site, after the facility is constructed.

The proximity of the site to the Anacostia River and the minimal changes in storm water run-off will result in minimal impacts on the storm drainage system of the District.

8. Solid Waste Disposal

Setting

Commercial buildings in the District are not provided solid waste collection service by the District Department of Solid Waste Collection. Therefore, this service will be provided by a private contractor. The District Department of Environmental Services estimates an annual collection rate of 700,000 tons for all solid wastes generated within the city. The project is located in the portion of the District where all collected solid wastes are transported to the garbage compacting facility at New Jersey Avenue and K Street, SE. Here, the materials are compacted and prepared for delivery to a major sanitary landfill site on a Government reservation in Lorton, Virginia. This landfill has a life expectancy of 18 years, based on a fill rate of 1,500 tons per day. A park will be developed on the site as it is filled and covered.

Impacts

Based on a factor of five pounds os solid waste per employee per day, the proposed project will generate about 7,500 pounds or 3.75 tons of solid waste per day. This amount of solid waste will insignificantly shorten the life expectancy of the Lorton landfill.

B. Physical-Biological Setting and Impacts

1. Climate

Setting:

The climate at Buzzard's Point does not differ substantially from that of the Washington, D.C., area, which is situated at the western edge of the Middle Atlantic coastal plain, about 50 east of the Blue Ridge Mountains and 35 miles west of the Chesapeake Bay, near the junction of the Potomac and Anacostia Rivers.

Observational records in the Washington, D.C., area have been kept continuously since November 1870. Since June 1941, the official observations have been taken at the Washington National Airport. Significant temperature differences within the mertropolitan area are not unusual. Average minimum temperatures at some locations are 8° lower than official airport readings. Minimum temperatures for the airport are highest for the area since the airport is located near the center of the urban heat island. Variations in the average maximum temperatures over the metropolitan area are usually

less than 5°. Rainfall and snowfall at the airport are less than the average for the area; some locations average five inches more precipitation than the airport per annum. However, since the Buzzard's Point area is directly across the Potomac River from the airport, the micro-climate at both locations would seem to be similar.

Summers in the Washington, D.C., area are warm and humid, and the winter is mild. Generally, pleasant weather prevails in the spring and autumn. The coldest weather occurs in late January and early February; the warmest weather, in late July. More specifically, the climatic conditions in this area are as follows:

Heat and Humidity

During the summer, heat combined with high humidity makes life uncomfortable in the Washington, D.C., area. The average mean temperatures for June, July, and August are 74.3, 78.4, and 76.8 degrees Fahrenheit. respectively. The average relative humidity is 73 percent at 7 am; 52 percent, at 1 am; and 59 percent, at 7 pm. The periods of highest humidity occur in September and October, followed closely by June, July, and August.

Frost Action

During the past 20 years, the average date of the last freezing temperature in the spring has been March 29, but the latest freezing temperature was recorded on April 16. During this 20-year period, the average date of the first freezing temperature in the fall has been November 10, with the earliest freezing temperature occurring on October 20.

The record-low temperature in the Washington, D.C., area is 3° above 0°. Frost generally is not a problem in this area, except when unseasonably high temperatures cause the premature budding or flowering of trees and shrubs, making them vulnerable to killing by late frosts.

Rainfall

In the Washington, D.C., area, there are no well-pronounced wet and dry seasons. From 1871 to 1973, the record mean precipitation was 39.81 inches a year. In 1971, the annual precipitation was 46.02 inches; in 1972, 51.97; in 1973, 34.98.

Snow

Snow accumulations of more than 10 inches are rare in the Washington, D.C., area. Thawing usually is rapid, but snow depths of more than three inches make driving hazardous and traffic slow. The first significant snow accumulation of a season catches many drivers unprepared; and this accumulation is often the most disruptive to normal daily activities. Conditions, however, usually improve within a day or two.

The greatest recorded snowfall from a single storm was 28 inches in January 1922. In recent years, snowfall has been low, with 11 inches in 1973-1974; 0.1 inch in 1972-1973; and 16.8 inches in 1971-1972.

Ice

Ordinarily, ice is directly related to snowfall. Ice frequently may form on streets and roadways as a result of packed down, uncleared, thawing snow. Thus, when snow falls, ice can cause hazardous driving and walking conditions. Because of the mild winters, however, ice does not pose a serious problem in the Washington, D.C., area.

Storms

Thunderstorms, during the summer months, often bring sudden and heavy rain showers to the Washington, D.C., area; and these storms may be attended by damaging winds, hail, or lightning. On June 9, 1929, a violent local thunderstorm was accompanied by wind gusts up to 100 m.p.h. Two severe hailstorms with resultant damage of $100,000 or more are recorded--one in April 1938 and the other in May 1953.

Tornadoes rarely occur in the Washington, D.C., area; but three rather destructive ones have been recorded--in April 1923, November 1927, and April 1973. In the first two instances, the resulting damage was at least $100,000. The last, which struck in the vicinity of suburban Fairfax, Virginia, caused an estimated $15,000,000 in damage.

Tropical disturbances, during their northward passage, occasionally influence Washington's weather, mainly with high winds and heavy rainfall. Extensive damage, however, from wind and tidal flooding is rare.

With the passage of Hurricane Hazel on October 15, 1954, the peak gust of wind reached 98 m.p.h., but only 1.73 inches of rainfall were recorded. Hurricane Connie, appearing from August 12-13, 1955, produced 6.60 inches of rainfall, but the peak wind was only 58 m.p.h. From June 21-22, 1972, Hurricane Agnes delivered 7.52 inches of rain at the Washington National Airport. Flooding from this rainfall caused 16 deaths in the greater metropolitan area. Furthermore, damage from this hurricane totaled $300,000,000 in Virginia, Maryland, Delaware, and the District of Columbia.

Impacts

The proposed project will have only a minimal impact on the micro-climate of Buzzard's Point, since the site presently consists of raw earth and pavement that are devoid of most vegetation. The design of the building, however, will take into consideration the climatic conditions of the Washington, D.C., area by providing air-conditioning and other features for the employees' offices.

2. Air Quality

Setting:

In response to the Federal Clean Air Act, as amended in 1970, the Air Quality Planning Committee of the National Capital Interstate Air Quality Control Region--which encompasses the District of Columbia and the Counties of Loudon, Fairfax, Prince William, Arlington, Montgomery, Prince George's, and the local jurisdictional agencies within each County--has prepared a plan to reduce air pollution within this region to bring air quality up to national standards. This plan and its revisions were approved by the Environmental Protection Agency on December 6, 1973. The essence of this plan is the coordinated implementation of these measures:

1. Motor vehicle emission control
2. Traffic control and vehicle use restraints
3. Mass transit improvements
4. Goods movement improvements
5. Land use and other long-range planning measures

This plan is based on studies indicating that transportation-related sources in the metropolitan area account for roughly 98 percent of the carbon monoxide emissions and 93 percent of the hydrocarbon and resulting photochemical oxidants; and the major thrust of this plan is aimed at the reduction of these pollutants generated by motor vehicles.

The plan anticipates that 54 percent of the reduction required to meet carbon monoxide emissions standards may be achieved by May 31, 1975; and 45.5 percent of the reduction required to meet standards for hydrocarbon/oxidant emission may also be achieved by that date. The plan assumes, however, that Federal requirements for emissions from new vehicles will be met by the automobile industry and that older, more polluting vehicles will be replaced by new ones. Additional requirements for retrofit, air-pollution reduction devices on pre-1975 automobiles and light trucks, could account for an additional 33.4 percent of the carbon monoxide and 14.3 percent of the hydrocarbons/oxidants that must be reduced. The implementation of the motor vehicle emission controls of the plan could then account for a total of 87.4 percent of the carbon monoxide and 59.8 percent of the hydrocarbons/oxidants that must be reduced to meet national air quality standards.

The plan further emphasizes that automobile vehicle miles traveled should be reduced by improved mass transit, disincentive costs to automobile drivers in the downtown, carpool locator services, and other measures. These portions of the plan could reduce by 3.3 percent the total carbon monoxide emissions and 17.1 percent of the hydrocarbon/oxidant emissions that must be eliminated in order to meet national standards. Other methods, aimed at specific kinds of pollution, would achieve the additional reductions necessary to meet these standards. Land use and other long-range planning measures would be utilized to maintain air standards beyond 1975.

Sulfur dioxide pollutants and particulate emissions are generally attributed to power plants and heating systems that use coal and high sulfur heating oils. These pollutants ordinarily are associated with stationary sources of energy, and the sources having the highest individual total emission rates in the Washington, D.C., area are listed in Table I, below. Of these sources, the PEPCO generating plant at Buzzard's Point is the closest to the proposed construction site--only one block away.

TABLE 1:

MAJOR AIR POLLUTION STATIONARY SOURCES
WITHIN JURISDICTION OF D.C. DURING 1973

Source	Emissions					
	Particulate Matter (tons/year)	Sulfur Oxides (tons/year)	Carbon Monoxide (tons/year)	Hydrocarbons (tons/year)	Nitrogen Oxides (tons/year)	TOTAL (tons/year)
PEPCO - Benning Generating Station	2,230	23,890	200	1,240	14,420	41,980
Solid Waste Reduction Center #1	116	406	5,686	244	488	6,940
PEPCO - Buzzard Point Generating Station	380	3,780	1	50	2,000	6,211
Central Heating Plant (Federal Government)	102	1,558	102	51	769	2,582
West Heating Plant (Federal Government)	259	1,084	71	35	535	1,984
Washington Navy Yard	405	927	46	26	482	1,885
Capitol Power Plant	270	562	29	16	279	1,156
Saint Elizabeth's Hospital	58	399	10	8	201	675
B.P. Oil Corporation	0	0	0	630	0	630
Naval Research Laboratory	49	341	9	6	172	577

Source: Dept. of Environmental Services, May 1, 1974.

Sulfur dioxide pollutant levels in recent years have been kept below the Washington, D.C., Primary Air Quality Standards because of actions taken by the city to control these pollutants at stationary sources. The standard for particulate matter has been exceeded several times; but, according to the city's Air and Water Monitoring Division, these readings are are attributable to construction activity that has produced dust and fine matter near the monitoring stations. The monitoring division has stated that these readings are not representative of those found in other sections of the city.

Carbon monoxide, hydrocarbons, photochemical oxidants, and nitrogen dioxide, it was previously noted, are generally the result of motor vehicle use. The air quality standards for these pollutants are occasionally exceeded in the District of Columbia, with the exception of nitrogen dioxide, levels of which have remained below the national standards. Photochemical oxidants are a secondary pollutant, one created in the atmosphere by a complex chemical reation triggered

by sunlight acting on hydrocarbons and nitrogen oxides. Thus, lowering the peak oxidant levels requires reductions in hydrocarbon levels, which generally are high during the 6-9 am period and attributable to the heavy motor vehicle use at that time.

No quantitative data on the air quality at the proposed site have been gathered in the preparation of this document. However, it can be stated that the major source of air pollution at this site is the PEPCO generating plant. Air pollution from automobile exhausts would not be so significant as that emanating from this plant, since the site of the proposed project is at a peninsula-like location, with no through traffic.

Impacts:

The proposed project would not be a direct source of pollution, except for possible emissions related to heating. If the system for heating this facility, however, is a source of pollution, it will be required to meet all applicable Federal and local standards.

The automobile trips generated by the proposed project will be a probable source of air pollution in the area. However, if construction of this project begins after June 30, 1975, the developer will be required to receive the approval of the Administrator of the Environmental Protection Agency for any parking areas including 250 spaces or more.

The potential impact that the PEPCO generating plant will have on the employees housed in the proposed facility is not known. However, it is reasonable to assume that this impact will be minimal.

3. Sound Quality

Setting:

Various sources of noise presently exist in the area of the proposed facility. These include the PEPCO generating plant, miscellaneous industrial facilities, planes at the National Airport, and traffic on streets in the area. So far as can be determined, however, no data are available concerning the existing levels of noise in this area.

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Impacts:

The proposed office building would not be a direct generator of noise, and this facility only indirectly would create noise because of the increase in vehicular traffic that would be required in, or attracted to, the area. Because of the ambient noise levels in the area, the proposed building will not significantly increase these levels. Furthermore, the impact of the noise levels in the area on the employees in the proposed building will be minimized by standard building insulation.

4. Vegetation and Wildlife

Setting:

The proposed facility will be situated on a vacant parcel of industrially zoned land in an urban area. Except for a few scattered trees, therefore, the site is essentially devoid of vegetation and wildlife.

Impact:

The construction of the proposed building will have a minor but positive impact on vegetation and wildlife in the area. This situation will result from the post-construction landscaping, which will include trees, bushes,

and grass of a better quality and more comprehensive coverage than presently exists on the site.

5. Landforms

Setting:

The land in the Buzzard's Point area is flat, with a slight slope toward the Anacostia and Potomac Rivers. Basically, this land is devoted to industrial uses. The site for the proposed facility encompasses about 110,988 square feet; and this site slopes gradually toward the Anacostia River.

Impact:

The site of the proposed project will be graded and filled behind a bulkhead to be constructed along the Anacostia River. The site, however, will still slope toward the river. These developments will have only an insignificant impact on the landforms in the area.

6. Geology, Soils, and Hydrology

Setting:

During the preparation of this document, no information was available concerning the geology, soils, and hydrology of the proposed construction site. This information, however, will be gathered when soil borings are taken at the site.

Impact:

Essentially, the proposed project will involve the use of a vacant site in an urban area. Thus, the impact of this project on the geology, soils, and hydrology of the area will be minimal. However, a later analysis of these factors will determine the nature of the foundation on which the building will be constructed.

7. Flood Plain

Setting:

In recent years, urban flooding caused by locally heavy rains has become a major problem in the Washington, D.C., area. The most critical flooding is associated with the

Alexandria portion of Four Mile Run in nearby Virginia, but other streams in the metropolitan area are flooding with increasing frequency.

Occasional overflows from the Potomac River result from heavy rain over its basin, at times augmented by melting snow. In a few cases during cold winters, ice forms on the river; and, during the spring, flooding is caused by ice gorges when the ice breaks up. The Potomac is in the tidewater, and above-normal tides associated with hurricanes or severe storms along the coast occasionally cause flooding. Major floods occurred in June 1972; October 1954 and 1942; April 1937; March 1936; and August 1933.

The site of the proposed project is located on the flood plain of the Anacostia River; and, occasionally, this site has been subject to flooding.

Impact:

A bulkhead will be constructed at the site, along the edge of the Anacostia River. This measure should eliminate the possibility that the proposed site will be flooded during the usual springtime high water of the Anacostia River. However, the site will still be subject to some flooding during intense storms.

C. Socio-Cultural Setting and Impacts

1. Land Use and Development Controls

Setting

The Comprehensive Plan for the National Capital was adopted by the National Capital Planning Commission pursant to the National Capital Planning Act of 1952 as Amended, this document forms the bases for overall development stratiques of the Nations Capital.

The Administrator, General Services is an Ex-Officio Member of NCPC.

The "General Land Use Objectives: 1970/1985" element of the Comprehensive Plan for the National Capital indicates that this site is recommended for open space. The "National Open Space System 1970/1985" indicates that this site is as a part of the Anacostia Park of the National Open Space System. The March 6, 1975, draft of "A Plan for the South Capital Street/Buzzard Point area of the District of Columbia". prepared by the Interagency Task Force on South Capital Street/Buzzard Point in consultation with a Citizens Advisory Board and Property Owners Committee recommended this site for park and open space use.

Despite all the recommendations of the long-range plans for this area, the site is zoned M-general industrial. One of the uses allowed as a matter of right in this zone is an office building. The development of an office building is limited by a maximum FAR of 6 and height of 90 feet.

The zoning of the area surrounding the site is M, the same as the site. The present land uses surrounding the site are generally industrial. The PEPCO Plant is directly across Half Street and a concrete plant is to the north across T Street from the site.

Impacts

The primary impact upon existing site land use and surrounding area land use is represented by the potential return, from the vacant state of the site to a built-up condition. The use of this site for an office building would be economically beneficial to the city and would not adversely impact any of the surrounding land uses. It would also be a lesser use than the other uses permitted under the zoning.

However, the recommendation for using this site as park and open space and any other long-range development of this site will perclude for the life of this building.

2. Community Socio-Economic Character

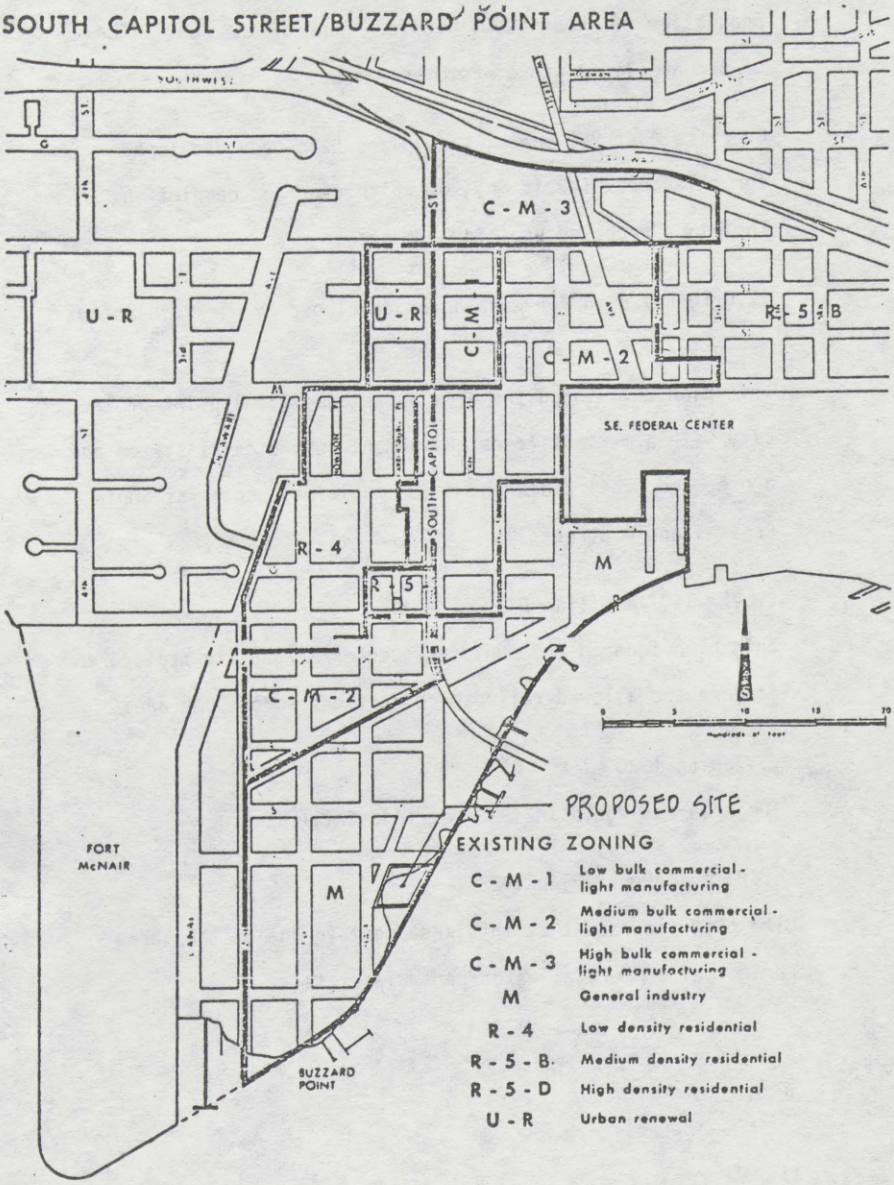
Setting

The proposed site is located within a section of Washington generally termed the South Capital/Buzzard Point area. The vast majority of the land in this area is zoned M or CM. This zoning is appropriate for several long standing heavy commercial and light industrial land uses in the area. A portion of the area is in the Southwest Urban Renewal Plan. The following is an approximate breakdown of the various zoning categories in the South Capital Street/Buzzard Point areas:

Zone	Acres	Percent
M	63.2	42
C-M-3	18.7	12
C-M-2	35.3	23
C-M-1	8.0	5
R-5-D	1.5	1
R-4	19.7	13
Urban Renewal	5.8	4
	152.2	

The area can be generally characterized as a blighted expanse of land containing a random mixture of row dwellings, open storage yards, oil tanks and poorly maintained vacant lots. This 167 acre track of land has a total residential

SOUTH CAPITOL STREET/BUZZARD POINT AREA



population of about 4,000 people. None of the population of the area is south of Potomac Avenue.

Over the past 200 years, many plans have been developed for this area, few if any, of which ever saw completion. The plans proposed uses for the area:

...Original plan for Washington developed by Pierre L'Enfant in 1971.

This plan envisioned the area as a major focal point of the city with a mercantile establishment on the canal system and a proposed great plaza and major municipal center at South Capital and G Streets.

...The 1907 McMillan Plan

This plan ignored the municipal center/mercantile feature and feature and allowed railroad connections across the area.

...Zoning 1920

The area was zoned in 1920 for industrial uses.

...Potomac Parks Plan 1928

The plan proposed that this area contain one of the three principal commercial waterfront districts.

...Comprehensive Plan for the National Capital and its Environs 1950

The plan anticipated major industrial development in the area.

...Proposed Physical Development Policies - Washington, DC 1965

The NCPC proposed the rebuilding of the South Capital Street corridor and Buzzard Point with mixed office and residential uses.

Subsequent planning efforts have expressed a basic continuity with the 1965 proposed policies. However, in spite of all the planning efforts, the South Capital Street/Buzzard Point area has not changed its essential character.

Impacts

The impacts of the proposed leasing of office space at this site, although in direct opposition to the long-range NCPC plans for the area, will upgrade the Socio-Economic conditions by providing a new building in deteriorated area and providing an incentive for developers to construct service facilities.

3. Aesthetic and Historic Environment

Setting

The area has little aesthetic value because of the random mixture of row dwellings, open storage yards, oil tanks and poorly maintained vacant lots.

Fort McNair is the only property in the vincinty of the proposed construction which is on the National Register of Historic Places. Fort McNair is approximately three blocks west of the proposed site.

Impacts

The new building and the landscaping which will be placed around can only enhance the aesthetic environment of the area.

The proposed facility will not have any impacts on the historic character of Fort McNair.

IV. ADVERSE ENVIRONMENTAL IMPACTS WHICH CANNOT BE AVOIDED

The new leased facility will generate more traffic in the area of the site than is there at the present time. To alleviate these impacts, carpooling and the use of mass transit will be encouraged. However, there will be some unavoidable congestion and additional air pollution during peak hours of traffic.

The leasing of the facility will require the expenditure of Federal funds. However, these costs are a normal part of an agency's operation and are necessary to perform its functions. The leasing of the facility also will require the expenditure of limited resources in the operation and maintenance of the facility--such as, water, electricity and energy for heating and cooling. The adverse impact on the total supply of these resources, however, is also a normal and necessary part of the operation of an office building. Furthermore, GSA subscribes to Energy Conservation Guidelines For Existing Office Buildings, which is used to decrease the required energy expenditure of buildings and space controlled by GSA.

V. ALTERNATIVES TO THE PROPOSED ACTION

A. No Action

If GSA does not proceed with its plans to acquire leased space for the consolidation and expansion of SEC, the following problems will be exacerbated: Difficulties with communications, administration, and office assignments will continue; and shortages of space to house the SEC's increasing volume of records will become more critical.

This alternative, moreover, would be dysfunctional to the responsibilities of SEC, in light of the increase in employment it requires to meet its statutory obligations. An increase in employment, without a corresponding increase in agency space to house these employees, would result in overcrowding, as well as difficult working conditions.

The expiration in 1976 of the lease for the SEC headquarters building at 500 North Capital Street also requires action by GSA.

B. Postponing of action until further study

Although GSA could postpone action on the acquisition of space until further studies of the situation are completed, this alternative would entail at least two undesireable consequences:

First, this alternative would require that GSA request from the offerors a fourth extension on their offers. The offerors could refuse this request. GSA would then be forced again to solicit for space; and when this procedure is followed, the space might be offered at a higher cost to the Government or there might not be any responsive offers.

Second, if action on the lease acquisition is postponed, the building might not be constructed or ready for occupancy until after the present lease expires. This situation would force the SEC to remain in its present space after the lease expires and would thus require either negotiations with the owner for an extension of the lease or, if an extension is not offered, then condemnation of the space.

C . Federal Construction

Federal construction of a facility to house the consolidation and expansion of the SEC is not possible within the constraints imposed by the expiration of the lease and the increasing requirements of the agency. Furthermore, a present value analysis, comparing direct Federal construction with leasing, indicates

that for a period of 30 years the construction of a Federal building adequate to meet all of SEC's needs would be significantly more costly than acquiring the required space under a lease agreement.[2]

In addition, GSA presently has a backlog of construction projects and proposals in the National Capital Region (NCR) that require the expenditure of funds. Therefore, construction of a building to meet the needs of SEC is not considered a feasible alternative in relation to GSA's total funding capabilities.

D. Renovation and/or Expansion of Existing Federally Owned Space

In the Washington, DC, area, no Government-owned buildings in GSA's inventory are available to meet the requirements of SEC. GSA does not expect that such buildings or space will be available in the near future.

VI. RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF MAN'S ENVIRONMENT AND THE MAINTENANCE AND ENCHANTMENT OF LONG-TERM PRODUCTIVITY

The proposed lease consolidation will permit some conservation of resources now expended in the operation of five separate locations.

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[2] See Appendix B.

The consolidation will provide a greater opportunity for employees to form carpools.

The leasing of this building for a long-term precludes the use of the site for any other purpose and would also preclude the implementation of a portion of the Comprehensive Plan of the National Capital in this area.

VII. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

The proposal will commit the expenditure of Federal funds for the term of the lease. When the building is occupied, the utilities necessary for its operation--including sewers, water, electricity, and energy for heating and cooling--will be committed for the term of the lease.

VIII. SUMMARY EVALUATION

Consolidation of the SEC through the acquisition of lease space is the most advantageous method of satisfying the requirements under the constraints imposed by the expiration of the lease at 500 North Capital Street. Utilities and services in the community are adequate to support the proposed facility.

No employee residential relocation will result from this lease consolidation since the proposed location is still in the proximity of the downtown area. However, since there is at present only one bus line serving the area, and the majority of employees using the

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line would require a transfer, it is not expected that there will be much demand for bus service. However, there will most likely be some change in the employee's commuting patterns because of the one bus route that serves the site. Should demand warrant it, WMATA would be contacted for additional service.

The majority of employees will commute to the proposed site by automobile and thus some additional traffic congestion and air pollution can be expected.

No architectural, archeological, or historical resources will be adversely affected by the proposed lease.

Mr. FINNEGAN. Let me just be sure now. As I understand the regulations that were in effect at that time, and I understand they were dated May 19, 1975, as far as GSA is concerned, they stated that the Office of General Counsel and the Department of Environmental Affairs must concur with the declaration before any further administrative action can be taken on the project. Is that your understanding of the regulation, Mr. Mulligan?

Mr. MULLIGAN. Mr. Chairman, I believe that is my understanding but I have it before me and to be precise I just would like to check.

[The document referred to follows:]

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

Public Buildings Service
Washington, DC 20405

DATE: MAY 19 1975

REPLY TO ATTN OF: Commissioner, PBS (P)

SUBJECT: Proposed GSA Order PBS 1095.

Assistant Commissioner for Operating Programs (3M)
All Regional Commissioners, PBS

The Administrator signed GSA Order ADM 1095.1, Environmental Considerations in Decisionmaking, on March 26, and it was published in the Federal Register on April 4. This administrative order established overall agency policy, while requiring PBS to establish and publish its procedures to further implement the Guidelines of the Council on Environmental Quality (CEQ).

Enclosed is a copy of the draft GSA Order PBS 1095., Implementation of Environmental Policy. It augments environmental policies of the administrative order in the areas of facilities planning, acquisition, construction, maintenance and operation, (excluding property disposal). This order is pending publication in the Federal Register as a draft in accordance with the CEQ Guidelines.

The current environmental procedures (GSA Order PBS 1095.1B) and related letters will be canceled and replaced by the attached draft GSA Order PBS 1095. as an interim order. This letter will remain in effect until the Order has been officially published in the Federal Register.

You will be notified immediately of any further procedural changes necessary to improve our environmental planning processes, or change in policy resulting from comments received during the public review period.

If you have any comments on the Order please send them to Mr. Carl W. Penland, Chief, Environmental Planning, in the Office of Space Planning and Management.

W. A. Nelsen, AIA
Acting Commissioner
Public Building Service

Enclosure

cc:All Regional Administrators, GSA

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

PBS 1095.1C
(Date)

GSA ORDER

SUBJECT: Implementation of environmental policy

1. Purpose. This order prescribes the procedures to be followed in implementing ADM 1095.1, Environmental considerations in decisionmaking; laws; Executive orders; and directives with respect to major actions which significantly affect the quality of the human environment. These laws, Executive orders, and directives include the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), hereinafter referred to as NEPA; Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality"; section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 407f); Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment"; Executive Order 11752 of December 17, 1973, entitled "Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities"; and the Guidelines issued by the Council on Environmental Quality (CEQ) for preparing environmental impact statements, hereinafter referred to as the Guidelines, published in the Federal Register August 1, 1973, 38 F.R. 21265 (appendix A). This order is applicable to PBS facility planning programs in acquisition, leasing, design, construction, management and alterations to GSA property.

2. Cancellations.

a. PBS 1095.1B is canceled.

b. Chap. 3, Part 3, dated, June 6, 1972, Environmental Considerations in Planning, GSA Order PBS P 7000.6 CHGE 5, subject: Space Requirements and Project Development, is canceled.

c. The letter dated April 9, 1974, from Deputy Administrator for Special Projects to all Regional Administrators, subject: Bureau of Prisons projects, is canceled.

d. The letter dated April 23, 1973, from the Acting Commissioner, PBS to All Regional Commissioners, PBS; All Assistant Commissioners, PBS; the Associate Commissioner for Project Management (PJ), subject: Environmental Impact Statements, is canceled.

e. The letter dated June 19, 1973, from the Acting Commissioner, PBS, to All Regional Commissioners, PBS, and Assistant Commissioner for Operating Programs (PM), subject: Environmental Assessments, is canceled.

f. The letter dated May 30, 1974, from the Deputy Administrator for Special Projects to Heads of Services and Staff Offices and All Regional Administrators, subject: Changes in Environmental Impact Statement Requirements, is canceled.

g. The letter dated October 3, 1974, from the Acting Commissioner, PBS, to All Regional Commissioners, PBS and the Assistant Commissioner for Operating Programs (PM), subject: Advanced Coordination on those projects which Might Affect Environmental and Historic Preservation, is canceled.

3. Background. Section 102 of NEPA directed all Federal agencies (a) to utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment; (b) to develop methods and procedures which will ensure that environmental concerns, effects, and values are given appropriate consideration with economic and technical issues in decisionmaking; and (c) to prepare detailed statements on recommendations or reports for legislative proposals and other major Federal actions that may significantly affect the quality of the human environment. Executive Order 11514 effectuates the purpose of NEPA, and the revised Guidelines to implement NEPA have been issued by CEQ.

4. Responsible officials for determining the course of environmental action. The Regional Commissioners, PBS, and the Assistant Commissioner for Operating Programs (3M) have the initial responsibility for making the threshold decision for (1) determination whether an action is "a major Federal action significantly affecting the quality of the human environment", and (2) the preparation of environmental assessments and submission of negative declarations or draft and final environmental impact statements. The PBS Assistant Commissioners and the Associate Commissioner for Project Management may request the preparation of environmental assessments, and/or draft and final environmental impact statements from the Regional Commissioners. However, when the proposed action has been designated as a project pursuant to GSA Order ADM 5400.24, Project Management in the Public Buildings Service, such determination shall be made only after consultation with the Project Manager.

a. Assistant Commissioner for Space Planning and Management (PR). PR shall be responsible for the overall direction of environmental protection within PBS for those policy and procedure programs listed in par. 1, above, and shall:

(1) Provide professional and technical guidance to Commissioner, PBS, Associate Commissioner and other Assistant Commissioners, PBS, and Regional Commissioners, PBS;

(2) Review, evaluate, and process for final approval by office of General Counsel (L); Director of Environmental Affairs (PWA); and Commissioner, PBS, negative declarations (supported by environmental assessments) and draft and final environmental impact statements (EIS);

(3) Consult with the Director, Environmental Affairs (PWA), and the General Counsel (L) on matters pertaining to environmental protection in PBS;

(4) Develop and coordinate service orders, regulations and guidance on the PBS environmental programs; and

(5) Assist the regional offices in scheduling environmental considerations to preclude delays in completing those actions defined in the Attachment, par. 14.a.

b. Assistant Commissioner for Operating Programs (3M) and Regional Commissioners, PBS. Responsible for direction and execution of environmental protection of regional PBS programs as defined in par. 4, above and shall:

(1) Maintain a continuing review of activities which have potential significant environmental impact as outlined in this order;

(2) Make initial decision on necessity for preparing a negative declaration or an EIS following preparation and review of the environmental assessment;

(3) Determine the need and the adequacy of an environmental assessment and justification for the writing and processing a negative declaration through PR, for a final approval of the Deputy Administrator for Special Projects, in timely manner;

(4) Prepare and process, through PR, draft and final environmental impact statements, and subsequently, distribute the EIS to Federal, State, and local officials and interested individuals not included on Central Office distribution list;

(5) Conduct public meetings, issue press announcements and maintain files for public review; and

(6) Prepare and monitor schedule for environmental considerations to preclude delays in completing those actions defined in the attachment, par. 14.a. This includes ensuring that, for prospectus projects involving delineated areas, draft EIS are submitted to Central Office concurrently with Project Development Reports, and final EIS are submitted concurrently with or immediately following Site Investigation Reports.

c. Assistant Commissioners for Buildings Management (PB), Construction Management (PC), and Associate Commissioner, Project Management Office (PJ). These officials shall be responsible for maintaining program reviews of EIS's to ensure program activities are compatible with environmental protection and in compliance with GSA Order ADM 1095.1, and illustrated by their review of the following:

(1) New technology, research and development;

(2) Initiation of new programs;

(3) Development and revisions to orders, handbooks specifications and directives to the field;

(4) Initiation of environmental assessments and environmental impact statement action; and

(5) Establishment of continual liaison and coordination with Office of Space Planning and Management on environmental protection programs.

5. Procedures. Environmental assessments and negative declarations prepared by the Regional Commissioners on planning, acquisition, and alteration programs are submitted to the Assistant Commissioner for Space Planning and Management to ensure full compliance with all applicable acts, orders and guidelines related to environmental planning. The Commissioner, PBS, is responsible for approving the draft environmental impact statement or negative declaration and transmitting the signed document to the Deputy Administrator for Special Projects through the Office

of General Counsel (L), and the Director of Environmental Affairs (PWA). The Office of General Counsel (L), and the Director of Environmental Affairs (PWA) must concur with the negative declaration before any further administrative action can be taken on the project. Draft and final environmental impact statement shall be signed by the Deputy Administrator for Special Projects for submission to the Council on Environmental Quality (CEQ), heads of Federal agencies, Governors, Senators, and Congressmen. Preparation of the draft environmental statement by the responsible official shall be with full cooperation and coordination with all other PBS officials as necessary. The draft and final environmental impact statement must be circulated as prescribed in GSA Order ADM 1095.1. After all comments on the draft statement are received, the regional office shall prepare a final environmental statement.

Additional procedures for implementing this order are contained in the attachment to this order.

6. Reports. The reports required by this order are exempt from reports control.

ATTACHMENT

Implementation of environmental policy

1. Determination of what is a "major Federal Action significantly affecting the quality of the human environment". This is in a large part a judgment based on the circumstances of the proposed action, and the determination shall be included as a normal part of the decisionmaking process.

a. Types of actions normally requiring an environmental assessment are:

(1) Recommendations or reports concerning legislation, including requests for appropriations, proposed by GSA or members of Congress resulting in physical action involving, but not limited to proposals for new Federal construction under the Public Buildings Act of 1959 as amended.

(2) Administrative action involving:

(a) Procurement of space through major lease-construction or construction of buildings for Federal agency use;

(b) Extensions, repair and alterations to public buildings;

(c) Use of GSA property through lease, permit, or license resulting in a significant change in usage of the property; and

(d) Proposed exchanges of real property to acquire sites.

(3) Formulation and issuance of regulations, procedures and policies which may have environmental consequences.

b. Actions significantly affecting the human environment are those that:

(1) Impact upon the environment even if on balance beneficial effects outweigh the detrimental ones;

(2) Curtail the range of possible beneficial uses of the environment including irreversible and irretrievable commitments of resources;

(3) Serve short-term uses rather than long-term environmental goals;

(4) May be localized in their effect, but nevertheless, have a harmful environmental impact; and

(5) Are attributable to many small actions, possibly taken over a period of time, that collectively can be defined as a major action with a significant impact (either adverse or beneficial).

2. Changes having an impact on quality of human environment. A significant change is any change which significantly alters, disrupts, destroys or transforms any aspect of the physical, social or aesthetic environment. Such a change may have either an adverse or beneficial impact on the quality of the environment.

3. Application of standards. In some cases where national, state, or local standards have been developed, the impact level determining significance is defined by the minimum acceptable level of the adopted standards. But, where national standards are involved there still may be geographical differences defined by local priorities which may warrant greater emphasis than is specified by the minimum standard.

4. Criteria. Factors having potential and identified impact which may gnificantly affect the quality of human environment, include, but are not limited to the following:

a. The readily recognizable physical factors; i.e., air and water quality, ambient noise levels, sewage and waste disposal, etc.

b. Changes in land use or zoning.

c. Socio-economic factors; i.e., proximity to low and moderate income residential housing on a nondiscriminatory basis, necessity for relocation of residential properties, changes in traffic patterns causing changes in mode of transportation, traffic congestion or increase in distance and commuting costs to the proposed building occupants; known public controversial aspects of the project, and

d. Cultural, architectural or archeological aspects of a project illustrated by possible infringement on historical properties or disturbance to important archeological artifacts.

5. Class actions and criteria. To clarify threshold decisions and to categorize class actions applicable to the environmental protection process, typical PBS actions have been identified as follows:

a. Category I., Projects which will almost always require EIS

(1) Master Plan

(2) Construction project

(a) Projects requiring preparation of a prospectus, Federal Construction or Lease Construction.

(b) Projects undertaken for another Federal agency where the assessment process identifies significant known or potential environmental impact(s). An example of a project undertaken which would always require an EIS (paragraph 4.c. above) is development of a Federal correctional center.

(3) All PBS projects where the assessment process identifies known or potential significant environmental impact.

(4) Alteration projects entailing laboratory space which will utilize dangerous or hazardous chemicals, drugs, or radioactive materials.

b. Category II., Projects which may require EIS or further assessments.

(1) Construction (non-prospectus) projects.

(2) Repair and alteration projects requiring a major change in energy requirement or source.

(3) Repair and alteration projects affecting architectural character of buildings of recognized historical importance.

(4) Major leases for new space in existing buildings where assessments have identified environmental controversy.

(5) Real property acquisitions in which the delineated area, but not the site has been identified. (See paragraph 6, below.)

c. Category III., Projects not requiring EIS (may require assessment and negative declaration)

(1) Superseding and renewals of lease space.

(2) Projects, any size, which must be undertaken immediately because of inherent fire, public or safety hazard. Regional Counsel is to be notified immediately.

(3) A project in which the Commissioner, PBS, with prior consultation with CEQ has determined that a public or governmental exigency is present. This would be restricted to projects where a limited environmental impact has been identified, but action taken to acquire or renovate property is not irreversible or irretrievable.

(4) Real property acquisitions already covered by EIS for the project or covered by an EIS on the master plan in which the proposed action has been identified and with no change in scope.

(5) Construction project, with no change in scope, which is an integral part of a master plan for which a final EIS has been filed, and all known environmental impacts are being mitigated.

(6) Upgrading of existing space without change in use or relocation of employees.

6. Negative declaration.

a. A negative declaration is a report of finding, developed to include a brief summary of environmental considerations analyzed and documented as an environmental assessment. The negative declaration is developed and submitted to the Deputy Administrator for Special Projects from the Commissioner, PBS, stating that an analysis of all environmental factors included in an attached assessment for a specific project has been completed.

b. The declaration must state that a review of all environmental factors has been completed and the determination has been made that the development of the project is not considered a major action significantly affecting the quality of human environment; including its impact on historical and cultural properties.

c. In the planning of a project for which the delineated area, but not the site, has been designated, and the environmental assessment provides full support to the negative declaration, the following additional

action must be taken by the Assistant Commissioner for Operating Programs (3M) or the Regional Commissioner, PBS. In view of the possibility of environmental impact on one or more sites within the delineated area, an updated assessment is to be prepared. Should the Assistant Commissioner for Operating Programs (3M), or the Regional Commissioner, PBS, conclude there are no known or potential significant environmental impacts following the site selection stage, he shall prepare and sign a confirmation of the negative declaration and document his project files accordingly. Such negative confirmation must have concurrence by Regional Counsel. The negative declaration need not be forwarded to the Central Office in these cases. However, should the updated assessment identify significant environmental impact, he shall proceed with the preparation of the environmental impact statement and notify the Commissioner, PBS, through the Assistant Commissioner for Space Planning and Management (PR). In such cases, it may be necessary to reissue the Solicitation for Offers or Invitation for Bid, or cancel further acquisition actions until the full EIS process is complete.

7. Environmental assessments.

a. The environmental assessment is one of the most important documents included in the decisionmaking process. It is the basis for judgment by the "responsible official" in his assessment of the proposed action, and can be entered as evidence in hearings and court actions. Therefore, it is of utmost importance that the assessment be a full disclosure document, giving the reader a clear picture of existing and projected environmental conditions, a complete but concise description of the proposed action, and an in-depth evaluation of possible or probable impacts, both primary and secondary, which may be either beneficial or adverse.

b. Each proposed project or action shall be reviewed and a determination made as to whether it constitute a "major Federal action." Regional Public Buildings Service officials should bear in mind that the effect of many decisions can be individually limited but cumulatively considerable. This can occur when over a period of years decisions by one or by a number of different agencies are made concerning certain types of projects or actions that individually are minor but collectively are major, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. In all such

cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from the Federal action. The following applies to planning for construction, repair and maintenance of public buildings.

(1) In the planning of projects, an environmental assessment shall be prepared at the Project Development stage. In compliance with OMB Circular A-95 and the CEQ Guidelines, the assessment must include a list of local officials contacted. The assessment will result in preparation of either a negative declaration or a draft environmental impact statement. As the project develops, all environmental considerations will be reevaluated periodically as confirmation of the earlier negative declaration or draft environmental impact statement.

(2) A report of the reassessment of environmental impact will be prepared for major repair and alteration projects and when a site is selected, working drawings and specifications are complete. This reevaluation will require a continuing analysis of GSA-PBS planning, acquisition, and alteration programs and shall be accomplished by the appropriate regional officials.

Draft environmental impact statement.

a. Draft environmental impact statements for historic properties shall be written to meet applicable requirements for compliance with section 106 of the National Historic Preservation Act of 1966 and Advisory Council on Historic Preservation Procedures for the Protection of Historic and Cultural Properties (36 C.F.R. part 800) and published in the Federal Register when the property may be affected by the proposed project or action to such an extent that a statement is required to be filed with the Advisory Council on Historic Preservation pursuant to section 106. Historic properties are defined as properties listed in the National Register of Historic Places or eligible for listing in the National Register. Contact with the State Historic Preservation Officer and the local historical society shall be documented in the statement. For further clarification on historic preservation procedures and how to determine eligibility for listing in the National Register, refer to GSA Order PBS 1022.1.

b. Each statement must reflect that the particular economic and technical benefits of its proposed action have been assessed and weighed against the environmental costs. In the early stages of preparation of the draft environmental statement, the office preparing the statement should consult with those Federal, State, and local agencies possessing expertise on potential impacts of a proposed action. This will assist in providing the necessary data and guidance for the analyses required to be included in environmental impact statements as described below:

(1) Coordination processes in accordance with OMB Circular A-95.

(a) Projects resulting in construction shall be reviewed for environmental impact. State clearinghouses must be consulted at the earliest practicable time in the planning of the project. In the development of a Project Development Report in the region, the Regional Commissioner is required to contact the appropriate state, regional and local clearinghouses and other appropriate officials in a formal A-95 process.

(b) In addition, a copy of the letter to the State Clearinghouse, issued in accordance with the provisions of this circular shall be forwarded to the Advisory Council on Historic Preservation and the Council on Environmental Quality.

(c) When the A-95 review process of a proposed project or when the consultation with the clearinghouses takes place prior to the filing of a draft environmental impact statement or negative declaration, the comments received represent inputs to the statement or declaration.

(d) Federal agency comments received prior to filing of statement shall be attached to copies of the statement being sent to the agency submitting the substantive comment. The statements being sent to clearinghouses shall include a listing of all agencies from which comments have been received.

(2) Technical content of draft statement: The EIS shall include:

(a) A description of the proposed action or a description of reasonable number of alternatives including the information and technical data adequate to permit a careful assessment of the environmental impact of proposed action(s) by commenting agencies. If available, copies of site maps and topographic maps at suitable scales showing the property and the surrounding area shall be provided;

(b) The probable impact of the proposed action(s) on the environment, including impact on ecological systems such as wildlife, fish, and other marine life; and on physical systems such as water runoff rates, quantities, and downstream impact on wetlands or flood plains. Consequences of direct and indirect impacts on the environment shall be included in the analysis. For example, any effect of the action on population distribution or concentration shall be estimated and an assessment made of the effect of any possible change in population patterns upon the resources of the area including land use, water supply, public services, and traffic patterns;

(c) Any probable adverse environmental effects that cannot be avoided, such as water, air, or noise pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of NEPA;

(d) A rigorous exploration and objective evaluation of possible alternative actions that might avoid some or all of the adverse environmental effects, including alternatives outside of GSA's authority to implement. Section 102(2)(D) of NEPA requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." Sufficient analysis of such alternatives, their costs, and their impact on the environment shall accompany the proposed action(s) through the agency review process so as not to prematurely foreclose consideration of options which might have less detrimental effects;

(e) The relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity. Include a brief discussion of the extent to which the proposed action involves trade-offs between short-term gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options. This, in essence, requires assessment of the action(s) from the perspective that each generation is trustee of the environment for succeeding generations;

(f) Any irreversible and irretrievable commitments of resources, i.e.; land, man hours, costs, natural and cultural resources, which would be involved in the proposed action(s) should it be implemented. Identify from the survey of unavoidable adverse impacts the extent to which the action(s) curtails the range of beneficial uses of the environment; and

(g) The economic costs and benefits of the proposed action with the environmental costs and benefits. Alternate courses of action must be discussed as to their effect upon this cost and benefit balance. If a formal cost benefit analysis on the proposed action(s) is prepared, it shall be submitted with the statement. However, information furnished by property owners, appraisers, or public officials such as site offers, estimated site costs, appraisal reports on subsequent site selection or negotiations to acquire sites, shall not be included in draft or final EIS.

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9. List of draft environmental statements and negative declarations.

a. To provide timely public notice and understanding of PBS projects and actions that may have an environmental impact and to obtain the views of interested parties, Regional Commissioners and Assistant Commissioner for Operating Programs shall establish an early notice system for informing the public of the decision to prepare a draft environmental statement on proposed construction, repair, and improvement projects. A list will be maintained of all projects or actions for which environmental statement will be prepared. This list shall be updated weekly. The list shall be available for public inspection. Regional Commissioners and Assistant Commissioner for Operating Programs shall submit early warning lists to the Assistant Commissioner for Space Planning and Management, for compilation and forwarding to PWA, as a basis for agency-wide, quarterly reporting to CEQ. Regional lists are to be submitted to PR normally by c.o.b. March 1, June 1, September 1, and December 1 of each year.

b. If it is decided that an environmental statement is not necessary for a proposed project or action (1) which normally requires the preparation of a statement, (2) which is similar to actions for which a significant number of statements have been prepared, (3) which has previously been announced would be the subject of a statement, or (4) for which a negative declaration has been made in response to a request from CEQ pursuant to § 1500.11(f) of the Guidelines, Regional Commissioners and Assistant Commissioner for Operating Programs shall prepare a publicly available record briefly setting forth the decision and the reasons for the declaration.

c. The list of such negative declarations, and any evaluations made to support the declaration or which conclude that preparation of a statement is not yet timely, shall be prepared and made available to the public on request in the same manner as provided for lists of statements under preparation. (See par. 9a, above.)

10. Public meetings.

a. Each major Federal action having a possible adverse effect on the environment will be evaluated to determine whether a public meeting should be held. Consideration will be given to the following elements in deciding whether a public meeting is appropriate:

(1) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitments of the resources involved;

(2) The degree of interest or probable opposition to controversial items in the proposal, as evidenced by requests from the public and from Federal, State, and local authorities that a meeting be held;

(3) The complexity of the issue and the likelihood that information will be presented at the meeting which will be of assistance to the agency in fulfilling its responsibilities under NEPA; and

(4) The extent to which public involvement already has been achieved through other means, such as earlier public meetings, meetings with citizen representatives, and/or written comments on the proposed action.

b. Draft environmental statement will be made available to the public at least 15 calendar days prior to the time of such meetings, unless the meetings are held prior to the preparation of the statement.

11. Submission and distribution of draft environmental statement. Initially, draft environmental statements shall be processed as follows:

a. Three copies of the preliminary draft environmental impact statement for construction, repair and alteration projects shall be transmitted to the Assistant Commissioner for Space Planning and Management, (PR). All Central Office comments on the preliminary draft shall be consolidated prior to being returned to the regional office for preparation of the draft environmental impact statement. The draft statement shall be submitted to the Assistant Commissioner for Space Planning and Management, (PR).

b. When the Assistant Commissioner for Space Planning and Management determines that the statement is satisfactory, he shall forward the statement to the Office of General Counsel, Director of Environmental Affairs, and the Commissioner, PBS, for concurrence, approval, and submission to the Deputy Administrator for Special Projects. The Deputy Administrator for Special Projects will sign the transmittal letters soliciting comments on the draft environmental statement to CEQ, heads of Federal agencies, the appropriate Congressmen, Senators, and Governor of the State which is affected by the proposed action.

c. For prospectus projects, the preliminary draft environmental impact statement is to be submitted with the Project Development Report.

d. On the day the Deputy Administrator for Special Projects signs the transmittal letters to CEQ, etc., sufficient copies of the numbered, dated statement shall be sent to the responsible Regional or Assistant Commissioner who shall sign transmittal letters, and distribute copies of the statements to appropriate local officials, to Federal, State, and local agencies, special interest groups, and the public for comments. In addition, the comments of appropriate state, regional, or metropolitan clearinghouses (using the procedures in the Office of Management and Budget Circular No. A-95, Revised) shall be solicited unless the Governor of the state involved has designated some other point for obtaining this review.

e. The Council on Environmental Quality (CEQ) will publish in the Federal Register lists of environmental statements received during the preceding week that are available for public comment. The date establishing minimum period of review and advance availability of draft EIS will be calculated from the second Friday following the filing of the statement with CEQ. Draft environmental statements shall be made available to the public without charge to the extent practicable or at a fee which is not more than the cost of reproduction. EIS will also be made available for public review in PBS Central Office and Regional Commissioners' offices during normal working hours.

f. Regional Commissioners and Assistant Commissioner for Operating Programs shall maintain a list of groups, including relevant conservation commissions, known to be interested in PBS activities. In addition, a list shall be maintained of individuals and groups who have requested an opportunity to comment on a project or action. A copy of the draft environmental statement shall be distributed to the individual or groups who have expressed an interest in the project or action covered by the statement.

g. Notice of availability of the draft environmental statement shall be published in one or more local newspapers.

h. Federal agencies which have "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards" shall be asked to comment on draft environmental impact statements. These agencies are listed in appendix II of the CEQ Guidelines. Appendix III of the Guidelines lists offices within Federal agencies and Federal-state agencies that have information regarding the agencies' NEPA activities and receive other agencies environmental statements for which comments are requested. Draft environmental statements shall be submitted for comment to the regional

contact points of agencies being consulted when such offices have been established pursuant to section 1500.9(a) of the Guidelines.

j. In implementing the provisions of section 309 of the Clean Air Act, as amended, the responsible official will submit to the appropriate regional office of EPA for review and comment seven (7) copies of all draft environmental impact statements.

12. Preparation of final environmental statements. The final environmental impact statement shall incorporate GSA-PBS responses to all substantive comments submitted by other Federal agencies, local and state officials, individuals and groups. The sections of the statement where change has occurred will be marked by a vertical line in the margin, unless the final differs substantially from the draft. Where opposing professional views and responsible opinion have been overlooked in the draft statement and are brought to our attention the action should be reviewed in light of these comments and a meaningful reference made in the final statement to the existence of these responsible opposing views which were not adequately discussed in the draft statement as well as GSA's position on the issues raised. All substantive comments received on the draft (or summaries thereof where comment has been exceptionally voluminous) should be attached to the final statement, whether or not each comment is thought to merit individual discussion in the text of the statement. PWA will coordinate summarization of comments for forwarding to CEQ.

13. Submission and distribution of final environmental statements.

a. Following Central Office approval of preliminary final EIS (procedure similar to paragraph 11.a., above), the PBS regional office shall transmit the original and three copies of the final environmental statement as soon as practicable to the Assistant Commissioner for Space Planning and Management, (PR), on construction, repair and alteration projects and acquisition of real property. The original copy of the final environmental statement shall include the original copy of all comments received and exhibits on the draft environmental statement. After review and approval, the necessary copies of the final text of the environmental statement and comments received shall be sent to the Office of General Counsel, the Office of the Commissioner, PBS, and the Director of Environmental Affairs. Upon review and concurrence, the final statement will be sent to the Deputy Administrator for Special Projects for submission to CEQ and appropriate officials.

b. Copies of final statements, with comments attached, shall be sent to all Federal, State, and local agencies and private organizations, clearinghouses and individuals that made substantive comments on the draft

statement and to individuals who requested a copy of the final statement, as well as any applicant whose project is the subject of the statement. Copies of final statements shall in all cases be sent to the Environmental Protection Agency to assist it in carrying out its responsibilities under section 309 of the Clean Air Act. Where the number of comments on a draft statement is such that distribution of the final statement to all commenting entities appears impracticable, the Assistant Commissioner for Space Planning and Management, (PR), will notify PWA and request that CEQ be consulted concerning alternative arrangement for distribution of the statement.

14. Time requirements for review of draft and final environmental statements.

a. No action is to be taken sooner than 90 calendar days following commencement of the review period for the draft EIS, nor should such action be taken sooner than 30 calendar days after the final environmental statement has been made available to CEQ, commenting agencies, and the public. The term "action", as used in this subparagraph shall mean issuance of a notice to proceed pursuant to a construction or demolition contract, acceptance of offers to sell, vesting of title, relocation and issuance of the 90 day letter required by Section 301(5), Public Law 91-646 and other such activities. Certain procedures are to be excluded from this prohibition (i.e., continuance of design, contracts for appraisal reports, title evidence and surveys, and negotiations for site acquisition). The determination of whether or not another action is an "action" as used in this subparagraph shall be made by the Commissioner, of PBS with the concurrence of the Office of General Counsel and PWA.

b. A time limit of 45 days is provided for comment to the draft statement. If no reply is received from those consulted or a request for an extension of time in which to comment, it will be presumed that the agency or party consulted has no comment to make. When time permits, an extension of the commenting period of up to 15 calendar days may be granted.

c. If the final text of an environmental statement is filed at least 60 calendar days after the notice is published by CEQ in the Federal Register, the 30-day period and 90-day period may run concurrently to the extent that they overlap.

d. Where emergency circumstances make it necessary to take a major Federal action with significant environmental impact without observing the provisions of the Guidelines concerning minimum periods for agency review, the Assistant Commissioner for Space Planning and Management, PR, will advise PWA of the nature of the action and need for requesting an exception to standard procedures. If PWA concurs, he shall obtain the approval of the Commissioner, PBS, and the Deputy Administrator for Special Projects for the exception and consult with CEQ concerning alternative arrangements. Similarly, where there are overriding considerations of expense to the Government or impaired program effectiveness, PWA will consult with CEQ concerning appropriate modifications of the minimum periods.

15. Amendment of draft or final environmental statement. Responsible regional PBS officials shall keep abreast of any substantial changes in the proposed action that may develop or significant new information that becomes available concerning its environmental aspects. These circumstances shall be evaluated to determine whether the draft or final environmental impact statement should be supplemented or amended. Supplements or amendments to the statements will be issued, as appropriate. Notice of the development will be given to PWA by the Assistant Commissioner for Space Planning and Management, PR. PWA should consult with CEQ with respect to the possible need for or desirability of recirculation of the statement for the appropriate period.

16. Responsibility for draft and final environmental impact statement preparation in multi-agency actions.

a. Except as provided in subpar. (b) below, when GSA and one or more agencies (1) directly sponsor an action, or are directly involved in a group of actions directly related to each other because of their functional interdependence and geographical proximity, a "lead agency" shall be designated to assume supervisory responsibility for preparation of the statement. Factors relevant in determining the appropriate "lead agency", include the time sequence in which the agencies become involved the magnitude of their respective involvement, and their relative expertise with respect to the environmental effects of the actions. Where there is a question as to the primary responsibility for statement preparation, the matter will be referred to the Deputy Administrator for Special Projects for referral to CEQ for resolution. However, it is possible for a statement to be submitted jointly by all agencies concerned with the comments being returned to a single designated agency official. In cases where GSA is the "lead agency" and one or more agencies have partial responsibility for the action, the other agencies shall be requested to provide such information to the responsible PBS official as may be necessary to prepare a suitable and complete environmental impact statement. If another agency is designated to be the "lead agency", the criteria for statement preparation for that agency shall apply.

b. The General Services Administration (GSA) will serve as the lead agency in all projects involving construction of buildings by the Public Buildings Service.

17. Format requirement

a. Type draft and final environmental impact statement on white paper with clear black type;

b. The statement number will be assigned in Central Office by the Assistant Commissioner for Space Planning and Management, (PR), in accordance with PBS Information System procedures;

c. Prepare a summary sheet in accordance with the format prescribed in appendix I of the CEQ Guidelines and attach to the environmental statement as the second page; and

d. Prepare a cover sheet for each environmental statement.

Mr. FINNEGAN. I am reading from paragraph 5 going over to the next page.

Mr. MULLIGAN. What paragraph?

Mr. FINNEGAN. It is marked So-Called Procedure under the heading Procedures. It is PBS 1095.1c, the first full sentence on the top.

Mr. MULLIGAN. Yes. I just read it and what you stated is accurate.

Mr. FINNEGAN. I gather that you, Mr. Mulligan and Mr. Kauders, were the two gentlemen referred to in that regulation, is that correct? The positions referred to in that regulation, is that right?

Mr. MULLIGAN. Yes, that is correct.

Mr. FINNEGAN. You were from the Office of General Counsel and he is the Director of Environmental Affairs, is that correct?

Mr. KAUDERS. That is correct.

Mr. FINNEGAN. Now both of you gentlemen refused to sign off on it as this regulation requires, is that correct?

Mr. KAUDERS. That is correct.

Mr. FINNEGAN. Despite that Mr. Peyton did sign it on June 3, 1975? He signed the negative declaration?

[The document referred to follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 3, 1975.

Attention: Acting Commissioner, PBS–P
Subject: Environmental Negative Declaration for a proposed lease, Tauber Property.

Deputy Administrator for Special Projects—P

Description.—Based on the attached Environmental Assessment prepared for the Tauber property located on the Anacostia River between T, Water and U Streets, SW., in the District of Columbia, the proposed lease acquisition of approximately 365,000 square feet of office space and 95,000 square feet of parking in this location does not have a significant effect on the environment. The site of the proposed facility is not on the National Register of Historic Places.

Declaration.—Pursuant to the provisions of PBS Order 1095.1B and the Guidelines of the Council on Environmental Quality, this is to advise you of our determination that the above proposed lease is an action which is not considered to be a major Federal action significantly affecting the quality of the human environment.

T. L. PEYTON, Jr.,
Acting Commissioner, Public Buildings Service.

Mr. DINGELL. Is Mr. Peyton here?

Mr. GALUARDI. Mr. Peyton's father died and is being buried this morning.

Mr. DINGELL. I see.

Mr. FINNEGAN. Can you tell me why Mr. Peyton signed this or was he directed to sign it by anyone, Mr. Galuardi?

Mr. KAUDERS. I cannot answer why he signed it.

Mr. GALUARDI. I was not involved in the process so I don't know.

Mr. FINNEGAN. You were advised——

Mr. GALUARDI. I was advised by the Administrator that the environmental assessment could be signed so I could proceed with the award of the lease.

Mr. DINGELL. Why was it signed by the Administrator as opposed to being signed by the Regional Administrator? Can you explain that?

Mr. GALUARDI. The assessment is normally signed by the Commissioner of the Public Buildings Service.

Mr. DINGELL. Why was it signed by him as opposed to the person who held your particular office?

Mr. GALUARDI. Because the procedure at that time was the assessments on all projects nationwide had to go to the central office.

Mr. KAUDERS. That is right.

Mr. GALUARDI. I don't know; do we still have a delegation? It is being delegated now to the region.

Mr. FINNEGAN. Mr. Kauders, do you know of anybody else, these gentlemen or anybody else, who had contact with these people during the course of this solicitation?

Mr. KAUDERS. Not to the best of my knowledge.

Mr. FINNEGAN. Mr. Cook, did you have any contact with any of these people?

Mr. COOK. No direct contacts. I did attend an NCPC meeting on May 20, 1975, and at that meeting NCPC and city officials expressed their opposition to the acquisition of the Buzzard Point property. You have a report that I had written on the matter and I was not certain where it was going. I prepared the report and gave it to my supervisor, Mr. Gural, who in turn forwarded it to Mr. Long.

Now I was not sure who else was to receive it. I thought that since Mr. Nixon had been involved in this thing that he in turn would have received a copy and would have relayed it to Mr. Sampson or Mary Foster or someone but I have no knowledge that they did receive the memo itself or had received any oral indication of its contents.

[The report referred to follows:]

MAY 22, 1975.

To: Mr. I. Jack Gural
From: Wayne B. Cook
Re: NCPC Meeting on Buzzard's Point

On Tuesday, May 20, I attended a special meeting held in the office of Mr. Conrad, executive director of the National Capital Planning Commission. This meeting was held at the request of Ben Gilbert, director of the D.C. municipal planning office; and about 15 officials of D.C. or area agencies attended. (See the attached list of individuals who were present.)

The special meeting was held because Mr. Conrad and the D.C. municipal planning office were highly concerned about GSA's tentative plans to procure additional office space at Buzzard's Point in Washington, D.C. Although all of the individuals at the meeting were opposed, some of them vigorously, to GSA plans, these viewpoints were most forcefully presented:

Robert Romanowski: He mentioned the possibility that the National Capital Park Service might acquire the property GSA wanted to use for office space, but he was not certain that the Park Service would want to pay such a high price—possibly $1.25 million. He wanted NCPC to consider and adopt a resolution at its next meeting, on May 29, that would express formal opposition to GSA's plans. He admitted that GSA's plans might have benefits—including a place to work for individuals who might eventually live in the area as a result of housing programs. GSA's plans, he believed, also might mean economic advantages or savings for the agency during the current recession; i.e., the project might be less expensive than one at another location. Nevertheless, he thought the plan would "wreck" overall proposals for the area.

Ben Gilbert: He thought GSA's plans did not conform to the overall plan for the Capital; and this factor, he believed, might convince Mayor Washington to oppose GSA's plans. Zoning laws, he admitted, gave GSA a "building permit vested" at Buzzard's Point. He could not ascertain any legal procedure that might prevent GSA's plans, and he regretted this situation. Nevertheless, he noted that a recent letter to GSA from NCPC, with the concurrence of the National Capital Park Service, stressed the need for low-density development in the Buzzard's Point area. He wanted to present Mayor Washington with

a detailed report that might firmly persuade the Mayor to oppose GSA's plans. (Gilbert, more than any other individual, was concerned about GSA's plans.)

Mr. Conrad: He was convinced that GSA's proposals did not conform to the overall plan for the National Capital, and he noted that Mr. Sampson had previously supported the details of this plan, including those for the Buzzard's Point area. He mentioned that this area had no mass transit; that automobiles were necessary for access; that any Metro station would require a long time to construct in the area; and that GSA's proposals would detract from plans to maintain or up-grade the center of Washington, D.C., as the primary locus of employment. He regretted that the NCPC's "Urban Rivers Plan" was not yet fully developed, since this plan might have curtailed new projects for office space at Buzzard's Point and other locations along shorelines.

Conrad hoped that Mayor Washington's office, after receiving reports from Gilbert, would lead the opposition to GSA's plans. Conrad thought if the opportunity arose, the NCPC most likely would adopt a resolution against these plans. He suggested that a letter to Mr. Sampson and a discussion with Mr. Gural also would be appropriate. He hoped that GSA would delay signing any lease for additional office space at Buzzard's Point until the entire matter was given more careful consideration.

During the meeting, different individuals mentioned that GSA would be required to issue an environmental impact statement for the proposed project at Buzzard's Point. Certain organizations or individuals, it also was noted, might try to stop GSA's actions by filing lawsuits. One individual at the meeting stated that GSA's plans were "unconscionable," and the group definitely seemed to agree with this characterization.

KEY INDIVIDUALS ATTENDING THE NCPC MEETING OF MAY 20, 1975

Mr. Conrad, executive director of the National Capital Planning Commission.
Mr. George Oberlander, staff member of the NCPC.
Mr. Terry O'Connor, staff member of the NCPC.
Mr. Sam Frazer, staff member of the NCPC.
Mr. Benjamin Gilbert, director of the D.C. municipal planning office.
Mr. Paul Rusinko, staff member of the D.C. planning office.
Mr. Nanuk Manku, staff member of the D.C. planning office.
Mr. Robert Romanowski, staff member of the National Capital Park Service.
Mr. Richard Stanton, staff member of the National Capital Park Service.
Mr. Saul Finn, staff member of the Redevelopment Land Agency of D.C.
Mr. Robert Page, staff member of the Economic Development Office of D.C.
Mr. William Williams, staff member of the Military District of Washington, D.C. (DOD).
Mr. Frank Mosca, staff member of the Highways Department of D.C.
Mr. Russell Neff, staff member of the Washington Metropolitan Area Transit Authority.

Mr. FINNEGAN. Did you write a memorandum other than that to any of these five people?

Mr. COOK. I had no direct dealings with them.

Mr. FINNEGAN. Before I go on, Mr. Cook, are you aware of anybody else having any direct contact whatsoever from the time of the solicitation to the actual award with regard to any matters?

Mr. COOK. Well, there were so many people involved in this affair that I could not help but hear a rumor or two as to which person was giving the orders and that sort of thing, and they have all been mentioned here.

Mr. FINNEGAN. All of the rumors have been mentioned?

Mr. COOK. All of the parties, Mark Morse being the go between.

Mr. FINNEGAN. I am sorry.

Mr. COOK. Mark Morse being the go between between the central office and the regional office.

Mr. FINNEGAN. I see. There were no other rumors; as you say, they have been addressed here.

Mr. COOK. I am not sure. You mean what kind of——

Mr. FINNEGAN. I am not sure what you mean by rumors.

Mr. COOK. I mean just the names that have been mentioned here were the ones that had been brought to my attention but as far as what involvement they had at the top of the decisions, I had no idea.

Mr. FINNEGAN. Mr. Downs.

Mr. DOWNS. I had no dealings whatsoever with any of those people and for the record I would like to say that roughly during the time that Mr. Fowler provided information on offers to Mr. Morse on that particular case I provided them to Mr. Morse on a totally unrelated case so perhaps that practice was not that unusual.

Mr. DINGELL. Gentlemen, we have presumed overly long on your time and I think in fairness to all we should recess for lunch at this time. Can anybody give us a response to the questions before we do so, however? Can anybody give me a response as to the whereabouts of Mr. Eckerd and whether he is away on official business?

Mr. BORWICK. Mr. Chairman, I called Mr. Eckerd's office and talked to his secretary and she told me that Mr. Eckerd was in Florida on vacation. All I can tell you is what she told me. We are checking further to get more precise information.

Mr. DINGELL. We appreciate your assistance. We probably will want more precise details as to his whereabouts, his absence.

The Chair does advise that after we finish with you gentlemen we will be hearing from Mr. Harrison who I understand has some concerns about the inquiries of this committee. I notice he is seated at the back of the room there near the door.

Mr. HARRISON, I trust that you will be available to us when we finish with our other witnesses. We will be hearing from you and I am sure that you will appear before us in the spirit of cooperation which we always look for from your Agency.

Mr. BORWICK. Mr. Chairman, for the record I would like to state that Mr. Eckerd's secretary phoned me that this trip had been planned since August 3.

Mr. DINGELL. I see. We thank you for that.

Mr. GALUARDI. Mr. Chairman, could I get something into the record, sir?

Mr. DINGELL. Certainly.

Mr. GALUARDI. I think we have gotten an impression here that Mr. Sampson, as the Administrator, getting involved in a lease matter in region 3——

Mr. DINGELL. I sort of get that impression.

Mr. GALUARDI [continuing]. Would be unusual but it would not in this instance because—I don't have my record or my calendar here but I do know that I held meetings with Mr. Sampson. Now Mary Foster being his Special Assistant sits in on all meetings for the purpose of note taking and acting as followup and Mary Foster at various meetings could have been involved in it but we were aware of a controversy developing on this because of the fact that the SEC was interested in only obtaining the building which was being constructed next door to their present location.

Mr. DINGELL. And were not in fact interested in the building at Buzzard Point.

Mr. GALUARDI. Neither building would they have been interested in.

On February 6, 1975, Mr. Garrett wrote to Mr. Sampson and therefore it would have come to his direct knowledge and he was appealing to Mr. Sampson the decision that I had made as the Acting Regional Administrator to amend the solicitation and expand the field of competition. So at least from February on it would be appropriate that the Administrator would have gotten involved in this because again under the Executive Order 11512 if we ended up where we did it would have been necessary for the Administrator to have consulted and ordered and to do all the necessary things under the Executive Order which are not within the prerogative of the Regional Administrator. The Regional Administrator can only take the case to the Administrator and ask him to fulfill the obligation of the Executive Order 11512.

[The letter referred to follows:]

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., February 6, 1975.

Mr. ARTHUR F. SAMPSON,
Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. SAMPSON: I am writing to express my grave concern over the space problems of the SEC and the current status of efforts to resolve them. As you may know, we recently received a letter from Acting Regional Administrator Galuardi (copy attached) indicating GSA's decision to extend the delivery date of our new headquarters building by one year to July 1, 1976.

Implementation of this decision would continue existing impediments to the effective discharge of our statutory responsibilities for an additional year. The separation of our files and support services from our operating divisions, for instance, has caused unnecessary delays in the processing of registration statements for public offerings and proxy statements for shareholders' meetings, as well as other filings. Our ability to respond promptly to inquiries from members of the public and members of Congress has also been impaired. Professional personnel, principally attorneys, accountants and financial analysts, comprise a high percentage of the agency's total personnel, and the cramped quarters in which these persons presently must work limit their efficiency.

The decision is also of concern to me because our current lease expires in April, 1976 and we have no indication of what will be done with us from that time until a new building is ready for occupancy. My concern is intensified by the fact that the Commission's staff has been tolerating the inconvenience of over-crowded office space and separate locations with the expectation that these problems will be resolved in the near future. The postponement of relief from these conditions for an additional year will create staff morale problems which I am anxious to avoid.

By way of background, my predecessors and other senior staff officials have been working with GSA since April, 1972 in an attempt to secure adequate space to meet this agency's expanding needs. The Commission's space difficulty began in 1971, with the first in a series of substantial staff increases. We obtained some "temporary" relief, at the cost of a considerable lessening of effectiveness, by acquiring space at 11th and L Streets, NW in August, 1972. Following that acquisition, Chairman Casey expressed the view that a new headquarters SEC building would be needed by mid-1974. As is became apparent that we would not have a new building by then, we acquired additional blocks of space at L Street, with additional costs in effectiveness.

All of the subsequent documents, the initial prospectus drafted in January, 1973, our letter to OMB in mid-1973, the final prospectus approved by Congress in October, 1974, and the initial solicitation from GSA in November, 1974 contained explicit or implied indications that we would move by mid-1975. Consequently we have absorbed our most recent staff increases within our existing space, feeling the taxpayer would be better served by a brief period

of crowding and inconvenience on our part than by the expense of an additional interim move.

In view of Acting Regional Administrator Galuardi's decision to extend the delivery date to 1976 I believe that a meeting with you to explore two areas would be helpful. First, I would like to make sure that every reasonable prospect for obtaining a new headquarters building in 1975 has been exhausted. In this regard, we have been particularly interested in 400 North Capitol Street, a building under construction immediately adjacent to our present building which seems to fit our needs perfectly: it is large enough to allow consolidation of all our Washington offices, it has ample parking facilities, it is close to Union Station, it would avoid disrupting employee commuting arrangements, and it would be ready for occupancy within an acceptable time period. We are aware that the owners of this building responded to GSA's solicitation for offers, and we assume it is their bid which Mr. Galuardi referred to as beng the only single offer received for total consolidation of the SEC in one building. We have insufficient information to evaluate the appropriateness of the proposed rental prices in this bid, but members of your staff have indicated to us that they are high. In view of this building's apparently unique capability to fill our needs, we want to assure that every possible step has been taken to determine whether the price is, in fact, unreasonable.

It could well be that alternative locations are similarly high, reflecting the unfortunate but real impacts of inflation, the high cost of money, and the requirements of meeting the demands of the Architect of the Capitol and the Fine Arts Commission. If the rental price of the building is in fact too high, we would hope that GSA would exert every possible effort to negotiate the owners into a range that is consistent with the Congressionally approved prospectus.

Second, if it appears that the only alternative available to us is to re-solicit bids and extend the delivery date of our new building, I would like to do all that is within my power to assure that our two agencies work together closely to procure satisfactory space as quickly as possible. I would be grateful for any suggestions you may have in this regard.

I will call you next week to arrange a suitable time for a meeting.

Sincerely,

RAY GARRETT, Jr.,
Chairman.

Mr. DINGELL. Thank you. We will explore that further after lunch.

Ladies and gentlemen, we thank you. We thank you for your assistance to us.

We will reconvene at 2:30 p.m. The subcommittee will stand in adjournment until then.

[Whereupon, at 1:30 p.m., the subcommittee recessed to reconvene at 2:30 p.m. the same day.]

AFTER RECESS

[The subcommittee reconvened at 2:40 p.m., Hon. John D. Dingell, chairman, presiding.]

Mr. DINGELL. The subcommittee will come to order.

At the time the subcommittee recessed, the Chair had recognized Mr. Finnegan for the purpose of asking questions and the Chair at this time again recognizes Mr. Finnegan.

Mr. FINNEGAN. Thank you, Mr. Chairman.

After the solicitation was amended in January of 1975, I understand that the amendment was to extend the date of delivery of the building to July of 1976; is that correct?

Mr. GALUARDI. That is correct, sir.

Mr. FINNEGAN. All right. What happened after that in terms of bidders for that new solicitation? Who were the additional or new bidders?

Mr. GALUARDI. Well, the new bidders or the new offerors that came in under the amended solicitation was Southwest Joint Venturers, Dr. Tauber, and Union Center Plaza, Steven Bernstein, and the 400 North Capitol, Brophy Associates.

Mr. FINNEGAN. Would you tell me when the bid came in for the so-called Buzzard Point building, Dr. Tauber's bid?

Mr. GALUARDI. My notes here say February 14, and is that correct in the record?

Mr. ESCHBACHER. Yes, that is correct.

[The documents referred to follow:]

WESTWOOD MANAGEMENT CORP.,
Bethesda, Md., February 14, 1975.

Mr. EARL W. ESCHBACHER,
Acting Chief, Metro Operations Branch, Space Management Division, Office of Operating Programs, Washington, D.C.

DEAR MR. ESCHBACHER: In the form stated our bidding price is $6.20 per square foot and the Government pays all utilities in the building. I would like to mention that we have applied for special consideration to reduce the number of car parking spaces requested the same as we did for the Buzzard's Point Building. In that case we will be able to deliver 400,000 net rentable square feet. We have made certain changes in the plans to qualify for this solicitation; however, if and when the reduction of parking required is achieved, we will make the changes accordingly.

In summary, we will give you the minimum requirements of your solicitation, but possibly, we can give you the maximum.

I would like to call your attention to the fact that we are not increasing the price per square foot for the option period since we are protected in the cost of operating the building every three years.

Very truly yours,

LASZLO N. TAUBER, M.D.

GENERAL SERVICES ADMINISTRATION - PUBLIC BUILDINGS SERVICE
PROPOSAL TO LEASE SPACE
TO THE UNITED STATES OF AMERICA

IN RESPONSE TO REQUEST
NO. 697 DATE Dec.9, 1974

In compliance with and subject to the provisions of the above-identified request and the General Provisions (Standard Form 2-A), and such attachments and schedules listed on the cover sheet of the request all of which are incorporated herein and made a part hereof, the undersigned hereby offers and agrees, upon acceptance of this proposal, by the date specified in the request, to lease to the United States of America the following-described premises upon the terms and conditions herein specified:

1. DESCRIPTION OF PREMISES

A. BUILDING NAME AND ADDRESS *(Include ZIP code)*: 1900 Half Street, S. W.
Washington, D. C.

B. SPACE IN ENTIRE BUILDING — NET USABLE SQUARE FEET

OFFICE	STORAGE	OTHER *(Specify)*
363,000	-0-	Parking 808 cars

C. NO. OF FLOORS	D. TYPE OF CONSTRUCTION	E. LIVE FLOOR LOAD CAPACITY *(Lbs./Sq. Ft.)*	F. AGE OF BUILDING	G. DATE AND METHOD OF ACQUISITION
9	concrete	100 psf	new	

2. AMOUNT OF NET USABLE SPACE OFFERED AND SQUARE FOOT RATE

	INITIAL TERM (1) SQUARE FEET	(2) SQ. FT. RATE PER YEAR	(3) SUBTOTAL	RENEWAL TERM(S) (4) SQ. FT. RATE PER YEAR	(5) SUBTOTAL
a. OFFICE	363,000	x $ 6.20	= $2,250,600	$6.20	= $ 2,250,600
b. STORAGE		x $	= $ - 0 -	$	= $ - 0 -
c. SPECIAL		x $	= $ - 0 -	$	= $ - 0 -
d. TOTAL	363,000		TOTAL $2,250,600	*Use Sq. Ft. shown under (1) with above rates to complete (5)*	TOTAL $ 2,250,600

e. COMPOSITE SQUARE FOOT RATE PER ANNUM: (3)d ÷ (1)d $6.20 — (5)d ÷ (1)d $6.20

ATTACH A FLOOR PLAN, TO SCALE, SHOWING THE SIZE AND LOCATION OF THE OFFERED SPACE *(See Schedule B)*, LIST AREAS, ROOM, AND FLOOR NUMBERS.

3. POSSESSION OFFERED: SPACE WILL BE ALTERED IN ACCORDANCE WITH SPECIFICATIONS AND READY FOR OCCUPANCY ON ▶ DATE July 1976

4. TERM OF LEASE

		NUMBER OF YEARS	FROM	TO *(Inclusive date)*
A.	INITIAL	5	July 1976	July 1981
B.	RENEWAL OPTIONS	YEARS EACH: 5	NUMBER OF OPTIONS: any	

5. DAYS NOTICE REQUIRED

A. TO RENEW LEASE: 120 days

B. TO TERMINATE LEASE:

6. ACCEPTANCE PERIOD: THE REQUEST STATES A MINIMUM PERIOD FOR ACCEPTANCE BY THE GOVERNMENT. GOOD UNTIL ▶ DATE April 1, 1975

7. ALTERNATES *(See Schedule A)*

GSA DC 67 18493

GSA FORM MAY 67 1364

8. ADDITIONAL REMARKS OR CONDITIONS WITH RESPECT TO THIS OFFER

1. Cost Adjustment for Allowances

A.	Standard (STC 35) partition	over allowance	18.75 /L.F.
		under allowance	17.00 /L.F.
B.	Soundproof (STC 40) partition	over allowance	19.75 /L.F.
		under allowance	17.50 /L.F.
C.	Electric Outlets	over allowance	17.00 ea.
		under allowance	13.00 ea.
D.	Telephone Outlets	over allowance	13.00 ea.
		under allowance	10.50 ea.

2. Hourly rate for overtime services 50.00 /hr.

3. Monthly charge per parking space
   A. First 5 years not to exceed $25.00 per space
   B. Second 5 years not to exceed $30.00 per space

4. If all spaces are leased to an employees' association, which arrangement is agreeable to offeror, the above monthly charges will be reduced by 10%.

9. ATTACHMENTS SUBMITTED WITH THIS OFFER

Plans including architectural, structural, mechanical and electrical

10. THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDA, IF ANY, TO THE REQUEST. *(Give number and date of each addendum received.)* Letter dated January 31, 1975

11. OFFEROR REPRESENTS *(Not required in cases of advertised leases in which the aggregate amount of rental does not exceed $25,000 or in negotiated leases in which the aggregate amount of rental does not exceed $2,500. Aggregate rental is defined in Schedule D).*

THAT HE ☐ HAS, ☒ HAS NOT, EMPLOYED OR RETAINED ANY COMPANY OR PERSON *(other than a full-time bona fide employee working solely for the Offeror)* TO SOLICIT OR SECURE THIS LEASE, AND

THAT HE ☐ HAS, ☒ HAS NOT, PAID OR AGREED TO PAY ANY COMPANY OR PERSON *(other than a full-time bona fide employee working solely for the Offeror)* ANY FEE, COMMISSION, PERCENTAGE OR BROKERAGE FEE, CONTINGENT UPON OR RESULTING FROM THE AWARD OF THIS LEASE; AND AGREES TO FURNISH INFORMATION RELATING THERETO AS REQUESTED BY THE CONTRACTING OFFICER. *(For interpretation of this representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Chapter 1, subpart 1-1.5.)*

12. OFFEROR OPERATES AS ☐ INDIVIDUAL ☒ PARTNERSHIP ☐ CORPORATION *(If checked, give state)* STATE D.C.

13. NAME AND ADDRESS OF OWNER OF RECORD *(City, state and Zip code)*
SOUTHWEST JOINT VENTURE
Leszlo N. Tauber, Trustee
5401 Westbard Avenue
Bethesda, Maryland 20016

14. OFFEROR'S INTEREST IN PROPERTY *(Owner, agent, etc.)*
Owner

15. NAME AND ADDRESS OF OFFEROR *(Include Zip code)*
SOUTHWEST JOINT VENTURE
c/o Westwood Management Corp.
5401 Westbard Ave., Beth., Md.

16. TELEPHONE *(Area code and No.)*
301
654-2822

17. EMPLOYER'S IDENTIFICATION NO. OR SOCIAL SECURITY NO.

18. OFFEROR *(Signature)*
Leszlo N. Tauber, Trustee

19. DATE
Feb. 14, 1975

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

LESSOR'S ANNUAL COST STATEMENT
IMPORTANT - Read "Instructions" on reverse of form.

1. LEASE OR BID NO.	2. STATEMENT DATE
697	
3. NET RENTABLE AREA (Sq. ft.)	3A. ENTIRE BUILDING: 309,317
	3B. LEASED BY GOV'T.: 309,317

4. BUILDING NAME AND ADDRESS (Give, street, city, state and zip code no.)

SECTION I - ESTIMATED ANNUAL COST OF SERVICES AND UTILITIES FURNISHED BY LESSOR AS PART OF RENTAL CONSIDERATION

SERVICES AND UTILITIES	LESSOR'S ANNUAL COST FOR (a) ENTIRE BUILDING	(b) GOV'T.-LEASED AREA	FOR GOVERNMENT USE ONLY (c)
A. CLEANING, JANITOR AND/OR CHAR SERVICE			
5. SALARIES	156,000	156,000	
6. SUPPLIES (Wax, cleansers, cloths, etc.)	15,000	15,000	
7. CONTRACT SERVICES (Window washing, waste and snow removal)	5,000	5,000	
B. HEATING			
8. SALARIES	40,000	40,000	
9. FUEL ("X" one) [ ] OIL [ ] GAS [ ] COAL [X] ELECTRIC	---	---	
10. SYSTEM MAINTENANCE AND REPAIR	10,000	10,000	
C. ELECTRICAL			
11. CURRENT FOR LIGHT AND POWER (Including elevators)	480,000	480,000	
12. REPLACEMENT OF BULBS, TUBES, STARTERS	5,000	5,000	
13. POWER FOR SPECIAL EQUIPMENT	---	---	
14. SYSTEM MAINTENANCE AND REPAIR (Ballasts, fixtures, etc.)	incl	incl	
D. PLUMBING			
15. WATER (For all purposes) (Include sewage charges)	25,000	25,000	
16. SUPPLIES (Soap, towels, tissues not in 6 above)	incl	incl	
17. SYSTEM MAINTENANCE AND REPAIR	2,000	2,000	
E. AIR CONDITIONING			
18. UTILITIES (Include electricity, if not in C 11)	incl	incl	
19. SYSTEM MAINTENANCE AND REPAIR	5,000	5,000	
F. ELEVATORS			
20. SALARIES (Operators, starters, etc.)	36,000	36,000	
21. SYSTEM MAINTENANCE AND REPAIR			
G. MISCELLANEOUS (To the extent not included above)			
22. BUILDING ENGINEER AND/OR MANAGER			
23. SECURITY (Watchmen, guards, not janitors)	not incl	not incl	
24. SOCIAL SECURITY TAX AND WORKMEN'S COMPENSATION INSURANCE	24,000	24,000	
25. LAWN AND LANDSCAPING MAINTENANCE	5,000	5,000	
26. OTHER (Explain on separate sheet)	---	---	
27. TOTAL	$ 808,000	$ 808,000	$

SECTION II - ESTIMATED ANNUAL COSTS OF OWNERSHIP EXCLUSIVE OF CAPITAL CHARGES

28. REAL ESTATE TAXES	220,000	x x x x	
29. INSURANCE (Hazard, liability, etc.)	26,000	x x x x	
30. BUILDING MAINTENANCE AND RESERVES FOR REPLACEMENT	10,000	x x x x	
31. MANAGEMENT	20,000	x x x x	
32. TOTAL	$ 276,000	x x x x	$

LESSOR'S CERTIFICATION - The amounts entered in Columns (a) and (b) represent my best estimate as to the annual costs of services, utilities and ownership.

33. SIGNATURE OF [ ] OWNER [ ] LEGAL AGENT

SECTION III - APPROVAL OF STATEMENT BY AUTHORIZED GOVERNMENT REPRESENTATIVES

The undersigned certify that the amount shown in Item 27(c) represents the reasonable value of the services and utilities which amount may be properly deducted in determining net rent for the purposes of the Economy Act.

TYPED NAME AND TITLE	SIGNATURE	DATE
34A.	34B. Carl E. Burke, M.D.	34C.
35A.	35B.	35C.

GSA FORM 1217

ADDITIONAL REMARKS OR CONDITIONS WITH RESPECT TO THIS OFFER

1. Cost Adjustment for Allowances

A.	Standard (STC 35) partition	over allowance	18.75 /L.F.
		under allowance	17.00 /L.F.
B.	Soundproof (STC 40) partition	over allowance	19.75 /L.F.
		under allowance	17.50 /L.F.
C.	Electric Outlets	over allowance	17.00 ea.
		under allowance	13.00 ea.
D.	Telephone Outlets	over allowance	13.00 ea.
		under allowance	10.50 ea.

2. Hourly rate for overtime services — 50.00 /hr.

3. Monthly charge per parking space
   A. First 5 years not to exceed $25.00 per space
   B. Second 5 years not to exceed $30.00 per space

4. If all spaces are leased to an employees' association, which arrangement is agreeable to offeror, the above monthly charges will be reduced by 10%.

ATTACHMENTS SUBMITTED WITH THIS OFFER

Plans including architectural, structural, mechanical and electrical

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDA, IF ANY, TO THE REQUEST. *(Give number and date of each addendum received.* Letter dated January 31, 1975

OFFEROR REPRESENTS *(Not required in cases of advertised leases in which the aggregate amount of rental does not exceed $25,000 or in negotiated leases in which the aggregate amount of rental does not exceed $2,500. Aggregate rental is defined in Schedule D).*

THAT HE ☐ HAS, ☒ HAS NOT, EMPLOYED OR RETAINED ANY COMPANY OR PERSON *(other than a full-time bona fide employee working solely for the Offeror)* TO SOLICIT OR SECURE THIS LEASE; AND

THAT HE ☐ HAS, ☒ HAS NOT, PAID OR AGREED TO PAY ANY COMPANY OR PERSON *(other than a full-time bona fide employee working solely for the Offeror)* ANY FEE, COMMISSION, PERCENTAGE OR BROKERAGE FEE, CONTINGENT UPON OR RESULTING FROM THE AWARD OF THIS LEASE; AND AGREES TO FURNISH INFORMATION RELATING THERETO AS REQUESTED BY THE CONTRACTING OFFICER. *(For interpretation of this representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Chapter 1, subpart 1-1.5.)*

OFFEROR OPERATES AS ☐ INDIVIDUAL ☒ PARTNERSHIP ☐ CORPORATION *(If checked, give state)* — STATE: D.C.

NAME AND ADDRESS OF OWNER OF RECORD *(City, state and Zip code)*	14. OFFEROR'S INTEREST IN PROPERTY *(Owner, agent, etc.)*	
SOUTHWEST JOINT VENTURE Laszlo N. Tauber, Trustee 5401 Westbard Avenue Bethesda, Maryland 20016	Owner	
	15. NAME AND ADDRESS OF OFFEROR *(Include Zip code)* SOUTHWEST JOINT VENTURE c/o Westwood Management Corp. 5401 Westbard Ave., Beth., Md.	16. TELEPHONE *(Area code and No.)* 301 654-2822
EMPLOYER'S IDENTIFICATION NO./OR SOCIAL SECURITY NO.	18. OFFEROR *(Signature)* Laszlo N. Tauber, TD. Trustee	19. DATE Feb. 14, 1975

WESTWOOD MANAGEMENT CORP.,
Bethesda, Md., February 18, 1975.

Mr. EARL W. ESCHBACHER,
Acting Chief, Metro Operations Branch, Space Management Division, Office of Operating Programs, Washington, D.C.

DEAR MR. ESCHBACHER: In reference to our response to Solicitation No. 697, which we submitted on February 14, 1975, we would like to add the following figures.

If we are to assume payment of the building utilities, the net leaseable square foot rental would be increased $0.84 from $6.20 per net rentable square foot to $7.04.

Also, our rate per hour for overtime operation with utilities included would be $250.00 per hour.

Please do not hesitate to call if further information is required.

Very truly yours,

LASZLO N. TAUBER, M.D.

Mr. FINNEGAN. And the next, when did the Bernstein Union Center Plaza bid come in? [See p. 223.]

Mr. GALUARDI. I am afraid my notes don't have it so I would have to look in the file.

Mr. FINNEGAN. Would you have somebody look in the file on that point?

Mr. GALUARDI. Yes.

Mr. FINNEGAN. I understand that once the bids were received, there was a memorandum prepared for the file called "Current Status Report on the Consolidation of Securities and Exchange Commission." That was prepared by Mr. Fowler on March 14, 1975. Can you tell us what is in that memorandum, Mr. Fowler?

Mr. FOWLER. Well, it briefly explains what the solicitation calls for, the footage required, that the fact that the initial response to our solicitation was unsatisfactory. We were placed in an untenable negotiating position, and the solicitation was aimed to change the delivery date and that Mr. Galuardi wrote the Chairman of the SEC informing him of our intention to amend the solicitation. And offers have been received to date from the following, and there are five people listed. Negotiations have been held with all offerors, we are awaiting amended offers and plan to terminate negotiations by March 24. We have requested appraisals on the likely low offers. And it mentions that we picked up a different building that had been submitted for this particular solicitation under another solicitation. So that obviously was out of the picture then.

Mr. FINNEGAN. So that you had indicated that the plan was to terminate negotiations by March 24; is that correct?

Mr. FOWLER. At the time it was.

[The memorandum referred to follows:]

CURRENT STATUS REPORT ON THE CONSOLIDATION OF THE SECURITIES AND EXCHANGE COMMISSION

Solicitation for Offers No. 697, for the consolidation of the Securities and Exchange Commission (SEC), calls for the following:

1. 380,000 square feet of net usable office space plus approximately 81,500 square feet of parking space at one location, or
2. 210,000 square feet of net usable office space plus 53,000 square feet of parking space at one location (within a six block radius of 500 North Capitol Street).

Initial response to our Solicitation was unsatisfactory, and we were placed in an untenable negotiating position, for reasons explained in the attached Staff Paper of January 23, 1975.

Therefore, on January 31, 1975, the Solicitation was amended to change the delivery date for a building from July, 1975 to July, 1976. Officers were open until February 17, 1975.

Mr. Galuardi wrote the Chairman of SEC on January 27, 1975, informing him of our decision to amend Solicitation for Offers No. 697 (copy of letter attached), deeming such a move to be in the best interest of the Government.

The Solicitation and the Amendment were sent to 20 prospective lessors. Offers have been received, to date, from the following:

1. Raymond C. Brophy, Inc. for 400 North Capitol Street.
2. Sylvan C. Herman (6th and E Streets Joint Venture) for the Bicentennial Building, 600 E Street, N.W.
3. Union Center Plaza Associates for the Union Center Plaza East Building, 825 North Capitol Street.
4. District of Columbia Joint Venture for a proposed building at 1900 ½ Street, S.W.
5. HOK-Jones, Inc.—Northeast Number One Building, North Capitol and L Streets.

Negotiation sessions have been held with all offerors. We are awaiting amended offers and plan to terminate negotiating by March 24. Appraisals have been requested on the likely low offers.

On Friday, February 21, 1975, GSA leased the entire Casimir Pulaski Building located at 2nd and Mass. Avenue, N.W. to house ERDA, provide turn around space for GAO during alterations to GAO Building, and allow SEC expansion space until such time as a consolidated building can be delivered. Up to an entire floor of 35,000 square feet can be made available for this purpose.

Mr. FINNEGAN. At that time.

Mr. FOWLER. Also, sir, could I right now tell you that in regard to that January 15, 1975, problem and program item?

Mr. FINNEGAN. Pardon me? I didn't hear you.

Mr. FOWLER. This was earlier, I had mentioned January 15, 1975, the "problem and program" item that I had written, which stated that negotiations are in progress, et cetera. To date we have received one revised offer and are awaiting two revised offers. Anticipated negotiations concluded by February 15, and you asked what happened during the next eight days.

Well, on January 16, the following day, there is a letter from the owners of the building, or their agent. Then January 16 from the owners of 500 North Capitol Street, which is where SEC had its headquarters and still has its headquarters, telling us that we could not remain in that building beyond April 20, 1976, when the lease expired. They said that we absolutely had to be out of the building by then, and that in effect precluded partial consolidation.

Mr. FINNEGAN. That was on January 16; is that correct?

Mr. FOWLER. That is the date of the letter that we received.

Mr. FINNEGAN. They had to be out of the building by April 1976?

Mr. FOWLER. Yes, sir.

Mr. FINNEGAN. Can I ask why you would extend the solicitation to July 1976, which is the date you had to get out of the other building, or SEC had to get out of the other building?

Mr. GALUARDI. I made that decision, Mr. Finnegan, and the answer is we probably had to remain as a holdover tenant for about 2 months or 3 months, which would not be unreasonable.

Mr. FINNEGAN. All right. We understand now there was another memorandum dated March 21, 1975, that you prepared, Mr. Fowler. It is called "Fact Sheet, Consolidation of the Securities and Exchange Commission." That contains a recommendation in it. Would you tell us what the recommendation was?

Mr. FOWLER. March 21, 1975.

Mr. ESCHBACHER. Did you say March 21?

Mr. FINNEGAN. March 21, 1975.

Mr. FOWLER. The recommendation reads, it is in the best overall interests of the Government to conclude negotiations with the current offerors and make an award to one of the two prospective offerors who will construct a building for delivery by July 1976. The great monetary savings to the U.S. Government outweigh other considerations. And in pen it says the maximum offer from any other sources should not exceed $7.10 per square foot including utilities.

[The fact sheet referred to follows:]

FACT SHEET

CONSOLIDATION OF THE SECURITIES AND EXCHANGE COMMISSION (SEC)

Background.—By SF–81 dated March 25, 1974, SEC requested 434,771 square feet of space in which to expand and consolidate its personnel currently located in the following locations:

500 N. Capitol St	169,094
11th and L Sts. NW	66,203
Ballston Tower No. 3, Arlington	7,030
Total	[1] 242,327

[1] Not including 11,940 sq. ft. of storage space.

Due to the magnitude of the request and the fact that the net annual rental will exceed $500,000, a prospectus for 403,000 square feet was submitted to the Public Works Committees on August 2, 1974. This prospectus was approved increasing the amount of space to 460,000 square feet, including parking on October 10, 1974 and an advertisement was placed in the local papers for listings for space consisting of either: (1) 380,000 square feet plus parking in the District of Columbia to effect a total consolidation, or (2) 210,000 square feet of office space and 53,000 square feet of parking space within six blocks of 500 N. Capitol St. Solicitations For Offers were issued on December 9, 1974 for space to be delivered by July 1975. Since only one offer in (1) above was received, and this listing was considered to be exorbitant, a determination was made to extend the required occupancy date to July, 1976 in an attempt to obtain adequate competition. SEC was advised of this action. (Mr. Brophy's original offer was $9.82 per square foot, fully serviced.)

Current status.—GSA is still negotiating with all responsive offerors. Subsequent to the Administrator's letter of February 27, 1975, we received amended offers from Raymond C. Brophy (400 N. Capitol St.) and District of Columbia Joint Venture (1900 Half St., S.W.). We are awaiting amended offers from Union Center Plaza Associates and HOK-Jones, Inc. We plan to terminate negotiations by March 31. We still intend to have a building ready for occupancy for SEC by July, 1976, which will permit total consolidation. We have received offers on at least two new buildings to be constructed. Start of construction work is imminent. (See attachments for background information.)

Certain points covered in Chairman Garrett's letter of March 20 to Mr. Sampson:

(a) Brophy has submitted a revised offer of $7.48 per square foot, excluding utilities. This statement is true. GSA has requested SEC not to discuss status of negotiations with any potential lessor, but to deal solely with GSA regarding any aspect of the consolidation. SEC has obviously been in close contact with Mr, Brophy, who has apparently supplied them with information to which they are not entitled.

(b) Chairman Garrett's list of rental rates on new office buildings—All eleven buildings listed in Chairman Garrett's attachment are located in a prestigious, high rent district. Four hundred North Capitol St. ($7.48 per square foot plus utilities, probably at least $1.00 per square foot) is not located in a high rent district, but is, rather, located in an urban renewal area. In the

same vicinity, we are leasing the Union Center Plaza South Building at $6.00 per square foot, fully serviced. On February 21, 1975, GSA leased the entire Casimir Pulaski Building, located at 2nd and Mass. Ave., N.W., for $3.99 per square foot excluding utilities. Also, we are currently negotiating for space in the Chester Arthur Building located at 4th and Eye Streets, N.W. at a rental rate of $6.00 per square foot fully serviced. In addition, the lessor for the Bicentennial Building, located at 6th and E Sts., N.W., has offered to lease the entire building to GSA for $6.35 per square foot excluding utilities. Therefore, the market rate for space in the neighborhood of North Capitol Street does not exceed $6.35 per square foot excluding utilities. Mr. Brophy's offered rate remains excessive in our opinion.

(c) Mr. Garrett states in his letter that the delay of the delivery date until July, 1976 will substantially hamper the effectiveness of the SEC. The SEC currently has only three office locations, the major one being 500 North Capitol Street. Many agencies in Washington have their operations separated to a far greater extent than this; and in addition, should SEC require expansion space between now and July, 1976, that space can be provided within 2 blocks of 500 North Capitol Street at the newly leased Casimir Pulaski Building located at 2nd and Mass. Ave. (35,000 square feet available) and the Railway Labor Building located at 400 First St., N.W. (22,000 square feet available). Space in the latter building will be released by the Labor Department prior to July, 1975.

ALTERNATIVES

(a) Proceed as planned with a delivery date of July 1976, in order to acquire a single building large enough to consolidate SEC at a price more favorable than that offered by Mr. Brophy. In connection with this, we can provide SEC with approximately 57,000 square feet of additional space for interim expansion (35,000 square feet at 2nd and Mass. Ave., N.W. and 22,000 square feet at 400 1st St., N.W.)

(b) Continue negotiating with Brophy in an attempt to bring his price down to one which is more competitive for the area in which his building is located.

(c) Negotiate 5-year extension on 500 North Capitol St. as authorized by a Congressionally approved prospectus and acquire leased space at 6th and E Streets for consolidation of secondary locations plus expansion.

Recommendation.—It is in the best overall interest of the Government to conclude negotiations with the current offerors and make an award to one of the two prospective offers who will construct a building for delivery by July, 1976. The great monetary savings to the U.S. Government outweigh other considerations. The maximum offer from any of the other sources should not exceed $7.10 per square foot including utilities.

Mr. FINNEGAN. Were you in the room earlier today when I read from a statement by Mr. Sampson dated September 8, 1971, that he made before a forum of an office building development of the Board of Realtors in Washington? [See p. 76.]

Mr. FOWLER. Yes, sir.

Mr. FINNEGAN. Do you recall that in his discussing the Executive order, he said the cost of space was practically the sole criterion for acquisition prior to that order, but that is not the case, no longer the case, location is now very significant, and so forth? You seem to have stated in this recommendation that cost is the greatest factor. You say "The great monetary savings to the United States Government outweigh other considerations."

Would you tell us what those other considerations were?

Mr. GALUARDI. I think he is speaking in just a generic kind of term, which is in making an award there are quite a few award factors in the solicitation, and I believe those are the other considerations that you would have as a matter of information, information written down there.

Mr. FINNEGAN. Was location considered significant in this?

Mr. GALUARDI. Location was not made an outstanding award factor in the solicitation, so Mr. Sampson's speech before that Board of Trade was, of course, speaking about his nationwide program in which this was going to be accomplished at specific locations, and you normally do it somewhat in advance making a determination ahead of time that socioeconomic considerations are vital in the project and, as a matter of fact, I worked on one project which was Fresno, Calif., in which it takes quite a bit of effort to work out that aspect. Within the District of Columbia, socioeconomic housing of agencies has so far not been applied, within my knowledge.

Mr. FINNEGAN. What was the last part?

Mr. GALUARDI. Has not been applied as an award factor, so far, in my knowledge.

Mr. FINNEGAN. Then I understand that on March 20, 1975, you received a letter from the Securities and Exchange Commission. What was that letter about?

Mr. GALUARDI. May I see it?

This letter was in response to the letter that he had written to Sampson previously. He had written to Sampson appealing the decision to amend the solicitation. Sampson wrote back and said we thought we needed to do it because I believe, the requirement for competition. In this one he is making an appeal for the 400 North Capitol Street building again, with the statement that he felt that the cost which—or the value of the space which Brophy was offering at 400 North Capitol Street was not out of line in the Washington real estate market, and he submits worksheets to support his position. And what he is asking us to do is that he felt that the 1-year delay was having some sort of an impact on his agency, and asking us in a sense to use the Executive Order 11512 to make this award for a building which he contended was not out of line pricewise, but which we in the staff felt was out of line pricewise.

[The correspondence referred to follows:]

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., March 20, 1975.

Mr. ARTHUR F. SAMPSON,
Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. SAMPSON: I want to thank you for your February 27th response to my letter concerning the SEC's space problems. Your letter provides some very helpful information, of course, but a number of our concerns, in our view, may warrant further consideration. It is for this reason that I have been attempting for the past 10 days to arrange a meeting with you. (As you probably know, my secretary has called your office several times and my Executive Assistant has spoken to Mr. Shipp of your staff, in an attempt to find a mutually convenient meeting time.) Since I will be out of the country until April 7th, I wanted to express my concerns once again prior to my departure.

Your letter refers to an "exorbitant charge of $9.82 per square foot, fully serviced" for space at 400 North Capitol Street. We understand that this figure does not represent the final offer for that space and that, in fact, a subsequent offer of $7.48, (excluding an estimated $1 per square foot for utilities) has been made. We are, by no means, experts in Washington real estate; however, the resulting figure of $8.48 does not sound out of line with other rentals being charged in acceptable Washington locations. In support of this point, I have attached a worksheet recently developed by our staff based on information from a recent Washington Post article. The article, which provided ranges of rental estimates for eleven office buildings now under construction, suggested a range of $8.66 to $12.52 per square foot, based on GSA calculations.

It is interesting that 400 North Capitol is below the bottom of this range, in which the average rental was $10.05.

A second concern of ours has to do with the implications of an additional one year delay to our agency. I must repeat our strong feeling that this delay will substantially hamper our effectiveness. Finally, of course, your letter did not deal with the potential problem caused by the fact that our lease at 500 North Capitol expires in April, 1976, and your solicitation includes the possibility that we will not have any new space until July.

In my earlier letter, I indicated that I would like to do all that is in my power to assure that our two agencies work closely in procuring satisfactory space as quickly as possible. I think that this close cooperation is the intent of Executive Order 11512, which calls for the Administrator to seek the cooperation of agency heads in connection with space acquisition, and to take into account their requirements when not inconsistent with established criteria.

Since I have not been able to reach you and I will be away for nearly three weeks, I have asked my colleague Commissioner Irving M. Pollack to contact Acting Regional Administrator Galuardi as you previously had suggested. I hope that you and Mr. Galuardi will give serious consideration to our concerns and work with us to determine ways in which either 400 North Capitol can remain a viable option or an alternative which meets this agency's needs equally well in terms of location, size, features and availability data can be developed through our mutual effort.

Sincerely,

RAY GARRETT, JR.,
Chairman.

COMPOSITION OF APPARENT BUILDING COSTS—MARCH 17, 1975

Buildings under construction	Washington Real Estate Board rate	Approximate equivalent GSA rate [1]
International Sq. (Koubek Bldg.)	$9.75 to $10.50	$11.12 to $11.97.
1800 M St	$8.25 to $9.25	$9.40 to $10.55.
1150 Connecticut Ave	$9.50 to $11.00	$10.83 to $12.52.
2101 L St	$7.60	$8.66.
2020 K St	$8.50	$9.69.
2033 K St	$8.50	$9.69.
1900 M St	$8.50 to $9.00	$9.69 to $10.26.
2555 M St	$8.50	$9.69.
1120 19 St	$8.75	$9.98.
1111 16th St	$8.75	$9.98.
4200 Wisconsin Avenue	$8.50	$9.69.
400 North Capitol St		$7.48+$1.00—$8.48.

[1] Based on industry estimate that WREB rates must be increased at least 14 pct to obtain comparable GSA figures.

FEBRUARY 27, 1975.

Hon. RAY GARRETT,
Chairman,
Securities and Exchange Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to your letter of February 6, 1975, expressing grave concern over the space problems of the Securities and Exchange Commission (SEC) and the current status of efforts to resolve them.

You specifically questioned the decision to extend the delivery date of your new headquarters building by one year to July 1, 1976. Initial response to our Solicitation for Offers No. 697, for the consolidation of the SEC, was unsatisfactory and we were placed in an untenable negotiating position. The only offer we received in response to this Solicitation was an exorbitant charge of $9.82 per square foot, fully serviced, at 400 North Capitol Street. We determined the Government could save $2.56 per square foot based on current offers or approximately $1,024,000 per year by amending the Solicitation to extend the delivery date one year. Therefore, on January 31, 1975, the Solicitation was amended to change the delivery date for a building from July 1975 to July 1976.

The Solicitation and the Amendment were sent to twenty prospective lessors. Offers were received from five pospective lessors by the February 17, 1975,

closing date. Negotiations are still in progress with the responsive bidders, and we hope to make an award in the near future.

We trust this information will apprise you of the current situation. Please be assured that we will work closely with your staff to expedite procurement of satisfactory space.

Mr. John F. Galuardi, Acting Regional Administrator, Region 3 will meet with you at your convenience to discuss the SEC consolidation.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

Mr. FINNEGAN. On March 24 I understand that Dr. Tauber amended his offer again; is that correct?

Mr. GALUARDI. Yes, Dr. Tauber amended his offer quite a number of times.

Mr. FINNEGAN. He did?

Mr. GALUARDI. March 24 was one of them.

Mr. FINNEGAN. And in that letter he stated that his offer was valid until April 10, 1975? [See p. 239.]

Mr. GALUARDI. Each time an offer comes in he does put a limitation on the time.

Mr. FINNEGAN. He further stated that he would appreciate your advice as to when the bids would be closed in terms of best and final offers and when predicated on such closing award will be made; is that correct?

Mr. GALUARDI. I don't have the letter in front of me.

Mr. ESCHBACHER. What was the date, 24?

Mr. FINNEGAN. March 24.

Mr. ESCHBACHER. Yes, that is correct.

Mr. FINNEGAN. Now, I understand that on about the same day, although it is not clear, there is a GSA Form 1848 to indicate you had a conversation with Dr. Tauber. Can you tell us what that was?

Mr. ESCHBACHER. I think it says March 23, but I am not, or I can't—or 26, the date is not very clear.

Could we see a copy of that?

Mr. FINNEGAN. Well, he is getting at, have you yet found when Mr. Bernstein submitted his offer under the amended solicitation?

Mr. GALUARDI. I have a recap of when the offers were made here, and I don't have the actual document saying it, but I have down here that Union Center Plaza East provided us an offer and December 27 in the first instance, the one you talked about previously, on March 21, and on April 4. And then, of course——

Mr. FINNEGAN. Well, did you consider the offer on March, December 27 as responsive to the amended offer?

Mr. GALUARDI. I would have to ask the staff, because they were the ones that did it and they were telling me that they considered it nonresponsive, because of the inability to meet the date in the original solicitation.

Mr. FINNEGAN. So then Mr. Bernstein would have to come up with a brand new offer for the amended offer; is that correct?

Mr. GALUARDI. No, because—yes, on March 21 he would have to come in with an amended offer.

Mr. FINNEGAN. Mr. Blumenstein seems to be shaking his head.

Mr. BLUMENSTEIN. We did not cancel the solicitation, we just amended it.

Mr. FINNEGAN. So any offers would be outstanding previously. I just wanted to make sure for the record.

Mr. DINGELL. Was it Mr. Eschbacher who indicated something he wanted to say there?

Mr. ESCHBACHER. Nothing except that we found it in our file, but it was February 28, not March 28.

Mr. FINNEGAN. OK. What was that conversation?

Mr. FOWLER. It is just that Dr. Tauber indicated that he could supply the amount of space called for in our solicitation for offers.

Mr. FINNEGAN. All right, just to be sure.

Mr. FOWLER. And that he would amend his offer and include a square foot rate for parking.

[The document referred to follows:]

NEGOTIATION RECORD
(Real Property Acquisition)

PROJECT	PARCEL
SEC CONSOLIDATION	697

OWNERS

NAME	ADDRESS	PHONE NO.
DR. LASZLO TAUBER	5401 WESTBARD AVENUE BETHESDA, MD 20016	654-2822
ROBT KAUFMAN		
MR. NADAS		

PERSONS CONTACTED

NAME	TITLE	DATE

REMARKS

Tauber indicated that he actually has 364,500 # of space, not 363,000 #, and can supply the 380,000 # we need. Has building permit, loan, & Savoy Construction Co.

He will submit new offer, and include a $ rate for parking.

ACTION TAKEN AS RESULT OF THIS CONTACT

SIGNATURE	TITLE	DATE
J M Fowler	Realty Specialist	3-28-75

GSA FORM OCT 62 1848

Mr. FINNEGAN. I will just ask you, gentlemen, is there any indication that at the time Dr. Tauber submitted his original offer that he was aware of any offers by Mr. Bernstein, do any of you know of anything to that effect, or that any GSA officials may have raised that issue?

Mr. ESCHBACHER. No. At the time that he submitted his offer, now?

Mr. FINNEGAN. Yes; were there any conversations with him by any GSA official that you are aware of? That question is directed to all people here.

Mr. GALUARDI. You have to, I think, tell us which of the offers.

Mr. FINNEGAN. The first one he submitted on February 14.

Mr. GALUARDI. All right, February 14.

Mr. ESCHBACHER. No, sir.

Mr. FINNEGAN. I get it everybody seems to be nodding on this side. Is everybody nodding on this side?

Mr. DINGELL. Maybe we can show the way they are nodding yes or no.

Mr. GALUARDI. I think, does anybody say yes?

Nobody?

Mr. FINNEGAN. Nobody is aware of any conversation by any GSA officials with Dr. Tauber or any of his officials concerning the offers; is that correct?

Mr. GALUARDI. That is correct.

Mr. DINGELL. I am curious. Is this business of making resubmissions, or amending submissions, a regular practice of GSA?

Mr. ESCHBACHER. Yes, sir, part of the negotiating process.

Mr. DINGELL. Can you tell me what the reason was for following it here?

Mr. ESCHBACHER. Pardon me, I don't understand.

Mr. DINGELL. Why did you request a new set of bids here? Could you enlighten me on that?

Mr. ESCHBACHER. I think you are saying amended offers.

Mr. KIDWELL. We amended the solicitation asking to extend the date.

Mr. DINGELL. Yes; why did that happen here?

Mr. KIDWELL. To insure competition.

Mr. DINGELL. To show competition?

Mr. KIDWELL. No, to insure.

Mr. GALUARDI. We had only one offer which exceeded the amount of Congress, and, therefore, we couldn't make an award and that was the date of delivery of the space was July 1975, so in January we said let's amend the solicitation now, not issue a new one, but amend it and go out and change the delivery date to July of 1976, 1 year later.

Mr. DINGELL. I see. Now, did this request specify the area in which the space would be procured?

Mr. GALUARDI. Yes, we have. The District of Columbia was the delineated area.

Mr. DINGELL. You did not specify Buzzard Point or any other geographic area?

Mr. GALUARDI. No; it is the entire District of Columbia.

Mr. DINGELL. Inside the District, I see. Was the location at Buzzard Point in contemplation at the time the solicitation was made?

Mr. GALUARDI. Frankly, no; and when we first put out the solicitation we anticipated that the 400 North Capitol Street building would have come in at a reasonable rate, and we would not be here today, if the price had been right. And if they had met the price that we could pay, because we would then have satisfied SEC where they wanted to be, which is right next door to the building that they are in. We anticipated that they might have been the low responsible offer.

Mr. DINGELL. It would have been easier for all of us, I think, if that had occurred.

Mr. FINNEGAN. Now, I understand on March 26, 1975, there was a meeting held at GSA with Mr. Sampson. Mr. Galuardi, I think you were in attendance. Could you tell me who else attended that meeting?

Mr. GALUARDI. My memory is hazy on meetings. What is the date of it?

Mr. FINNEGAN. March 26, 1975.

Mr. GALUARDI. I have at various times had various people at meetings with me. I normally took the contracting officer when we were briefing the Administrator and who else.

Mr. Blumenstein, do you recall that particular meeting?

Mr. BLUMENSTEIN. No.

Mr. FINNEGAN. I understand Mr. Blumenstein, Mr. Galuardi, Mr. Meisen, Mr. Shipp, Mr. Long, and Mr. Sampson were all at this meeting on March 26.

Mr. GALUARDI. Can you say the names again?

Mr. FINNEGAN. Mr. Blumenstein, Mr. Galuardi, Mr. Meisen, Mr. Shipp, Mr. M. J. Long, and Mr. Sampson.

Mr. GALUARDI. I have briefed Mr. Sampson during the period in which it, you know, highlighted and became a problem, from about that February date on, on quite a number of occasions. And so I don't remember what was said in each of those meetings.

Mr. FINNEGAN. Now, let me try to refresh your memory. I understood that the—is Mr. Long here today?

Mr. GALUARDI. No; he is not here.

Mr. FINNEGAN. Any reason why he could not be here? We asked that he be available to testify.

Mr. GALUARDI. It was not in your letter to us.

Mr. FINNEGAN. I had talked to Mr. Forsythe concerning Mr. Long being one of the persons to be included.

Mr. GALUARDI. I am being told that he had dental work scheduled and could not make it.

Mr. FINNEGAN. There is a memorandum to the file which discusses what took place at that meeting and indicates a proposed schedule for financing a lease. It is undated. Do you people have it? And I cannot tell—it indicates, and maybe it will refresh your memory, that the proposed scheduled financing lease contract would be March 31, 1975. Mail out a letter to all authorized terminating negotiations close business July 19, 1975, on April 7 evaluate final offers and make determination of lowest eligible offeror on April 8, a letter to SEC offering best location and by April 14 receive SEC's approval and make award.

Mr. GALUARDI. That is a schedule that we were contemplating.

Mr. FINNEGAN. That is a schedule. Does anybody recollect that schedule or discussion?

Mr. GALUARDI. No, we are always being asked in briefing meetings to please get specific and come up with some sort of a schedule. We always don't meet those schedules, but——

Mr. FINNEGAN. All right.

Mr. GALUARDI. Now, somewhere along in this area, of course, we all got into the question of whether or not they all had capability of meeting the July 26, 1976, date because that is a short time for a major building to be constructed with them.

Mr. FINNEGAN. All right. I also understand that the next day, March 27, there was a meeting with the SEC, which you attended, Mr. Galuardi, according to the memorandum. Are you aware of that meeting?

Mr. GALUARDI. Yes, I remember attending a meeting.

Mr. FINNEGAN. In which SEC suggested the possibility of purchasing the Brophy building?

Mr. GALUARDI. Yes, they did. Well, somewhere along the line they did.

Mr. FINNEGAN. We also would prefer—I read this—SEC would prefer the Forte Building, I assume that is Union Plaza, over the Tauber Building. Is my assumption correct, Forte Building?

Mr. GALUARDI. Somewhere along I am very hazy as to what was said in which meeting, but I remember meeting with SEC.

Mr. FINNEGAN. All right.

Mr. GALUARDI. And indicating that I would not tell them the order in which the awards, I mean, that the offers were ranked, and was just discussing the generalities of where we stood with them. I met with Chairman Garrett, and Blanchard, and Pollack, for the purpose of briefing the agency as to where we stood with regard to the solicitation.

And I think there was a strong indication at that time that what they wanted us to do was figure out if we could buy the building or I could just say generally that they wanted no other building but 400 North Capitol Street. They almost turned a deaf ear to any other offer that we might come up with because that was their building, it was virtually constructed to meet their requirements, it was just about the right size, and they didn't have to move very far.

Mr. FINNEGAN. Do you also recall their saying that they preferred the Forte Building over the Tauber Building?

Mr. GALUARDI. I think that I asked them would they please tell me if I had to rank them which way would they rank them, they will take Union.

Mr. FINNEGAN. So you were pretty clear at that time that the SEC was opposed to moving to Buzzard Point; is that correct?

Mr. GALUARDI. Yes.

Mr. FINNEGAN. I also understand at the meeting on March 26, that Mr. Long had advised that there was an adverse environmental impact associated with the Buzzard Point building and had pointed out certain advantages of the Union Plaza building, do you recall that discussion?

Mr. GALUARDI. Are you saying that meeting was in March?

Mr. FINNEGAN. March 26.

Mr. GALUARDI. I think the meeting I am talking about occurred much later.

Mr. FINNEGAN. All right.

Mr. STEELE. Let me speak. I attended a meeting with SEC. That meeting was held, as I recall, in the first week of May, not in March.

Mr. FINNEGAN. This memorandum which was from your files indicated the meeting was held March 27, and you weren't at the meeting, this particular one.

Mr. STEELE. No, the subject matter you are discussing, let's look at it.

Mr. GALUARDI. He is talking about a different memorandum.

Mr. FINNEGAN. Let me look at it. Discussion of the meeting, it is very difficult to read the top part.

[The document referred to follows:]

NOTES

1. Lease Negotiations have been completed, hence these offers are considered as final.

2. The most current offer submitted by 400 N. Capitol Street Associates asking a total annual rental of $3,483,281 fully serviced in excess of the prospectus annual rental limitation of $2,300,000 ($6.00 psf) as authorized by the Committees on Public Works of the Congress on October 10, 1974. Unless this offer is reduced substantially to a rental commensurate with the prospectus limitation, the Government would have no authority to accept this lease proposal under the current prospectus authorization.

3. The most current offer, submitted by L. Tauber for 1900 Half St., on a fully serviced basis, also exceeds the prospectus annual rental limitation. However, should the Government decide to assume utility costs directly, Tauber's offer (including an estimated cost for utilities) would be under the prospectus annual rental limitation.

4. The latest rental proposal contained in the offer submitted covering space in the building proposed for construction at 825 North Capitol Street is below the prospectus rental limitation of $2,800,000.

5. At this date, the offer submitted by Union Center Plaza Associates on a fully serviced basis is the lowest responsive offer. This offer is within the limitations of the Economy Act and right at the Fair Annual Rental, based on GSA staff appraisal.

6. Proposed schedule for financing lease contract:

a. 3/31/75—Mail letter to all offerors terminating negotiations C.O.B. Friday, April 4, 1975.

b. 4/7/75 Evaluate final offers and make determination of lowest responsive offeror.

c. 4/8/75—Forward letter to SEC offering best location.

d. 4/14/75—Receive SEC's approval and make award.

7. As a result of a meeting held on March 27, 1975, with Commissioner Irving Pollack and Executive Director Al Blanchard of SEC and Mr. Galuardi, Mr. Harvell and Mr. Long of GSA; SEC revealed the following:

1. SEC still wants the Brophy Bldg., 400 North Capitol St., NW, and suggested GSA go back to the Public Works Committees for the purpose of increasing the rental authority.

2. SEC suggested the possibility of purchasing the Brophy Bldg.

3. SEC would prefer the Forte Bldg. over the Tauber Bldg.

4. SEC indicated they might reject the Tauber or Forte Buildings and appeal to OMB. (They were advised that GSA would hold its position and believed it would prevail.)

Mr. GALUARDI. I was at this meeting and I remember these things, yes. Yes.

Mr. FINNEGAN. Pardon me?

Mr. GALUARDI. I forgot the question.

Mr. FINNEGAN. Do you recall——

Mr. GALUARDI. I remember the meeting. Now, I forgot the question.

Mr. FINNEGAN. Do you recall a discussion by Mr. Long at the

March 26 meeting about environmental effects and also a discussion by the SEC on March 27?

Mr. GALUARDI. I remember this discussion, yes.

Mr. FINNEGAN. Now, I understand that subsequently on March 31st, the GSA did in fact send telegrams to the offerors in which they said, among other things, this is to advise you the Government will terminate negotiations effective close of business 4:30 p.m., Friday, April 4, 1975. Please extend your offer in writing through April 28, 1975. Is that your understanding?

[The text of the telegrams follows:]

GENERAL SERVICES ADMINISTRATION,
April 1, 1975.

SOUTHWEST JOINT VENTURE
Attention: Dr. Tauber,
Bethesda, Md.

This is in reference to your offer to lease space to the Government in the building at 1900 Half Street, S.W., Washington, D.C., in accordance with lease specifications and requirements No. 697.

This is to advise you that the Government will terminate negotiations effective close of business, 4:30 p.m., Friday, April 4, 1975.

Please extend your offer, in writing, through April 28, 1975.

EARL W. ESCHBACHER,
Acting Chief, Metropolitan Operations Unit,
Space Management Division.

GENERAL SERVICES ADMINISTRATION,
April 1, 1975.

UNION CENTER PLAZA ASSOCIATES,
Attention: Mr. Albert Forte,
Washington, D.C.

This is in reference to your offer to lease space to the Government in the Union Center Plaza—East Building, H and North Capitol Street, N.E., Washington, D.C., in accordance with lease specifications and requirements No. 697.

This is to advise you that the Government will terminate negotiations effective close of business, 4:30 p.m., Friday, April 4, 1975.

Please extend your offer, in writing, through April 28, 1975.

EARL W. ESCHBACHER,
Acting Chief, Metropolitan Operations Unit,

Mr. GALUARDI. Yes, it is.

Mr. FINNEGAN. And it is also your understanding that two bidders, in particular Bernstein and Tauber, extended their offers as required?

Mr. KIDWELL. Yes.

Mr. DINGELL. One thing bothers me here. Were both these buildings in existence at the time the bidding and the solicitation was going on?

Mr. GALUARDI. No.

Mr. FINNEGAN. Were either of them in existence at that time?

Mr. GALUARDI. No, they never were in the sense of being in existence, but one was started.

Mr. DINGELL. Which one was started?

Mr. GALUARDI. The Buzzard Point. The Southwest Joint Venture building——

Mr. DINGELL. When was the Tauber Building started?

Mr. ESCHBACHER. His letter to us said he broke ground May 23.

Mr. DINGELL. Around May 23.

Mr. ESCHBACHER. He broke ground May 23.

Mr. DINGELL. He broke ground May 23?

Mr. DINGELL. So he broke ground May 23 on a building on which he didn't have a lease, and lease was signed June 3.

[The following letter and attachments were received for the record:]

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 3, 1975.

SOUTHWEST JOINT VENTURE,
Attention: Dr. Tauber,
Bethesda, Md.

DEAR MR. TAUBER: The Government hereby accepts your offer dated February 14, 1975; as amended March 18, 1975; your undated letter received April 4, 1975; April 28, 1975; and May 30, 1975, made in response to Solicitation for Offers (SFO) Number 697, dated December 9, 1974, and will lease 461,500 net usable square feet of space, being 380,000 net usable square feet of office space and 81,500 net usable square feet of garage space, in the building to be located at 1900 Half Street, S.W., Washington, DC, for a firm term of five years. The annual rental for this space shall be at the rate of $7.00 per square foot for the 380,000 square feet of office space and $0.721 per square foot for the 81,500 square feet of garage space, and shall include full services and utilities. The Government shall have free use and occupancy of the 380,000 square feet of office space for the last four months of the lease term, and free use and occupancy of the 81,500 square feet of garage space for the last 12 months of the lease term.

The Lessor shall submit within 30 calendar days of the date of this award, a written affirmative action plan in accordance with Paragraph 12 of Schedule A of Solicitation No. 697.

An overtime rate will be mutually agreed upon just prior to completion of the building.

The Government shall have the options, upon 120 days written notice, to renew the lease for three five-year periods at the same base rental subject, however, to any tax and operating cost escalations. Should the Government exercise its renewal options in the fifth, tenth, and fifteenth years of the lease, operating cost and tax escalation adjustments will continue to be made during the renewal period on the same three (3) year cycle established in the original term of the lease (i.e.: at the end of the 3rd, 6th, 9th, 12th, 15th, and 18th years of Government occupancy).

The base rate from which adjustments will be made for operating cost escalation effective at the end of the third year of occupancy is $2.14 per net usable square foot or actual cost, whichever is higher in accordance with Paragraph 14, Schedule A, Solicitation for Offers No. 697.

The percentage of the building occupied by the Government will be established for tax escalation purposes by mutual agreement at an early date. The Government's share of any increase or decreases in real estate taxes after each three (3) years of Government occupancy will be determined by the agreed upon percentage.

The Government understands the Lessor has agreed with various planning agencies to provide a 25 foot strip for a bicycle path and to construct a bulkhead along the waterfront in accordance with your letter of May 27, 1975.

In order to assure a harmonious relationship between the General Services Administration (GSA), the Lessor, and the occupying Government agency, you are hereby advised that the GSA Buildings Manager is designated as your point of contact in the day to day management of the terms and conditions of the agreement between you and the Government. The GSA Buildings Manager rsponsible for this lease is: Mr. Charles Robinson, Buildings Manager, Southwest Field Office, 2100 2nd Street, SW., Washington, D.C.; phone: 245-0461.

A mutual field measurement will be completed to determine if the actual number of net usable square feet of space delivered complies with your offer. Tenant layout plans will be prepared and furnished you at the earliest practicable date.

Sincerely,

EARL W. ESCHBACHER,
Chief, Metro Washington Branch,
Space Management Division, Office of Operating Programs.

Standard Form 1036
October 1967
Title 7, GAO Manual
1036-106

STATEMENT AND CERTIFICATE OF AWARD

No. _____ (Contract)

Date June 3, 1975

General Services Administration, Region 3, PBS, Space Management Division
(Department or establishment) (Bureau or office) (Location)

METHOD OF OR ABSENCE OF ADVERTISING

1900 Half Street, S.W.
Washington, D.C.

METHOD OF ADVERTISING

1. By advertising in newspapers. Yes ☒ No ☐
2. (a) By advertising in circular letters sent to _____ dealers.
   (b) And by notices posted in public places. Yes ☐ No ☐

(If notices were not posted in addition to advertising by circular letters sent to dealers, explanation of such omission must be made below.)

ABSENCE OF ADVERTISING

Without advertising in accordance with _____

(Cite law pursuant to which contract was negotiated and the applicable section and paragraph thereof. If contract was negotiated under a public exigency which would not admit of the delay incident to advertising, or because of it being impracticable to secure competition, state below or on the reverse hereof, the circumstances requiring negotiation.)

AWARD OF CONTRACT

	Yes	No
A. To lowest bidder as to price (Expenditures)	☒	☐
B. To highest bidder as to price (Receipts)	☐	☐

CERTIFICATE

I CERTIFY that the foregoing statement is true and correct; that the written findings required by law to be submitted with the contract in case of negotiation, upon a determination by the agency head or other authorized official that such method of contracting is necessary, are attached thereto; that the total number of bids received is _____, and that where lower bids (expenditure contracts) or higher bids (receipt contracts) as to price were received, a statement of reasons for their rejection, together with an abstract of bids received, including all lower than that accepted in case of expenditure contracts and all higher in case of receipt contracts, is given below or on the reverse hereof or on a separate sheet attached hereto; that the articles or services covered by the agreement (expenditure) are necessary for the public service; and that the prices charged are just and reasonable.

Findings: On Standard Form 81 dated March 25, 1974, the Securities and Exchange Commission (SEC) requested 434,771 sq. ft. of space for the consolidation and expansion of their agency. SEC is presently housed in the following facilities:

1. 500 N. Capitol St. - 169,094 sq. ft. of office space, plus 600 sq.ft. of parking space.
2. 1020 11th St., N.W. - 66,203 sq. ft. of office and 32,785 sq. ft. of parking.
3. Ballston Tower 3, 4015 Wilson Blvd., Arlington, Va. - 7,030 sq. ft. of office space.

(over)

Doris Frankenfield

DORIS FRANKENFIELD
(Signature of contracting officer)

(Title)

NOTE.—This statement and certificate will be used to support all agreements, both formal contracts and less formal agreements of whatever character, involving the expenditure or receipt of public funds. It must be executed and signed by the contracting officer (unless the award is made by or is subject to approval by an officer other than the contracting officer, when execution and signature may be made by such officer).

On August 2, 1974, GSA submitted a prospectus to the Public Works Committee of Congress for the acquisition of 403,000 sq. ft. of occupiable space (which included parking for 271 vehicles in a building(s) in Washington, D.C.). On October 10, 1974, Congress approved the acquisition of approximately 460,000 sq. ft. of space (including parking) for a firm five (5) year term with renewal options contingent upon approval by the Congress. Six (6) offers were received as follows:

1. 400 North Capitol Street, N.W. (Raymond C. Brophy, Inc.)

a. 380,000 sq. ft. office space at $7.48/sq. ft. w/o utilities. 81,500 sq. ft. of parking space at $1.59/sq. ft. w/o utilities, making an effective rate of $7.54/sq. ft.

b. 380,000 sq. ft. of office space at $8.82/sq. ft. with utilities. 81,500 sq. ft. of parking space at $1.59/sq. ft. w/o utilities.

c. 210,000 sq. ft. of office space at 400 N. Capitol at $7.48/sq. ft. w/o utilities, and 169,094 sq. ft. at 500 N. Capitol at $6.48/sq. ft., w/o utilities.

d. 53,000 sq. ft. of parking at 400 N. Captol at $1.59/sq. ft. with utilities, and 40,636 sq. ft. of parking at 500 N. Capitol at $1.20/sq. ft., totally unserviced, for an offered effective rate of $6.99/sq. ft.

2. 1900 ½ Street, S.W. (Southwest Joint Venture).

a. 380,000 sq. ft. of office space at $7.00/sq. ft., w/utilities (with four months free rent). 81,500 sq. ft. of parking space at $.721/sq. ft., w/utilities (with one year free rent), for an effective rate of $5.49/sq. ft.

3. Union Center Plaza East—North Capitol and H Streets, N.E. (Union Center Placa Associates).

a. 380,000 sq. ft. of office space at $6.97/sq. ft. with utilities (with four months free rent). 81,500 sq. ft. of parking space at $1.59/sq. ft. with utilities (with four months free rent), for an effective rate of $5.62/sq. ft.

4. Casimir Pluaski Building—20 Mass. Ave. (Peter Barnes).

a. 220,500 sq. ft. of office space at $7.25 with utilities. 53,000 sq. ft. of parking space (no rate specified).

5. Bicentennial Building—6th & E Streets, N.W. (6th and E Streets Joint Venture).

a. 210,000 sq. ft. of office space at $7.50/sq. ft. with utilities. 53,000 sq. ft. of parking space at $2.50/sq. ft. with utilities.

6. Northeast Number One—N. Capitol & L Streets, N.E.—(HOK-Jones, Inc.).

a. 235,646 sq. ft. of office space at $8.16/sq. ft. with utilities. Two levels of parking (footage and price not stipulated).

The offer for Northeast Number One is considered non-responsive because they submitted on offer for a firm term of 20 years rather than 5 years.

The Casimir Pulaski Building has been leased for use by another agency.

The offers for 400 North Capitol Street exceed the prospectus limitation of approximately $2,800,000, per annum, fully serviced.

The Bicentennial Building can provide only partial consolidation of SEC, and it is now imperative that total consolidation be achieved.

The initial response to our Solicitation for Offers No. 697 brought forth only one response which could have provided the space required to consolidate SEC. This offer was from Mr. Brophy for 400 N. Capitol Street, at $8.48/sq. ft., w/o utilities. Mr. Brophy, who is also the sole leasing agent for 500 N. Capitol Street (SEC's present headquarters), refused then to consider extending the lease on that building beyond its present expiration date of April 20, 1976, and so would not make an offer at the time for a partial consolidation at 400 N. Capitol Street.

Since Brophy's offer was non-responsive, and since GSA had received listings from developers who were prepared to construct large office buildings, SFO 697 was amended on January 31, 1975, to extend the delivery from July 1975 to July, 1976.

Subsequently, revised offers resulted from negotiations, and the above listed "best and final offers" were received NLT Friday, May 30, 1975.

The Southwest Joint Venture's offer is the lowest responsive offer, with an effective rate of $5.49 per sq. ft., fully serviced, for both office and garage space. Acceptance of this proposed building at 1900 ½ Street, S.W., would result in the lowest annual rental to the Federal Government. In addition, the Government has the right to renew its lease on the proposed building at the same basic rental rate offered for the first 5-year term, the only increase being in the 3 year tax and operating escalation.

GSA has filed a negative declaration on environmental assessment of this site.

Determination: In view of the foregoing and pursuant to the authority delegated to me by the Assistant Commissioner for Operating Programs, I hereby determine as required by Section 302(c)(10) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393), as amended (41 U.S.C. 252), that this contract is: "for property or services for which it is impracticable to secure competition," and that it is in the best interest of the Government to negotiate for the acquisition of this space.

Mr. GALUARDI. But we went to both the offers because we were concerned about, as I said, the ability to be able to perform within the solicitation 1-year delivery, nearly 460,000 square foot building, and we asked them a series of what we used to call five points, as the test of the existence of a building, and that is the man, the owner had to have control of the site, he had to have the copy of the deed, a construction permit, a commitment for financing, and a construction contract. And we asked both Union Center Plaza and Tauber for these five points in order to determine whether or not under the responsibility aspect of the solicitation for offers that they did have, you know, the ability to be able to perform within the time period that we had specified within the solicitation.

Mr. DINGELL. Well, when did your negotiations with Dr. Tauber commence?

Mr. GALUARDI. When did they commence?

Mr. DINGELL. Yes.

Mr. GALUARDI. I have my notes here that on February 14 is when he made his first offer, and from that point on, if you know Dr. Tauber, negotiations are continuous. He calls Mr. Eschbacher all the time, and the negotiation goes on almost a daily basis.

Mr. DINGELL. Did he put up a bond or anything of that sort with regard to meeting the delivery date?

Mr. GALUARDI. He would not be required. I would have to ask counsel whether he would have to have a bond or not, but no penalty in the contract. We put a liquidated damages clause in the contract.

Mr. DINGELL. What was the liquidated damage clause? Can you tell me what it was?

Mr. FOWLER. $1,250 a day.

Mr. DINGELL. $1,250 a day?

Mr. ESCHBACHER. We better verify that.

Mr. DINGELL. What was the rental on a daily basis?

Mr. GALUARDI. The rental was, with utilities, $5,500 a day, approximately.

Mr. DINGELL. $5,500?

Mr. GALUARDI. No, without utilities it would come somewhere to around $3,000.

Mr. ESCHBACHER. $1,240 per day.

Mr. DINGELL. $1,240. You said he had five points that he was to deal with in connection with establishing his ability to deliver the premises at the appointed time, according to the contract. What were those five points again?

Mr. GALUARDI. OK, it was not a requirement that they had to provide it under the solicitation we have in the past done that, but in this instance in order for us to make the decision as to whether or not we would consider the offeror responsible we asked for those five points.

Mr. DINGELL. What were those five points again?

Mr. GALUARDI. The ownership or firm option on the property.

Mr. DINGELL. Ownership or firm option?

Mr. GALUARDI. On the property, that is the ground.

Mr. DINGELL. OK.

Mr. GALUARDI. A building permit. The design for the building. A contract for construction. And financing independent of any condition for Government occupancy.

Mr. DINGELL. When did you request these?

Mr. BLUMENSTEIN. We originally requested them verbally in a negotiating session.

Mr. DINGELL. When was that?

Mr. BLUMENSTEIN. February 26, I believe, was for Bernstein and February 28 for Southwest Joint Venture.

Mr. DINGELL. February 26 for Mr. Tauber, and February 28 for Bernstein?

Mr. ESCHBACHER. No, the other way around.

Mr. DINGELL. Oh, it is February 28 for Tauber and February 26 for the other one?

Mr. BLUMENSTEIN. February 26 for Bernstein, February 28 for Tauber.

Mr. DINGELL. What assurances did they give you in each instance? Did Mr. Tauber own the ground at that particular time? He did? Had clear title?

Mr. ESCHBACHER. Yes, sir.

Mr. DINGELL. And you satisfied yourself that he had clear title?

Mr. ESCHBACHER. He had followed this up in writing in April of that year, April 28, to confirm and request in writing from all individuals those particular five points. Dr. Tauber on May 1 after the April 28 letter submitted all the necessary documents showing that he had title, that he had construction financing, that he had proper zoning.

[Note: GSA unable to supply subcommittee with a copy of Dr. Tauber's May 1 reply.]

Mr. DINGELL. All right. Now, first of all, you say he established this on April 28?

Mr. ESCHRACHER. No, we asked it in writing on April 28. After a verbal request by Mr. Blumenstein in a negotiating session, and I assume up to that time we had not received it from anyone in response to verbal request, and so we made a formal request in writing.

Mr. DINGELL. You asked it in writing April 28?

Mr. ESCHBACHER. Right.

[The letter referred to follows:]

APRIL 28, 1976.

UNION CENTER PLAZA ASSOCIATES,
Attention: Mr. Steven H. Bernstein,
Washington, D.C.

DEAR MR. BERNSTEIN: This will confirm your telephone conversation of April 28, 1975, with Mr. John Blumenstein of my staff, during which you were requested to submit to this office, by no later than Friday, May 2, 1975, the following information in connection with our Solicitation for Offers No. 697:

A. The firm commitment of funds in an amount sufficient to perform the work.

B. Sufficient ownership interest or control of the construction to assure the Government's interest for the full term of the lease.

C. Compliance with local zoning laws or evidence of variances, if any, approved by proper local authority.

D. That a construction contract with a firm completion date has been executed.

E. A building permit has been issued.

Your cooperation in this important matter is greatly appreciated.

Sincerely,

EARL W. ESCHBACHER,
Chief, Metropolitan Washington Branch,
Space Management Division, Office of Operating Programs.

Mr. DINGELL. How did he prove his ownership or firm option on the land?

Mr. ESCHBACHER. He gave us a copy of his deed.

Mr. DINGELL. A copy of his deed?

Mr. ESCHBACHER. That is correct.

Mr. DINGELL. A quit claim?

Mr. ESCHBACHER. It is a deed from a loan company. I am not an attorney.

Mr. DINGELL. As an attorney, I have some suspicion of most quit claims until they are run through some kind of title check.

Mr. ESCHBACHER. Just a minute, sir.

I don't see the deed in here now. The deed itself says the said party of the first part conveys in covenants that it will warrant especially the property hereby conveyed and——

Mr. DINGELL. Mortgage deed.

Mr. ESCHBACHER. I see.

Mr. DINGELL. That is a mortgage deed. Who is warrantee of the deed?

Mr. ESCHBACHER. It is from Maloney Concrete Co.

Mr. DINGELL. I see. Now, the design of the building, did he have the designs in hand at the time on April 28, or at a time prior to the letting of the contract?

Mr. ESCHBACHER. There may be some slight difference here as to what we requested, as to what he furnished. Let me read you exactly what was requested. Yes; it is April 28. On April 28 we requested that Drs. Tauber and Bernstein furnish us and Brophy the following—well, I guess it was the two of them, (a) a firm commitment of funds in the amount sufficient to perform the work; (b) sufficient ownership interest or control of the construction to assure the Government's interests for the full term of the lease; (c) compliance with local zoning laws, or evidence of variances, if any, approved by proper local authorities; (d) the construction contract with a firm completion date has been executed; (e) a building permit has been issued and those are the documents which Dr. Tauber furnished to us on May 1.

Mr. DINGELL. When did he submit those?

Mr. ESCHBACHER. I am sorry.

Mr. DINGELL. When?

Mr. ESCHBACHER. May 1.

Mr. DINGELL. May 1.

Mr. ESCHBACHER. Under a cover letter.

Mr. DINGELL. Mr. Finnegan.

Mr. FINNEGAN. Just to get it on the record, when Dr. Tauber submitted his first bid and signed it, as I recall, Southwest Joint Ven-

ture, care of Westwood Management Corp., this was dated February 14, 1975, is that your understanding? That is on the form itself. I am reading from the form.

Mr. ESCHBACHER. On February 14?

Mr. FINNEGAN. On February 14.

Mr. ESCHBACHER. The GSA form? I cannot speak to that, can you? All right, February 14.

Mr. FINNEGAN. On April 2, 1975, the GSA Administrator, Mr. Sampson, sent a letter to the Securities and Exchange Commission. Is that correct, Mr. Galuardi?

Mr. GALUARDI. April 2, Mr. Sampson did send a letter to Mr. Garrett.

Mr. FINNEGAN. And that letter states—do you have that letter from the file?

Mr. GALUARDI. Yes.

Mr. FINNEGAN. Can you read to me the third paragraph of the letter, I think it is the paragraph?

Mr. GALUARDI.

We will submit an offer to you by April 10 and, based on your approval, you can be assured we will select the best and most satisfactory offer to meet SEC requirements. If SEC concurs in our selection, we will then make an award to the successful offeror, with whom we will develop a schedule for the completion of his building and submit a copy of the schedule to you.

[The letter referred to follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., April 2, 1975.

HON. RAY GARRETT, JR.,
Chairman,
Securities and Exchange Commission,
Washington, D.C.

DEAR MR. GARRETT: Thank you for your letter of March 20, 1975, concerning your request for space for the Securities and Exchange Commission (SEC).

On March 27, 1975, Messrs. Galuardi, Hervell, and Long of the General Services Administration (GSA) met with Commissioner Pollack and Mr. Blanchard, Executive Director of SEC, to discuss the status of SEC's space request. Commissioner Pollack was informed that we could not accept Mr. Raymond C. Brophy's offer of 400 North Capitol Street, because it exceeds the authority granted GSA by the Congressionally approved prospectus. However, we have other aceptable offers for space and will conclude our negotiations by April 4, 1975.

We will submit an offer to you by April 10 and, based on your approval, you can be assured we will select the best and most satisfactory offer to meet SEC's requirements. If SEC concurs in our selection, we will then make an award to the successful offeror, with whom we will develop a schedule for the completion of his building, and submit a copy of the schedule to you.

I assure you that my staff will continue to work closely with your staff on a priority basis in order to expedite these plans.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

Mr. FINNEGAN. All right, is there any indication at that time that SEC would disapprove the Buzzard Point building?

Mr. GALUARDI. I don't know how to answer that, because, as I said, the SEC's attitude all along was that the only one they would accept would be 400 North Capitol Street.

Mr. DINGELL. When did this judgment by SEC related to the only acceptable site become plain?

Mr. GALUARDI. It never was unplain to us, it always was plain.

Mr. DINGELL. In other words, you always knew that they would not accept this site, and they only wanted the one site?

Mr. GALUARDI. In almost every conversation we ever had with them that was.

Mr. DINGELL. So you knew that the SEC would only take one place?

Mr. GALUARDI. Except that the choice, you know, of taking a site is in accordance with the procurement regulations and not in accordance with the desires of an agency. The procurement requirements state you must take the lowest responsible responsive offer.

Mr. DINGELL. All right. Aren't we in position then that SEC made plain their view that they would only take one site?

Mr. GALUARDI. No; they were willing to listen to us, but their attitude was such——

Mr. DINGELL. Well, isn't that at variance with what you just told me? In this memorandum, don't I note here a quote which says as follows:

"SEC indicated that they might reject the Tauber or Forte Buildings and appeal to OMB. They were advised that GSA would hold its position and believed it would prevail." Isn't that right? [See p. 355.]

Mr. GALUARDI. Right.

Mr. DINGELL. So this was at the March 27 meeting; is that right?

Mr. GALUARDI. Right. The negotiations were still going on and 400 North Capitol Street still had the opportunity to adjust its bid so——

Mr. DINGELL. You make me curious. Here you have an agency that you are procuring property for, which is SEC; am I right?

Mr. GALUARDI. Yes.

Mr. DINGELL. And they say that they don't want what you are going to give them and they are going to appeal to OMB. Then you folks say, "Well, we are going to go ahead and build the darn thing," and we are going to go to OMB and we think we are going to prevail. I am curious to know what kind of administration that is.

Mr. GALUARDI. We had to get out of the 500 North Capitol Street building by April 1976. It was going to be necessary to take an action. SEC could say they want a particular building, but the Government procurement process prevails, and it says that you have to take the lowest responsive, responsible offer.

Mr. DINGELL. Well, as I gather now, we are down to the point where you have a building that has not yet been built, in a place that nobody wants, where your environmental impact assessment is bad, and where the agency concerned does not want to move into the building. Am I correct in those appreciations?

Mr. GALUARDI. I think to say, nobody said I had a very easy job.

Mr. DINGELL. I am not talking about whether you had an easy job, but am I correct in my understanding of the factual situation here? And the citizens in the area are violently unhappy besides, and threaten you with a lawsuit. Am I in error in setting forth any of these facts?

Mr. GALUARDI. No, I think on March—you were saying on March 27?

Mr. DINGELL. Yes, on March 27.

Mr. GALUARDI. Negotiations.

Mr. DINGELL. Am I in error on any of these facts? These are facts, are they not?

Mr. GALUARDI. The negotiations were still going on. I am not sure whether Union Center Plaza was still under consideration.

Mr. DINGELL. Let me run up and down this list again. You got a bad environmental assessment?

Mr. GALUARDI. Not on March 27, because we hadn't, you know, gotten to the lowest responsible, responsive offer then.

Mr. DINGELL. Well, then you didn't have any environmental assessment at all, but later got it?

Mr. GALUARDI. No, we had started making environmental assessment on both the Union Center and Buzzard Point building.

Mr. DINGELL. In any event, you either had no environmental assessment or a bad environmental assessment, that is point one. Am I in error on that?

Mr. GALUARDI. I don't buy that argument, no.

Mr. DINGELL. OK. What is the fact then?

Mr. GALUARDI. That I had a properly evaluated environmental assessment.

Mr. DINGELL. You did at this time?

Mr. GALUARDI. No, I had it on, what was it, May something.

Mr. DINGELL. May what?

Mr. GALUARDI. June 3.

Mr. DINGELL. Your own folks say you didn't have a very good environmental assessment.

Mr. GALUARDI. That is not true, the environmental assessment—all right, what it says in the environmental assessment, some factors down there that are not too good, and that is what the purpose of an assessment is.

Mr. DINGELL. Well, your own folks in your own agency didn't agree with your declaration, so, first of all, you got a bad or no environmental assessment. It is not me that has been testifying on all these things. I am just trying to summarize it. Am I in error, or not?

Mr. MULLIGAN. Mr. Chairman, with respect to the environmental assessment, it was not my view at the time that the assessment was in error.

Mr. DINGELL. Was it? Was it that this was a bad location?

Mr. MULLIGAN. No.

Mr. DINGELL. Your folks would not sign off on it?

Mr. MULLIGAN. I didn't have adequate information at the time for me to determine whether the assessment was a good one or not.

Mr. DINGELL. Well, when did you get that?

Mr. MULLIGAN. I never did get it.

Mr. DINGELL. You never did so. Well, let's put it this way then and I will try to be as friendly as I can here: When did you get a good environmental assessment, if ever?

Mr. MULLIGAN. I haven't looked at the environmental assessment since June 2. Pardon me, Mr. Finnegan showed it to me last week.

Mr. DINGELL. There were different environmental assessments. Let me summarize this. You either had a bad environmental assessment

or didn't have one, you didn't have the building up, the citizens in the area were in a state of substantial outrage, and the agency that was supposed to occupy this building was saying we aren't going to move there, and local government is not happy.

Mr. MULLIGAN. Well, I think some one——

Mr. DINGELL. Now, am I in error on any of those statements?

Mr. MULLIGAN. Someone else will have to speak to the accuracy of those statements.

Mr. DINGELL. No, deal with me fairly here.

Mr. MULLIGAN. Surely.

Mr. DINGELL. Let's just get a very simple statement here, am I in error on any of these statements?

Mr. MULLIGAN. I don't know if you are or not.

Mr. DINGELL. All right, can anybody down there tell me that I am in error?

Mr. GALUARDI. I don't think I can tell you——

Mr. DINGELL. Am I in error on any of my statements?

Mr. GALUARDI. I don't think you are in error, but I don't agree with them.

Mr. DINGELL. Then conceding I am not in error——

Mr. GALUARDI. But I don't agree with them.

Mr. DINGELL. You don't agree with them?

Mr. GALUARDI. Yes.

Mr. DINGELL. Where am I in error then?

Mr. GALUARDI. I have an executed environmental assessment on the day of the award, which is proper.

Mr. DINGELL. And your folks in charge of signing off on this won't agree with it.

Mr. GALUARDI. But the person in charge of signing it signed it.

Mr. DINGELL. Who was that?

Mr. GALUARDI. Mr. Peyton.

Mr. DINGELL. Who?

Mr. GALUARDI. Mr. Peyton. He has the ultimate decision on whether or not he signs this assessment.

Mr. FINNEGAN. Not according to your regulations. Before he signed off on it, before any further action is taken, he has to get the approval of these other two gentlemen.

Mr. DINGELL. And he didn't have that.

Mr. GALUARDI. He makes the regulations, as well as signs the document.

Mr. FINNEGAN. Well, an agency is bound by their own regulations, sir. You are bound by your regulations, so long as they are in force. I think your lawyers will agree.

Mr DINGELL. Aren't you bound by your regulations until you change your regulations? I mean, am I in error on that assumption?

Mr. MULLIGAN. I think the question is what is the legal effect of not having the Environmental Director and myself concur in the environmental impact statement? Frankly, I don't know what the legal effect is. It is my belief at this time that since the clearance procedure was not, and the regulation was not such that it was intended to protect a private right, that it may not have any legal effect, if the people named in the regulation to concur did not do so.

The ultimate person to approve the statement was the Commissioner, or the Acting Commissioner.

Mr. DINGELL. Well, we are being filtered off into by-ways here that are not relevant to the matter beforehand. I am just going to ask you, what kind of good administration is it to run out and—how much did you commit to this building, how many dollars a year or——

Mr. GALUARDI. The rental is $2.5 million a year.

Mr. DINGELL. A year. Do you know what the construction cost of this building was?

Mr. Galuardi. Do you know?

Mr. DINGELL. Does anybody know what the construction cost of the building was?

Mr. GALUARDI. I don't really know.

Mr. DINGELL. You don't know.

Mr. GALUARDI. Because it is not a factor in the lease award, and we don't ask the offeror to furnish it.

Mr. DINGELL. Well, it is strange administration, to my eye.

Mr. Finnegan?

Mr. FINNEGAN. I just want to correct the record.

Mr. Mulligan, the statement you just made bothers me a little bit. The regulations that you publish are prepared to carry out procedures of the Council on Environmental Quality in carrying out the National Environmental Policy Act to make sure that the provisions of that act are complied with.

The assessment procedure that you just went through is aimed at making that determination of whether or not an EIS is required. Certainly the public has an interest in knowing that the determination is carried out in accordance with the GSA's procedures; is that correct?

Mr. MULLIGAN. I would agree with what you are saying, but I am not sure that if Mr. Kauders and myself do not concur in it necessarily means the assessment itself is inadequate.

Mr. FINNEGAN. But it is the issue of the negative declaration that is the key factor?

Mr. MULLIGAN. Correct.

Mr. FINNEGAN. That declaration states that you do not need an EIS, and that is what you were to sign off on; am I correct?

Mr. MULLIGAN. Yes, sir.

Mr. DINGELL. And you, in fact, did not sign off on that?

Mr. MULLIGAN. Yes, sir.

Mr. FINNEGAN. So that your not signing off on it, according to the procedures, meant the GSA officials were not to take another action, is that correct, on their part?

Mr. MULLIGAN. That is what the regulation states.

Mr. FINNEGAN. OK. So they did go ahead, the Acting Commissioner in this case did sign off, and he violated in effect your procedures; is that correct?

Mr. MULLIGAN. I would say so, yes, sir.

Mr. DINGELL. Can you tell me what independent review the Commissioner made in connection with his judgment that he was going to sign off? Did he make any at all?

Mr. MULLIGAN. I was not there when he signed off on it, sir.

Mr. DINGELL. Can you tell me what independent review was made by the Commissioner, or by his office or staff in connection with this matter?

Mr. KAUDERS. I spoke with Mr. Peyton prior to his signing the negative declaration.

Mr. DINGELL. You spoke to him.

Mr. KAUDERS. We discussed the assessment and problems that I had with it. Based upon that, and whatever other inquiries he made, he made the decision to sign it.

Mr. DINGELL. Based upon that, were there any hearings or meetings, or was there anything in the minutes of the agency that would reflect any more intense study than that?

Mr. NIXON. Mr. Chairman, I think one point that has not been brought out in this dialog——

Mr. DINGELL. Well, can I respectfully suggest that first we should answer my question, and then I will recognize you for any comment.

Mr. NIXON. I don't know, Mr. Chairman.

Mr. DINGELL. There is nothing in the record to indicate that any more careful study was made than by discussion with one of your folks down at GSA, the gentleman who just testified prior to you; is that right?

Mr. GALUARDI. I think no one was here except Mr. Kauders in discussion with Mr. Peyton, so, therefore, none of us can answer the question.

Mr. FINNEGAN. Thus, the absence of Mr. Peyton today affects this proceeding.

Mr. GALUARDI. On this particuar issue.

Mr. FINNEGAN. Do you know whether Mr. Peyton was directed to sign that? Does anybody here know whether he was directed?

Mr. GALUARDI. I don't know.

Mr. ESCHBACHER. No.

Mr. FINNEGAN. The fact is, though, and I would go back to Mr. Mulligan, that signing the negative declaration is an important factor in whether an award or a lease can be made, is it not, in an order to assert your compliance with NEPA?

Mr. MULLIGAN. The regulation requires that the environmental assessment and the negative declaration in this case be signed before the award be made.

Mr. FINNEGAN. Since the Commissioner did sign it, but contrary to the regulations and not in accordance with the procedures, that document, the signed negative declaration, triggered the Agency to then go ahead and sign an award for the lease; is that correct?

Mr. MULLIGAN. Yes, sir.

Mr. FINNEGAN. Now, as I understand it, Ms. Frankenfield, you signed the determinations which were the final documents on which the lease was finally signed?

Ms. FRANKENFIELD. I signed the findings and determination, yes.

Mr. FINNEGAN. Did you have before you the negative declaration at that time?

Ms. FRANKENFIELD. I never get those, I don't get involved in the negotiations and the background on it. I only sign the findings.

Mr. FINNEGAN. You sign it as contracting officer; is that correct?

Ms. FRANKENFIELD. Right.

Mr. FINNEGAN. Do you inquire whether in fact a negative declaration or any factual statements have been prepared?

Ms. FRANKENFIELD. I inquire as to whether an assessment has been made.

Mr. FINNEGAN. Did you inquire in this case whether a negative declaration was prepared?

Ms. FRANKENFIELD. Yes.

Mr. FINNEGAN. And the answer to that? Who did you inquire of?

Ms. FRANKENFIELD. From the contracting officer.

Mr. FINNEGAN. Who is Mr. Eschbacher?

Ms. FRANKENFIELD. Eschbacher.

Mr. FINNEGAN. And what was his response?

Ms. FRANKENFIELD. Yes.

Mr. FINNEGAN. That there was one?

Ms. FRANKENFIELD. Yes.

Mr. FINNEGAN. So, therefore, you on that basis quite properly decided to go ahead and sign the award; is that correct?

Ms. FRANKENFIELD. Yes.

Mr. FINNEGAN. Were you told to go ahead and sign also on the basis that the decision had been made by the Administrator to accept the award?

Ms. FRANKENFIELD. Yes.

Mr. FINNEGAN. All right, Mr. Nixon, you have been trying to say something.

Mr. NIXON. Yes; Mr. Finnegan, I think there is one point here that might serve as some clarification to the question as to the following of requirements or in respect to this particular action. It was not, as a general rule, up to that point, a requirement that an assessment be filed on a leasing action. I believe that the criteria, within the requirements, that indicated that there would be even a necessity or a consideration for an assessment here was that we did recognize this as a potentially controversial action. There was not, as a matter of agency policy, a requirement that on a lease action that of itself was a major Federal action requiring an assessment.

Mr. FINNEGAN. Well, Mr. Nixon, I thank you for that comment, but I point out to you that the CEQ regulations and guidelines makes it very clear that where a matter is controversial that is one of the reasons for going forward and having an environmental impact statement, or at the minimum going forward with an assessment.

Mr. NIXON. An assessment.

Mr. FINNEGAN. And I also point out to you that the regulations we are discussing here were in effect at that time.

Mr. NIXON. But I am saying that it was not because of the leasing action itself that required the assessment, but at the fact that it was or could be considered potentially controversial.

Mr. FINNEGAN. But the leasing action is the thing that is getting you into the controversy itself; it is the leasing action that involves the impact, upon which there would be an EIS. The impact occurs because the building would be built, and so forth.

Mr. NIXON. No, I don't agree with the fact that the fact——

Mr. FINNEGAN. Well, you wouldn't have to prepare an assessment if it was not for the lease.

Mr. NIXON. No; well, we would not necessarily build the building if we didn't have the lease.

Mr. FINNEGAN. I think we are going around in circles. The fact of the matter is you went into a project here on which you have a solicitation, and you got bids for an award of a lease; isn't that correct?

Mr. NIXON. Well, I don't think that of itself is——

Mr. FINNEGAN. It is not the lease of the building, but it is the lease itself that will result?

Mr. NIXON. Well, this is the fact where you are determining or the matter of fact whether the man would have built the building had we not signed the lease.

Mr. FINNEGAN. Well, we are not leasing that at the moment. I am just saying you and GSA as an Agency decided you had to have an assessment and a negative declaration. We didn't make that decision, you did.

Mr. NIXON. I don't know.

Mr. FINNEGAN. And for whatever reason, you did it, but you have got to do so in accordance with your own procedures and regulations. That is the only point we are making.

Mr. DINGELL. Furthermore, those regulations were approved by CEQ, were they not?

Mr. NIXON. No.

Mr. KAUDERS. They were printed in the Federal Register.

Mr. DINGELL. That is right, and were approved by CEQ and printed in the Federal Register.

Mr. KAUDERS. CEQ does not approve regulations.

Mr. DINGELL. They don't approve them?

Mr. KAUDERS. No.

Mr. DINGELL. Well, they were in accord with CEQ guidelines, were they not?

Mr. KAUDERS. Yes.

Mr. DINGELL. Well, let me ask you this, gentlemen, and maybe you can inform me on this point. Do you just go around lightly ignoring your regulations because you don't approve of them, or do you adhere to them? I mean, what is the policy when you have your own regulation if the fellow does not like the regulation just proceed to disregard it and go about things in his own way, or are these regulations of more importance?

Mr. GALUARDI. The only position I can take is that the Administrator directs that certain regulations be written down and stated, and if the Administrator in his wisdom as the Administrator wishes to pull up a project and determine that he has to make a different decision than the one that he had previously under the regulations, then that is his prerogative.

Mr. DINGELL. To disregard his regulations?

Mr. GALUARDI. To change the regulations.

Mr. DINGELL. No, no, no, he didn't change the regulations, he said disregard it here.

Mr. GALUARDI. To take an action——

Mr. DINGELL. You will concede there is a difference?

Mr. GALUARDI. To take an action which is contrary to the regulations which are published.

Mr. DINGELL. Well, are you telling me then he is not bound by his own regulations?

Mr. GALUARDI. I am telling you I think he has the authority——

Mr. DINGELL. No, no, no, is he bound by his regulations or not?

Mr. GALUARDI. He has the authority to make a decision, you know.

Mr. DINGELL. Well, this is a fairly simple question. If you don't understand it, I would appreciate if you would indicate it. Is the Administrator bound by his regulations or not?

Mr. MULLIGAN. Mr. Chairman, I know there is a body of law which states that the head of an Agency must follow his own regulations. That has not been applied in all cases, however.

Mr. DINGELL. Well, just answer my question yes or no. We got off into some curious interpretations of statutes this morning and I would just as soon avoid that kind of swamp this afternoon. Isn't the proper way if he disapproved of a regulation, he should change his regulation. Then he could proceed to act in accord with the new regulation; isn't that the way it should be done in these instances?

Mr. MULLIGAN. I think as a general matter he should follow his regulations. I am not prepared to say, however, that in all cases an administrator who promulgates a regulation cannot change the regulations and do something different. In some cases he must do that, in other cases he does not have to do that. I haven't researched the——

Mr. DINGELL. What is it that justifies this remarkable behavior in disregarding these regulations? Is it an emergency of some kind?

Mr. MULLIGAN. I don't know.

Mr. DINGELL. You are an attorney, there must be some clear reason why the Administrator disregards his own regulations. What are those reasons for his disregarding his own regulations?

Mr. MULLIGAN. I have no idea why he——

Mr. DINGELL. No, no, no, I get the feeling you are talking about the King of the French. This sounds like the day of Marie Antoinette. Do we adhere to the law, or do we not adhere to the law? I mean, do we adhere to regulations? Maybe we ought to start looking at you folks more carefully, as to whether you are paying heed to these regulations.

Mr. MULLIGAN. Well, Mr. Chairman, as I said before, I can't tell you that I believe it is a legal requirement that in all cases he must adhere to his regulations.

Mr. DINGELL. You can't tell me that. Can you tell me he is not?

Mr. MULLIGAN. With respect to some regulations, he must follow them, others I am not so sure.

Mr. DINGELL. Can you tell me that it is not?

Mr. MULLIGAN. Pardon me?

Mr. DINGELL. Can you tell me that it is not?

Mr. MULLIGAN. That I can't tell you for sure.

Mr. DINGELL. Perhaps you can tell me in a more helpful fashion, and inform me what are the meaning of these regulations. Do they have any meaning or significance at all?

Mr. MULLIGAN. Well, the regulations that we are talking about——

Mr. DINGELL. Are they to be lightly disregarded throughout the agency or what?

Mr. MULLIGAN. The regulations we are talking about now, 1095, are issued to people who work within GSA by the Administrator——

Mr. DINGELL. What does he work with GSA or on some higher plane?

Mr. MULLIGAN. His people—pardon me.

Mr. DINGELL. Does he work with GSA or on some higher plane?

Mr. MULLIGAN. The Administrator?

Mr. DINGELL. Yes.

Mr. MULLIGAN. He is the head of GSA.

Mr. DINGELL. Well, I get the distinct impression that you are talking about the old French concept of lèse majesté—that any offense against the dignity of the King is treason. And, of course, everyone knows the King can do no wrong. If you will recall, the English fought a war over that and Cromwell defeated the King.

Mr. MULLIGAN. I don't mean to leave you with the impression that we believe the Administrator——

Mr. DINGELL. Is above the law?

Mr. MULLIGAN. [continuing.] Has the prerogatives of a King.

Mr. DINGELL. Well, in what instances would this great man be justified in disregarding the regulations?

Mr. BORWICK. Mr. Chairman, may I say something at this point?

Mr. DINGELL. Yes.

Mr. BORWICK. We are going around in circles.

Mr. DINGELL. I am trying to ascertain what policies exist.

Mr. BORWICK. The regulations delegate management function to the disposition of GSA for approving impact statements.

Mr. DINGELL. Yes.

Mr. BORWICK. Now, if the Commissioner or Administrator wants to assume that function himself, I see no reason he cannot do so, because the Administrator, Commissioner who is ultimately responsible for approving impact statements.

Mr. DINGELL. Well, I am going to yield to Mr. Finnegan, but before I do, was it the Administrator who approved this, or was it some lesser official?

Mr. MULLIGAN. It was the Commissioner of Public Buildings, sir. He is acting as——

Mr. DINGELL. So it was not the Administrator of GSA who disregarded regulations but the Commissioner of Public Buildings; am I correct?

Mr. MULLIGAN. Yes, sir.

Mr. DINGELL. Am I to gather that your rules and regulations down there at GSA don't apply to the Commissioner of Public Buildings either?

Mr. MULLIGAN. No, sir.

Mr. DINGELL. Can you give us a list of to whom they apply and don't apply?

Mr. MULLIGAN. They apply to everyone.

Mr. DINGELL. Everyone?

Mr. MULLIGAN. Except that there are occasions when the person issuing regulations can also change the regulations.

Mr. DINGELL. What you are telling me is that they apply to everybody except Commissioner of Public Buildings and Administrator of GSA. Does this same lese majeste apply to their assistants?

Mr. MULLIGAN. No, sir.

Mr. DINGELL. Sir?

Mr. MULLIGAN. Pardon me?

Mr. DINGELL. Does it apply to the General Counsel?

Mr. MULLIGAN. We follow the regulations, sir.

Mr. DINGELL. No, no, no. I have got to confess, I am glad I am not somebody down there with those regulations.

The Chair is going to recognize Mr. Finnegan.

Mr. FINNEGAN. The gentleman just espoused down there the issue of delegation. There is no question of delegation involved here, we are not raising a question of who signed them. The point was established procedures here required the concurrence of two people, or the persons holding those two positions. Then anybody above could have signed them, Mr. Sampson of course, could have signed them, or anybody else could who was in the proper position to do so. That is not the issue we are raising, but the negative declaration was signed by Mr. Peyton, despite the fact that they were not concurred in, as the procedures so required, by the General Counsel and Mr. Kauders.

Mr. DINGELL. Well, maybe you could just give us one last bit of information. Is there anything down in the records that indicates whether the Commissioner of Public Buildings is directed to sign this or not?

Mr. MULLIGAN. I am not aware of anything, sir.

Mr. DINGELL. Well, am I to assume that he has authority to disregard the regulations or not?

Mr. MULLIGAN. I don't think you can make that assumption, sir.

Mr. DINGELL. Well, all right.

Mr. MULLIGAN. If Mr. Peyton had asked me I would have advised him not to sign it.

Mr. DINGELL. Thank you.

Mr. FINNEGAN. Thank you, sir.

On April 8 we have a chronology that was provided to us by the GSA, entitled "Chronology of Actions Taken for Acquisition for Consolidation of SEC." On April 8, 1975, it states that an abstract of offers and award factors were prepared and submitted to Mr. Long, Mr. Harvell, Mr. Galuardi, and Mary Foster. Could any of you gentlemen or ladies tell me who was the one who prepared it and who submitted it to these people?

Mr. BLUMENSTEIN. Mr. Finnegan, I believe Mr. Fowler and I prepared that.

Mr. FINNEGAN. You gentlemen prepared that. Can you tell us why you prepared it and why you gave it to these people?

Mr. BLUMENSTEIN. I believe we prepared them at several different occasions just to have a record of where we stood at that point in time.

Mr. FINNEGAN. Did each of these people request them?

Mr. BLUMENSTEIN. Pardon?

Mr. FINNEGAN. Did each of these people request them in this case?

Mr. GALUARDI. That is the chain of command is what it is.

Mr. FINNEGAN. Pardon me?

Mr. GALUARDI. That is the chain of command basically.

Mr. FINNEGAN. I see.

Mr. GALUARDI. Mr. Long was the Deputy Assistant Commissioner for Operating Programs. Mr. Harvell was the Assistant Commissioner for Operating Programs, I was Mr. Harvell's supervisor, and Mary Foster would be acting in behalf of the Administrator.

Mr. FINNEGAN. All right. Now, the next thing is on April 11, 1975, the same chronology states that Mr. Blumenstein received a phone call from an upset Dr. Tauber who was alleging improper conduct on negotiations for solicitation 697. Mr. Blumenstein, could you explain to us what that phone call was about?

Mr. BLUMENSTEIN. I believe that Dr. Tauber was concerned about the procedure of our requesting information that we could establish his ability to deliver the building by July 1976.

Mr. FINNEGAN. In what way was he questioning that information?

Mr. BLUMENSTEIN. Well, the next working day or thereafter we had a meeting as a result of that phone conversation with the contracting officer. And I believe that Dr. Tauber at that meeting indicated that he felt that he had been asked to supply that information, and that the other offerors had not been.

Mr. FINNEGAN. Was that the case?

Mr. BLUMENSTEIN. No, sir. As I said earlier to you, I had in a negotiating session requested that information from Mr. Bernstein on February 26th and from Mr. Tauber, the same information, on February 28th.

Mr. FINNEGAN. I see. Is there any memoranda to the file to indicate that?

Mr. BLUMENSTEIN. Yes, there was a negotiation record, I believe, on both dates.

[The document referred to follows:]

CHRONOLOGY OF ACTIONS TAKEN FOR ACQUISITION OF SPACE FOR CONSOLIDATION OF SEC

3-25-74—Revised SF 81 received from SEC for 434,771 square feet including 114,450 square feet of parking.

8-2-74—Revised prospectus submitted to Congress for acquisition of 430,000 square feet of space including parking for a term of twenty years.

10-10-74—U.S. Senate and House approved prospectus for the leasing of 460,000 square feet of space including parking at an estimated annual rental of $2,800,000 for a firm five year term.

10-30-74—Mr. Galuardi advised by Mr. Shipp that the prospectus had been approved and to proceed with actions necessary to acquire space.

11-14 and 15-74—Advertisement placed in Evening Star and Washington Post requesting listings for two alternatives for a term of five years as follows:

(1) 380,000 square feet of office space plus 81,500 square feet of parking in Washington, D.C.

(2) 210,000 square feet of office space plus 53,000 square feet of parking space within five block radius of 500 North Capitol Street, N.W.

11-6-74—A market survey was made on November 6, 1974, for the purposes of identifying possible locations for satisfying both the FEA and SEC space requests.

11-7-74—Memorandum to Appraisal Staff from Mr. Long requesting appraisal information on:

(1) Union Center Plaza North.
(2) 400 North Capitol Street, NW.
(3) 500 North Capitol Street, NW.

11-14 and 11-19—Appraisal data received.

11-18-74—Listing received from Mr. Brophy on 400 North Capitol Street Building.

12-16-74—Listing received from Dr. Tauber on two proposed buildings in Southwest.

12-9-74—Solicitation for Offers #697 was concurred in by SEC.

12-9-74—Solicitation #697 sent to potential offerors.

12-20-74—Offer received from Mr. Brophy for space in 400 North Capitol Street Building.

12-27-74—Offer received from Steven Bernstein for proposed building on North Capitol and H Streets.

(12-31-74)—Offer received from Sylva Herman for Bicentennial Building located at 6th and E, NW.

12-27-74—Offer received from Peter Barnes on Casimir Pulaski Building located at 20 Massachusetts Avenue.

1-27-75—Letter signed by Mr. Galuardi to Mr. Garrett of SEC advising that Solicitation would be amended to extend delivery date to July 1, 1976, in order to insure more competition.

1-31-75—A letter was mailed to all who were mailed original Solicitations amending it to extend delivery date to July 1976.

2-5-75—Appraisal requested of proposed Building at North Capitol and H Streets.

(3-20-75)—Appraisal requested of proposed Building at 1900 Half Street, SW.

(2-14-75)—Offer received from Dr. Tauber for proposed Building at 1900 Half Street, SW.

3-24-75—Mr. Gural called Mr. Nixon requesting him to contact NCPC and D.C. Government on development plans for Southwest and how the proposed Tauber Building fit in with those plans.

3-20-75—Mr. Garrett of SEC sent letter to Sampson relaying information on 400 North Capitol Street Building.

3-25-75—Financial check on Union Center Plaza Building requested from Credit and Finance Director.

4-8-75—Environmental Impact Assessment on proposed building at North Capitol and H Street requested from RLA.

-28-75—A negotiating session was held with Dr. Tauber. He was advised by Mr. Blumenstein of the information he needed to supply to make his offer responsive. He was also asked to submit such documents as permits, construction contract, deed, etc as evidence of commitment to construct. He was advised this was not required under the Solicitation but that if he didn't mind we would like it for our files. Mr. Fowler of GSA was also in attendance.

3-18-75—Second negotiation session was held with Dr. Tauber. Mr. Blumenstein stated that the Government had not received anything from Dr. Tauber. Dr. Tauber stated a revised offer would be sent that same day. Copies of two Excavation Permits dated March 10, 1975, a letter of commitment from Savoy Construction Company dated February 27, 1975, and a deed signed July 1, 1974, were furnished by Dr. Tauber to GSA.

2-26-74—A negotiating session was held with Mr. Forte concerning the offer on the proposed Union Center Plaza Building.

He was asked by Mr. Blumenstein to revise his offer in order to make it responsive and submit certain evidence of a firm commitment to begin construction.

4-2-75—Mr. Sampson responded to Mr. Garrett's letter stating that offer for 400 North Capitol exceeded prospectus rental authority and that we had other responsive offers and would submit to SEC for their consideration a location by April 10, 1975.

4-8-75—An abstract of offers and award factors was prepared and submitted to Mr. Long, Harvell, Galuardi, and Mary Foster.

4-9-75—Mr. Long, Blumenstein, and Fowler met with Mr. Bernstein and Mr. Forte for purposes of clarifying estimates for utilities.

4-11-75—Mr. Blumenstein received phone call from an upset Dr. Tauber who was alleging certain improper conduct on negotiations for Solicitation #697.

4-15-75—Meeting with Dr. Tauber, Mr. Nadas, Mr. Kaufman, and Mr. Lowell, an attorney, and from GSA, Mrs. Frankenfield, Mr. Eschbacher, and John Blumenstein. Mr. Lowell said he wanted answers to four questions.

(1) Were all bidders asked to supply evidence of commitment to construct.

(2) When was this asked.

(3) Has the evidence been submitted by all parties.

(4) When will an award be made?

4-25-75—Credit and Finance Division received certain information from Bernstein on UCP Limited Partnership and financial capability of partners.

4-25-75—Telegrams were sent to all offerors requesting extension of offers until May 28, 1975.

4-28-75—Dr. Tauber submitted letter extending offer and reducing his fully serviced offer to $5.53 overall, This is now low offer.

4-28-75—Letters were sent to Bernstein and Tauber requesting five items in handbook to check responsibility of offerors.

5-1-75—Dr. Tauber submitted documents on all five points.

5-1-75—Brophy extended his offer only until May 2, 1975.

5-8-75—GSA officials (Mr. Galuardi, Mr. Steele, Mr. Long, and Mr. Blumenstein) met with SEC officials in Chairman Garrets' office to discuss status of procurement.

5-8-75—Mr. Bernstein submitted evidence of proper zoning (C-M-3) from D.C. Government and control of site from RLA.

5-13-75—Mr. Bernstein submitted a construction contract including financing with J.W. Bateson.

5-20-75—Mr. Brophy submitted package offer on 400 North Capitol and 500 North Capitol for a combined rental of $7.03 excluding utilities.

5-28-75—Telegram sent to Bernstein, Tauber, and Brophy asking for an extension of offer until June 6, 1975, and to submit best and final offer.

5-29-75—Tauber extended his offer to June 6, 1975.

-29-75—Brophy lowered combination offer to $6.99 excluding utilities.

5-30-75—Tauber submits final revised offer of $7.00 fully serviced with four months free rent of office space and $0.72 for parking with one year free rent making a composite of $5.49.

5-30-75—Bernstein advised in writing that there would be no change in his offer.

6-3-75—Environment Negative Declaration on Tauber site signed by Peyton as Acting Commissioner.

6-3-75—Award made to Dr. Tauber.

6-3-75—Mr. Ray Nixon met with Ben Gilbert of D.C. Office of Planning, Andre Buckles of Domestic Council, Julian Dugas the City Administrator, and Charles Conrad of NCPC, to discuss the Tauber award.

6-3-75—By letter, Mr. Bernstein's and Brophy's offer were rejected.

Mr. FINNEGAN. Well, why do you state in here that he called, there was alleging certain improper conduct?

Mr. BLUMENSTEIN. Well, in a negotiated procurement like this, if you would make such a request of one offeror you would do it to all of them.

Mr. FINNEGAN. He was claiming that this was not a proper request?

Mr. BLUMENSTEIN. He was claiming that we requested it of him to ascertain his ability to deliver the building by July 1976, but that we hadn't asked it of the other offerors.

Mr. DINGELL. Well, had you in fact done so or not?

Mr. BLUMENSTEIN. Yes, sir, on February 26th, in a negotiating session, requested that from Mr. Bernstein, and on February 28th I requested the same thing from Dr. Tauber.

Mr. FINNEGAN. Do you have the memorandum from the record to indicate that?

Mr. BLUMENSTEIN. Yes.
Mr. ESCHBACHER. Yes, we have it.
[The memorandum follows:]

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

NEGOTIATION RECORD
(Real Property Acquisition)

PROJECT: SEC CONSOLIDATION — PARCEL: 697

OWNERS

NAME	ADDRESS	PHONE NO.
DR. LASZLO TAUBER	5401 WESTBARD AVENUE BETHESDA, MD 20014	654-2822
ROBT KAUFMAN		
MR. NAPAS		

PERSONS CONTACTED

NAME	TITLE	DATE

REMARKS

Tauber indicated that he actually has 304,500 sq ft of space, not 363,000 sq ft, and can supply the 380,000 sq ft we need. Has building permit, loan, & Savoy Construction Co.

He will submit new offer, and include a $ rate for parking.

ACTION TAKEN AS RESULT OF THIS CONTACT

SIGNATURE	TITLE	DATE
J. W. Fowler	Realty Specialist	3-28-75

GSA FORM OCT 62 1848

Mr. FINNEGAN. Could you supply it to the committee?
On May 2, 1975, there was a memorandum from the Director of Space Management Division to the Acting Assistant Commissioner, Office of Operating Programs. I believe this is signed by Mr. Edward M. Kidwell. Do you have that before you, Mr. Kidwell?
Mr. KIDWELL. No, sir. No, I don't.
Mr. GALUARDI. I have it.

Mr. KIDWELL. I do now.

Mr. FINNEGAN. Could you read the memorandum to us now?

Mr. KIDWELL. Yes, sir.

It starts off:

After extensive review of the offer submitted in response to our SFO No. 697 for the consolidation of Securities and Exchange Commission, it is apparent that major procurement problems have developed which make questionable the advisability of awarding a lease contract based on this SFO.

The major problems are:

1. One offer greatly exceeds the monetary limitation set forth in the Congressionally-approved prospectus.
2. The financial capability of one offeror is dubious.
3. One offeror faces strong opposition from local and government planning authorities.
4. We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations the higher lessor has revised his offer and is now the low bidder.
5. The administrative aspects of this procurement have delayed the award date to the point that delivery of a building by July 1976, (specified in our SFO), is highly improbable. We have already asked all responsible, responsive offerors for a second one month's extension of the closing date of their offers.
6. The likelihood of a required complete Environmental Impact Statement of the proposed building site of the present low offeror would delay any award by several more months, thereby making July, 1976 delivery date impossible and rendering all offerors non-responsive.

In view of the foregoing, I recommend SFO No. 697 be cancelled, and that we re-advertise for space in order to effect consolidation of the SEC.

Mr. FINNEGAN. Mr. Kidwell, who was the Assistant Commissioner at that time?

Mr. KIDWELL. Mr. Steele.

Mr. FINNEGAN. All right. Then you sent that to Mr. Steele; is that correct?

Mr. KIDWELL. That is correct.

[The document referred to follows:]

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 2, 1975.

Attention of: Director, Space Management Division (3MR)
Subject: Cancellation of Solicitation for Offers No. 697
Acting Assistant Commissioner, Office of Operating Programs (3M)

After extensive review of the offers submitted in response to our SFO #697, for the consolidation of the Securities and Exchange Commission (SEC), it is apparent that major procurement problems have developed which make questionable the advisability of awarding a lease contract based on this SFO. The major problems are:

1. One offer greatly exceeds the monetary limitations set forth in the Congressionally approved Prospectus.
2. The financial capability of one offeror is dubious.
3. One offeror faces strong opposition from local and government planning authorities.
4. We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder.
5. The administrative aspects of this procurement have delayed the award date to the point that delivery of a building by July, 1976 (specified in our SFO), is highly improbable. We have already asked all responsive offerors for a second one-month extension of the closing date of their offers.
6. The likelihood of a required complete Environmental Impact Statement of the proposed building site of the present low offeror would delay any award by

several more months, thereby making the July, 1976, delivery date impossible and rendering all offerors non-responsive.

In view of the foregoing, I recommend that SFO #697 be cancelled, and that we re-advertise for space in order to effect the consolidation of the SEC.

EDWARD M. KIDWELL,
Director, Space Management Division.

Mr. FINNEGAN. Mr. Steele, what happened after you received that memoradum?

Mr. STEELE. On April 22 I became the Acting Commissioner of Operating Programs succeeding Mr. Harvell. One of the first cases I was asked by Mr. Galuardi to look at, as I recall, I took home the first weekend in May, I recall we called a case file on the SEC which I reviewed. When I received a letter on May 2——

Mr. DINGELL. You are referring to the memorandum?

Mr. STEELE. Yes.

Mr. DINGELL. Which has been discussed by Mr. Kidwell?

Mr. STEELE. Yes; I am putting this in perspective.

Mr. DINGELL. OK.

Mr. STEELE. This is one of the first cases I had looked at. Obviously the first few days of my tenure I had spent in other activities, trying to get the office reorganized. I took this case home and looked at it over the last weekend, as I recall, in April. I received this letter on May 2d, and, as I recall it, reviewed it that day.

My basic concern with this was twofold. Number one, in no way would this action in any way accomplish the purpose, and the purpose was the consolidation of SEC and in no way would it meet the objective of providing that consolidation by the time frame which we were trying to establish, which was July of 1976.

Mr. DINGELL. When you say this action would in no way accomplish the purposes, you are referring to cancellation of solicitation of offers?

Mr. STEELE. This action in no way would have allowed us to be relocated from 500 North Capital Street in a timely manner. In fact, I looked at this memorandum as presenting to me one alternative which was purposeless. The basic purpose that I saw for our action was to have SEC relocated and consolidated and in no way would any action like this allow that to happen.

Mr. DINGELL. Yes, then this was directed at you; is that right?

Mr. STEELE. Directed at me; that is correct.

Mr. DINGELL. Was it directed through any person? I notice that the word "concurrence" Chief Met D.C. Branch appears at the bottom. Who was that, please?

Mr. ESCHBACHER. That is me.

Mr. DINGELL. That was Mr. who, for the record?

Mr. ESCHBACHER. Eschbacher.

Mr. DINGELL. OK. Can you tell us why you concurred in this recommendation, sir, please?

Mr. ESCHBACHER. I remember the memorandum. I am not clear whether I concurred or not, but I think if I didn't, I would have.

Mr. DINGELL. Well, it says "Concurrence Met D.C. Branch."

Mr. ESCHBACHER. There is a line there, there is no signature line, though, I mean, there are no initials.

Mr. DINGELL. Well, does that mean you concurred or not, or you don't know?

Mr. ESCHBACHER. I don't remember now. I think that I probably did, but don't see my initials on that.

Mr. FINNEGAN. Mr. Eschbacher, that is one thing that bothers us since as you recall when we located this, it was not in the official file.

Mr. ESCHBACHER. Right.

Mr. FINNEGAN. This memorandum was located in the reading files of Mr. Kidwell.

Mr. ESCHBACHER. Right.

Mr. FINNEGAN. It was a Xerox copy of the official copy, but the original copy was nowhere to be found at that time. I would point out to you that the original copy that you have now provided to us does not have this statement, concurrence, which raises a question as to what happened at this point.

Mr. STEELE. Well, the original copy of a memorandum shows no concurrences, sir.

Mr. FINNEGAN. Well, it does not even have the line.

Mr. ESCHBACHER. The yellow copy or official copy, I can't answer for that. Now, I do remember the memorandum. My recollection is not—I am not clear.

Mr. DINGELL. So far you are looking good. I hope you don't, because at this particular moment you look like you concurred.

Mr. ESCHBACHER. Pardon me?

Mr. DINGELL. I say, you look like you concurred in Mr. Kidwell's memorandum.

Mr. ESCHBACHER. My recollection here today is I think I did, but I don't remember whether I signed that or not. I do not see my initials.

Mr. DINGELL. That tends to make you look rather good, and I would hope that you would not dissipate that.

Mr. ESCHBACHER. No; I am not.

Mr. DINGELL. Can you tell me where this document went and how it got out of the official files? Now, you indicated to me that you don't pay much heed to your own regulations. I am wondering what your filing system is like?

Mr. KIDWELL. Are you talking about the original?

Mr. DINGELL. Where did the original of this go?

Mr. KIDWELL. The original went to Mr. Steele. The only thing I can assume is that it was returned to me, and I put it in my desk, since it was subsequently found there.

Mr. DINGELL. That what?

Mr. KIDWELL. The only thing I can assume is that, since it was found in my desk drawer among fact sheet copies I kept for reference purposes, that since it was addressed to Mr. Steele, when it came back I simply dropped it in the desk drawer.

Mr. DINGELL. Was that yellow copy in the official file?

Mr. KIDWELL. No, sir, that is the original I am speaking of.

Mr. DINGELL. That is the original?

Mr. KIDWELL. I have no idea what happened to the yellow.

Mr. FINNEGAN. The yellow copy, we were told by GSA that yellow copies are for the official file, although all documents——

Mr. KIDWELL. That is ordinarily correct, yes, sir.

Mr. FINNEGAN. What happened to this particular document?

Mr. KIDWELL. I have no idea, I don't file them.

Mr. FINNEGAN. Mr. Eschbacher, you were in charge, as I understand, in your office of the official files in connection with this lease. Were any other documents removed from this file, to your knowledge, by you or any other official in the GSA?

Mr. ESCHBACHER. My other documents? Yes. There is one other document that I cannot find that you asked for which is the financial statement, a Dun and Bradstreet report, on the Bernstein Corp. or partnership. I cannot find it. I do not personally remember removing it. I do remember over the last 18 months we had many, many Freedom of Information requests. In the back of my mind I do remember that it appears that attorneys for GSA advised us that that was a confidential information and not subject to being reviewed by the——

Mr. DINGELL. This document is confidential?

Mr. ESCHBACHER. No, sir, I am talking about a Dun and Bradstreet report.

Mr. DINGELL. Pardon?

Mr. ESCHBACHER. I am speaking of Dun and Bradstreet report.

Mr. DINGELL. But this is not Dun and Bradstreet.

Mr. ESCHBACHER. No, sir, he asked me about any other documents that I might be aware of. That is the only thing that I can.

Mr. FINNEGAN. Well, when freedom of information requests are made, do you normally go through the file and pull documents out?

Mr. ESCHBACHER. I review it only from the standpoint of our legal counsel, to be sure that everything that is in that file is available for the public to see. If it is not available, we tell them that it is not available and they have the right of appeal.

Mr. FINNEGAN. And they were informed in every one of the instances?

Mr. ESCHBACHER. Yes, sir.

Mr. FINNEGAN. In our case, that certain documents that were not available?

Mr. ESCHBACHER. Yes, sir, that is correct.

Mr. DINGELL. In this missing document under item 1, one offer greatly exceeds the monetary limitation set forth in the congressionally approved prospectus; which one was that?

Mr. STEELE. That would have been Brophy offer.

Mr. KIDWELL. First of all, Mr. Chairman, the document is not missing, the document is here [indicating].

Mr. DINGELL. Well, under one, "one offer greatly exceeds the monetary limitation set forth in the congressionally approved prospectus."

Mr. KIDWELL. That is correct.

Mr. DINGELL. Which offer was that?

Mr. KIDWELL. 400 North Capitol Street, Mr. Brophy's offer.

Mr. DINGELL. Two states that "one offeror was dubious." Which one was that?

Mr. KIDWELL. That was Mr. Bernstein.

Mr. DINGELL. OK. Now, under three, "one offeror faces strong opposition from local and Government planning authorities." Which one was that?

Mr. KIDWELL. Southwest Joint Venture, Dr. Tauber.

Mr. DINGELL. Four, you say, "We have strong indications that conversations regarding this acquisition have taken place between two

potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder." Who does that refer to?

Mr. KIDWELL. As I recall, and I am not positive of the circumstances here, but I believe in a meeting that Dr. Tauber indicated that there had been some conversations between he and Mr. Bernstein, in which, I would like to refer to Mr. Blumenstein, if I may.

Mr. DINGELL. We will be glad to hear from him on that point, if we may. Can you comment on that, please?

Mr. BLUMENSTEIN. I believe Dr. Tauber first brought this to our attention in that meeting that I was talking to Mr. Finnegan about.

Mr. FINNEGAN. What did he say?

Mr. DINGELL. How did this happen, what was the discussion?

Mr. BLUMENSTEIN. Excuse me?

Mr. DINGELL. I say, how did this happen, what were the discussions that brought this strong indication to your mind?

Mr. BLUMENSTEIN. Well, the phrase that sticks in my mind that Dr. Tauber repeated in a subsequent letter was the phrase that he had been told that he had been knocked out of the box.

Mr. DINGELL. Who had been knocked out of the box?

Mr. BLUMENSTEIN. Dr. Tauber.

Mr. DINGELL. Dr. Tauber. How had he been knocked out of the box, and who advised you of this?

Mr. BLUMENSTEIN. That is the only specific thing I can remember. I am not sure at what point in time it was that we learned any more information than that.

[The letter referred to follows:]

SOUTHWEST JOINT VENTURE,
Bethesda, Md., May 27, 1975.

Mr. EARL ESCHBACHER,
Chief, Metro Unit,
General Services Administration,
Washington, D.C.

Re: Solicitation Number 697

DEAR MR. ESCHBACHER: I realize that this letter is not in accord with the usual and established practice outlined in your Solicitation, but the circumstances in connection of this Solicitation is so unusual and contrary to the established practice, that I feel, that is justified to hand this letter to you.

In my past experience of many years with G.S.A. no matter how long was the period between the so called "closing date and the date of award" at least we never knew, what was going on behind the scene, we never had any knowledge, what forces are against or for us. In the above Solicitation, however, basic facts of the greatest importance are of common knowledge; we learned from one of the offerors that we are "knocked out of the box". It is common knowledge, that the Agency to occupy the building favors one site and strongly opposes the two other locations, it is immaterial, that the rejection is stronger against Buzzard Point than the other site. They would not set for less than the building next to them.

I am sure, that you know, that a great deal of effort, time and money was spent in preparation of our bid and so far no action is taken by G.S.A. It is furthermore clear to me, that you are not more prepared to make this award now on May 27 than you were on March 27. No new material nor information was brought to you in this last two months which you did not know before.

Let me start with one of the two problems.

Approval of the site by the Agency.

We understand the desire of the Agency. We are dealing with the most sophisticated bankers—financial leaders "of the country." What does it mean, that these sophisticated leaders will not go to S.E.C., unless they are located in a prestigious area? They are visiting S.E.C. because they have to, and they

will go to S.E.C. wherever they are. S.E.C. is not a public company which is selling their product and have to spend enormous amount for advertisement to attract people. In contrary it is a regulating agency of paramount importance, especially in a time of such uncertainty of our economy. I am at a loss of my understanding, as a taxpayer, that this agency tries to rationalize in this poor way and willing to pay over $500,000.00 more yearly for a "prestigious" location.

We visited the Agency and susbequently I talked to one of the gentlemen. They realized the desirability of waterfront, but question arose, how soon will the redevelopment start? We agreed that the selection of a building serves the Agency, rather, than the individuals, the Agency will be there, when individuals even so not forgotten, but surely are out of the picture either by changing their employment or by natural selection. It is unimportant, whether this change will take place in one or five years on. Norman Glascow, one of our representing team indicated that this change is expected to be very soon (he is the "foremost zoning lawyer of the D.C. Government), incidentally he is the lawyer of one of the offerors too, indicating the well deserved trust, that everybody puts in this gentlemen.

In my conversation I raised the question about the desirability of any location in D. C. In my opinion, at least, in the Buzzard Point location, we have the hope for a better environment, we quoted the former site of the Watergate, Foggy Bottom, the S.W. complex, Georgetown, the Kennedy Center, etc. We discussed openly the time required to finish this building by July 1976. I quoted the statement of Savoy Construction Corporation and our construction people, when we considered the participation in the project of the other offeror. That it is humanly impossible to finish that building since three level underground garages are required, which alone would take five to six months to construct. Incidentally Savoy Construction Corp. which was hired to do the concrete job of one of the building of the said offeror informed me, that if the Agency would have provided the partition layout for that building in the proper time, they would be charged for the five—six months delay, since they were not ready and fortunately the delay of the Agency saved them the embarrassment and penalty. Under no circumstances that I would take that risk for any project.

In connection of this problem, let me quote the first page of the Friday edition of the Evening Star; "the newly formed, powerful budget committee of the Senate warns all agency to observe utmost care in spending and waste" and at the same time S.E.C. is "flirting" with a "prestigious" location and willing to spend $10,000,000 more rent in 20 years. I have no idea, what influence G.S.A. has to persuade S.E.C. to change its stand, but it seems to me unreasonable to claim more for the employees of S.E.C. than for the employees of Fort McNair and D.O.T. who are working and apparently very happy there (see enclosed letter of Mr. Hayhurst).

The second problem of equal importance is the stand of various Planning Agencies.

Our D.O.T. building was approved inspite of the opposition of the said agencies, more than three years after recommending not to lease any building in this Buzzard Point area (opposition in 1968—award was given in 1971). These agencies are highly specialized, having a dedicated staff, but have the same kind of shortcomings—that is, they know more and more about less and less. They do not see the overall impact of their decision; after lengthy negotiations (enclosed letters) we proved our good intentions and were willing to make sacrifices by delaying our construction project, assuming costly improvement in providing a 25 foot strip for bicycle path reserving the waterfront, which incidently includes the construction of a costly bulk head to please these agencies. In one of their letters, they acknowledge the fact, that we, as a matter of right, can start the construction immediately, but they rather take the risk and not make a compromise. These Government agencies, suddenly got together in a hurry by some coordinating force in the background and they try to block us.

It is true, that I am geared for development of office buildings for one tenant, but that does not exclude the possibility to lease to multiple tenants. After lengthy deliberation I decided to start this project, as a matter of right, to construct this building and to lease it to conventional tenants (see enclosed letter) as well to Government Agencies. This building will be constructed whether the Government will lease it or not, as a matter of right.

Let me point out, that this task force recommends our site to be parkland and the same time endorses the existence of our neighbors the Steuart Petroleum Corp. and the Pepco Plant, which will be forced to convert their facility

from the costly oil to coal, it doesn't make sense to anyone. These agencies are recommending to spend several million dollars for acquiring these sites and deprive the D.C. Government from income. They really are of the opinion that our juvenile deliquency crime will be solved by parkland. We have enough park, but what are they used for, look for the illustrious location of Dupont Circle, Georgetown where the largest drug traffic takes place, or the Washington Monument where on a "Human Kindness Day" 600 robberies were listed and one man lost his eye.

In summary, it is our intention to construct this building, as a matter of right. We started the excavation of the building on May 23, 1975, hoping that the narrowsideness of the different agencies will reverse their stand and G.S.A. will be able to lease this building in its entirely or part of it.

It is interesting to note, that to our knowledge G.S.A. is ready to make recommendation, but the resistance of others delays it, it would be wise to let the public know the real—behind the scene—story of this very unusual solicitation.

Very sincerely yours,

LASZLO N. TAUBER, M.D.

Mr. DINGELL. Well, that is all very nice, but this memorandum says:

We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder.

Gentlemen, is that a true statement?

Mr. BLUMENSTEIN. We are going to check the chronology of the offers.

Mr. DINGELL. Well, I have read the statement which is out of your files. Is it a true statement or not?

Mr. KIDWELL. To the best of my knowledge, it was true at the time it was written.

Mr. DINGELL. Well, I am well satisfied that——

Mr. KIDWELL. As I understand the circumstances.

Mr. DINGELL. Mr. Galuardi, is that a true statement or not?

Mr. GALUARDI. Which part are you talking about, Mr. Dingell?

Mr. DINGELL. Well, let me read this:

We have strong indications that conversations regarding this acquisition had taken place between two potential lessors. Subsequent to these alleged conversations, the higher offeror has revised his offer and is now the low bidder.

Is that a true statement or not?

Mr. GALUARDI. I would have to ask Mr. Kidwell who was the writer of the memorandum as to whether or not it is true.

Mr. DINGELL. Well, did you ever have this brought to your attention?

Mr. GALUARDI. No.

Mr. DINGELL. When is the first time you saw this?

Mr. GALUARDI. The first time I saw the memorandum was when Mr. Finnegan——

Mr. DINGELL. Well, Mr. Steele, did you make any inquiry as to the truth or falsity of this statement?

Mr. STEELE. The first part of this statement, "We have strong indications"—"potential lessors," did not disturb me in the least.

Mr. DINGELL. It didn't disturb you in the least?

Mr. STEELE. No, sir.

Mr. DINGELL. Why not?

Mr. STEELE. Lessors have a right to enter into joint venture, they can talk to each other, what they do out in private practice is their

own business. What we are interested in is the best deal for the Government.

Mr. DINGELL. Even if they are talking about how they are going to hurt Uncle Sam?

Mr. KIDWELL. There was no implication. That was not the implication here.

Mr. DINGELL. Let me ask you this, what was the date on which these submissions were made by the people involved, by Tauber and by Bernstein? And what were the respective amounts initially, and what were the subsequent amounts?

Well, gentleman, I think we can save a great deal of time if maybe you can submit that to the record.

[The following material was received for the record:]

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

NEGOTIATION RECORD
(Real Property Acquisition)

PROJECT: SEC

PARCEL: 697

OWNERS

NAME	ADDRESS	PHONE NO.
Dr: Tauber	5401 Westbard Ave.	654-2822
Mr. Lowell	Bethesda, Md.	

PERSONS CONTACTED

NAME	TITLE	DATE

REMARKS

Dr. Tauber was advised that we had not received the items discussed in our meeting of 2-28-75. He said they would be delivered 3-18.

Dr. Tauber stated he was going to revise his offer as follows:

1). Base rental rate – $6.10 excluding utilities

2.) 2 months free rental

This would make an effective rate of $5.90 for the 5 yr. term. Mr. Lowell expressed concern about being able to keep his offer valid much beyond April 7. I indicated it was my intention to terminate negotiations by the end of next week but could not say how soon GSA would make an award.

ACTION TAKEN AS RESULT OF THIS CONTACT

SIGNATURE: [signature] | TITLE: Realty Specialist | DATE: 3-18-75

GSA FORM OCT 62 1848

APRIL 28, 1975.

SOUTHWEST JOINT VENTURE,
Attention: Dr. Tauber,
Bethesda, Md.

DEAR DR. TAUBER: This will confirm the telephone conversation of April 28, 1975, between Mr. John Blumenstein of my staff and you, and the earlier conversation of the same date between Mr. Blumenstein and Mr. Nadas of your office. During these conversations you were requested to submit to this office, by no later than Friday, May 2, 1975, the following information in connection with our Solicitation for Offers No. 697:

A. The firm commitment of funds in an amount sufficient to perform the work.

B. Sufficient ownership interest or control of the construction to assure the Government's interest for the full term of the lease.

C. Compliance with local zoning laws or evidence of variances, if any, approved by proper local authority.

D. That a construction contract with a firm completion date has been executed.

E. A building permit has been issued.

Your cooperation in this important matter is greatly appreciated.

Sincerely,

EARL W. ESCHBACHER,
Chief, Metropolitan Washington Branch,
Space Management Division,
Office of Operating Programs.

Mr. ESCHBACHER. If we may, yes, sir.

Mr. DINGELL. Yes, I think that would help all of us. Is there any requirement in law regarding discussions and understanding between bidders for Government contracts?

Mr. STEELE. I am going to refer that to our counsel.

Mr. MULLIGAN. I believe the Federal procurement regulations has a requirement that we include in the negotiated procurementcy form, a standard form 19, which requires a bidder to certify that he arrived at his price independently.

Now, the purpose of that clause is to prevent collusion among bidders. The certification is intended to prohibit two bidders from getting together and deciding what price each will bid. There is no requirement that I know of which prohibits a bidder from publicly advertising the bid he is going to submit to the Government, or telling other bidders what bid he is going to use. The prohibition comes in when they get together and decide among themselves what price each is going to submit in its bid to the Government.

Mr. DINGELL. Well, I assume that these were put in the regulations to serve what you have indicated is an important purpose; is that correct?

Mr. MULLIGAN. Yes, the purpose is to get free and full competition for the goods and services or space that the Government needs. We can't get that type of competition if two bidders decide to conspire between themselves as to what price each is going to submit on a proposal. If someone, however, if someone does reveal his price, and as a result of that revelation another bidder undercuts him, that, in my opinion, would not be collusion.

Mr. DINGELL. Are you prepared to sit there and tell me that the discussions alluded to were that kind of innocent, friendly discussion?

Mr. MULLIGAN. I am not aware of the facts related to.

Mr. DINGELL. Well, are you prepared to tell me they were innocent, friendly discussions?

Mr. MULLIGAN. Excuse me?

Mr. DINGELL. Well, maybe Mr. Galuardi or Mr. Steele will tell me that.

Mr. MULLIGAN. Mr. Chairman, John Kornmeier, our regional counsel, has some information on this that you might like to have.

Mr. DINGELL. He has not been sworn, but you go ahead.

Mr. MULLIGAN. Do you want me to speak?

Mr. DINGELL. Yes.

Mr. MULLIGAN. Mr. Kornmeier advises me that there has been a suit brought by Mr. Bernstein—correct me if I am wrong—against Tauber.

Mr. DINGELL. What for?

Mr. MULLIGAN. On this very issue. The suit has been dismissed. I have no other knowledge of the suit. Maybe you would like to hear it directly from John.

Mr. DINGELL. All right, we will just recognize you. You are appearing here as an attorney. We will let you tell us what the facts were.

Mr. KORNMEIER. John Kornmeier, Mr. Chairman, Regional Counsel's Office. The suit concerned the fact that Bernstein claimed that Tauber found out about his bid and then Tauber underbid him. And Bernstein said he told Tauber what his bid was. The suit has since been dismissed, because Tauber's attorneys proved that throughout the entire negotiations Tauber was low.

Mr. DINGELL. Throughout the entire negotiation Tauber the low bidder?

Mr. KORNMEIER. Yes. We talked to Tauber's attorney, Mr. Ginnberg.

Mr. DINGELL. Well, let's assume that Mr. Bernstein was correct in his assumption, would that then have been a serious matter?

Mr. KORNMEIER. Well, no, because he told Tauber, apparently, and this is just what I have been talking about.

Mr. DINGELL. Well——

Mr. KORNMEIER. Apparently what happened is that Bernstein approached Tauber and wanted to know if they could go in this together. And——

Mr. DINGELL. Well, let me ask you this. I get some curious impressions of the administration down at GSA. First of all, isn't this statement warning that there should be some kind of investigation in connection with the lease? Let me read this to Mr. Steele here, because he testified earlier on this, "We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder." Now, isn't that a serious allegation?

Mr. STEELE. In my judgment, at that moment in time it was not.

Mr. DINGELL. It was not?

Mr. STEELE. No, sir, in fact, there are alleged conversations between people, none of which is confirmed, is all hearsay.

Mr. DINGELL. Doesn't that put you on notice, in connection with your responsibility to protect public interests, that you ought to conduct some inquiry to find out what is going on?

Mr. STEELE. Yes, sir, I do.

Mr. DINGELL. Now, what did you do?

Mr. STEELE. My concern, if both of those offers were the same identical price, would have been collusion.

Mr. DINGELL. Both of those offers were same, identical price?

Mr. STEELE. If they were both the same identical price, they would have been collusion. They were not at the same identical price.

Mr. DINGELL. Is that the only evidence of collusion that could move you?

Mr. STEELE. That is at that moment in time.

Mr. DINGELL. Sir——

Mr. STEELE. That I would have considered to be collusion, sir.

Mr. DINGELL. Did you make any inquiry at all?

Mr. STEELE. Yes, sir, I read the file over that weekend, part of the proceeding.

Mr. DINGELL. Did you send out any GSA investigators to find out what was going on?

Mr. STEELE. No, sir, I had no evidence to do that.

Mr. KIDWELL. Mr. Chairman.

Mr. DINGELL. You had a memorandum from a responsible member of GSA?

Mr. KIDWELL. Mr. Chairman, if I may, I wrote the memorandum, or alleged to have. The intent here was not to indicate that some one did something illegal, the intent here was to point out that there was a possibility that upon award there could have been an appeal to GAO further delaying the process.

Mr. DINGELL. Well, dearly beloved friends, I am not quarreling with you about that statement. I am saying to you, doesn't this serve as enough notice to wake Mr. Steele up and say we ought to go out and check into this?

Mr. STEELE. I think Mr. Steele was already awake on this, sir.

Mr. DINGELL. But Mr. Steele did nothing.

Mr. STEELE. Mr. Steele did not order a formal investigation of this.

Mr. DINGELL. Made no inquiry whatsoever?

Mr. STEELE. I had read the file the week before, and I was convinced there was nothing there.

Mr. DINGELL. First of all, what did the file reveal to you?

Mr. STEELE. The file revealed we had problems with one offeror, that being the Brophy offer.

Mr. DINGELL. What was that?

Mr. STEELE. We had problems with one offeror, being the Brophy offer. We had two offers which appeared to be responsive and responsible.

Mr. DINGELL. But you made no inquiry to ascertain the truth or falsity of that?

Mr. STEELE. No, they appeared to be responsive and responsible.

Mr. DINGELL. But you looked at what the paper said. Are you telling me that gave you conclusive proof that there was no rascality here?

Mr. STEELE. I had no reason to assume that there was anything wrong at that moment in time, sir.

Mr. DINGELL. But you made no inquiry?

Mr. STEELE. That is correct.

Mr. DINGELL. Thank you.

Mr. FINNEGAN. Mr. Steele, the record shows that when Dr. Tauber submitted his letter extending his offer, on April 28, 1975, he was then the low offerer. In the earlier memorandum I read to you regarding the meeting with the SEC and with Mr. Sampson, it was stated that at that time Mr. Bernstein was the low offeror. So there was a switch, between March and the end of April, during the time in which there allegedly were meetings and conversations.

Mr. STEELE. Mr. Finnegan, I will have to ask the staff to answer that, because as I understood that solicitation or read it that weekend, one of the questions I had that following week was that we were taking offers from the realty market basically for a totally serviced building, or for a building without utilities. We were taking both partial offers and we were taking consolidated offers, so somebody from the staff will have to speak to that to see whether you are correct or not.

[The following letter was received for the record:]

BETHESDA, MD., *April 23, 1975.*

Mr. EARL W. ESCHBACHER,
Acting Chief, Metro Operations Branch, Space Management Division, Office of Operating Programs, Washington, D.C.

Re: Solicitation Number 697

DEAR MR. ESCHBACHER: Reference is herewith made to my telephone conversation of April 28, 1975, with Mr. John Blumenstein at 4:05 PM and subsequent telegram issued to G.S.A. at 4:13 PM of the same day, which extended our bid on Solicitation 697 to May 28, 1975.

Enclosed please find a letter from Savoy Construction Company, our general contractor for the project, confirming the same contract price as was previously agreed upon.

There will be no change in our offer if the Government assumes payment of all utilities, that is, the average square foot price is $4.89 per net leasible square foot for the total of 461,500 net square feet (consisting of 380,000 square feet of office area and 81,500 square feet of parking area, space for 270 cars).

In our original presentation we made an offer to add $.82 per square foot if we had to assume payment of all utilities. This offer was later amended. In this final offer, we herewith cancel our letter of amendment and offer the space by assuming payment of all utilities for an additional $.82 per square foot with a period of three (3) months free rent at the end of the five year lease term.

This will result in an average $.64 per square foot for total space and an overall average for the 461,500 square feet of $5.53 total.

In summary, our final offer is $4..89 per square foot if the Government assumes payment of all utilities and $5.53 per square foot if we are to assume payment of all utilities.

Thank you very much for your consideration.

Very truly yours,

LASZLO N. TAUBER, M.D.,
Trustee.

Mr. FINNEGAN. Mr. Blumenstein, can you offer that or Mr. Eschbacher or Mr. Kauders?

Mr. BLUMENSTEIN. Mr. Finnegan, since the energy crisis of a couple years ago, the local realtors have been very reluctant to make offers to us that are fully serviced, or at least they would prefer to

make offers to us that exclude utilities. One, because the Government does not give an annual escalator and, two, when we do give an escalator of 3 years, it is not an indemnification, it is just an increase in the base rate.

Therefore, actually all of the offerors in this procurement wanted us to make an award where the Government paid utilities. We felt that the most economical thing for us, both pricewise and energy conservationwise was to have a fully serviced offer, with the lessor paying utilities, and then he would be responsible to see that the energy was conserved.

Now, Dr. Tauber was very concerned about this, and as a result at one point in time he had a premium in his offer if he had to pay the utilities. And this made his offer, as I recall, quite high, about $7.60. I don't know the date, but I think it was April 28. In this letter you are referring to he removed this premium, for the uncertainty about the utilities. And I believe at that point he then became the low offeror with respect to a fully-serviced offer.

Mr. FINNEGAN. But in fact, and the point that I am making is the memorandum that I have, that I showed you earlier, and showed Mr. Galuardi, states, at this date—I believe this date to be around the end of March, because it referred to an action that was going to take place on March 31—the offer submitted by Union Center Plaza Associates, on a fully-serviced basis, is the lowest responsive offer. That is correct, isn't it? The chronology states that later in April, on the 28th, Dr. Tauber's offer on a fully-serviced basis became the lowest offer. That is correct, isn't it?

Mr. BLUMENSTEIN. Yes sir, I believe so.

Mr. FINNEGAN. The statement on the May 2 memorandum is that as a result of the conversations which took place and the offers which were submitted, they switched places, is that a correct statement?

Mr. BLUMENSTEIN. John, is that true?

I believe Dr. Tauber was always the low, when you compared the offers excluding utilities. But I understand your question to be fully serviced.

Mr. FINNEGAN. I am just reading from what the record is.

Mr. DINGELL. Well, isn't that clause of Government the fully-serviced lease?

Mr. BLUMENSTEIN. Yes, sir.

Mr. DINGELL. As opposed to the barebones lease, without the other things that are essential to make it a viable building?

Mr. GALUARDI. We have to compare the two rates.

Mr. DINGELL. That is right, so the total cost to Government was higher.

Mr. GALUARDI. No, the total cost to Government is always—either fully serviced payment direct to the lessor, or unserviced payment to the lessor, plus direct payment to utility companies.

Mr. DINGELL. But the consequences are precisely the same in either event?

Mr. GALUARDI. No, they may be different prices.

Mr. STEELE. They could be different prices, based on negotiations.

Mr. DINGELL. Well, my appreciation is at one point—one lease was lower on a fully-serviced basis, and the next incidence it was not.

Mr. GALUARDI. But the unserviced basis was always Dr. Tauber being the lowest.

Mr. DINGELL. That is right, but by the time you loaded the utilities and other things on, it is going to be higher.

Mr. GALUARDI. No.

Mr. STEELE. I don't think that is true.

Mr. DINGELL. I am going to let Mr. Finnegan question.

Mr. FINNEGAN. I am not sure I understand. Dr. Tauber's letter of February 14 states, in form stated our bidding price is $6.20 per square foot, and the Government pays all utilities in the building. In his subsequent letter of February 18 he said if we are to assume payment of building utilities the price per net square foot would be increased 84 cents, from $6.20 to $7.04.

Now, I don't understand where any of that was lower than what Mr. Bernstein's offer was, which at that time I understood was about $5.62 fully serviced.

Mr. GALUARDI. On March 18 Dr. Tauber submitted a bid for $5.18 excluding utilities.

Mr. DINGELL. Pardon me, I didn't hear you.

Mr. GALUARDI. On December 27, Union Center Plaza submitted a bid of $5.92 excluding utilities [see 1-107]. On February 14, Southwest Joint Ventures gave us the $6.20 one that you talked about. [See p. 357.] On March 18 he gave us $5.89 excluding utilities, which came lower than what Union Center Plaza was. On March 21 Union Center Plaza gave us the the fully serviced rate which was $6.62. On March 24 Southwest Joint Venturers gave us $7.60, including utilities, fully serviced, so at that point he is still higher than Union Center Plaza with regard to full services, but he is now lower than Union Center Plaza with regard to the unserviced price. [See p. 239.] On April 4 he dropped his unserviced to $5.78.

Mr. FINNEGAN. How do we get to this memorandum that says Union Center is in fact on fully-serviced basis lowest responsible and responsive bidder, and this apparently took place, this is written around March 26th. It is hard to read the date on top, that is all. [See p. 355.]

Mr. GALUARDI. Who wrote the letter?

Mr. ESCHBACHER. It is the one you are talking about?

Mr. STEELE. Could we borrow your copy again, Mr. Finnegan? We don't seem to have a copy.

Mr. FINNEGAN. Pardon me.

Mr. STEELE. Could we borrow your copy again?

Mr. FINNEGAN. Sure. When you are reading that, is it that nobody made any effort to determine the facts and when they took place?

Mr. STEELE. At that point I did not expect to see any reason to do anything, sir, having read the file the previous weekend. We had competition. We had two offers which appeared to be responsive and responsible.

Mr. FINNEGAN. You are not aware then of any memorandum on stationery of Westwood Management Corp., which I understand is part of Tauber's operation, dated April 16, 1975, where it stated that on April 9, 1975, Tauber received a call from Mr. Ben Weiner, mortgage broker, who advised him that Mr. Sheldon Bernstein had come to

him to assist in obtaining a mortgage on a building of theirs which they were going to build for GSA.

Weiner advised Bernstein that in light of the fact that he could not raise any money he might interest a private investor and mentioned Tauber's name. Bernstein mentioned he would be glad to talk to him, because Tauber had been knocked out of the box. Tauber called him back, advised him he would meet him, set up a meeting at 2:30 p.m. on April 10 at Jefferson Memorial Hospital. The memorandum goes on to state that the meeting was in fact actually held.

Mr. STEELE. Well, I would have to see the document. I presume I have never seen it, though.

Mr. FINNEGAN. Nobody at GSA has seen the document?

Mr. ESCHBACHER. What is the date?

Mr. FINNEGAN. April 16, 1975.

Mr. ESCHBACHER. Addressed to us?

Mr. FINNEGAN. No. It indicates, however, if GSA had looked into it it might find more information about it.

Mr. BORWICK. May I have a request of counsel.

Counsel, sir, if you are going to question on a document, we appreciate being given copies of the document.

Mr. FINNEGAN. We would be glad to give you copies, if you asked for it.

Mr. BORWICK. Thank you.

Mr. DINGELL. If you made some inquiry you might have had the documents yourself instead of us.

Mr. STEELE. Do you know who this is to, or from, Mr. Finnegan? I have no idea. I don't think I have ever seen it, but who it was addressed to, or from?

Mr. FINNEGAN. OK.

Mr. STEELE. I mean, can you provide us that information?

Mr. FINNEGAN. Pardon me, I am sorry.

Mr. STEELE. Can you provide us this information, who this was addressed to or from?

Mr. FINNEGAN. It was provided to us, to the committee, and we understand it was in Dr. Tauber's files.

Mr. STEELE. Oh. I will have to ask the staff. I would have to say I have never seen it.

[The document referred to follows:]

WESTWOOD MANAGEMENT CORP.
Bethesda, Md., April 16, 1975.

Memorandum

Chronology of events regarding Solicitation #697

1. Solicitation #697 was originally scheduled to open December 27, 1974, but was delayed

2. To open February 17, 1975 (a Monday, which was a Government Legal Holiday) thus the

3. Southwest Joint Venture original offer was submitted by hand on February 14, 1975 (a Friday)

4. On March 6, 1975 Dr. Tauber, Mr. Nadas, and Mr. Kaufman visited Bloominstein and Fowler to discuss negotiated solicitation. At that time he five points and Bloominstein requested that a submission be made of those points and Bloominstein or Fowler requested that a submission be made of the matters discussed mainly the five points.

5. By Letter dated March 6, 1975, G.S.A. was advised that Arthur S. Lowell would represent Southwest Joint Venture in this matter.

6. On _____, 1975 ASL visited Bloominstein to generally discuss the proposal.

7. On March 13, 1975, Bobby Kaufman delivered by hand without benefit of covering letter the following documents:

1. Deed to property.

2. Letter dated 2-27-75 from Savoy Construction Company stating that Savoy has entered into a contract with Southwest Joint Venture to construct an office building at 1600 Half Street, S. W., to be completed by July, 1976, but a submission was not made of the actual contract between Savoy and Southwest Joint Venture which was executed on February 22, 1975.

3. Building Permit from the District of Columbia.

4. Financing: letter dated March 12, 1975, from the Riggs National Bank. No performance Bond between Savoy and Southwest Joint Venture was submitted.

8. Letter of March 18, 1975 to G.S.A. by Southwest Joint Venture in which Southwest Joint Venture amended its original offer submitted on February 14, 1975.

9. G.S.A. telegram dated April 1, and received that date advising that negotiations would be closed at 4:30 PM on April 4, 1975.

10. On April 4, 1975 at approximately 4:20 PM Mr. Nadas delivered a letter dated April 4, 1975, amending the original offer of February 14, 1975 and the amended letter offer of March 18, 1975.

11. On April 9, 1075, Tauber received a call from a Mr. Ben Weiner, mortgage broker who advised him that Mr. Sheldon Bernstein had come to him to assist in obtaining a mortgage on a building of theirs which they were going to build for G.S.A. Weiner advised Bernstein that in light of the fact that he could not raise any money, he might interest a private investor and mentioned Tauber's name. Bernstein mentioned he would be glad to talk to him because Tauber had been "knocked out of the box" in connection with his offer for the same project. Weiner inquired if Tauber wanted to meet Bernstein. Tauber called him back and advised that he would meet him and set up a meeting for 2:30 PM on April 10, 1975 at Jefferson Memorial Hospital.

12. The meeting was held and attended by Mr. Sheldon Bernstein, his son Steven Bernstein, Bobby Kaufman, Warren Montouri, Dr. Tauber and Weiner. At the outset of the meeting Tauber questioned Bernstein as to what he meant by the expression "knocked out of the box" and Bernstein explained that is was Baseball slang for having been eliminated. Bernstein then went into great detail indicating that he did not have a building permit, financing, agreement with general contractor. See Bobby Kaufman's memorandum to Dr. Tauber dated April 14 for details.

13. On April 11 late in the afternoon Tauber called Bloominstein and told Bloominstein of his distress with Bernstein in quoting he had been "knocked out of the box". Tauber inquired of Bloominstein as to why he has asked him for the five points and Tauber was told that Mr. Long had directed it. He asked Bloominstein if he asked this of Bernstein and Bloominstein told him that Long did not direct that but merely of Tauber. Bloominstein was rather upset by the situation and requested that Tauber come to see G.S.A. about this situation.

14. On April 14, 1975, Tauber called Bloominstein and advised him that he and ASL would visit with G.S.A. next day, Tuesday, April 15. 1975.

15. At approximately 2:45 PM on April 15, 1975, Tauber, Nadas, Kaufman and ASL met with Ms. Frankenfield and Messrs Eschbacher and Bloominstein. Mr. Kidwell was not present, apparently having been called out of the office. At this meeting ASL questioned Bloominstein as to his conversation with Dr. Tauber on April 11, 1975 and Bloominstein was not too clear as to what the conversation was about. ASL repeated the conversation and Bloominstein suggested that he had not talked to Long whereupon Tauber repeated the conversation in front of all present as to what Bloominstein had said. ASL then asked Bloominstein whether he had asked the same of the other bidders as of Tauber and if so, when, and whether he had received the information. Eschbacher stated that he did not know if he should answer and ASL stated that if they did not wish to answer they should not do so, but ASL believed he was entitled to this information and intended to pursue it.

Bloominstein indicated that he had asked the same question of Bernstein's group in negotiating with them after the negotiations with Tauber, et al.

ASL inquired of Bloominstein if he had all information that he needed or wanted from Tauber and Bloominstein said he had. ASL then stated he wanted answers to the following:

1. Whether Bloominstein had requested information from other bidders
2. When the information had been requested
3. If the information was not in by now, since more than reasonable time had expired the bid should be considered improper and ASL wanted to know when the award would be made.

Mr. FINNEGAN. So I understand then, Mr. Steele, then as far as the six items mentioned in the May 2 memorandum [see p. 378.], they did not cause you to reconsider the recommendations and in fact you abandoned the recommendations; is that correct?

Mr. STEELE. Now again, to the best of my recollection, shortly after the second, the exact day I don't know, within 2 or 3 days, and I have racked my brain, as well as looking through all the files, trying to determine. As I recall, there was one thing in there that kind of concerned me and that was whether we would be able to deliver a building on time. And we asked some of our engineers to look at both of these particular sites as to what kind of construction was going to be needed, and could the buildings actually be constructed in that time frame.

Mr. FINNEGAN. So that you decided that it was still a good idea to go ahead?

Mr. STEELE. I discussed this with Mr. Kidwell, with other members of his staff, and it came back basically the purpose was to re-house SEC and to be out of 500 North Capitol Street as shortly after April 1976 as possible. This was the only viable alternative to meet that objective.

Mr. FINNEGAN. I see. We had testimony earlier this morning that subsequent to that, and about 48 hours before the decision to award the lease, there was a meeting to discuss the entire solicitation. Mr. Mulligan mentioned the meeting, and others I can think of, maybe it was Mr. Nixon, I am sorry.

Again, could you say who was at that meeting? Do you recall who was at that meeting, Mr. Nixon?

Mr. NIXON. Well, my recollection was that Mr. Galuardi, I believe Mr. Steele, Mr. Eschbacher, Mr. Blumenstein, Mr. Shipp, I don't know that there was anyone from counsel, but Mr. Sampson and in all likelihood Mary Foster.

Mr. FINNEGAN. Did anybody recommend at that meeting against awarding the lease?

Mr. NIXON. I don't know that there was any specific discussion as to that. I think the purpose of the meeting was to weigh all alternatives. I don't feel that it would have been unusual for one of the alternatives to have been the consideration of consequences of quashing the whole thing and starting over.

Mr. FINNEGAN. Do you know who might have recommended——

Mr. NIXON. I don't know. I don't know that there was—even Mr. Sampson may have well said what would be the consequences if we were to quash this at this point, where would we be? And I think the consensus was that we would be back to where we were prior to December, which was going out again and not being able to meet the commitment to relocate them by July 1976.

Mr. FINNEGAN. Mr. Eschbacher, was that your understanding, too?

Mr. ESCHBACHER. Yes.

Mr. FINNEGAN. Did you make any recommendations considering the possibility of not going along with the lease award?

Mr. ESCHBACHER. No; not at that meeting, although I do recollect that alternatives were discussed in just vague terms that I can remember. One of them being well, what are the alternatives, if any, and I think there was discussing centered around, there was not anything in the marketplace should we cancel the solicitation that we could go back out and expect to get. We were still faced with the situation of having to house SEC and the likelihood if we cancelled the solicitation there was nothing else out there to go get. So we were faced with very limited alternatives at that point.

Mr. FINNEGAN. At any time do you know if there were any recommendations not to go along with the award?

Mr. ESCHBACHER. I don't remember.

Mr. FINNEGAN. You didn't make any at any time?

Mr. ESCHBACHER. No, I did not.

Mr. FINNEGAN. Mr. Blumenstein, how about yourself?

Mr. BLUMENSTEIN. I am sorry, Mr. Finnegan, I was reading the memorandum.

Mr. FINNEGAN. At that meeting did you discuss the possibility of not going along with the——

Mr. BLUMENSTEIN. I am sorry, when you described the meeting——

Mr. FINNEGAN. The meeting, as I understand it, you attended with Mr. Sampson, Mr. Galuardi, Mr. Eschbacher, several others, I believe, just prior to the granting of the award. Did you indicate any suggestion that the award should not be made, for any——

Mr. BLUMENSTEIN. No.

Mr. FINNEGAN [continuing]. For any reason whatsoever?

Mr. BLUMENSTEIN. No; I think I had very little to say at the meeting.

Mr. FINNEGAN. Do you know of anybody else that did?

Mr. BLUMENSTEIN. I can't recall.

Mr. FINNEGAN. As I understand it, then, on June 3rd there was a memorandum to the record by Mr. Eschbacher to the effect that you were notified by the Regional Commissioner that, at the direction of the Administrator, you were to prepare all documents related to the award of the lease for the SEC by close of business on June 3rd; is that correct, Mr. Eschbacher?

Mr. ESCHBACHER. That is correct.

[The document referred to follows:]

TO THE RECORD

This will confirm that I was notified by the Regional Commissioner, PBS, that, at the direction of the Administrator, as communicated to the Regional Administrator, I am to prepare all necessary documents to award the lease for the Securities and Exchange Commission (SEC) by COB today, June 3, 1975, for award to the lowest, responsible, responsive offeror. I was also advised that Mr. Vawter in GSA Central Office was preparing a press release and that the 48 hour requirement for advanced notice to Central Office has been waived. Further that the Regional Administrator has been assured that the negative declaration of environmental assessment for this location will be fully executed prior to award.

Mr. FINNEGAN. You were also advised that the Regional Administrator had been assured that the negative declaration of environmental assessment for this location will be fully executed prior to award; is that correct?

Mr. ESCHBACHER. That is correct.

Mr. FINNEGAN. Mr. Galuardi, how did you get this direction from Mr. Sampson?

Mr. GALUARDI. By telephone.

Mr. FINNEGAN. By telephone. Who assured you that this was going to be a negative declaration?

Mr. GALUARDI. Mr. Sampson.

Mr. FINNEGAN. Mr. Sampson. Now, do you know how he learned that?

Mr. GALUARDI. No.

Mr. FINNEGAN. You didn't participate in any meetings on that point, on that day, at least?

Mr. GALUARDI. No.

Mr. FINNEGAN. The record also states that on that morning Mr. Galuardi met with the Chairman of the SEC to advise him of the GSA's decision; is that correct?

Mr. GALUARDI. Yes, I did.

[The document referred to follows:]

TO THE RECORD

The Regional Administrator has advised me that he met this morning (6/3/75) with the Chairman of the Securities and Exchange Commission to advise him of GSA's decision with regard to the selection of the low offeror (Southwest Joint Venture) for the lease award to house the consolidated headquarters location for that Commission. The Chairman indicated he would not give concurrence in this location and inquired as to his appeal process.

Mr. FINNEGAN. And that was prior to the actual award; is that correct?

Mr. GALUARDI. Yes, it is.

Mr. NIXON. Well, not within the framework that I believe Mr. Galuardi and I believe operated. The morning of June 3d Mr. Galuardi and I were called to Mr. Sampson's office. He told us that the decision had been made that the lease would be awarded that day. He directed Mr. Galuardi to go to Mr. Garrett, for the purpose of not asking or consulting with him, but advising him that the decision had been reached. He instructed me to go to the Major's office, to the municipal planning office, to the NCPC office and to the White House.

Mr. FINNEGAN. What were you told to do?

Mr. NIXON. To tell the particular individuals there that a decision had been reached, and an award was being made to the Buzzard Point building.

Mr. FINNEGAN. I see. They didn't have anything to say?

Mr. NIXON. I believe you have a record of the memorandum of what——

Mr. FINNEGAN. The memorandum, however, indicates that they concurred. Is that correct?

[The document referred to follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 3, 1975.

Attention: Special Assistant to the Commissioner—PN
Subject: Buzzard Point Building

ADMINISTRATOR: As directed, I have made contact with the four persons below with the following results.

Ben Gilbert, Director, D.C. Office of Planning, regrets that he did not fully understand all that was involved in the matter. Being more aware now he realizes that he was not wise in sending the letter or approving the resolution. He said he would not do so if he had it to do over. Also, he now feels that with the assurances given on the set-back and easement the community will actually be benefited.

Andre Buckles, Staff Assistant, Domestic Council, understands the decision perfectly and were he in the same position and with the same circumstances would do exactly the same thing. He feels GSA has done an outstanding job coordinating its affairs with the District of Columbia. He thanks the Administrator for keeping him informed.

Julian Dugas, City Administrator, is glad to hear of the decision and would be disappointed if it had been otherwise. He said he could speak for the Mayor in the same respect.

Charles Conrad, Executive Director, National Capital Planning Commission, expressed disappointment in the decision, but understands the circumstances under which it was made. He hopes that with the development of a Federal Employment Plan for the National Capital Area similar situations may be avoided. I gave him your assurance that we would continue to work closely with him to that end.

R. I. NIXON,
Special Assistant to the Commissioner
for National Capital Area Affairs.

Mr. NIXON. My understanding of what took place in those conversations was within the perspective of their being advised that the action was irrevocable, that it had and/or would be taking place, and that the comments were in that perspective.

Mr. FINNEGAN. Now, to be precise, Mr. Eschbacher, it is your understanding that the meeting with SEC took place before the actual award papers were prepared?

Mr. ESCHBACHER. That is correct.

Mr. FINNEGAN. And that is your understanding, too, Mr. Galuardi?

Mr. GALUARDI. Well, I remember going in the morning. When did you sign the lease?

Mr. ESCHBACHER. Not until late after——

Mr. GALUARDI. No, I went in the morning to Mr. Garrett's office.

Mr. FINNEGAN. So you were advised by SEC prior to signing the award that they are opposed to it; is that correct?

Mr. GALUARDI. Mr. Garrett so advised me.

Mr. FINNEGAN. That is right, and yet you went ahead and had the award signed.

Mr. GALUARDI. My supervisor advised me to proceed.

Mr. DINGELL. Who is that, who advised you?

Mr. GALUARDI. Mr. Sampson.

Mr. DINGELL. Who?

Mr. GALUARDI. Mr. Sampson, the Administrator.

Mr. DINGELL. Oh, Mr. Sampson, the Administrator.

Mr. GALUARDI. Yes.

Mr. DINGELL. Did he do it in writing or orally?

Mr. GALUARDI. No; in a meeting.

Mr. DINGELL. In a meeting. Were minutes kept of the meeting?

Mr. NIXON. There were just three of us.

Mr. GALUARDI. Mr. Nixon, myself and Sampson.

Mr. DINGELL. What happened in the meeting, what did he say to you?

Mr. GALUARDI. I think that Mr. Nixon had pretty well summarized it. He just told me to go to meet with Mr. Garrett and advise him that the lease was going to be signed that day.

Mr. NIXON. There was nothing really, notwithstanding whatever the time frame was, in when the actual signing took place that would indicate to either Mr. Galuardi or myself that at the time that we got to wherever he had directed us to go that this lease had not been signed. His direct instrucitons were that this is not a consultative or agreement-seeking mission that you are on. You are to tell them that the lease has been signed and is accomplished.

Mr. DINGELL. Did either of you protest the signing of this lease?

Mr. GALUARDI. Not at that point, because——

Mr. DINGELL. Had you protested it at any earlier or later time?

Mr. GALUARDI. I think at most of our meetings we had discussed most of the alternatives in which was always the one "don't do anything."

Mr. DINGELL. Did either of you recommend at any time either before, during, or after this meeting that the lease not be signed?

Mr. GALUARDI. Not during or after, no.

Mr. DINGELL. Before?

Mr. GALUARDI. Before I think, as I said, in almost every meeting we had with Sampson in discussing alternatives one of the alternatives was do nothing, but it always came out, as Mr. ESCHBACHER said, there was no alternative to doing nothing, because we had to move SEC out of the building by April 1976.

Mr. DINGELL. Well, part of—I am sorry, go ahead.

Mr. NIXON. Part of the sequence, I think, explains the nature of why we went on this particular mission. I don't believe that Mr. Sampson would have directed me to go to Mr. Dugas in the Mayor's office, or to Mr. Gilbert in the Municipal Planning Office, or to Mr. Conrad at the National Planning Commission, or to Mr. Buckles in the White House, had, he not previously been informed by me that these people were opposed to this action. And I think the reason that the action took place in the manner in which it took place was for me to let them know that he had made an administrative decision, and his decision was to go with the lease.

Mr. DINGELL. Now, Mr. Galuardi, did you ever at any time ever make a recommendation with regard to the signing or the not signing of the lease in question?

Mr. GALUARDI. Not written, no.

Mr. DINGELL. Did you make any oral recommendations with regard to the signing or not signing of the lease?

Mr. GALUARDI. Not as a recommendation. As a discussion of alternatives, yes.

Mr. DINGELL. In other words, how did you discuss these alternatives?

Mr. GALUARDI. You just go over all of the courses of action which are available to you, among which is, you know, don't do anything,

and cancel it, but it very quickly becomes a nonacceptable alternative by virtue of the fact that it would not meet the objective which is we had to move SEC out of 500 North Capitol Street by April of 1976.

Mr. DINGELL. Why was it necessary to move the SEC out of 500 North Capitol?

Mr. GALUARDI. Because the Brophy Associates had advised us back in February that they were selling the building to another organization, and they were not going to renew the offer lease to us, which expired in April of 1976.

Mr. DINGELL. Well, you could have held over on a month-to-month contingency, could you not?

Mr. GALUARDI. We felt we could hold over one or two months at the most, but you cannot hold a man's building indefinitely.

Mr. DINGELL. What would it take to get you out of there, if you were in there paying rent? Maybe your lawyers can answer that question.

Mr. GALUARDI. The only way we can remain in there and pay rent is by condemnation. The action which the landowner can take, the owner of the building could take, would be go to the courts and displace us.

Mr. DINGELL. Was any study made of using this alternative, or was a judgment just derived that this was unacceptable? Did you ever go into the elements that went into making this unacceptable in your decision?

Mr. GALUARDI. It is just clear on the face of it I don't understand why you would have to go beyond the fact that you have a lessor who has told you you must get out of his building.

Mr. DINGELL. Well, if it is all the same to you, I would rather get an answer to my question. And can you inform me of what study was made of the consequences of taking this alternative? Was any study made?

Mr. GALUARDI. No written study was made, no.

Mr. DINGELL. Was any study made?

Mr. GALUARDI. I don't know what a study is, but if you mean were discussions——

Mr. DINGELL. Was any discussion, analysis——

Mr. GALUARDI. I would have to ask the staff, because I didn't make any.

Mr. DINGELL. Well, are you aware of any?

Mr. GALUARDI. I am not aware of any.

Mr. DINGELL. You are not aware of any. Am I being unfair to assume you would be aware if such were made?

Mr. GALUARDI. Not necessarily so, because—well, again what he is telling me is that, you know, they probably held discussions which said that——

Mr. DINGELL. I don't want to know if they probably, but whether did they. Do you know, does anybody know if any discussions were held?

Mr. GALUARDI. I am not aware of any.

Mr. DINGELL. Well, is anybody else aware of any?

Mr. ESCHBACHER. I remember just staff with Mr. Fowler and Mr. Blumenstein. I think we hashed around was that a viable alternative

to condemn. It came to our mind that, one, we would need a prospectus to condemn, he was already in excess of prospectus, limitation of $2.8 million. We felt that we would probably be worse off if we condemned, the Government would probably end up paying more under an independent appraisal if we condemned the property.

Mr. DINGELL. Would this be denominated as a study or an analysis under the circumstances.

Mr. ESCHBACHER. It was a discussion of possible alternatives, that is all I can say, would not qualify it as——

Mr. DINGELL. Mr. Finnegan.

Mr. FINNEGAN. Mr. Galuardi, when you met with the Chairman of SEC, as you said, he informed you he was opposed to the relocation at Buzzard Point. Did he indicate to you that he was going to appeal to OMB?

Mr. GALUARDI. I believe he did, yes.

Mr. FINNEGAN. So, therefore, he was going to exercise his rights under the Executive order; is that correct?

Mr. GALUARDI. That is correct.

Mr. FINNEGAN. Did you do anything to advise Mr. Sampson that he was acting in his peril if he went ahead and signed that award, because the OMB might go the other direction?

Mr. GALUARDI. I did call Sampson and advise him of my conversation with Mr. Garrett.

Mr. FINNEGAN. What was Mr. Sampson's response?

Mr. GALUARDI. I don't remember it. I think he just took the information.

Mr. FINNEGAN. So he just decided GSA should go ahead?

Mr. GALUARDI. He had already decided.

Mr. FINNEGAN. Regardless of what the Executive order said?

Mr. GALUARDI. The Executive order says that the Agency has the opportunity to appeal.

Mr. FINNEGAN. It also said that you have got to give the Agency time to do that prior to the selection of the site?

Mr. GALUARDI. It does not say that. It says the Administrator must notify the head of the Agency of his intended course of action.

Mr. FINNEGAN. All right, and you would have to give him 30 days; isn't that correct? Isn't that what OMB finally decided, that you didn't follow the procedures?

Mr. GALUARDI. OMB said that we did not follow the procedure, we did not tell him he had the right of appeal in writing, I think it was, told him of the right of appeal verbally, but not in writing.

Mr. FINNEGAN. That is right, and that would give him 30 days presuming that would be done before actually lining up the building, and you would be relocated, is this correct?

Mr. GALUARDI. Well, the building wouldn't be constructed.

Mr. FINNEGAN. Is it prudent on your part to go ahead and do these things, and GSA go ahead and sign it, when they don't know what OMB's decision is going to be?

Mr. GALUARDI. That was up to the Administrator.

Mr. FINNEGAN. He went ahead despite SEC's objection and the potential of OMB rejection?

Mr. GALAURDI. Yes, sir.

Mr. FINNEGAN. All right, we are now into the situation where AID and FEA come into the picture. Is it my understanding that in April 1976 your agency wrote to the AID and said that that agency was the most logical choice for this building, for the Buzzard Point building?

Mr. GALUARDI. We wrote to many, I am sorry.

Mr. FINNEGAN. To AID, the State Department.

Mr. GALUARDI. On April the 9th I made a formal offer to AID for them to use the space in the Buzzard Point building. This letter, however, came after we had previously had discussions with officials from AID and is in essence just a formalization of an offer that we made to AID.

[The letter referred to follows:]

APRIL 9, 1976.

Hon. DANIEL PARKER,
Administrator, Agency for International Development,
Washington, D.C.

DEAR MR. PARKER: The General Services Administration (GSA) has made a careful and thorough review of all possible alternatives for the use of the newly-leased building under construction at 2 T Street, S.W., Washington, D.C., near Port McNair.

We have concluded that the Agency for International Development (AID) is the most logical choice for tenancy in the new building. 2 T Street, S.W., will have sufficient space to consolidate all of AID's activities, except for these now housed in the Department of State Building, thus effecting a 2 Building collocation of AID's components, as opposed to its present fragmented housing structure.

We therefore propose to assign this building to AID and look forward to your early and favorable response.

Sincerely,

JOHN F. GALUARDI
Regional Administrator.

Mr. FINNEGAN. What happened after that, as far as that offer was concerned?

Mr. GALUARDI. After that, the staff of AID, together with the staff of region III, went down, they looked at the building, and they theoretically were looking over the building for purposes of determining their requirements or so we thought, because in the previous conversations that we had had with the AID officials they were very interested in moving to that building because they had given us indications that they wanted consolidation of their activities in a location relatively close to the State Department building. They, of course, at that time had in mind a building which was over in Virginia, in the Crystal City area, that would, as they indicated, meet their requirements. We said we have this building here at Buzzard Point, would they take a look at it. They did, they went down and took a look at it. This letter was written, and we were under the impression that what they were beginning to do was work out the logistics towards moving into the building, and I presumed that they had a considerable amount of in-house discussion on this, and those were the steps that were being taken at that time.

Mr. FINNEGAN. At that time did you have any thoughts of putting FEA in that building?

Mr. GALUARDI. Not at that time, no, because the order in which we proposed the use of the Buzzard Point building, and this was the

results of discussions with our space management staff, was that we would like to use the Buzzard Point building for the purpose of solving any Agency's problem in the Washington, D.C. area who had a requirement for a complete and total consolidation. The GSA viewpoint was that we do not often get an opportunity to have a building which is nearly 4 million square feet in size for the purpose of consolidating an Agency. Most buildings being built in Washington, D.C. are in their size range of about 200,000 square feet of space, and many agencies are larger than 200,000 square feet of space, and, therefore, must be located in one or more locations.

We went through an analysis of agencies who might benefit from consolidation. We called these agencies who had had long-standing requests of us for consolidation, although they would not be noted in the record as being outstanding 81's, request for space, but we are aware by virtue of the history of the constant dealings with these agencies that they had asked us for the consolidation.

We went and asked several agencies whether or not they were interested. They were not. The AID was one that came along with an 81 at that point. As I said, we talked to them, they showed the interests and we began the negotiations for the moving.

Mr. FINNEGAN. Now, in your response to our questions, Question 1–B, you indicated that you had requested certain information about space from the FEA in a letter dated May 25, 1976, and relative staffing in connection with FEA's present space. You end up by saying that information was never received by GSA. [See p. 133.]

Are you aware, Mr. Galuardi, of a June 28, 1976, letter from the Federal Energy Administration to you signed by Mr. John A. Hill, Deputy Administrator of FEA, in which he refers to that particular letter signed by Mr. Steele of your staff, and discussed further his space problems? Are you aware of that particular letter? And isn't that a reply to your agency's May 25th letter?

Mr. GALUARDI. Let me see if I understand this correctly. On May 25th I believe what we asked them for was the space which they occupied in the locations we proposed to move to Buzzard Point, is that it?

Mr. KIDWELL. No. On April 13th, the letter from FEA on April 13th asked for 75,000 square feet of space to consolidate FEA from three locations and to provide for 9,000 square feet of expansion space.

Mr. FINNEGAN. That is right, and then you wrote on May 25th.

Mr. KIDWELL. On May 25th we wrote back and rejected their expansion, and asked for information on their staffing, and so on, in support of the other space.

Mr. FINNEGAN. And then on June 28th, 1976, Mr. Hill responded to that letter?

Mr. KIDWELL. May 28th?

Mr. ESCHBACHER. June 28th.

Mr. KIDWELL. May 28th or June 28th—June 28th.

Mr. FINNEGAN. Yes, sir.

Mr. KIDWELL. We have no record of response to that. And I think it is so stated.

Mr. ESCHBACHER. That was never received and never logged in our office.

Mr. KIDWELL. They indicated they had sent it, but we had never received it.

Mr. ESCHBACHER. And so indicated in our response to you. We also have a file here where one of our specialists called Mr. James Vaida of FEA with regard to the 81, which was in question, we told them at that time we did not have the request and asked him for another copy. We still do not have a copy of that in our files.

Mr. FINNEGAN. Well, that is very strange, because I have a letter dated July 14, 1976, which is in reply to Mr. Hill, signed by Mr. Galuardi. I will read the letter to you. It says.

DR. HILL: Thank you for your letter of June 28, 1976, concerning the space needs of the Federal Energy Administration. Our Regional Space Management staff has been reviewing your requirements in conjunction with our overall housing plans for Washington, D. C. for some time.

We are currently faced with two major problems in satisfying agency space needs.

The first is a limited funding situation for leasing new space which necessitates giving priorities to those agencies with life safety problems or new programs. The second concerns the fact that the GSA is currently making numerous space adjustments in the Washington, D. C. area which requires a careful review of the complicated backfill plan to insure maximum economy and still meet agency needs.

Therefore, we feel we will be able to meet any expansion needs FEA may have when its program is confirmed by the Congress by providing space within our inventory. Every attempt will be made to provide as much consolidation as possible near your existing location as we recognize the benefits of close geographical consolidation.

In order to begin planning at the earliest possible date, members of our space management division will contact your staff shortly to review the alternatives and analyze FEA's current space holding to make sure they are being utilized to the fullest. Sincerely, John Galuardi, Regional Administrator.

[The letters referred to follow:]

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., April 13, 1976.

Mr. JOHN F. GALUARDI,
Regional Administrator, Region III, General Services Administration,
Washington, D.C.

DEAR MR. GALUARDI: Since the inception of the Federal Energy Administration (FEA), the continuing problem of finding a suitable building arrangement to house the entire FEA Headquarters complement has presented serious problems. In anticipation of the pending FEA FY 76 Supplemental and FY 77 Budget Amendment requests, which were developed to support the provisions of the recently enacted "Energy Policy and Conservation Act," the increase in Headquarters staffing as proposed in this budget will significantly impact the existing FEA buildings in the Washington, D.C. area. In order to satisfy this additional space requirement and concurrently consolidate FEA programs presently dispersed in five downtown buildings into three buildings; 75,000 square feet of office and related support space will be required. It is anticipated that in implementing the proposed realignment and providing the required expansion space, FEA will release to the GSA three buildings we currently share with other Government tenants. The total space to be released consists of 65,910 square feet; so the net effect will reflect an increase of only 9,000 square feet of space to FEA. I would hope that if you proceed with this request, the space obtained would be in a new building not more than five blocks from the Federal Building at 12th Street and Pennsylvania Avenue, Northwest.

I would like to meet with you on this matter at your earliest convenience so that the preliminaries you may require to proceed with this request may be satisfied.

Sincerely,

THOMAS E. NOEL,
Assistant Administrator, Management and Administration.

MAY 25, 1976.

MR. THOMAS E. NOEL,
Assistant Administrator, Management and Administration, Federal Energy Administration, Washington, D.C.

DEAR MR. NOEL: Reference is made to your letter of April 13, 1976, in which you requested a partial consolidation of the Federal Energy Administration (FEA) activities currently housed in 5 downtown Washington, D.C. locations, as well as expansion space needed to satisfy a proposed increase in your headquarters staffing.

Inasmuch as your expansion requirements are difficult to ascertain at this time and the fact that our records indicate the overall utilization rate for FEA is 178, your request for expansion space is not justified. The estimated 9,000 square feet of expansion space you requested would house approximately 60 people and these people could easily be absorbed in your present space, improving your overall utilization rate to 172. When your pending budget requests are approved, you will be able to define in detail your new space requirements. At that time, should your needs justify an increase in excess of the estimated 9,000 square feet, we will be happy to assign additional space to you in the Old Post Office Building.

In regards to your request for partial consolidation, I have asked our Planning Staff to include your request, along with other pending requests for consolidation, in their overall housing plan for the Washington Metropolitan area. Any major space request such as this requires time to properly plan, review requirements, and then possibly seek Congressional approval. Therefore, please submit your projected space needs, including a list by grade (supervisory or non-supervisory) of all FEA employees in Washington, D.C., so that a complete review and evaluation of your request can be made.

Please be assured that your housing problems are of concern to us and we will work with you in whatever way possible to satisfy your needs. If we can be of further assistance, please have a member of your staff contact Cindy D'Agostino, Space Management Division, on 472-1137.

Sincerely,

JAMES F. STEELE, JR.,
For Regional Commissioner, Public Buildings Service and Acting Assistant Commissioner Office of Operating Programs.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., June 28, 1976.

MR. JOHN F. GALUARDI,
Regional Administrator, Region III, General Services Administration, Washington, D.C.

DEAR MR. GALUARDI: Reference is made to the letter of May 25, 1976, signed by Mr. Steele of your staff. The Federal Energy Administration (FEA) anticipates an increase of 254 new positions in the Headquarters. The largest number of these new positions would be located in the buildings at 2000 M Street, N.W., and 1726 M Street, N.W. These buildings cannot accommodate this increase of personnel.

In Mr. Noel's letter to you dated April 13, 1976, he mentioned a consolidation of FEA. To be more specific, our current plan is to consolidate from five (5) buildings to three (3), and at the same time program the 254 new positions into the consolidated space.

FEA is currently assigned space in the Federal Building at 12th Street and Pennsylvania Avenue, N.W.; 2000 M Street, N.W., 1726 M Street, N.W.; the Vanguard Building; and, the Old Post Office Building. The most significant position increases will occur with the Office of Regulatory Programs at 2000 M Street, N.W., and the Office of Strategic Petroleum Reserve at 1726 M Street, N.W. The increase of 139 new positions at 2000 M Street, N.W., would necessitate moving a current tenant out of the building. FEA will release the Vanguard Building, the building at 1726 M Street, N.W., and the Old Post Office Building to accommodate whomever GSA elects to move from 2000 M Street, N.W.

The final realignment would place all FEA programs currently split between buildings, into contiguous space at three (3) downtown locations. In order to accomplish this consolidation, we request GSA to lease and assign enough space at 6th and E Streets, N.W., to accommodate 410 employees. FEA in turn would release approximately 66,000 square feet of office space in the Old Post Office, 1726 M Street, N.W., and the Vanguard Building to GSA.

By reducing the number of buildings from five (5) to three (3) and releasing approximately 66,000 square feet of space, and at the same time increasing the Headquarters staff by 254 positions a significant improvement in the per capita utilization rate will occur. We do not anticipate the overall utilization rate to exceed 170 in any building.

Enclosed is a GSA standard form 81 requesting 75,000 square feet of office and related space. The Headquarters staffing plan you requested will be sent to you under separate cover. Please do not hesitate to contact me if you have any question or if you would like to meet to discuss this request.

Sincerely,

JOHN A. HILL,
Deputy Administrator.

Enclosure.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., Jul 14, 1976.

Mr. JOHN A. HILL,
Deputy Administrator, Federal Energy Administration,
Washington, D.C.

DEAR MR. HILL: Thank you for your letter of June 28, 1976 concerning the space needs of the Federal Energy Administration (FEA). Our regional space management staff has been reviewing your requirements in conjunction with our overall housing plans for Washington, DC, for some time.

We are currently faced with two major problems in satisfying agency space needs. The first is a limited funding situation for leasing new space which necessitates giving priority to those agencies with life safety problems or new programs. The second concerns the fact that GSA is currently making numerous space adjustments in the Washington, DC, area which requires a careful review of the complicated backfill plan to insure maximum economy and still meet agency needs.

Therefore, we feel we will be able to meet any expansion needs FEA may have when its program is confirmed by the Congress by providing space within our inventory. Every attempt will be made to provide as much consolidation as possible near your existing location as we recognize the benefits of close geographical consolidation.

In order to begin planning at the earliest possible date, members of our space management division will contact your staff shortly to review the alternatives and analyze FEA's current space holdings to make sure they are being utilized to the fullest.

Sincerely,

JOHN F. GALUARDI,
Regional Administrator.

Mr. KIDWELL. I am sorry, that is not in our file. The whole thing may have gotten misplaced or something, but it was not in the file at the time it was searched.

Mr. FINNEGAN. Well, no mention was made in this letter of Buzzard Point.

Mr. GALUARDI. Well, that is also a fairly formal letter sent to everybody who was asking for space at the time, because we didn't have any money.

Mr. FINNEGAN. Well, you did have space at the time, though, Buzzard Point.

Mr. GALUARDI. Not for smaller agencies.

87-962 O - 77 - 26

Mr. FINNEGAN. Well, now wait a minute, you are suggesting FEA should go to Buzzard Point.

Mr. GALUARDI. But they were asking for 80,000, or 75,000.

Mr. KIDWELL. 75,000.

Mr. FINNEGAN. You have just been telling us that you have been looking at FEA and that you wanted more space information, and here again in October in a few days' time you conclude FEA is the greatest Agency in the world to go to Buzzard Point. How did things change?

Mr. KIDWELL. I assume it was because at the time we were considering Treasury.

Mr. FINNEGAN. Pardon me?

Mr. KIDWELL. I assume because at the time we were considering Treasury's space request for Buzzard Point.

[The following letter was received for the record:]

GENERAL SERVICE ADMINISTRATION,
Washington, D.C., June 30, 1976.

Mr. GEORGE DIXON,
Deputy Secretary of the Treasury, Department of the Treasury,
Washington, D.C.

DEAR MR. DIXON: The General Services Administration has made a careful and thorough review of all possible alternatives for the use of the building at 2 T Street, SW., Washington, DC.

We have concluded that the most logical tenants for this building are elements of the Department of the Treasury's Bureau of Public Debt and the Bureau of Government Financial Operations. Such an assignment would essentially consolidate these two bureaus from more than a dozen scattered locations into a single building.

We therefore propose to assign this building to the aforementioned bureaus and look forward to an early and favorable response from your Department.

Sincerely,

JOHN F. GALUARDI,
Regional Administrator.

Mr. FINNEGAN. But what analysis was made on this whole matter? The problem that the committee and the Chairman has raised with you and the GSA is what kind of an analysis was made? At the time that the letter was written to Mr. Zarb, you stated that you had made some sort of an analysis. Here is a letter which you now state is a form letter to the Agency and in which you are saying you can't do anything for them—at Buzzard Point or any place else.

Mr. GALUARDI. At the time that they were telling me we were working with Treasury because, just like AID, Treasury came to GSA and, as a matter of fact, at the time we were still considering AID, Treasury came to us and we didn't go to Treasury. And they said that we would like to have the two facilities, I mean, the building down there, so that they could consolidate two of their very important functions. And it was with great reluctance that I considered that I would at this point stop my negotiations with AID and begin to deal with Treasury, but finally being convinced by Treasury that they had a bona fide requirement and they would not have problems similar to what AID was experiencing at the time, that I then offered, withdrew the offer of this space to AID and made the offer to Treasury.

So if a space request had come from FEA at that particular moment, as it would have come from any other agency, they would have gotten this type of request or form response that you are reading to me here, because we are in a tight budgetary situation with regard to additional space, and then when Treasury, of course, was found that they did not—well, how do I put it, that Treasury would not fit in the building, because of several problems, one that the space that they had to consolidate was a little bit larger than what the building would provide, and there were some amenities which they had to install in the building which would be fairly expensive, such as a computer room.

So that we ended up saying to Treasury that—which would then have been the last large agency for whom we would have attempted to provide consolidation—that we would then move on to the next course of action which was open to us, which was to consider a multitenant use of the building, which was where we—you then see coming into the files the analyses with regard to multitenant agency occupancy of that building.

The logic we use in the assignment of the space which was in our inventory at Buzzard Point as I reiterate we start out trying to solve the large agency consolidation requirements in Washington, D.C., and, failing all those, we then move on to a multitenancy agency solution.

We arrived at FEA by virtue of the circumstance which is that their lease is expiring in November, the end of November, 1976. It was one of our most expensive leases in town. It was one which if we have the choice we prefer not to renew. Its annual renewal rate was in the order of, for the FEA space in that building alone, $1 million and, I believe, $95,000 a year. And that is the logic behind how we arrive at looking at the housing of agencies in the Buzzard Point building.

Mr. FINNEGAN. Well, on June 11, 1976, the Administrator, Mr. Eckerd, sent a letter to Mr. Daniel Kearney, Associate Director, Office of Management and Budget, saying:

> After our conversation the other day, I have met with members of my staff and have gone over all of the details to insure that we are following all necessary procedures. My position, as expressed to you the other day, has not changed, and I believe it will be necessary to direct AID to move to Buzzard Point. I was also pleased of your assurance that pending our following necessary procedure under Executive Order 11512 and NEPA the Office of Management and Budget agrees with the position that this is the best course of action for the Government to take.

And then you state:

> My decision is based on the fact that any further delay will be extremely expensive to the Government and that it will continue to be a public relations problem. To date, we have been delayed 4 months in the occupancy of the Buzzard Point building and at a net cost of $640,000. This will continue to accumulate at the rate of $160,000 a month.
>
> I believe that it is prudent that we have a decision as soon as possible. Recognizing the public relation aspects of this problem prior to my issuing a directive to Mr. Parker at AID, I would like to request that you arrange a meeting with Mr. Parker, as well as GSA as soon as Mr. Parker returns from Europe Thursday. While I am confident of our decision, I would like to cooper-

ate as much as possible with OMB and AID in achieving this move with the least amount of negative reaction.

[The letter referred to follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 11, 1976.

Mr. DANIEL KEARNEY,
Associate Director, Office of Management and Budget,
Washington, D.C.

DEAR DAN: After our conversation the other day, I have met with members of my staff and have gone over all of the details to insure that we are following all necessary procedures. My position, as expressed to you the other day, has not changed, and I believe it will be necessary to direct AID to move to Buzzards Point. I was also pleased of your assurance that pending our following necessary procedure under Executive Order 11512 and NEPA the Office of Management and Budget agrees with the position that this is the best course of action for the Government to take.

My decision is based on the fact that any further delay will be extremely expensive to the Government and that it will continue to be a public relations problem. To date, we have been delayed 4 months in the occupancy of the Buzzards Point Building and at a net cost of $640,000. This will continue to accumulate at the rate of $160,000 a month.

I believe it is prudent that we have a decision as soon as possible. Recognizing the public relation aspects of this problem prior to my issuing a directive to Mr. Parker at AID, II would like to request that you arrange a meeting with Mr. Parker, as well as GSA, as soon as Mr. Parker returns from Europe Thursday. While I am confident of our decision, I would like to cooperate as much as possible with OMB and AID in achieving this move with the least amount of negative reaction.

I am awaiting your prompt reply.

Sincerely,

JACK ECKERD,
Administrator.

Mr. FINNEGAN. Now, first of all, is this figure of $640,000 an accurate figure? I understood at the press conference that Mr. Eckerd had in November of this year that there was no rental being charged because you had postponed any rental charge for 4 months.

Mr. GALUARDI. I believe at the time that we prepared the letter that the rent-free provision in the lease was at the end of the lease, and we have subsequently been able to negotiate it so that it is at the front end of the lease. So both statements are correct that——

Mr. FINNEGAN. As of June 11th Mr. Eckerd was ready to try to get OMB onboard to go ahead and get AID into the Buzzard Point building.

Mr. GALUARDI. That is correct.

Mr. FINNEGAN. That is correct.

Mr. GALUARDI. Yes. Because Mr. Eckerd himself had told me that at some function he had run into Dan Parker, and was actually one of the ones who had initiated the interest initially of AID being a tenant of the Buzzard Point building.

Mr. FINNEGAN. Who had initiated, Dan Parker?

Mr. GALUARDI. Dan Parker in a conversation with Mr. Eckerd.

Mr. FINNEGAN. And?

Mr. GALUARDI. He had said that I need to be consolidated, and at that point Mr. Eckerd told me that he told Dan Parker about the Buzzard Point building, which led to subsequent meetings, as I said, between the staff of AID and ours, which finally led to the April 9 offer I made them formally.

Now, Mr. Eckerd at the time that letter was being prepared there, we were in consultation with them as to what course of actions that we could take. He was of a mind, I believe, that if necessary we would order AID into the building. But the subsequent conversation, as I also told you about, which was the Treasury interest in it, was such that we took another look at the situation.

I advised Mr. Eckerd to make sure that the Treasury interest was a real, a bona fide, requirement, and that they did have the intense interest that they indicated to us at the staff level. And I have a record of a conversation here that the Administrator talked to George Dixon, who was the Deputy Secretary of Treasury.

Mr. FINNEGAN. Is that a memorandum of June 25, 1976?

Mr. GALUARDI. June 25, 1976.

Mr. FINNEGAN. Right.

[The document referred to follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., June 25, 1976.

Attention of: A
Subject: Buzzards Point Building
To: Jack Galuardi—3A

This is to advise you of a conversation between the Administrator and Mr. George Dixon, Deputy Secretary of Treasury, on Thursday, June 24, 1976, subject above.

Mr. Dixon advised Mr. Eckerd that two elements of the Treasury Department, the Bureau of Public Debt and the Bureau of Government Financial Operations would be moving to the Buzzards Point Building. The only reservation expressed by Mr. Dixon was that he needed the formal approval of Secretary Simon who is in the Far East. Mr. Dixon does not expect any resistance from Mr. Simon and has sent him a wire explaining the situation.

It is our understanding that the Treasury Department will formalize this agreement this month, begin moving in November and have the building one-half occupied by the first of next year.

OMB will be advised of this new development by Mr. Eckerd. Please keep us posted on your progress on this matter.

RICHARD L. FANSKE,
Executive Assistant to the Administrator.

Mr. GALUARDI. And at that point Mr. Dixon had advised Mr. Eckerd that they did have this strong interest, and at that point then Mr. Eckerd backed away from what we do consider a rather reprehensible action, which is to order any agency into any building they don't want to go into. We prefer not to do that, but——

Mr. FINNEGAN. Why would you back away, when you were ready to go with AID, and then start all over again with Treasury?

Mr. GALUARDI. Because Treasury were indicating to us that there were large economies if they were able to consolidate their two organizations.

Mr. FINNEGAN. Was not Mr. Parker of AID saying that only a couple months earlier?

Mr. GALUARDI. No, he was just talking about a consolidation. As a matter of fact, in our review of AID's occupancy of Buzzard Point building, it would, in the problem that GSA has in solving agency requirements in Washington, D.C., it would have perhaps maybe released one small building over in the Rosslyn Circle area, and we could have perhaps used some of the other facilities that they had over there to solve some other agency requirements therein, namely,

Agriculture. But with regard to a release of a large block of space or a substantial dollar savings, or the removal of a rental from our rolls, it would not be as appropriate.

Mr. FINNEGAN. So then on June 30 you sent a letter to Treasury and said that GSA has concluded that Treasury is the most logical tenant for the building; is that correct? [See p. 406.]

Mr. GALUARDI. We made them an offer of the building, yes.

Mr. FINNEGAN. Then we have a fact sheet dated August 25, 1976 that was in the files of OMB which states that your experts at region III expect a response from Treasury by August 27. Should Treasury decline their offer, the other potential candidates are GSA Region III; Federal Trade Commission and the Federal Bureau of Investigation, Federal Trade Commisison and Consumer Product Safety Commission; Federal Bureau of Investigation, Law Enforcement Assistance Administration and the U.S. Department of Agriculture. You add that the building has not been accepted by GSA and rental payments have not begun.

Here again FEA was not mentioned. How did the GSA analysis arrive at the conclusion of these four elements? At this time, before the Treasury consideration, GSA determined that this combination of circumstances, or combination of agencies, was a good idea, but FEA was not included.

Mr. GALUARDI. Can my staff answer it? Because they prepared it.

Mr. STEELE. As I recall, I called on staff here at the time we were looking at all outstanding requirements we had for total consolidation up to that moment in time. We started looking at all outstanding requirements we had at the time for space, is this correct—outstanding requirements for space, without looking at what was in the best interests of the Government economically at that time; is that correct?

Mr. KIDWELL. Yes, sir.

Mr. STEELE. All those agencies mentioned, Mr. Finnegan, that you just mentioned, were all agencies which had oustanding requirements with us.

[The fact sheet referred to follows:]

FACT SHEET

PROPOSED RELOCATION OF THE DEPARTMENT OF TREASURY TO THE BUZZARD POINT FACILITY, 1900 HALF STREET, S.W., WASHINGTON, DC

By letter of June 30, 1976, GSA offered approximately 380,000 square feet of space at the Buzzard Point Facility to the Department of Treasury to consolidate Treasury's Government Financial Operations and its Bureau of Public Debt.

Since June 30, the exchanges between GSA and Treasury have consisted primarily of Region 3 supplying Treasury with specifics regarding the building to aid them in making a decision. This information has been communicated primarily be telephone.

Region 3 expects a response from Treasury by August 27. Should Treasury decline Region 3's offer, other potential tenants are:

1. General Services Administration—Region 3.
2. Federal Trade Commission and the Federal Bureau of Investigation.
3. Federal Trade Commission and the Consumer Product Safety Commission.
4. Federal Bureau of Investigation, Law Enforcement Assistance Administration and the U.S. Department of Agriculture.

The building has not been accepted by GSA and rental payments have not begun.

Mr. FINNEGAN. Well, I can't understand that, because on August 5, 1976, Mr. Galuardi sent a memorandum to Mr. Shipp, and he said, "We are forwarding herewith, a draft lease prospectus and supporting information for a proposed 10-year firm succeeding lease for space in 2000 M Street, NW., Washington, D.C. The existing lease expires November 30, 1976.

"We will appreciate your office expediting the submission of a prospectus to the Public Works Committee so an early approval may be obtained." Now, that is before this other memorandum consolidating other agencies, but yet there is no mention of FEA.

Mr. STEELE. On April 2?

Mr. FINNEGAN. This is August 5, 1976, the previous memorandum mentioned four different ones, including LEAA, on August 25. That was almost 20 days later.

Mr. GALUARDI. I think what you have there is a routine transmittal of a prospectus which would be required to renew the lease of 2000 M Street.

Mr. FINNEGAN. Mr. Galuardi, you are the Regional Administrator. Don't you review these things and see how they relate, one to the other?

Mr. GALUARDI. Well, sure, we still require a renewal at 2000 M Street, even right now, because as of November 1976, we are a holdover tenant in 2000 M Street, and I have to submit a prospectus.

Mr. FINNEGAN. Well, let me ask you this. Who proposed a prospectus, what part of your office prepared that?

Mr. GALUARDI. Mr. Gural.

Mr. FINNEGAN. Mr. Gural. Do you consult with Mr. Gural in preparing prospectuses, with Mr. Eschbacher's office, or anything?

Mr. GALUARDI. Yes, we certainly do.

Mr. FINNEGAN. So they were aware that you were preparing this prospectus; is that correct?

Mr. GALUARDI. Yes, sir.

Mr. FINNEGAN. They participated?

Mr. GALUARDI. Yes, sir.

Mr. FINNEGAN. Now, who was doing the study and analysis of how you bind the agencies into the particular building at Buzzard Point? Who on your staff?

Mr. KIDWELL. Mr. Downs and Mr. Fowler.

Mr. FINNEGAN. They work for Mr. Eschbacher; is that correct?

Mr. KIDWELL. That is right.

Mr. FINNEGAN. They were aware of this prospectus; is that correct?

Mr. KIDWELL. They were aware of a need for it.

Mr. FINNEGAN. Pardon me?

Mr. KIDWELL. Needs of prospectus, yes.

Mr. FINNEGAN. Nobody on your staff, Mr. Kidwell and Mr. Eschbacher, then alerted the Regional Administrator that a part of this combination ought to include FEA and the LEAA?

Mr. KIDWELL. Not at that time.

Mr. ESCHBACHER. The only answer I can give, at that time we in some way overlooked it, and later on after that date we began to think, and I don't remember who brought it up, that we had prepared a prospectus for a lease, and it was very expensive and it was

one alternative up to that point we had not considered and we better sit down and think about that.

[The lease prospectus and supporting documents follow:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., Aug 5, 1976.

Attention: Regional Administrator (3A)
Subject: Lease Prospectus,
2000 M Street, NW., Washington, D.C.

Mr. LOY M. SHIPP, JR.,
Assistant Commissioner for Space Planning and Management (PR)

We are forwarding herewith, a draft lease prospectus and supporting information for a proposed ten-year firm term succeeding lease for space in 2000 M Street, NW., Washington, DC. The existing lease expires November 30, 1976. NW., Washington, DC. The existing lease expires November 30, 1976.

We will appreciate your office expediting the submission of a prospectus to the Public Works Committees so an early approval may be obtained.

JOHN F. GALUARDI,
Regional Administrator,

Enclosure.

STATEMENT ON LEASE PROSPECTUS

The General Services Administration (GSA) requests approval to enter into a succeeding ten year lease for 176,103 square feet of space in the building located at 2000 M Street, N.W., Washington, D.C. The lease will satisfy continuing requirements of components of the Federal Energy Administration (FEA), the Renegotiation Board (RB), the National Commission on Gambling (NCG), the National Commission on Productivity and Work Quality (NCPWQ) and GSA.

Total annual rental for the present lease is $992,608.40, excluding services and utilities which were paid separately by the Government at an annual cost of $507,700.00 for FY 1976. Total annual cost for the present lease, therefore, was $1,500,308.40.

The proposed lease will be for a firm term of 10 years at an annual rental of $1,100,000, excluding services and utilities which will be paid separately by the Government at an estimated annual cost of $452,000. Total annual cost to the Government, therefore, will be approximately $1,552,000.

There is a continuing need to satisfy space requirements of the FEA, the RB, the NCG, the NCPWQ and GSA at this location. There is no other space available in GSA's inventory nor will any become available by December 1, 1976, to satisfy these agencies' needs.

PROSPECTUS FOR PROPOSED LEASE UNDER
THE PUBLIC BUILDINGS ACT OF 1959, AS AMENDED

1. DESCRIPTION

This prospectus proposes a succeeding lease for 178,215 net usable (176-103 occupiable) square feet of space in an office building at 2000 M Street, NW., Washington, DC. The lease will be for a firm term of ten years and is expected to commence December 1, 1976. The current lease expires on November 30, 1976. The estimated total annual cost will be $1,552,000, including services and utilities which will be paid separately by the Government. The lease will contain an escalator clause providing for increases or decreases in property taxes and maintenance expenses paid by the lessor at the end of each three-year period. The space will continue to be occupied primarily by the Federal Energy Administration and the Renegotiation Board.

2. COMPREHENSIVE PLAN

a. Project Need

This project is needed to satisfy the continuing requirements of the occupying agencies. There is no Government-owned or leased space under General Services Administration (GSA) control available to satisfy their needs.

b. Discussion of Alternatives

(1) *Utilization of Government-owned space.*—There is no space currently available in GSA's inventory nor is it anticipated that any will become available by December 1, 1976, to satisfy the requirements of the occupying agencies.

(2) *Acquisition of leased space.*—GSA has conducted a market survey to identify buildings available for lease with respect to location, cost, amount of space and delivery date; the presently leased building is the one best meeting overall GSA requirements.

(3) Construction of a federally owned building

Construction of a Federal building to house the agencies located in 2000 M Street would require a period of four to five years to obtain the necessary approvals, acquire the land, finance, design and construct the building. The current need for this space precludes the use of this alternative as a means of satisfying the agencies' needs.

(4) Purchase of existing building

In view of the limited funding capability of GSA, purchase of an existing building is not considered a viable alternative.

3. ESTIMATED MAXIMUM COST

Estimated net average annual rental	$1,100,000
Estimated cost of services and utilities	452,000
Estimated total annual cost ($8.81 per occupiable square foot)	$1,552,000

4. CURRENT HOUSING COST

For agencies housed in proposed leased space.

	Area (square feet)	Annual cost
Net annual rental	176,103	$929,220.44
Value of lessor's services		63,387.96
Cost of Government furnished services and utilities (fiscal year 1976)		507,700.00
Total annual cost ($8.52 per occupiable square feet)		1,500,308.40

5. HOUSING PLAN

Agency	Occupiable square feet	Personnel
Federal Energy Administration	124,063	623
Renegotiation board	34,460	171
National Commission on Gambling	4,920	21
National Commission on Productivity and Quality of Work Life	7,860	31
GSA—joint use	2,085	3
GSA—regional PBS	2,715	10
Total	176,103	859

6. PRESENT VALUE ANALYSIS AND OTHER SUPPORT DATA

Since there is no viable alternative to the proposal in this prospectus, a present value analysis of alternatives is not included. For other support data, see the attached.

7. STATEMENT OF NEED

It has been determined that (1) the needs of the Federal Government in this area cannot be satisfied by the use of existing suitable property now owned by the Government, and (2) suitable comparable rental space to the proposed action is not available.

Submitted at Washington, D.C. on _____

Recommended: _____
(Commissioner, Public Buildings Service)

Approved: _____
(Administrator of General Services)

Fact Sheet

A. Résumé of space improvements

Date	Amount	Nature of work
Mar. 19, 1972	$16,676.00	Construction of conference room on 2d floor, including electrical and mechanical work, installation of folding partition and projection screens.
July 10, 1972	8,906.00	Installation of health unit on second floor.
	44,515.00	Construction of conference and display room on 7th floor, including drywall, millwork, mechanical, and electrical work.
June 6, 1973	14,299.98	Addition of toilet room on 4th floor, alterations to 2d floor conference room, addition of new doors at various locations, miscellaneous electrical changes, installation of firewalls in 2d floor auditorium.

B. Summary of lease

Term: 12/1/71 through 11/30/76, 195,769 square feet (Basement, 2d–8th floors) $985,999.92.

Supplements: 9/1/74, credit to Government for unused portion of allowance for partitioning, telephone and electrical outlets ($73,267.00), and 12/1/74, decrease in real estate taxes of $2,432.76 and increase in operating cost of $9,041.16, $6,608.40.

C. Parking

Three parking spaces for official vehicles for the FEA are under separate contract and are reimbursable by FEA.

D. Appraisal information for current location

Regional Appraisal dated April 8, 1976:

FMVLP	$8,731,000
FAR (without services and utilities)	1,274,491

E. Summary of cost of services and utilities

The Government will pay for services and utilities at an estimated annual cost of $199,100 for services and $252,900 for utilities.

F. Standard level user charge (SLUC)

The building Quality Rating is 85. The SLUC rate for office space is $6.80 per occupiable square foot for FY 1977.

G. Building occupancy

Floor:	*Occupiable square feet*
Basement	11,828
2	23,355
3	23,530
4	23,000
5	23,490
6	23,615
7	23,760
8	23,525
Total	176,103

GSA leases the entire building with the exception of the commercial space on the first floor.

H. Ownership of 2000 M Street

The 2000 M Street building is owned by Martin W. Juster.

2000 M STREET NW., WASHINGTON, D.C.

Agency	Office space: Office use	Personnel	Administration support	Personnel	U.R.	Storage	Personnel	Special	Personnel	Occupiable total	Personnel	Overall U.R.	Remarks
Federal Energy Administration.	112,498	613	8,065	9	183.5	0	0	3,500	1	124,063	623	199.1	Employees are generally high graded.
Renegotiation Board	31,200	164	2,280	3	190.2	0	0	980	4	34,460	171	201.5	
National Commission on Gambling.	4,545	21	375	0	216.4	0	0	0	0	4,920	21	234.3	Do.
National Commission on Productivity and Quality of Work Life.	6,775	31	1,085	0	218.5	0	0	0	0	7,860	31	253.5	Do.
GSA—Joint use	2,085	3	(1)	(1)	(1)	(1)	(1)	(1)	(1)	2,085			Health unit, vending area, minority business (mexican import store).
GSA—Regional PBS			2,715	10	(1)	(1)	(1)	(1)	(1)	2,715			Space used by GSA–PBS cleaners for 2000 M St. and other nearby Government facilities (it should be noted that the space is classified as office type space; however, it is located in the basement and would be difficult to assign to anyone other than present occupants of the building.
Total	157,103	832	14,520	22	201.0	0	0	4,480	5	176,103	859	205.0	

[1] Not applicable.

There is no space of similar size (178,215 square feet) available in the vicinity of 2000 M Street, NW. There is also no Government-owned space available to satisfy the occupant agency's requirements. However, the following buildings located in the Northwest section of Washington, DC are listed to show comparable rental rates for available blocks of space:

1. 2101 L St. NW., Washington, D.C.	30,000 ft^2 of space at \$8.90/ft^2. Insufficient space.
2. 2033 M St. NW., Washington, D.C.	90,000 ft^2 of space available at \$8.75/ft^2. Insufficient space.
3. 1920 L St. NW., Washington, D.C.	60,000 ft^2 of space available at \$9.25/ft^2. Insufficient space.
4. 2030 M St. NW	14,500 ft^2 of space available at \$8.65/ft^2. Insufficient space.

The Government is conducting negotiations with the Lessor for a succeeding lease which will include current GSA requirements for handicapped facilities.

In view of the locations surveyed and listed above, it is in the best interest of the Government to negotiate with the Lessor of 2000 M Street, NW., since the proposed rental rate is less than or comparable to the rate for any of the above-listed available blocks of space.

1. EFFECTIVE DATE THIS ACTION	2. REGION	3. AREA	4. LEASE NO.	5. DIGEST ACTION NO.	6. PRIOR LEASE NO.
2-1-74	03	06	TDC05955	9	

7. CODE BLOCK

CITY	(1)	0 0 1
STATE	(2)	0 8
BLDG. NO.	(3)	1 2 1 1
COUNTY	(4)	0 0 1

8. PAYEE'S NAME AND ADDRESS (Lessor when applicable) (Include ZIP code)

Martin W. Juster
2004 Midland Avenue
Yonkers, NY

9. MONTHLY RENTALS		
Nov	(1) THIS MONTH	81,443.3[illegible]
	(2) NEW MONTHLY	75,391.6[illegible]
	(3) OLD MONTHLY	74,539.9[illegible]

EMPLOYER IDENTIFICATION NO. | SOCIAL SECURITY NO. | ☐ NOT SUBJECT TO IRS REPORTING

10. TYPE OF LEASE ACTION: ☐ (1) NEW ☒ (2) SUPPLEMENT ☐ (3) SUCCEEDING ☐ (4) TERMINATION ☐ (5) SUPERSEDING

11. NEW CONSTRUCTION: ☒ (1) YES ☐ (2) NO

LEASE DATA			RENEWAL DATA			
12. AWARD DATE	13. EFFECTIVE DATE	14. EXPIRATION DATE	15. NO. OF RENEWALS	16. TERM (Years)	17. NOTICE (Days)	18. UNTIL (Date)
10-15-71	12-1-71	11-30-76				

19. LEASE MAY BE TERMINATED ON OR AFTER: DATE 11-30-76

20. DAYS' NOTICE REQUIRED TO TERMINATE: TO GOV'T ALL (1) PART (3) TO LESSOR ALL (2) PART (4)

21. RESTORATION: ☐ (1) YES ☒ (2) NO

22. SERVICES AND UTILITIES (Place L for Lessor and G for Government in correct blocks)

G (1) HEAT ☐ (3) POWER, SPEC EQUIPMENT G (5) CHILLED DRINKING WATER G (7) ELEVATOR G (9) TOILET SUPPLIES G (11) LAMP REPLACEMENT

G (2) ELECTRICITY G (4) WATER G (6) AIRCONDITIONING L (8) WINDOW WASHING G (10) JANITOR SERVICES AND SUPPLIES ☐ (12) MECHANICAL VENTILATION

23. NET USABLE AREA	24. RATE PER SQ. FT.	25. ANNUAL RENT	26. EST. COST OF LESSOR'S SERVICES	27. NET RENT (Econ. Act)	28. 25% OF NET RENT
195,769	$5.07	$992,608.40	63,387.96	929,220.44	232,305.11

29. | 30. CONTRACTING OFFICER (Signature) [signature] | 31. DATE 11/2/75

32. LEASE NO.	33. NEG.	34. BUILDING NAME AND ADDRESS (City, County and State)
5955	yes	2000 M Street, NW Washington, DC BDC 121183

35. BUILDING USE CLASSIFICATION	36. CODE	37. LAND USE CLASSIFICATION	38. CODE	39. NUMBER OF ACRES (To nearest tenth) (1) URBAN	(2) RURAL
office	10			0	

40. REMARKS

1. Type of Space: Office
2. Net assign area: 195,769 sq. ft.
3. Net Rent: 929,220.44
4. Value of Lessor's Svcs: 63,387.96
5. Est Cost of Svcs & Utilities not furn by Lessor: $221,588.33
6. Total Cost: $1,214,196.73
7. Amort of Alterations: None
8. Total PRV: $993,036 (w/o services

1/ This digest action to increase annual rental by $6,608.40 due to tax and operating costs escalation as called for in lease, effective December 1, 1974.

Lease calls for 1/2 months free rent for the month of November 1976.

Cat 2A FY76
1 76½
3 77

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

JMAsha:x12421 LEASE DIGEST

FORM APPROVED BY COMPTROLLER GENERAL, U.S., FEBRUARY 1951
1957-246-048

GSA FORM 620

Mr. FINNEGAN. Well, I could raise this issue again on October 19, 1976, when you offered this space to the Department of Agriculture.

[The following letter was received for the record:]

OCTOBER 19, 1976.

Mr. J. PAUL BOLDUC,
Assistant Secretary for Administration,
Department of Agriculture,
Washington, D.C.

DEAR MR. BOLDUC: This letter is to confirm the telephone conversation of October 15, 1976, between you and Mr. Terry Chambers, Deputy Administrator of the General Services Administration, during which Mr. Chambers offered the United States Department of Agriculture (USDA) approximately 150,000 square feet of office space at the Buzzard Point Building, 1900 Half Street, S.W., and you accepted the offer. This space assignment would satisfy USDA's Request for Space of January 1, 1976, which specifically asks for the aforementioned amount of space at Buzzard Point.

Upon receipt of USDA's acceptance in writing of our offer to assign this space to USDA, our respective staffs can begin immediately working together to determine exact space requirements and the most efficient layout for your proposed space.

Please do not hesitate to call me if you desire any additional information.

Sincerely,

JOHN F. GALUARDI,
Regional Administrator.

Buzzards Point
Washington, D.C.

USDA, OP, Space & Property Div.

USDA

Ave., S.W.

14th & Independence Ave., S.W.
Washington, D.C. 20250

ASAP

Indefinite -

11. SPACE REQUIREMENTS

						FOR GSA USE ONLY
					150,000	

12. ACCOUNTING AND FUNDING DATA

12070001

13. SPECIAL REQUIREMENTS

Request 150,000 sq. ft. of office space at Buzzards Point building currently under construction. Space to be occupied by a USDA agency (as yet undetermined) to achieve the best possible overall utilization of space within the USDA complex consistent with the Accelerated Space Management Program and should result in release of about 300,000 square feet of leased space in other locations.

DC76262

15. CERTIFICATION BY AUTHORIZED REQUESTING OFFICIAL

I certify to the validity of the data presented herein and that the space requested is necessary for the proper functioning of the above-named activity. Also, that request is in compliance with FPMR 101-17.103, 101-18.103, 101-19.101.

SIGNATURE: George C. Knapp

DATE: 1/6/75

TYPED NAME AND TITLE: GEORGE C. KNAPP, Acting Director
Office of Operations

TELEPHONE NO.: 447-3937

FOR GSA USE ONLY

16. ACTION BY AUTHORIZED

☐ Government controlled space to be assigned
☐ No government controlled space available and leasing action will be required
☐ Agency authorized to acquire space under its authority

SIGNATURE AND ORGANIZATION OFFICE SYMBOL

DATE

Mr. KIDWELL. Department of Agriculture submitted a request to us in January 1976, requesting specifically space at Buzzard Point, they wanted 150,000 square feet. We told them at that time we would not consider them, or whenever the question came up, while we still had the possibility of using the building for one, or the consolidation of one agency.

Mr. FINNEGAN. Well, the study and analysis related to filling the Buzzard Point building is included in the statement by Mr. Galuardi today, dated December 17. It is attachment No. 7, called Buzzard Point Potential Tenant Matrix, 1900 Half Street, Southwest; is that correct? [See p. 168.] Does everybody understand that? Is this the study that was prepared by Mr. Downs and Mr. Fowler? I ask, is this any different than one provided by Downs and Fowler in our review of the file and dated September 24, 1976, which I hold up here [indicating]. Are there differences in this?

Mr. DOWNS. I would like to look at your copy to be sure, but I don't think so.

Mr. FINNEGAN. Here is a copy.

[The document referred to follows:]

BRIEFING PAPER—
BUZZARD POINT (1900 HALF STREET, SW)

On January 3, 1976, the Office of Management and Budget (OMB) ruled that the Securities and Exchange Commission (SEC) did not have to relocate to 1900 Half Street, the agency for which GSA had leased the space. OMB's decision was based on a technicality—the fact that GSA had not notified SEC in writing of its appeal process. Since this time, the following significant events have transpired:

Early April 1976—The agency for International Development (AID) approached GSA regarding the possibility of being assigned the building to fulfill its long-standing request for partial consolidation.

April 9, 1976—GSA formally offered building to AID. Opposition from AID employees prevented AID's top management from making decision.

June 11, 1976—GSA was contacted by Department of Treasury regarding use of the new building to house its Bureau of Public Debt and its Government Financial Operations.

June 24, 1976—Deputy Secretary of Treasury Dixon advised GSA by phone that Public Debt and GFO would move into Buzzard Point Building if it were offered to them.

June 30, 1976—GSA withdrew offer from AID and made formal offer of building to Treasury.

Again, strong employee opposition from Treasury personnel, based mainly on the building's supposedly isolated location, caused Treasury's Fiscal Assistant Secretary to decline GSA's offer on September 13, 1976.

Sept. 15, 1976 to present—GSA has either shown the building to the following agencies (at agencies' request) or discussed the possibility of consolidation at Buzzard Point with the following agencies: 1. Federal Energy Administration; 2. Department of Agriculture; 3. Department of Labor; 4. Department of Justice; 5. Energy Research Development Administration; 6. Department of Housing and Urban Development; 7. Drug Enforcement Agency; and 8. Department of Health, Education, and Welfare.

Of these agencies. Only Agriculture has volunteered to occupy space at Buzzard Point. The other agencies have shown no strong positive interest.

Based upon the above, and the accompanying review and analysis, our tentative conclusions are:

FEA appears to be the least costly move; however, they may not exist beyond their present 18 months extension. Furthermore, an FEA ordered move

may not be politically feasible. (NOTE: FEA is represented by the same union that represents Treasury).

Although a combination of either FTC-FBI-Agriculture or FBI-LEAA-Agriculture is in the lower cost range, and would satisfy 3 major outstanding space requests, we face the possibility of a political battle with at least 2 of the agencies.

AID or Treasury would effect a major consolidation and would be in the medium cost-range. However, both agencies have essentially rejected GSA's formal offer of the building.

A GSA move would eliminate outside agency resistance; however, employee resistance may not be eliminated. A GSA partial move is the third most costly alternative, and total consolidation is the most costly move. Also, assigning the building to Region 3 might further undermine GSA's authority to assign space, since such an assignment would no doubt be viewed by other agencies as a personnel defeat for GSA in this entire matter.

Agency	Net cost[1]	Remarks
FEA	$108,625	Enable us to cancel a costly lease, free 230,324 ft² for reassignment, allow for continued consolidation of Treasury within 12th and Pennsylvania enclave, FEA may be short lived and lease is short terms (5 yr)—thus we may be able to get rid of this building. Problem of getting Zarb out of his palacial office, FEA has no major outstanding space requests—move order would hit them cold. FEA has same union as Treasury.
FTC—FBI—Agriculture	334,055	Enable us to satisfy 3 major outstanding space requirements (FTC, FBI Agriculture), would completely consolidate Agriculture's Food and Nutrition Service, Agriculture will go voluntarily, others may not, FBI no union—others have, added difficulty of fighting 2 or 3 agencies, cost of moving FBI high ($500,000).
FBI—LEAA—Agriculture	1,492,235	Would free 379,082 for reassignment, satisfy 3 major outstanding space requirements (FBI, LEAA, Agriculture), FBI has no union—others do, Agriculture would go voluntarily, others may not, high cost of FBI specials ($500,000).
AID	1,535,345	Conslidate AID from 8 locations, could cancel 2 leases, backfill other six (344,602 ft²) single tenant, AID employees may resist, management may not back move because of employee pressure.
GSA Partial[2]	2,311,065	Outside agency concurrence not required, would free ROB (318,373 ft²) for reassignment, GSA union may protest, may appear as if we are eating crow.
Treasury	2,893,295	Free 356,699 ft² for reassignment, consolidate Bureau Public Debt and Government Financial Operations, backfill space could satisfy several smaller outstanding space requirements, Treasury has previously rejected our formal offer of June 30, 1976, to occupy space.
GSA Total	4,798,775	Same remarks as GSA partial apply but would be more costly, would free 354,875 ft² for reassignment, GSA union may protest.

[1] Net cost—(cost of duplicating special alterations at Buzzard Point an d cost of backfill alterations)—(rent saved by canceling leases and rent saved by assigning space at Buzzard Point in lieu of leasing new space). Moving costs are assumed constant.

[2] Minus computers and communication center.

BUZZARD POINT POTENTIAL TENANT MATRIX 1900 HALF STREETS SOUTHWEST

Agency	Square feet required	Present annual rate	Rental savings lease cancellation	Rent saved by assigning space at Buzzard Point in lieu of leasing new space	Cost of backfill alterations	Cost of duplicating special alterations at Buzzard Point	Net cost to Government
FEA (presently at 5 locations)	392,072	$1,261,954	$1,092,995	----------	$1,151,620	$50,000	$108,625
FTC–FBI–Agriculture (10 locations)	389,646	1,192,633	114,372	$1,406,000	1,240 055	500,000	334,055
FBI–LEAA–Agriculture (7 locations)	379,082	1,184,206	----------	190,000	1,187,235	500,000	1,492,235
AID (8 locations)	354,930	1,825,740	214,655	----------	1,450,000	300,000	1,535,345
GSA–R3, partial (3 locations)	318,373	112,207	----------	----------	1,591,865	719,200	2,311,065
Treasury (13 locations)	367,409	644,345	61,780	----------	1,783,295	1,110,000	2,893,295
GSA–R3, total (3 locations)	354,875	112,207	----------	----------	1,774,375	3,024,400	4,798,775

1. FEA

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
New Post Office	201, 729					$1, 008, 645		$1, 008, 645	Treasury.
Old Post Office	37, 685								
2000 M St., NW	124, 063	$1, 092, 995	Nov. 30, 1976	($1, 092, 995)				(1, 092, 995)	
Vanguard Bldg	7, 870	45, 646	Nov. 3, 1979			39, 350		39, 350	Labor.
1725 M St. NW	20, 725	123, 313	Aug. 31, 1978			103, 625		103, 625	NSF.
							[1] $50, 000	50, 000	
Total	392, 072	1, 261, 954		(1, 092, 995)		1, 151, 620	50, 000	108, 625	

[1] No specific requirement, estimate cost for all locations.

Remarks: This would free 230,324 ft² for reassignment, enable us to cancel a costly lease at 2000 M St, allow for continued consolidation of Treasury within their enclave at 12th and Pennsylvania area, FEA may be short lived and lease is short term (5 yr)—we might get out of this building. Possible problem is probable difficulty of getting FEA Administrator Zarb out of palacial office (former Postmaster General's office), FEA has no major outstanding space requests, all others do, an order to move would hit them cold. This would not effect FTC, LEAA, Agriculture, AID, or GSA.

2. FTC—FBI—AGRICULTURE (FOOD AND NUTRITION)

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
FTC:									
Indiana Bldg	19,445	$122,892	Jan. 31, 1983		[1] $(1,216,000)	$97,225		$97,225	Unidentified.
Star Bldg	18,725	112,350	Sept. 5, 1982			93,625		93,625	Do.
Penn. Bldg	36,599	206,052	Mar. 31, 1977			182,995		182,995	Cancel lease.
Gelman Bldg	32,915	76,728	Feb. 28, 1981			164,575		164,575	National Transportation Study Commission.
1726 M St. NW	14,265	84,876	Aug. 31, 1978			71,325		71,325	Unidentified.
FBI Old Post Office	116,635						500,000	500,000	Vacant.
Agriculture:									
500 12th St, SW	78,622	482,239	July 2, 1980			393,110		393,110	Agriculture.
Gelman Bldg	920	4,996	Feb. 28, 1981			4,600		4,600	Unidentified.
Auditors Annex	27,520					137,600		137,600	Agriculture.
Main Annex	19,000					95,000		95,000	Do.
Expansion	25,000				(190,000)			(190,000)	
Total	389,646	1,192,633			(1,406,000)	1,240,055	500,000	334,055	

[1] For outstanding 160,000 ft² FTC requirement.

Remarks: This would free 211,412 ft² for reassignment, enable us to satisfy the following outstanding space requirements: FTC (160,000 ft²) Agriculture (125,000 ft² consolidation plus 25,000 ft² expansion) FBI (133,000 ft²) Agriculture management would voluntarily go—other 2 may not, would completely consolidate Agriculture's Food and Nutrition Service in Washington, FBI special alterations at Buzzard Point would be costly $500,000. This would not effect FEA, LEAA, AID, GSA, or Treasury.

3. FBI—LEAA—AGRICULTURE

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
FBI Old Post Office	116, 635						$500, 000	$500, 000	Vacant (second class space).
LEAA 633 Indiana Ave	82, 255	$519, 652	Jan. 31, 1983			$411, 275		411, 275	FTC.
Chester Arthur Bldg	29, 130	17, 819	Jan. 14, 1984			145, 650		145, 650	Do.
Agriculture 500 12th St. SW	78, 622	482, 739	July 2, 1980			393, 110		393, 110	Agriculture.
Gelman	920	4, 996	Feb. 28, 1981			4, 600		4, 600	Do.
Auditors Annex	27, 520					137, 600		137, 600	Unidentified commission.
Main Auditors	19, 000					95, 000		95, 000	Agriculture.
Expansion	25, 000				($190, 000)			(190, 000)	Do.
Total	379, 082	1, 184, 206			(190, 000)	1, 187, 235	500, 000	1, 492, 235	

Remarks: Would free 379,082 ft², for reassignment, satisfy the following outstanding space requirements FBI (90,000 ft²), LEAA (133,000 ft²), and Agriculture (125,000 ft², consolidation plus 25,000 ft² expansion requirement), potential difficulty of fighting 2 or 3 agencies, FBI has no union, LEAA and Agriculture have unions, high cost of duplicating FBI specials at Buzzard Point ($500,000), Agriculture management would go voluntarily—others uncertain, this action would effect FTC by satisfying one-half of their outstanding (160,000 ft² request) by backfilling them at 633 Indiana Ave., it would not effect AID, FEA, Treasury, or GSA.

4. AID

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
State Annex II	30,682	$82,227	May 31, 1978			$153,410		$153,410	State.
Architect Bldg	28,835	183,102	Nov. 30, 1976	($183,102)			$300,000	(183,102)	
Universal North	75,825	462,532	Nov. 14, 1979					679,125	CAB.
Rosslyn Plaza E	38,930	272,510	Sept. 10, 1981			194,650		194,650	Agriculture.
Pomponio Plaza	71,885	319,888	Oct. 6, 1977			359,425		359,425	DOD.
Rosslyn Plaza C	72,678	374,291	Sept. 15, 1977			363,390		363,390	To be determined.
1401 Wilson Blvd	12,175	75,728	Apr. 30, 1977	(31,553)				(75,728)	
1311 S. Fern (warehouse)	23,920	55,462	Nov. 3, 1978						DOD.
Total	354,930	1,825,740		(214,655)		1,450,000	300,000	1,535,345	

Remarks: Would consolidate AID from 8 locations, 2 leases could be canceled and 6 backfilled (344,602 ft²) single tenant would be easier to administrate, AID employees may resist, AID managements position is uncertain. Would consolidate Agriculture on a limited basis, would not effect FTC, LEAA, FBI, Treasury, FEA, or GSA.

5. GSA REGION 3 PARTIAL [1] (MINUS COMPUTERS AND COMMUNICATION CENTER)

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
ROB	301,292					$1,506,460	[2] $719,200	$2,311,065	Many possible
Reporter's Bldg	9,373	$57,644	Nov. 30, 1980			46,865		46,865	HEW/OE.
Bicentennial Bldg	7,708	54,563	Feb. 28, 1986			38,540		38,540	HUD.
Total	318,373	112,207				1,591,865	719,200	2,311,065	

[1] Would leave communication center and computers in ROB.
[2] GSA print shop, credit union, mail room, FSS store.

Remarks: Outside agency concurrence not required, backfill of ROB would provide expansion/consolidation for agencies in southwest (HUD, DOT, Agriculture, etc.), vacated ROB could also be used to consolidate FEA, AID, Agriculture (Food and Nutrition) or satisfy outstanding FTC, FBI, and LEAA requirements, assigning this building to ourselves would appear as if we are "eating crow," this partial move would separate region 3 from computer hardware and communication center as they would stay in ROB, employee unions may protest move.

Mr. DOWNS. It looks like the same study.

It is the same study.

Mr. DINGELL. Let me read what appears at the bottom of the page 3 of this study. It says, "No specific requirement, Estimate-cost for all locations." Then under the word "Remarks" appears this:

> This would free 230,324 square feet for reassignment, enable us to cancel a costly lease at 2000 M Street, allow for continued consolidation of Treasury within their enclave at 12th and Penn. area, FEA may be short lived and lease is short term 5 years—we might get out of this building. Possible problem is probable difficulty of getting FEA Administrator Zarb out of his palacial, p-a-l-a-c-i-a-l, office—former Postmaster General's Office—FEA has no major outstanding space requests, all others do, an order to move would hit them cold. This would not effect FTC, LEAA, AGR, AID or GSA.

Now, can you tell me why you try to move poor, old Frank Zarb out of his palatial office, and why hit him cold, and why——

Mr. DOWNS. I think you are reading it wrong. I think we are saying we could not have moved him out of his rather large office.

Mr. DINGELL. Well, then here is the later document which you have submitted to us, it says, (1) FEA, and I can't read all of it, but I know that you have omitted reference to Mr. Zarb, I know that you have omitted references to orders hitting FEA cold, and references to the fact that it would not affect FTC, LEAA, AGR, AID or GSA. Maybe you can inform me (a) whether this is standard Government language, and (b) the reason for the change in the note.

Mr. DOWNS. I later on felt that some of those remarks were inappropriate. So I recopied the study and took them out. They were my personal opinion, and there was some feeling later on that perhaps these remarks were not appropriate.

Mr. DINGELL. I am curious, does this reflect some kind of personal animosity toward Zarb or toward FEA?

Mr. DOWNS. Not in the least.

Mr. DINGELL. Yet you are trying to hit them cold and you are trying to get Zarb out of his palatial office.

Mr. GALUARDI. All it is, is an analysis of what we felt would happen, that it is difficult to get FEA to move its headquarters operation.

Mr. DINGELL. Let me refer here to GSA region III partial, and this is numbered five. Shall we read that one? The reading is almost as good. Here is what you say under "Remarks" on the small copy, Buzzard Point Potential Summary 1900: "Outside agency concurrence"—this is with regard to GSA—"outside agency concurrence not required, backfill of ROB would provide expansion/consolidation for agencies in southwest (HUD, DOT, AGR. et cetera), vacated ROB could also be used to consolidate FEA, AID, AGR. (Food and Nutrition) or satisfy outstanding FTC, FBI, and LEAA requirements, assigning this building to ourselves would appear as if we are "eating crow," this partial move would separate region 3 from computer hardware and communications center as they would stay in ROB, Employee unions may protest move."

Now, I note with some interest that you, in what you submitted to us, you drop words about eating crow and you drop words about employee unions might protest the move. Do you want to give us some comments on why we get one submission from you folks, and why our investigators give us a different submission?

Mr. DOWNS. I had attempted to include in the study certain nonquantifiable items can't be put in dollars and cents for my superiors to look at.

Mr. DINGELL. Like eat crow?

Mr. DOWNS. Well, I am not denying that there may be some validity to that statement. But I had thought, reviewing it, that it would not be appropriate for these remarks, because they were my own personal opinion, and nothing more, that they should be released. Dollars and cents on that study is what we are interested in.

Mr. DINGELL. I am curious, is this the way the decisions down at GSA are arrived at?

Mr. DOWNS. That was one of the things that was considered.

Mr. DINGELL. Like whether you are going to eat crow?

Mr. DOWNS. No, no, sir.

Mr. DINGELL. Or whether you can get Zarb out of his office?

Mr. GALUARDI. Mr. Chairman, if I may, you know, I allow my staff the opportunity for full expression, if I can use that term.

Mr. DINGELL. Well, I confess, I find it refreshing. I am not sure I approve, but I assume that you would be prepared to defend this judgmental process.

Mr. GALUARDI. They have an opportunity.

Mr. DINGELL. Maybe you can inform me, which version reflects this judgmental process, the washed copy you give us or the copy the staff got down there?

Mr. GALUARDI. They have a full opportunity for expressing themselves, as I said. The expressions, naturally, would be the expressions of the writer of the particular memorandum. If I can remember, at least the conversation when I saw the analysis in the first instance, I told Mr. Kidwell, I said, eating crow is not an appropriate situation, because as far as I was concerned if the decision came out that the GSA was the one to relocate, we just make that decision and go forward.

Mr. DINGELL. May I suggest GSA has become my candidate for occupancy of this building. You folks seem to like it a great deal. I come to the regrettable decision if you like it that much, you ought to live in it.

Mr. GALUARDI. We have no objections to relocating. I have no objections to relocating. Perhaps the employees might not take the same position as others. I don't know, because I haven't announced that decision to the staff. But the real problem I have in region III is that I am already totally consolidated. I have no requirement to consolidate. I do have major kinds of installations in the building that I have which consists of a large computer area, in fact, two computer locations. I have a large control center, which has some equipment which monitors the Federal Protective Service operations nationwide, and reports back to the central office. I have a printing plant, all of which are fairly expensive kinds of installations to relocate. I also have the telephone switch gear for the Centrex operations of almost all the downtown Federal agencies in my facility, and the operators are GSA employees. All of these things are in the GSA.

Mr. DINGELL. Let me ask you this. Was this document in its unedited version available last October as a part of the decisionmaking

process of your Agency at that time, the one I have been reading from that has the free and easy expressions of your staff?

Mr. GALUARDI. I am not too sure.

Mr. DOWNS. I believe it was.

Mr. GALUARDI. What the distribution of it was——

Mr. DOWNS. That document was written approximately a month before the letter was sent to FEA ordering them into the Buzzard Point building.

Mr. DINGELL. That would be approximately what date?

Mr. DOWNS. Oh, second or third week in September.

Mr. DINGELL. Second or third week in September?

Mr. DOWNS. Yes, sir.

Mr. DINGELL. Of last year?

Mr. DOWNS. Of this year.

Mr. DINGELL. Of this year.

Mr. FINNEGAN.

Mr. FINNEGAN. In this connection, the Chairman had written to Mr. Eckerd on December 3, 1976, and commented on the lack of an analysis, which I know now was prepared in September. He asked for a specific analysis by December 14th, being quite particular and specific as to what we were looking for. We have not yet received it. Is there any indication, Mr. Galuardi, as to when we are going to get it?

[The following letters and attachments were received for the record:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., December 3, 1976.

Hon. JACK M. ECKERD,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: Your October 29, 1976 letter to the FEA ordering that agency to move some, but not all, of its operations to Buzzard Point, points out that the GSA conducted "an extensive study to determine what agency or agencies are best suited to be housed at 1900 Half Street." The GSA "Fact Sheet" of November 22, 1976, also refers to this "analysis" and at the press conference that day you referred to it as an "economic analysis." Based on this study or analysis, the GSA "determined that a partial consolidation" of the FEA "was in the best interest of the Government."

The Subcommittee staff and the GAO have asked for that study or analysis, but they have not yet obtained such a document. Indeed, they were told yesterday that a "detailed" analysis is still being "typed." The GAO staff indicates that the analysis applies to the FEA only. The Subcommittee staff did obtain a document entitled "Buzzard Point Potential Tenant Matric Summary 1900 Half Street, S.W.," but they were advised that it was only "preliminary" and referred our staff to the move detailed analysis "being typed."

Despite the apparent lack of a completed analysis, you ordered the FEA to Buzzard Point and yesterday announced that the FBI will move there after offering the building to the FBI on November 24, 1976. On October 19, 1976, your Regional Administrator, Mr. John F. Galuardi, offered "to assign this space to USDA."

I believe that this analysis should be completed before any agency is ordered or offered this space at Buzzard Point. Accordingly, I request that you provide to us up-to-date tables showing various combinations of potential agencies being housed at Buzzard Point as follows:

1. FEA—Complete Consolidation.
2. FEA—(Partial Consolidation)—FBI—HUD or ERDA or other agency.

3. FEA—(Partial Consolidation)—USDA—HUD or ERDA or other agency.
4. FEA (Partial Consolidation)—USDA—FBI.
5. FTC—FBI—USDA.
6. FBI—LEAA—USDA.
7. GSA—Total.
8. GSA—Partial.
9. Treasury.
10. AID.
11. Other agencies and combinations thereof that GSA has shown the building to.

Each table should show by agency:

(a) Present locations (indicate if private or government building).
(b) Space presently used in square feet.
(c) Space requirement in square feet.
(d) Present annual rental paid.
(e) Expiration date of lease.
(f) Rental savings expected by cancelling lease or not leasing.
(g) Date of outstanding space request.
(h) Priority assigned agency by GSA to space request.
(i) Backfill alternatives (explain how this is established).
(j) Specials (identify them and indicate why they are not part of costs assumed by lessor in preparing building).
(k) Cost of waiver of OMB moritorium on leasing of employee parking spaces at Buzzard Point and indicate which agency pays this coat (indicate number of official and employee spaces required).
(l) Gross cost.
(m) Net cost.
(n) Backfill tenant.

I request that you provide the above analysis to us, the GAO, OMB and FEA by not later than noon on December 14, 1976.

I want to express my appreciation to you for the cooperation my staff has received thus far from your agency during this inquiry. As you know, I have instructed our Counsel, Mr. Finnegan and the GAO to review *all* files within the GSA, from the Administrator's office on down, including working and personal files, where any letters, documents, memoranda, etc., concerning the entire Buzzard Point matter may be located. In this regard, Mr. Finnegan advised me that some documents, such as GSA memoranda, are not in the official lease files and thus, he is required to review other files which is quite time consuming. He will continue to do so, but I request that your staff facilitate this effort.

In this regard, Mr. Finnegan asked for the original copy of a memorandum dated May 2, 1975, from the Director, Space Management Division (3MR), to the Acting Assistant Commissioner, Office of Operating Programs (3M), entitled "Cancellation of Solicitation for Offers No. 697." The copy he obtained was not in the official GSA lease file. The writer and the recipient of the memorandum reportedly do not know where the original memorandum is. The Subcommittee wants that original memorandum. I would appreciate your instructing the appropriate GSA officials to find it and provide it to Mr. Finnegan by close of business, December 6, 1976. Your continued cooperation is appreciated.

With best regards,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., December 30, 1976.

Hon. JACK M. ECKERD,
Administrator, General Service Administration,
General Services Building,
Washington, D.C.

DEAR MR. ECKERD: On December 3, 1976, I wrote to you and requested that the GSA prepare, in connection with Buzzard Point matter, certain tables providing the specific information requested in my letter and that you provide a copy thereof by December 14, 1976, to our Subcommittee, the GAO, OMB, and

FEA. At our Subcommittee's December 17 hearing, which you failed to attend although requested to do so by me, Regional Administrator Galuardi testified that he "concurred" in a reply "for the Administrator's decision either yesterday or the day before."

We have yet to receive your response. Indeed, our Staff Counsel was advised yesterday by the GSA Director of Congressional Affairs that the reply would not be transmitted to the Subcommittee until you returned from your "Christmas vacation." This illustrates once again that no one at GSA can speak authoritatively, except the Administrator who is absent from the Agency.

This delay is impeding the work of this Subcommittee. The reply, in the form and detail requested by me, should be submitted without further delay. Incidentally, if the response is not in that form and detail, I will consider it an effort on your part to obstruct the work of the Subcommittee and will return it to you to be completed as requested. I will also advise Director Lynn of this and request that he defer his decision on the FEA move until the requested material is received by me and reviewed by the GAO.

Sincerely,

JOHN D. DINGELL,
Chairman.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., Jan 3, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. DINGELL: This is in response to your letter of December 3, 1976, regarding the Federal Energy Administration (FEA) and our decision to assign them space at 1900 Half Street, SW.

The analysis to which you refer in the first part of your letter as "being typed" is an in-depth study of the economics involved in the proposed FEA relocation. This is being done in anticipation of FEA's appeal to the Office of Management and Budget (OMB). We have not received a copy of FEA's appeal, but we are including a copy of the study herein. However, we request that you keep it confidential until we have the opportunity to respond to FEA's appeal.

The rest of the information requested in your letter has already been provided Mr. Finnigen of your staff. If additional copies are required, we would be pleased to provide them.

With respect to your inquiry about the cost of employee parking spaces at 1900 Half Street, we can offer only the information previously supplied, that parking not under lease to the Government is available to employees through the building owner at $25 per month. If all of the spaces are procured through an employees association, there is a 10 percent discount. We have not, at this time, requested the approval of leasing any additional parking spaces, although we would not preclude this occurring in the future.

We understand that the memorandum of May 2, 1975, which Mr. Finnigen has requested, has been located, and a xeroxed copy has been provided him. We are also enclosing a copy of this memorandum and copies of the aforementioned material for your own use.

Sincerely,

JACK ECKERD,
Administrator.

Enclosure.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 2, 1975.

Attention: Director, Space Management Division (3MR)
Subject: Cancellation of Solicitation for Offers No. 697

Acting Assistant Commissioner, Office of Operating Programs (3M)

After extensive review of the offers submitted in response to our SFO #697, for the consolidation of the Securities and Exchange Commission (SEC), it is apparent that major procurement problems have developed which make questionable the advisability of awarding a lease contract based on this SFO. The major problems are:

1. One offer greatly exceeds the monetary limitations set forth in the Congressionally approved Prospectus.

2. The financial capability of one offeror is dubious.
3. One offeror faces strong opposition from local and government planning authorities.
4. We have strong indications that conversations regarding this acquisition have taken place between two potential lessors. Subsequent to these alleged conversations, the higher lessor has revised his offer and is now the low bidder.
5. The administrative aspects of this procurement have delayed the award date to the point that delivery of a building by July, 1976 (specified in our SFO), is highly improbable. We have already asked all responsive offerors for a second one-month extension of the closing date of their offers.
6. The likelihood of a required complete Environmental Impact Statement of the proposed building site of the present low offeror would delay any award by several more months, thereby making the July, 1976, delivery date impossible and rendering all offerors non-responsive.

In view of the foregoing, I recommend that SFO #697 be cancelled, and that we re-advertise for space in order to effect the consolidation of the SEC.

EDWARD M. KIDWELL,
Director, Space Management Division.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., Dec 8, 1976.

Attention: Director, Planning Staff (3PG)
Subject: Alternative housing costs for the Federal Energy Administration.

Director, Space Management Division (3PR)

Attached is a cost comparison of alternative housing plans for the Federal Energy Administration (FEA). This analysis compares the cost of continuing to house FEA in four of their present locations with the cost of relocating FEA from the four locations into 1900 Half Street. The comparative analysis shows that even though there is an initial loss to the Government of approximately $40,000 during the first year, a savings of approximately one million dollars will accrue to the Government during the first five years if FEA is relocated to 1900 Half Street and the lease at 2000 M Street is not renewed for FEA.

I. JACK GURAL,
Director, Planning Staff.

Enclosure.

COST COMPARISON OF ALTERNATIVE HOUSING PLANS FOR THE FEDERAL ENERGY ADMINISTRATION

BACKGROUND

The Federal Energy Administration (FEA) is housed in five locations in Washington, D.C.; and, the General Services Administration (GSA) has proposed to relocate FEA from four of these locations totaling 190,000 square feet of space into the same amount of space at 1900 Half Street, SW., Washington, D.C.

This report compares the cost of continuing to house FEA in their present locations with the cost of relocating FEA from four of these locations into the building at 1900 Half Street.

More specifically, FEA would be relocated from: 2000 M Street, NW., The Vangard Building; 1726 M Street, NW., The Old Post Office.

The number square feet and personnel of each of these locations is shown in Table 1 "Current and Proposed Housing".

METHOD OF ANALYSIS

Since neither of the alternative housing plans requires a large initial investment of funds, an undiscounted cash flow analysis (out-of-pocket expenses) is used in this report to compare the cost of the two alternatives.[1]

[1] OMB Circular A-104 of June 14, 1972, prescribes the form of a present value analysis (discounted analysis) to be used when one alternative requires a large initial investment of funds with subsequent lower annual costs. There would not be any advantage in using this technique for comparing the costs of the alternatives in this report.

COST OF ALTERNATIVES

The annual cost to the Government of FEA's current space and the same amount of space at 1900 Half Street over a ten-year period from January 1, 1977, through December 31, 1986, is presented in Table 2, "Comparison of Total Annual Costs of the Two Housing Plans".[2]

A comparison of these costs is outlined below.

First year.—In the first year, there is a cost disadvantage, i.e., the Government spends more, approximately $40,000, if FEA is relocated to 1900 Half Street. It should be noted that the total estimated expense of relocating FEA to 1900 Half Street is included in the first year cost of this space.

Second year.—In the second year, there is a cost advantage or savings to the Government of more than a quarter of a million dollars if FEA is relocated to 1900 Half Street. The annual cost for FEA space would be 1.6 million dollars at their present locations but only 1.35 million dollars if they are relocated to 1900 Half Street.

Five years.—Over a five-year period, there is a cost savings to the Government of slightly more than one million dollars if FEA is relocated to 1900 Half Street. The five-year cost for FEA space would be 8.08 million dollars at their present locations but only 7.05 million dollars if they are relocated to 1900 Half Street.

Ten years.—Over a ten-year period, there is a cost savings to the Government of approximately two and a half million dollars if FEA is relocated to 1900 Half Street. The ten-year cost for FEA space would be 17.2 million dollars at their present locations but only 14.7 million dollars if they are relocated to 1900 Half Street.

WHY THE COST SAVINGS

The lease for the 124,000 square feet of FEA space at 2000 M Street expired on November 30, 1976. The estimated rental rate for a succeeding lease is $8.80 per square foot, whereas the rental rate for 1900 Half Street is $7 per square foot.

If FEA is relocated to 1900 Half Street, GSA will not continue to lease the 124,000 square feet at 2000 M Street. Consequently, there will be a savings of $1.80 per square foot for this 124,000 square feet of space. This results in an annual savings of $228,200.

This $223,200 is most of the cost advantage of relocating FEA to 1900 Half Street. Because of the expense of moving FEA and the $75,000 required to reconstruct a small computer room at 1900 Half Street, this savings is lost in the first year.

WHAT IF THE FEA ACT IS NOT EXTENDED

Congress has extended the FEA Act only until December 31, 1977. If FEA is not extended beyond this date, the Government will have spent $40,000 over FEA's present housing costs in relocating them to 1900 Half Street. However, an even greater cost will result if GSA does not relocate FEA and has to enter into a succeeding lease for 2000 M Street.

More specifically, if GSA enters into a succeeding lease and the FEA Act is not extended, GSA will have high cost space with no occupant and the obligation to pay for the remaining years of the lease.

OTHER COST ELEMENTS

Some agencies maintain that offices at 1900 Half Street will increase operating costs because more time would be required to travel to other agencies and offices when on official business. Even if this cost is assumed to be near the magnitude estimated by the Securities and Exchange Commission—twenty-one cents per square foot per annum—the relocation of FEA to 1900 Half Street will still save the Government money. Instead of a savings of slightly more than one million dollars in the first five years, the savings would be reduced from about $1,000,000 to $800,000 over five years.

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[2] Addendum A, "Estimates Used in Cost Comparsion Analysis", sets forth the assumptions and factual data used to arrive at the annual costs of the alternatives.

CONCLUSION

The relocation of FEA from four of its five present locations into 190,000 square feet of space at 1900 Half Street will result in a significant reduction in the cost of space for FEA and a significant savings to the Government. Over five years, the Government would save a little more than one million dollars in the cost of FEA space by relocating them to 1900 Half Street.

Furthermore, even if the FEA Act is not extended beyond December 31, 1977, it would be advantageous to the Government to relocate FEA to 1900 Half Street.

TABLE 1: CURRENT AND PROPOSED HOUSING [1]

Current Housing

	Occupiable square feet	Personnel
2000 M St	124,063	623
Vanguard Bldg 1111 20th St	7,870	36
1726 M St	20,725	105
Old post office, 12th and Pennsylvania Ave	37,685	126
Total	190,343	890

Proposed housing

	Occupiable square feet	Personnel
1900 Half St	190,000	890

[1] This table does not include FEA space in the new post office since this space is not affected by either of the housing plans.

TABLE 2: COMPARISON OF TOTAL ANNUAL COSTS OF THE TWO HOUSING PLANS [1]

Annual cost [2]

[In thousands of dollars]

Year	Four present locations	1900 Half St.	Cost advantage
1977	$1,404	[3] $1,444	$(40)
1978	[4] 1,626	1,359	267
1979	1,633	1,378	255
1980	1,686	1,435	251
1981	1,731	1,435	296
5-yr total	8,080	7,051	1,029
1982	1,762	1,457	305
1983	1,797	1,521	276
1984	1,822	1,521	301
1985	1,852	1,545	307
1986	1,887	1,618	269
5-yr total	9,120	7,662	1,458
Total	17,200	14,713	2,487

[1] The cost of FEA space in the New Post Office is not included since those costs have no bearing on the costs of the alternatives.

[2] Addendum A, "Estimates Used in Cost Comparison Analysis", sets forth the assumptions and factual data used to arrive at the annual costs of the alternatives.

[3] Includes the cost of relocating FEA to 1900 Half St. and the cost of reconstructing a small computer room.

[4] Includes both the cost of relocating FEA from the Old Post Office Building and the estimated cost of leasing replacement space. All subsequent years include the estimated cost of leasing this replacement space.

ADDENDUM A.—ESTIMATES USED IN COST COMPARISON ANALYSIS OF FEDERAL ENERGY ADMINISTRATION HOUSING ALTERNATIVES

	2000 M St.	Vanguard Bldg.	1726 M St.	Old Post Office	1900 Half St.
Square feet	124,063	7,870	20,725	37,685	190,000.
Lease cost	$6.24 per ft² beginning Dec. 1, 1976, for 10 yr.	$6.07 per ft² through Nov. 3, 1979 includes services.	$6.36 per ft. through Aug. 30, 1978	Government-owned	$7 per ft² including services and utilities.
Services and utilities	Government furnished at $2.57 per ft² in fiscal year 1977.	$0.83 per ft for electricity	Furnished by lessor	$3.07 per ft² through Dec. 30, 1977	Furnished by lessor.
Succeeding lease	N/A	$7.50 per ft² from Nov. 4, 1979; $8.50 per ft² from Nov. 4, 1984, including services only.	$7.50 per ft² from Sept. 1, 1978; $8.50 per ft² from Sept. 1, 1983, including services and utilities.	$8 per ft² including services and utilities effective Jan. 1, 1978 through 1986.[1]	$7 per ft² including services and utilities plus escalation effective Aug. 15, 1981.
Parking	2 spaces at $50 per mo.	None under lease	None under lease	None provided	$0.721 per ft² beginning Aug. 16, 1977.
Relocation cost	N/A	N/A	N/A	$86.40 per work station	$86.40 per work station and $75,000 for computer room.
Operating cost escalation.	5 pct per yr on fiscal year 1977 base rate of $2.57 per ft².	5 pct per year on 1977 base rate of $1.35 per ft² for services only.	5 pct per year or 1977 base rate of $2.18 per ft².	5 pct per year on 1978 base rate of $2.25 per ft².	5 pct per year on base rate of $2.14 per ft².
Real estate tax escalation.	$0.08 per ft² every 3d yr.	$0.08 per ft² every 3d year	$0.08 per ft² every 3d year	$0.08 per ft² every 3d year	$0.08 per ft² every 3d year.
Overtime services cost	Infrequent	None	None to date	None to date	None estimated.
Initial alteration cost	N/A	N/A	N/A	Included in lease	Included in lease.
Location cost	N/A	N/A	N/A	N/A	$0.21 per ft².

N/A=Not applicable.

[1] The Old Post Office is proposed for a major renovation program and the agencies occupying space in this building will be relocated. For the purpose of this analysis, it has been assumed that the FEA activity will be relocated to leased space in January 1978.

BUZZARD POINT POTENTIAL TENANT MATRIX 1900 HALF STREET SOUTHWEST

Agency	Square feet required	Present annual rate	Rental savings lease cancellation	Rent saved by assigning space at Buzzard Point in lieu of leasing new space	Cost of backfill alterations	Cost of duplicating specification alterations at Buzzard Point	Net cost to Government
FEA (presently at 5 locations)	392,072	$1,261,954	$1,092,995	----------	$1,151,620	$50,000	$108,625
FTC–FBI–Agriculture (10 locations)	389,646	1,192,633	114,372	$1,406,000	1,240,055	500,000	334,055
FBI–LEAA–Agriculture (7 locations)	379,082	1,184,206	----------	190,000	1,187,235	500,000	1,492,235
AID (8 locations)	354,930	1,825,740	214,655	----------	1,450,000	300,000	1,535,345
GSA–R3, partial (3 locations)	318,373	112,207	----------	----------	1,591,865	719,200	2,311,065
Treasury (13 locations)	367,409	644,345	61,780	----------	1,783,295	1,110,000	2,893,295
GSA–R3, total (3 locations)	354,875	112,207	----------	----------	1,774,375	3,024,400	4,798,775

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
New Post Office	201,729					$1,008,645		$1,008,645	Treasury.
Old Post Office	37,685								
2000 M St. NW	124,063	$1,092,995	Nov. 30, 1976	($1,092,995)				(1,092,995)	
Vanguard Bldg	7,870	45,646	Nov. 3, 1979			39,350		39,350	Labor.
1725 M St. NW	20,725	123,313	Aug. 31, 1978			103,625		103,625	NSF.
							[1] 50,000	50,000	
Total	392,072	1,261,954		(1,092,995)		1,151,620	50,000	108,625	

[1] No specific requirement, estimate-cost for all locations.

Remarks: This would free 230,324 ft² for reassignment, enable us to cancel a costly lease at 2000 M St, allow for continued consolidation of Treasury within their enclave at 12th and Pennsylvania area, FEA may be short lived and lease is short term (5 yr)— we might get out of this building.

87-962—77——28

FEA (PARTIAL), FBI, ERDA

Present location(s)	Square feet	Annual rent	Term	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
FEA:									
Old Post Office	37,685								Vacant (second class space).
2000 M St. NW	124,063	$1,092,995	Nov. 30, 1976	($1,092,995)				($1,092,995)	
Vanguard Bldg	7,870	45,646	Nov. 3, 1979			$39,350		39,350	Labor.
1725 M St. NW	20,725	123,313	Aug. 31, 1978			103,625		103,625	NSF.
FBI: Old Post Office	116,635						$500,000	500,000	Vacant.
ERDA:									
Railway Labor Bldg	51,865	317,248	Oct. 31, 1980			259,325		259,325	Labor.
Letter Carriers Bldg	6,250	34,375	Sept. 4, 1977			31,250		31,250	SEC.
Expansion	56,000	425,000			(425,000)			(425,000)	
Total	[1] 421,093	2,038,577		(1,092,995)	(425,000)	433,500	500,000	(584,445)	

Remarks: would free 86,710 ft² for reassignment, satisfy 2 major outstanding space requests FBI (90,000 ft²), ERDA (56,000 ft²), would lower FFA's utilization rate, would partially consolidate FEA and enable us to terminate a costly lease, FEA does not have space request into A—they must be consulted with, FBI has no union—others do, FBI special alterations are costly ($500,000). This would not effect AID, Agriculture FEA, Treasury, or LEAA.

[1] Would contract to 380,000 to occupy Buzzard Point.

FEA (PARTIAL), FBI, AGRICULTURE

Present location(s)	Square feet	Annual rent	Term	Rental savings—cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
FEA:									
Old Post Office	37,685								Vacant (second class space).
2000 M St. NW	124,063	$1,092,995	Nov. 30, 1976	($1,092,995)				($1,092,995)	
Vanguard Bldg	7,870	45,646	Nov. 30, 1979			$39,350		39,350	Labor.
1725 M St. NW	20,725	123,313	Aug. 31, 1978			103,625		103,625	NSF.
FBI: Old Post Office	116,635						$500,000	500,000	Vacant.
Agriculture:									
500 12th St. SW	78,622	482,239	July 2, 1980			393,110		393,110	Agriculture.
Gelman Bldg	920	4,996	Feb. 28, 1981			4,600		4,600	Unidentified.
Auditors Annex	27,520					137,600		137,600	Agriculture.
Main Auditors	19,000					95,000		95,000	Do.
Expansion	25,000				($190,000)			(190,000)	
Total	[1] 458,040	$1,749,189		($1,092,995)	(190,000)	773,285	500,000	(9,710)	

[1] Would contract to 380,000 to occupy Buzzard Point.

Remarks: This would free 179,657 ft³ for reassignment, enable us to satisfy the following major outstanding space requests: Agriculture (150,000 ft²), would partially consolidate FEA and totally consolidate Agriculture (Food and Nutrition), FEA does not have space request into GSA—they must be consulted with, Agriculture, management will go voluntarily, FBI may not, FBI has no union, other do, FBI special alterations costsly ($500,000). This would not effect FTC, LEAA, AID, or GSA.

2. FTC—FBI—AGRICULTURE (FOOD AND NUTRITION)

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
FTC:									
Indiana Bldg	19,445	$122,892	Jan. 31, 1983		[1] ($1,216,000)	$97,225		$97,225	Unidentified.
Star Bldg	18,725	112,350	Sept. 5, 1982			93,625		93,625	Do.
Penn. Bldg	36,599	206,052	Mar. 31, 1977			182,995		182,995	Cancel lease.
Gelman Bldg	32,915	76,728	Feb. 28, 1981			164,575		164,575	National Transportation Study Commission.
1726 M St. NW	14,265	84,876	Aug. 31, 1978			71,325		71,325	Unidentified.
FBI: Old Post Office	116,635						$500,000	500,000	Vacant.
Agriculture:									
500 12th St. SW	78,622	482,239	July 2, 1980			393,110		393,110	Agriculture.
Gelman Bldg	920	4,996	Feb. 28, 1981			4,600		4,600	Unidentified.
Auditors Annex	27,520					137,600		137,600	Agriculture.
Main Annex	19,000					95,000		95,000	Do.
Expansion	25,000				(190,000)			(190,000)	
Total	389,646	1,192,633			(1,406,000)	1,240,055	500,000	344,055	

[1] For outstanding 160,000 ft² FTC requirement.

Remarks: This would free 211,412 ft² for reassignment, enable us to satisfy the following outstanding space requirements: FTC (160,000 ft²) Agriculture (125,000 ft² consolidation plus 25,000 ft² expansion) FBI (133,000 ft²) Agriculture management would voluntarily go—other 2 may not, would completely consolidate Agriculture's Food and Nutrition Service in Washington, FBI special alterations at Buzzard Point would be costly $500,000. This would not affect FEA, LEAA, AID, GSA, or Treasury.

3. FBI—LEAA—AGRICULTURE

Present location(s)	Square feet	Annual rent	Term	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
FBI: Old Post Office	116, 635						$500, 000	$500, 000	Vacant (second class space).
LEAA: 633 Indiana Ave	82, 255	$519, 652	Jan. 31, 1983			$411, 275		411, 275	FTC.
Chester Arthur Bldg	29, 130	176, 819	Jan. 14, 1984			145, 650		145, 650	Do.
Agriculture: 500 12th St. SW	78, 622	482, 739	July 2, 1980			393, 110		393, 110	Agriculture.
Gelman	920	4, 996	Feb. 28, 1981			4, 600		4, 600	Do.
Auditors Annex	27, 520					137, 600		137, 600	Unidentified commission.
Main Auditors	19, 000					95, 000		95, 000	Agriculture.
Expansion	25, 000				($190, 000)			(190, 000)	Do.
Total	379, 082	1, 184, 206			(190, 000)	1, 187, 235	500, 000	1, 492, 235	

Remarks: Would free 379,082 ft² for reassignment, satisfy the following outstanding space requirements FBI (90,000 ft²), LEAA (133,000 ft²) and Agriculture (125,000 ft² consolidation plus 25,000 ft² expansion requirement), potential difficulty of fighting 2 or 3 agencies, FBI has no union, LEAA and Agriculture have unions, high cost of duplicating FBI specials at Buzzards Point $500,000), Agriculture management would go voluntarily—others uncertain, this action would effect FTC by satisfying one-half of their outstanding (160,000 ft² request) by backfilling them at 633 Indiana Ave., it would not affect AID, FEA, Treasury, or GSA.

ALTERNATIVE B.—GENERAL SERVICES ADMINISTRATION—REGION 3

Present locations and square feet:	
Regional Office Building	337, 794
Reporters Building	9, 373
Winder Building	[1] (38, 115)
1724 F St. NW	6, 030
Expansion requirement	18, 000
Total	371, 197
Proposed locations and square feet:	
Buzzards Point	371, 197

[1] Scheduled to relocate to ROB and included in 337,794 ft².

ADVANTAGES

1. Backfill of ROB would provide expansion/consolidation for agencies in SW.
2. Does not introduce new element in SW.
3. Outside agency concurrence not required.
4. Allows functional realignment of GSA—R3.

DISADVANTAGES

Subject GSA to adverse criticism.

COSTS

One-time cost to Government: $4,235,835 (See handout for detail).

ALTERNATIVE B.—BUZZARD POINT PROPOSED HOUSING PLAN

Agency: General Services Administration (GSA), Region 3

Present location	Square footage	Term	Term	Cancellation	Rental offset	Alterations required backfill	Specials	Net Government cost
Regional office Bldg	337,794	0	NA	NA	0	$1,688,970	[1] $2,500,000	$4,188,970
Reporters Bldg	9,375	$57,643.95	Nov. 30, 1980	None	0	46,865	0	46,865
Winder Bldg	[2] 38,115	0	NA	NA	0	0	0	0
1724 F St. NW [3]	6,030	0	NA	NA	0	0	0	0
Expansion	18,000	0	NA	NA	0	0	0	0
Total	371,197	57,643.95			0	1,735,835	2,500,000	4,235,835

[1] Estimated cost for relocating printing plant, ADP, and other special facilities.
[2] Scheduled to relocate to ROB and included in 337,794 ft.[2].
[3] Scheduled for renovation, then assignment to White House activity.

DEPARTMENT OF TREASURY—PROPOSED RELOCATION TO POTOMAC OVERLOOK

Locations Treasury will release to GSA

Present location	Assignment	Annual rent	Lease term	Cancellation	Rental offset	Alter/backfill cost	Specials	Net cost to Government	Possible backfill
1. Global Bldg., 1025 Vermont Ave	7,765	$48,143	Mar. 31, 1979	None	0	$38,825		$38,825	Commissions.
2. McPherson Sq., 1425 K St. NW	3,705	22,087	Sept. 21, 1986	do	0	18,750		18,750	VA.
3. 1612 K. St. NW	5,310	31,594	May 31, 1978	do	0	26,550		26,550	Department of Interior.
4. 1325 G St. NW	2,400	13,872	Mar. 6, 1981	do	0	12,000		12,000	NCPC.
5. 711 14th St. NW	1,785	10,710	Aug. 31, 1981	do	0	8,925		8,925	
6. 1625 I St. NW	10,750	61,780	May 29, 1977	60 Dayson part.	$61,780	0		0	Commerce.
7. 1331 G St. NW	22,000	100,540	May 24, 1981	None	0	110,000		110,000	Commissions.
8. 1100 Vermont Ave	19,050	99,822	Feb. 13, 1977	do	0	95,250		95,250	CSC.
9. GAO Bldg	147,066				0	735,330	$1,110,000	1,845,330	GAO.
10. Liberty Loan, 14th and D SW	95,845				0	479,225		479,225	Agriculture.
11. Auditors Bldg., 14th and C SW	6,315				0	31,575		31,575	Do.
12. Warner Bldg., 501 13th St. NW	28,648	158,709	Jan. 6, 1984	None	0	143,240		143,240	FEA.
13. Vanguard Bldg., 1111 20th St. NW	16,725	97,088	Nov. 3, 1979	do	0	83,625		83,625	Labor.
Total	367,409	644,345				1,783,295	1,110,000	2,893,295	

Locations Treasury will backfill

1. Columbia Plaza	2,320	$2,320	Apr. 21, 1994	None		None			
2. 1900 Penn Ave	12,280	79,300	June 30, 1980	do		None			
3. Washington Bldg	18,462	151,200	June 30, 1980	do		None			
4. Treasury Annex (not GSA)	66,730					None			
5. E & P Annex (not GSA)	154,757					None			

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—Cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
State Annex II	30,682	$82,227	May 31, 1978			$153,410		$153,410	State.
Architect Bldg	28,835	183,102	Nov. 30, 1976	($183,102)			$300,000	(183,102)	
Universal North	75,825	462,532	Nov. 14, 1979					679,125	CAB.
Rosslyn Plaza E	38,930	272,510	Sept. 10, 1981			194,650		194,650	Agriculture.
Pomponio Plaza	71,885	319,888	Oct. 6, 1977			359,425		359,425	DOD.
Rosslyn Plaza C	72,678	374,291	Sept. 15, 1977			363,390		363,390	To be determined.
1401 Wilson Blvd	12,175	75,728	Apr. 30, 1977	(31,553)				(75,728)	
1311 S. Fern (warehouse)	23,920	55,462	Nov. 3, 1978						DOD.
Total	354,930	1,825,740		(214,655)		1,450,000	300,000	1,535,345	

Remarks: Would consolidate AID from 8 locations, 2 leases could be canceled and 6 backfilled (344,602 ft²) single tenant would be easier to administrate, AID employees may resist, AID managements position is uncertain. Would consclidate Agriculture on a limited basis, would not effect FTC, LEAA, FBI, Treasury, FEA, or GSA.

5. GSA REGION 3 PARTIAL[1] (MINUS COMPUTERS AND COMMUNICATION CENTER)

Present location(s)	Square feet	Annual rent	Expiration	Rental savings—cancellation	Rental savings—not leasing	Backfill alterations	Specials	Net cost	Backfill tenant
XXX	301,292					$1,506,460	[2] $719,200	$2,311,065	Many possible.
Reporter's Bldg	9,373	$57,644	Nov 30, 1980			46,865		46,865	HEW/OE.
Bicentenniel Bldg	7,708	54,563	Feb. 28, 1986			38,450		38,540	HUD.
Total	318,373	112,207				1,591,865	719,200	2,311,065	

[1] Would leave communication center and computers in ROB.
[2] GSA print shop, credit union, mail room, FSS store.

Remarks: Outside agency concurrence not required, backfill of ROB would provide expansion/consolidation for agencies in southwest (HUD, DOT, Agriculture, etc.), vacated ROB could also be used to consolidate FEA, AID, Agriculture (Food and Nutrition) or satisfy outstanding FTC, FBI, and LEAA requirements.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMERCE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., January 6, 1977.

Hon. JACK M. ECKERD,
Administrator, General Services Administration,
General Services Building,
Washington, D.C.

DEAR MR. ECKERD: Thank you for your January 3, 1977 reply to my December 3, 1976 letter concerning the Buzzard Point matter.

First, I do not consider your reply to be responsive to my request for a detailed analysis in the form which I set forth in my December 3rd letter to you. In my December 30th letter to you, I said that if the study did not conform to my request, I would consider it an effort on the part of the GSA to "obstruct the work of the Subcommittee" and would request that you re-do it. Clearly, it does not so conform. Indeed, it is essentially the same tabular data that your staff provided to our Subcommittee staff when our staff was reviewing GSA files on this matter. A sanitized version was provided to us with Regional Administrator Galuardi's testimony of December 17th, 1976.

We stress that the GSA letter of October 29, 1976 to the FEA, which you signed, expressly states that the GSA undertook "an extensive study to determine what agency, or agencies, are best suited to be housed" at Buzzard Point. We agree that such a study is appropriate whenever the GSA attempts to order an agency into a location, as opposed to a case where an agency has voluntarily agreed to move, (e.g., the FBI). In the case of the FEA, you invoked your authority under the Executive Order to order FEA to Buzzard Point. The burden thus rests with GSA to show that all of the requirements of the Executive Order, including sections 1 and 2(a) and 2(b), where fully compiled with. A "study" of the type mentioned in your letter would be one way to insure this. But, of course, GSA must then be ready to produce that "study". The GSA has been unable to demonstrate on the record that such a completed study exists or, indeed, was even initiated. No GSA record exists to show how and to what extent the GSA followed the requirements of the Executive Order prior to your October 29th directive to FEA.

We think, on the basis of the record to date, that you failed to comply with the requirements of the Executive Order prior to your issuing the October 29th directive to FEA, just as your predecessor, Mr. Sampson, did in June 1975 when he failed to give the required notice to the SEC.

We again request that you promptly provide to us all of the data, in table form, requested in our letter of December 3, 1976.

Secondly, we appreciate receiving the document entitled "Cost Comparison of Alternative Housing Plans" for the Federal Energy Administration. It is helpful. The name, however, is misleading since it does not consider all FEA alternatives. One such alternative is a full consolidation of FEA at Buzzard Point.

This document does show, as we have noted previously, that a move of part of FEA to Buzzard Point would (on an actual cost basis) cost the taxpayer money ($40,000.00) in year one and that the million dollar saving mentioned in the "GSA Fact Sheet" of November 22, 1976 is not an annual savings, but an estimated saving over five years. We agree that termination of the 2000 M Street lease would result in a savings, insofar as the overall "GSA's rental budget" is concerned. But that would appear to presume that the GSA inventory will not be expanded, since that expansion would result in further expenditures from that budget, even in the first year, thus decreasing any GSA inventory saving.

Incidentally, we do not consider it appropriate for us to maintain this document in a "confidential" status, as you requested. There is no statutory basis for such a request and we do not view the OMB appeal procedure as being akin to any court or adjudication procedure. This document is in response to our inquiry and, under the Committee's rules, is available to any Member and may be made available to the public by the Committee.

Thirdly, your letter states: "With respect to your inquiry about the cost of employee parking spaces at 1900 Half Street, we can offer only the information previously supplied, that parking not under lease to the Government is avail-

able to employees through the building owner at $25.00 per month. If all of the spaces are procured through an employees' association, there is a 10 percent discount. We have not, at this time, requested the approval of leasing any additional parking spaces, although we would not preclude this occurring in the future." I do not agree with your last sentence. On November 9, 1976, the Agriculture Department submitted form SF-81 for "250 parking spaces under SLUC" at Buzzard Point. We have an undated memorandum, signed by Mr. Galuardi, to the Commissioner of PBS taking note of that request which concludes: "you may wish to consider granting a waiver of the OMB imposed moratorium on leasing employee parking to allow obtaining an additional 100 employee parking spaces for the Department of Agriculture. This would be in addition to the employee parking spaces already approved in the prospectus and included in the lease. *Similar adjustments may be required for any other agency which is relocated to the Buzzard Point Building.* As noted above, soon after the building is completely occupied, a review will be made of the entire employee parking situation." [Italics supplied.]

It is absurd for the GSA to close its eyes to this fact that any agency using Buzzard Point will request "similar adjustments". The testimony at our hearing by representatives of the FEA employees clearly showed that the FEA employees assigned to Buzzard Point must be treated in the same manner as those at the Trans Point Building. The 800 FBI employees, with an average grade of GS-5, must also be treated in this same manner.

Please advise us how much money the GSA is paying the lessor for the unoccupied Buzzard Point Building and from what date.

Please also advise us of the status of the 2000 M Street lease situation since November 30, 1976 and indicate what contacts the GSA has had with the lessor since then.

Yours very truly,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 8, 1977.

Hon. JACK M. ECKERD,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: Enclosed is a copy of the General Accounting Office's February 7, 1977 opinion (B-95136) concerning your Agency's June 3, 1975 lease of the Buzzard Point building. We request that you review it and provide your comments thereon to us and the GAO.

VALIDITY OF LEASE ISSUE

The GAO opinion contains a lengthy "Background" narrative of the GSA's actions leading up to the issuance of this lease. It shows that the GSA ignored, in a cavalier fashion, procedural safeguards and the objections of persons in and out of the GSA in order to achieve one objective, namely the construction for GSA by Southwest Joint Venture (SJV) of the Buzzard Point building in an isolated area. In reading the GAO narrative, I am reminded of the colloquy with Mr. Steele of the GSA at our December 17, 1976 hearings. At that time we asked what the GSA officials did when they received the May 2, 1975 GSA memorandum recommending cancellation of the lease solicitation. Mr. Steele replied as follows:

Mr. STEELE. I received this letter on May 2nd, and, as I recall it, reviewed it that day.

"My basic concern with this was twofold. *Number one, in no way would this action in any way accomplish the purpose, and the purpose was the consolidation of SEC and in no way would it meet the objective of providing that consolidation by the time frame which we were trying to establish, which was July of 1976.*

"Mr. DINGELL. When you say this action would in no way accomplish the purposes, you are referring to cancellation of solicitation for offers?

"Mr. STEELE. This action in no way would have allowed us to be relocated from 500 North Capitol Street in a timely manner. In fact, I looked at this memorandum as presenting to me one alternative which was purposeless. The *basic purpose* that I saw for our action was to have SEC relocated and consolidated and in no way would any action like this allow that to happen." [Italics supplied].

In my judgment, this is a classic example of "the end justifies the means." The GSA was determined to add another building to its lease inventory and roll over all opposition to that plan, including opposition from local officials, the citizens, and the tenant for this building—the consequences be damned.

It is significant that the SEC was never evicted from its building, just as the FEA has not been evicted from its quarters at 2000 M Street even though that lease term expired last November. Indeed, the lessor agreed to a new lease so that the SEC could continue in its location. Even though it was obvious in early 1975 that the offer for a building at 400 North Capitol Street, which the SEC favored, was not responsive and that the SEC would not voluntarily accept the Buzzard Point building as an alternative, the GSA still persisted in a course that has resulted in an empty building and a substantial loss of Federal funds (i.e. about $210,000 per month since December 15, 1976). In addition, the inability of the GSA to obtain a tenant to occupy this building when it became available in August 1976 decreased the period of effective occupancy resulting in an additional loss from August to December 1976 of $840,000.

The GAO opinion shows that this result could have been avoided if the GSA acted prudently, rather than in an arrogant and reckless fashion on June 3, 1975. The GAO opinion states:

"However, because of the apparent intention of the Public Works Committees in approving the SEC lease prospectus, we believe GSA should have taken certain action to reduce the risk of frustrating that intention. In this instance, after becoming aware of SEC's objections to the Buzzard Point building, GSA should have given SEC a reasonable opportunity to exercise its appeal rights under Executive Order 11512 before awarding the lease to SJV.

"Further, GSA could have informally discussed the proposed Buzzard Point lease with the Committees on Public Works prior to the lease award. The following language in SFO No. 697 suggests that GSA could have kept the offers open an additional 120 days in order to advise the Committees of objections to the Buzzard Point building."

The GAO opinion does not address the issue of whether "the lease should be rescinded or terminated" or whether GSA's "failure to comply with its own regulations in issuing an environmental assessment and negative statement renders the lease illegal", because of a pending lawsuit against the GSA concerning this lease. The GAO states:

"Our Office generally declines to offer our judgment on issues that are in litigation in the courts. Exceptions to this policy have generally been restricted to circumstances where the courts have expressed a desire to receive or await our opinion. B-141539, December 26, 1972. In the absence of special circumstances, we think it would be inappropriate to volunteer an opinion of how we might adjudicate the rights of the several parties concerned about GSA's lease of the Buzzard Point building. They have chosen the U. S. District Court for the District of Columbia as the forum to decide the dispute, and are availing themselves of the procedures offered by the court to resolve disputed facts, such as the taking of depositions. The record upon which the court bases its ruling may differ from, indeed may be more complete than, the information we have gathered. Even the issues ultimately joined by the parties for decision may substantially depart from those now addressed to the court or identified in this letter. For these reasons, we believe we should not offer opinions on the matters related to the *Southwest Neighborhood Assembly* case."

As the enclosed letter to the GAO shows, I disagree with that "policy" particularly in this instance, and I have requested that the GAO respond fully to the Subcommittee's request.

COMMUNICATIONS DURING LEASE NEGOTIATIONS

As you know, a GSA official said prior to the lease award that there may have been "improper communications" between two offerors. The GAO notes this and states:

"Our opinion has also been requested as to whether GSA had any obligation to investigate the communications between offerors when it became aware of them. There appear to be no statutes or regulations specifically requiring GSA to investigate allegations of improper communications between offerors. *Nevertheless, in the interest of protecting the integrity of the competitive procurement process, we believe GSA should have taken some action in this situation to ensure that such conversations did not prejudice the interests of the Government or any of the offerors.* In this regard, our Office has held that where GSA's space requirements are competed, all responding offerors are entitled to have their offers evaluated in an impartial and equitable manner, and no offeror may obtain an undue advantage which is not contemplated or authorized by the soliciation or selection procedures and which prejudices other offerors. B-180431, May 20, 1974.

"According to GSA officials in testimony before your Subcommittee on December 17, 1976, the offers GSA received in response to SFO No. 697 did not indicate that there had been collusion between any of the offerors for the purpose of restricting competition on the SFO. Further, after being informed of the conversations between offerors, a GSA official reviewed the documents relating to the procurement and found no evidence indicating improper conduct by any of the offerors.

* * * * * * *

"On the basis of the present record it appears that GSA officials, in addition to reviewing the procurement documents, should have investigated whether there were improper communications between offerors or there was lack of confidentiality of offers, and determined more convincingly whether the interests of the Government or any other offerors had been prejudiced." [Italics supplied].

These GAO comments refute testimony at our hearing by Mr. Steele who said this communication "did not dusturb me in the least" because lessors " have the *right* to enter into a joint venture, they can talk to each other, what they do out in private practice is their own business. What we are interested in is the best deal for the Government." (Emphasis supplied). Obviously, the GAO does not agree with Mr. Steele.

1. In light of the GAO opinion, we request an opinion from the GSA's General Counsel whether he concurs with Mr. Steele's remarks and indicating the legal basis for Mr. Steele's conclusion that offerors "can talk to each other."

2. The Subcommittee would like to know what instructions or procedures the GSA will issue, and when, to insure against such communications in the future and to require a more convincing investigation than the one day "review" conducted by Mr. Steele in this case.

3. The GAO points out that current Federal Procurement Regulations curiously do not "explicitly" require a Certificate of Independent Price Determination by offerors in the case of lease solicitation. We find it difficult to believe that such a giant *loophole* in the regulations exists. Common sense indicates that such a minimum requirement serves the public interest. Please advise us when the GSA will adopt regulations requiring such a certificate.

LEASE AWARD FACTORS

The GAO opinion includes a GSA "worksheet" evaluating the Buzzard Point and Union Center offers. The GAO states that:

"In six of the seven criteria listed for the comparison the Union Center Plaza building appears to be preferable."

The only criteria favorable to Buzzard Point was price. But, as the GAO notes, SFO 697 contains conflicting statements as to the "considerations for evaluating offers." Schedule A declares that "only the rental rate * * * will be considered." Yet, the GAO quotes Schedule D as follows:

"In determining which offer will be most advantageous to the Government, *the contracting officer shall consider the following factors in addition to the rental proposed* and conformity of the space offered to the specific requirements."

The "factors" listed in Schedule D generally parallel the "policies" for space acquisition in Executive Order 11512. Yet, Mr. Steele testified that only "price" was considered by the GSA.

The GAO concludes:

"Thus, it is not apparent from the face of the solicitation how much weight, if any, GSA should have given to the above award factors before making the

lease award. This is contrary to the principle, frequently stated by our Office, that in properly prepared solicitations offerors will be advised of the relative importance of technical, price and other evaluation factors in relation to each other. The reason for this rule is to provide all offerors with the information necessary to properly prepare their proposals. *See, e.g., Matter of Minjares Building Maintenance Company*, 55 Comp. Gen. 865, 872 (1976); and B-149610, December 11, 1962.

* * * * * * *

"In our opinion, GSA and SEC should have worked together more closely and thoroughly in preparing an SFO and in making the lease award. For example, questions concerning location should have been aired and, if possible, resolved prior to the lease award. Had this been done, a lease award more satisfactory to all parties concerned might have resulted."

4. Schedule A and D are part of a standard GSA lease form. Yet, as the GAO observes, it contains conflicting statements. We request that GSA promptly review this form and advise us what steps you will take, and when, to remove the conflicts and make it conform to the requirements of the Executive Order.

ECONOMIC ANALYSIS

Also enclosed is a second GAO letter examining the GSA's "economic analyses of various alternatives or combinations concerning the use" of Buzzard Point. These purportedly are the analyses referred to by the GSA in its October 29, 1976 letter to FEA ordering partial relocation of FEA to Buzzard Point and basis for the GSA conclusion in its November 22, 1976 "Fact Sheet" for the press that the relocation "would save the taxpayers more than $1 million annually in rental expenditures."

The GAO shows that alternative one of the GSA—FEA, FBI and ERDA to Buzzard Point—would save the Government a little more than $584,000 in the first year, not $1 million as stated last November. Moreover, this savings will shrink to about $200,000 if the alternative includes the FEA and FBI only. To our knowledge, there are no plans to relocate any part of ERDA at Buzzard Point.

Alternative three, which is total consolidation at Buzzard Point, would cost about $108,000. This is about $300,000 more than alternative one without ERDA. The GAO observes that the costs "associated with the efficiency" of total consolidation "were not included" in the GSA analyses. In its reply to the FEA appeal, your Agency contends that partial consolidation is the "first step in bringing together elements of a possible new overall Energy Administration" and will give a new Energy Department "maximum flexibility" to meet program needs.

Clearly, the efficiency "costs" of total consolidation are pertinent. Even if the Government cannot quantify such costs in terms of savings, the long-term efficiency gained in consolidation may outweigh the first year loss of $300,000. Furthermore, once the FBI moves to Buzzard Point, any new Energy Department will lose all "flexibility."

The GAO is continuing to examine this matter.

CONCLUSION

The GAO investigation clearly shows that through GSA stubbornness and arrogance, the taxpayers of this Nation have a white elephant that is costing a great deal each month and may even cost more it, as a result of litigation, the lease is terminated. Still the GSA continues to defend its actions and maintain that all was done properly. It is obvious that only the GSA holds that view.

We request a full reply to this letter by February 28, 1977. Please provide a copy to the GAO for its review and comment to us.

We are providing a copy of this letter and the enclosures to the Office of Management and Budget, the Federal Energy Administration and the Chairman of the House Committee on Government Operations. We are also making these materials public.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. GALUARDI. I concurred on that letter for the Administrator decision either yesterday or the day before. So the letter process takes some time.

Mr. DINGELL. We were advised at the time that we had some follow-up requests that this analysis was still in the typewriter. And let me read here. Your October—this is to Mr. Eckerd—it says:

Your October 29, 1976, letter to the FEA urging that agency to move some, but not all of its operations to Buzzard Point, points out that the GSA conducted,

and I quote:

"An extensive study to determine what agency or agencies are best suited to be housed at 1900 Half Street." The GSA fact sheet of November 22, 1976 also refers to this "analysis" and at the press conference that day you referred to it as an "economic analysis". Based on this study or analysis, GSA "determined that a partial consolidation" of the FEA "was in the best interests of the Government".

The Subcommittee staff and the GAO have asked for that study or analysis, but they have not yet obtained such a document. Indeed, they were told yesterday that the "detailed" analysis is still being "typed". The GAO staff indicates that the analysis applies to the FEA only. The subcommittee staff did obtain a document entitled "Buzzard Point Potential Tenant Matrix Summary. 1900 Half Street, Southwest", but they were advised that it was only "preliminary and referred our staff to the more detailed analysis being typed."

Now, when did this study get out of the typewriter and get into use down at your Agency? Can you inform us of that, please?

[The document referred to follows:]

U.S. GENERAL SERVICES ADMINISTRATION.
Washington, D.C., November 22, 1976.

GSA FACT SHEET

WHY FEA SHOULD RELOCATE TO BUZZARD POINT BUILDING

In addition to its headquarters in the New Post Office Building at 12th and Pennsylvania Avenue, FEA is housed in four scattered locations:

Old Post Office (38,000 square feet)
2000 M Street (124,000 square feet)
1726 M Street (20,725 square feet)
Vanguard Building (8,000 square feet)

Lease on 2000 M Street expires November 30, 1976. Congressionally approved prospectus would be required to renew lease.

New lease would, according to all indication, cost approximately $1.50 per square foot more than the government is used to paying for first class office space. This would have obvious adverse impact on future Government lease renewals or acquisitions.

Not having to renew lease on FEA space would save the taxpayers more than $1 million annually in rental expenditures.

GSA has submitted a prospectus for the renovation of the Old Post Office Building. Upon approval of the prospectus, FEA would have to be relocated anyway.

Even if FEA is short-lived, or absorbed into a reorganized energy department, a single building could not house the various energy offices. However, with FEA at Buzzard Point and the New Post Office, ERDA at 20 Massachusetts Avenue, FPC at North Capitol and H, the various energy departments are being drawn into a logical geographical arrangement.

HISTORY OF BUZZARD POINT OFFICE BUILDING

March 5, 1974.—The Securities and Exchange Commission (SEC) submitted a space request to GSA for consolidation of its facilities.

Oct. 10, 1974.—Congress approved a prospectus for either full (460,000 square feet) or partial consolidation (160,000 square feet) at an estimated annual rental of $2,800,000 for total consolidation for a firm five year term within the District of Columbia.

Dec. 9, 1974.—GSA issued a Solicitation for Offers (SFO), in which SEC concurred, to procure space for either full or partial consolidation with delivery of space by July 1975.

Under the initial SFO only one offer was received for total consolidation and two offers for partial.

Offer for total consolidation was non-responsive because it exceeded prospectus limitation.

Owners of building offered for total consolidation (400 North Capitol Street), also own 500 North Capitol Street, SEC's present headquarters. Their agent informed GSA that we could not renew lease on SEC's present headquarters beyond April 20, 1976, when lease expired. Owners insisted building was to be sold and Government must vacate.

This refusal by the owners to renegotiate for 500 North Capitol Street meant that GSA had no choice other than to consolidate SEC totally in a single building.

Jan. 31, 1975.—In order to generate maximum competition, the SFO was amended to extend the delivery date for the required space from July 1975 to July 1976.

GSA received three offers (including 400 North Capitol Street) which could provide for total consolidation.

Of the three offers, the one for 400 North Capitol remained non-responsive.

June 3, 1975.—After extensive negotiations, an award was made to the Southwest Joint Venture, the lowest responsive, responsible offeror, for a building in the initial stages of construction at 1900 Half Street, S.W.

Building is in area delineated by the SFO, it meets all of the prospectus and SFO requirements, was properly zoned and permitted by local officials.

Entire procurement process was routine from inception to award.

June 3, 1975.—SEC informed GSA of its intention to appeal the decision to OMB.

July 18, 1975.—SEC filed its appeal with OMB. SEC's primary objection was the alleged inaccessibility of the location.

Jan. 3, 1976.—OMB, on a technicality (the fact that GSA had failed to notify SEC in writing of its right to appeal the decision) ruled that SEC did not have to relocate to 1900 Half Street.

Early April, 1976.—Agency for International Development (AID) approached GSA regarding possibility of being assigned the building to fulfill its long-standing request for partial consolidation.

April 9, 1976.—GSA formally offered building to AID.

Opposition from AID employees, who objected to the building's location—its lack of amenities such as restaurants, shops, etc. led to a stalemate. Resistance by AID employees kept AID's top management from making a decision.

June 11, 1976.—GSA was contacted by Department of Treasury regarding use of the new building to house its Bureau of Public Debt and its Government Financial Operations (GFO).

June 24, 1976.—Deputy Secretary of Treasury Dixon advised GSA by phone that Public Debt and GFO would move into Buzzard Point Building if it were offered to them.

June 30, 1976.—GSA withdrew offer from AID and made formal offer of building to Treasury.

Again, strong employee opposition from Treasury personnel, based mainly on the building's supposedly isolated location, caused Treasury's Fiscal Assistant Secretary to decline GSA's offer on September 13, 1976.

Sept. 15, 1976 to Oct. 29, 1976.—GSA showed building and/or discussed possibility of consolidation at 1900 Half Street with more than a half dozen agencies. Of the agencies, only the Department of Agriculture asked specifically for space in the building. The other agencies showed no interest.

Oct. 29, 1976.—Based upon an analysis made by GSA to determine what agency or agencies including GSA were best suited to be housed in the building, it was determined that a partial consolidation of the Federal Energy Administration (FEA) was in the best interest of the Government and that their functions housed in the Old Post Office Building (37,685 square feet), 2000 M Street, NW (124,063 square feet), 1725 M Street, NW (20,725 square feet), and the Vanguard Building (7,870 square feet) would be consolidated into space at 1900 Half Street (Buzzard Point). Therefore, in accordance with Executive Order 11512 of February 27, 1970, an order was issued directing FEA to Buzzard Point.

The rationale for assigning space at 1900 Half Street to FEA is summed up in the attached paper.

FEA has informed OMB that it intends to appeal GSA's decision to house them at 1900 Half Street.

Mr. GALUARDI. That extensive or detailed analysis that you are talking about was being prepared by our staff in anticipation of having to respond to the FEA response to OMB.

Mr. DINGELL. Wasn't it a part of your decisionmaking process?

Mr. GALUARDI. It really is an expansion of what was the other analysis.

Mr. DINGELL. Expansion?

Mr. GALUARDI. And we gave all the information, as I think your investigators would perhaps testify to, that whatever we had in GSA in the way of any file we let anybody look at it, and if somebody wanders into one of my offices and sees something being typed, and not withholding information, saying there it is, and we will get it to you as soon as it is typed, I don't see where there is anything wrong with it.

Mr. DINGELL. Well, I get the impression that you make the decision, then you make the study, then you tell us about it, and then when we ask for it you say it is being typed.

Now, maybe you have got the cart before the horse or maybe I have misunderstood you.

Mr. DOWNS. Mr. Chairman, there is some confusion here because two separate studies, two separate issues, and the study on which the issue was made was done approximately a month prior to that decision and I completed that study and Mr. Finnegan just handed me a copy of that study, and that is the Potential Tenant Matrix. Now, another study was done.

[Note: Subcommittee has never received a copy of the "other" study.]

Mr. DINGELL. That is this, here [indicating].

Mr. DOWNS. After, another study I made to sort of supplement the original analysis using a somewhat different set of factors.

Mr. DINGELL. What different set of factors?

Mr. DOWNS. It examined the worst possible situation, and that we look at FEA in a vacuum, which we don't do at GSA. We consider all building and assume only two buildings in inventory and under the worse possible situation it is still considered a savings to taxpayers that FEA go down to that Buzzard Point building, and GAO looked at that study and does not dispute the figures.

Mr. FINNEGAN. Wasn't there an error in those figures?

Mr. DOWNS. It was a mathematical error of $200,000 in the work sheet, but that is an error of magnitude, the bottomline of the study was still a savings in the order of $800,000. I don't have the exact figures here.

Mr. DINGELL. Does that count $72,000 a year for bus, the way you have at the Transport Building?

Mr. GALUARDI. I don't see where the $72,000 would be germane to the study, sir.

Mr. DINGELL. Well, it is the GSA bus.

Mr. DOWNS. That is for official business only.

Mr. GALUARDI. That is for DOT. Now, if FEA already has a bus in locations where they are now, I dont' see any difference in cost between having to go between two locations and five locations and if FEA does not have that requirement now they should not have that requirement in the future.

Mr. DOWNS. I think there is some confusion here. That bus DOT has does not shuttle people back and forth between their homes, it is used between buildings for official business only, and I believe FEA has a van-type shuttle that does exactly that now, it goes between their several buildings.

Mr. FINNEGAN. Have you checked on the request of whether there is adequate bus service between Buzzard Point and the location of 12th and Pennsylvania Avenue?

Mr. GALUARDI. Since it is already shuttling between locations, we intend to move down there, we don't see that there would be any difference of requirements.

Mr. DOWNS. It is moving the same amount of people and essentially would be the same service.

Mr. FINNEGAN. At a greater distance though.

Mr. DOWNS. When you get into a car it matters little if you have to go an extra mile. It is the time getting out of it and getting into it.

Mr. FINNEGAN. It is a greater distance.

Mr. GALUARDI. I think both of you are arguing on an occasion neither one of us know much about. I think it is up to FEA.

Mr. FINNEGAN. Have you considered that cost as part of the relocation?

Mr. GALUARDI. No, we have not.

Mr. FINNEGAN. You have not talked to them?

Mr. GALUARDI. We didn't.

Mr. FINNEGAN. Just so the record is straight, Mr. Blair and myself, when we first looked at the papers, did ask for the study that was mentioned in the letter to Mr. Zarb, and we were given a copy of this, but they said this was still being worked on, and it was being typed. No one knew anything further. There was no indication that that was a different study. Mr. Fowler, I believe, that did this one.

Mr. DOWNS. Yes. Well, that is unfortunate that that happened. There was a confusion.

Mr. FINNEGAN. All right. Let me ask if an environmental assesment was prepared in connection wtih the relocation of FEA?

Mr. GALUARDI. Jack.

Mr. GURAL. Yes, there was an environmental assessment prepared. It was based on the previous environmental assessments that had been done for the other moves.

Mr. DINGELL. For the issuance of the lease?

Mr. GURAL. I am sorry?

Mr. DINGELL. In connection with the issuance of the lease, or in connection with the other earlier would-be tenants of this place?

Mr. GURAL. We decided to base this particular environmental assessment on the fact that, well, there are about three factors or four factors at this point. If it was an Agency that had primarily office-type space, meaning that their employees were primarily going to offices in downtown Washington. And if their employees were going to downtown Washington, then they in turn could just as well go to this particular facility. We also based it on whether or not these, the Agencies—I am sorry.

Do you have the environmental assessment letter? I am being corrected on a factor here.

What we did was establish the criteria for any environmental assessment, assuming that any group of agencies located in the Washington area could go to this facility, if they had certain things that were similar. And one of the main things that were similar was that their employees did travel to and from the downtown area. That was our major consideration in this assessment.

[Copy of assessment and cover memorandum follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., Oct 15, 1976.

Attention: Regional Commissioner, PBS (3P)
Subject: Environmental Review of the Occupancy of the Two T Street Building

[Memorandum to the Record]

The Regional Commissioner, Public Buildings Service, has the responsibility under Interim GSA Order PBS 1095, Section 4, for making these threshold decisions: (1) "Determination whether an action is a major Federal action significantly affecting the quality of the human environment"; and (2) "The prepartion of environmental assessments and submission of negative declaration or draft and final environmental impact statements." This responsibility also is in accord with the guidelines issued by the Council of Environmental Quality, Section 1500.6(c), as published in the Federal Register on August 1, 1973.

On June 1, 1975, and July 28, 1976, Region 3 completed environmental assessments concerning the proposed relocation of the Securities and Exchange Commission (SEC) and components of the Treasury Department (TD), respectively, to the new leased building at Two T Street, SW., Washington, D.C. The SEC and TD components are generally located within the central area of the city; and, on the basis of the two previously mentioned assessments, the Commissioner, Public Buildings Service, issued two negative declarations, stating that the proposed relocations were not major Federal actions significantly affecting the quality of the human environment.

Since the SEC and TD have chosen not to occupy the building at Two T Street, offices of several other Federal agencies, or combinations of them, are now being considered by GSA for relocation to this building. Because these offices presently have locations, numbers of employees, and activities comparable to those of the SEC and the TD components, relocating any of these offices to the Two T Street building is expected to result in environmental effects identical to, or substantially the same as, those determined in GSA's assessments of June 1, 1975, and July 28, 1976. Also, GSA proposes to take mitigating measures comparable to those specified in these assessments.

Considering these factors, the Regional Commissioner, Public Buildings Service, has decided, in accordance with the previously cited authority, that relocating any of these offices to the new building would not be a major Federal action significantly affecting the quality of the human environment; and no further environmental review of the occupancy of this building is required.

JAMES F. STEELE, JR.,
City Regional Commissioner,
Public Buildings Service.

Approved: John F. Galuardi, Regional Administrator (3A); October 15, 1976.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 19, 1976.

Attention: Director, Planning Staff (3PG)
Subject: Environmental Analysis on Occupancy of the Two T Street Building
Regional Commissioner, PBS (3P)

Attached is a copy of Region 3's environmental analysis concerning the future occupancy of the Two T Street Building. Basically, this analysis maintains that so long as prospective Federal tenants for this building have certain characteristics, their relocation to this building should result in environmental effects identical to, or substantially the same as, those determined in GSA's assessments of June 1, 1975, and July 28, 1976.

Region 3's legal staff requested that this analysis be prepared as an addendum to the Memorandum to the Record, signed by Mr. Galuardi on October 15, 1976. A draft of this addendum was reviewed and approved by Mr. John Kornmeier, of the legal staff, and by members of the Space Management Division, Region 3. This document was filed on November 19, 1976, with the U.S. District Court, as part of GSA's efforts to secure an occupant for the Two T Street Building.

Wayne Cook, I might mention, had to prepare the environmental analysis in only three days; and he did so. To Wayne's credit, he worked until after 2:00 a.m. one morning this week. Our planning staff, of course, will continue to do whatever is necessary to resolve GSA's legal problems with the Two T Street Building.

I. JACK GURAL,
Director, Planning Staff,
Public Buildings Service.

Enclosure.

I. INTRODUCTION: THE PURPOSE OF THIS REPORT

The purpose of this addendum is to specify those conditions or findings that led to the conclusions stated in the memorandum of October 15, 1976. The logic on which this addendum is based is as follows.

Essentially, GSA's assessments of June 1, 1975, and July 28, 1976, specified certain conditions or requirements concerning the construction and occupancy, respectively, of the Two T Street Building. For example, it was stated that this facility would be needed for office functions. This condition, or ones like it, might be considered independent variables or causes. Furthermore, GSA's two assessments analyzed the environmental effects expected to result from the construction and occupancy of the Two T Street Building. In both assessments, it was concluded, these effects, or dependent variables, would not be significantly adverse, according to certain criteria.

Although the Securities and Exchange Commission (SEC) and components of the Treasury Department (TD) were the subjects of the assessments of June 1, 1975, and July 28, 1976, respectively, neither of these agencies is now being considered as possible tenants for the new facility. However, the requirements of these agencies can be considered limits or criteria by which to determine what other agencies should occupy the Two T Street Building and result in environmental effects identical to, or substantially the same as, those determined in GSA's two assessments.

For example, the SEC and components of the TD scheduled to occupy the Two T Street Building both had fewer than about 2,300 employees; and it was determined that this facility would have sufficient parking for this number of employees. Hence, if any other agencies that GSA planned to house in the new facility had about 2,300 employees, it is reasonable to conclude that the number of parking spaces at the new facility would meet the needs of these agencies.

In short, the following analyses are not designed to update or deal with all the environmental effects discussed in GSA's assessments of June 1, 1975, and July 28, 1976. Rather, the following analyses, focusing on the independent variables specified in these assessments with regard to the SEC and components of the TD, will establish the criteria or conditions that would be necessary and sufficient if agencies other than SEC and TD were to be considered as possible tenants for the Two T Street Building.

In a sense, the analyses here reverse the focus of GSA's two assessments. The latter, on the basis of certain requirements or independent variables, arrived at conclusions concerning environmental effects or dependent variables.

By contrast, the following analyses, on the basis of conclusions reached in GSA's assessments, concentrate on requirements of agencies that might be considered for occupants of the Two T Street Building.

II. Characteristics of the Proposed Occupants

A. FUNCTIONS OF THE AGENCIES

1. The Setting

The components of the TD and the SEC that were scheduled to occupy the Two T Street Building all involved office functions, and this facility was designed to serve these functions.[1]

2. The Implications

If an agency is primarily involved in office functions, this characteristic would help to ensure that the relocation of this agency to the new facility should have no environmental effects different from the ones discerned in GSA's assessments. In fact, however, this characteristic is applicable to most Federal agencies, whether or not they are being considered as occupants of the new building. Only a few agencies, or components of them, are involved in non-office functions—such as chemical research, with the possibility of toxic emissions—that might require special precautions.

B. NUMBER OF EMPLOYEES

1. The Setting

The components of the TD considered for relocation to the Two T Street Building had about 2,300 employees. By contrast, the SEC offices selected for this purpose were expected by Fiscal Year (FY) 1976 to include approximately 1,500 employees.[2] The difference in figures is due to the fact that the TD's activities required less space per employee than those of the SEC. Also, when the Two T Street Building was completed in 1976, it offered more space than had been anticipated when the SEC was being considered as an occupant. Hence, by 1976, GSA's estimates of the number of employees who could be housed in this building were revised upward to about 2,300.[3]

Essentially, the analyses here were conducted by a careful examination of all the discussions in GSA's assessments. Whenever it was possible, information in these documents was formulated into a criterion or limit by which to determine a range of acceptable occupants for the Two T Street Building. Also, wherever it was necessary, degrees of a criterion or limit were established; and references to pertinent discussions in each assessment are documented.[4]

In most instances, discussions of a single criterion will lead, at first, only to a general implication. To avoid repetition, implications regarding specific environmental effects will be discussed only after several pertinent criteria have been examined.

C. LOCATION OF AGENCIES

1. The Setting

Two components of the TD were scheduled for relocation to the Two T Street Building. These components were housed in seven facilities, five of them leased. All of these facilities are located in downtown Washington, D.C.[5]

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[1] Assessment No. 1 does not specifically explain the office functions of the TD; but the office functions of the SEC are discussed in Assessment No. 2, pp. 46, 50, and 51. The latter assessment, page 10, also notes that the Two T Street Building is devoted to office functions.

[2] See Assessment No. 1, pages 1 and 2, regarding the TD; Assessment No. 2, page 47, concerning the SEC.

[3] This development is explained in Assessment No. 1, page 10.

[4] GSA's assessment of July 28, 1976, includes, as an attachment, the assessment of June 1, 1975. In latter discussions, for convenience, the document of July 28, 1976, will be referenced as Assessment No. 1, while the document of June 1, 1975, will be termed Assessment No. 2. Page numbers provided here refer to those found in the combined statement of July 28, 1976.

[5] Additional details about this topic can be found in Assessment No. 1, pp. 7-9.

The Engraving and Printing Annex is the closest of these seven facilities to the Two T Street Building. About two and one-half miles separate these two locations. By contrast, the TD's leased facility at 1100 Vermont Avenue, is farthest from Two T Street—approximately three and one-half miles.[6]

The SEC offices proposed for relocation to the Two S Street Building were leased, and they included almost all of SEC's 1,300 employees. Two small Federally owned facilities, with a very small number of employees, were largely used for storage; and the SEC planned to retain these facilities.[7]

About 1,000 employees were housed in the SEC headquarters at 500 North Capitol Street, which was only two and one fourth direct miles from the new building. The SEC's second largest facility, at Eleventh and L Streets, N.W., with about 250 employees, was approximately three and three quarter miles from T Street, while the third largest facility, with only about 50 employees in Ballston, Virginia, was about seven miles from this site.

2. The Implications

GSA expected to encounter no significant difficulties in relocating the components of the TD and SEC to the Two T Street Building, even though a component of the latter agency was about seven miles from this building. Except for the SEC's facility in Ballston, Virginia, the component of the TD and the SEC that was farthest from the new building was the SEC office at Vermont Avenue—three and three quarter miles from the Two T Street Building.

On the basis of these details, it is reasonable to conclude that if an agency has most of its offices within three and three quarter miles of the Two T Street Building, relocating these offices to the new building should pose no difficulties. This generalization would apply to most of the Federal offices in downtown Washington, D.C. Consideration of the Ballston facility of the SEC would further liberalize this criterion, indicating that it would be feasible to relocate some small offices of an agency even if they were seven miles from the Two T Street Building.

III. The Environmental Effects of Agencies' Characteristics

The preceding discussions have shown that the components of the TD and SEC scheduled to occupy the Two T Street Building shared three characteristics. These agencies were largely involved in office functions, had fewer than about 2,300 employees, and had scattered locations that, except for a small one in Ballston, Virginia, were in downtown Washington, D.C., at least within four miles of the Two T Street Building.

The components of the TD and SEC had no other important characteristics that either were discussed in GSA's assessments or could be discerned. Furthermore, no analysis in these assessments indicated that the three previously mentioned characteristics, individually or collectively, were expected to result in any significant adverse impacts that could not be mitigated. Therefore, it is reasonable to conclude that if any other Federal agency shared the aforementioned characteristics and had no additional ones of significance, relocating this agency to the Two T Street Building should result in environmental effects identical to, or substantially the same as, those determined in GSA's assessments.

In short, the three previously mentioned characteristics can be considered necessary and sufficient conditions for producing the environmental effects ascertained in GSA's assessments. The next discussions in this report will further support these conclusions for focusing on pertinent, specific environmental effects that the aforementioned characteristics were expected to produce, individually or collectively.

First, however, it must be emphasized that GSA, in cooperation with other Federal agencies, has considerable leeway in developing housing plans for the Two T Street Building. For example, most of the analyses in this report consider about 2,300 employees as one of the bases for determining the environmental effects of occupying the new building. Also, these analyses frequently

[6] Refer to Assessment No. 1, Map 1, page 9.
[7] Assessment No. 2, page 47, discusses the SEC's current locations.

allude to the possibility that only one Federal agency will be housed in this building.

Nonetheless, it is conceivable that this building will be occupied by components of different agencies; and, depending upon circumstances, the total number of employees housed in this facility can be reduced to a figure well below 2,300.

Moreover, all the prospective tenants for the Two T Street Building do not need to be moved there at one time. Rather, a staggered series of relocations can be scheduled; and, between each move, GSA can evaluate the environmental effects and make any necessary adjustments to mitigate these effects.

In short, the process for housing agencies in the Two T Street Building can be a long-term one. As constraints to the occupancy of this building develop or as any additional leeway for accommodating agencies at this location appears, the findings of this report and GSA's assessments can be reevaluated; and GSA's proposed housing plans can be modified or revised to reflect any new or changing conditions.

As a result of these measures, GSA can further minimize most, if not all, of the environmental effects described in this report. While this factor is not specifically mentioned in all of the following discussions, it is among the most important ones to consider.

A. PHYSICAL ENVIRONMENT

1. Landforms and Other Minor Factors

The Two T Street Building has already been constructed. Therefore, the proposed relocation of any Federal agency to this building should not have any impact on landforms, subsurface and geological conditions, vegetation and wildlife, or water quantity or quality.[1]

2. Air Quality

During operation of the new building, the lessor will be required to meet all applicable national and local standards for emissions.[2] For three other reasons, GSA expects that occupancy of the new building should have only minimal adverse impacts on ambient air quality. Additional details about these reasons will be provided later in this report.

First, because the streets surrounding the new building are lightly traveled and connect to arterials, GSA has concluded that traffic should be dispersed quickly. There should not be any significant queing of vehicles in the immediate vicinity of the building. The dispersal of vehicles or the elimination of queing will prevent emissions from increasing to significant levels.[3]

Second, applying GSA's criteria for parking to ensure the greatest use of carpools will minimize the number of vehicle trips during the peak periods of traffic. Although the number of vehicle trips estimated by GSA will add pollutants to the air at the site of the new building, this number should not significantly affect air quality. Since nearly all prospective occupants of the new building are expected to reside in the National Capital Region (NCR), relocation of agencies to this building should neither result in a marked change in the number of employees commuting to work nor aggravate the overall air pollution situation in the NCR.[4]

Third, GSA currently envisions that no more than about 2,300 employees would occupy the new building. Therefore, this number should result in effects on air quality comparable to those determined in GSA's assessment of July 28, 1976, regarding 2,300 employees of the TD.

Some air pollution, along with noise, will result from relocating an agency's furniture, files, and other materials to the new building.[5] Nevertheless, this effect will be only temporary; and because this building is not in a congested area, this effect should be minimal. Moreover, this situation would inevitably occur regardless of the location of a building to which an agency relocates.

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1 See Assessment No. 1, page 23.
2 *Ibid.*, page 24. Also, see Assessment No. 2, page 75.
3 Assessment No. 1, page 24.
4 *Ibid.*, page 25.
5 *Ibid.*, page 34.

3. *Urban Systems*

a. Transportation

Transportation in the area of the Two T Street Building was evaluated in GSA's assessment of June 1, 1975. This analysis was updated in August, 1975.[6] The general conclusion of these evaluations was that commuting to the new building could be either slightly better or worse for an individual employee, depending on the employee's specific place or residence and current work location. However, because of possible questions which could be raised by an agency and its employees concerning this matter, the effects that a relocation might have on transportation will be discussed in detail.

i. *Streets and Traffic.*—GSA concluded in its assessment of July 28, 1976, that, during the peak periods of traffic, the addition of as many as 750 vehicle trips on the streets near the Two T Street Building would not seriously affect these streets because they are presently lightly traveled. Short periods of congestion were expected during the peak periods of traffic, when a large number of vehicles arrive or depart in a short time. However, this situation would occur with regard to any occupant of the new building. Generally, GSA maintained, the local street system would adequately support the traffic generated by this building.[7]

A consideration of several factors led to this conclusion. One of the most important of these factors, it should be emphasized, is that Temporary Buildings A, B, and C, which are close to the Two T Street Building, have 1,500 parking spaces, many of them vacant. These three temporary facilities were in use when the Transpoint Building at Second and V Streets, S.W., was first occupied; and the local street system adequately supported the traffic generated by all these facilities.[8]

Moreover, GSA is currently proposing to relocate to the Two T Street Building no more than about 2,300 employees, which is equivalent to the number of TD employees who had been scheduled to occupy this facility. Hence, the effects that GSA's proposals should have on streets and traffic should be comparable to those estimated in the assessment of July 28, 1976.

Furthermore, if relocation of an agency should create effects greater than those discussed here, several mitigating measures could be implemented or strengthened. For example, these measures include flexitime schedules, which would reduce the number of vehicles entering or leaving the area at any one time.[9] Carpool programs also could reduce the number of vehicles in the area. Changes in the allocation of parking spaces among individual employees can serve as an incentive, or disincentive, for this purpose.[10]

ii. *Mass Transportation.*—GSA's assessment of July 28, 1976, also explained that the Metrobus system currently makes 14 trips to the Two T Street area during morning peak periods and 13 trips during the afternoon. All of the buses making these trips are part of the 70 line, which runs north along Seventh Street and intersects with points of transfer to other bus routes. Regular service is maintained all day. In addition to the 70 line, the M2 line operates, every day at one-half hour intervals, between Union Station and the Transpoint Building, with service beginning at 7 a.m. and buses departing every half hour thereafter until 6:30 p.m., when the final runs are made. During the rush hour period, the M2 trips average 26 minutes and 21 minutes during other hours.

The two Metro stations nearest to the Two T Street Building will be the Waterfront Station at Fourth and M Streets, SW., and the Navy Yard Station at Sixth and M Streets, SE. The Waterfront Station is scheduled to open in 1978, while the Navy Yard Station and the extension of the line into Prince George's County are scheduled for operation in 1982.[11]

GSA concluded in the assessment of July 28, 1976, that the proposed relocation of any agency to the Two T Street Building could affect users of the mass transportation system. Based on surveys of mass transit usage of employees of the TD, it was considered likely that employees would rely heavily on the present bus system. Nonetheless, since direct mass transit service to the new

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[6] *Ibid.*, Appendix B, and Assessment No. 2, pp. 51-53.
[7] Assessment No. 1, pp. 15-17.
[8] *Ibid.*, page 17.
[9] *Ibid.*
[10] See later discussions concerning parking spaces.
[11] See Assessment No. 1, pp. 18-20.

building is via the 70 and M2 lines, only those employees with direct access to these lines would not need to transfer.[12]

Until a prospective occupant for the Two T Street Building is specified, GSA cannot reach conclusions more precise than those stated in the assessment of July 28, 1976. In fact, the effect that occupancy of this building might have on employees using mass transportation is probably the most difficult one to determine at this time. This effect will largely depend on the present locations of the agencies selected as occupants for this building.

Despite the complexity of this situation, GSA has concluded that within the central Federal employment area of the NCR, there is ordinarily only a limited relationship between place of work and place of residence; and only these employees are being considered as possible occupants for the Two T Street Building.

More specifically, a number of transportation studies indicated that, in most instances, Federal employees' residences are scattered throughout the NCR, with little difference in the pattern of residence if the employees work in Southwest, Foggy Bottom, or the Federal Triangle. Consequently, employee commuting modes and patterns would be expected to be similar for most agencies that could be housed in the Two T Street Building; and, for this reason, GSA does not believe that any significant environmental benefits could be gained by relocating any particular agency to this building rather than other potential tenants.[13] Regardless of which agency is selected as an occupant of the Two T Street Building, the effects on users of mass transportation would probably be about the same. While some commuters in an agency might benefit from the relocation to this building, others might face disadvantages.

If, however, there is a demonstrated need for increased bus service to the Two T Street Building, GSA will support measures that would mitigate this effect. For example, Metro would be asked to provide additional service to this area; and bus stops can be relocated for the convenience of employees at the new building.[14] Also, the parking situation in the area of the new building is more than adequate, as will be explained below. This factor would aid employees who want to drive to work instead of continuing to use buses.

iii. *Parking.*—The lessor of the new building, it was noted, has about 270 parking spaces available for agency vehicles, executives, and carpools. In addition, this lessor has about 500 other spaces for lease to individual employees. Thus, a total of about 770 spaces are at the facility. This figure does not include on-street spaces that might be in the area.

According to GSA's estimates, the 770 parking spaces at the new building should have been more than adequate for the 2,300 employees of the TD.[15] Hence, this number of spaces also should be sufficient for the same number of employees of any other agency, or combinations of them. For instance, the ratio of parking spaces per employee in this area is much higher than in many downtown areas.

All agencies, of course, will have their own parking parking requirements inasmuch as their numbers of official vehicles will vary. Thus, the supply of space that was sufficient for the TD and SEC might pose some allocation problems for other agencies. For example, the latter agencies, compared to the TD and SEC, might have a small number of official vehicles but a great need for space for employees' vehicles. For two reasons, however, the supply of parking spaces at the new building is more elastic than the supply of office space.

First, if the 770 spaces at this building are insufficient for certain agencies, some relief might be sought by the use of space on nearby streets or land.

Second, GSA and other Federal agencies place a lower priority, of course, on parking space than on office space. The former is often considered not a necessity but a luxury, at least when used for the vehicles of individuals rather than for vehicles of agencies and their executives. Moreover, the number of parking spaces for vehicles of individual employees ordinarily can be limited or reduced without impairing the function or operation of an agency. Therefore, this same approach can be taken if the number of parking spaces at the new building is insufficient.

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[12] *Ibid.*, page 21.
[13] *Ibid.*, page 38.
[14] *Ibid.*, page 29. Also, see Assessment No. 2, page 93.
[15] See Assessment No. 1, pp. 21-22; Assessment No. 2, page 54.

b. Other Urban Systems and Services

GSA's assessment of June 1, 1975, discussed in detail the impacts that the Two T Street Building was expected to have on service for water, electricity, gas, fuel oil, as well as on systems for sewage, storm drainage, solid waste disposal, and fire protection. At that time, none of these impacts was expected to be significant.[16]

The use of, or impact on, these services and systems may increase or decrease slightly, depending on the number of employees occupying the new building. However, all of these services and systems were considered to be adequate in relationship to the size of this building; and since the number of prospective occupants of this building would not exceed the 2,300 TD employees who had been scheduled to relocate there, the available services and systems should remain sufficient.

c. Natural, Human, and Cultural Resources

Regardless of the tenant chosen for the Two T Street Building, no irreversible or irretrievable commitment of cultural resources will be required because of the relocation of this tenant to the new building. Nevertheless, the short-term use of fuels, energy, labor, and public capital will be needed in order to move the furniture and other materials of an agency to this building. Also, a long-term commitment of public capital will be required to lease this building.[17]

However, these resources would be expended regardless of the location of a new building or regardless of its prospective tenant. These resources also would be required if an agency remained in its present quarters.

C. HUMAN ENVIRONMENT

GSA's assessment of June 1, 1976, examined the impacts that acquisition of the Two T Street Building might have on socio-economic conditions in the area and on community features.[18] So far as can be determined, all of these analyses are still valid. Thus, the remaining discussions will focus on the effect the relocation of certain agencies to the new building might have on the employees and operations of these agencies. Some of these discussions necessarily overlap with the ones above.

1. Agency Employees

The primary impacts that relocation will have on an agency's employees are possible changes in commuting patterns. However, GSA has found, on the basis of transportation studies, that the distribution of Federal employees' residences ordinarily are scattered, as has been explained above. Therefore, GSA can only generalize that, for some employees, relocation to the new building will mean an increase in commuting times and costs, while the opposite will be true for other employees.

a. Impact on Automobile Users

In the assessment of July 28, 1976, GSA relied on a zonal approach to determine the possible travel routes and times needed by employees of the TD to arrive at their current work locations and the Two T Street Building. This approach entailed categorizing employees' residences according to what appeared to be common travel characteristics and then analyzing each category, with appropriate consideration being given to the number of employees in each category.[19] Assessment No. 1, Appendix D, discusses this approach and the conclusions of GSA's analysis.

GSA's zonal analysis showed that, for some employees, travel time by automobile to the new building would increase slightly, with a minor adverse impact on these employees; whereas, for an almost equal number of employees, travel time by automobile would decrease slightly.[20]

The differential impact that relocation of offices of the TD to the Two T Street Building was expected to have on automobile users was consistent with

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[16] See Assessment No. 1, page 22, and Assessment No. 2, pp. 52-53.
[17] See Assessment No. 1, page 41.
[18] Assessment No. 2, pp. 83-86.
[19] Assessment No. 1, Appendix D, discusses this approach and the conclusions of GSA's analysis.
[20] See Assessment No. 1, Appendix D, for details on estimated changes in travel times.

GSA's determinations about the scattered distribution of employees' residences and its anticipated effect on other commuting patterns. Therefore, if all these factors are considered, it is reasonable to conclude that relocating other downtown agencies to the new building probably would have effects comparable to those discerned in the assessment of July 28, 1976.

b. Impact on Mass Transit Users

The greatest impact on Metrobus riders will be on those employees who now commute by bus directly to their present place of work and will have to transfer to arrive at the Two T Street Building. The area of this building, it was noted, is serviced by the 70 and M2 Metrobus lines; and all employees will have to transfer unless they live in proximity to these lines.

Because transfers, however, are free within Washington, D.C., there would be no difference in cost for any employees. Moreover, while it might be difficult to arrange for additional bus service to the new building, adjustments ordinarily can be arranged with Metro, including the location of bus stops, to accommodate any group of bus riders.[21]

c. Other Modes of Transportation

Some Federal employees use other modes of transportation in order to arrive at their place of work; e.g., drop-offs and walking or the use of motorcycles, bicycles, and taxis. For employees who presently walk to work, a relocation to the new building could change this habit. However, this effect might be offset by employees who find it easier to walk to their new offices.[22]

d. Amenities

GSA recognizes that some of the present locations of Federal agencies offer their employees more amenities—such as shops and restaurants— than does the Two T Street Building. At most, however, this consideration is only of secondary importance in the selection of office space for Federal agencies.

Nevertheless, for employees interested in these amenities, it should be noted that the lessor of the new building will provide a cafeteria and restaurant-lounge. In addition, a bank branch is located in the Transpoint Building, which is close to the new building; and stores, restaurants, and other facilities at Waterside Mall can be reached via a short bus trip to Fourth and M Streets. Also, it is likely that a health unit and a branch of a Federal credit union can be installed in the Two T Street Building.[23]

e. Employee Housing

GSA's assessment of July 28, 1976, noted that the maximum distance in a direct line from the Treasury Annex at Pennsylvania Avenue and Madison Place, N.W., to the Two T Street Building is about 3.0 miles and approximately 3.75 miles if the street system is followed. The travel time between these two buildings was estimated to be 12 to 20 minutes, depending on local traffic conditions.[24] This distance was not considered to be significant enough to require any employees to change their place of residence;[25] and so long as other prospective tenants are downtown and within 3.75 miles—roughly four miles—of the new building, the same conclusion would seem to be reasonable.

2. Agency Operations

a. Internal Activities

The Two T Street Building is sizable, and it can be used to consolidate the operations of one or more Federal agencies. This measure, in turn, can offer these agencies many benefits.

For example, officials of the TD believed that consolidation of some of their offices at the new building would simplify many of the TD's operations, foster organizational and functional combinations to eliminate duplication, reduce the time necessary for processing work, allow better utilization of space, and provide

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[21] See Assessment No. 1, pp. 28-29; Assessment No. 2, page 93.

[22] See Assessment No. 1, page 29.

[23] *Ibid.*

[24] *Ibid.*, page 30. This travel time, it should be noted, is from one building to another and does not involve the time that employees travel to work. Some of the employees working downtown may be able to change commuting patterns so they by-pass the congestion of this area, thus reducing the difference in travel time.

[25] *Ibid.*

for centralized direction of activities, thus resulting in greater efficiency at less cost. These officials estimated that, after the first year in the Two T Street Building, an annual savings of about $900,000 would be possible.[26]

So long as a Federal agency has sufficient space to consolidate some of its offices in the Two T Street Building, relocation to this building should result, on one hand, in benefits comparable to those that had been envisioned by officials of the TD. Benefits similar to those of consolidation might also be possible if the Two T Street Building is used to provide new offices for an agency or to expand existing offices of this agency. However, until an agency's current space situation is evaluated, the different benefits of these various uses of space cannot be ascertained .

On the other hand, officials of the TD recognized that relocation to the Two T Street Building would have entailed several costs and problems. For instance, this relocation would have required moving expenses and the disruption of offices activities while the relocation was in progress.

Any other Federal agency would also encounter these expenses and problems. However, this kind of situation would be only temporary. In the long run, these disadvantages should be offset by savings and other advantages of the relocation.

The severity of disadvantages stemming from relocation to the new building would depend largely on the current location of any agency. Nevertheless, since each prospective tenant for the new building can relocate only a specified maximum number of employees—probably fewer than about 2,300—the difference among agencies regarding relocation costs and problems should be narrow.

b. Intra-agency Contacts

The TD had planned to use the Two T Street Building to consolidate its offices from seven scattered locations. However, because the TD is such a large agency, all of its components and employees could not be housed, of course, in the new building. Some cross commutation between this building and the other TD facilities would have been necessary. Nonetheless, GSA concluded, on the basis of traffic surveys and other analyses, that the time required to travel between the Two T Street Building and the other TD facilities would have within acceptable limits.[27]

Unless an agency is a small one, with fewer than about 2,300 employes, its relocation to the Two T Street Building also would result in cross commutation problems faced by the TD. However, many Federal agencies in Washington, D.C., are neither so large as the TD nor have such scattered locations. Hence, relocating some components of these agencies to the new building should produce fewer problems with cross commutation than the TD was expected to encounter.

Furthermore, so long as an agency housed in the Two T Street Building has its other facilities within about four direct miles of this building, the travel time between this building and the agency's other facilities probably would be within acceptable limits, as was the case with the TD.

The TD, it should also be emphasized, had proposed an alignment of its components so that problems with cross commutation would be minimized after certain of its offices were relocated to the Two T Street Building.[28]

c. Inter-agency Contacts

Since the Two T Street Building is accessible by public transportation and private vehicles, contact is possible, of course, between the agency housed in this building and agencies located in other facilities. For example, the Transpoint Building is within two blocks of the Two T Street Building; and officials of the Department of Transportation, the agency occupying the Transpoint Building, have not advised GSA that the location of their offices has reduced the effectiveness of their programs or impaired their relationships and contacts with other agencies or groups.[29]

The Two T Street Building, it should be stressed, is only about one and one-half direct miles from the U.S. Capitol, approximately three miles from the

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[26] *Ibid.*, page 31.
[27] *Ibid.*, page 32.
[28] *Ibid.*
[29] *Ibid.*

White House, and five miles from National Airport. Considering these distances, as well as the fact that other Federal agencies are situated in such outlying areas as Germantown, Maryland, and Reston, Virginia, GSA believes that the Two T Street Building has sufficient access to other Federal agencies.[30]

Some employees, of course, might experience difficulty in reaching the Two T Street Building, as would be true for many other locations in the central Federal employment area of the NCR. GSA, however, has concluded that this personal inconvenience should not significantly affect the total operation of agencies that share the three previously mentioned characteristics.

d. Public Access to the Building

The general accessibility of the Two T Street Building by mass transportation and private vehicles was discussed in detail above. Since the conclusions of those analyses are valid regarding access by visitors, they need not be repeated.

IV. Summary

This report has shown that components of the TD and SEC that had been scheduled to occupy the Two T Street Building shared three characteristics. These components were largely involved in office functions, had fewer than 2,300 employees, and had scattered locations that, except for a small one in Ballston, Virginia, were in downtown Washington, D.C., at least within four miles of the Two T Street Building.

These components had no other important characteristics that either were discussed in GSA's assessments or could be discerned. Furthermore, no analysis in these assessments indicated that these three previously mentioned characteristics, individually or collectively, were expected to result in any significant adverse environmental impacts that could not be mitigated. Hence, it is reasonable to conclude that if any Federal agency shares these aforementioned characteristics and has no other ones of significance, relocating this agency to the Two T Street Building should result in environmental effects identical to, or substantially the same as, those determined in GSA's assessments.

More specifically, the analyses in this report indicated that of all the possible effects examined, public transportation probably would be of the greatest concern to any agency being considered as a possible tenant to the Two T Street Building. At the same time, however, this effect, compared to all other ones, is the most difficult to ascertain.

At best, therefore, GSA can only generalize that because the relationship between residence and work location is very limited, with scattered distribution patterns, the effects that a relocation to the Two T Street Building would have on employees using mass transportation would be about the same regardless of the agency selected to occupy this building.

Furthermore, employees who presently use Metro to commute directly to work would be most affected by relocation to the new building. These employees, in most instances, would be required to make transfers. However, a few other employees who now make transfers to reach their location might benefit from the move to Two T Street Building.

Among the present conditions that would alleviate a problem with public transportation to the new building is the fact that bus transfers within Washington, D.C., are free. In addition, the new building should have a number of parking spaces that is more than adequate. This factor would aid employees who want to drive to work instead of continuing to use buses. Moreover, Metro would be asked, if sufficient demand is generated, to improve its service to the area in which the new building is located.

Above all, however, it should be emphasized again that GSA, in cooperation with other Federal agencies, has considerable leeway in developing housing plans for the Two T Street Building. More specifically, GSA can adjust the number of occupants, combine components of different agencies, and stagger their relocations—at the same time that environmental conditions and effects are being examined or reevaluated. As a result of these measures, GSA can further minimize most, if not all, of the environmental effects described in this report and earlier assessments.

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[30] *Ibid.*, page 33.

Mr. FINNEGAN. Now, it is my understanding that this assessment together with a memorandum dated October 15, 1976, memorandum to the record signed by Mr. Steele and approval by Mr. Galuardi, were sent to Ann DuRoss, U.S. Attorney's Office, Assistant U.S. Attorney in the District Court, in connection with these lawsuits entitled *Southwest Neighborhood Assembly, et al.* v. *Jack Eckerd, et al.* Is my understanding correct?

Mr. KORNMEIER. That is correct, yes.

Mr. FINNEGAN. And you are Mr. Kornmeier; is that correct?

Mr. KORNMEIER. Yes.

Mr. FINNEGAN. Now, that memorandum to the record, as I understand it, has three paragraphs discussing the three previous environmental assessments and also the other agencies, and then says:

> Considering these factors, the Regional Commissioner, Public Buildings Service, has decided, in accordance with the previously cited authority, that relocating any of these offices to the new building would not be a major Federal action significantly affecting the quality of the human environment and no further environmental review of the human occupancy of this building is required.

Is that a correct statement by you, Mr. Steele, and approved by Mr. Galuardi?

Mr. STEELE. That is correct. Let me see, I don't know if I signed it personally.

Mr. FINNEGAN. It says James S. Steele, Jr.

Mr. STEELE. No, this was signed by Mr. Kane, who was acting with my authority to do that.

Mr. FINNEGAN. I am sorry.

Now, Mr. Gural, can you tell me when the assessment was prepared?

Mr. GURAL. I am sorry?

Mr. FINNEGAN. When was this assessment prepared?

Mr. GURAL. This latest assessment?

Mr. FINNEGAN. Yes.

Mr. GURAL. Just prior to—it was prepared before the November 19 date that you have mentioned.

Mr. FINNEGAN. Well, I have a memorandum for the file; I mean, a memorandum from the Director of Planning Staff to the Regional Commissioner, titled Environmental Analysis of Two T Street, and it is signed by I. Jack Gural, which states Attached is a copy, and this is dated November 19, 1976. It states:

> Attached is a copy of Region 3's environmental analysis concerning the future occupancy of the Two T Street Building. Basically, this analysis maintains that so long as prospective Federal tenants for this building have certain characteristics, their relocation to this building should result in environmental effects identical to, or substantially the same as, those determined in GSA's assessments of June 1, 1975, and July 28, 1976.
>
> Region 3's legal staff requested that this analysis be prepared as an addendum to the Memorandum to the Record, signed by Mr. Galuardi on October 15, 1976. A draft of this addendum was reviewed and approved by Mr. Kornmeier, of the legal staff, and by members of the Space Management Division, Region 3. This document was filed on November 19, 1976, with the U.S. District Court, as part of GSA's efforts to secure an occupant for the Two T Street Building.

Is it normal to prepare it after the fact?

Mr. GURAL. No.

Mr. FINNEGAN. Has the court been informed that this was prepared after the fact?

Mr. GURAL. No.

Mr. KORNMEIER. If I can speak to that, Mr. Chairman.

Mr. DINGELL. Say it again.

Mr. KORNMEIER. If I could speak to that issue, this latest is not an environmental assessment. It is just a statement which ways that we don't think that a third environmental assessment need be prepared, since the criteria upon which the other ones were done are the same here. In other words, the same type of agency, the same type of requirements are the type of requirements that were considered in the first two environmental assessments and a decision was made. So, therefore, looking at these criteria, and through a number of discussions they decided that a third environmental assessment was not necessary.

Now, that was a two-page memorandum. They gave that to me and I was getting ready—I decided to submit that to the U.S. attorney to present to Judge Jones at the court. But I said also that the judge would probably like to see what the reasons were for our concluding that a third environmental assessment was not necessary.

So I requested they prepare the reasons, and this was not part of the standard procedures, nothing required in the regulations on this. It was just at my request, because we were presently in litigation and I wanted to have these reasons to present in evidence.

Mr. FINNEGAN. Well, you are then saying that the covering memorandum is not a negative declaration?

Mr. KORNMEIER. It is a negative declaration, but it is not an environmental assessment.

Mr. FINNEGAN. Isn't it my understanding you don't make a negative declaration until you make an environmental assessment?

Mr. KORNMEIER. Well, if it is an analysis based on two prior environmental assessments.

Mr. FINNEGAN. I am raising a question.

Mr. KORNMEIER. And those two prior environmental assessments on SEC and Treasury.

Mr. FINNEGAN. Well, Mr. Kornmeier, I am asking the question in light of regulations of CEQ and of GSA. Isn't it a fact those regulations require that before you make a negative declaration, you first make an environmental assessment?

Mr. KORNMEIER. That is correct, and environmental assessments were done.

Mr. FINNEGAN. But this document, which is about 20 pages long, that you have attached here is not an environmental assessment?

Mr. KORNMEIER. No, it is not an environmental assessment. Those are the reasons why environmental assessments are still relevant.

Mr. FINNEGAN. Mr. Gural, do you agree that this is not an environmental assessment?

Mr. GURAL. I read this as giving some facts as to why we made our environmental assessment.

Mr. FINNEGAN. Well, the document says that this was prepared by Mr. Wayne Cook, who "had to prepare the environmental analysis in only 3 days; and he did so. To Wayne's credit, he worked until after 2 a.m. one morning this week." Mr. Cook is here. Did he understand this to be an environmental assessment?

Mr. COOK. Well, I am not sure of the legal standing of this document. It is termed, as the first paragraph reads, environmental analysis, and that is basically all it is.

Mr. FINNEGAN. Did you do anything in preparing this different than you would an environmental assessment?

Mr. COOK. Well, the circumstances were different. Here I was dealing with a building that had already been constructed. And basically, if I can use an analogy, it is like moving into a new home, you can study it and eventually you get down to details about where you can hang the pictures, and that basically is what I had to deal with.

Mr. FINNEGAN. Well, you had the same thing in the case of the environmental assessment prepared for the Department of the Treasury, didn't you?

Mr. COOK. That I did not prepare.

Mr. FINNEGAN. All right, can you?

Mr. GURAL. We did that in our office and that did require the details that Wayne is talking about.

Mr. FINNEGAN. And that has more details than this does?

Mr. GURAL. Yes, sir.

Mr. FINNEGAN. And you consider that an assessment and this not?

Mr. GURAL. Yes, sir.

Mr. FINNEGAN. Has the court been informed that this is not an assessment?

Mr. KORNMEIER. Beg pardon?

Mr. FINNEGAN. Has the court been advised that this is not an environmental assessment and that this does not comply with the normal CEQ regulations for negative declarations?

Mr. KORNMEIER. Well, wait a minute.

Mr. FINNEGAN. I am just asking the question.

Mr. KORNMEIER. We have done two—well, actually we did an environmental assessment for the SEC, and we did, an addendum for Treasury, bringing it up to date.

Mr. FINNEGAN. Mr. Kornmeier, that is not my question. You submitted this to the U.S. attorney, who, in turn, apparently gave it to the court.

Mr. KORNMEIER. Well, I submitted it to the assistant U.S. attorney, and as of yet I don't think it has been submitted to the court.

Mr. FINNEGAN. Well, Mr. Gural says it was.

Mr. KORNMEIER. Well, I perhaps—no.

Mr. GURAL. Well, I perhaps was reading into——

Mr. KORNMEIER. I meant, Mr. Gural, I requested it from him so I could submit it to the U.S. attorney, who, in turn, was going to submite it to the court, but we have not yet had an opportunity to do so.

Mr. FINNEGAN. Will you verify for the committee that it was never submitted to the court?

Mr. KORNMEIER. I will.

Mr. FINNEGAN. And has the U.S. attorney, Assistant U.S. Attorney's Office been informed that this is not a negative declaration based on——

Mr. KORNMEIER. No, it is our interpretation that it is a legal negative declaration based on a valid environmental assessment.

Mr. FINNEGAN. Now, are you calling this an assessment now?

Mr. KORNMEIER. The environmental assessments were done. All we are saying is the reason for this negative declaration is the result of previous environmental assessments.

Mr. FINNEGAN. Would you contact the Council on Environmental Quality and ask them to take a look at these documents and get their

advice whether they consider it fits within the guidelines and provide to the subcommittee in the next few days a response?

Mr. KORNMEIER. We could.

[Copy of correspondence on this subject follows:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 20, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: During the December 17, 1976, hearing before your Subcommittee you requested that we report to you on the environmental document sent to Ms. Ann DuRoss from General Services Administration on November 19, 1976. This document is neither an environmental assessment nor a negative declaration; rather it is an environmental review of the Two T Street property which concludes that given the designated criteria, further environmental review of the occupany of the building is not required.

Sincerely,

JOHN KORNMEIER,
Attorney-Advisor

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., January 11, 1977.

Hon. JACK M. ECKERD,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: The GSA regulations issued pursuant to the National Environmental Policy Act of 1969 prescribe procedures to be followed in connection with various GSA activities (40 F.R. 27733). They provide for the preparation of environmental impact statements whenever there is a major GSA action significantly affecting the quality of the human environment. They also provide for the preparation of environmental assessment and negative declarations. There is no reference in those regulations to any other environmental review document by the GSA in connection with its activities.

On November 19, 1976, Mr. John Kornmeier of the General Counsel's office transmitted to the United States Attorney's office what he described as "the latest environmental review" of the Buzzard Point building. This was made in connection with the NEPA civil suit styled *Southwest Neighborhood Assembly, et al* vs. *Jack Eckerd, et al.* Civil Action No. 75-1073. The so-called review includes an October 15, 1976 "Memorandum to the Record" and a 20-page report.

The memorandum, which is in the form of a negative declaration, concludes that relocating Federal agencies to Buzzard Point "would not be a major Federal action significantly affecting the quality of the human environment; and no further environmental review of the occupancy of the building is required". The attached report, according to a GSA memorandum of November 19, 1976, was prepared at the request of your legal staff "as an addendum" to the October 15th memorandum. The November 19th memorandum states that this document was filed on that day "with the U.S. District Court, as part of GSA's efforts to secure an occupant" for Buzzard Point.

At our December hearing, Mr. Kornmeier testified that the memorandum of October 15, 1976 "is a negative declaration, but it is not an environmental assessment". He further stated that it was an "analysis based on two prior assessments". Since the GSA regulations do not recognize such a document in making a negative declaration, we asked that the GSA provide these documents to the Council on Environmental Quality for review by that agency and that CEQ advise our Subcommittee promptly whether or not the documents in question comply with the applicable GSA/CEQ regulations and guidelines under NEPA.

Apparently this has not been done. Instead, Mr. Kornmeier wrote us on December 20, 1976 as follows:

"This document is neither an environmental assessment nor a negative declaration; rather it is an environmental review of the Two T Street property which concludes that given the designated criteria, further environmental review of the occupancy of the building is not required."

These contradictory statements are not helpful to having a clear record or to the understanding of the Subcommittee. The document cannot be one thing at our hearing and something else later on. Moreover, this letter is not responsive to our request. Nor does it indicate whether or not the U.S. Attorney and the Court understands that these documents are apparently not NEPA-type documents.

We request that the GSA promptly make these documents available to the CEQ for review, together with Mr. Kornmeier's letter and this letter. We also ask that the CEQ respond to us before the end of the month.

We also ask that you advise us if the Court was, in fact, furnished these various documents by the U.S. Attorney and what the Court was told about them at that time. Also, was the U.S. Attorney and the Court advised of Mr. Kornmeier's latest statement concerning these documents?

Your prompt reply will be appreciated.

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 3, 1977.

Hon. JACK M. ECKERD,
Administrator, General Services Administration,
General Services Building,
Washington, D.C.

DEAR MR. ECKERD: This supplements our January 11, 1977 letter to you concerning the GSA's compliance with NEPA in the case of the relocation of the FEA to Buzzard Point.

You recall that we requested a response from the Council on Environmental Quality relative to this matter by January 31, 1977. We have not yet received it. Please advise us when you transmitted our request and the related material to the CEQ.

We also asked you to advise us if the Court was furnished the documents referred to in our letter. We have not received a reply to that request. We would appreciate a prompt reply.

Enclosed for your information is a copy of a February 1, 1977 memorandum of the National Capital Planning Commission. It is critical of the GSA's environmental assessments of January 1, 1975 and July 28, 1976 concerning Buzzard Point. We request that you provide a copy of this memorandum to the CEQ in connection with our earlier request.

Also enclosed is a copy of a letter we have sent to the law firm of Arnold & Porter.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., February 3, 1977.

Hon. JOHN M. QUINN,
Arnold & Porter,
Attorneys at Law,
Washington, D.C.

DEAR MR. QUINN: Your January 27, 1977 letter to our Subcommittee indicates that you represent certain FEA employees in NEPA litigation and that you asked the GSA for a copy of two memoranda dated October 15 and November

19, 1976 concerning an order by the GSA to relocate a part of FEA's offices to Buzzard Point. The memoranda were discussed at our December 17, 1976 Subcommittee hearing on this matter. (See Transcript pp. I-272 to I-280.) They are a part of that hearing record. Your letter states that you have been "unable to obtain" them from the GSA and asks that we provide a copy thereof to you.

We fail to understand why the GSA has not furnished them to you. They are public documents, particularly since they have been furnished to other Federal agencies and this Subcommittee.

Under the House rules, such memoranda are the property of the House and are not available by matter of right. However, since these memoranda were made public during the course of the hearing, we are enclosing a copy of them for your use.

We are sending a copy of this letter to the GSA informing that agency of this.

With best regards,

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. FINNEGAN. Mr. Chairman, at this time it is getting late and I don't think I have any further questions.

Mr. DINGELL. Gentlemen, the committee thanks you.

We will now call forward Mr. Harrison. We had certain questions for him.

Mr. Harrison, we had certain items to discuss with him with regard to certain comments he made to certain members of the staff, and we thank you all. You have been here overly long and we regret if we inconvenienced you. But, as counsel does indicate, we may have some additional comments or questions to make here with regard to this matter.

Mr. DINGELL. Mr. Harrison, would you come forward, please.

In view of the fact that we have been swearing all witnesses, I guess we might as well proceed to swear you.

Raise your right hand, please.

Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

Mr. HARRISON. I do.

Mr. DINGELL. Very well, take a seat and give your full name to our reporter, please.

TESTIMONY OF JOSEPH W. HARRISON, DIRECTOR OF CONGRESSIONAL AFFAIRS, GENERAL SERVICES ADMINISTRATION

Mr. HARRISON. My name is Joseph W. Harrison. I am Director of Congressional Affairs for the General Services Administration.

Mr. DINGELL. Mr. Harrison, how long have you held that office?

Mr. HARRISON. About 4 months, I believe, Mr. Chairman.

Mr. DINGELL. About 4 months. What were your previous occupations?

Mr. HARRISON. I had held similar positions in different agencies.

Mr. DINGELL. What other agency?

Mr. HARRISON. Department of Agriculture.

Mr. DINGELL. Department of Agriculture.

Mr. HARRISON. Food and Nutrition Service.

Mr. DINGELL. How long had you held that responsibility?

Mr. HARRISON. About 2 years there.

Mr. DINGELL. And then previous?

Mr. HARRISON. I was at GSA before that.

Mr. DINGELL. I see.

Now, you had certain discussions earlier today with a member of the committee staff, seated up here; am I correct?

Mr. HARRISON. With both of them, yes, sir.

Mr. DINGELL. Particularly with regard to Mr. Phillips; is that right?

Mr. HARRISON. If that is Mr. Phillips on your far right, yes.

Mr. DINGELL. Mr. Phillips is on my far right, and your far left. Mr. Phillips came out and requested certain information from you; am I correct?

Mr. HARRISON. I believe he did.

Mr. DINGELL. With regard to the whereabouts of Mr. Eckerd; is that right?

Mr. HARRISON. I believe he did ask me where Mr. Eckerd was.

Mr. DINGELL. Would you repeat your response to him, please?

Mr. HARRISON. I don't recall the specific words of my response, sir.

Mr. DINGELL. You told him it was none of this committee's business, did you not?

Mr. HARRISON. I don't believe I did.

Mr. DINGELL. What did you say then?

Mr. HARRISON. I said I don't think it was any of my business, and, to the best of my knowledge, I didn't think it was anybody else's business.

Mr. DINGELL. And who was anybody else, you think Mr. Phillips or Mr. Dingell, or——

Mr. HARRISON. To include the entire universe, I would have to say that——

Mr. DINGELL. So it very specifically included this committee?

Mr. HARRISON. I would say Mr. Eckerd is a Presidential appointee confirmed by the Senate of the United States, and, as such, I think the only person who has the right to know his specific whereabouts at any time would be the President of the United States.

Mr. DINGELL. Mr. Eckerd was invited to be at this committee today, and this committee asked you of his whereabouts. So, I will ask you flat out, were you advising this committee that it was none of our business as to the whereabouts of Mr. Eckerd?

Mr. HARRISON. I expressed a personal view. I didn't consider it my business.

Mr. DINGELL. What was the personal view you expressed?

Mr. HARRISON. That it was not my business.

Mr. DINGELL. You indicated earlier also you felt it was none of the universe's business, and I asked if you referred to this committee or not.

Mr. HARRISON. Mr. Chairman, I didn't say it was none of the universe's business. I would say in order to include the entire universe, I would have to say he was a Presidential appointee, responsible only to the President.

Mr. DINGELL. Did you advise that if we wanted any information or documents that we should subpena them?

Mr. HARRISON. I said that was one clear alternative that you have.

Mr. DINGELL. Did you tell him that that was our alternative, was to subpena?

Mr. HARRISON. At that time Mr. Phillips stalked away and I was unable to complete the conversation.

Mr. DINGELL. What did you tell Mr. Phillips?

Mr. HARRISON. What did I tell Mr. Phillips?

Mr. DINGELL. Yes, what did you tell Mr. Phillips with regard to use of subpena?

Mr. HARRISON. I believe I said, "You can subpena Mr. Eckerd."

Mr. DINGELL. You said we could subpena him; is that what you said?

Mr. HARRISON. I said you can.

Mr. DINGELL. Did you say you should?

Mr. HARRISON. I don't believe I said you should. I believe I said, "That is your decision."

Mr. DINGELL. Are you of the view that Mr. Eckerd is not in any fashion responsible to the Congress?

Mr. HARRISON. I am not of such a view.

Mr. DINGELL. Did you advise Mr. Phillips that he should read the Constitution, and that Mr. Eckerd and you would testify if and when and where you wanted to?

Mr. HARRISON. I don't believe it went quite that far.

Mr. DINGELL. Well, how far did it go, then; suppose you tell me.

Mr. HARRISON. As far as I recall, I do not recall my specific words, but I think I talked about separation of powers of the Constitution.

Mr. DINGELL. You did?

Mr. HARRISON. We are co-equal branches of the Government. Mr. Eckerd was simply invited to testify. He was under no compulsion to do so. He did agree to testify last Wednesday. However, the committee chose to change the date of that hearing, and I have a couple of letters which Mr. Finnegan——

Mr. DINGELL. We will discuss those letters in what the Chairman believes to be the proper course. Now, are your responses to Mr. Phillips in comport with agency policy and your instructions?

Mr. HARRISON. They were——

Mr. DINGELL. Is this the way you are advised to respond to the questions of congressional committees, and chairmen of congressional committees?

Mr. HARRISON. Well, this was not in response to a question by the chairman.

Mr. DINGELL. It was in response to a request from the chairman, directed to you, by a member of this committee staff, in express response to the instructions and the directions of the committee chairman.

Now, having established that, is this the way that you respond to the requests of congressional committees and their chairmen?

Mr. HARRISON. That was not established at the time of the conversation.

Mr. DINGELL. And their staff members who are soliciting information from you in response to the express instruction of the chairman of the committee?

Mr. HARRISON. No such expression was made to me at the time of the discussion, which became quite heated.

Mr. DINGELL. Did you assume he was just a volunteer, some fellow that walked in off the street? You met Mr. Phillips before, had you not?

Mr. HARRISON. I had not.

Mr. DINGELL. You had seen him sent down to speak to you by the chairman, did you not?

Mr. HARRISON. I had not.

Mr. DINGELL. You did not?

Mr. HARRISON. This was an informal discussion in the hallway, shortly after I arrived here.

Mr. DINGELL. Mr. Forsythe was with you, was he not?

Mr. HARRISON. I believe for part of the time, yes.

Mr. DINGELL. And Mr. Forsythe came out of here. Had Mr. Forsythe had any discussions with Mr. Phillips?

Mr. HARRISON. I do not know.

Mr. DINGELL. Well, is this the fashion in which you proceed when a person requests information on behalf of the committee, on behalf of the congressional committees, as your orderly response to persons who make such requests?

Mr. HARRISON. No; it is not, Mr. Chairman.

Mr. DINGELL. Is this the policy of your Agency to persons responding on behalf of congressional committees?

Mr. HARRISON. It is not, Mr. Chairman, but I would like to——

Mr. DINGELL. Well, is this policy of GSA with respect to requests by congressional committees——

Mr. HARRISON. Our response, Mr. Chairman, was made clear in two letters from Mr. Eckerd, which I was attempting to discuss at the time.

Mr. DINGELL. Well, I told you that I conduct these proceedings and we will get to a discussion of those letters when I am prepared to do so.

Meanwhile, we are discussing your discussion with this committee and its staff and its proceedings which we are now conducting. I am curious, was Mr. Phillips in any fashion unclear in requesting this information on behalf of the committee?

Mr. HARRISON. I don't believe he specified the committee, but I made that assumption.

Mr. DINGELL. You made the assumption. Well then, were you responding to Mr. Phillips' request for information in accordance with the policies and practices of the General Services Administration?

Mr. HARRISON. I think to a certain degree I was, but I amplified——

Mr. DINGELL. What are policies then with respect to response to congressional committees to which you now allude?

Mr. HARRISON. We attempt to be cooperative as possible, Mr. Chairman.

Mr. DINGELL. Would you describe your performance today as being cooperative as possible?

Mr. HARRISON. To a large degree I would say, yes, sir.

Mr. DINGELL. Does that mean 100 percent?

Mr. HARRISON. With the possible exception of the conversation with Mr. Phillips, yes. We had put together on relatively short notice a group of 16 or 18 people here. This was done through my office, we made response as rapidly and cooperatively as possible.

Mr. DINGELL. I am referring specifically to discussion with Mr. Phillips. Is that in full cooperation and full coordination of practices of GSA insofar as your relationship to Congress and congressional committees?

Mr. HARRISON. If you are asking for an apology for that, I will make one.

Mr. DINGELL. I am asking for an apology. You will save us a great deal of pain.

Mr. HARRISON. You have the apology.

Mr. DINGELL. You are apologizing to the committee, then?

Mr. HARRISON. I am apologizing specifically to Mr. Phillips and to the committee to the extent that the committee was involved in it.

Mr. DINGELL. Now, I would like to ask specifically, Mr. Eckerd, I understand, is in Florida?

Mr. HARRISON. I do not know that to be a fact, but I am told that.

Mr. DINGELL. Is he traveling on business or on vacation?

Mr. HARRISON. A presidential appointee confirmed by the Senate is on duty 365 days of the year, every minute of the time, for the duration of his appointment. He is not subject to annual leave or sick leave, or anything else.

Mr. DINGELL. He is not?

Mr. HARRISON. At no time. He is responsible only to the President in that regard. There is no such thing as annual leave for Presidential appointees, I am advised.

[The following correspondence was received for the record:]

[Subcommittee Note: The words "or official travel" were deleted by the GSA from the phrase "annual leave or official travel" in the above quote of Mr. Harrison. This change is substantive. However, the deletion has been allowed to stand in view of the following correspondence:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 15, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Unfortunately your schedule could not accommodate my request for a meeting with you prior to the hearing you have set for Friday, December 17, 1976. Equally unfortunate is the fact that my schedule precludes my attendance at that hearing.

In order to continue to be of assistance to your subcommittee whenever possible, I have designated Mr. John Galuardi, Regional Administrator, Region 3, to represent me at the hearing on the 17th. I am sure that Mr. Galuardi will be able to supply the subcommittee with such information as relates to the subcommittee's quest.

With best personal regards, I am,

Sincerely,

JACK ECKERD,
Administrator.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., December 16, 1976.

Hon. JACK M. ECKERD,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. ECKERD: I have your letter of December 15 informing me that you would not appear at our hearing scheduled for Friday, December 17. Your response is not acceptable. The hearing has been called for the purpose of exploring a policy decision by the GSA and, as spokesman for that Administration, your presence is necessary.

You have had notice of this hearing for a week. A last minute change of decision on your part can only be interpreted as exhibiting bad faith.

I trust that you will find it possible to change your schedule and to respond to our letter of December 3, prior to the December 17 hearing.

Sincerely,

JOHN D. DINGELL,
Chairman.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 16, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have received your letter of December 16, and find it most unfortunate. As I told you in my letter of December 15, I will not be able to attend the hearing on Friday, December 17. This date conflicts with a long-standing commitment to be away from Washington.

This in no way indicates an unwillingness on my part to discuss the matter under review. Had you not unilaterally rescheduled the hearing from Wednesday, December 15, to Friday, December 17, I would have been available and could have testified.

In addition, members of my staff have repeatedly attempted to set up a meeting between yourself and senior officials of the GSA, including myself, to discuss the matter of Buzzard Point. Each time, they have been informed that your schedule would not permit such a meeting. I still hope we can arrange that meeting at a mutually convenient time.

As indicated in my December 15 letter, I have designated Mr. John Galuardi, Region 3 Administrator of GSA, to be the agency's spokesman at the hearing. Mr. Galuardi is a senior official of this agency, knowledgeable in the matter under review, and an articulate spokesman on behalf of GSA. He and the other GSA officials who have been designated to accompany him, will, I am sure, be able to respond fully and accurately to the major points involved in the matter under review.

As you know, everyone at GSA has cooperated to the fullest extent possible in your on-going investigation. Mr. Finnigen of your staff has been given access to every file in this agency connected with this matter. Numerous officials at GSA have freely and frankly discussed this matter with Mr. Finnigen. In addition, we are cooperating fully with the General Accounting Office in their investigation requested by you, and Mr. Finnigen has been present at many of these meetings.

We at GSA are just as anxious as you are to resolve this matter. I hope that we can work together constructively to find the solution that will most benefit the Federal Government. To this end, we will continue to cooperate with you in your investigations.

Sincerely,

JACK ECKERD,
Administrator.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 22, 1976.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At your hearing on Buzzard Point on December 17, 1976, you asked representatives of GSA to provide detailed information regarding Administrator Jack Eckerd's travel on the date of the hearing.

We have contacted Mr. Eckerd by telephone at his home in Florida. He has instructed me to advise that the information contained in his letters to you dated December 15 and 16, 1976, is complete and accurate and that he was concerned to learn from reports of the hearing that you and your staff challenged the facts provided in his letters. He also advised that should you wish to contact him for direct information concerning his travel, you may reach him at [redacted]. He will be returning to his office in Washington from Christmas vacation on January 3, 1977.

Sincerely,

JOSEPH W. HARRISON,
Director, Office of Congressional Affairs.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., December 30, 1976.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

DEAR MR. STAATS: As the GAO knows, the Administrator of the GSA, Mr. Eckerd, refused to testify at our Subcommittee's December 17, 1976, hearing on the relocation of FEA to Buzzard Point. In a December 16 letter to me, he said that the hearing date "conflicts with a longstanding commitment to be away from Washington." At the hearing, some GSA officials indicated that Mr. Eckerd was on vacation in Florida. Later, a GSA official, in response to a question about the nature of Mr. Eckerd's travel and who is paying for it said:

Mr. HARRISON. A Presidential appointee confirmed by the Senate is on duty 365 days of the year, every minute of the time, duration of his employment. He is not subject to annual leave or sick leave, or anything else.

Mr. DINGELL. He is not?

Mr. HARRISON. At no time. He is responsible only to the President in that regard. There is no such thing as annual leave or official travel for Presdential appointees, I am advised.

Mr. DINGELL. Is he traveling at Government expense or his own expense?

Mr. HARRISON. I do not know.

I would appreciate your advising me whether or not the GAO agrees with the above reply by Mr. Harrison. I also request that the GAO audit Mr. Eckerd's travel to determine when precisely he traveled to Florida and where in Florida, the mode of travel, including whether or not it was commercial travel, whether the travel was for official business or pleasure, and whether or not the Government paid for all or any part of the travel.

I would appreciate the above response before January 20, 1977.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., January 6, 1977.

Hon. JOHN DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: Your letter of December 30 about Mr. Eckerd's travel to Florida has been received and referred to our Logistics and Communications Division as well as to our Office of General Counsel.

Sincerely,

R. F. KELLER,
Deputy Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., January 24, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: In your letter of December 30, 1976, you requested us to comment on statements made by Mr. Joseph Harrison, Director of Congressional Affairs, General Services Administration, to the Subcommittee at the hearing on December 17, 1976. The statements relate to leave and travel by Mr. Jack Eckerd, Administrator of General Services. You also requested that we audit Mr. Eckerd's travel to Florida, which he made at the time of the hearing.

Section 101 (b) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 751(b)), states that the Administrator of General Services "shall be appointed by the President by and with the advice and consent of the Senate, and perform his functions subject to the direction and control of the President." The Administrator of General Services, being a

Presidential appointee, is exempt from the provisions of the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 6301).

Generally speaking, a Presidential appointee whose rate of pay exceeds the highest rate payable under 5 U.S.C. 5332, such as the Administrator of General Services, does not take annual and sick leave within the ordinary meaning of the terms. He is considered to be on duty at all times, including periods of vacation, but at the same time has freedom to absent himself from duty as he sees fit.

With regard to official travel, we have found no statutory provision specifically covering an agency head such as Mr. Eckerd. Generally, these officials are entitled to travel allowances, when traveling on official business, on the same basis and subject to the same limitations as other officers and employees of the Government (5 U.S.C. 5701).

We understand that General Services has made corrections in the transcript of the hearing on December 17, 1976. The reference to "official travel" in the portion of the transcript quoted in your December 30 letter has been deleted. We agree with the substance of the corrected responses by Mr. Harrison relating to annual and sick leave.

We were informed by an assistant to the Administrator that Mr. Eckerd was on vacation from December 17, 1976, until January 2, 1977. He departed Washington, D.C. on National flight 445 at 11:00 a.m. on December 17, 1976, arriving in Tampa, Florida at 12:56 p.m. His final destination was Clearwater, Florida. He returned by privately owned automobile arriving January 2, 1977.

According to a General Services Administration reservation record, GSA Form 6134, air reservations for this trip were made August 3, 1976. At that time flight 445 was scheduled to leave Washington, D.C. at 1:30 p.m. The airline later changed the scheduled departure to 11:00 a.m. We were told that the Government did not pay for any part of the trip and the Administrator was on vacation and not on official business in Florida.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Mr. DINGELL. Is he traveling at Government expense or his own expense?

Mr. HARRISON. I do not know.

Mr. DINGELL. Would you please gather that information and inform the committee at your earliest convenience.

Mr. HARRISON. I would be happy to.

Mr. DINGELL. We would like to know the time that he left, the time that he expects to return, whether he is traveling on official business, or whether he is traveling for pleasure, whether he intends to attend to any particular public business while he is down there; if so, what, and we would appreciate your early and cooperative response, and it may be that Mr. Phillips or Mr. Finnegan will be in further communication with you regarding the information which we solicit. We would like that information, if you please, by Tuesday next, if you please.

Mr. HARRISON. I do not know if I can comply with that request.

Mr. DINGELL. Well, we trust you will make a good effort, and if you are incapable of doing so you will advise us of the reason for your inability to do so.

Can you inform us who is the Acting Administrator, please?

Mr. HARRISON. The Acting Administrator is General Wallace H. Robinson.

Mr. DINGELL. Would you ask Mr. Robinson if he will please reply?

Mr. HARRISON. I will do that. Yes, sir, I could.

Mr. DINGELL. Gentlemen, we thank you.

The subcommittee stands adjourned, subject to the call of the Chair.

[Whereupon, at 5:55 p.m., the hearing was adjourned.]

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