

106TH CONGRESS
1ST SESSION

H. R. 3285

To authorize public-private partnerships to rehabilitate Federal real property,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1999

Mr. SESSIONS introduced the following bill; which was referred to the
Committee on Government Reform

A BILL

To authorize public-private partnerships to rehabilitate
Federal real property, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Asset Manage-
5 ment Improvement Act of 1999”.

6 **TITLE I—IMPROVED PROPERTY**
7 **MANAGEMENT**

8 **SEC. 101. PERFORMANCE MEASUREMENT.**

9 (a) PERFORMANCE MEASURES REQUIRED.—

1 (1) IN GENERAL.—The Administrator, in con-
2 sultation with the heads of executive agencies, shall
3 establish performance measures to determine the ef-
4 fectiveness of Federal property management. The
5 performance measures shall be designed to—

6 (A) enable the Congress and heads of exec-
7 utive agencies to track progress in the achieve-
8 ment of property management objectives on a
9 governmentwide basis; and

10 (B) allow for comparing the performance
11 of executive agencies against industry and other
12 public sector agencies in terms of performance.

13 (2) USE OF EXISTING DATA AND DATA COLLEC-
14 TION TOOLS.—In developing and implementing the
15 performance measures, the Administrator shall use
16 existing data sources and automated data collection
17 tools to the maximum extent practical.

18 (b) EXECUTIVE AGENCIES.—The head of each execu-
19 tive agency shall—

20 (1) monitor the performance of the agency
21 against the performance measures established under
22 subsection (a); and

23 (2) report the results of such monitoring to the
24 Congress in the agency's budget submission under
25 section 1105 of title 31, United States Code.

1 (c) MANAGEMENT PLAN.—Within 90 days after the
2 date of the enactment of this Act, the Administrator of
3 General Services shall submit to the Congress a program
4 management plan describing—

5 (1) how the program established by this Act
6 will be implemented;

7 (2) individuals who will exercise operational au-
8 thority over the program;

9 (3) the qualifications of such individuals; and

10 (4) a timeline for implementation of the pro-
11 gram.

12 **TITLE II—PUBLIC-PRIVATE** 13 **PARTNERSHIPS**

14 **SEC. 201. PUBLIC-PRIVATE PARTNERSHIP AUTHORITY.**

15 Title II of the Federal Property and Administrative
16 Services Act of 1949 (40 U.S.C. 481 et seq.) is amended
17 by adding at the end the following:

18 “SEC. 213. (a) The Administrator may enter into
19 agreements for the creation of one or more public-private
20 partnerships with a nongovernmental person, the purpose
21 of which shall be (1) to lease Federal real property under
22 the terms of subsection (c), and (2) to develop, rehabili-
23 tate, or renovate facilities on such leased property for the
24 use, in whole or part, by executive agencies. The public-
25 private partnership may be a limited liability company,

1 limited partnership, corporation, business trust, or other
2 form of entity, as the Administrator may designate. The
3 nongovernmental person shall exercise control of the man-
4 agement of the public-private partnership, and shall hold
5 a majority interest in ownership and profits of the public-
6 private partnership.

7 “(b) Each agreement entered into pursuant to this
8 section—

9 “(1) shall have as its primary purpose the en-
10 hancement of the functional and economic efficiency
11 of Federal real property;

12 “(2) shall be negotiated pursuant to such proce-
13 dures as the Administrator considers necessary to
14 promote competition and protect the public interest;

15 “(3) shall provide a lease option to the United
16 States to occupy space in the facilities acquired, con-
17 structed, or rehabilitated by the public-private part-
18 nership, but shall not guarantee occupancy by the
19 United States;

20 “(4) shall describe the consideration, duties,
21 and responsibilities for which the United States and
22 the nongovernmental person are responsible and may
23 provide for the alteration, repair, or improvement of
24 the real property as part or all of the consideration
25 of the nongovernmental person, notwithstanding any

1 provision of law, including the Act of June 30, 1932
2 (chapter 314; 40 U.S.C. 303b);

3 “(5) shall provide—

4 “(A) that the United States shall not be
5 liable for any actions, debts, or liability of any
6 person created by such agreement; and

7 “(B) that no person is authorized by the
8 agreement to execute any instrument or docu-
9 ment creating or evidencing any indebtedness
10 unless such instrument or document specifically
11 disclaims any liability of the United States
12 under the instrument or document; and

13 “(6) shall provide that the leasehold interests of
14 the United States are senior to that of any lender
15 to the nongovernmental person.

16 Paragraph (6) shall not impair the ability of a public-pri-
17 vate partnership to pledge as collateral its leasehold inter-
18 est under a lease with the United States entered into pur-
19 suant to the terms of subsection (c).

20 “(c)(1) Notwithstanding any other provision of law,
21 including sections 202 and 203 of this Act, the Adminis-
22 trator may lease real property to a public-private partner-
23 ship created under this section in furtherance of agree-
24 ments under subsection (a).

1 “(2) Master leases under this subsection may be for
2 such period as the Administrator determines appropriate.

3 “(3) The Administrator may dispose of equity inter-
4 est controlled by the United States in any public-private
5 partnership created under this section whenever deter-
6 mined by the Administrator to be beneficial to the United
7 States, if the Administrator receives the estimated fair
8 market value of such interests. Proceeds from such dis-
9 posal shall be deposited into the fund created by section
10 210(f).

11 “(4) Real property leased under this subsection shall
12 not be considered unutilized or underutilized for purposes
13 of section 501 of the Stewart B. McKinney Homeless As-
14 sistance Act and may be leased under this subsection with-
15 out regard to any other provision of law.

16 “(d) Notwithstanding any other provision of law, the
17 Administrator, or his or her designee, may provide services
18 to a public-private partnership created under this section
19 on such terms as the Administrator considers appropriate.

20 “(e)(1) Notwithstanding any other provision of law,
21 the Administrator may retain and use any revenues de-
22 rived from agreements entered into under this section for
23 the physical improvement of Federal real property.

24 “(2) At the discretion of the Administrator, revenues
25 from master leases authorized by this section shall be de-

1 posited into the fund established by section 210(f), or de-
2 posited into the general fund of the Treasury as miscella-
3 neous receipts.

4 “(3) Net revenues received by the Administrator from
5 public-private partnerships created under this section,
6 other than proceeds from master leases of real property,
7 shall be deposited in the fund established by section
8 210(f).

9 “(f) Upon request of the head of an executive agency,
10 the Administrator shall delegate to the head of the execu-
11 tive agency authority of the Administrator under sub-
12 sections (a) through (e).

13 “(g) The Administrator shall prepare and transmit
14 to the Congress a business plan regarding each agreement
15 with a nongovernmental person under this section not
16 later than 30 days before the date on which the Adminis-
17 trator enters into the agreement. The business plan shall
18 identify the property that the Administrator proposes to
19 make available under the agreement, an explanation of the
20 agreement, the name, resources, and qualifications of the
21 nongovernmental person, the factors in support of the pro-
22 posed project, and performance measures by which the
23 proposed project will be measured.

24 “(h) The Administrator shall describe, in the budget
25 submitted by the President pursuant to section 1105 of

1 title 31, United States Code, the projected economic per-
 2 formance, including expenditures and receipts, arising
 3 from agreements entered into pursuant this section.

4 “(i) In this section:

5 “(1) The term ‘nongovernmental person’ means
 6 a person that is not an executive agency.

7 “(2) The term ‘master lease’ means a convey-
 8 ance of Federal real property to a public-private
 9 partnership created under this section through a
 10 lease entered into by the Administrator with the
 11 public-private partnership.”.

12 **SEC. 202. REPORTS.**

13 (a) OFFICE OF THE ADMINISTRATOR.—Not later
 14 than 5 years after the date of enactment of this Act, the
 15 Administrator of General Services shall submit to the Con-
 16 gress a report on the use by executive agencies of the au-
 17 thorities provided by this Act. The report shall—

18 (1) assess the effectiveness of the authority to
 19 enter into agreements to enhance the value of the
 20 properties subject to the agreements; and

21 (2) review the performance measures included
 22 in the explanatory statements submitted pursuant to
 23 section 201.

24 (b) REPORT OF THE COMPTROLLER GENERAL.—Not
 25 later than 5 years after the date of enactment of this Act,

1 the Comptroller General of the United States shall submit
2 to the Congress a report on the use by executive agencies
3 of the authorities provided by this Act.

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