U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

John L. Mica
Chairman

James W. Coon II, Chief of Staff

Nick J. Rahall, II
Ranking Member

James H. Zoia, Democrat Chief of Staff

March 16, 2012

BRIEFING MEMORANDUM

TO:	Members of the Subcommittee on Economic Development, Public Buildings and Emergency Management
FROM:	Subcommittee on Economic Development, Public Buildings and Emergency Management Staff
SUBJECT:	Oversight Hearing on "Sitting on Our Assets: The Cotton Annex"

PURPOSE

The Subcommittee on Economic Development, Public Buildings and Emergency Management will meet on Thursday, March 22, 2012, at 10:00 a.m., at the Cotton Annex Building located at 300 12th Street, SW, Washington D.C. to receive testimony from Senator Scott Brown and the General Services Administration (GSA). The hearing will focus on the costs to the taxpayer of underperforming or vacant assets, models for their redevelopment or reuse, and how spending can be reduced through private redevelopment of underperforming assets.

BACKGROUND

In February, the Subcommittee held its second hearing at the vacant Old Post Office Annex to highlight the problems of vacant and underutilized space. As a result, H.R. 1734 was introduced and passed the House in February of this year. H.R. 1734 would create a civilian BRAC-like process to create savings by shrinking the Federal footprint and selling or redeveloping under-used buildings. Senator Brown introduced similar legislation.

General Services Administration

The Subcommittee 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. The 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 nine[1] Federal agencies that, in total, own or manage 93% of Federal real 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. GAO conducts biennial reviews on high-risk areas within the Federal Government to bring focus to specific areas needing added attention and oversight. Areas are identified as "high" risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or areas that need broad-based transformation to address major economy, efficiency, or effectiveness challenges.

The key reasons the GAO identified Federal real property as high risk are:

- excess and underutilized real property,
- deteriorating and aging facilities,
- unreliable property data, and
- the over reliance on costly leasing.[2]

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.[3] The high risk activities of Federal real property are

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[1] The other major land-holding departments and agencies include the Department of Defense, 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* High Risk Series: Federal Real Property, U.S. General Accountability Office, GAO-03-122, January 2003.

[3] *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).

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.[4]

GSA's Authorities

The Committee has long advanced reforms to ensure GSA would have appropriate authorities to better manage Federal real estate. For example, the Committee approved two pieces of legislation in 2003 -- the Federal Property Asset Management Reform Act of 2003 and the Federal Property Asset Management Reform Act of 2003 -- although the legislation was not enacted into law. Those pieces of legislation would have provided GSA authority to enter into public-private partnerships and lease back arrangements with private developers and retain the proceeds from sales. The core authorities proposed in the bills were similar to those enacted as part of the Southeast Federal Center Public-Private Development Act of 2000, which provided for the redevelopment of the Southeast Federal Center in Washington, D.C.

Permanent authorities were not enacted due in large part to changes in how public private partnerships were scored by the Congressional Budget Office (CBO) by requiring an accounting of liabilities of any future government leasing. The scoring changes disadvantaged actions that could be taken to minimize upfront costs to the taxpayer and leverage the government's interest in property. Those scoring changes also failed to take into account the costs avoided in having to construct new office space with taxpayer dollars.

However, the core authorities included in the reform legislation in 2003 were eventually enacted into law through section 412 of the FY 2005 Consolidated Appropriations Act, which allows GSA to retain net proceeds from dispositions of its real property through sale, lease, exchange, or otherwise, including leaseback arrangements. GSA also has authority under Section 585 of title 40 of the U.S. Code to enter into 30 year ground leases with a private entity such as a developer and lease back the space.

The authorities contained in Sections 412 and 585 provide GSA with significant authority to sell or redevelop underutilizes properties and enter into public private partnerships to offset costs associated with renovating or creating Federal space.

The Cotton Annex Building

The Cotton Annex was built in the 1930s and is approximately 89,000 square feet of space located on prime, underdeveloped property near the National Mall in Washington, D.C. The CBO has estimated that the sale value of the building and surrounding vacant land to be $150 million. The most recent Federal tenant of the building was the Agriculture Department; however, the building has sat vacant for the

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[4] FY2009 Federal Real Property Report, Federal Real Property Council, September 2010, p. 5.

last 5 years without a tenant while the U.S. taxpayer has been responsible for maintaining this underutilized property.

Over the years, proposals for the redevelopment of the site demonstrate the current underutilization of the property and the potential for creating a financial return to the taxpayer and reducing taxpayer costs. For example, in 2004, the National Health Museum proposed purchasing the site, redeveloping a portion with private funding, and leasing the new office space to the private sector or government tenants at significant short and long term savings to the taxpayer. More recently, the National Women's History Museum has proposed purchasing a portion of the site at fair market value, excluding the Cotton Annex Building, to build a museum with private dollars. In addition to these, developers in the area have indicated the high development potential of the site that would increase its value if sold or redeveloped to its highest use. The National Capital Planning Commission (NCPC), the Federal planning agency in D.C., has also envisioned this site redeveloped to improve access to the waterfront.

However, despite all of these proposals for reuse of this valuable property, GSA has failed to develop a plan for the property or use its existing authorities to sell, renovate or redevelop it.

The Cotton Annex is an example of an underperforming building that if redeveloped to better use could provide a positive return on the investment. The GSA has had previous experience working with the private sector to turn historic buildings to profitable use. Since the first subcommittee hearing at the Old Post Office, GSA announced its selection of the Trump Organization to redevelop that site as a hotel. Another recent example is the highly regarded renovation of the historic Tariff Building in Washington, D.C., not far from the Old Post Office, which has been converted from a money losing asset of the Federal Government to the Monaco Hotel, which is generating revenue for the Federal Government. The redevelopment of the Tariff Building is an illustration of what can be achieved when the Federal Government works with the private sector to produce a site that brings a return to the government, provides a safe and necessary facility for the city, and preserves a unique historic treasure.

WITNESSES

The Honorable Scott P. Brown (R-MA)
United States Senator

Mr. Robert Peck
U.S. General Services Administration