

**Calendar No. 249**

113TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
113-122

FEDERAL REAL PROPERTY ASSET  
MANAGEMENT REFORM ACT OF 2013

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 1398

TO REQUIRE THE FEDERAL GOVERNMENT TO EXPEDITE THE  
SALE OF UNDERUTILIZED FEDERAL REAL PROPERTY



NOVEMBER 19, 2013.—Ordered to be printed

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Mr. CARPER, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

### R E P O R T

[To accompany S. 1398]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1398) to require the Federal Government to expedite the sale of underutilized Federal real property, having considered the same, reports favorably thereon and recommends that the bill do pass.

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#### I. PURPOSE AND SUMMARY

The purpose of S. 1398 is to improve the efficiency and effectiveness of the federal government's management of real property. It requires agencies to maintain an up-to-date inventory of real property, establishes an interagency Federal Real Property Council to develop guidance on real property management and ensure its implementation, and authorizes a pilot program to expedite the disposal of surplus real property.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

### GENERAL BACKGROUND

The federal government owns and leases billions of dollars' worth of "real property," a term that encompasses both land and any structures on it. Effectively and efficiently managing the government's extensive real property holdings has posed serious and long-standing challenges for the federal government. Since 2003, the Government Accountability Office (GAO) has placed real property management on its "high risk list," GAO's inventory of programs at high risk for waste, fraud, or abuse, or that pose management challenges sufficient to threaten crucial government services.<sup>1</sup> Problems related to real property management include ineffective management of excess and underutilized property and an overreliance on costly leasing. Compounding these management problems is the fact that agencies that no longer need particular parcels of property face a lengthy and costly disposal process, often causing agencies to keep unneeded property. As a result, the federal government as a whole continues to retain more real property than it needs.

Since the first designation of real property management to GAO's high risk list, the problem has received high level attention from both the current and previous administrations. A 2004 Presidential Executive Order required agencies to designate a senior real property officer to inventory property managed by the agency (whether owned or leased) and develop a property management plan. The Executive Order also established the Federal Real Property Council (the Council), comprised of the Office of Management and Budget (OMB) Controller and senior real property officers from twenty-four landholding agencies, and charged them with promoting reforms.<sup>2</sup>

Although agencies have made progress in some areas of real property management following the issuance of the 2004 Executive Order GAO concluded in January 2008 that the core problems that led to the placement of real property management on the high risk list remained unaddressed. In fact, GAO reported that agencies' reliance on leasing property rather than owning property (which commonly is more cost effective) was increasing. For example, the General Services Administration (GSA), which acts as the government's leasing agent, increased its leased space from about 160 million square feet to about 172 million square feet from fiscal year 2003 through fiscal year 2006. During that same time, GSA's owned space decreased from about 180 million square feet to about 174 million square feet.<sup>3</sup> In 2008, GSA predicted that in that year it would, for the first time, lease more property than it owned.<sup>4</sup>

In June 2010, President Obama issued a memorandum directing agencies to identify and eliminate sufficient excess properties to produce a \$3 billion cost savings by the end of Fiscal Year (FY) 2012. The memorandum directed agencies to find the cost savings

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<sup>1</sup> U.S. Government Accountability Office, *High Risk Series: Federal Real Property* (Jan. 2003) (GAO-03-122).

<sup>2</sup> Exec. Order No. 13327, 69 Fed. Reg. 5897 (Feb. 4, 2004). The twenty-four agencies are those agencies covered by the Chief Financial Officers Act (P.L. 101-576), and encompasses the largest agencies and departments of the federal government.

<sup>3</sup> U.S. Government Accountability Office, *Federal Real Property: Strategies Needed to Address Agencies' Long-Standing Reliance on Costly Leasing*, (Jan. 2008) (GAO-08-197) p. 13.

<sup>4</sup> *Ibid.* at 9.

in increased proceeds from the sale of assets and reduced operating, maintenance, and energy expenses from disposals or other space consolidation efforts.<sup>5</sup> In May 2012, the Acting Director of OMB, Jeffrey Zients, issued a memorandum stating that “agencies shall not increase the size of their civilian real estate inventory” and “any acquisition of new federal building space . . . that increases an agency’s total square footage of civilian property must be offset through consolidation, co-location, or disposal of space from the inventory of that agency.”<sup>6</sup> Most recently, in March 2013, the OMB Controller, Daniel Werfel, issued guidance requiring agencies to develop and submit a Revised Real Property Cost Savings and Innovation Plan as well as an Annual Agency Evaluation describing the agency’s overall approach to managing its real property usage and spending.<sup>7</sup>

THE FEDERAL REAL PROPERTY COUNCIL AND CHALLENGES OF DATA  
ACCURACY AND CONSISTENCY

Despite efforts by both the Obama and Bush Administrations, real property management retained its spot on GAO’s 2013 high risk list, a designation with which the Committee agrees. Most significantly and fundamentally, federal agencies still do not have consistent, accurate, and useful data about their real property holdings, which makes sound planning and decision making about property use, acquisition, and disposition virtually impossible. Under the 2004 Executive Order, GSA was tasked with developing and managing “a single, comprehensive, and descriptive database of all real property under the custody and control of all executive branch agencies, except when otherwise required for reasons of national security.”<sup>8</sup> The Council and GSA then developed the Federal Real Property Profile (FRPP) database to collect key inventory information on the government’s real property holdings. The goals of the FRPP are to: (1) lead to an increased level of agency accountability for real property management; (2) allow for comparing and benchmarking across various types of real property assets; and (3) give decision-makers the accurate and reliable data needed to make asset management decisions, including disposing of unneeded properties.<sup>9</sup>

The Council has been collecting FRPP data on federal properties since 2005, but problems relating to the completeness and accuracy of the data submitted by agencies have rendered the FRPP relatively useless. A June 2012 GAO report noted that the Council has not followed sound data collection practices when collecting FRPP data. Specifically, GAO found the Council did not give agen-

<sup>5</sup> White House, *Presidential Memorandum—Disposing of Unneeded Federal Real Estate* (June 10, 2010). Can be found at <http://www.whitehouse.gov/the-press-office/presidential-memorandum-disposing-unneeded-federal-real-estate>.

<sup>6</sup> The Office of Management and Budget, M–12–12: Memorandum to the Heads of Executive Departments and Agencies, *Promoting Efficient Spending to Support Agency Operations* (May 12, 2012), p. 5. Can be found at <http://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/M-12-12.pdf>

<sup>7</sup> The Office of Management and Budget, Management Procedures Memorandum No. 2013–02, *Implementation of OMB Memorandum M–12–12 Section 3: Freeze the Footprint* (March 14, 2013). Can be found at <http://www.whitehouse.gov/sites/default/files/omb/financial/memos/implementation-of-freeze-the-footprint-guidance.pdf>

<sup>8</sup> Exec. Order No. 13327, 69 Fed. Reg. 5897 (Feb. 4, 2004).

<sup>9</sup> General Services Administration, Real Property Management Policy, Asset Management, Federal Real Property Profile, Frequently Asked Questions, accessed September 30, 2013, <http://www.gsa.gov/portal/content/104199>.

cies adequate guidance in surveying property, leading to problems with data consistency, performance measures, and data reporting.<sup>10</sup> GAO reported that agencies, for their part, have expressed concerns about the data collection process, including the amount of data collection required, the time they are given to implement new requirements, and their ability to collect required data accurately.<sup>11</sup> Unfortunately, while agency concerns have increased, the Council has stopped meeting regularly, limiting opportunities to address these concerns and provide guidance to agencies. GAO also raises questions about whether the Council should publish more of the data it collects from agencies in its FRPP summary reports<sup>12</sup> in order to help decision makers such as Congress, which generally does not have access to the FRPP, make informed decisions regarding property management.<sup>13</sup>

GAO found that flaws in data consistency and accuracy extend to agencies' reporting of the extent to which property in their inventory is being utilized fully, is underutilized, or should be declared excess (that is, no longer needed by the agency). For example, GAO visited a United States Department of Agriculture (USDA) site with two houses listed on the FRPP as utilized for 2009 and 2010 that, in reality, had been empty since 2009.<sup>14</sup> Additionally, one building owned by the Department of Veterans Affairs (VA) was reported to have a utilization rate of 39 percent in 2010 and a 45 percent utilization rate in 2011 even though local officials GAO spoke to said that the building has been fully occupied since 2008. At the same time, a different building on the same VA site was reported to be unutilized in 2010 and 59 percent utilized in 2011, but when GAO toured the building all but one of the rooms in the building were vacant and local officials reported to GAO that only 10 percent of the building was utilized.<sup>15</sup> These data anomalies occur both because guidance issued by the Council on how agencies should evaluate their real property is not always clear and because agencies sometimes do not follow the guidance. When key data elements are not reported uniformly across the government, the information provides little value when inserted into a single database. Without an accurate and consistent government-wide database of real property assets, it will remain difficult to address additional challenges in efficiently managing federal real property.

#### LEASING

Compounding the federal government's property management challenges is an over-reliance on costly leasing, even where ownership would be more cost-effective in the long term. GAO cited the federal government's heavy reliance on leasing as one reason that

<sup>10</sup>U.S. Government Accountability Office, *Federal Real Property: National Strategy and Better Data needed to Improve Management of Excess and Underutilized Property* (June 2012) (GAO-12-645) p. 23.

<sup>11</sup>*Id.* at 25.

<sup>12</sup>General Services Administration, Real Property Management Policy, Asset Management, Federal Real Property Profile, Federal Real Property Summary Report Library, accessed September 30, 2013, [www.gsa.gov/frppreports](http://www.gsa.gov/frppreports)

<sup>13</sup>U.S. Government Accountability Office, *Federal Real Property: National Strategy and Better Data needed to Improve Management of Excess and Underutilized Property* (June 2012) (GAO-12-645) pp. 27-28.

<sup>14</sup>*Id.* at 11.

<sup>15</sup>*Id.* at 10-11.

federal real property management remains a high-risk area.<sup>16</sup> According to GAO, the federal government now leases more property than it owns.<sup>17</sup> Additionally, the government often leases space from private landlords in the same real estate market where it also owns underutilized property. The effect of this is the federal government overpaying for property. In some cases, federal agencies in the same market could consolidate their offices into other government-owned properties. However, as GAO notes, agencies often do not have a clear understanding of real property held by other agencies and may lack the authority or expertise to identify underutilized federal property in the same market that is suitable for collocation with other federal agencies.<sup>18</sup> While leasing from the private sector may be a viable option when an agency has a desire or need for flexibility or a short-term need, studies have shown that building ownership options through construction or purchase are generally the least expensive ways to meet long-term occupancy needs.<sup>19</sup>

Under current law, GSA is authorized to lease property for itself and on behalf of many other agencies. Certain agencies, however, have limited independent leasing authority, which means they do not have to work with GSA to acquire leased space. Some agencies with independent leasing authority, such as the VA, have established in-house real estate expertise, while other agencies with independent leasing authority have not. For example, in 2010, the Securities and Exchange Commission (SEC) executed a \$557 million, 10-year lease for 900,000 square feet of office space, which the SEC's Inspector General described as "another in a long history of missteps and misguided leasing decisions made by the SEC since it was granted independent leasing authority by Congress in 1990."<sup>20</sup> The Committee believes that urgent action is needed to consolidate federal operations onto government-owned sites, where appropriate, thereby reducing the federal government's leasing portfolio in a way that is advantageous for federal agencies, stakeholders, and the clientele served by those agencies.

#### PROPERTY MANAGEMENT AND DISPOSAL

The federal government continues to hold more real property than it needs, leaving many buildings underutilized or vacant. Vacant and underutilized federal properties are costly to maintain. Every unneeded square foot of building space held by the federal government requires annual funding for operations and maintenance. This includes the costs of cleaning, heating, lighting, landscaping, and security, as well as any costs related to mortgage or lease payments. By holding onto unneeded properties, agencies incur hidden opportunity costs because unneeded buildings and land can be put to more cost-beneficial uses, exchanged for other needed property, or sold to generate revenue for the federal govern-

<sup>16</sup>U.S. Government Accountability Office, *High Risk Series: An Update* (Feb. 2013) (GAO-13-283).

<sup>17</sup>U.S. Government Accountability Office, *Federal Real Property: Overreliance on Leasing Contributed to High-Risk Designation* (Aug. 2011) (GAO-11-879T), p. 1.

<sup>18</sup>U.S. Government Accountability Office, *High Risk Series: An Update* (Feb. 2013) (GAO-13-283), p. 107.

<sup>19</sup>U.S. Government Accountability Office, *Federal Real Property: Reliance on Costly Leasing to Meet New Space Needs is an Ongoing Problem* (Oct. 2005) (GAO-06-136T), p. 2.

<sup>20</sup>U.S. Securities and Exchange Commission Office of Inspector General, *Improper Actions Relating to the Leasing of Office Space* (May 2011) (Case No. OIG-553), p. 2.

ment. Additionally, when an agency holds on to a property it no longer needs, that property cannot be used by other entities such as private business or non-profits to create jobs, spur innovation, increase local and national prosperity, or meet other needs.

GAO has cited several longstanding barriers that cause agencies to hold on to underutilized or unneeded vacant properties rather than disposing of them by demolition, sale, or other means.<sup>21</sup> The government's ability to dispose of unneeded property in an effective manner is hampered by a lengthy disposal process. Legislative mandates, for instance, require federal agencies to determine whether a property can be used for homeless assistance or for another kind of public benefit.

The Committee is deeply concerned about the hurdles created by the current process for disposing of federal property. The disposal process<sup>22</sup> requires agencies to report excess property to GSA, which in turn makes it available to other federal agencies at market rates. However, if no federal agency expresses interest, the property is deemed surplus and must then go through a lengthy screening process to determine whether it should be disposed of through the "public benefit conveyance" process. Properties disposed of in this way can be offered to state and local governments or qualified nonprofits for use in accomplishing public purposes specified in law, such as use as educational facilities or for providing services to the homeless. Conveyances under these procedures are either donated or made at values well below the fair market. The process for determining whether a property is suitable can be a lengthy one, and unneeded properties may remain in an agency's possession for years and continue to accumulate maintenance and operation costs.<sup>23</sup>

Additionally, stakeholders other than Congress, OMB, and the real property-holding agencies, have an interest in how the federal government carries out its real property acquisition, management, and disposal practices.<sup>24</sup> GAO notes that competing stakeholder interest in how the federal government carries out its real property management and disposal practices exacerbates the government's inability to efficiently dispose of unneeded property.<sup>25</sup> As a result, decisions about real property often do not reflect the most cost-effective or efficient alternative, which would be in the interest of the agency or the government as a whole, but instead reflect on other priorities. In particular, this situation often arises when the federal government attempts to consolidate facilities or otherwise dispose

<sup>21</sup> U.S. Government Accountability Office, *Federal Real Property: The Government Faces Challenges to Disposing of Unneeded Buildings*, (Testimony before the Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives) (February 2011) (GAO-11-370T).

<sup>22</sup> The disposal process is governed by 40 U.S.C. § 5 subchapters III and IV, and under part 101 of Title 41 of the Code of Federal Regulations

<sup>23</sup> U.S. Government Accountability Office, *Federal Real Property: Progress Made on Planning and Data, but Unneeded Owned and Leased Facilities Remain* (Testimony before the Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives) (April 2011) (GAO-11-520T) p. 5.

<sup>24</sup> These stakeholders include foreign governments, state and local governments, business interests in the communities where the assets are located, private sector construction and leasing firms, historic preservation organizations, various advocacy groups, and the public in general.

<sup>25</sup> *Ibid.* at 5.



of unneeded assets.<sup>26</sup> For example, VA officials reported to GAO that disposal is often not an option for most properties because of political stakeholders and constituencies, including historic building advocates or local communities that want to maintain their relationship with VA. Additionally, Interior officials reported to GAO that it faces significant challenges in balancing the needs and concerns of local and state governments, historical preservation offices, political interests, and others, particularly when coupled with budget constraints.<sup>27</sup> The result is a process that is costly, cumbersome, and counter-productive in terms of the incentives it provides for agencies to keep unwanted property on their books.

The cost of disposing of real property can also outweigh the financial benefits that result from building demolition or sale. Agencies often lack the financial resources necessary to dispose of excess facilities. Vacant and underutilized properties are often among the oldest, most deteriorated assets in agencies' portfolios. Agencies must complete expensive repairs and renovations before the properties are ready for disposal. Without the budgetary resources available to agencies, they do not have an incentive to invest money towards preparing property for demolition or sale. For example, USDA reported to GAO that the total annual cost of maintaining 1,864 USDA assets with annual operating costs less than \$5,000 was \$3 million. However, the cost of disposing of these assets equals or exceeds their annual operating cost and therefore disposal would not immediately result in cost savings. Therefore, USDA has chosen not to dispose of the assets.<sup>28</sup> In the long run, the cost of maintaining and operating these assets will likely be higher than the cost of disposing of those USDA finds it no longer needs. However, because the upfront cost of disposal is higher than the annual cost of operations and maintenance of unneeded properties, USDA has chosen to keep those properties on the books.

Meeting environmental requirements also adds costs that may outweigh the financial benefit of disposing of unneeded property. Federal agencies are required by law<sup>29</sup> to assess and pay for any environmental cleanup that may be needed before disposing of a property—a process that may require years of study and result in significant costs. In some cases, the cost of the environmental cleanup may exceed the costs of continuing to maintain unneeded property.<sup>30</sup> In this case, agencies will often choose not to dispose of unneeded property.

Further exacerbating the problem, current law requires most agencies to return funds received from the sale of surplus property to the Treasury, even though it can require a significant upfront investment to get a building ready for disposal for the reasons stat-

<sup>26</sup> U.S. Government Accountability Office, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, (April 2007) (GAO-07-349) p. 38.

<sup>27</sup> *Id.*

<sup>28</sup> U.S. Government Accountability Office, *Federal Real Property: National Strategy and Better Data needed to Improve Management of Excess and Underutilized Property* (June 2012) (GAO-12-645), pp. 37-38.

<sup>29</sup> 42 U.S.C. §§ 4321-4347.

<sup>30</sup> U.S. Government Accountability Office, *Federal Real Property: The Government Faces Challenges to Disposing of Unneeded Buildings*, (Testimony before the Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives) (February 2011) (GAO-11-370T) p. 5

ed above.<sup>31</sup> Therefore, an agency that goes through the lengthy disposal process, using significant budgetary and personnel resources in the process, in most cases is not able to retain the proceeds from the sale. With little incentive to spend the money and other resources needed to dispose of the property, property managers often decide to pay for continued maintenance of vacant or underutilized property rather than to go through the trouble and cost of disposing of it.

To address this problem, certain agencies have been granted specific statutory authority to retain proceeds from the sale of their property.<sup>32</sup> Retention of proceeds has proven to be an effective incentive for federal agencies to dispose of their unneeded properties.<sup>33</sup> In testimony before the Committee, Robert Peck, the former Commissioner of the Public Buildings Service at GSA, reported that proceeds retention authority has spurred agencies to eliminate unneeded assets and provided an important source of re-investment funds.<sup>34</sup>

Agencies have consistently argued that these statutory requirements slow down the disposal process, compelling agencies to incur operating costs for extended periods of time while the properties are being screened. For example, real property officials at the VA have said the McKinney-Vento Homeless Assistance Act,<sup>35</sup> which mandates that all surplus property be screened to assess its suitability for use by non-profit organizations to assist the homeless population, can add as much as two years to the disposal process.<sup>36</sup> Because public benefit conveyance requirements are set in law, agencies do not have the authority to bypass these steps in the process, even for surplus properties that cannot be realistically conveyed, such as those that are uninhabitable due to environmental concerns. Similarly, the Department of Energy (DOE) informed auditors that it has properties that could be disposed of only by demolition, due to their condition or location, but were still subject to the screening process, thereby forcing the agency to pay maintenance costs during the lengthy screening period that could have been avoided.<sup>37</sup> While undoubtedly well intentioned, these requirements have created a patchwork of cumbersome and confusing rules. Their net effect has been to discourage agencies from initiating disposal actions, thereby depriving non-federal entities of the opportunity to make more productive use of these properties.

The Committee is particularly concerned about the dilatory effect of provisions requiring the screening of property for use by homeless groups. While thousands of properties are screened every year for homeless use, very few are deemed suitable for transfer to

<sup>31</sup> *Ibid.* at 5.

<sup>32</sup> U.S. Government Accountability Office, *Federal Real Property: Authorities and Actions Regarding Enhanced Use Leases and Sale of Unneeded Real Property* (Feb. 2009) (GAO-09-283R), p. 4.

<sup>33</sup> *Id.*

<sup>34</sup> Testimony given to the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security. Peck, Robert, General Services Administration, June 9, 2011, p. 3.

<sup>35</sup> Codified at 42 U.S.C. § 11411

<sup>36</sup> U.S. Government Accountability Office, *Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions* (Sept. 2008) (GAO-08-939), p. 39.

<sup>37</sup> U.S. Government Accountability Office, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, (April 2007) (GAO-07-349), p. 40.

groups assisting the homeless population, and even fewer are actually donated to those groups. According to data provided to the Committee by GSA, since the inception of the McKinney-Vento program in 1987 through the end of fiscal year 2010, only 108 properties have been conveyed to groups assisting the homeless although tens of thousands of properties are estimated to have been screened during this time. From 2001 through 2011, only 39 properties were conveyed to homeless assistance providers, an average of less than four properties each year. In 2011, only one property was given to a homeless assistance provider. Meanwhile both taxpayer dollars and energy resources go to maintain the excess assets in line to be screened.

In summary, the challenge of federal real property management highlights the need for a new national strategy. As noted by GAO, a national strategy can provide a clear path forward to help federal agencies manage excess and underutilized property in the long term, guide federal agencies and other stakeholders to systematically identify risks and resources needed to address those risks, and help agencies determine investment priorities when managing federal portfolios.<sup>38</sup>

S. 1398 addresses this need by codifying the Federal Real Property Council and directing it to establish a national real property management plan to include goals for reducing surplus property and achieving better utilization of underutilized property. The Council is made up of key property management officials from around government. It is tasked with ensuring that the strategy is implemented so that Congress and the heads of agencies will be able to track progress in achieving real property management objectives on a government-wide basis.

The Committee also believes that many of the obstacles that contribute to poor property management can be addressed by requiring agencies to maintain better data on their real property, prohibiting agencies from acquiring new real property without disposing of underutilized properties, and offering agencies incentives to dispose of unneeded property. S. 1398 first does this by requiring each agency to regularly survey its real property assets and report them to the Council. The legislation also requires agencies to seek more efficient use of existing space, including through co-location with other federal agencies, where appropriate. Further, S. 1398 puts in place a strategy for reducing the amount of leased space used for long-term needs. Finally, the bill facilitates the disposal of unneeded properties by establishing a pilot program for expedited property disposal. The pilot disposal program also provides agencies with an incentive to dispose of unneeded property by allowing agencies to retain 18 percent of the proceeds of any sale to use towards real property asset management and disposal of unneeded real property.

In a letter to the Committee, the National Law Center on Homelessness and Poverty expressed their concern that S. 1398 would eliminate the ability of homeless service providers to receive federal property at no cost that was established under the McKinney-Vento Homeless Assistance Act. However, the bill does not eliminate any provision under the McKinney-Vento Homeless Assistance

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<sup>38</sup>*Id.* at 42.

Act. Rather, S. 1398 establishes a pilot disposal program for which properties in the program are not subject to the public benefit conveyance process. The pilot disposal program is limited to 200 surplus properties per year and would expire after five years. During this time, homeless assistance groups would still be able to apply for and receive the surplus properties deemed suitable for use in assisting the homeless population that are not a part of the pilot program. Given the twenty-five year record discussed above, the Committee has concluded that Congress should consider changing the McKinney-Vento mandate. The pilot program would allow Congress to study whether waiving certain provisions in the McKinney-Vento Homeless Assistance Act would indeed expedite disposal of surplus federal property and whether there is a more efficient and cost-effective way for the federal government to support the homeless population other than holding up, often for years, the disposal of each piece of federal surplus property so that a minute subset of those properties can go to serve the homeless. To that end, the bill dictates that 2 percent of proceeds from the properties sold under the pilot program be directed to a grant program to be distributed to homeless providers for purchase or rehabilitation of other properties. The Committee believes that contributing a percentage of proceeds from the sale of surplus federal property to homeless assistance grants would be more beneficial to the homeless than donating only a handful of properties each year to homeless assistance providers nationwide.

### III. LEGISLATIVE HISTORY

S. 1398 was introduced by Senators Carper and Coburn on July 30, 2013, with Senators Ayotte, Begich, Portman, Pryor, and Tester as co-sponsors. The Committee considered the bill at a business meeting on July 31, 2013, and ordered the bill reported favorably by a voice vote, with Senator Levin asking to be recorded as voting against the bill. Members present for the vote on the bill were Senators Carper, Levin, McCaskill, Tester, Begich, Baldwin, Coburn, Johnson, Ayotte, and Chiesa.

### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section gives the bill the short title of the “Federal Real Property Asset Management Reform Act of 2013.”

#### *Section 2. Purpose*

This section states that the bill’s purpose is to increase the efficiency and effectiveness of the federal government in managing its real property by (1) requiring agencies to maintain an up-to-date inventory of real property; (2) establishing a Federal Real Property Council to develop guidance and ensure the implementation of strategies for better managing federal real property; and (3) authorizing a pilot program to expedite the disposal of surplus real property.

#### *Section 3. Property management and expedited disposal of real property*

The first part of this section defines important terms for the bill.

It defines “excess property” as property under the control of a federal agency that the head of the agency determines is not required to meet the agency’s needs or responsibilities.

“Surplus property” is defined as excess property that is not required to meet the needs or responsibilities of any federal agency. The term surplus property does not include: (1) any military installation; (2) Indian and Native Eskimo property held in trust by the federal government; (3) real property operated and maintained by the Tennessee Valley Authority; (4) any real property the Director of the Office of Management and Budget excludes for reasons of national security; (5) any public lands administered by the Secretary of Interior through the Director of the Bureau of Land Management, the Director of the National Park Service, the Commissioner of Reclamation, or the Director of the United States Fish and Wildlife Service; (6) any public lands administered by the Secretary of Agriculture acting through the Chief of the Forest Service; and, (7) any property operated and maintained by the United States Postal Service.

“Underutilized property” is defined in the legislation as an entire property or portion thereof, with or without improvements which is used (1) irregularly or intermittently by the accountable federal agency for program purposes of that agency or (2) for program purposes that can be satisfied only with a portion of that property.

The term “disposal” is defined as any action that constitutes the removal of any real property from the federal inventory, including sale, deed, demolition, or exchange.

The term “Administrator” is defined as the Administrator of the General Services Administration (GSA).

The term “Director” refers to the Director of the Office of Management and Budget (OMB).

The second part of this section details actions agencies must take in order to improve the management of their real property. Under this section each agency must conduct an inventory of real property under its control and provide detailed information about the inventoried property to the GSA Administrator and the Federal Real Property Council (the Council). Additionally, agencies are required to continuously survey their real property to identify excess and underutilized property, report any excess or underutilized property to the GSA Administrator, identify opportunities for colocation with other federal agencies where appropriate, and establish goals that will lead to a reduction of the agency’s excess and underutilized real property. Agencies must also provide the Council and the GSA Administrator information on their real property assets to be used for the establishment and maintenance of a government-wide real property database.

The third part of this section allows the Postmaster General of the U.S. Postal Service to identify a list of postal properties with space available for use by federal agencies and submit that list to the Council. Under this provision, agencies must review this list and recommend colocations if appropriate.

The fourth part of this section establishes the Federal Real Property Council, to be comprised of senior real property officers from each of 24 designated federal agencies, the Controller at the Office of Management and Budget, and the GSA Administrator. The Deputy Director for Management at OMB will chair the Council and

designate an Executive Director to assist the Council in carrying out its duties. This part of this section requires the Council to establish an annual real property asset management plan and to include in that plan performance measures that will enable Congress to track progress in achieving real property goals government-wide and compare the performance of landholding agencies against industry and other public sector agencies. Additionally, this section directs the Council to develop a strategy to reduce federal agencies' reliance on leasing when building ownership would be more cost-effective. Finally, the Council is expected to provide guidance to agencies so that property assessments can be uniform across the government.

The fifth part of this section directs the GSA Administrator to establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of federal agencies. The database must contain the results of agencies' inventory of their real property as described in the first part of this section as well as a list of real property disposals that have been completed within the past year. The Administrator is required to make the database accessible to the public at no cost within three years of the date of enactment of this bill.

Although GSA is responsible for leasing property on behalf of most federal agencies, certain agencies have independent leasing authority, under which they may enter into leases on their own. The sixth part of this section imposes a reporting requirement on such agencies so that the executive branch and the Congress can better monitor whether those agencies' leases reflect the best use of federal resources. Agencies with independent leasing authority would be required to submit a yearly report to the Council providing detailed information regarding their leasing activity. This section would not apply to the United States Postal Service, the Department of Veterans Affairs, or any other property the President excludes for reasons of national security.

The sixth part of this section establishes a pilot program to expedite the disposal of surplus properties. Under this section, the Director of OMB may authorize the disposal of up to 200 surplus properties each year with priority going to those properties that have the highest fair market value and the greatest potential for disposal. Agencies must make property available for sale within 18 months after receiving a determination from the OMB Director that the property is surplus and has been selected for the pilot program. Failure to do so would prevent the agency from acquiring additional property unless the square footage of the increase is offset through consolidation, colocation, or disposal of another building space from the inventory of that agency. Under the pilot program, after GSA is reimbursed for the costs of identifying and preparing property for disposal, any proceeds will be distributed as follows: 80 percent would be returned to the Treasury for debt reduction; the lesser of 18 percent or the share of proceeds otherwise authorized to be retained under law would be retained by the agency that owned the property; and up to two percent would be used to fund homeless assistance grants. This section would permit the Secretary of the Department of Housing and Urban Development to use funds made available through sales proceeds for grants to eligible private non-profit organizations through the continuum care

program established under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. §§ 11381 et seq.). If a property that has been selected for disposal under the pilot program has not been disposed of after two years in the program, it may be conveyed to state and local governments or non-profit organizations for certain public purposes, unless the predominant use of the property is not for housing, the area of the property is not less than 25,000 square feet, or the appraised fair market value of the property is greater than \$1 million.

*Section 4. Report of the Comptroller General*

This section requires the Comptroller General of the United States, within five years of enactment, to submit a report to Congress on the expedited disposal program established in this legislation.

*Section 5. Technical and conforming amendments*

This section contains a technical and conforming amendment to the table of contents for chapter 5 of subtitle I of Title 40, United States Code.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. The Committee agrees with the Congressional Budget Office that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments, or private entities. The enactment of this legislation would not have significant regulatory impact.

VI. CONGRESSIONAL BUDGET OFFICE ESTIMATE

NOVEMBER 1, 2013.

Hon. TOM CARPER,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1398, the Federal Real Property Asset Management Reform Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact for this estimate is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*S. 1398—Federal Real Property Asset Management Reform Act of 2013*

Summary: S. 1398 would amend the Federal Property and Administrative Services Act (property act) to facilitate the disposal of federal real property. The legislation would expand the duties and responsibilities of the Federal Real Property Council (FRPC), provide new authorities to the General Services Administration (GSA),

and establish a five-year pilot program with the goal of expediting the disposal of surplus federal property.

CBO estimates that enacting the bill would increase direct spending by \$10 million over the 2014–2023 period because, for five years, it would authorize GSA to spend proceeds from the sale of federal property that are expected to be collected, but not spent, under current law. Because the legislation would affect direct spending, pay-as-you-go procedures apply. In addition, CBO estimates that, assuming the availability of appropriated funds, implementing S. 1398 would cost \$3 million over the 2014–2018 period for additional administrative and reporting costs related to property disposal. Enacting S. 1398 would not affect revenues.

S. 1398 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1398 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—					
	2014	2015	2016	2017	2018	2014–2018
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority .....	2	2	2	2	2	10
Estimated Outlays .....	2	2	2	2	2	10
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	1	*	*	*	*	3
Estimated Outlays .....	1	*	*	*	*	3

Note: \* = less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that S. 1398 will be enacted in early 2014, that the necessary funds will be provided for each year, and that spending will follow historical patterns for the affected programs.

*Direct spending*

The legislation would establish a five-year program to expedite the disposal of surplus properties. Under that program, up to 200 properties annually could be sold without completing some of the administrative processes and determinations that must occur under current law. Up to 20 percent of the proceeds from those sales would be available to be spent by agencies or provided as grants for the homeless, subject to future appropriation. The Director of the Office of Management and Budget (OMB) would be responsible for identifying the federal properties available for disposal under this expedited program, which would terminate five years after enactment. Under the bill, agencies would be prohibited from acquiring or leasing new property until they have disposed of all of their underutilized property.

Under the property act, GSA currently manages the disposal of surplus federal property for most agencies. The act allows GSA to spend 12 percent of any proceeds from the sale of federal buildings to cover its direct costs related to preparing the property for sale; such costs include auction fees and the cost of obtaining appraisals. The remaining proceeds from surplus property sales are deposited



in the Treasury as offsetting receipts and, for the most part, cannot be spent without further appropriation. Under current law, CBO estimates that GSA's net receipts from the sale of surplus federal property will total about \$20 million per year.

Under the program that would be established in S. 1398, GSA would be allowed to spend additional proceeds from property sales to pay for the indirect costs related to preparing properties for sale. Such costs would include conducting market research and cost/benefit analyses and other activities to identify and prepare for disposal properties that have not yet been declared excess to the government's needs. The legislation would not cap the portion of sales proceeds that could be spent on indirect costs. CBO estimates that authorizing GSA to spend additional proceeds from property sales to pay for such indirect costs would increase direct spending by \$2 million a year from the receipts from property sales anticipated to occur under current law. The increase in spending could be as much as \$20 million a year, however, depending on how GSA would use this new authority.

In addition, based on an analysis of information from the Government Accountability Office, OMB, GSA, and other federal landholding agencies, CBO expects that little additional property would be sold under this program. Many of the largest federal agencies that manage significant numbers of properties would probably opt to continue using their enhanced-use-leasing authorities rather than GSA's property disposition services to leverage value from underused real property. The financial incentive that would be provided to non-GSA agencies to participate in the program would not be large. Furthermore, since June 2010, the President has directed agencies to accelerate efforts to dispose of unneeded property, reduce facility operating costs, and adopt more efficient real estate management practices. Thus, it is not clear how the program authorized in the bill would significantly accelerate disposal efforts beyond what will occur under current law.

For those reasons, CBO expects that gross proceeds from federal property sales would not increase significantly under the bill, and this cost estimate incorporates no increase in such proceeds. However, if the new program and new spending authority to cover indirect costs related to property sales were to result in a 10 percent increase in sales proceeds, that amount would be sufficient to offset CBO's estimate of new direct spending under the bill.

#### *Spending subject to appropriation*

S. 1398 would codify and expand the duties of the FRPC, increase the reporting responsibilities of landholding agencies, and require GSA to improve its database of federal real property. Under the legislation, the FRPC would need to develop new measures to analyze the use of government facilities, a strategy to reduce the need to lease buildings, a list of excess, surplus, and underutilized property, as well as a list of properties available for co-locating federal agencies. In addition, agencies would have to report new information, including property sales costs, capital expenditures per building, and the number of federal employees using each facility. Based on information from GSA and some landholding agencies, CBO estimates that implementing those provisions would cost about \$3 million over the 2014–2018 period.

Better information about federal real property holdings, in conjunction with additional funds for GSA to dispose of surplus facilities, could result in additional property disposals, thus reducing the need for annual appropriations to operate and maintain those facilities. On one hand, GAO has reported that operation and maintenance costs typically account for between 60 percent and 85 percent of the lifetime costs of owning a building. On the other hand, GAO has also reported that the Federal Real Property Profile (the single comprehensive inventory system that contains data on all federal real property assets) often overstates a property’s condition and annual operating costs. Those uncertainties make any estimate of the potential savings from disposing of federal property unreliable.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. Enacting the legislation would have no effect on revenues.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1398, THE FEDERAL REAL PROPERTY ASSET MANAGEMENT REFORM ACT OF 2013, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS ON JULY 31, 2013

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2014–2018	2014–2023	
NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact .....	2	2	2	2	2	0	0	0	0	0	10	10	

Intergovernmental and private-sector impact: S. 1398 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: On July 16, 2013, CBO transmitted a cost estimate for H.R. 328, the Excess Federal Building and Property Disposal Act of 2013, as ordered reported by the House Committee on Oversight and Government Reform on March 20, 2013. Both bills are similar in that they deal with the selling of federal property, but they have several different provisions, primarily regarding the length of time for which the new authorities would be granted to GSA. The cost estimates reflect those differences.

Estimate prepared by: Federal Spending: Matthew Pickford; Impact on State, Local, and Tribal Governments: Paige Piper/Bach; Impact on the Private Sector: Elizabeth Cove Delisle.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1398 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 40—PUBLIC BUILDINGS, PROPERTY,  
AND WORKS

\* \* \* \* \*

CHAPTER 5—PROPERTY MANAGEMENT

\* \* \* \* \*

*Subchapter VII—Expedited Disposal of Real Property*

**§ 621. Definitions**

*In this subchapter:*

(1) *ADMINISTRATOR.*—The term ‘Administrator’ means the Administrator of General Services.

(2) *COUNCIL.*—The term ‘Council’ means the Federal Real Property Council established by section 623(a).

(3) *DIRECTOR.*—The term ‘Director’ means the Director of the Office of Management and Budget.

(4) *DISPOSAL.*—The term ‘disposal’ means any action that constitutes the removal of any real property from the Federal inventory, including sale, deed, demolition, or exchange.

(5) *EXCESS PROPERTY.*—The term ‘excess property’ means any real property under the control of a Federal agency that the head of the Federal agency determines is not required to meet the needs or responsibilities of the Federal agency.

(6) *FEDERAL AGENCY.*—The term ‘Federal agency’ means—

(A) an executive department or independent establishment in the executive branch of the Government; or

(B) a wholly owned Government corporation.

(7) *FIELD OFFICE.*—The term ‘field office’ means any office of a Federal agency that is not the headquarters office location for the Federal agency.

(8) *POSTAL PROPERTY.*—The term ‘postal property’ means any building owned by the United States Postal Service.

(9) *SURPLUS PROPERTY.*—

(A) *IN GENERAL.*—The term ‘surplus property’ means excess real property that is not required to meet the needs or responsibilities of any Federal agency.

(B) *EXCLUSIONS.*—The term ‘surplus property’ does not include—

(i) any military installation (as defined in section 2910 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note; Public Law 101–510));

(ii) any property that is excepted from the definition of the term ‘property’ under section 102;

(iii) Indian and native Eskimo property held in trust by the Federal Government as described in section 3301(a)(5)(C)(iii);

(iv) real property operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 *et seq.*);

(v) any real property the Director excludes for reasons of national security;

(vi) any public lands (as defined in section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722)) administered by—

(I) the Secretary of the Interior, acting through—

(aa) the Director of the Bureau of Land Management;

(bb) the Director of the National Park Service;

(cc) the Commissioner of Reclamation; or

(dd) the Director of the United States Fish and Wildlife Service; or

(II) the Secretary of Agriculture, acting through the Chief of the Forest Service; or

(vii) any property operated and maintained by the United States Postal Service.

(10) *UNDERUTILIZED PROPERTY.*—The term ‘underutilized property’ means a portion or the entirety of any real property, including any improvements, that is used—

(A) irregularly or intermittently by the accountable Federal agency for program purposes of the Federal agency; or

(B) for program purposes that can be satisfied only with a portion of the property.

## **§ 622. Duties of Federal agencies**

Each Federal agency shall—

(1) maintain adequate inventory controls and accountability systems for real property under the control of the Federal agency;

(2) develop current and future workforce projections so as to have the capacity to assess the needs of the Federal workforce regarding the use of real property;

(3) continuously survey real property under the control of the Federal agency to identify excess property, underutilized property, and other real property suitable to be used for—

(A) colocation with other Federal agencies; or

(B) consolidation with other facilities;

(4) promptly report excess property and underutilized property to the Administrator;

(5) establish goals that will lead the Federal agency to reduce excess property and underutilized property in the inventory of the Federal agency;

(6) submit to the Council a report on all excess property and underutilized property in the inventory of the Federal agency, including—

(A) whether underutilized property can be better utilized; and

(B) the extent to which the Federal agency believes that the underutilized property serves the needs of the Federal agency to retain underutilized property;

(7) adopt workplace practices, configurations, and management techniques that can achieve increased levels of productivity and decrease the need for real property assets;

(8) assess leased space to identify space that is not fully used or occupied;

(9) on an annual basis and subject to the guidance of the Council—

(A) conduct an inventory of real property under control of the Federal agency; and (B) make an assessment of each real property, which shall include—

(i) the age and condition of the property;

(ii) the size of the property in square footage and acreage;

(iii) the geographical location of the property, including an address and description;

(iv) the extent to which the property is being utilized;

(v) the actual annual operating costs associated with the property;

(vi) the total cost of capital expenditures associated with the property;

(vii) sustainability metrics associated with the property;

(viii) the number of Federal employees and functions housed at the property;

(ix) the extent to which the mission of the Federal agency is dependent on the property;

(x) the estimated amount of capital expenditures projected to maintain and operate the property over each of the next 5 years after the date of enactment of this subchapter; and

(xi) any additional information required by the Administrator to carry out section 624; and

(10) provide to the Council and the Administrator the information described in paragraph (9)(B) to be used for the establishment and maintenance of the database described in section 624.

### **§623. Colocation among United States Postal Service properties**

(a) IDENTIFICATION OF POSTAL PROPERTY.—Each year, the Postmaster General may—

(1) identify a list of postal properties with space available for use by Federal agencies; and

(2) submit the list to the Council.

(b) SUBMISSION OF LIST OF POSTAL PROPERTIES TO FEDERAL AGENCIES.—

(1) IN GENERAL.—Not later than 30 days after the completion of a list under subsection (a), the Council shall provide the list to each Federal agency.

(2) REVIEW BY FEDERAL AGENCIES.—Not later than 90 days after the receipt of the list submitted under paragraph (1), each Federal agency shall—

(A) review the list;

(B) identify real property assets under the control of the Federal agency; and (C) recommend colocations if appropriate.

(c) TERMS OF COLOCATION.—On approval of the recommendations under subsection (b) by the Postmaster General and the applicable

agency head, the Federal agency or appropriate landholding entity may work with the Postmaster General to establish appropriate terms of a lease for each postal property.

**“§ 624. Establishment of a Federal Real Property Council**

(a) **ESTABLISHMENT.**—There is established a Federal Real Property Council.

(b) **PURPOSE.**—The purpose of the Council shall be—

- (1) to develop guidance and ensure implementation of an efficient and effective real property management strategy;
- (2) to identify opportunities for the Federal Government to better manage real property assets; and
- (3) to reduce the costs of managing real property, including operations, maintenance, and security.

(c) **COMPOSITION.**—

(1) **IN GENERAL.**—The Council shall be composed exclusively of—

(A) the senior real property officers of each Federal agency;

(B) the Deputy Director for Management of the Office of Management and Budget;

(C) the Controller of the Office of Management and Budget;

(D) the Administrator; and

(E) any other full-time or permanent part-time Federal officials or employees, as the Chairperson determines to be necessary.

(2) **CHAIRPERSON.**—The Deputy Director for Management of the Office of Management and Budget shall serve as Chairperson of the Council.

(3) **EXECUTIVE DIRECTOR.**—

(A) **IN GENERAL.**—The Chairperson shall designate an Executive Director to assist in carrying out the duties of the Council.

(B) **QUALIFICATIONS; FULL-TIME.**—The Executive Director shall—

- (i) be appointed from among individuals who have substantial experience in the areas of commercial real estate and development, real property management, and Federal operations and management; and
- (ii) serve full time.

(d) **MEETINGS.**—

(1) **IN GENERAL.**—The Council shall meet subject to the call of the Chairperson.

(2) **MINIMUM.**—The Council shall meet not fewer than 4 times each year.

(e) **DUTIES.**—The Council, in consultation with the Director and the Administrator, shall—

- (1) not later than 1 year after the date of enactment of this subchapter, establish a real property management plan template, to be updated annually, which shall include performance measures, specific milestones, measurable savings, strategies, and government-wide goals based on the goals established under section 622(5) to reduce surplus property or to achieve better utilization of underutilized property, and evaluation cri-

teria to determine the effectiveness of real property management that are designed—

(A) to enable Congress and heads of Federal agencies to track progress in the achievement of real property management objectives on a government-wide basis;

“(B) to improve the management of real property; and

“(C) to allow for comparison of the performance of Federal agencies against industry and other public sector agencies in terms of performance;

(2) develop standard use rates consistent throughout each category of space and with nongovernmental space use rates;

(3) develop a strategy to reduce the reliance of Federal agencies on leased space for long-term needs if ownership would be less costly;

(4) provide guidance on eliminating inefficiencies in the Federal leasing process;

(5) compile a list of real property assets that are field offices that are suitable for colocation with other real property assets; and

(6) not later than 1 year after the date of enactment of this subchapter and annually during the 4 year period beginning on the date that is 1 year after the date of enactment of this subchapter and ending on the date that is 5 years after the date of enactment of this subchapter, the Council shall submit to the Director a report that contains.—

(A) a list of the remaining excess property, surplus property, and underutilized properties of each Federal agency;

(B) the progress of the Council toward developing guidance for Federal agencies to ensure that the assessment required under section 622(9)(B) is carried out in a uniform manner; and

(C) the progress of Federal agencies toward achieving the goals established under section 622(5).

(f) CONSULTATION.—In carrying out the duties described in subsection (e), the Council shall also consult with representatives of.—

(1) State, local, tribal authorities, and affected communities; and

(2) appropriate private sector entities and nongovernmental organizations that have expertise in areas of.—

(A) commercial real estate and development;

(B) government management and operations;

(C) space planning;

(D) community development, including transportation and planning; and

(E) historic preservation.

(g) COUNCIL RESOURCES.—The Director and the Administrator shall provide staffing, and administrative support for the Council, as appropriate.

#### **§ 625. Federal real property inventory and database**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this subchapter, the Administrator shall establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of all Federal agencies.

(b) CONTENTS.—The database shall include—

(1) information provided to the Administrator under section 622(9)(B); and

(2) a list of real property disposals completed, including—

(A) the date and disposal method used for each real property;

(B) the proceeds obtained from the disposal of each real property;

(C) the amount of time required to dispose of the real property, including the date on which the real property is designated as excess property;

(D) the date on which the property is designated as surplus property and the date on which the property is disposed; and

(E) all costs associated with the disposal.

(c) ACCESSIBILITY.—

(1) COMMITTEES.—The database established under subsection (a) shall be made available on request to the Committee on Homeland Security and Governmental Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Oversight and Government Reform and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) GENERAL PUBLIC.—Not later than 3 years after the date of enactment of this subchapter and to the extent consistent with national security, the Administrator shall make the database established under subsection (a) accessible to the public at no cost through the website of the General Services Administration.

### **§ 626. Limitation on certain leasing authorities**

(a) IN GENERAL.—Except as provided in subsection (b), not later than December 31 of each year following the date of enactment of this subchapter, a Federal agency with independent leasing authority shall submit to the Council a list of all leases, including operating leases, in effect on the date of enactment of this subchapter that includes—

(1) the date on which each lease was executed;

(2) the date on which each lease will expire;

(3) a description of the size of the space;

(4) the location of the property;

(5) the tenant agency;

(6) the total annual rental rate; and

(7) the amount of the net present value of the total estimated legal obligations of the Federal Government over the life of the contract.

(b) EXCEPTION.—Subsection (a) shall not apply to—

(1) the United States Postal Service;

(2) the Department of Veterans Affairs; or

(3) any other property the President excludes from subsection (a) for reasons of national security.

### **§ 627. Expedited disposal pilot program**

(a) ESTABLISHMENT.—The Director shall establish a pilot program to dispose of, by sale, transfer, or other means of disposal, any surplus property.



(1) *PROPERTIES FOR EXPEDITED DISPOSAL.*—

(A) *IN GENERAL.*—On an annual basis, the Director may authorize the expedited disposal of not more than 200 surplus properties.

(B) *PRIORITY.*—In determining which properties to dispose of, the Director shall give priority to surplus properties that have the highest fair market value and the greatest potential for disposal.

(C) *COSTS ASSOCIATED WITH DISPOSAL.*—

(i) *IN GENERAL.*—The Administrator may obligate an amount to pay any direct and indirect costs under section 572 related to identifying and preparing properties to be reported as excess property by a Federal agency.

(ii) *REIMBURSEMENT.*—An amount obligated under clause (i) shall be paid from the proceeds of any sale of real property under this subsection.

(iii) *NET PROCEEDS.*—Net proceeds shall be distributed under subsection (b).

(D) *MAXIMUM NET PROCEEDS.*—Any real property authorized to be disposed of by sale of under subparagraph (A) shall be disposed of in a manner that, as determined by the Administrator in consultation with the head of the applicable Federal agency, is structured and marketed to maximize the value to the Federal Government.

(E) *MONETARY PROCEEDS REQUIREMENT.*—Surplus property may be disposed of under this section only if disposal of the property will generate monetary proceeds to the Federal Government that—

(i) exceed the costs of disposal of the property; and

(ii) are not less than 90 percent of fair market value.

(2) *APPLICABILITY OF CERTAIN LAW.*—Any expedited disposal of real property conducted under this section shall not be subject to—

(A) any section of An Act Authorizing the Transfer of Certain Real Property for Wildlife, or other Purposes (16 U.S.C. 667b);

(B) sections 107 and 317 of title 23;

(C) sections 545(b)(8), 550, 553, 554, and 1304(b);

(D) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

(E) section 47151 of title 49; or

(F) section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d)).

(3) *EFFECT.*—Except as provided in paragraph (2), nothing in this subchapter terminates or in any way limits the authority of any Federal agency under any other provision of law to dispose of real property.(b) *USE OF PROCEEDS.*—

(1) *IN GENERAL.*—Of the proceeds received from the disposal of any real property under this subchapter.—

(A) not less than 80 percent shall be returned to the general fund of the Treasury for debt reduction;

(B) the lesser of 18 percent or the share of proceeds otherwise authorized to be retained under law shall be retained

by the Federal agency that has custody and is accountable for the real property, subject to paragraph (2);

(C) not greater than 2 percent shall be made available to carry out section 627, subject to annual appropriations; and

(D) any remaining share of the proceeds shall be returned to the general fund of the Treasury for Federal budget deficit reduction.

(2) **LIMITATION ON USE OF PROCEEDS.**—Any proceeds retained by Federal agencies under this section shall be—

(A) deposited into the appropriate real property account of the Federal agency that had custody and accountability for the real property, with the funds expended only as authorized in annual appropriations Acts;

(B) used—

(i) by not later than 2 years after the date of disposal of the real property; and

(ii) only for activities relating to Federal real property asset management and disposal; and

(C) if not used by the date described in subparagraph (B)(i), shall be deposited in the Treasury and used for Federal budget deficit reduction.

(c) **PUBLIC BENEFIT.**—

(1) **CONVEYANCE.**—Except as provided in paragraph (2), if a real property authorized to be disposed of under subsection (a) has not been disposed of by the date that is 2 years after the date the property is listed for sale, the Director, in consultation with the Administrator and the Secretary of Housing and Urban Development, may consider a request from the disposing Federal agency that the real property be conveyed to State and local governments or nonprofit organizations for various public purposes or uses as permitted by applicable law.

(2) **PREDOMINANT USE AND SIZE STANDARDS.**—

(A) **IN GENERAL.**—Any real property authorized to be disposed of under subsection (a) shall not be conveyed under paragraph (1) if—

(i) the predominant use of the property is not for housing; and

(ii)(I) the area of the property is not less than 25,000 square feet; or

(II) the appraised fair market value of the property is greater than \$1,000,000.

(B) **APPRAISED FAIR MARKET VALUE.**—The appraised fair market value described in subparagraph (A)(ii)(II) shall be determined by the Federal agency with custody or control of the property, in consultation with the Administrator and standard appraisal practice.

(d) **ENFORCEMENT.**—

(1) **INCREASE IN SIZE OF INVENTORY.**—Except as provided in paragraph (2), if a Federal agency fails to make available for public sale the real property authorized to be disposed of under subsection (a) by the date that is 18 months after the date on which the authorization is made under subsection (a), that Federal agency, except for specific exceptions promulgated by the Director, shall not increase the size of the civilian real property

inventory, unless the square footage of the increase is offset, within an appropriate time as determined by the Director, through consolidation, colocation, or disposal of another building space from the inventory of that Federal agency.

(2) *EXCEPTION.*—Paragraph (1) shall not apply to a Federal agency that acquires any real property not under the administrative jurisdiction of the Federal Government, by sale or lease, until the Director submits a certification to Congress of the disposal of all of those surplus properties.

(e) *TERMINATION OF AUTHORITY.*—The authority provided by this section terminates on the date that is 5 years after the date of enactment of this subchapter.

### **§ 628. Homeless assistance grants**

(a) *DEFINITIONS.*—In this section:

(1) *ELIGIBLE NONPROFIT ORGANIZATION.*—The term ‘eligible nonprofit organization’ means a nonprofit organization that is a representative of the homeless.

(2) *HOMELESS.*—The term ‘homeless’ has the meaning given the term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), except that subsection (c) of that section shall not apply.

(3) *PERMANENT HOUSING.*—The term ‘permanent housing’ has the meaning given the term section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).

(4) *PRIVATE NONPROFIT ORGANIZATION.*—The term ‘private nonprofit organization’ has the meaning given the term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).

(5) *REPRESENTATIVE OF THE HOMELESS.*—The term ‘representative of the homeless’ has the meaning given the term in section 501(i) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)).

(6) *SECRETARY.*—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

(7) *TRANSITIONAL HOUSING.*—The term ‘transitional housing’ has the meaning given the term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).

(b) *GRANT AUTHORITY.*—

(1) *IN GENERAL.*—To the extent amounts are made available under section 626(b)(1)(B) for use under this section, the Secretary shall make grants to eligible private nonprofit organizations through the continuum of care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.), to purchase real property suitable for use to assist the homeless in accordance with subsection (c).

(2) *TERMS AND CONDITIONS.*—Except as otherwise provided in this section, a grant under this section shall be subject to the same terms and conditions as a grant under the continuum of care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.).

(c) *USE OF PROPERTIES FOR HOUSING OR SHELTER FOR THE HOMELESS.*—

(1) *ELIGIBLE USES.*—An eligible private nonprofit organization that receives a grant under subsection (b) shall use the amounts received only to purchase or rehabilitate real property for use to provide permanent housing, transitional housing, or temporary shelter to the homeless.

(2) *TERM OF USE.*—The Secretary may not make a grant under subsection (b) to an eligible private nonprofit organization unless the eligible private nonprofit organization provides to the Secretary such assurances as the Secretary determines necessary to ensure that any real property purchased or rehabilitated using amounts received under the grant is used only for the uses described in paragraph (1) for a period of not less than 15 years.

(d) *PREFERENCE.*—In awarding grants under subsection (b), the Secretary shall give preference to eligible private nonprofit organizations that operate within areas in which Federal real property is being sold under the disposal program authorized under section 626.

(e) *REGULATIONS.*—The Secretary may promulgate such regulations as are necessary to carry out this section.

