

UNITED STATES GENERAL ACCOUNTING OFFICE  
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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS  
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION  
HOUSE OF REPRESENTATIVES  
ON  
H.R. 630, A BILL TO ESTABLISH PUBLIC BUILDINGS POLICIES  
FOR THE FEDERAL GOVERNMENT, TO ESTABLISH  
THE PUBLIC BUILDINGS SERVICE IN THE GENERAL  
SERVICES ADMINISTRATION, AND FOR OTHER PURPOSES

Mr. Chairman and Members of the Subcommittee:

We are pleased to appear before you to discuss H.R. 630, referred to as the Public Buildings Act Amendments of 1983. Among other things, the proposed legislation would revise the method of financing public building construction and would require emphasis on, and disclosure of, GSA's long range planning for its building program.

We are pleased that a number of the bill's provisions are consistent with recommendations contained in our reports. It is primarily in the context of our prior work related to GSA's public buildings program that we would like to address certain provisions of the proposed legislation.

#### PUBLIC BUILDING FINANCING

Section 3(c) of H.R. 630 would authorize GSA to borrow from the Treasury for periods up to 30 years (time financing) to finance the acquisition or construction of any public building.

We have reported that for several years, funds for construction, either through direct appropriations or from the GSA Federal Buildings Fund, have been limited. As a result, GSA has relied on leasing as the only practical method available to meet space needs.

Prior to fiscal year 1975, public building construction and other costs were financed primarily through direct appropriations to GSA and agencies did not pay rent for space occupied. Public Law 92-313 established the Federal Buildings Fund to finance GSA's acquisition and operation of government-owned and

leased buildings. The Fund started operating in fiscal year 1975. Federal agencies occupying space in GSA-controlled buildings pay standard level user charges (rents) based on comparable commercial rates, which are deposited in the Fund and then made available in annual appropriation acts to GSA for construction, leasing, real property operations, and other activities.

In December 1981 we reported (PLRD-82-18) that the Fund had not accomplished the two primary objectives used as a basis for its establishment. It had not met its objective of providing \$200 to \$225 million a year for construction, which GSA anticipated when the Fund was established. On the average the fund has generated less than \$100 million a year.

Moreover, concerning the Fund's second primary objective of improving agencies' space usage, we reported there was no evidence of appreciable improvement in space usage because tenant agencies had to budget and pay for space they occupied. In sponsoring legislation to establish the Fund, GSA said that charging agencies rent would result in savings because federal agencies would use less space if they were accountable for it.

We said in our 1981 report that, in view of the fact that the Fund had not accomplished the two primary objectives used as a basis for its establishment, the Fund could be abolished. However, we also said that before abolishing the Fund an effective alternative funding mechanism should be established to take its place.

The Fund could be abolished and replaced by direct appropriations to GSA. This procedure was in effect before the Fund was established, but it was not completely effective since funding for construction was limited. Direct appropriations to GSA would eliminate the need and cost for agencies to plan and budget for space and real property services obtained from GSA. Tenant agencies would not object to this approach because once again they would obtain free space and services. The requirement for GSA to bill tenant agencies quarterly for space and services and to make periodic appraisals and rental computations would be eliminated.

If the Fund were eliminated, the cost of space and related services would no longer be identified as part of the total program cost for each tenant agency. In other words, the benefits of performance budgeting would be lost since total program costs would not be identified in agencies' accounts. If travel, personnel, and administrative costs are included as part of the program costs, then it appears reasonable to also include space costs.

Another approach would be to continue with the Federal Buildings Fund and augment its resources when needed with borrowings from the Treasury or with direct appropriations.

Whatever approach is followed, it will be difficult, because of budgetary constraints, to reverse the trend toward increased leasing and provide for a viable construction program. Leasing has a short-term budgetary advantage because the impact is spread

over several years whereas the impact for construction is immediate and up front.

#### FULL FUNDING

Section 9 of the bill would apply the full funding concept to leases for terms in excess of 5 years. The maximum cost of such leases over the entire term would be recorded as budget authority in the first year.

We have reported and testified that as a matter of budget policy we favor the full funding concept because it more accurately discloses the total obligations associated with a project. Application of the full funding concept to construction or acquisition projects with large initial outlays has a significant impact on the national budget in the years that appropriations are approved. In times of unusually large demands on the budget, construction projects, because of their impact, are the first to be eliminated.

Currently, the full funding concept applies to construction projects but not to leasing. The total rental payments on leases (up to 20 years in some cases) to which the government is committed is much greater than the annual lease payments that appear as budget authority in the annual appropriations acts. For example, in fiscal year 1984, annual lease payments are budgeted at \$880 million. This amount, if approved, will appear as budget authority in GSA's annual appropriations act, yet the government is committed to over \$2 billion in lease costs over the remaining life of these same leases.

The total outlays on a lease project spread over 20 years will be greater than the total outlays for a comparable federally constructed project. Recording the budget outlays in 2 years rather than in 20 increments has a greater impact for the federally constructed project in the first year.

We recognize that it may not be practical to apply the full funding concept to all GSA leases (over \$2 billion) in any one year. However, we believe that there should be a consistent application of the full funding concept to both leasing and construction projects. So that the total budgetary impact of either a lease or a construction project is disclosed and compared uniformly, the total costs should be recorded as budget authority in the first year.

Regarding the proposed legislation's restricting the application of the full funding concept only to leases for terms over 5 years, we believe that GSA could avoid the full funding concept by limiting most of its leases to 5 years or less and entering into follow-on leases for continued occupancy of the same space. Therefore, the impact of leasing from a budgetary standpoint would continue to have an advantage over Federal construction.

You may want to reexamine this section and have the full funding concept apply to all future leases.

## ALTERATIONS TO LEASED BUILDINGS

Section 3 of the bill would require the Administrator of General Services to submit a report on proposed alterations in leased buildings that exceed \$500,000 to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. Such alterations could not be made if either Committee disapproved the alterations during a 30-day period after the report was submitted by the Administrator.

In our September 1978 report (LCD-78-338), we stated that there is no requirement in the 1959 act for congressional approval of, or reporting of, alteration projects in leased buildings. However, the 1959 act does require prior approval for alterations in government-owned buildings over \$500,000. We concluded that alterations to a leased building require closer scrutiny because they may (1) increase the value of the leased building which the government does not own and (2) weaken the government's negotiating position for follow-on leases.

We recommended that the Congress amend the Public Buildings Act of 1959 to require congressional authorization of alterations to leased space which involve a total expenditure in excess of \$500,000.

The requirement in H.R. 630 for advanced reporting will give the Congress needed visibility and control over alterations in leased buildings.

Section 3 would also provide that the Administrator may not lease space to accommodate, among other things, major computer operations.

In our 1978 report we stated that GSA spent large amounts of money for altering leased space for computer operations. Some of these alterations were made before leases expired without GSA's attempting to renegotiate the lease term or the rent. We concluded that alterations made shortly before the expiration of the lease is poor strategy and weakens GSA's negotiating position on follow-on leases.

In our January 1983 report (PLRD-83-13), we stated that GSA contracted for major alterations for USIA's Communication Center in leased space at 1776 Pennsylvania Avenue, NW, about 14 months before the lease expired. The total cost of the alterations was \$580,000. At the time GSA contracted for the alterations, no move was contemplated. Shortly thereafter, USIA decided to consolidate its headquarters employees in three adjacent buildings at 4th and C Streets, SW. The residual investment in the alterations will be lost when USIA moves the Communication Center to 4th and C Streets, SW.

We agree with the bill's provision that major computer operations not be located in leased space; rather, they should be located in government-owned buildings. However, since so many computer facilities are presently located in leased space and limited government-owned space is available, GSA may not be able to avoid locating some computer operations in leased space.

According to Section 3 of the bill, exceptions to the requirement for not locating major computer operations in leased space must be reported to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

#### COMPETITIVE OFFERS FOR LEASING SPACE

Section 3 of the bill would also require the Administrator to publicly solicit competitive offers or bids to procure space by lease for the federal government. This section is consistent with a recommendation made in our 1978 report (LCD-77-354) that GSA ensure that competition is obtained to the maximum extent practical for both new and follow-on leases.

Generally, leased space is acquired by negotiation rather than advertised sealed bids. Federal Procurement Regulations require that, whenever property or services are to be procured by negotiation, proposals should be solicited from the maximum number of qualified sources. In our 1978 report, we reported that, although it was GSA's policy to obtain competition, only limited competition existed on many lease awards.

#### ECONOMY ACT LIMITATIONS

Section 5 of the bill provides for a waiver of the 15-percent rental limitation contained in section 322 of the Economy Act of 1932 (40 U.S.C. 278a). Granting the Administrator the authority to waive the 15-percent limitation on rental rates

could result in a routine waiver process that, in effect, renders the limitation meaningless.

Section 322 of the Economy Act states that for any building occupied for government purposes the rental will not exceed the per annum rate of 15-percent of the fair market value of the rented premises at the date of the lease. In addition, alterations, improvements, and repairs will not exceed 25-percent of the first year's annual rent. These limitations apply to leases with an annual rent in excess of \$2,000 a year.

Section 210 of the Federal Property and Administrative Services Act of 1949, as amended, permits GSA to exceed the 25-percent limitation if the Administrator submits a certificate of determination (waiver) indicating that work in excess of the limitation is advantageous to the government. In other words, under existing legislation the Administrator can waive the 25-percent limitation but he cannot waive the 15-percent limitation on rental rates.

In our September 1978 report (LCD-78-338) we concluded that the 25-percent limitation on alterations in leased buildings is not an effective mechanism for limiting and controlling the amount expended for alterations and we recommended that the

Congress eliminate the provisions of the law relating to the 25-percent limitation. The limitation was exceeded on most leases reviewed. Automatic approval of certificates of determination (waivers) and noncompliance with procedures make the 25-percent limitation ineffective.

In our reviews of GSA leasing activities, we found that application of the 15-percent limitation is sometimes a problem when acquiring small blocks of space in the inner city because very limited or no suitable space is available and that which is available may exceed the Economy Act limitation. For example, GSA had experienced difficulty in leasing Social Security district offices (which average about 5,000 square feet) in part because no suitable space was available.

We suggest that as an alternative to granting the Administrator the authority to waive the 15-percent Economy Act rental limitation, consideration be given to changing the threshold figure from \$2,000 to 5,000 or 10,000 square feet. In line with our prior recommendations, we also suggest that the 25-percent limitation on alterations in leased buildings be eliminated.

#### PUBLIC BUILDINGS PROGRAM PLAN

Section 4 of the bill would require GSA to submit to the Congress each year a program plan for construction, acquisition, alteration, lease and lease renewals, buildings to be vacated, and other information relating to its public building needs. The proposed program plan should provide the Congress with a better

overview and visibility over GSA's entire public buildings program .

In prior reports we have commented on deficiencies in GSA's space planning, lease alterations, and lease renewals, deficiencies which can be attributed in part to poor space planning. We have concluded that GSA should allow sufficient time prior to lease expiration for developing alternative space plans. In three of our reports, we commented on cases where GSA paid rent before leased buildings were available for occupancy. In a June 1983 report (PLRD-83-76), we reported that GSA missed exercising lease options which could result in additional cost for higher rent in excess of \$30 million.

#### ANNUAL REPORT

Section 4 of the bill would also require the Administrator to include more information on public building projects and leasing activities in GSA's annual report to the Congress.

In a May 1982 report (PLRD-82-46), we reported that agencies have complained for years about GSA's delays in providing requested space. As a way of overcoming the problem, several agencies have asked the Congress for leasing authority or have requested a delegation of authority from GSA. We found that it took GSA longer than its stated goal of 6 months to complete about half of the agency space requests and longer than 1 year to complete about 30 percent of the requests.

We recommended in our 1982 report that GSA should disclose in its annual report to the Congress information on GSA's performance in filling space requests and factors that impede timeliness. You may want to consider making this a mandatory requirement by including it in the bill.

#### STANDARD LEVEL USER CHARGES

Section 11 of the bill would amend section 210(j) of the Federal Property and Administrative Services Act of 1949 and require GSA to establish user charge rates for each year for buildings "at a level approximating commercial rates and charges for space and services of comparable quality, but in no case less than the anticipated costs of providing space and services (including amortized construction cost or leasing costs)."

We interpret this revision to mean that GSA could charge an agency the comparable commercial rate or an amount in excess of the comparable commercial rate where the total annual outlays for the space the agency occupies exceed comparable commercial rates. For example, we have reported that purchase contract buildings generate a negative cash flow. The income for these buildings from standard level user charges based on comparable commercial rates is less than the outlays

for principal, interest, taxes and operating costs. If agencies are charged more than commercial rates, we believe they will object.

CONGRESSIONAL APPROVAL OF  
PROPERTY ACQUIRED BY EXCHANGES

Section 2 of the bill provides that no public building valued at over \$1 million is to be acquired by exchange without a prospectus being approved. This provision is consistent with prior GAO report recommendations and testimonies. For example, we have reported and testified that any exchange involving the acquisition of public buildings valued at over \$500,000 should be subject to either approval by, or advance reporting to, the Congress.

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Mr. Chairman, this concludes my prepared statement. We will be happy to respond to any questions you or other members of the Subcommittee have at this time.

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