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SENATE

{ REPORT
104-232

PUBLIC BUILDINGS REFORM ACT OF 1995

FEBRUARY 9 (legislative day, FEBRUARY 7), 1996.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1005]

The Committee on Environment and Public Works, to which was referred the bill (S. 1005), to amend the Public Buildings Act of 1959, to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title, and recommends that the bill do pass.

GENERAL STATEMENT

OBJECTIVES OF THE LEGISLATION

The objective of the bill reported by the committee is to establish a process that will achieve greater discipline on the cost of new Federal buildings and courthouses, assuring that the priorities for public building construction projects are clearly identified.

Specifically, the bill requires a prioritization of all GSA Federal buildings projects—construction, acquisition, purchasing and leasing projects. This prioritization, based on sound criteria established in the bill, will ensure that adequate information is submitted to Congress for each requested project.

The bill also establishes a new procedure for the development of courthouse construction design standards. GSA, in consultation with the Administrative Office of the Courts (AOC), will establish suitable guidelines and standards to be used in future courthouse construction projects.

BACKGROUND

The GSA is the Federal Government's principal landlord, providing office and storage space for most Federal agencies (the Department of Defense, the Veterans' Administration and other Federal agencies may own and lease other space under their own authority). GSA controls approximately 40 percent of the Federal Government's real estate. In fiscal year 1995, GSA's real estate portfolio consisted of over 276 million square feet of space.

As part of the President's annual budget submission, GSA requests funding for courthouse and non-courthouse construction projects, as well as repair, alteration and leasing projects. These requests are in the form of a prospectus—a document containing descriptive details for individual projects, including cost estimates. Prospectuses are required for those projects that exceed the prospectus threshold set in the Public Buildings Act of 1959, as amended, adjusted annually for inflation. The threshold for fiscal year 1995 projects was \$1.67 million. Current law requires authorization of these prospectuses by both the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

In response to the space needs of the Judiciary, GSA has been undertaking a major courthouse construction program. As of September 1994, the Judiciary had identified over 200 of 731 existing court facilities as being "out of space" within the next 10 years. The cost estimated by GSA and the AOC to construct these 200 courthouses is over \$10 billion.

In recent years, GSA has requested a disproportionate share of funding for courthouse construction projects—as opposed to projects for general purpose office space or laboratory space. An examination of GSA funding requests for the four most recent fiscal years demonstrates this fact:

Fiscal year	Requests for courthouses	Percent of total amount requested
1993	\$132 million	22
1994	\$566 million	76
1995	\$419 million	87
1996	\$639 million	63

This trend, along with current budget constraints, has created a need for prioritization of all projects.

In response to widespread concerns about costs associated with its Federal buildings program, GSA, in September 1993, initiated a 6-month "Time Out and Review" (TO&R) of all new construction, modernization and lease projects. Following 6 months of review, GSA identified \$1.2 billion in savings from over 200 Federal building projects—including \$227 million in courthouse construction savings.

The TO&R savings were achieved by reducing the scope of some projects, applying value engineering principals to projects and re-evaluating and updating cost benchmarks for these projects. A table summarizing the savings achieved through the TO&R follows:

SUMMARY OF SAVINGS—\$1.2 BILLION

Savings by program	Percent	Savings
New construction	32	385,000,000
Modernization	10	122,000,000
Subtotal		507,000,000
Leases	58	693,000,000
Total		1,200,000,000

In addition to the TO&R process, GSA and the AOC, in late 1993, convened an Independent Courts Building Program Panel to gather perspectives from the private sector; including industry architects, engineers and other contractors who have participated in the courthouse construction program.

In January 1995, GSA established a Courthouse Management Group to consolidate the management and oversight responsibility of the courthouse construction program. This group develops courthouse projects and is tasked with keeping all courthouse projects and budgets “in line.”

PRIORITIES

Over time, both GSA and the AOC have developed planning processes to identify the Judiciary’s various needs across the country. However, neither have developed capital investment plans that project these needs in a long-term context which establishes priorities among competing projects.

When questioned by Senator Warner about the Federal courthouse construction program at a November 2, 1995 hearing before the Senate Committee on Environment and Public Works, GSA Administrator Roger Johnson testified that a continued lack of prioritization of courthouse construction projects remains a real problem. In his testimony, Mr. Johnson stated, “* * * we have been unable, however, so far, to get specific information from them [the AOC], except after the fact.” He continued by stating, “* * * who’s responsible for prioritization is, I think, a major issue.”

The General Accounting Office (GAO), in testimony before the Senate Committee on Governmental Affairs, acknowledged that instances have arisen where certain projects have been funded before other projects with greater relative need. The current funding process does not adequately identify or prioritize critical projects which have undergone all of the necessary review procedures.

DESIGN STANDARDS

In designing Federal courthouses, GSA relies heavily upon the standards and guidelines in the U.S. Courts Design Guide (Design Guide) which is prepared by the Judiciary. The Design Guide details the specific criteria to be used in the design of all new courthouses—including the amount of space for courtrooms and chambers, ceiling heights and the types of finishes and hardware to be used.

Since the first edition in 1959, the Design Guide has been revised numerous times. Included in these revisions has been an increase in the amount of space allowed for each jurist housed in a

new courthouse. The revisions have led to uncertainty over the degree of adherence to the design standards and guides.

In testimony before the Senate Committee on Governmental Affairs on November 8, 1995, GAO witnesses attributed the considerable costs of courthouses to the flexible design guidance, which allows considerable latitude for interpretation of what types of features and finishes are acceptable for a courthouse.

GAO examination of more recent editions of the Design Guide show that cost increases can occur because the Design Guide is often prescriptive for things like courtroom ceiling height and size, but flexible for things like the types of finishes to be used. As a result, decision-makers are able to choose a range of materials. Significantly, GAO also found that the Design Guide is interpreted to be a "minimum-standard," and frequent deviations from the Design Guide have resulted in increased costs during construction.

In addition, GSA's Inspector General issued a report on September 27, 1995, which stated, "[The] Courts Design Guide is a document which provides specifications, requirements, and standards for constructing and outfitting courthouses. It has evolved over the years and has produced larger, more grandly appointed courtrooms and chambers. As a result, costs related to implementing the design standards written by and interpreted by the Courts have escalated. The language and requirements in the Courts Design Guide help explain some of the perceived excesses in new courthouse projects."

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Provides that the Act may be cited as the "Public Buildings Reform Act of 1995."

SECTION 2. SITE SELECTION

Summary

Section 2 provides that in selecting a site for a Federal buildings project undertaken by the General Services Administration (GSA), the impact of the site selection on the cost and efficiency of the project shall be considered.

Discussion

The bill requires GSA to consider the impact that location, size and shape of a site on the estimated cost of a project. This includes both purchased and donated sites. Oddly shaped sites or the location of a site can dramatically increase the cost of a project while decreasing its space efficiency. In fact, GSA's *Report of The Independent Courts Building Program Panel*, issued in December 1993, stated, "* * * many of the current courthouse projects are being constructed on difficult sites. The size, shape, location and soil conditions can add significantly to the construction cost."

SECTION 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS
PROJECTS

Summary

Section 3 amends the Public Buildings Act, as amended, to require prioritization of GSA projects requiring congressional approval and to provide Congress with additional information on each GSA project.

This section:

Requires GSA to submit to Congress annually, as part of a new 3-year (triennial) planning cycle, its authorization and appropriations requests, in order of priority, for constructing, altering, purchasing, acquiring or leasing Government office space.

Requires GSA to submit annually to Congress an updated, 5-year capital asset management plan that prioritizes long-term construction, alteration, purchasing, acquisition, and leasing projects.

Prohibits the Administrator from obligating funds for any prospectus-level project unless the project is part of the triennial plan for the fiscal year and unless a prospectus for it is also submitted to and authorized by the appropriate congressional committees, as required under current law.

Requires GSA to include additional information in each project prospectus submitted to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure for approval. Each prospectus shall include, at a minimum:

- (a) a description of the project, including scope and tenant agency;
- (b) the location of the project and the estimated maximum cost; and
- (c) The cost benchmark for the project.¹
- (d) the current number of Federal judges and courtrooms as of the date of submission of the prospectus;
- (e) the projected number of Federal judges and courtrooms expected to be accommodated by the proposed project;²
- (f) the year in which the existing courthouse met its maximum capacity (i.e., the courthouse houses only courts and court-related agencies; all other agencies have been moved out);
- (g) the level of security risk at the current courthouse—the security risk is determined by the Administrative Office of the Courts; and
- (h) the termination dates of any leases for the courts in the area where a new courthouse is being proposed for construction.

¹A cost benchmark is the square footage cost for the project that is adjusted to reflect the geographic location, height and tenant agency to be housed—this benchmark is then used to compare with similar square footage costs for projects in the same area.

²The projected figures must be justified by including information on the authorized judicial positions and Federal judges expected to be in senior status.

This section also gives GSA emergency authority to submit a prospectus for a project not contained in the triennial plan if there is an overriding interest. Should such a prospectus be submitted under this emergency authority, it must still be approved by the appropriate committees.

The section allows the Administrator to enter into an emergency lease, of no more than 5 years, if there is a Presidentially declared disaster issued pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The section provides that should GSA make a reprogramming request to the appropriating committees of the Congress for a project, GSA must notify the appropriate authorizing committees of the reasons for the request and the reprogramming amount.

Finally, the section amends Section 11(b) of the Public Buildings Act, which provides that a Member of Congress may request a report from GSA on the need for a new Federal building or courthouse in his or her State or district. The bill requires that the 11(b) needs report include information on the overall priority status of the project recommended by the report. Further, the 11(b) needs report must state where the project is ranked in the triennial plan or the 5-year capital asset management plan.

Discussion

Reliable and consistent prioritization of projects, based on sound criteria, is imperative in order to ensure that limited Federal funds are expended for truly necessary projects.

3-year, or triennial plan.—GSA currently submits an annual budget request for courthouse and non-courthouse construction projects. Because of the lack of detailed, prioritized information on future requests for projects, Congress has had difficulty in determining the appropriate projects for authorization and appropriation in the context of a long-term capital investment strategy. The triennial plan established under the bill will require a prioritized list of projects requested for funding in the first year of the plan, and in addition, will require a prioritized list of projects expected to be requested in the 2 succeeding years of the plan.

The bill also requires that the Administrator may obligate funds only for projects included in the triennial plan that are accompanied by an approved prospectus—unless the Administrator determines that an emergency situation exists requiring congressional approval of a project not in the triennial plan. In this instance, a prospectus must still be submitted and approved by the appropriate authorizing committees prior to obligation of funds.

5-year strategic capital asset management plan.—As part of the triennial plan submitted to Congress, GSA is required to submit a long-term, 5-year capital asset management plan for assets under the control of the Administrator. This plan is a long-term strategic plan to identify future space needs of the Federal Government.

GAO has cited the lack of long-term planning and prioritization as one of the principal problems with the courthouse construction program. GAO reports that while both GSA and the judiciary have planning processes, they “* * * have yet to develop a capital investment plan that (1) puts individual projects in some long-term strategic context, (2) sets priorities among competing projects, and

(3) identifies short- and long-term project funding needs.” GAO has stated that the lack of long-term planning has created a situation where “* * * absent this information, Congress has little practical choice but to consider projects individually. And since there is no articulated rationale or justification in a long-term strategic context for GSA’s proposed projects, other projects can seem just as defensible.” This has created a climate where projects with little or no planning and evaluation are approved.

Information to be included in prospectuses.—All prospectuses submitted to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure for approval must contain a description of the project (currently required to be included in a prospectus), as well as the location and cost benchmark of the project. In addition, all courthouse project prospectuses must include information and justifications of the projected number of judges to be housed in the new courthouse; the year the current courthouse met its maximum capacity (maximum capacity is defined as having moved all non-court related functions from the facility); the level of security risk (as determined by the AOC); and the expiration dates of any leases housing court-related agencies.

This additional information will assist the authorizing and appropriating committees of Congress as they evaluate all requested courthouse and non-courthouse projects.

11(b) needs reports.—Under Section 11(b) of the Public Buildings Act, GSA will undertake a needs analysis of an area to determine the need for a new Federal facility. This information is transmitted to Congress in the form of a report commonly referred to as an “11(b) needs report.” According to the GAO and the GSA’s Inspector General, the 11(b) needs report process has resulted in the funding of numerous courthouses without appropriate cost estimates and without the overall prioritization or ranking for the project having been determined by GSA or AOC. Under the provisions of the bill, any 11(b) needs report requested by Congress must include information on the priority ranking of the project (if any) in the triennial or 5-year strategic capital asset management plan.

SECTION 4. FEDERAL GOVERNMENT ASSET MANAGEMENT

Summary

Section 4 establishes a central repository to house the asset management information of the Federal Government. Each agency is required to develop a plan to identify unneeded, obsolete and underutilized real property holdings and to report the information to GSA annually. GSA, in turn, is required to find cost-effective uses for these public buildings, including the sale of unneeded buildings.

Discussion

GSA currently undertakes a survey of assets within its control to identify unneeded, obsolete or underutilized space. The bill expands GSA’s survey to include all assets of the Federal Government. All Federal agencies are required, within one year of the

date of enactment and every second year thereafter, to assist GSA with this survey identifying space that is or will be unneeded, obsolete or underutilized over the next 5 years. GSA is to consolidate such information and report to Congress annually. GSA will therefore serve as the central repository for information on the Federal Government's asset inventory and needs.

GSA will also analyze the information to determine cost-effective uses of any assets that are identified as obsolete, unneeded or underutilized. Without such information, a Federal agency may be searching for housing space in an area where another Federal agency is attempting to dispose of an asset. Without a central repository for such information, agencies have no ability to assess the asset situation in an area.

SECTION 5. ADDRESSING LONG-TERM GOVERNMENT HOUSING NEEDS

Summary

This section provides that within one year of the date of its enactment, each agency shall report to GSA on its housing needs over the next 5 years. Following this initial report, GSA is to update the report every 2 years. GSA will assist each agency in this long-term housing needs review. By the end of the third year, each Federal agency shall, to the maximum extent practicable, reduce by no less than 10 percent, its aggregate office or storage space (leased or owned).

Discussion

In response to ongoing reductions in the size of the Federal workforce, GSA is identifying cost-saving opportunities in the Government's real estate activities.

GSA estimates that hundreds of millions of dollars in potential cost-savings are possible in the public buildings area from space reductions due to Government downsizing and increased efficiencies in Federal buildings operations. However, in order to achieve such savings, long-term planning is essential.

Under this section, each agency will project its long-term housing needs—a projection that will incorporate ongoing and future downsizing of the Federal workforce. Such information will assist GSA in streamlining its real estate activities and overseeing the Federal Government's real estate needs.

SECTION 6. DESIGN GUIDES AND STANDARDS FOR COURT ACCOMMODATIONS

Summary

This section requires that no later than 60 days after enactment of this Act, GSA, in consultation with the AOC, shall issue a report on design standards and guidelines for courthouse construction projects. This report will be subject to a period of public notice and opportunity for comment. Within 180 days following the completion of the design standards and guidelines report, GSA, again in consultation with the AOC, shall issue new standards and guidelines for courthouse construction based upon the report.

Discussion

Since first being issued, the Courts Design Guide has been revised numerous times—creating confusion as to what design standards are applied at a particular time. Design standards and guidelines are essential to the provision of due process of law; and the safe, fair, and efficient administration of justice by the Federal court system.

This confusion has led to upgrades and embellishments of courthouse projects. The GSA Inspector General's September 1995 report stated, "GSA and the Administrative Office of the Courts have recognized the problem of excessive costs and judicial pressure for special features and finishes in the courthouse construction program." The report also states that GSA "* * * did not limit the construction and installation of facilities and finishes that may be considered extravagant and personal in nature. The project having the most embellishments experienced \$68 million in change orders for upgraded interior finishes and other improvements."

In testimony before Congress, GAO cited "* * * flexible design guidance that allows considerable latitude for interpretation of which types of features and finishes are acceptable for a courthouse" as a reason for some courthouse construction project cost escalations.

A requirement that GSA, in consultation with the AOC, be responsible for courthouse design standards will provide project managers with better direction and enable Congress to better oversee the courthouse construction program.

SECTION 7. DESIGN OF FEDERAL COURTHOUSES

Summary

Section 7 amends the Act entitled "An Act establishing a Commission on Fine Arts" to expand the duties of the Commission on Fine Arts. The Commission may advise GSA, within 60 days after submission of a conceptual design, on the design of Federal courthouses—with particular attention to whether or not the design comports with the new courthouse design guidelines and standards required under this bill.

Discussion

The primary purpose of the Commission on Fine Arts is to advise Federal agencies, Congress and the District of Columbia on proposed projects which would affect the appearance of the Capital. Established in 1910, it is composed of seven members appointed by the President.

Under the provisions of this section, the Administrator may submit conceptual designs of Federal courthouse construction projects to the Commission for review. The Commission is, within 60 days, to advise Congress on the design of the project and whether or not it comports with the design guides and standards developed under Section 6 of the bill. If the Administrator determines that a project should not be submitted to the Commission, the Administrator is encouraged to notify the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure as to the reasons for such action.

Nothing in this section is to imply a requirement for additional staff or funding as the Commission evaluates the design of Federal courthouse construction projects.

HEARINGS

On July 13, 1995, the Subcommittee on Transportation and Infrastructure held a hearing to consider S. 1005, a bill to improve the process of constructing, altering, and acquiring Federal buildings and courthouses, receiving testimony from General Administrator Roger Johnson; Robert C. Broomfield, judge, Federal District of Arizona, and chairman, Judicial Conference Committee on Security, Space, and Facilities; James M. Rosenbaum, judge, Federal District of Minnesota; and J. William Gadsby, General Accounting Office, Washington, DC.

On November 2, 1995, the Subcommittee on Transportation and Infrastructure held a hearing on S. 1005, receiving testimony from General Administrator Roger Johnson; Robert E. Cowen, judge, Third Federal Circuit, and chairman of the Judicial Conference Space and Facilities Subcommittee; L. Ralph Mecham, Director, Administrative Conference of the U.S. Courts; and Joel S. Gallay, Deputy Inspector General, General Services Administration.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any roll call votes taken during consideration of legislation be noted in the report on that legislation.

At the business meeting of the Committee on Environment and Public Works on December 19, 1995, S. 1005 was ordered to be reported favorably with an amendment in the nature of a substitute. The bill was reported by voice vote.

REGULATORY IMPACT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact of S. 1005:

The bill requires GSA's Administrator to review and consider the impact of the selection of a site on the cost and space efficiency of every construction, alteration, acquisition and lease project.

Current law requires GSA to submit to Congress, as part of its annual budget submission, a prospectus for each construction, acquisition, alteration, or lease project proposed for authorization and appropriation.

As part of the budget submission, the bill requires GSA to submit a 3-year plan which details projects, in priority order, proposed to be constructed, acquired, altered and leased within the 3-year period. The first year of the plan will consist of projects for which funding and authorization is requested. The 2 successive years will detail projects proposed and anticipated to be requested for funding and authorization in future years.

In addition to the detailed list of projects proposed for the 3-year period covered by the plan, GSA is also to include a 5-year capital asset management plan that includes information on the anti-

pated space and public buildings needs of the Federal Government during the next 5 years.

The bill also requires the GSA to include additional information in each prospectus document. In addition to the location and description of the project (information currently required to be included in a prospectus), construction prospectuses (in particular those for courthouse projects) are to include information on the number of judges anticipated to be housed in the courthouse along with a justification of these numbers. The bill also requires the prospectus to include a cost benchmark of the project developed by GSA, the level of security risk, and the expiration dates of any leases that are related to the project.

The bill requires the Administrator—within 30 days—to notify the authorizing committees of Congress should the cost of a project exceed the authorized amount by 10 percent or greater.

Current law allows a Member of Congress to request from GSA a report of the public buildings needs in an area. If the report states an affirmative need for a new public building, the bill requires GSA to submit a statement to Congress on where such project is listed in the triennial or 5-year capital asset management plan.

The bill revises GSA's current authority to conduct asset management surveys for the Federal Government. GSA is to establish a central repository of information—obtained from each Federal agency—on real property assets that are anticipated to become unneeded, obsolete, or underutilized during the following 5-year period.

The bill requires each Federal agency to report to GSA on its long-term housing needs. GSA is to assist each Federal agency in the evaluation of such needs. Following the initial submission of information, each agency is to update its anticipated long-term housing needs every 2 years. Information submitted to GSA by Federal agencies is to be consolidated by GSA and submitted to Congress.

To the maximum extent practicable within 3 years of the enactment of the bill, all Federal agencies (on an aggregate level), are to reduce office and storage space by 10 percent.

The Administrator is directed to consult with the Administrative Office of the Courts (AOC) in the development of design guides and standards for the construction of Federal courthouses. Following the development of such guides and standards, the Administrator is to provide for public notice and comment, after which such design guides and standards are to be used in the future design of all court accommodations.

The bill provides authority for the Commission on Fine Arts (Commission) to advise GSA and the Congress on the design of Federal courthouse projects. In particular, the Commission is to provide information on whether or not each Federal courthouse design submitted to the Commission is within the design guides and standards developed under the bill

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill,

prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 1, 1996.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1005, the Public Buildings Reform Act of 1995, as ordered reported by the Senate Committee on Environment and Public Works on December 19, 1995. S. 1005 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

Enacting S. 1005 could result in some savings to the Federal Government from strengthening the process for planning and approving the construction, alteration, and acquisition of Federal buildings controlled by the General Services Administration (GSA) and from requiring that agencies work to reduce the total amount of current office and storage space. Any savings from the improved or reduced use of Federal building space would allow agencies to make more efficient use of their appropriated funds, but would affect total spending only if appropriations were reduced correspondingly. Because reducing agency space needs would largely require that the Congress first reduce the number of Federal employees and because we do not expect that the bill would affect the total level of spending on public buildings projects, we are unable to attribute any specific level of potential savings to this bill.

S. 1005 would require that GSA:

Submit to the Congress within 15 days of the delivery of the President's annual budget proposal, a plan prioritizing its requests for public buildings projects for the upcoming fiscal year, as well as its expected requests for the following two fiscal years;

Submit in addition to the annual plan, a strategic plan that details an additional 2 years of expected capital project requests;

Develop a central source for asset management information, including identifying Federal buildings that are surplus or have historic, architectural, or cultural significance;

Work with Federal agencies to reduce their current office and storage space, to the maximum extent practicable, by at least 10 percent by the end of the third fiscal year following enactment; and

Work with the Administrative Office of the United States Courts to develop new guidelines and standards for constructing Federal courthouses.

By enhancing both capital planning and congressional oversight, the bill could result in efficiencies in the selection of public buildings projects. The bill includes several reforms recommended by the General Accounting Office, including presenting annual authorization requests in the form of a prioritized list, submitting long-range capital improvement plans, and reviewing the current standards

for designing and building Federal courthouses. While these provisions would increase the administrative responsibilities of GSA and other Federal agencies, it also would provide a clearer picture of the Government's long-term capital project needs and build on recent efforts by GSA to reform its Public Buildings Service. Any savings to the Government from better planning and oversight would allow GSA to make more efficient use of the Federal Buildings Fund, and possibly reduce the need for future appropriations or reduce the amount of rent it charges other Federal agencies.

By requiring that all Federal agencies work to reduce their current office and storage space by at least 10 percent, the bill could result in significant savings to the Federal Government. The Federal Government could realize savings beginning in fiscal year 1997, with the amount of potential savings growing to as much as \$300 million in reduced rental costs by fiscal year 2000, if all non-postal and nondefense agencies gradually reduced the current amount of leased space in the United States by 10 percent by the end of fiscal year 1999. Under this assumption, the Federal Government could reduce its rental expense for leased space by as much as \$700 million over the 1996–2000 period. However, any significant savings in rent would require a reduction first in the number of Federal employees. Consequently, we cannot determine the amount of savings that might occur from enacting this provision.

S. 1005 contains no intergovernmental or private sector mandates as defined by Public Law 104–4 and would not result in direct costs to any state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JUNE E. O'NEILL, *Director*.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes to existing law must be shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman:

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

CHAPTER 1—PUBLIC BUILDINGS, GROUNDS, PARKS, AND WHARVES IN DISTRICT OF COLUMBIA

* * * * *

§ 104. Commission of Fine Arts

A permanent Commission of Fine Arts is created to be composed of seven well-qualified judges of the fine arts, who shall be appointed by the President, and shall serve for a period of four years each, and until their successors are appointed and qualified. The President shall have authority to fill all vacancies.

It shall be the duty of the commission, not later than 60 days after submission of a conceptual design to the commission for a Federal courthouse at any place in the United States, to provide advice on the design, including an evaluation of the ability of the design to express the dignity, enterprise, vigor, and stability of the American Government appropriately and within the accepted standards of courthouse design. It shall be the duty of such commission to advise upon the location of statutes, fountains, and monuments in the public squares, streets, and parks in the District of Columbia, and upon the selection of models for statues, fountains, and monuments erected under the authority of the United States and upon the selection of artists for the execution of the same. It shall be the duty of the officers charged by law to determine such questions in each case to call for such advice. The foregoing provisions of this section shall not apply to the Capitol Building of the United States and the building of the Library of Congress. The commission shall also advise generally upon questions of art when required to do so by the President, or by any committee of either House of Congress. Said commission shall have a secretary and such other assistance as the commission may authorize, and the members of the commission shall each be paid actual expenses in going to and returning from Washington to attend the meetings of said Commission and while attending the same.

* * * * *

CHAPTER 12—CONSTRUCTION, ALTERATION, AND ACQUISITION OF PUBLIC BUILDINGS

§ 604. Sites

(a) ACQUISITION OF LANDS OR INTERESTS THEREIN.—The Administrator is authorized to acquire, by purchase, condemnation, donation, exchange, or otherwise, such lands or interests in lands as he deems necessary for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this chapter.

(b) PUBLIC BUILDINGS USED IN WHOLE OR IN PART FOR POST OFFICE PURPOSES; COOPERATION BETWEEN ADMINISTRATOR AND POSTAL SERVICE.—Whenever a public building is to be used in whole or in part for post office purposes, the Administrator shall act jointly with the United States Postal Service in selecting the town or city wherein such building is to be constructed, and in selecting the site in such town or city for such building.

(c) SOLICITATION OF PROPOSALS FOR SALE, DONATION, OR EXCHANGE OF REAL PROPERTY; SELECTION OF SITE MOST ADVANTAGEOUS TO UNITED STATES.—Whenever the Administrator is to acquire a site under this section, he may, if he deems it necessary, solicit by public advertisement, proposals for the sale, donation, or exchange of real property to the United States to be used as such site. In selecting a site under this section the Administrator (with the concurrence of the United States Postal Service if the public building to be constructed thereon is to be used in whole or in part for post office purposes) is authorized to select such site as in his estimation is the most advantageous to the United States, all factors considered, and to acquire such site without regard to title III

of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.).

(d) *CONSIDERATION OF COSTS.*—In selecting a site for a project to construct, alter, or acquire a public building, or to lease office or any other type of space, under this Act, the Administrator shall consider the impact of the selection of a particular site on the cost and space efficiency of the project.

* * * * *

§ 606. Approval of proposed projects by Congress

[(a) LIMITATION OF FUNDS; TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—]

(a) *IN GENERAL.*—

(1) *PUBLIC BUILDINGS PLAN.*—

(A) *IN GENERAL.*—Not later than 15 days after the President submits to Congress the budget of the United States Government under section 1105 of title 31, United States Code, the Administrator shall submit to Congress a public buildings plan (referred to in this subsection as the ‘triennial plan’) for the first 3 fiscal years that begin after the date of submission. The triennial plan shall specify such projects for which approval is required under paragraph (2)(B) relating to the construction, alternation, or acquisition of public buildings, or the lease of office or any other type of space, as the Administrator determines are necessary to carry out the duties of the Administrator under this Act or any other law.

(B) *CONTENTS.*—The triennial plan shall include—

(i) a 5-year strategic management plan for capital assets under the control of the Administrator that—

(I) provides for accommodating the office space and other public building needs of the Federal Government; and

(II) is based on procurement mechanisms that allow the Administrator to take advantage of fluctuations in market forces affecting building construction and availability;

(ii) a list—

(I) in order of priority, of each construction or acquisition (excluding lease) project described in subparagraph (A) for which an authorization of appropriations is—

(aa) requested for the first of the 3 fiscal years of the triennial plan referred to in subparagraph (A) (referred to in this paragraph as the “first year”);

(bb) expected to be requested for the second of the 3 fiscal years of the triennial plan referred to in subparagraph (A) (referred to in this paragraph as the “second year”); or

(cc) expected to be requested for the third of the 3 fiscal years of the triennial plan referred

- to in subparagraph (A) (referred to in the paragraph as the "third year"); and
- (II) that includes a description of each such project and the number of square feet of space planned for each such project;
- (iii) a list of each lease or lease renewal described in subparagraph (A) for which an authorization of appropriations is—
 - (I) requested for the first year; or
 - (II) expected to be requested for the second year or third year;
- (iv) a list, in order of priority, of each planned repair or alteration project described in subparagraph (A) for which an authorization of appropriations is—
 - (I) requested for the first year; or
 - (II) expected to be requested for the second year or third year;
- (v) an explanation of the basis for each order of priority specified under clauses (ii) and (iv);
- (vi) the estimated annual and total cost of each project requested in the triennial plan;
- (vii) a list of each public building planned to be wholly vacated, to be exchanged for other property, or to be disposed of during the period covered by the triennial plan; and
- (viii) requests for authorizations of appropriations necessary to carry out projects listed in the triennial plan for the first year.

(C) PRESENTATION OF INFORMATION IN PLAN.—

(i) *FIRST YEAR.*—In the case of a project for which the Administrator has requested an authorization of appropriations for the first year, information required to be included in the triennial plan under subparagraph (B) shall be presented in the form of a prospectus that meets the requirements of paragraph (2)(C).

(ii) *SECOND YEAR AND THIRD YEAR.*—

(I) *IN GENERAL.*—In the case of a project for which the Administrator expects to request an authorization of appropriations for the second year or third year, information required to be included in the triennial plan under subparagraph (B) shall be presented in the form of a project description.

(II) *GOOD FAITH ESTIMATES.*—

(aa) *IN GENERAL.*—Each reference to cost, price, or any other dollar amount contained in a project description referred to in subclause (I) shall be considered to be a good faith estimate by the Administrator.

(bb) *EFFECT.*—A good faith estimate referred to in item (aa) shall not bind the Administrator with respect to a request for appropriation of funds for a fiscal year other than a fiscal year for which an authorization of appro-

priations for the project is requested in the triennial plan.

(cc) *EXPLANATION OF DEVIATION FROM ESTIMATE.*—If the request for an authorization of appropriations contained in the prospectus for a project submitted under paragraph (2)(C) is different from a good faith estimate for the project referred to in item (aa), the prospectus shall include an explanation of the difference.

(D) *REINCLUSION OF PROJECTS IN PLANS.*—If a project included in a triennial plan is not approved in accordance with this subsection, or if funds are not made available to carry out a project, the Administrator may include the project in a subsequent triennial plan submitted under this subsection.

(2) *PREREQUISITES TO OBLIGATION OF FUNDS.*—

(A) *IN GENERAL.*—Notwithstanding any other provision of law, the Administrator may not obligate funds that are made available for any project for which approval is required under subparagraph (B) unless—

(i) the project was included in the triennial plan for the fiscal year; and

(ii) a prospectus for the project was submitted to Congress and approved in accordance with this paragraph.

(B) *APPROVAL REQUIREMENTS.*—

(i) *CONSTRUCTION, ALTERATION, AND ACQUISITION.*—In order to insure the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for such buildings, except as provided in section 603 of this title, no appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of \$1,500,000 if such construction, alteration, purchase, or acquisition has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. **[No]**

(ii) *LEASE.*—No appropriations shall be made to lease any space at an average annual rental in excess of \$1,500,000 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 House of Representatives, respectively. **[No]**

(iii) *ALTERATION.*—No appropriation shall be made to alter any building, or part thereof, which is under lease by the United States for use for a public purpose if the cost of such alteration would exceed \$750,000 unless such alteration has been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on **[Public Works and]** Transportation and Infrastructure of the House of Representatives.

(C) *PROSPECTUSES*.—For the purpose of obtaining approval of a proposed project described in the triennial plan, the Administrator shall submit to Congress a prospectus for the project that includes—

(i) a brief description of the public building to be constructed, altered, or acquired, or the space to be leased, under this Act;

(ii) the location of the building to be constructed, altered, or acquired, or the space to be leased, and an estimate of the maximum cost, based on the predominant local office space measurement system (as determined by the Administrator), to the United States of the construction, alteration, or acquisition of the building, or lease of the space;

(iii) in the case of a project for the construction of a courthouse or other public building consisting solely of general purpose office space, the cost benchmark for the project determined under subsection (d); and

(iv) in the case of a project relating to a courthouse—

(I) as of the date of submission of the prospectus, the number of—

(aa) Federal judges for whom the project is to be carried out; and

(bb) courtrooms available for the judges;

(II) the projected number of Federal judges and courtrooms to be accommodated by the project at the end of the 10-year period beginning on the date;

(III) a justification for the projection under subclause (II) (including a specification of the number of authorized positions, and the number of judges in senior status, to be accommodated);

(IV) the year in which the courthouse in use as of the date of submission of the prospectus reached maximum capacity by housing only courts and court-related agencies;

(V) the level of security risk at the courthouse in use of the date of submission of the prospectus, as determined by the Director of the Administrative Office of the United States Courts; and

(VI) the termination date of any lease, in effect as of the date of submission of the prospectus, of space to carry out a court-related activity that will be affected by the project.

(3) *EMERGENCY AUTHORITY*.—

(A) *OVERRIDING INTEREST*.—If the Administrator, in consultation with the Commissioner of the Public Buildings Service, determines that an overriding interest requires emergency authority to construct, alter, or acquire a public building, or lease office or storage space, and that the authority cannot be obtained in a timely manner through the triennial planning process required under paragraph (1), the Administrator may submit a written request for the authority to the Committee on Environment and Public Works

of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The Administrator may carry out the project for which authority was requested under the preceding sentence if the project is approved in the manner described in paragraph (2)(B).

(B) DECLARED EMERGENCIES.—

(i) LEASE AUTHORITY.—Notwithstanding any other provision of this section, the Administrator may enter into an emergency lease during any period of emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or any other law, or declared by any Federal agency pursuant to any applicable law, except that no such emergency lease shall be for a period of more than 5 years.

(ii) REPORTING.—As part of each triennial plan, the Administrator shall describe any emergency lease for which a prospectus is required under paragraph (2) that was entered into by the Administrator under clause (i) during the preceding fiscal year.

【For the purpose of securing consideration for such approval, the Administrator shall transmit to the Congress a prospectus of the proposed facility, including (but not limited to)—

【(1) a brief description of the building to be constructed, altered, purchased, acquired, or the space to be leased under this chapter;

【(2) the location of the building or space to be leased and an estimate of the maximum cost to the United States of the facility to be constructed, altered, purchased, acquired, or the space to be leased;

【(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially such as those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;

【(4) with respect to any project for the construction, alteration, purchase, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action;

【(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 611(c) of this title as suitable for the public building needs of the Federal Government; and

【(6) a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the building to be constructed, altered, purchased, acquired, or the space to be leased.】

【(b) The】

(b) INCREASES IN COSTS OF PROJECTS.—

(1) *INCREASE OF 10 PERCENT OR LESS.*—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction, or alteration costs, as the case may be, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this subsection exceed 10 per centum of such estimated maximum cost.

(2) *GREATER INCREASES.*—If the Administrator increases the estimated maximum cost of a project in an amount greater than the increase authorized by paragraph (1), the Administrator shall, not later than 30 days after the date of the increase, notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the amount of, and reasons for, the increase.

[(c) In the case]

(c) *RESCISSION OF APPROVAL.*—In the case of any project approved for construction, alteration, or acquisition by the Committees on Public Works of the Senate and of the House of Representatives, respectively, in accordance with subsection (a) of this section, for which an appropriation has not been made within one year after the date of such approval, either the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives, may rescind, by resolution, its approval of such project at any time thereafter before such an appropriation has been made.

[(d) Nothing in this section shall be construed to prevent the Administrator from entering into emergency leases during any period declared by the President to require such emergency leasing authority, except that no such emergency lease shall be for a period of more than 180 days without approval of a prospectus for such lease in accordance with subsection (a) of this section.]

(d) DEVELOPMENT OF COST BENCHMARKS.—

(1) *IN GENERAL.*—The Administrator shall develop standard cost benchmarks for projects for the construction of courthouses, and other public buildings consisting solely of general purpose office space, for which a prospectus is required under subsection (a)(2). The benchmarks shall consist of the appropriate cost per square foot for low-rise, mid-rise, and high-rise projects subject to the various factors determined under paragraph (2).

(2) *FACTORS.*—In developing the benchmarks, the Administrator shall consider such factors as geographic location (including the necessary extent of seismic structural supports), the tenant agency, and necessary parking facilities, and such other factors as the Administrator considers appropriate.

* * * * *

§ 610. Report to Congress; uncompleted projects; building project surveys

[(a) Upon]

(a) *REPORTS ON UNCOMPLETED PROJECTS.*—Upon the request of either House of Congress, or any committee thereof, and within a reasonable time, the Administrator shall submit a report showing the location, space, cost, and status, of each public building the construction, alteration, or acquisition of which is to be under authority of this chapter and which was uncompleted as of the date of the request, or as of such other date as the request may designate.

[(b) The Administrator]

(b) *BUILDING PROJECT SURVEYS AND REPORTS.*—

(1) *IN GENERAL.*—The Administrator and the United States Postal Service are authorized and directed to make such building project surveys as may be requested by resolution by either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, and within a reasonable time shall make a report thereon to the Congress. Such report shall contain all other information required to be included in a prospectus of the proposed public building project under section 606(a) of this title and shall specify whether the project is included in a 5-year strategic capital asset management plan required under section 7(a)(1)(B)(i) or a prioritized list required under section 7(a)(1)(B)

(2) *INCLUSION OF REQUESTED BUILDING PROJECTS IN TRIENNIAL PLAN.*—The Administrator may include a prospectus for the funding of a public building project for which a report is submitted under paragraph (1) in a triennial public buildings plan required under section 7(a)(1).

§ 611. Continuing investigation and survey of public buildings

[(a) The Administrator]

(a) *DUTIES OF ADMINISTRATOR.*—

(1) *IN GENERAL.*—The Administrator is authorized and directed to make a continuing investigation and survey of the public buildings needs of the Federal Government in order that he may carry out his duties under this chapter, and to submit to Congress prospectuses of proposed projects in accordance with section 606(a) of this title.

(2) *REPOSITORY FOR ASSET MANAGEMENT INFORMATION.*—The Administrator shall use the results of the continuing investigation and survey required under paragraph (1) to establish a central repository for the asset management information of the Federal Government.

[(b) In Carrying]

(b) *COOPERATION AMONG FEDERAL AGENCIES.*—

(1) *BY THE ADMINISTRATOR.*—In carrying out his duties under this chapter the Administrator shall cooperate with all Federal agencies in order to keep informed of their needs, shall advise each such agency of his program with respect to such agency, and may request the cooperation and assistance of each Federal agency in carrying out his duties under this chapter. [Each Federal]

(2) *BY THE AGENCIES.*—Each Federal agency shall cooperate with, advise, and assist the Administrator in carrying out his

duties under this chapter as determined necessary by the Administrator to carry out the purposes of this chapter.

(3) *IDENTIFICATION AND DISPOSITION OF UNNEEDED REAL PROPERTY.*—

(A) *IDENTIFICATION.*—*Each Federal agency shall—*

- (i) *identify real property that is or will become unneeded, obsolete, or underutilized during the 5-year period beginning on the date of the identification; and*
- (ii) *annually report the information on the real property described in clause (i) to the Administrator.*

(B) *DISPOSITION.*—*The Administrator shall analyze more cost-effective uses for the real property identified under subparagraph (A) and make recommendations to the Federal agency concerning the more cost-effective uses.*

[(c) Whenever]

(c) *IDENTIFICATION OF BUILDINGS OF HISTORIC, ARCHITECTURAL, AND CULTURAL SIGNIFICANCE.*—*Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i), identify any existing buildings within such geographical area that (1) are of historic, architectural, or cultural significance (as defined in section 612a of this title) and (2) would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.*

[(d) The Administrator]

(d) *REGARD TO COMPARATIVE URGENCY OF NEED.*—*The Administrator in carrying out his duties under this chapter shall provide for the construction and acquisition of public buildings equitably throughout the United States with due regard to the comparative urgency of the need for each particular building. In developing plans for such new buildings, the Administrator shall give due consideration to excellence of architecture and design.*