

PUBLIC BUILDINGS REFORM AND SAVINGS ACT OF 2016

MAY 23, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4487]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4487) to reduce costs of Federal real estate, improve building security, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Public Buildings Reform and Savings Act of 2016”.

**SEC. 2. STREAMLINED LEASING PILOT PROGRAM.**

(a) **EXECUTION OF LEASES.**—The Administrator of General Services shall establish and conduct a pilot program to execute lease agreements pursuant to authority provided under section 585 of title 40, United States Code, using alternative procedures.

(b) **ADOPTION.**—The Administrator shall prescribe alternative procedures to enter into lease agreements in accordance with section 585 of title 40, United States Code, pursuant to the provisions of this section.

(c) **GOALS OF PROCEDURES.**—The goals of the alternative procedures are—

(1) reducing the costs to the Federal Government of leased space, including—  
 (A) executing long-term leases with firm terms of 10 years or more and reducing costly holdover and short-term lease extensions, including short firm term leases;

(B) improving office space utilization rates of Federal tenants; and

(C) streamlining and simplifying the leasing process to take advantage of real estate markets; and

(2) significantly reducing or eliminating the backlog of expiring leases over the next 5 years.

(d) **LEASEHOLD INTERESTS IN REAL PROPERTY.**—

(1) **SIMPLIFIED PROCEDURES.**—Notwithstanding section 3305(b) of title 41, United States Code, but otherwise in accordance with such section, the Administrator of General Services shall provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified lease acquisition threshold, as defined in paragraph (2). The rental rate under a multiyear lease does not exceed the simplified lease acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified lease acquisition threshold.

(2) **ACQUISITION THRESHOLD.**—For purposes of this section, the simplified lease acquisition threshold is \$500,000.

(e) **CONSOLIDATED LEASE PROSPECTUSES.**—The Administrator may, when acquiring leasehold interests subject to section 3307 of title 40, United States Code, transmit, pursuant to subsection (b) of such section, to the committees designated in such section for approval a prospectus to acquire leased space, and waive the requirements pursuant to paragraphs (3) and (6) of section 3307(b), subject to the following requirements:

(1) **COST PER SQUARE FOOTAGE.**—The cost per square footage does not exceed the maximum proposed rental rate designated for the respective geographical area.

(2) **SPACE UTILIZATION.**—The Administrator ensures the overall space utilization rate is 170 usable square feet per person or better based on actual agency staffing levels when occupied.

(3) **LEASE TERM.**—The lease term, including the firm term, is not less than 10 years.

(4) **GEOGRAPHIC LOCATION.**—The geographical location is identified as having a large amount of square footage of Federal office space and lease turnover and will likely result in providing for the ability, on a timely basis, of the agency to consolidate space effectively or meet any requirements for temporary or interim space required for planned consolidations.

(f) **CONSOLIDATIONS GENERALLY.**—The Administrator may consolidate more than 1 project into a single prospectus submitted pursuant to section 3307(b), title 40, United States Code, if such consolidation will facilitate efficiencies and reductions in overall space and improved utilization rates.

(g) **WAIVER AUTHORITY.**—The Administrator may—

(1) waive notice and comment rulemaking, if the Administrator determines the waiver is necessary to implement this section expeditiously; and

(2) carry out the alternative procedures under this section as a pilot program.

(h) **REPORTS.**—

(1) **ANNUAL REPORTS.**—During the period in which the pilot program is conducted under this section, the Administrator shall submit, annually, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a progress report that provides updates on the number and square footage of leases expiring in the 5-year period beginning on the date of enactment of this Act, by agency and region, and which shall include for the expiring leases—

(A) an average of the lease terms, including firm terms, for leases executed; and

(B) the percentage of leases managed in-house or through the use of commercial real estate leasing services.

(2) FINAL REPORT.—Not later than 180 days after termination of the pilot program, the Administrator shall submit a final report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final report shall include—

(A) a review and evaluation of the lease agreements executed under the alternative procedures established pursuant to this section in comparison to those agreements not executed pursuant to the alternative procedures;

(B) recommendations on any permanent changes to the General Services Administration’s leasing authority; and

(C) a progress evaluation in meeting the goals described in subsection (c).

(i) TERMINATION.—The authorities under this section shall terminate on December 31, 2021.

**SEC. 3. EXCHANGE AUTHORITY.**

(a) LIMITATION ON EXCHANGE AUTHORITY.—Section 3307(a) of title 40, United States Code, is amended—

(1) in paragraph (1), by inserting “(including by exchange)” after “acquire”; and

(2) by adding at the end the following:

“(4) An appropriation for any costs and expenses associated with administering an acquisition by exchange involving real property or in-kind consideration, including services, with a fair market value of \$2,850,000 or more.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall not apply to projects in which a procurement has already begun.

**SEC. 4. FEDERAL PROTECTIVE SERVICE.**

(a) Section 1315 of title 40, United States Code, is amended by adding at the end the following new subsection:

“(h) CONTRACT SECURITY PERSONNEL.—

“(1) AUTHORITIES FOR CONTRACT SECURITY PERSONNEL.—

“(A) CARRYING OF FIREARMS.—The Secretary may authorize contract security personnel engaged in the protection of buildings and grounds that are owned, occupied, or secured by the General Services Administration Public Buildings Service to carry firearms to carry out their official duties.

“(B) DETENTION WITHOUT A WARRANT.—A person authorized to carry a firearm under this subsection may, while in the performance of, and in connection with, official duties, detain an individual without a warrant for any offense against the United States committed in that person’s presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be detained has committed or is committing such felony. The detention authority conferred by this paragraph is in addition to any detention authority provided under other laws.

“(2) LIMITATIONS.—The following limitations apply:

“(A) DETENTION.—Contract security personnel authorized to carry firearms under this section may detain an individual only if the individual to be detained is within, or in direct flight from, the area of such offense.

“(B) ENFORCEMENT OF CERTAIN LAWS.—A person granted authority to detain under this section may exercise such authority only to enforce laws regarding any building and grounds and all property located in or on that building and grounds that are owned, occupied, or secured by the General Services Administration Public Buildings Service.

“(3) GUIDANCE.—The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this section.”.

(b) Section 1315(b) of title 40, United States Code, is amended—

(1) by inserting “and” at the end of subparagraph (D);

(2) by striking “; and” at the end of subparagraph (E) and inserting a period; and

(3) by striking subparagraph (F).

(c) Section 1315(b) of title 40, United States Code, is amended by adding at the end the following new paragraphs:

“(3) MINIMUM TRAINING STANDARDS.—The Secretary, in consultation with the Director of the Federal Protective Service and in accordance with guidelines issued by the Attorney General, shall establish minimum and uniform training standards for any employee designated as an officer or agent to carry out and exercise authority pursuant to this section. Such minimum standards shall include ongoing training certified by the Director of the Federal Protective Service.

“(4) NOTIFICATION OF DESIGNATIONS AND DELEGATIONS.—The Secretary shall submit written notification of any approved designations or delegations of any authority provided under this section, including the purposes and scope of such designations or delegations, not within the Federal Protective Service, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, including the purpose for such designations or delegations, oversight protocols established to ensure compliance with any requirements, including compliance with training requirements, and other specifics regarding such designations and delegations.”.

**SEC. 5. EVALUATION OF FEDERAL PROTECTIVE SERVICE PERSONNEL NEEDS.**

(a) PERSONNEL AND FUNDING NEEDS OF FEDERAL PROTECTIVE SERVICE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and after review by a qualified consultant pursuant to paragraph (2), the Secretary shall submit a report to the appropriate congressional committees on the personnel needs of the Federal Protective Service that includes recommendations on the numbers of Federal Protective Service law enforcement officers and the workforce composition of the Federal Protective Service needed to carry out the mission of such Service during the 10-fiscal-year period beginning after the date of enactment of this Act.

(2) REVIEW AND COMMENT.—The Secretary shall provide the report prepared under this section to a qualified consultant for review and comment before submitting the report to the appropriate congressional committees. The Secretary shall provide the comments of the qualified consultant to the appropriate congressional committee with the report.

(3) CONTENTS.—The report under this section shall include an evaluation of—

(A) the option of posting a full-time equivalent Federal Protective Service law enforcement officer at each level 3 or 4 Federal facility, as determined by the Interagency Security Committee, that on the date of enactment of this Act has a protective security officer stationed at the facility;

(B) the potential increase in security of any option evaluated under subparagraph (A);

(C) the immediate and projected costs of any option evaluated under such subparagraph; and

(D) the immediate and projected costs of maintaining the current level of protective security officers and full-time Federal Protective Service law enforcement officers.

(b) REPORT ON FUNDING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the best method of funding for the Federal Protective Service, which shall include recommendations regarding whether the Federal Protective Service should—

(1) continue to be funded by a collection of fees and security charges;

(2) be funded by appropriations; or

(3) be funded by a combination of fees, security charges, and appropriations.

**SEC. 6. ZERO-BASED SPACE JUSTIFICATION.**

Section 3307(b) of title 40, United States Code, is amended—

(1) in paragraph (5), by inserting before the semicolon the following: “including a cost comparison between leasing space or constructing space”;

(2) in paragraph (6) by striking “and” at the end;

(3) in paragraph (7) by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(8) with respect to any prospectus, including for replacement space, lease renewal, or lease extension, the Administrator shall include a justification for such space, including an explanation of why such space could not be consolidated or colocated into other owned or leased space.”.

**SEC. 7. ELIMINATING PROJECT ESCALATIONS.**

Section 3307(c) of title 40, United States Code, is amended by adding at the end the following: “The Administrator shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of any increase of more than 5 percent of an estimated maximum cost or of any increase or decrease in the scope or size of a project of 5 or more percent. Such notification shall include an explanation regarding any such increase or decrease. The scope or size of a project shall not increase or decrease by more than 10 percent unless an amended prospectus is submitted and approved pursuant to this section.”.

**SEC. 8. LIMITATION ON AUTHORIZATIONS.**

Section 3307 of title 40, United States Code, is amended by adding at the end the following:

“(i) EXPIRATION OF COMMITTEE RESOLUTIONS.—Unless a lease is executed or a construction, alteration, repair, design, or acquisition project is initiated not later than 5 years after the resolution approvals adopted by the Committee on Transportation and Infrastructure of the House of Representatives or the Committee on Environment and Public Works of the Senate pursuant to subsection (a), such resolutions shall be deemed expired. This subsection shall only apply to resolutions approved after the date of enactment of this subsection.”.

**SEC. 9. DEPARTMENT OF ENERGY HEADQUARTERS REPLACEMENT.****(a) SALE OF CERTAIN PROPERTY.—**

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator of the General Services Administration is directed to sell, exchange, or some combination thereof, a portion of the Forrestal Complex necessary to generate the funds necessary to construct a new Department of Energy headquarters on Government-owned land in a manner consistent with the SW Ecodistrict Plan if the Administrator determines that the new Department of Energy headquarters can be constructed with no net costs to the Government.

(2) DEFINITIONS.—For purposes of this section, the following definitions apply:

(A) DEPARTMENT OF ENERGY FORRESTAL COMPLEX.—The term “Forrestal Complex” means the land, including the buildings and other improvements thereon, that—

(i) subject to survey and as determined by the Administrator, is—

(I) located in the District of Columbia;

(II) generally bounded by Independence Avenue, Southwest, 12th Street, Southwest, Maryland Avenue, Southwest, and 9th Street, Southwest; and

(III) generally consisting of Squares 351–N, 351, 383, 384, and 385 and portions of Squares 325 and 352; and

(ii) is under the jurisdiction and control of the General Services Administration.

(B) SW ECODISTRICT PLAN.—The term “SW Ecodistrict Plan” means the plan of the National Capital Planning Commission titled “The SW Ecodistrict: A Vision Plan For A More Sustainable Future” and dated January 2013.

(b) REPLACEMENT OF HEADQUARTERS.—Not later than 2 years after the disposal of the necessary portions of the Forrestal Complex, the Administrator shall replace the Department of Energy headquarters located on the Forrestal Complex in a Government-owned building on Government-owned land.

(c) CERTAIN PROHIBITIONS.—The Administrator shall not lease a new Department of Energy headquarters or engage in a leaseback of the current headquarters.

(d) SALE.—If the Administrator is unable to meet the conditions of subsection (a), the Administrator shall sell any underutilized or vacant property on the Forrestal Complex for cash.

(e) NET PROCEEDS.—Any net proceeds received, exceeding the expenses of implementing subsection (b) or (d), shall be paid into an account in the Federal Buildings Fund established under section 592 of title 40, United States Code. Upon deposit, the net proceeds from the sale may only be expended subject to a specific future appropriation.

**SEC. 10. LIMITATION ON DISCOUNTED PURCHASE OPTIONS.**

Section 585 of title 40, United States Code, is amended by adding at the end the following:

“(d) Any bargain-price option to purchase at less than fair market value contained in any lease agreement entered into on or after January 1, 2016, pursuant to this section may be exercised only to the extent specifically provided for in subsequent appropriation Acts or other Acts of Congress.”.

**SEC. 11. ENERGY SAVINGS.**

To the extent practicable and when cost effective, the Administrator of the General Services Administration shall consider the direct purchase of energy and other utilities in bulk or otherwise for leased facilities.

**SEC. 12. SIMPLIFIED REFORMS.**

(a) IN GENERAL.—For the purpose of section 863 of Public Law 110–417, an individual acquisition for commercial leasing services shall not be construed as a purchase of property or services if such individual acquisition is made on a no cost basis

and pursuant to a multiple award contract awarded in accordance with requirements for full and open competition.

(b) AUDIT.—The Comptroller General of the United States shall—

(1) conduct biennial audits of the General Services Administration National Broker Contract to determine—

(A) whether brokers selected under the program provide lower lease rental rates than rates negotiated by General Services Administration staff; and  
(B) the impact of the program on the length of time of lease procurements;

(2) conduct a review of whether the application of section 863 of Public Law 110–417 to acquisitions for commercial leasing services resulted in rental cost savings for the Government during the years in which such section was applicable prior to the date of enactment of this section; and

(3) not later than September 30, 2018, and September 30, 2020, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that—

(A) summarizes the results of the audit and review required by paragraphs (1) and (2);

(B) includes an assessment of whether the National Broker Contract provides greater efficiencies and savings than the use of General Services Administration staff; and

(C) includes recommendations for improving General Services Administration lease procurements.

(c) TERMINATION.—This section shall terminate on December 31, 2021.

#### SEC. 13. NATIONAL CAPITAL REGION RENTAL RATES.

Not later than 120 days after the date of enactment of this Act, the Administrator of General Services shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate justifying the use of 3 lease rental caps per fiscal year and their impacts in the National Capital Region. The Administrator shall also evaluate and make recommendations related to whether the current rental caps adequately provide for maximum competition for build-to-suit leased space.

#### SEC. 14. REDUCTION OF ADMINISTRATIVE REQUIREMENTS ON CERTAIN PROGRAMS.

Section 601(d)(2) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3211), is amended—

(1) by striking “(2) RELEASE.—” and inserting the following:

“(2) RELEASE.—

“(A) IN GENERAL.—”, and

(2) by adding at the end the following:

“(B) REVOLVING LOAN FUND PROGRAM.—The Secretary may release, subject to terms and conditions the Secretary determines appropriate, the Federal Government’s interest in connection with a grant under section 209(d) not less than 7 years after final disbursement of the grant, if—

“(i) the recipient has carried out the terms of the award in a satisfactory manner;

“(ii) any proceeds realized from the release of the Federal Government’s interest will be used for one or more activities that continue to carry out the economic development purposes of this Act; and

“(iii) the recipient shall provide adequate assurance to the Secretary that at all times after release of the Federal Government’s interest in connection with the grant, the recipient will be responsible for continued compliance with the requirements of section 602 in the same manner it was responsible prior to release of the Federal Government’s interest and that the recipient’s failure to comply shall result in the Secretary taking appropriate action, including, but not limited to, rescission of the release and recovery of the Federal share of the grant.”.

#### SEC. 15. LACTATION ROOM IN PUBLIC BUILDINGS.

(a) LACTATION ROOM IN PUBLIC BUILDINGS.—Chapter 33 of title 40, United States Code, is amended by adding at the end the following new section:

##### “§ 3317. Lactation room in public buildings

“(a) DEFINITIONS.—In this section:

“(1) APPROPRIATE AUTHORITY.—The term ‘appropriate authority’ means the head of a Federal agency, the Architect of the Capitol, or other official authority responsible for the operation of a public building.

“(2) COVERED PUBLIC BUILDING.—The term ‘covered public building’ means a public building (as defined in section 3301) that is open to the public and contains a public restroom, and includes a building listed in section 6301 or 5101.

“(3) LACTATION ROOM.—The term ‘lactation room’ means a hygienic place, other than a bathroom, that—

“(A) is shielded from view;

“(B) is free from intrusion; and

“(C) contains a chair, a working surface, and, if the public building is otherwise supplied with electricity, an electrical outlet.

“(b) LACTATION ROOM REQUIRED.—Except as provided in subsection (c), the appropriate authority of a covered public building shall ensure that the building contains a lactation room that is made available for use by members of the public to express breast milk.

“(c) EXCEPTIONS.—A covered public building may be excluded from the requirement in subsection (b) at the discretion of the appropriate authority if—

“(1) the public building—

“(A) does not contain a lactation room for employees who work in the building; and

“(B) does not have a room that could be repurposed as a lactation room or a space that could be made private using portable materials, at a reasonable cost; or

“(2) new construction would be required to create a lactation room in the public building and the cost of such construction is unfeasible.

“(d) NO UNAUTHORIZED ENTRY.—Nothing in this section shall be construed to authorize an individual to enter a public building or portion thereof that the individual is not otherwise authorized to enter.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 40, United States Code, is amended by inserting after the item related to section 3316 the following new item:

“3317. Lactation room in public buildings.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect one year after the date of the enactment of this Act.

#### SEC. 16. USE OF RECLAIMED REFRIGERANTS.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall issue a report examining the feasibility of giving preference to the use of reclaimed refrigerants to service existing equipment of Federal buildings.

### PURPOSE OF LEGISLATION

H.R. 4487, the Public Buildings Reform and Savings Act of 2016, as amended, reduces the costs of federal real estate and improves federal building security.

### BACKGROUND AND NEED FOR LEGISLATION

H.R. 4487, the Public Buildings Reform and Savings Act of 2016, as amended, streamlines the General Services Administration’s (GSA) lease program, strengthens accountability and oversight of public buildings, and improves federal building security.

#### STREAMLINING GSA’S LEASING PROCESS TO REDUCE COSTS TO THE TAXPAYER

H.R. 4487 streamlines GSA’s leasing process by creating a pilot program that will provide GSA additional flexibilities for saving taxpayer dollars when replacing expiring leases. Specifically, the pilot program would streamline the process for 87% of GSA’s smaller dollar leases, allowing GSA to focus more resources on larger, more complex leases and facilitate GSA consolidation of agency of office space requirements.

### *GSA's leased portfolio*

Nationwide, GSA owns or leases over 8,700 assets, totaling 377 million rentable square feet of office space. More than 7,100 of those assets are leased, accounting for 193 million rentable square feet—more than half of GSA's total office space inventory.<sup>1</sup> GSA's leased space costs more than \$5.5 billion annually. Over the next five years, more than half of GSA's leased inventory will expire. In the National Capital Region (NCR) alone, GSA leases 56 million rentable square feet, with 32 million square feet of leases expiring in the next five years.

### *Efforts to reduce office space costs*

Both the Committee and the Administration have been working to reduce the costs of leased office space by improving the space utilization rates of agencies and reducing their space footprint. Large leases of over \$2.85 million annually must be authorized by the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works. Through efforts to improve space utilization, consolidate space, and reduce square footage, since the beginning of the 113th Congress, the Committee authorized leases and consolidation projects that will potentially save taxpayers more than \$3 billion.

While costs can be significantly reduced through improving office space utilization, with 50% of GSA's leases expiring in the near-term, more savings can be realized if expiring leases are replaced with lower cost, long-term leases. There is an opportunity to reduce costs through negotiating good lease deals, locking-in low rental rates, and taking advantage of the real estate market today. In fact, there is a unique opportunity in the near term to produce real savings in GSA leases, given the large number of leases expiring and the fact that many key markets, such as the NCR, are still "buyer's" markets for potential tenants.<sup>2</sup> The current environment allows GSA and its tenant agencies to reduce costs through improving utilization rates, negotiating longer term leases to lock in lower rental rates, and negotiating other concessions that benefit the taxpayer.

In addition, as part of reducing office space—both leased and owned—it is critical that GSA and its tenant agencies evaluate reducing storage and warehouse space. In 2013, federal agencies occupied 19,000 warehouses consisting of 90 million square feet of space worldwide.<sup>3</sup> GSA reports having 600 warehouses, totaling more than 29 million square feet of space.<sup>4</sup> While warehouse space can contain a wide array of items—equipment, furniture, documents and files—there are steps agencies can take to both reduce its space footprint and at the same time improve management of items in storage. Underutilized storage space or such space co-located within leased facilities with office space can be costly. GSA and its tenant agencies should work to identify opportunities for

<sup>1</sup>FY2014 *State of the Portfolio Snapshot*, U.S. General Services Administration.

<sup>2</sup>JLL, Washington, D.C. Market Overview, January 29, 2015.

<sup>3</sup>*Federal Real Property: Strategic Focus Needed to help Manage Vast and Diverse Warehouse Portfolio*, GAO-15-41 (November 2014), p. 1.

<sup>4</sup>Id. at 8.



consolidating warehouse space and file space and, where appropriate, consider lower costs, federally-compliant records facilities.

*Short-term lease deals cost a premium*

As of 2015, over the previous three years, the number of short-term lease extensions in GSA's inventory had increased. The cost between short-term lease extensions (1–3 years) and leases with longer terms (10, 15 years, or longer) is stark. The weighted cost difference between longer term leases versus extensions between 2012 and 2015 was 20 percent. To provide some perspective—if the cost of most, if not all, of the 57 percent of leases expiring in the NCR in the near term were to achieve these cost reductions, the taxpayer could save more than \$200 million annually, not counting any reductions due to shrinking the space requirements. In addition, very often holdovers or short-term extensions can be avoided if appropriations are available for the tenant agency and proper planning is completed early on, in anticipation of lease expirations.

Factors that have contributed to the increase in short-term leases include—budget uncertainty, implementation of or resistance to the Administration's "Freeze and Reduce the Footprint" policies requiring agencies to rethink how to use, consolidate, and realign their space, poor real estate planning, and resistance to potential relocations to non-traditional, and often less expensive, sub-markets.

*Many recent GSA leases are short-term leases*

In addition, many "long term" leases GSA has signed, nationwide, in recent years are actually "short term" leases of five years or less. For example, GSA signed leases of 10 years that are structured to include a five year "firm term" and a five year "soft term," during which GSA can terminate the lease. The market treats those leases as five-year leases only and prices them accordingly, reducing the amount of savings and benefits of a longer-term lease.

*Long-term lease deals lower costs*

Not only do longer term leases best position GSA to take advantage of the market leasing rates, they also provide GSA the ability to negotiate additional concessions or savings. For example, in the recent case of a new lease for the National Science Foundation (NSF) headquarters, GSA awarded a lease at a rental rate of more than 30 percent below the market rate. The lease includes \$35 million to the government that can be applied to further reduce rent costs and address costs associated with relocating the NSF. GSA estimates that the taxpayer will save \$65 million over the 15-year term of the lease.

Taking advantage of the opportunity presented by the large percentage of leases expiring in the near term would also allow GSA and tenant agencies to lock in current rental rates. Most of the top markets where GSA has leases have rates still below their peak rates in 2007 and 2008. However, within only a few years, the reverse may be true as the trend in the leasing market is moving upward and swinging back towards higher leasing costs.<sup>5</sup>

<sup>5</sup>JLL, Washington, D.C. Market Overview, January 29, 2015.

## ACCOUNTABILITY AND OVERSIGHT OF PUBLIC BUILDINGS

H.R. 4487 includes a number of provisions that will improve oversight and accountability of GSA's authorities to minimize waste and ensure the limited resources and funding go to projects that are needed and properly authorized by Congress. These provisions include: clarifying that construction projects funded by GSA's exchange authorities require congressional authorization; requiring congressional notification if project costs and scope change by more than five percent; and sunseting project authorizations after five years.

In recent years, the Committee has been concerned about how GSA has interpreted some of its authorities. While GSA has been provided broad authority to acquire needed property and manage property, the Public Buildings Act also ensures there is proper congressional oversight to provide for appropriate accountability to the taxpayer.

*Exchange authority*

The Public Buildings Act explicitly authorizes GSA to use exchanges to acquire properties that are needed to meet federal space requirements.<sup>6</sup> The purpose of such authority is to provide GSA with flexibility on options to acquire properties and generally has been used in cases, for example, in which it is prudent to exchange one building site with another or one existing building with another existing building that better met the needs of the federal government. While these statutory authorities explicitly mention "exchange," more recently, GSA has interpreted another provision as providing exchange authority.<sup>7</sup> GSA's recent interpretation that its exchange authorities can be used to fund new construction projects has been a concern of the Committee. While the Committee has supported GSA fully utilizing its authorities to find innovative ways to meet federal space needs in a cost-effective manner, GSA has proceeded with major building projects, using exchanges, without any authorization by Congress for the underlying project. This has effectively limited Congress' role and ability to ensure projects are necessary, reasonable in scope, and cost-effective for the taxpayer. H.R. 4487 is not intended to stop GSA's current use of its exchange authority; rather, the changes made by the legislation are prospective and ensure there is proper authorization and oversight of GSA's use of this authority in future projects.

*Limitations on project scope and authorizations*

During the Committee's work and oversight related to federal courthouses, a number of strategies were identified to improve oversight, generally, of GSA's construction projects. In 2010, the GAO completed a study entitled, "*Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs.*"<sup>8</sup> For that study, GAO examined 33 courthouses that were constructed during the ten-year period from 2000 to 2010 and found that 3.56 million square feet of extra space was

<sup>6</sup> 40 U.S.C. §§ 3304(a), 3304(b), and 3305 (a); Section 412, Consolidated Appropriations Act, 2005, Title V, General Services Administration, P.L. 108-447.

<sup>7</sup> 40 U.S.C. § 581(c) (this section states "The Administrator may acquire, by purchase, condemnation, or otherwise, real estate and interests in real estate.")

<sup>8</sup> GAO-10-417.

built. The reasons for the extra space included: the Judiciary overestimating its 10-year projection of future judges assigned to courthouses, new courthouses did not incorporate courtroom sharing, and GSA constructed courthouses above the congressionally-approved size.

Since that time and after subsequent reports by the GAO and hearings by the Committee, the Judiciary has taken action to address many of the problems of waste identified. However, despite the GAO and Committee findings, GSA proceeded with the construction of a new courthouse in Los Angeles, California, based on a 10-year-old authorization and a plan no longer reflective of the requirements of the Judiciary. Even if a project may be appropriate at a given point in time, requirements change, costs change, and building standards change.

As a result of this, H.R. 4487 addresses these concerns by requiring GSA to notify the Committee if a project's scope or costs change by more than five percent. It also sunsets Committee authorizations in five years if the project has not commenced.

*Court ruling Related to Committee's approval process*

In November of 2015, the U.S. Court of Federal Claims issued a ruling in the case of *Springfield Parcel C, LLC v. United States*. The case was brought as a post-award bid protest from a request for lease proposals (RLP) awarded by GSA for a new headquarters for the Transportation Security Administration (TSA). The lease was awarded to Eisenhower Real Estate Holdings, LLC (Eisenhower) and Springfield Parcel C, LLC sought a permanent injunction of the award to Eisenhower.

Among the issues the Court addressed was whether GSA violated the law by exceeding the square footage authorized by the Committee when it approved the proposed TSA lease. In concluding that GSA had exceeded its authority, the Court also addressed the issue of whether the prospectus process is constitutional. The Court concluded that the Committee's approval process did not run afoul of the Constitution explaining that the Executive Branch has no authority to expend funds for public buildings without an authorization.<sup>9</sup> The Court further explained that the "congressional committees' approvals precede, not follow, the pertinent appropriation, and any conditions stated in the committees' approving resolutions flow through to the appropriation."<sup>10</sup> The Court noted that because GSA violated the law, there was no appropriation available for the lease and therefore concluded the lease violated the Anti-Deficiency Act (ADA). As a result, the Court ruled the lease was void *ab initio* (from the beginning).

The *Springfield Parcel C, LLC* ruling made it clear that GSA must obtain committee authorization for projects exceeding the threshold in the law.<sup>11</sup> Absent authorization, GSA has no authority to obligate funds for these projects. In addition, the case made clear that the parameters typically included in the committee resolutions

<sup>9</sup> *Springfield Parcel C, LLC v. United States*, No. 15-1069C, Fed. Cl. (2015), Letter to the Honorable Silvio O. Conte, B-196854, 1984 WL 262173 (Comp. Gen. Mar. 19, 1984).

<sup>10</sup> *Springfield Parcel C, LLC v. United States*, No. 15-1069C, Fed. Cl. (2015), page 25, footnote 23.

<sup>11</sup> 40 USC § 3307.

approving GSA projects, such as limitations on square footage and costs, are binding on GSA.

The provisions of H.R. 4487 will help improve congressional oversight of GSA's real estate authorities. However, the Court ruling made clear GSA is legally bound by the limitations contained in the Committee resolutions approving GSA projects and leases. To ensure costs are minimized and avoid delays, GSA must continue to work to submit prospectuses to the Committee as early as possible to ensure the Committee has adequate time to review proposed projects.

#### IMPROVING BUILDING SECURITY

Buildings, unfortunately, have been proven attractive targets to those wishing to do the Nation harm. Whether they are federally owned facilities, federally occupied facilities, or private buildings, they represent key symbols of the Nation. There have been numerous attacks against buildings, including federally owned or occupied buildings, including:

- 1993 bombing of the World Trade Center in New York City in which six people were killed and more than a thousand injured;
- 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma in which 168 people, including 19 children, were killed;
- 1998 attack on the United States Capitol in which two Capitol Police Officers—Detective John Gibson and Officer Jacob Chestnut—were killed;
- 2001 September 11th terrorist attacks targeting the World Trade Center, the Pentagon, and another target not known, but believed to possibly have been the U.S. Capitol or the White House, in which nearly 3,000 people were killed;
- 2010 attack on an Internal Revenue Service office in Austin, Texas with a single-engine plane, killing one employee and injuring 13 others;
- 2013 Washington Navy Yard shooting in which 12 civilian and contractor employees were killed;
- 2015 shooting at the U.S. Census Bureau in Suitland, Maryland in which a Federal Protective Service (FPS) Protective Security Officer (PSO) was killed;
- 2015 shooting at a federal office building in New York City in which a PSO was killed; and
- 2016 shooting at the U.S. Capitol Visitor Center.

As the Federal inventory of buildings has steadily increased over the last 30 years, the quality and implementation of security standards have varied greatly. The Committee has unfortunately found that security in Federal buildings is not uniform and is often set by non-security personnel employed by tenant agencies through a Facility Security Committee for each individual public building. This approach to security makes it difficult to gauge properly the actual risk at Federal facilities and then allocate Federal Protective Service (FPS) resources appropriately.

The FPS was created in 1971 as part of GSA and is responsible for providing law enforcement and security services to all 8,700 federal facilities that are owned or leased by GSA. In 2003, FPS was transferred into the Department of Homeland Security (DHS).

Today, the FPS has 1,200 full-time employees located in its headquarters and 11 regions around the country and approximately 13,500 contract security guards also known as protective security officers (PSOs). FPS is funded through security fees charged to GSA's federal tenant agencies. The FPS not only is charged with physically securing facilities, but also managing and overseeing the PSOs and related contracts, conducting building assessments, responding to incidents, and conducting criminal investigations. FPS authorities can also be delegated outside of FPS and DHS. Both the authority to procure and manage contract guard services and the law enforcement powers granted pursuant to 40 U.S.C. 1315(b)(2) can be delegated. Currently, there are 193 delegations of authority to 21 federal departments and agencies.

Over the years, GAO conducted a number of investigations related to building security and the FPS and found deficiencies in building security, the management and training of the PSOs, and oversight of delegated authority.<sup>12</sup> In addition, in 2014, the Committee learned the relevant law enforcement and contract guard authorities have been dispersed even within DHS potentially making it more difficult to ensure accountability, proper training and oversight, and effective management of security. This also raises questions as to how and whether DHS is focused on improving the FPS or simply dispersing authorities as needed to other entities.<sup>13</sup> The decentralization of this authority is troubling as it appears to undercut clear accountability for the security of federal buildings.

H.R. 4487 makes a number of changes to improve security and accountability. Specifically, it makes changes related to PSO authorities that will better facilitate uniform training standards for the contract guard program. The bill also ensures persons acting pursuant to delegated law enforcement authority are appropriately trained on an ongoing basis; requires notification of any delegations of authority outside of FPS; and ensures FPS's limited resources are focused on building security. The bill also requires FPS to study the overall personnel needs of FPS, the permanent posting of a law enforcement officer at high security facilities, and the workforce composition of FPS.

FPS is also required to study and report on the best funding mechanism for FPS. Currently, FPS is funded by a collection of fees and security charges which have remained static in the face of evolving threats to Federal facilities. Federal agencies pay for security at individual buildings through these fees. Each building or facility has a Facility or Building Security Committee (FSCs). These committees are composed of designated staff of the federal agencies housed in the particular facility or building. The members of FSCs may or may not themselves have any security experience or background. In addition, the FSCs help facilitate the review and consideration by the tenant agencies of any security recommenda-

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<sup>12</sup>See, for example, *Federal Protective Service: Protecting Federal Facilities Remains A Challenge*, GAO-14-623T (May 21, 2014); *Homeland Security: Challenges Associated with Federal Protective Service's Contract Guards and Risk Assessments at Federal Facilities*, GAO-14-128T (Oct. 30, 2013); *Federal Protective Service: More Effective Management Needed in Delegating Security Authority to Agencies*, GAO-15-271 (March 31, 2015).

<sup>13</sup>The authorities pursuant to 40 U.S.C. 1315 were vested in the Secretary of Homeland Security after FPS was moved to DHS from GSA. Those authorities are currently delegated down through two entities—the National Protection and Programs Directorate (NPPD) under which falls FPS and the Under Secretary of Management which has delegated authority to the DHS Office of the Chief Security Officer.

tions and assessments completed by FPS. Ultimately, it is the tenant agency that has the final decision in the amount and type of security at a given building or facility, not FPS. The Committee has found that Federal agencies have sometimes made security decisions based on the availability of funds in regional budgets rather than the actual security threat. FPS is expected to provide viable funding options that address this conflict of interest.

#### DEPARTMENT OF ENERGY HEADQUARTERS

The existing Department of Energy (DOE) Forrestal Complex (Forrestal Complex) is significantly underutilized and at the same time sits on underdeveloped, valuable real estate in the Nation's capital. In addition, the current development is inconsistent with both federal and local development plans for that area. The value of the land can more than pay for costs associated with providing the DOE with a more efficient headquarters, produce income for the taxpayer, and allow for the redevelopment of the site consistent with federal and local development plans. While GSA currently has the authorities needed to move forward on this redevelopment, the provisions in H.R. 4487 would allow GSA to provide for a replacement headquarters using the proceeds from the sale of the relevant parcels. To ensure a return to the taxpayer, if GSA determines that the costs would exceed the income, GSA is directed to sell, in a timely manner, the underutilized parcels and deposit those net proceeds into the Federal Buildings Fund. In determining which parcels to sell, while the legislation makes reference to specific parcels, GSA is not restricted to only including those parcels within the Forrestal Complex listed in the legislation. In addition, underutilized parcels identified for sale should not be confined to those with buildings, including the two southern parcels on the Forrestal Complex that front Maryland Avenue and flank 10th Street.

The Committee intends for GSA to organize disposition of its assets in a manner that promotes and facilitates their redevelopment consistent with adopted federal and local plans for the sector. For the Forrestal Complex and the surrounding sector, the adopted federal SW Ecodistrict Plan and complementary local plans call for reconfiguration of the existing urban pattern, consolidation of federal agency uses in more efficient buildings on a smaller footprint, disposition and reuse of excess and underutilized federal properties for private activity involving a mixture of use types, and introduction of new street and other public infrastructure in support of such reconfiguration. Of particular interest is the plan to reconstruct Maryland Avenue, now largely occupied by railroad use, as a multi-modal transportation corridor that would expand its capacity for freight and passenger rail while also providing decking above the railroad alignment for auto, pedestrian and other transportation modes. These improvements would not only benefit the immediately surrounding sector and District of Columbia, but have substantial benefit for the many states served by the rail corridor as well.

It is also important for GSA to consult and coordinate with key local stakeholders so that dispositions facilitate activities to advance adopted plans. The Committee takes notice of the February 24, 2016 letter from District of Columbia Mayor Muriel Bowser to

GSA Administrator Denise Roth in this regard. The requested coordination is consistent with the Committee's intent.

#### LACTATION ROOMS

Section 15 of H.R. 4487 requires public buildings, where it is cost feasible, to provide designated private and hygienic lactation spaces for nursing mothers that are available to the public. This provision is intended cover buildings controlled by the General Services Administration Public Building Service, the Smithsonian, and the Architect of the Capitol. For years, federal agencies such as the U.S. Department of Agriculture and the Centers for Disease Control and Prevention have encouraged breastfeeding. Under current federal law, federal agencies are required to provide a designated, non-bathroom space for returning employees to pump breastmilk for their newborns, ensuring that new mothers are able to continue this essential practice even after returning to work. This section extends this requirement to include not just employees, but visitors and guests to federal facilities across the nation.

In Washington, D.C. alone, there are millions of tourists who visit federal facilities. There are also visitors to federal agencies for meetings and events. Increasingly, families understand the unique benefits of breastfeeding, and visitors to these buildings who have newborns and babies should have a private space to breastfeed or pump. The benefits of breastfeeding are well-documented—breastmilk contains antibodies and hormones that boost babies' immune systems, and studies have shown lower risks of asthma, diabetes, respiratory infections, and other diseases among breastfed babies. Moreover, breastfeeding also has benefits for nursing mothers, who, research has shown, have lower risks of diabetes and certain forms of cancer.

#### HEARINGS

The Subcommittee held five hearings and six roundtables in the 113th and 114th congresses focusing on subjects related to matters addressed in the legislation. These include the following:

#### HEARINGS

*"Saving Taxpayer Dollars: Freezing the Federal Real Estate Footprint,"* held on May 22, 2013. The purpose of the hearing was to examine efforts by federal agencies to freeze and reduce their real estate footprint.

*"Federal Triangle South: Redeveloping Underutilized Federal Property Through Public Private Partnerships,"* held on November 19, 2013. The purpose of the hearing was to examine Federal Triangle South in Washington, D.C. as a case study for redeveloping underutilized federal properties like the Forrestal Complex.

*"Examining the Federal Protective Service: Are Federal Facilities Secure,"* held on May 21, 2014. The purpose of the hearing was to examine the Federal Protective Service and how to improve the security of federal facilities.

*"GSA Tenant Agencies: Challenges and Opportunities in Reducing Costs of Leased Space,"* held on July 30, 2014. The purpose of the hearing was to examine GSA's leasing program, the real estate strategies of key tenant agencies, and the challenges and opportu-

nities that exist to take advantage of the current real estate market and reduce costs to the taxpayer.

*“Savings Taxpayer Dollars by Reducing Federal Office Space Costs,”* held on March 1, 2016. The purpose of the hearing was to examine and conduct oversight of major General Services Administration (GSA) construction projects funded or proposed to be funded from the GSA Federal Buildings Fund (FBF), other major projects planned, and GSA’s authorities to carry out real estate transactions for the federal government.

#### ROUNDTABLES

*“Benefits and Challenges of Public-Private Partnerships in Federal Real Estate,”* held on July 23, 2013. The purpose of the roundtable was to explore how Public-Private Partnerships (P3s) could be used to meet the real estate needs of federal agencies.

*“Opportunities and Uses for Public Private Partnerships in Federal Real Estate,”* held on December 16, 2013. The purpose of the roundtable was to explore the opportunities and uses of public private partnerships in federal real estate.

*“GSA Leasing Program: Examining Ways to Streamline and Reduce Costs,”* held on July 15, 2014. The purpose of the roundtable was to examine GSA’s leasing program and the opportunities that exist to take advantage of the current real estate market and reduce costs to the taxpayer.

*“Opportunities for Taxpayer Savings: Federally Leased Office Space in the National Capital Region,”* held on February 11, 2015. The purpose of the roundtable was to examine the unusual number of leases expiring in the National Capital Region over the next five years, the status of replacement leases, and opportunities to reduce the amount of space and the costs to the taxpayer.

*“Opportunities for Taxpayer Savings: Federally Leased Office Space in GSA’s Southeast Region,”* held on March 16, 2015. The purpose of the roundtable was to examine the unusual number of leases expiring in GSA’s Southeast Region over the next five years, the status of replacement leases, and opportunities to reduce the amount of leased space and the costs to the taxpayer.

*“Opportunities for Taxpayer Savings: Federally Leased Office Space in GSA’s Northeast Region,”* held on June 23, 2015. The purpose of the roundtable was to examine the unusual number of leases expiring in GSA’s Northeast Region over the next five years, the status of replacement leases, and opportunities to reduce the amount of leased space and the costs to the taxpayer.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On February 8, 2016, Representative Lou Barletta (R-PA), along with Representatives Bill Shuster (R-PA), Peter A. DeFazio (D-OR), André Carson (D-IN), Eleanor Holmes Norton (D-DC), and Jerrold Nadler (D-NY) introduced H.R. 4487, the Public Buildings Reform and Savings Act of 2016.

On March 2, 2016, the Committee on Transportation and Infrastructure met in open session. The Committee considered several amendments to H.R. 4487. Three amendments were offered and adopted by voice vote, including amendments offered by Representatives Lou Barletta (R-PA), Rodney Davis (R-IL), and Eleanor



Holmes Norton (D–DC). The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 4487, as amended.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4487, as amended, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, a cost estimate provided by the Congressional Budget Office was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to reduce costs of federal real estate and improve federal building security.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 4487, as amended, establishes or reauthorizes a program of the federal government known

to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee finds that enacting H.R. 4487, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 4487, as amended, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

#### SECTION-BY-SECTION ANALYSIS OF LEGISLATION, AS AMENDED

##### *Section 1. Short title*

Section 1 establishes the short title of this legislation as the “Public Buildings Reform and Savings Act of 2016.”

##### *Section 2. Streamlined leasing pilot program*

Section 2 establishes a pilot program through 2021 that simplifies GSA’s leasing process for smaller dollar leases which account for 87% of all GSA leases and authorizes GSA to submit consolidated prospectuses for larger leases and other projects to the Committee for approval.

*Section 3. Exchange authority*

Section 3 clarifies approval and oversight of GSA's use of its authority to acquire property through exchange.

*Section 4. Federal Protective Service*

Section 4 improves building security and oversight of relevant authorities by tightening and clarifying FPS authorities, clarifying training and oversight requirements, and ensuring accountability on the use of FPS authorities.

Among the changes made by Section 4, is the requirement to notify the Committee of any future delegations or designations of FPS's law enforcement and contracting authorities. The Committee intends this provision to be prospective; however, the Committee does expect DHS and FPS to continue to update the Committee on its review of the existing delegations and actions taken to reduce their number.

*Section 5. Evaluation of the Federal Protective Service personnel needs*

Section 5 provides for an evaluation of the personnel requirements for the effective protection of federal facilities.

*Section 6. Zero-Based space justification*

Section 6 requires GSA to justify any need for new or replacement space, including an explanation as to why such space could not be consolidated or co-located with other space and requires GSA to compare the costs of leasing versus constructing in evaluating the most cost-effective method of acquiring space.

*Section 7. Eliminating project escalations*

Section 7 requires GSA to notify the Committee if project costs and scope change by more than five percent.

*Section 8. Limitation on authorizations*

Section 8 sets a five-year expiration on Committee resolutions approving GSA prospectus-level (large) projects to ensure projects are initiated in a timely manner and to minimize the use of outdated information in GSA projects.

*Section 9. Department of Energy (DOE) headquarters replacement*

Section 9 directs GSA to sell portions of the under-utilized federal properties in Federal Triangle South in Washington, D.C. to replace the current headquarters facilities, or a portion thereof, of the Department of Energy with more efficient and more cost-effective space and allows GSA to use the proceeds of the sales for a new DOE headquarters so long as there are no net costs to the Government. In the event, there would be net costs, GSA is directed to sell, in a timely manner, available portions of the site (consistent with the federal SW Ecodistrict Plan and complementary local plans) and deposit the net proceeds into the Federal Buildings Fund.

DOE currently is housed in inefficient buildings located on property that is under-developed. This Committee believes several hundred million dollars can be generated for the taxpayer by selling

the property and using the proceeds to provide less costly and more efficient replacement space for the DOE.

*Section 10. Limitation on discounted purchase options*

Section 10 limits GSA's authority with respect to discounted purchase options negotiated in leases by requiring explicit authorization before GSA can exercise such purchase options. The intent is to enable GSA to acquire a discounted purchase option at the time a lease is negotiated and when it is in the best interest of the taxpayer.

*Section 11. Energy savings*

Section 11 encourages GSA to consider the direct bulk purchase of energy for leased facilities when cost effective to do so.

*Section 12. Simplified reforms*

Section 12 clarifies requirements related to commercial leasing services by addressing the applicability of Section 863 of Public Law 110-417 to no-cost contracts. This provision is limited to 5 years, until December 31, 2021. During this time period, the Committee authorizes the GAO to conduct a biennial audit of the broker contract to determine whether there are lower lease rental rates negotiated by contract personnel than those negotiated by GSA in-house personnel, as well as the impact of the program on the length of lease procurements. These are crucial questions for Congress and GSA to consider and they deserve the time and attention of senior management. Further, this section authorizes GAO to review whether the application of section 863 resulted in rental cost savings for the government during the years such section was applicable. This tool is an important consideration for policy and procedural questions in the implementation of a broker contract.

This section directs the GAO to submit reports, due September 30, 2018 and September 30, 2020 summarizing the results of these audits and reviews, including an assessment of whether the broker contract provides greater efficiencies and savings, or whether GSA in-house personnel provides efficiencies and savings. Finally, the section calls for GAO to make recommendations for improving GSA lease procurements.

Since the section has a set termination date of December 31, 2021, GSA should begin making preparations to implement this section and for any audit and review parameters and procedures so that the full five years can be utilized. The Committee would expect GSA to commence preparations as soon as possible, in order to gather sufficient data for a definitive determination of any distinction between the methods of lease acquisition. GSA will need to compile data and information for the GAO studies to be consistent, accurate and reliable.

*Section 13. National Capital Region rental rates*

Section 13 requires the GSA to provide a justification to the Committee on its use of three rental rate caps in the National Capital Region.

*Section 14. Reduction of administrative requirements on certain programs*

Section 14 reduces unnecessary administrative burdens on States and local governments involving certain economic development programs.

*Section 15. Lactation room in public buildings*

Section 15 requires that lactation rooms be available for use by the public in certain public buildings where it is cost feasible. This provision covers buildings controlled by the General Services Administration Public Building Service, the Smithsonian, and the Architect of the Capitol.

*Section 16. Use of reclaimed refrigerants*

Section 16 requires the Administrator of GSA to issue a report examining the feasibility of giving preferences to the use of reclaimed refrigerants to service existing equipment of Federal buildings.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are 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, UNITED STATES CODE**

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**SUBTITLE I—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES**

\* \* \* \* \*

**CHAPTER 5—PROPERTY MANAGEMENT**

\* \* \* \* \*

**SUBCHAPTER V—OPERATION OF BUILDINGS AND RELATED ACTIVITIES**

\* \* \* \* \*

**§ 585. Lease agreements**

(a) IN GENERAL.—

(1) AUTHORITY.—The Administrator of General Services may enter into a lease agreement with a person, copartnership, corporation, or other public or private entity for the accommodation of a federal agency in a building (or improvement) which is in existence or being erected by the lessor to accommodate the federal agency. The Administrator may assign and reassign the leased space to a federal agency.

(2) TERMS.—A lease agreement under this subsection shall be on terms the Administrator considers to be in the interest of the Federal Government and necessary for the accommodation of the federal agency. However, the lease agreement may not bind the Government for more than 20 years and the obligation of amounts for a lease under this subsection is limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31.

(b) SUBLEASE.—

(1) APPLICATION.—This subsection applies to rent received if the Administrator—

(A) determines that an unexpired portion of a lease of space to the Government is surplus property; and

(B) disposes of the property by sublease.

(2) USE OF RENT.—Notwithstanding section 571(a) of this title, the Administrator may deposit rent received into the Federal Buildings Fund. The Administrator may defray from the fund any costs necessary to provide services to the Government's lessee and to pay the rent (not otherwise provided for) on the lease of the space to the Government.

(c) AMOUNTS FOR RENT AVAILABLE FOR LEASE OF BUILDINGS ON GOVERNMENT LAND.—Amounts made available to the General Services Administration for the payment of rent may be used to lease space, for a period of not more than 30 years, in buildings erected on land owned by the Government.

(d) *Any bargain-price option to purchase at less than fair market value contained in any lease agreement entered into on or after January 1, 2016, pursuant to this section may be exercised only to the extent specifically provided for in subsequent appropriation Acts or other Acts of Congress.*

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**CHAPTER 13—PUBLIC PROPERTY**

\* \* \* \* \*

**§ 1315. Law enforcement authority of Secretary of Homeland Security for protection of public property**

(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the “Secretary”) shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

(b) OFFICERS AND AGENTS.—

(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to

the extent necessary to protect the property and persons on the property.

(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

(A) enforce Federal laws and regulations for the protection of persons and property;

(B) carry firearms;

(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

(D) serve warrants and subpoenas issued under the authority of the United States; and

(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property[; and].

[(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.]

(3) MINIMUM TRAINING STANDARDS.—*The Secretary, in consultation with the Director of the Federal Protective Service and in accordance with guidelines issued by the Attorney General, shall establish minimum and uniform training standards for any employee designated as an officer or agent to carry out and exercise authority pursuant to this section. Such minimum standards shall include ongoing training certified by the Director of the Federal Protective Service.*

(4) NOTIFICATION OF DESIGNATIONS AND DELEGATIONS.—*The Secretary shall submit written notification of any approved designations or delegations of any authority provided under this section, including the purposes and scope of such designations or delegations, not within the Federal Protective Service, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, including the purpose for such designations or delegations, oversight protocols established to ensure compliance with any requirements, including compliance with training requirements, and other specifics regarding such designations and delegations.*

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

(d) DETAILS.—

(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

(1) preclude or limit the authority of any Federal law enforcement agency; or

(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.

(h) CONTRACT SECURITY PERSONNEL.—

(1) AUTHORITIES FOR CONTRACT SECURITY PERSONNEL.—

(A) CARRYING OF FIREARMS.—*The Secretary may authorize contract security personnel engaged in the protection of buildings and grounds that are owned, occupied, or secured by the General Services Administration Public Buildings Service to carry firearms to carry out their official duties.*

(B) DETENTION WITHOUT A WARRANT.—*A person authorized to carry a firearm under this subsection may, while in the performance of, and in connection with, official duties, detain an individual without a warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be detained has committed or is committing such felony. The detention authority conferred by this paragraph is in addition to any detention authority provided under other laws.*

(2) LIMITATIONS.—*The following limitations apply:*



(A) *DETENTION.*—Contract security personnel authorized to carry firearms under this section may detain an individual only if the individual to be detained is within, or in direct flight from, the area of such offense.

(B) *ENFORCEMENT OF CERTAIN LAWS.*—A person granted authority to detain under this section may exercise such authority only to enforce laws regarding any building and grounds and all property located in or on that building and grounds that are owned, occupied, or secured by the General Services Administration Public Buildings Service.

(3) *GUIDANCE.*—The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this section.

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**SUBTITLE II—PUBLIC BUILDINGS AND WORKS**

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**PART A—GENERAL**

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**CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION**

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| Sec.                                      |   |   |   |   |   |   |
| 3301. Definitions and nonapplication.     | * | * | * | * | * | * |
| 3317. Lactation room in public buildings. | * | * | * | * | * | * |

**§ 3307. Congressional approval of proposed projects**

(a) **RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.**—The following appropriations may be made only if the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives adopt resolutions approving the purpose for which the appropriation is made:

(1) An appropriation to construct, alter, or acquire (*including by exchange*) any building to be used as a public building which involves a total expenditure in excess of \$1,500,000, so that the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for the buildings, except as provided in section 3305(b) of this title, is ensured.

(2) An appropriation to lease any space at an average annual rental in excess of \$1,500,000 for use for public purposes.

(3) An appropriation to alter any building, or part of the building, which is under lease by the Federal Government for use for a public purpose if the cost of the alteration will exceed \$750,000.

(4) An appropriation for any costs and expenses associated with administering an acquisition by exchange involving real property or in-kind consideration, including services, with a fair market value of \$2,850,000 or more.

(b) TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) a brief description of the building to be constructed, altered, or 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 Government of the facility to be constructed, altered, or 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 those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, 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 a building identified to the Administrator under section 3303(c) of this title as suitable for the public building needs of the Government *including a cost comparison between leasing space or constructing space*;

(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, or acquired, or the space to be leased; **[and]**

(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project**[.]**; *and*

(8) *with respect to any prospectus, including for replacement space, lease renewal, or lease extension, the Administrator shall include a justification for such space, including an explanation of why such space could not be consolidated or colocated into other owned or leased space.*

(c) INCREASE OF ESTIMATED MAXIMUM COST.—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 any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost. *The Administrator shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of any increase of more than 5 percent of an estimated maximum cost or*

*of any increase or decrease in the scope or size of a project of 5 or more percent. Such notification shall include an explanation regarding any such increase or decrease. The scope or size of a project shall not increase or decrease by more than 10 percent unless an amended prospectus is submitted and approved pursuant to this section.*

(d) **RESCISSION OF APPROVAL.**—If an appropriation is not made within one year after the date a project for construction, alteration, or acquisition is approved under subsection (a), the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives by resolution may rescind its approval before an appropriation is made.

(e) **EMERGENCY LEASES BY THE ADMINISTRATOR.**—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).

(f) **MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.**—With respect to space to be leased, the Administrator shall include, to the maximum extent practicable, minimum performance requirements requiring energy efficiency and the use of renewable energy.

(g) **LIMITATION ON LEASING CERTAIN SPACE.**—

(1) **IN GENERAL.**—The Administrator may not lease space to accommodate any of the following if the average rental cost of leasing the space will exceed \$1,500,000:

(A) Computer and telecommunications operations.

(B) Secure or sensitive activities related to the national defense or security, except when it would be inappropriate to locate those activities in a public building or other facility identified with the Government.

(C) A permanent courtroom, judicial chamber, or administrative office for any United States court.

(2) **EXCEPTION.**—The Administrator may lease space with respect to which paragraph (1) applies if the Administrator—

(A) decides, for reasons set forth in writing, that leasing the space is necessary to meet requirements which cannot be met in public buildings; and

(B) submits the reasons to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(h) **DOLLAR AMOUNT ADJUSTMENT.**—The Administrator annually may adjust any dollar amount referred to in this section to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(i) **EXPIRATION OF COMMITTEE RESOLUTIONS.**—*Unless a lease is executed or a construction, alteration, repair, design, or acquisition project is initiated not later than 5 years after the resolution approvals adopted by the Committee on Transportation and Infrastructure*

of the House of Representatives or the Committee on Environment and Public Works of the Senate pursuant to subsection (a), such resolutions shall be deemed expired. This subsection shall only apply to resolutions approved after the date of enactment of this subsection.

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**§ 3317. Lactation room in public buildings**

(a) *DEFINITIONS.*—In this section:

(1) *APPROPRIATE AUTHORITY.*—The term “appropriate authority” means the head of a Federal agency, the Architect of the Capitol, or other official authority responsible for the operation of a public building.

(2) *COVERED PUBLIC BUILDING.*—The term “covered public building” means a public building (as defined in section 3301) that is open to the public and contains a public restroom, and includes a building listed in section 6301 or 5101.

(3) *LACTATION ROOM.*—The term “lactation room” means a hygienic place, other than a bathroom, that—

(A) is shielded from view;

(B) is free from intrusion; and

(C) contains a chair, a working surface, and, if the public building is otherwise supplied with electricity, an electrical outlet.

(b) *LACTATION ROOM REQUIRED.*—Except as provided in subsection (c), the appropriate authority of a covered public building shall ensure that the building contains a lactation room that is made available for use by members of the public to express breast milk.

(c) *EXCEPTIONS.*—A covered public building may be excluded from the requirement in subsection (b) at the discretion of the appropriate authority if—

(1) the public building—

(A) does not contain a lactation room for employees who work in the building; and

(B) does not have a room that could be repurposed as a lactation room or a space that could be made private using portable materials, at a reasonable cost; or

(2) new construction would be required to create a lactation room in the public building and the cost of such construction is unfeasible.

(d) *NO UNAUTHORIZED ENTRY.*—Nothing in this section shall be construed to authorize an individual to enter a public building or portion thereof that the individual is not otherwise authorized to enter.

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**PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF  
1965**

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## TITLE VI—MISCELLANEOUS

### SEC. 601. POWERS OF SECRETARY.

(a) IN GENERAL.—In carrying out the duties of the Secretary under this Act, the Secretary may—

(1) adopt, alter, and use a seal, which shall be judicially noticed;

(2) subject to the civil service and classification laws, select, employ, appoint, and fix the compensation of such personnel as are necessary to carry out this Act;

(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary determines to be appropriate;

(4) request directly, from any Federal agency, board, commission, office, or independent establishment, such information, suggestions, estimates, and statistics as the Secretary determines to be necessary to carry out this Act (and each Federal agency, board, commission, office, or independent establishment may provide such information, suggestions, estimates, and statistics directly to the Secretary);

(5) under regulations promulgated by the Secretary—

(A) assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Secretary's discretion and on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Secretary in connection with assistance provided under this Act; and

(B) collect or compromise all obligations assigned to or held by the Secretary in connection with that assistance until such time as the obligations are referred to the Attorney General for suit or collection;

(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary in connection with assistance provided under this Act;

(7) pursue to final collection, by means of compromise or other administrative action, before referral to the Attorney General, all claims against third parties assigned to the Secretary in connection with assistance provided under this Act;

(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), to the extent appropriate in connection with assistance provided under this Act;

(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Secretary, take any action, including the procurement of the services of attorneys by contract, determined by the Secretary to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance provided under this Act;

(10)(A) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually;

(B) compensate individuals so employed, including compensation for travel time; and

(C) allow individuals so employed, while away from their homes or regular places of business, travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Federal Government service;

(11) establish performance measures for grants and other assistance provided under this Act, and use the performance measures to evaluate the economic impact of economic development assistance programs under this Act, which establishment and use of performance measures shall be provided by the Secretary through—

(A) officers or employees of the Department;

(B) the employment of persons under contracts entered into for such purposes; or

(C) grants to persons, using funds made available to carry out this Act;

(12) conduct environmental reviews and incur necessary expenses to evaluate and monitor the environmental impact of economic development assistance provided and proposed to be provided under this Act, including expenses associated with the representation and defense of the actions of the Secretary relating to the environmental impact of the assistance, using any funds made available to carry out section 207;

(13) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or the property of the Secretary; and

(14) establish such rules, regulations, and procedures as the Secretary considers appropriate for carrying out this Act.

(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise pursue claims relating to mortgages assigned to the Secretary.

(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of assistance provided under this Act if the premium for the insurance or the amount of the services or supplies does not exceed \$1,000.

(d) PROPERTY INTERESTS.—

(1) IN GENERAL.—The powers of the Secretary under this section, relating to property acquired by the Secretary in connection with assistance provided under this Act, shall extend to property interests of the Secretary relating to projects approved under—

(A) this Act;

(B) title I of the Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.);

(C) title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); and

(D) the Community Emergency Drought Relief Act of 1977 (42 U.S.C. 5184 note; Public Law 95-31).

(2) RELEASE.—

(A) *IN GENERAL.*—The Secretary may release, in whole or in part, any real property interest, or tangible personal property interest, in connection with a grant after the date that is 20 years after the date on which the grant was awarded.

(B) *REVOLVING LOAN FUND PROGRAM.*—*The Secretary may release, subject to terms and conditions the Secretary determines appropriate, the Federal Government's interest in connection with a grant under section 209(d) not less than 7 years after final disbursement of the grant, if—*

*(i) the recipient has carried out the terms of the award in a satisfactory manner;*

*(ii) any proceeds realized from the release of the Federal Government's interest will be used for one or more activities that continue to carry out the economic development purposes of this Act; and*

*(iii) the recipient shall provide adequate assurance to the Secretary that at all times after release of the Federal Government's interest in connection with the grant, the recipient will be responsible for continued compliance with the requirements of section 602 in the same manner it was responsible prior to release of the Federal Government's interest and that the recipient's failure to comply shall result in the Secretary taking appropriate action, including, but not limited to, rescission of the release and recovery of the Federal share of the grant.*

(e) *POWERS OF CONVEYANCE AND EXECUTION.*—The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest in such property acquired by the Secretary under this Act may be exercised by the Secretary, or by any officer or agent appointed by the Secretary for that purpose, without the execution of any express delegation of power or power of attorney.

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