



U.S. House of Representatives
Committee on Transportation and Infrastructure

Washington, DC 20515

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July 27, 2012

BRIEFING MEMORANDUM

TO: Members of the Committee on Transportation and Infrastructure
FROM: Committee on Transportation and Infrastructure Staff
SUBJECT: Oversight Hearing on “GSA: A Review of Agency Mismanagement and Wasteful Spending -- Part 2”

PURPOSE

The Committee on Transportation and Infrastructure will meet on Wednesday, August 1, 2012, at 9 a.m. to receive testimony from the General Services Administration (GSA) Inspector General and GSA. The hearing will focus on reviewing the mismanagement and wasteful spending of GSA. Specifically, the hearing will examine new information on GSA conferences, travel and bonuses as well as GSA’s recent decision to enter into a lease without Committee authorization.

BACKGROUND

General Services Administration

The Committee has jurisdiction over all of GSA’s real property activity through the Property Act of 1949, the Public Buildings Act of 1959, and the Cooperative Use Act of 1976. These three Acts are now codified as title 40 of the United States Code. GSA’s Public Buildings Service (PBS) is responsible for the construction, repair, maintenance, alteration, and operation of United States courthouses and public buildings of the Federal Government. Additionally, PBS leases privately owned space for Federal use. GSA owns or leases 9,600 assets and maintains an inventory of more than 362 million square feet of workspace. GSA acts as the “landlord” for the Federal government, obtaining and

managing space to meet the space needs of other Federal agencies. GSA, however, is just one of nine¹ Federal agencies that, in total, own or manage 93% of Federal real property.

GSA currently operates with 11 PBS regional offices (including the National Capital Region in D.C.) which are responsible for managing GSA properties and projects in those regions.

Property Management Issues

Given the vast real estate holdings of the Federal Government, poor asset management and missed market opportunities cost taxpayers significant sums of money. For this reason, in 2003, the Government Accountability Office (GAO) placed real property management on its list of “high risk” government activities where it remains today. Unfortunately, despite executive orders and memoranda issued during two administrations and acts of Congress intended to improve the management of Federal real property, these problems persist.² The high risk activities of Federal real property are significant. Considerable amounts of vacant or underperforming assets can translate into significant costs associated with their operation, maintenance, and security. For example, in fiscal year 2009, the Federal Government spent \$1.7 billion in annual operating costs for under-utilized buildings and \$134 million, annually, for excess buildings.³

Subcommittee on Economic Development, Public Buildings, and Emergency Management Chairman Denham introduced H.R. 1734, the Civilian Property Realignment Act (CPRA), last year. That legislation passed the House and would establish a civilian BRAC-like commission to identify and get rid of waste in federal properties through selling unneeded properties, consolidating Federal space and minimizing the Federal space footprint. This Congress, the Committee has held field hearings in vacant buildings to provide oversight on this issue, including at the Annex of the Old Post Office, the Cotton Annex, and the Georgetown Heating Plant in Washington, D.C. Additional field hearings are planned in the next month to highlight the wasteful mismanagement of federal properties by GSA.

Administrative Costs

On top of inefficiencies in how GSA has managed its buildings, the Committee is also investigating Public Buildings Service’s administrative costs. Information received by the Committee indicates that the PBS administrative costs have increased significantly over the years. Specifically, since fiscal year 2007, the PBS administrative costs have

¹ The other major land-holding departments and agencies include the Department of Defense, Department of Veterans Affairs, Department of Energy, Department of Homeland Security, Department of the Interior, Department of State, National Aeronautics and Space Administration, and the U.S. Postal Service.

² See, for example, Executive Order 13327, Federal Real Property Asset Management, signed by President George W. Bush, February 4, 2004; Presidential Memorandum, Disposing of Unneeded Federal Real Estate, signed by President Barack Obama, June 10, 2010; Public Buildings Cooperative Use Act of 1976; Public Law 108-447, Division H, Title IV, Section 412, December 8, 2004 (providing enhanced flexibility to GSA in real property management).

³ FY2009 Federal Real Property Report, Federal Real Property Council, September 2010, p. 5.

increased by \$260 million. The PBS Commissioner's Office expenditures have increased by more than triple during the same period. (See chart below).

Summary of administrative personnel and other costs, FY07-FY11						
(\$s in thousands)						
Organization	Type	FY2007	FY2008	FY2009	FY2010	FY2011
PBS Commissioner *	Personnel	\$1,665	\$2,492	\$2,707	\$5,101	\$5,296
	Other	\$1,310	\$1,202	\$545	\$1,837	\$3,861
	Total	\$2,975	\$3,694	\$3,2512	\$6,938	\$9,157
PBS Headquarters	Personnel	\$38,557	\$41,418	\$42,004	\$44,277	\$49,432
	Other	\$200,381	\$236,018	\$263,189	\$272,948	\$306,429
	Total	\$238,938	\$277,436	\$305,193	\$317,225	\$355,861
Regional	Personnel	\$310,158	\$328,050	\$352,087	\$378,645	\$412,776
	Other	\$156,645	\$164,643	\$168,628	\$184,046	\$190,605
	Total	\$466,803	\$492,693	\$520,715	\$562,691	\$603,381
Total		\$708,716	\$773,823	\$829,159	\$886,854	\$968,399

The Committee began investigating the PBS administrative costs in 2011 after financial information included in GSA's State of the Portfolio Reports and Agency Financial Reports suggested an increase in costs and reduction of income from its owned inventory and an increase in losses for its leased inventory. Specifically, GSA's 2011 Agency Financial Report indicated that the Federal Buildings Fund net revenues from GSA-owned buildings dropped by \$274 million between 2010 and 2011 and lost \$133 million in 2011 on its leased facilities.

Other Waste

Las Vegas Conference

On April 2, 2012, the GSA Inspector General (IG) issued a Management Deficiency Report on the GSA Public Buildings Service and its 2010 Western Regions Conference (WRC). The 2010 conference had approximately 300 attendees and occurred at the M Resort Spa Casino just outside Las Vegas, Nevada. The IG found that the total cost of the conference was \$822,751 including \$136,504 spent on 8 pre-conference scouting trips alone. On April 17, 2012, the Subcommittee on Economic Development, Public Buildings and Emergency Management held a hearing on this conference and other wasteful spending on travel.

It was clear from the hearing and the ongoing Committee investigation that the Las Vegas conference was not an anomaly or limited to Region 9 of GSA. Indeed, following the release of the IG report, then-GSA Administrator Martha Johnson resigned, along with the then-Public Buildings Service Commissioner, Robert Peck was fired.

Disciplinary action was also taken against Former Region 9 Commissioner, Jeff Neely, as well as other GSA officials and employees.

2010 FAS Conference

On July 19, 2012, the GSA IG informed the Committee that his office was initiating an investigation into a conference held on November 17, 2010 by the Federal Acquisition Service (FAS) of the GSA. Preliminary information indicates that this one-day conference cost \$270,000. This conference reportedly included such expenses as:

- \$34,073.38 for the ceremony venue at the Crystal Gateway Marriott including:
 - \$20,738.78 in catering charges
 - \$13,334.60 in AV and room rental charges
- \$7,697.22 for a “Commissioner’s Reception” at the Key Bridge Marriott including:
 - Hors d’oeuvres, beverages, and miniature pastries for 200 attendees
 - A violinist and a guitarist
- \$140,464.06 for “coordination and logistical management” by Gallagher & Gallagher, Inc. including:
 - \$104,484.17 for logistics and management services
 - \$20,578.24 for 4,000 drumsticks given to attendees
 - \$5,390 for five 55-passenger buses, two mini-buses, and a van
 - \$10,010.65 for “Mission Possible Agent X” management
- \$28,364.45 for 4,000 “time temperature picture frames” provided by Small Wonders.
- \$8,587.73 for “Agent X appearance” by JDG Communications, Inc.
- \$41,734.93 for travel for 49 attendees.

Other Investigations

It became clear from the Committee investigation following WRC that GSA held many conferences, meetings, and training sessions that cost the taxpayer millions of dollars. Indeed, the April hearing revealed internship conferences in Palm Springs as well as unnecessary field oversight travel by senior management to Hawaii and the South Pacific. The GSA IG is currently initiating investigations into other conferences and meetings that took place since the Fall of 2010. And the Committee continues its own investigation into GSA’s administration costs, including exorbitant conferences and questions about bonus awards.

Bonuses and Performance Awards

During the course of the Committee's investigation of the WRC Conference and administrative costs, the Committee identified exorbitant bonuses. For example, the Committee unearthed that GSA's then-Region 9 Commissioner, Jeff Neely, received a \$9,000 bonus. After concluding that there are "clear deficiencies in the area of performance awards," on July 17, 2012, Acting GSA Administrator Tangherlini announced that GSA will be cutting Senior Executive performance awards this year by 85 percent, suspending all performance awards given out in the Administrator's Office for the rest of the fiscal year, and eliminate the Awards Stores program, through which employees had access to prizes like iPods and digital cameras.

World Trade Center Lease

Approval of GSA projects costing the taxpayer more than \$2.79 million⁴ is accomplished through a process established in the Public Buildings Act. Specifically, section 3307 of title 40 of the United States Code requires GSA to submit to the Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works a prospectus providing specific details of the proposed project (construction, alteration, or lease), including details related to housing the specific agency or agencies to be located in the proposed space.

The Public Building Service pays for the costs of these projects through the Federal Buildings Fund (FBF). The FBF is primarily funded through rental payments made by tenant agencies to GSA for use of the space, although funds in the FBF must be appropriated each year. In addition, the annual appropriations bills contain language that explicitly limits the use of the funds in the FBF to projects with prospectuses that are approved by the committees in cases in which a prospectus is required under 40 U.S.C. 3307. For decades, GSA has interpreted these requirements to mean that it does not have the authority to obligate funds from the FBF for prospectus-level projects without explicit authorization.

On June 6, 2012, GSA sent the Committee a prospectus to lease space in One World Trade Center (WTC) in New York, after the notification deadline to be included in the Committee markup, scheduled for the following day. In addition, the prospectus provided to the Committee was incomplete. It failed to contain the information, required pursuant to 40 U.S.C. 3307, indicating the housing plan and details on the proposed tenant agencies to occupy the space. Notwithstanding requests for such information, GSA failed to provide any additional information prior to the June 7, 2012, markup. Committee staff attempted to obtain the missing information following the markup. While GSA eventually provided "potential" uses for the proposed leased space, GSA refused to submit to the Committee a specific plan for housing agencies in the space.

On July 17, 2012, it was reported that GSA signed the WTC lease, despite a lack of authorization from the Committee and contravening a long established precedent of

⁴ The Fiscal Year 2013 prospectus threshold is 2.79 million. This figure is adjusted annually.

Committee approval being necessary to sign prospectus level leases. No advance notice was provided to the Committee that GSA was planning to sign the lease. On July 18, 2012, the Committee staff received an email informing the Committee that GSA had signed the lease. The estimated cost of the lease over the initial 20-year term will be \$351 million. Subsequently, on July 25, the Committee officially requested GSA provide a written explanation and briefing describing on what basis GSA believed it had the authority to sign the lease. As of the date of this memo, the Committee has not received a response.

WITNESSES

The Honorable Daniel Tangherlini (or his designee)
Acting Administrator
U.S. General Services Administration

The Honorable Brian Miller
Inspector General
U.S. General Services Administration