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FASTA IMPLEMENTATION AND OPTIMIZING THE EFFICIENT USE OF FEDERAL PROPERTY

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BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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FASTA IMPLEMENTATION AND OPTIMIZING THE EFFICIENT USE OF FEDERAL PROPERTY

Thursday, June 8, 2023

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room SD–562, Dirksen Senate Office Building, Hon. Gary Peters, Chairman of the Committee, presiding.

Present: Senators Peters [presiding], Carper, Hassan, Sinema, Ossoff, Blumenthal, Paul, Johnson, Lankford, Scott, and Hawley.

OPENING STATEMENT OF SENATOR PETERS[1]

Chairman PETERS. The Committee will come to order.

The Federal Government owns and leases a significant portfolio of real property, buildings that require resources to manage and to maintain. For 20 years, the Government Accountability Office (GAO) has put Federal real property management on its High Risk List because of longstanding challenges, including the disposal of excess and underutilized property.

As of fiscal year (FY) 2021, Federal agencies reported that although more than 124,000 Federal buildings were being fully used, 898 buildings owned by Federal agencies were underutilized, and nearly 8,000 buildings stood completely unused.

Maintaining these unused or underutilized spaces costs taxpayers money, and it makes the Federal Government vulnerable to waste.

While the General Services Administration (GSA), which manages a significant portion of the Federal real property portfolio, has a process to identify and dispose of unused property, Congress passed the Federal Assets Sale and Transfer Act (FASTA), in 2016, to further streamline the government's ability to dispose of unused property and save taxpayer dollars. This law created the Public Buildings Reform Board (PBRB) to review and recommend unused properties for the government to sell.

In its first round, the Board identified 10 unneeded properties that were eventually sold for $194 million. However, during this process, the Board faced numerous challenges, including identifying occupied buildings that led to a delay of nearly two years before the (OMB) sales could actually be completed. The second round

[1] The prepared statement of Senator Peters appears in the Appendix on page 25.

of properties identified by the Board were rejected by the Office of Management and Budget and no sales occurred.

The Board is preparing a final round of recommendations to offload unused buildings as FASTA nears its effective expiration date in December 2024.

Today's hearing is an important opportunity for the Committee to hear about both the successes and the setbacks this program has faced in trying to accomplish its important mission to optimize the Federal Government's use of real property.

The Federal Government's property needs are evolving, and we should ensure that the buildings the government operates both meet the needs of the agencies and are cost-effective for taxpayers. That includes not only reviewing the FASTA process but also examining other challenges related to real property management, such as inefficient leasing practices and the serious challenges posed by inaccurate and incomplete records of Federal properties in the Federal Real Property Profile (FRPP).

I look forward to our conversation today to evaluate the FASTA process and related challenges and discuss potential reforms that would help the Federal Government improve efficiency and ensure that properties are being used in a way that provides the most benefit to local taxpayers.

I would now like to recognize Ranking Member Paul for his opening statement.

OPENING STATEMENT OF SENATOR PAUL[1]

Senator PAUL. In his book "Bureaucracy," the economist Ludwig von Mises characterized the Federal bureaucracy as the "straitjacket" paralyzing individual initiative, innovation, and overall societal improvement. You do not need to look any further than your 2-hour wait at your local DMV to see this "straitjacket" in action.

In 2016, Congress passed the Federal Assets Sale Transfer Act, with the goal of reducing government waste, streamlining the process, and cutting through the bureaucracy.

FASTA created the Public Buildings Reform Board, which is composed of private sector experts in real estate and property management, to identify effective ways for the Federal Government to reduce unnecessary inventory of civilian real estate.

Federal real property management has been on the Government Accountability Office's, as the Chairman said, on the High Risk List for nearly 20 years, and yet we still continue to have problems getting rid of some of this property. The continued failures of the Executive Branch to efficiently manage the Federal real property portfolio was one of the driving reasons for the creation of the Public Buildings Reform Board.

Unfortunately, the bureaucracy's resistance to the Board has resulted in its apparent underutilization. The friction between the Board, the Office of Management and Budget, and the General Services Administration has resulted in only $200 million in sales and the rejection of the Board's first-round submission in 2021.

The GAO highlighted how the high-value round had a goal of $500 to $750 million in sales, and the first round had a goal of $2.5

[1] The prepared statement of Senator Paul appears in the Appendix on page 27.

billion in sales. The failure of the General Services Administration to meet these goals shows the administrative resistance to change and efficiency.

We should not be surprised that the bureaucrats running these government agencies are not as effective as the private market in managing their real property portfolios. The "bureaucratic strait-jacket" is preventing efficient Federal property management and costing the taxpayer billions of dollars. This is why the private sector expertise of the Public Buildings Reform Board is absolutely necessary.

Coronavirus Disease 2019 (COVID–19) has further complicated the math for holding property. With the Biden administration's refusal to bring many Federal employees back to the office, the need for the current square footage has been drastically reduced and needs to be accounted for. Instead of reassigning the Federal Government's space requirements, agencies are allowing employees to work from wherever their hearts desire while simultaneously hanging onto their empty properties.

Agencies, particularly the General Services Administration, need to identify, remediate, and sell excess real estate. There is still a lot of work to be done and the expertise of the Public Buildings Reform Board needs to be better utilized.

I want to thank each of the panelists today for joining us. I believe today's discussion will be invaluable as we look to optimize the Federal Government's role in real estate holding and management. Thank you.

Chairman PETERS. Thank you, Ranking Member Paul.

It is the practice of the Homeland Security and Governmental Affairs Committee (HSGAC) to swear in witness, so if you would each please stand and raise your right hand.

Do you swear the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. ALBERT. I do.

Mr. MARRONI. I do.

Mr. RAHALL. I do.

Chairman PETERS. Thank you. You may be seated.

Our first witness is Nina Albert. Ms. Albert is the Commissioner of the Public Buildings Service (PBS) at the General Services Administration. As Commissioner, she focuses on a variety of Federal real property issues including nationwide property management and disposal of 371 million square feet of government-owned or leased property.

Before joining GSA, Commissioner Albert was the Vice President of Real Estate and Parking at the Washington Metropolitan Area Transit Authority (WMATA) and was responsible for a multibillion-dollar real estate portfolio. Commissioner Albert also oversaw a $1.3 billion redevelopment project in the District of Columbia as Anacostia Waterfront Initiative Manager, and as a military veteran who served as a first lieutenant and company executive officer in the U.S. Army Signal Corps.

Commissioner Albert, welcome to the Committee. You are now recognized for your opening statement.

TESTIMONY OF NINA M. ALBERT[1], COMMISSIONER, PUBLIC BUILDINGS SERVICE, U.S. GENERAL SERVICES ADMINISTRATION

Ms. ALBERT. Thank you. Good morning, Chairman Peters, Ranking Member Paul, and Members of the Committee. My name is Nina Albert, and I am the Commissioner of the Public Buildings Service at the General Services Administration. I appreciate the Committee's interest in how we can optimize the size of GSA's real estate portfolio.

While many focus on the impact of the COVID pandemic and how the adoption of telework across the government may have an impact on the amount of space required, the pandemic also set into motion other workplace trends that are relevant, which include greater integration of technology, a significant focus on air quality in buildings, occupancy monitoring and other smart building improvement so that we can best ascertain how buildings are being used, as well as increased amenities and demand for higher quality space in order to recruit and retain employees. These are trends across the public sector and the private sector.

In sort, the Federal buildings portfolio not only needs to be optimized, it also needs to be modernized so the agencies can better deliver their missions. The question is how we achieve these goals, and that is what I hope we can discuss today.

President Biden's fiscal year 2024 budget request proposes adjustments to GSA's authorities and highlights capital investments that can immediately improve the condition and utilization of Federal buildings. First and foremost, it is imperative the GSA regains access to the full amount of the annual rent and revenues deposited into the Federal Buildings Fund (FBF) because agencies making rental payments to GSA do so with the expectation that their funds will be used to properly maintain buildings. GSA's fiscal year 2024 budget request includes a legislative proposal that will help ensure that GSA is provided full access to our annual revenues.

To provide context for the cost of deferring maintenance in facilities, in the past two years alone, since 2023, 8 of the 17 major repairs and alterations projects were resubmissions from the prior year's budget request. That delay has totaled $122 million more than the original funding request. This year, in fiscal year 2024, we have resubmitted 13 out of 17 major repairs and alterations projects. The same set of projects that we requested over two years ago, that delay of two years is costing the government now $300 million in increased costs over the original budget request.

Unfortunately, because GSA has not had full access to the Federal Buildings Fund for the past 12 years, we have now had $11.3 billion less in appropriations than the revenues that we have collected, which directly contributes to deteriorating building conditions, which leads to underutilization and forces the government to lease out of necessity, which drives up ultimate cost to the government.

A second proposal in the President's fiscal year 2024 budget is to increase GSA's prospectus threshold from $3.6 million to $10 million. The higher threshold will allow GSA to more quickly tackle

[1] The prepared statement of Ms. Albert appears in the Appendix on page 29.

routine projects which can reduce repair costs, shorten project delivery timeframes, and provide better value to agency customers. The higher threshold will allow Congress to remain engaged on the most costly and complex transactions while saving an estimated $50 million per year alone in process and delay cost. I think that this is a great benefit that we would love to collaborate with you on.

Last, in our fiscal year 2024 budget request we include a legislative proposal to expand the allowable uses within our disposal appropriations. We have made this request for the past five years because we believe that this expanded authority will help agencies save money and right-size their portfolios. GSA has found, working with other agencies and participating in the pilot from the Federal Asset Sale and Transfer Act that the most impact acceleration to the disposition process comes from providing agencies with resources and support to manage the up-front costs of moving and to prepare properties for disposition.

GSA found that, to date, FASTA was able to increase the number of properties available but only by a small margin, and it has not been able to materially reduce the disposition timeline. I think that you will discover today that we share many of the same perspective on what could accelerate the disposition timeline. GSA has shared its lessons learned from the pilot with our stakeholders, including this Committee, and I look forward to discussing those with you today.

In summary, GSA plays a key role in helping agencies redefine their space requirements and to transition the government to a smaller, less costly real estate footprint. New thinking and approaches illustrate how GSA's budget request and legislative proposals will help improve the functionality of tomorrow's real estate portfolio, allowing agencies to better carry out their missions and to save the American taxpayer money.

Thank you for the opportunity to testify today, and I look forward to answering your questions.

Chairman PETERS. Thank you, Ms. Albert.

Our next witness is David Marroni. Mr. Marroni is the Acting Director of the Physical Infrastructure team at the U.S. Government Accountability Office. As Acting Director, Mr. Marroni oversees work on Federal real property management and the U.S. Postal Service (USPS). He has worked at the GAO since 2004, previously leading projects analyzing the United States energy infrastructure and overseeing commercial nuclear power and energy sector cybersecurity within GAO's natural resources and environment team.

Prior to joining GAO, he worked as a staff member at the U.S. House Appropriations Committee.

Mr. Marroni, welcome to the Committee. You may proceed with your opening remarks.

TESTIMONY OF DAVID MARRONI,[1] ACTING DIRECTOR, PHYSICAL INFRASTRUCTURE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. MARRONI. Thank you, Chairman Peters, Ranking Member Paul, and Members of the Committee. I am pleased to be here today to discuss GAO's recent work on FASTA and its implications for optimizing the Federal real property footprint.

In the aftermath of the COVID–19 pandemic, the Federal Government has a unique opportunity to reposition its property holdings and better achieve agency missions while potentially saving taxpayers millions of dollars. However, to take full advantage of this opportunity, Federal agencies and Congress will need to address longstanding challenges to effectively disposing of unneeded real property.

Among other things, lengthy disposal processes and a lack of upfront funding have led agencies to hang on to unneeded space, wasting agency resources, and costing taxpayers money. Since 2003, GAO has highlighted these and other real property challenges on our High Risk List. There has been progress in improving the management of Federal real property. However, significant problems remain, both in the disposal process and with the data available to inform real property decisions.

FASTA is effectively a six-year experiment to try and mitigate some of these challenges by testing out new concepts and different ways of disposing of unneeded real property. This experiment has not gone wholly as planned. There have been significant setbacks during FASTA's first two rounds, and there has been limited progress to date mitigating disposal challenges.

That said, as an experiment, FASTA offers us a chance to step back and take stock of lessons learned, both positive and negative, to improve the disposal process going forward. We have recommended that GSA, in consultation with OMB and the Public Buildings Reform Board, do just that, and I am happy to report that GSA has now gathered an initial set of lessons learned. GSA should continue this learning process in collaboration with its FASTA partners and come up with a common set of agreed upon solutions that can inform future reform efforts. Doing so is critical if the full value of the FASTA experiment is to be realized.

What are some key issues for Congress and the agencies to consider, based on FASTA's implementation to date? I will highlight four for you today.

First, the importance of good and ongoing collaboration among Federal agencies. There were instances during FASTA's first two rounds when GSA, the Board, and OMB were not on the same page, and that contributed to setbacks. Collaboration going forward is key.

Second, ensuring any disposal timeframes drive action but are also achievable. A mismatch between when the Board had to submit recommendations to OMB and agency budget processes caused challenges during FASTA's first two rounds.

Third, the importance of incentivizing agencies to dispose of unused properties since doing so is not cost-free. FASTA is intended

[1] The prepared statement of Mr. Marroni appears in the Appendix on page 35.

to do this by providing up-front funding, but this incentive has not been wholly effective. Additional options, including allowing agencies to retain sales proceeds more broadly, could be considered.

Finally, the need for better real property data. Good decisions are built on good data, but Federal property data remains insufficiently reliable and incomplete, making it more difficult to determine how much and what property agencies really need.

In conclusion, the Federal Government should fully leverage the knowledge gained from the FASTA experiment and continue to try new approaches to resolving longstanding disposal challenges. A more efficient and well-functioning disposal process is critical if the Federal Government is to take advantage of the current moment, optimize the Federal footprint, and save taxpayer money.

Mr. Chairman, that concludes my opening statement, and I will be happy to answer any questions you all have.

Chairman PETERS. Thank you, Mr. Marroni.

Our final witness today is Nicholas Rahall. Rep. Rahall is currently a member of the Public Buildings Reform Board. Nick and I were former colleagues together. It is good to see you again. Mr. Rahall served on the U.S. House of Representatives from 1977 to 2015, where he represented the southern part of West Virginia. But again, great to see you.

As a Member of Congress, Representative Rahall led both the House Committee on Transportation and Infrastructure and the House Natural Resources Committee. Certainly, Mr. Rahall, I greatly appreciate your years of service, including our years together in the House, and I am very pleased to have you before the Committee today.

You may proceed with your opening remarks.

TESTIMONY OF HON. NICK RAHALL,[1] BOARD MEMBER, PUBLIC BUILDINGS REFORM BOARD

Mr. RAHALL. Thank you, Chairman Peters, and thank you, Ranking Member Paul, for allowing us to testify today. It is very good to see a former colleague in the House, Senator Lankford, here as well, who is quite versed in the pending legislation and his knowledge thereof.

As you mentioned, I am a member of the PBRB, and I am an original member of the Board. Congress created the PBRB as the sole engine that drives the execution of FASTA, the topic of today's hearing, and we are pleased to be invited to discuss our work. I will first provide a brief overview of the PBRB and the FASTA legislation and then describe our approach to our final round of recommendations.

FASTA, as you have mentioned, was enacted on December 16, 2016, as a bipartisan and bicameral effort, and it created the Public Buildings Reform Board. The Board currently has a sunset date of May 2025. Although the legislation was passed in 2016, Board members were not appointed until May 2019, over two years after enactment.

Currently the Board members are D. Talmage Hocker, our Acting Chair, myself, Nick Rahall, David Winstead, Michael Capuano,

[1] The prepared statement of Hon. Rahall appears in the Appendix on page 54.

and Jeffrey Gural, who was nominated by President Biden to be our Chairman and is awaiting Senate confirmation. We also have one vacancy on the Board. The Board was unable to conduct business for approximately 11 months in 2022, when two board members resigned, leaving us without a quorum until November 2022. As a result of this lack of quorum, we were unable to complete the first round of recommendations in 2022.

The law dictated three rounds of recommendations. The first, the High Value Asset (HVA) round, was due December 2019, with targeted sales of $500 to $750 million. The First Round is due December 2021, with targeted sales proceeds up to $2.5 billion, which we never completed because of that lack of quorum, and the second and final round, which is due not before December 2024, with targeted sales proceeds of $4.75 billion.

The HVA round was streamlined in that it allowed the government to bypass the McKinney-Vento homeless screening process. It also gave the government a three-year leaseback authority to expedite the sale. The proceeds from all sales of PBRB-recommended properties are deposited into the Asset Proceeds and Space Management Fund. This fund incentivizes agencies by providing the resources to accomplish all the due diligence required to make a property available for disposal, such as environmental remediation, relocation assets, et cetera. The fund can only be used for PBRB-recommended and OMB-approved projects, and GSA, of course, holds the disposal authority.

The PBRB, therefore, recognizes the centrality of GSA to the successful conclusion of the PBRB program, and has sought the Public Building Services engagement for the final round of recommendations.

Assuming that our sunset date of May 2025 is not extended, we are preparing for our final round of recommendations by continuing to work with GSA as they complete their internal portfolio reviews to determine disposal opportunities. We have reached out to other Federal agencies to review their lease portfolio to identify opportunities to consolidate leases and reduce lease costs. For this final round, I will emphasize that we are looking at both owned and leased assets for consolidation and disposal opportunities. We also are conducting our own portfolio review of several key metropolitan areas with a large Federal presence to determine opportunities for disposal and consolidation.

Key to a successful final round, Mr. Chairman, the PBRB recognizes that GSA will need to prioritize how it will seek appropriations for major projects. The High Value round, to date, has realized $194 million in sales proceeds which are in the Proceeds Fund, as you mentioned in your opening testimony. There are still two remaining HVA assets that have not been sold that could conceivably bring in an additional $100 to $300 million in proceeds, resulting in a total fund account of $300 and $500 million. The large range, from $100 to $300 million in anticipated proceeds, is due to the fact that it has taken GSA years to prepare the final two properties for sale, losing the market momentum, and positioning these large assets to be sold squarely in a commercial real estate downturn. The length of time to sell these properties will likely cost the government hundreds of millions, if not billions, when considering cost savings over the next 30 years.

Mr. Chairman, I do have my prepared testimony that has been made part of the record and will briefly summarize now and then open to questions.

In conclusion, we believe that the PBRB is the expedited method to dispose of these Federal assets in a manner that will achieve the highest return for our taxpayer in line with the legislative goals created by FASTA, created by Congress, and we believe we are doing our job. The problems that have been pointed out will be answered during the discussion period.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Representative Rahall.

Mr. Marroni, as we have talked about, FASTA was signed into law in 2016, as a pilot program designed to test concepts for the disposal of real property. But since FASTA's enactment, GAO has described several setbacks, and we have heard from opening comments some of those setbacks.

But I would like you to tell the Committee and get into a little bit more granular detail about what implementation and structural issues that your team has identified.

Mr. MARRONI. Yes, Senator. We identified three main setbacks in the rounds that have taken place to date. First, there were delays in selling the First Round properties. That was due to a number of factors. One was the timing of the Board being pulled together. Second, there were delays in due diligence activities. There were also issues with external stakeholder outreach.

Then ultimately, the delays in selling these properties resulted in the second setback, which is the Second Round of recommendations were limited in value, number, and complexity because part of this process, the Second Round, the 2021 round, the disposal costs were going to be funded by the sales proceeds from the First Round. With a delay in sales, those proceeds were not available, and therefore the recommendations could not be as innovative, could not be as complex.

Then that led to the third setback, which is the Board submitted its recommendations to OMB for approval. OMB disapproved of the recommendations. The Board lost its quorum, and therefore could not respond, and as result the Second Round was terminated.

The end result of these challenges was the funding that was expected to be available to help prepare disposal was not available. This led to limited recommendations, and then ultimately the termination of the Second Round.

Chairman PETERS. Thank you. Commissioner Albert, if you could also tell the Committee in a little more detail what difficulties that the Federal agencies face when they are trying to use FASTA disposal process. What do you see as some of the major difficulties?

Ms. ALBERT. I think one of the major lessons learned, that an outside party could come in and understand what the challenges and obstacles to disposition across the entire Federal portfolio is, are very similar. One is that it does take access to funds to prepare a site for development. That includes vacating the site. Taking the occupants that are currently in site or any remaining occupants. For example, one small group, if they do not have a replacement location to move to will not vacate that property because they still need access to some sort of space to conduct their mission. That forward funding to allow agencies to vacate an underutilized property, very important concept.

The second is that the process itself, regardless of whether it is under FASTA or under our own authorities as GSA, could not and did not, for example, change the requirement to comply with National Environmental Policy Act (NEPA). It did not change the requirement to comply with the Historic Preservation Section 106 guidelines and requirements. It did not change the requirement to do adequate and proper stakeholder outreach. All of those things remain in place, and those do take time.

I want to make sure that amidst some of the more nuanced approaches to how to implement FASTA—which, by the way, any time you create a new agency requires some startup time, and we saw that. But once we finally identified the properties and the Board had a full quorum, we were able to dispose of 10 out of the 12 properties identified in the High Value Round within the year. The delays that we are talking about are very typical delays. Again, due diligence is important to offering a property so that you can maximize value of that property when you put it out for sale.

I do not think that rushing through those types of preparations would be recommended. It certainly would not be recommended by me, in my professional opinion and years of experience in real estate, and I do not think it would be recommended by the experts who are on the PBRB board.

I would say, in summary, access to resources for agencies in order to vacate property and prepare it. Second, some flexibility, which FASTA was able to secure, and is something I would like to dig into a little bit more, which is authority for sale-leaseback. That allows us to dispose of a property while buying a little time, literally, for an agency to move out, so you can actually get through the disposition process. Then, on the margins, I think there are opportunities to improve the process by looking at how we can expand certain GSA's authorities to be able to sell properties with some conditions attached so that a private developer can buy and execute on obligations that otherwise the Federal Government would need to take on.

Chairman PETERS. Great. Thank you.

Mr. Marroni, how can agencies be incentivized to utilize FASTA, under the current framework we have right now? What sort of incentives make sense to you?

Mr. MARRONI. One incentive that FASTA tried that is a useful incentive is the funding of up-front disposal costs. It costs money to prepare these properties for disposal, especially as you get more complex with the type of projects you are talking about—relocation costs, due diligence costs. Providing up-front funding for the agencies to prepare these properties so it is not coming out of their salaries and expenses, but they have the availability of funds to get these properties ready to go.

Another option to consider is the retention of proceeds from sales, and that has been explored in some disposal authorities where the agency gets to keep some portion of the funds that result from the sales and then, in some cases, plow that back into further real property efforts or other issues. That can incentivize agencies to move forward as well.

Chairman PETERS. Great. Thank you.

Senator Lankford, you are recognized for your questions.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Thank you for the dialog on this. I have 10 million questions because as former Congressman Rahall had mentioned before, I was very involved in this, in the process in the beginning of it, trying to be able to figure out how to be able to get this done.

Nick, why did we have two members leave?

Mr. RAHALL. It is difficult to say, Senator Lankford, why two members left. Perhaps frustration. Perhaps personal problems.

Senator LANKFORD. They knew they left a quorum that was not available. Everything could not function at that point. Was there a purpose in that, that would remove the quorum, or was it something else?

Mr. RAHALL. I do not believe they left to purposely create a lack of quorum. No, sir.

Senator LANKFORD. OK. That is helpful to get the context on.

What I am trying to figure out is, obviously there are lots of issues here why this did not come together, but this is a lesson in the slowness of government, the bureaucracy of the process. It took two years to be able to get it started and then to be able to get members on board and then lost a quorum, and that caused us to fall behind. Then as Mr. Marroni was mentioning before, then it became a problem between conversations between the Board and OMB and GSA, trying to be able to figure out the priorities and where that is going to go as well. The internal problems become the issue here in trying to be able to figure out this process was originally designed to try to clear some of that out.

Ms. Albert, your testimony, thankfully you just answered some of the questions, and I was amazing in your opening statement you gave 30 seconds to some of the problems with it and four and half minutes to we need more money to be able to go through GSA things.

But there are issues here on trying to dispose property. That is what we are trying to be able to get to. We have mentioned a couple of these. The offering to homeless, you had mentioned as well, was part of the challenge that is here. I have multiple local agencies that will come to me, not just from my State but from other States, and will say, "Hey, please don't dispose of this Federal property because if you dispose of it, this is in an area of town we are trying to deal with homelessness, and this is suddenly going to open it up and create a bigger issue. Please, don't offer this for sale." When it is offered to State and local entities they try to tie it up to be able to make sure it does not take to the next step on it, so it cannot be disposed of because of that jump.

You do not have to say that. We all know that, as a reality, and where the issues are on it. The issue that I have is, so what does it take to actually that is a consistent disposal process? Let me just do some recommendations. If a business had a piece of property that they are losing money on, they are going to try to find a way to get rid of this piece of property in any way they possibly can. If somebody wants to be able to take it on for a dollar, at least that gets it off their books from there, and they can get it gone. We cannot do that on the Federal side, and if we do that it is going to a State and local entity, and that becomes its own issue, depending on who is the decisionmaker in the process on that.

Step one of this, what are the ideas that are coming out to say what can we do to be able to dispose of properties where we are literally losing money just in maintaining mostly empty buildings? Does anybody want to jump on that? Go ahead, Ms. Albert.

Mr. RAHALL. If I might take a stab at it, Senator, certainly we need data to conduct our recommendations, data that we just do not have right now. The Federal Real Property Data, for example, that we have is two years old. We have requested an update of that information so that we can make further recommendations. We also have requested a list of properties that are recommended for consolidation and disposal that was due from OMB in March. We have not gotten that yet. We need help from OMB in identifying our recommendations as well.

But going back to the data point, we need the information. We also need stakeholder outreach. We have attempted to do that in the past. We visited some of the sites that are on the HVA list. But we also have to have that stakeholder outreach in working with GSA.

There has to be better marketing proposals. The real estate experts on our board—and I am not one of those—but they have had some disagreements with the disposal process of GSA, quite honestly. They have felt that a brokerage process would produce more money for the taxpayers than the online auction that has been so prevalent over the past years, if not decades, that we feel does not produce for the taxpayer what they deserve.

Those are some of the issues that we feel need to be addressed in order to return for the taxpayer greater bang for their buck.

Senator LANKFORD. OK. That is helpful. Ms. Albert, you were going to mention something as well.

Ms. ALBERT. I think that disposal of any public real property takes and requires proper planning in order for it to go faster. It requires stakeholder outreach. I absolutely agree with Representative Rahall.

I think at the crux of the matter is some of the nuances of what is the strategy or tactic of how you would put a property onto the market, how you work with local governments, those are elements that would be required, frankly, of any decision along a single asset. The question and the magnitude of what we are doing with is how do you deal with a portfolio that want to accelerate the disposition is.

The reason my opening testimony spent some time on talking about getting full access to the Federal Buildings Fund is because the Federal Buildings Fund was set up to be sort of a quasi-revolving fund, that the rent and the revenues, including sale proceeds, would come into the fund and could be, and I use in quote "automatically reinvested" in improvements to the Federal buildings portfolio. Those improvements imply and include disposition. I believe that Mr. Marroni, when he talks about incentives for agencies, we use the word—and it is the same concept—up-front resources to do the work required to move agencies out of buildings. If a building is already empty, in many cases if there is environmental contamination onsite, we have an obligation to clean that before we offer it to the marketplace. Those are the up-front resources necessary that will accelerate the process.

I believe if we revert back to the original intent of the Federal Buildings Fund and GSA having full authority to access that, then we will be able to reliably plan on dispositions as well as provide those up-front resources necessary to both prepare the site as well as move agencies out. Then to me, the tactics or the strategy for whether you use a broker or whether we do an auction or whatever the means and methods for offering the property become the real heart of the conversation.

But at this stage, and where we are at right now, I believe that you will hear resoundingly from all three witnesses here that access to resources, access to those proceeds up front, a little bit more flexibility to build on the authorities we already have are actually the tweaks that are needed in order to accelerate this process.

Senator LANKFORD. Thank you. Mr. Chairman, do I have consent to be able to ask a couple more questions?

Chairman PETERS. Yes.

Senator LANKFORD. Thank you for that.

I want to drill down a little bit more on some of the dollars and the way that some of this is handled and some of the decision-making process. Some agencies, like Department of Labor (DOL), has a lot more flexibility with their facilities. When you go to U.S. Customs and Border Protection (CBP), some of their facilities they own, some of them GSA own, and so there are some real differences there on how this is handled.

The disposal process for that, the Department of Labor disposes of it, they get a chance to be able to keep that revenue and to be able to reinvest it. CBP, if, in one of their facilities, that if they have an air conditioner out or whatever it may be, that they have to replace it, they replace it and they go do that. If it is a GSA facility, they get in line, and they will pay an additional fee to GSA to be able to then hire the contractor to be able to do the maintenance on it. For them, literally, the cost is much higher if GSA owns that facility and the maintenance happens, when they get in line for the maintenance to occur, as you were talking before, versus them having to have it.

It seems to me part of the solution here is giving more flexibility to the agencies whenever possible, that the agencies are actually making decisions for that. GSA has an incredible diversity of locations and facilities, that literally we cannot even get a data list of even the properties out there we own, to be able to have that list to be able to know what we have, much less know how to be able to manage it from here.

Why would we not allow more agencies to operate like the Department of Labor or more facilities from CBP to be able to them run on their own, rather than wait in line for somebody to get down to the border to be able to check it out, to be able to get in line, to be able to have a higher maintenance cost from somebody from the outside that is literally flying in to do it, rather than a local maintenance person that will be cheaper?

Ms. ALBERT. Thank you for that. At its inception, the purpose of creating the GSA was to achieve the benefits of economies of scale and centralized management, that ultimately that would save the government money across the board. I personally still believe that that is a central function to what we do and that we execute incredibly well when we have access to the resources that we need.

We do, because of the size, and as you mentioned, in some cases the remoteness of some of the assets that we own, delegate our authority to local agencies. We work very closely with them to make sure that they are maintaining the property properly. There are differences in terms of knowledge, expertise at the agency level when you diffuse too much of the responsibility across to any individual agency. We are there as the government's real estate expert in maintenance, in construction, to make sure that Federal buildings are properly maintained.

It is a complex question. We work with CBP, in particular. They have delegated authority for maintenance. But for those facilities that we own and have delegated to CBP, for example, it is still our responsibility to make sure that that building is properly maintained.

I believe that over the last 12 years, because GSA has not had full access to the Federal Buildings Fund, what you are starting to see now and experience, and the agency is seeing this, is the deterioration of building conditions, and that is becoming a point of tension between the agency and GSA. I think that the fix to that, to both receive the benefit of centralized maintenance and management of the real estate portfolio in GSA, as well as delivering quality and maintaining quality buildings for the agency, is not who should manage. I think that there is well-established documentation, data of the benefits of centralization, but we have been hindered by not getting full access to the Federal Buildings Fund.

Senator LANKFORD. The surcharge is the same for maintenance, no matter what agency and location? Their surcharges for maintenance, are they consistent by percentage from entity to entity, or are there different surcharges for different agencies?

Ms. ALBERT. The way that rent is calculated, which is——

Senator LANKFORD. Just for maintenance.

Ms. ALBERT. We build the maintenance costs into the rent, and so the rent is dictated by what we call sort of market reasonable prices.

Senator LANKFORD. If there is a repair that needs to be done that is significant that is out there, then that is going to be something that will be in addition to rent, for CBP, for instance, in some of those locations that I have been to.

I was recently in Nogales, where I have been before. When I talked to CBP, obviously it is a landlocked port of entry (POE) that is there, and as we are walking through we are talking about how to be able to expand, and we talked about the parking lot. They said, "Well, that parking lot is actually an interesting story. GSA gave that parking lot away to the city, and we are landlocked. We cannot actually expand, so we had to fight to be able to go get that parking lot back. Eventually we were able to buy it back for several million dollars back from the city."

They are a little frustrated that out of their budget it was given away. Then they have to be able to buy it back, when they are trying to be able to do repairs. Obviously it is a very unique location to be a port of entry and the unique dynamics of it. They were explaining to me recently some of the extra costs that they are actually doing and saying, "I could literally go down the street and I could hire a contractor to come and do this same thing, but someone is being flown in that is one of the approved contractors, coming in from the outside, and we pay a whole lot more on it, plus we would pay a fee on top of that."

I could go into different agencies. That is just one I was at a couple of weeks ago. That frustration for them on how it is actually being managed is one challenge. How we are actually trying to be able to communicate how to dispose of a piece of property, when if there are environmental issues, honestly, a lot of folks would say to a buyer, "Hey, we are willing to drop the price significantly if you are willing to be able to do the environmental cleanup on this," because the environmental cleanup on the Federal side is going to be much more expensive than it is on the private entity trying to be able to do the exact same work to be able to clear it. Does that make sense?

Ms. ALBERT. It does, and actually I think that the example that you just cited is one that we would want to work with you to try and make sure that we could streamline that. Right now our authorities and the law does not allow us to do that, but we would like the flexibility to be able to do that.

Mr. RAHALL. On the disposition side, the purpose of PBRB, the Asset Proceeds Fund established by Congress, is to use that pot of money generated by sales, close to $200 million in there now, is to be used to incentivize agencies to provide us information to help them move if we recommend that they be moved—relocation costs, remediation costs, et cetera.

We have submitted legislative recommendations, tweaks that are needed to improve the law. The problem is that Asset Proceeds Fund is subject to appropriation. As Mike Capuano has said, a former Member of Congress who is on our board and is with us here today, you have to spend money to make money. We need to free up that Asset Proceeds Fund so that we can provide the money to these agencies to help them in their relocation costs—relocating their employees, remediation, historic preservation, or other costs.

This has trickle-down benefits to the local community, a lot of these properties, once they are sold, can be job creators for the local economies, and it can be something that is a boost to the private sector as well.

We need to tweak the FASTA law in a way that allows the PBRB to spend the money that is in the Asset Proceeds Fund for relocation, remediation of additional properties.

Senator LANKFORD. Thank you. Mr. Chairman, thank you very much for allowing me to be able to push this line of questioning, and I really appreciate it.

Chairman PETERS. We appreciate you doing that, so thank you, Senator.

Commissioner Albert, since 2018, both OMB and GSA have pushed for the establishment of a Federal Capital Revolving Fund (FCRF), as you know, for large capital projects, to encourage the purchase of real property instead of entering into expensive leases.

My question for you is, how would the establishment of this fund reduce Federal real property costs, in your estimation?

Ms. ALBERT. I will analogize this to a private sector portfolio. Rent that the private sector collects typically goes into paying the maintenance costs of a building, and then perhaps there is a reserve that is created in order to deal with unexpected or emergency issues. However, when there is a major capital project or a new project that a developer or that an owner wants to take on, they typically raise equity and take on debt, and that is how a new facility gets built.

Right now the Federal Buildings Fund is that first bucket of responsibilities—take in rent, pay for maintenance and repairs, create a reserve of some sort so that you can deal with the existing asset base that you have. The Capital Revolving Fund, I think, is proposed to be that second piece, a pool or a source of funds in order to execute on large capital projects, rather than having large capital projects and new construction compete with the maintenance of assets. That is the concept.

I think that if we could establish a dedicated fund source for major capital projects there would be significant benefit because we would not be competing with the FBF. I think that there are a number of things that we should and would like to discuss with you about how to make the Capital Revolving Fund function so that it, in fact, achieves the goals that I just stated, because there are complexities to it. But it is a concept that we would be interested in exploring with you.

Chairman PETERS. Very good. The Federal real property disposal process is basically meant to prevent the government from wasting tax dollars. But as I mentioned in my opening comments, the Federal Government continues to maintain unneeded facilities. In fact, in fiscal year 2021, Federal agencies reported over seven percent of the buildings owned by the Federal agencies were either underutilized or unutilized.

Commissioner Albert, what additional authorities or tools would allow the GSA to dispose of property more quickly? Are there some recommendations you would have for us?

Ms. ALBERT. There are a couple of recommendations, in particular, that are focused specifically on being able to dispose faster. I mentioned, of course, getting access to the Federal Buildings Fund, because the sale proceeds go into that fund. We would want to be able to revolve or utilize those funds in future disposition activity. It is the same concept that Representative Rahall and Mr. Marroni have mentioned as well, that retention of net proceeds and the authority to spend it. That is No. 1.

The second, which is a legislative proposal that we have put into our 2024 budget request for the fifth year in a row, is to expand our disposal authority, or expand the permitted uses for a 190(a) account. That account is approximately $80 million. We are only allowed to use that money for disposal activities once a Report of Excess has been created. We believe that getting access to those funds prior to an official Report of Excess by the agency will help incentivize agencies to consider disposing of properties. I believe there is a fund that is already there, it is already appropriated, and what we need to do is expand when we get access to it.

Last, this is a tool that FASTA has really brought to light as to how effective it can be, which is, again, I mentioned that sale-leaseback authority under a defined term. Within FASTA, they have secured sale-leaseback authority for three years. Again, that allows us to dispose of property, put it into the private sector hands. With the private sector having a guaranteed form of income for the next two or three years, it actually enhances the value of the property. You do it for a limited period of time, which buys us time to move that agency out. I think that three years is pretty tight, in many cases, and I would seek to expand that sale-leaseback authority five years, seven years.

I think those three things right now would really be an opportunity to accelerate, and then Senator Lankford mentioned talking about how could we, convey some of the risk and the cost of remediation to the private sector. That is a very typical transactional negotiation that the private sector is used to. I would like to explore around the margins how we could maybe convey that risk to the private sector, in the cases where they are available and ready to absorb it.

Chairman PETERS. Very good. Another question for you,

Commissioner ALBERT. Could you update the Committee on the Department of Homeland Security (DHS) property consolidation efforts that are underway at Saint Elizabeth? Where are we right now on that?

Ms. ALBERT. Absolutely. I am glad to announce that with the approval of our fiscal year 2023 budget, we are advancing on Phase 3 of the consolidation. This is a consolidation of 12 million square feet of property occupied by DHS. We have already completed Phases 1 and 2, and now with Phase 3 we have begun and actually put out the Request for Proposal (RFPs) for program management services, construction management services, to build Cybersecurity and Infrastructure Security Agency (CISA's) headquarters, Immigration and Nationality Act (INA's) headquarters, and U.S. Immigration and Customs Enforcement (ICE's) headquarters at Saint Elizabeth's.

In 2024, we are seeking appropriation for the last component of the consolidation, which are those facilities located at the Nebraska Avenue complex in Washington, DC. We are on the cusp of completing the build-out of the consolidation of DHS at Saint Elizabeth's and very excited that we are able to deliver on those projects that have been long promised.

Chairman PETERS. Great. That is good news.

FASTA requires GSA to maintain a public database of all Federal real property. However, the Congressional Research Service (CRS) has found that the value of the Federal Real Property Profile Management System (FRPP MS), as an oversight and policy tool, has been limited by inaccurate and incomplete information. As of 2020, only 23 percent of the properties listed in the Federal Real Property Profile Management System has a complete address.

Mr. Marroni, GAO has noted that reliability of Federal real property data is the main reason that real property management remains on the High Risk List. My question for you is, why is the status so important and what can Congress do to improve the Federal Real Property Profile Management System so we have the data we need?

Mr. MARRONI. The data is important because it is hard to manage Federal real property if you do not know the condition of the properties, if you do not have good data on what properties are actually in excess, their utilization. You need that information to identify prime candidates for disposal. I think we have talked about some of the issues with data already during the FASTA process.

This has been a longstanding issue on our High Risk List. We have made recommendations in this space that remain open. To GSA's credit, they have taken actions to improve the data over time, but there still needs to be improved validation and verification.

It is also a complex challenge because the agencies self-report the data into FRPP, so each agency needs to provide accurate data and up-to-date data.

I would say the third thing you asked about, what can Congress do, I would say continued oversight and pushing on the agencies to report data that is accurate and complete, again, particularly on variables that change like utilization. Right now, as we exit the pandemic, it is important to know how well these buildings are being utilized, what space may be unneeded. There is not good data right now on that for many buildings in the Federal portfolio. It is important for Congress to push agencies to move toward better data on that front.

Chairman PETERS. Good. Representative Rahall, perhaps you can give us a little bit more detail as to how that has impacted the Board's ability to make recommendations.

Mr. RAHALL. One thing I would say, Mr. Chairman, is that the OMB has denied the Executive Director of the PBRB a seat on the Federal Real Property Council. This would be an important improvement if we could have our executive director a seat on that Senior Federal Property Executive Board. It further stifles, without that seat on the board, the PBRB's access to the information it needs about the shifting Federal workforce. We know, in post-COVID era, that it is shifting rather dramatically.

We need a partnership, a co-partnership here, if you will, with GSA and OMB to work through this issue and at least allow our executive director a seat on that council. This would be a big step forward in allowing us to have access to the information we need.

I think, again, if we could have better coordination, and I believe David's report touches on this issue rather accurately, about our lack of data and access to that data.

Chairman PETERS. Commissioner Albert, do you still intend to make the Federal real property database publicly available if FASTA expires without reauthorization?

Ms. ALBERT. Yes, I want to clarify, the FRPP database, actually has been available publicly on a website since 2016. I want to underscore the comment that Mr. Marroni made, which is that GSA functions in two capacities in terms of managing and inputting into the FRPP. First is there is a component of GSA that does governmentwide support, and so is working, for example, with the Department of Defense (DOD) as a major landholder and other major landholding agencies to take all of that information and manage the database.

Then the Public Buildings Service, which is a component of GSA, which is the component I am responsible for, as a major landholding company, inputs information about our portfolio into the database.

I believe that the Public Buildings Service input into the database has been done regularly, as well as comprehensively as possible, and to the extent that there are data inconsistencies or incomplete data it is because there is an underlying issue that we need to work through. I would extend, as a landholding agency, that assumption, and frankly, knowledge that that is challenging for other landholding agencies as well.

But we continue to work on the process, candidly, and I believe that the guidance and improvements that we have made both in the database itself over the past two years is going to continue to improve the quality of the database itself.

I do want to make one point. The FRPP is an inventory of all of the Federal portfolio. It is not an asset management tool. Those are two different functions and things. I think it is incredibly important to have an inventory, and an accurate inventory, of the property that the Federal Government owns, but that will not tell you everything that you need to know about how to manage that property. I am making that distinction so that everyone understands what the purpose of the tool is, and many landholding agencies do have individual asset management tools.

Chairman PETERS. Commissioner Albert, it has taken two years to sell 10 of the 12 properties approved for disposal under FASTA, and the two properties that are expected to result in the highest return still have not been sold. My question for you is, what has caused these delays and when do you expect to sell the remaining properties, and do you anticipate similar delays in the final FASTA round?

Ms. ALBERT. As to the first 10 properties that were sold taking two years, there was, again, I attribute this to kind of ramping up and starting a new agency and integrating that new agency's work with GSA's work. About one year, I believe, of the two years was spent talking about and deciding on how to dispose of those properties. Again, I reference the tactics or the strategies.

But once it was determined how we were going to offer those properties, the sales all occurred within a year. Again, just working through some of the kinks of an upstart or of a new startup.

As to the two remaining properties, which are, I believe, really great disposal candidates, I can speak specifically to them. The property that we own at Menlo Park has a remaining tenant in it. That tenant had plans to move out. They got delayed during COVID. They are back on track to move out in 2024, which means that we will be able to offer that property, we believe, within the next year.

As to Laguna Niguel, another major asset that we own, unfortunately we put it on the market, and we did not get any bidders. We believe that the historic preservation covenants that were published deterred and chilled the market interest in that property. We are working right now with the local jurisdiction to figure out how we can soften, lift, or accommodate in some other way the historic covenants that are on sort of the main asset at Laguna Niguel.

These are the types of issues that need to be worked through, particularly when we are dealing with complicated real assets.

Chairman PETERS. Great. Thank you. Representative Rahall.

Mr. RAHALL. Mr. Chairman, in my prepared testimony I addressed the Laguna Niguel issue, and the three factors that we feel, in the PBRB, were the cause of the result of that there were no bids on this property. It is a highly valuable piece of property, and it is a shame that there were no bids received.

But one of the primary factors was the lack of market interest, and that, of course, was due to some of the remediation issues that were involved and the GSA's decision to reject acceptable alternatives. Another factor was the lack of publicity. There was just no marketing, like any business firm would market their product for sale, and therefore, lack of awareness. Among the 22 surveyed local commercial developers, 16, for example, were not aware of the auction since no commercially standard process or marketing was used.

A third factor was the uncertainty surrounding the zoning and the local community intent.

This asset remains unsold, as you have referenced, while negotiations continue with the historic preservation process. We have advised GSA that a consultant is needed to facilitate this sale, given the complexities with the historic preservation, and a potential rezoning once the property leaves the Federal ownership.

The government needs to demonstrate innovation in how these excess properties are managed, and the Board needs more authority in determining the disposal strategy, and I have referenced that earlier in my comments.

Chairman PETERS. Thank you.

Senator Carper, you are recognized for your questions.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman.

Mr. Chairman, there is a river that separates my native State of West Virginia with Ohio, and there are a number of bridges that cross and connect those two States, West Virginia and Ohio, where I went to college. I was wondering maybe if Congressman Rahall could share with us the name of one of those bridges. I think it might be close to Huntington. Would you know who that might be? Who is that bridge named after? I think it is called Nahall. It is Rahall.

Mr. RAHALL. Yes, Senator Carper.

Senator CARPER. It is your bridge, is it not?

Mr. RAHALL. That bridge is named after me, and you will be happy to know there are no bullet holes in the sign to this date.

Senator CARPER. That is good. I have been Delaware's treasurer, Congressman, Governor, Senator, and I was a naval fight officer (NFO) for 20 years before that. How many things are named after me in Delaware? None. You have your own bridge, and I am a native of West Virginia.

Mr. RAHALL. I know you are a native of my hometown.

Senator CARPER. There you go. Beckley. A Beckley boy. Great to see you.

Mr. RAHALL. Good to see you again, Senator.

Senator CARPER. It is always a pleasure to cross paths with you.

That was my first question, and I wanted to give that one to you, as a softball. Now I am going to turn to Ms. Albert, if I can, for the tough questioning.

Ms. Albert, thanks for joining us today. I serve on this Committee, and I think I am the longest serving person who serves on this Committee these days, and I chair a Committee on Environment and Public Works (EPW), which has oversight, as you may know, over public buildings. I am very familiar with GSA's Federal real property footprint and the need for efficient property disposal.

I think it was October of last year, October 2022, that GAO released a report that recommended that GSA develop a process to better apply lessons learned from 2019 to 2021, rounds of disposals required by the Federal Asset Sales and Transfer Act to improve results in the 2024 round of disposal.

My question for you, Ms. Albert, is this. Can you just please share with us the actions that GSA has taken or plans to take in order to incorporate lessons learned from the first two rounds of FASTA ahead of the final 2024 round?

Ms. ALBERT. Yes. Thank you so much and thank you also for your leadership on the EPW committee.

Senator CARPER. Thank you.

Ms. ALBERT. I believe that many of the issues that we experienced in the first two rounds and a little bit of the disconnection that the parties had are at least identified now. I personally have met with the PBRB several times and am committed to making sure that the lessons learned get incorporated into future rounds. I believe that there are a number of proposals that will make the next round more successful than the past rounds, and Representative Rahall has alluded to some of those.

But my primary interest in moving forward and thinking about how we should prepare this last round for success is to identify what we are trying to prove. What is the proof of concept that this next round can bring to bear? Is it about forward funding agency moves and how quickly does that accelerate the process? Is it the disposition strategy, marketing, or these other activities that really generate greater interest?

I think that we are well positioned at this point to have conversations about what we think this next round of projects can prove and demonstrate, and I have confidence that we will be able to align in that.

Senator CARPER. Great. Thank you. I have a second question for you and then maybe another question for another member of the panel. But my second question for you, Ms. Albert, deals with space utilization and disposal challenges. I think the FASTA was signed into law, I think it was in 2016. But the COVID–19 pandemic has dramatically changed, as you know, the needs for office space due to increased hybrid and remote work options.

We are hearing from cities all over the country where they have office space that they used to rent robustly, that a lot of it is thinning out and it causing really a hardship for city governments to meet their budgets, raise their budgets. But still it is critical that the agencies accurately report space utilization needs in order to efficiently dispose of unused and underused properties.

Here is my question. In your view, have agencies been reporting properties for disposal in a way that accurately reflect their current space needs? I will say that again. In your view, have agencies been reporting properties for disposal in a way that accurately reflects their current space needs? A follow-up to that will be how is the GSA helping agencies balance flexibility to account for uncertain future space needs while improving the efficiency of the property disposal process? A two-part question.

Ms. ALBERT. Thank you. I might need to ask you for the second part when I am done with the first.

Right now I describe what has happened in the marketplace and in workplaces as the swinging of the pendulum. We were starting in one place before the pandemic. The pandemic almost swung to the exact opposite side of the scale, where everybody, due to the emergency state that we were in, needed to work from home. Right now the pendulum is swinging back, but we do not yet know where the final resting place is.

To me, as a property manager and a portfolio manager, we do not need to know the exact number because at a portfolio the scale the size of the Federal Government's and of GSA's, there is a lot of work that we can be doing now to create the practices and the nimbleness that we believe we need to address the savings and the space optimization that we can over the next five to 10 years.

Pre-pandemic we knew that there was an excess of space. This is pretty well documented. Right now, with OMB's recent memorandum asking agencies to report out on what their organizational strategy is for workforce—that includes telework, but it includes other organizational performance initiatives—we are going to continue, over the next year, I would say, to understand where that pendulum is finally going to rest.

I will say, as an asset manager and portfolio manager, I do not need to wait completely for a final answer, but agencies, before they are willing to give up space, will want to have a better understanding of how they plan to operate for the next term.

I want to point out one activity in particular that I believe is going to become increasingly important, and you referenced it. We manage our own facilities. We also manage a very significant lease portfolio. Our successes in consolidating leases into both federally owned space as well as into other leases has saved the government money over the past five years to the tune of $6.5 billion. We have reduced the lease portfolio by over 13 million square feet.

Senator CARPER. How much?

Ms. ALBERT. About 13 million square feet.

Senator CARPER. That is about the size of Delaware.

Ms. ALBERT. No comment. No, just joking.

Senator CARPER. We are still growing.

Ms. ALBERT. We have also reduced the owned portfolio in the last five years by close to 13 million square feet.

We are implementing, today and still, the necessary consolidation actions that were planned pre-pandemic, and if we can get access to some of the ideas and authorities that we have mentioned today, that GSA has proposed in our fiscal year 2024 budget, then I believe we can be very well poised to deal with any increase in disposal actions or lease consolidation actions that we anticipate in the future.

Senator CARPER. Good. My time has more than expired, Mr. Chairman. Thank you for being lenient. I would like to submit a couple of questions for the record.

Did you have time to do my follow-up question, which was how is the GSA helping agencies balance flexibility to account for uncertain future space needs while improving the efficiency of the property disposal process.

Ms. ALBERT. Sure. We are offering unique services right now, both in the form of access to consultants who are experts in both portfolio optimization as well as space planning. We also have been much more, I would say, innovative in terms of offering access to private coworking space, and we are right now considering how to execute and pilot Federal coworking space, again, to allow and give access to flexible space the agencies need now at a lower price.

We have had a big announcement, and certainly invite you and any other Member of the Committee, to come to our Workplace Innovation Lab, where we are enticing and demonstrating to agencies, it is the carrot side of our business, how can you do this. What does a hybrid workplace look like? It includes seamless and frictionless access to technology, so somebody can work as effectively in the office as they do from their home, as they do from their project site.

Last but not least, I think a really exciting offering that we are going to be sharing is transparency of our leased and owed inventory so that agencies can see in advance when leases are expiring by other agencies. Therefore, when they have a bigger picture and broader picture of what the long-term Federal holdings are they can more confidently let go of the space that they have where leases might be expiring now. There are many components to effective management, but we are working and offering customers a lot of tools to help them more effectively and more quickly plan what their future workplace needs are.

Senator CARPER. That is great.

Mr. Chairman, again, I appreciate the time to ask these questions and to hear responses.

Mr. Marroni, I could barely see your lips moving when she spoke. I would say to my friend, Nicky Joe—that is what they call him in West Virginia—it is great to see you again. Thank you for all your years of service. You never change. Great to see you, buddy. Take care. Thanks so much.

Thanks, Mr. Chairman.

Chairman PETERS. Thank you, Senator Carper, and I would also like to thank our witnesses for being here today. I certainly appreciate your contributions to this important discussion. It is a discussion that will continue.

Disposing of unneeded Federal real property in an efficient and timely manner has been a longstanding challenge, costing taxpayers billions of dollars. While FASTA was set up to streamline the disposal process, it is clear obstacles persist as this pilot program nears its conclusion.

As Chairman of this Committee I will work with my colleagues to look at oversight and legislative actions we can take to improve efficiency and accountability in the Federal Government's use of real property.

The record for this hearing will remain open for 15 days, until 5 p.m., on June 23, 2023, for the submission of statements and questions for the record.

This hearing is now adjourned.

[Whereupon, at 11:19 a.m., the hearing was adjourned.]

APPENDIX

Chairman Peters Opening Statement As Prepared for Delivery
Full Committee Hearing: FASTA Implementation and Optimizing the Efficient Use of Federal Property
June 8, 2023

The federal government owns and leases a significant portfolio of real property, buildings that require resources to manage and maintain. For 20 years, the Government Accountability Office has put federal real property management on its High-Risk List because of long-standing challenges, including the disposal of excess and underutilized property.

As of fiscal year 2021, federal agencies reported that although more than 124,000 federal buildings were being fully used, 898 buildings owned by federal agencies were underutilized, and nearly 8,000 buildings stood completely unused.

Maintaining these unused or underutilized spaces costs taxpayers money, and makes the federal government vulnerable to waste.

While the General Services Administration, which manages a significant portion of the federal real property portfolio, has a process to identify and dispose of unused property, Congress passed the Federal Assets Sale and Transfer Act, or FASTA, in 2016 to further streamline the government's ability to dispose of unused property and save taxpayer dollars.

This law created the Public Buildings Reform Board to review and recommend unused properties for the government to sell.

In its first round, the Board identified 10 unneeded properties that were eventually sold for $194 million. However, during this process, the Board faced numerous challenges, including identifying occupied buildings that led to a delay of nearly two years before the sales could be completed. The second round of properties identified by the Board were rejected by the Office of Management and Budget and no sales occurred.

The Board is preparing a final round of recommendations to offload unused buildings as FASTA nears its effective expiration in December 2024.

Today's hearing is an important opportunity for the Committee to hear about both the successes, and the setbacks, this program has faced in trying to accomplish its important mission to optimize the federal government's use of real property.

The federal government's property needs are evolving, and we should ensure that the buildings the government operates both meet agencies' needs, and are cost-effective for taxpayers.

That includes not only reviewing the FASTA process, but also examining other challenges related to real property management, such as inefficient leasing practices, and the serious challenges posed by inaccurate and incomplete records of federal properties in the Federal Real Property Profile.

I look forward to our conversation today to evaluate the FASTA process and related challenges and discuss potential reforms that would help the federal government improve efficiency and ensure that properties are being used in a way that provides the most benefit to taxpayers and local communities.

Ranking Member Rand Paul

06.08.2023 Opening Statement for HSGAC Hearing on "FASTA Implementation and Optimizing the Efficient Use of Federal Property"

In his book "Bureaucracy" the economist Ludwig von Mises characterized the federal bureaucracy as the "straight jacket" paralyzing individual initiative, innovation, and overall societal improvement. You don't need to look any further than your two-hour wait at your local DMV to see this "straight jacket" in action.

In 2016, Congress passed the Federal Assets Sale Transfer Act, or FASTA, with the goal of reducing government waste and streamlining processes in federal property management.

FASTA created the Public Buildings Reform Board, which is composed of private sector experts in real estate and property management, to identify effective ways for the federal government to reduce unnecessary inventory of civilian real estate.

Federal real property management has been on the Government Accountability Office's High-Risk-List for nearly 20 years. The continued failures of the Executive Branch to efficiently manage the federal real property portfolio was one of the driving reasons for the creation of the Public Buildings Reform Board.

Unfortunately, the bureaucracy's resistance to the Board has resulted in its apparent underutilization. The friction between the Board, the Office of Management and Budget, and the General Services Administration has resulted in only $200 million in sales and the rejection of the Board's first round submission in 2021.

The Government Accountability Office highlighted how the high value round had a goal of $500-$750 million in sales, and the first round had a goal of $2.5 billion in sales. The failure of the General Services Administration to meet these goals shows the administrative resistance to change and efficiency.

We should not be surprised that the bureaucrats running these government agencies are not as effective as the private market in managing their real property portfolios. The "bureaucratic straightjacket" is preventing efficient federal property management and costing the taxpayer billions of dollars. This is why the private sector expertise of the Public Buildings Reform Board is absolutely necessary.

COVID has further complicated the math for holding property. With the Biden Administration's refusal to bring many federal employees back to the office, the need for the current square footage has been drastically reduced.

Instead of re-assigning the federal government's space requirements, agencies are allowing employees to work from wherever their hearts desire while simultaneously hanging on to their empty properties.

Agencies – particularly the General Services Administration – need to identify, remediate, and sell excess real estate. There is still a lot of work to be done and the expertise of the Public Buildings Reform Board needs to be better utilized.

I want to thank each of the panelists for joining us today. I believe today's discussion will be invaluable as we look to optimize the federal government's real estate holding and management.

Statement of Nina Albert, Commissioner of the Public Buildings Service
Before the Senate Committee on Homeland Security and Governmental Affairs
Hearing on the "FASTA Implementation and Optimizing the Efficient Use of Federal Property"
June 08, 2023, 10AM ET
Dirksen Senate Office Building

Good morning, Chairman Peters, Ranking Member Paul, and members of the Committee. My name is Nina Albert, and I am the Commissioner of the Public Buildings Service at the U.S. General Services Administration (GSA). I appreciate the Committee's interest in the use of Federal real property, and how we can work to optimize the size and condition of GSA's real estate portfolio.

Earlier this year, President Biden released his budget request for fiscal year (FY) 2024. The budget identifies adjustments to GSA authorities and highlights specific capital investments that achieve immediate value by improving the conditions in and utilization of Federal buildings. Taken together, these investments and enhanced authorities are intended to generate long-term savings by better utilizing the space we own, reducing the Government's dependence on private-sector leases, and disposing of facilities that are no longer needed. From a strategic perspective, we are seeking the combination of investments and authorities needed to modernize facilities that the Government will continue to own and to optimize our space utilization, so that we can best support agencies' missions and save taxpayers money. Without these investments and authorities, conditions in Federally owned facilities under GSA's control will continue to deteriorate, which leads to underutilized buildings, and leasing out of necessity, which drives up cost to the government.

There are significant opportunities across the GSA portfolio where consistent and adequate funding can be used to drive real estate savings. To help give you a sense of the scale of the opportunity, in FY 2024, of the approximately $10.7 billion in agency rent payments and other revenues that GSA projects will be deposited into the Federal Buildings Fund (FBF), approximately $5.7 billion, or just over half, will be passed through as rent payment by GSA to private sector lessors. While leasing will always be a vital element of GSA's real estate strategy, even a 20% reduction in the overall amount spent on private sector leases represents potentially $1 billion annually in rent costs.

To that end, it is imperative that GSA has full access to its annual collections in order to be able to reinvest in its federally owned properties and make this transition successful. As such, GSA's FY 2024 Budget Request includes a legislative proposal that will help ensure that GSA is provided full access to the annual revenues and collections deposited in the Federal Buildings Fund.

I would like to emphasize that delaying action on critical building repairs increases the ultimate cost to the government, particularly when we are forced to make more costly emergency repairs. Many of the proposed fiscal year 2024 projects include essential infrastructure work and alterations necessary, not only to improve building operability, but also to improve agency utilization and mission achievement. Deferring this work does not eliminate the need for the work; rather, continued delays in funding further exacerbate the problems and repairs turn into replacements, with the potential for system failures that result in cascading impacts to occupant agency missions. In the most extreme cases, this can involve potential relocation to leased space until such time that the repairs are made. In FY 2023, eight of the 17 Major Repairs and Alterations line item projects requested were resubmissions from a prior year's budget request that were not funded when previously submitted. The collective total cost for those eight projects was $122 million above the amounts needed when originally submitted in prior fiscal year. In FY 2024, 13 out of 17 Major Repairs and Alterations projects proposed are resubmittals;

collectively, the total costs for those projects is now $300 million higher than the aggregate projects cost when submitted in prior fiscal years.

Tenant-agencies make rental payments to GSA with the expectation that such funds will be used to properly maintain the facilities they occupy. However, the structure of the FBF is such thatagency rental payments are deposited each and Congress must appropriate those monies before GSA can access the funds to carry out that work. And, instead of resources being made available to GSA to support portfolio modernization and optimization, agency rental payments have been used as an offset to fund different Congressional priorities at other agencies. As a result, since 2011, GSA's Capital Investment Program has been underfunded compared to the President's budget revenue estimate by over $12.4 billion. GSA's Major and Minor Repairs and Alterations Program has experienced the largest shortfall—receiving over $7.2 billion less than requested—while the New Construction and Acquisition Program has received $4.1 billion less than requested. Modernizing federally owned facilities will enable GSA to consolidate and reduce the Federal Government's heavy reliance on space leased from private entities, providing significant cost savings.

In order to reduce the timeline for project delivery and provide better value to Federal agency customers, GSA is proposes an increase to the prospectus threshold from $3.613 million to $10 million. The higher threshold will allow GSA to more quickly tackle many routine repair projects that exceed our current threshold, which can help reduce repair costs and prevent smaller repair projects from growing into larger, more expensive replacements. The higher threshold will allow Congress to remain engaged on the most costly and complex transactions.

Support of GSA's full FY 2024 budget request, including the $2.3 billion requested for capital program investments and enhanced flexibilities with respect to projects, will enable GSA to help address these concerns. This will allow the agency to invest in GSA's federally owned properties and reduce GSA's reliance on privately leased space to deliver the best possible value in real estate management for our partners across Government. GSA operates in over 2,200 communities across the nation, so this investment in GSA's federally owned properties will positively impact those communities through enhanced job creation and opportunities for economic development.

GSA is the federal government's arm for real property dispositions. We help the Department of Defense, Department of Interior, GSA's Public Buildings Service, and other agencies with all disposition strategies. As part of the Government's overarching strategy to right-size the federal footprint, GSA works with partner agencies to identify federally-owned properties that can be removed from the federal inventory. The majority of GSA's dispositions are carried out through its existing authorities under Title 40 of the U.S. Code. Additionally, in 2016, Congress created a pilot supplemental disposal pathway under the Federal Asset Sale and Transfer Act of 2016 (Public Law 114-287) (FASTA), under which GSA would dispose of the slate of properties identified by the Public Buildings Reform Board (PBRB) and approved for disposition by the Office of Management and Budget (OMB). In practice, however, the FASTA process has not significantly expanded the universe of properties entering the disposal pipeline, nor has it significantly reduced the time needed to dispose of a given property. GSA has shared this and other lessons learned from the FASTA pilot with its stakeholders, including this committee, and is applying the relevant lessons learned to our pipeline of current dispositions. There are a few key points worth highlighting today as we consider how to optimize the portfolio.

First, one of the premises behind the rationale for FASTA was there were thousands of vacant properties readily available for disposition in the federal inventory. Agencies have been working for almost 20 years on the disposition of unneeded real property, and , instead what we saw was that only a limited number of properties were readily available for disposition, and 25 out of the 27 of those properties recommended by the Public Buildings Reform Board in the first two rounds of FASTA were already being planned by agencies for disposal through Title 40 authorities under the Federal Property and Administrative Services Act (FPASA). The reality is that agencies that currently occupy underutilized facilities need resources and support to move. GSA's FY 2024 budget request includes a legislative proposal to expand allowable uses of the Expenses, Disposal of Surplus Real and Related Personal Property appropriation, permanently authorized under section 572(a) of Title 40 to provide that support. The expanded authority will allow GSA to better assist agencies in identifying and preparing real property prior to the agency declaring a property excess. This will allow GSA to help agencies rightsize their portfolios by providing the resources and support necessary to assess, prepare, and accelerate underutilized property for disposition. Further, agencies will likely need budget authority to relocate from underutilized buildings into more efficient locations.

Another premise embedded in the rationale for FASTA was that the disposition process was significantly impeded by the requirements of FPASA. Instead, we learned that waiving various FPASA requirements only reduced the overall disposal timeline by a modest amount, while also eliminating input from community stakeholders that is typically included as part of that process. The most impactful acceleration to the disposition process will come from providing agencies with necessary resources and support to manage upfront costs and prepare properties for disposition.

As the Government's largest provider of real estate and real estate services to civilian agencies, GSA will play a key role in helping agencies redefine their space requirements and in the facilitation of the Federal Government's transition to what is likely to be a smaller, less costly real estate footprint. GSA and Federal agency alignment around the opportunity to right-size

GSA's real estate portfolio into one that is high performing, more efficient, and physically smaller than today's inventory has never been better. New thinking and new approaches, combined with the fact that over half of the leases held by GSA are expiring in the next five years (representing approximately 20% of the footprint or 86 million square feet of space), illustrate how this budget request and potentially others in the near future will determine the makeup, condition, size, and functionality of tomorrow's real estate portfolio. I look forward to sharing more about what GSA is doing to right-size the Federal real estate portfolio while positioning our portfolio to meet agencies' needs for a 21st century workforce.

Thank you for this opportunity to testify before you today, and I look forward to answering any questions you may have at this time.

United States Government Accountability Office

GAO

Testimony
Before the Committee on Homeland Security and Governmental Affairs, U.S. Senate

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FEDERAL REAL PROPERTY

Lessons Learned from Setbacks in New Sale and Transfer Process Could Benefit Future Disposal Efforts

Statement of David Marroni, Acting Director, Physical Infrastructure

GAO-23-106848

June 8, 2023

GAO Highlights

Highlights of GAO-23-106848, a testimony before the Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Federal agencies face long-standing challenges in disposing of unneeded real property. These challenges include lengthy disposal processes related to statutory and regulatory requirements, a lack of upfront funding, and limitations on data used to identify excess and underutilized properties. FASTA tests several concepts designed to mitigate these issues and potentially address inefficiencies in real property disposal.

This statement discusses: (1) progress made in the implementation of FASTA; (2) options to mitigate setbacks identified by stakeholders; and (3) actions GSA has taken to identify and share lessons learned.

This statement is based primarily on GAO's October 2022 report on the implementation of FASTA (GAO-23-104815). In addition, this statement provides an update on the actions that GSA has taken in response to GAO's recommendation.

What GAO Recommends

GAO made one recommendation in its October 2022 report, that GSA, in consultation with relevant stakeholders, develop a process to collect, share, and apply lessons learned from the implementation of FASTA, including reporting any lessons learned to Congress. As of May 2023, this recommendation has not yet been fully implemented.

View GAO-23-106848. For more information, contact David Marroni at (202) 512-2834 or marronid@gao.gov.

FEDERAL REAL PROPERTY

Lessons Learned from Setbacks in New Sale and Transfer Process Could Benefit Future Disposal Efforts

What GAO Found

The Federal Assets Sale and Transfer Act of 2016 (FASTA) established a new, temporary three-round process for reducing the federal government's inventory of federal civilian real property. Stakeholders in this process include the temporary Public Buildings Reform Board (Board), the General Services Administration (GSA), the Office of Management and Budget (OMB), and selected federal agencies. Stakeholders told GAO they had encountered numerous setbacks while implementing the first two rounds and identified potential options to address those setbacks in the final 2024 round. For example:

- **Delays selling properties.** Although 10 unneeded properties have sold so far, for a total of $194 million, it took almost 2 years to sell any of the properties OMB approved for disposal during the first round in 2019. According to stakeholders, the delays were due, in part, to an evolving sales strategy.
- **Limited Board recommendations.** Sales proceeds generated from prior rounds are intended to fund costs associated with implementing OMB-approved Board recommendations in subsequent rounds, pending congressional appropriation. According to Board officials, the lack of sales proceeds deposited and appropriated from the first round limited the number, value, and complexity of properties it could recommend for disposal in the second round in 2021.

Stakeholders told GAO that committing to a sales strategy early in the process and examining the deadlines under FASTA could help mitigate some of the setbacks encountered in prior rounds.

As of May 2023, GSA has taken some actions to collect lessons learned, but has not yet fully implemented GAO's October 2022 recommendation to develop a lessons learned process. GSA has collected initial lessons learned from the implementation of FASTA including a discussion of underlying assumptions, structural issues, and challenges implementing the FASTA process. GSA solicited and incorporated feedback from the Board regarding its initial list of lessons learned. GSA also requested but has not received input from OMB. However, GSA still does not have a process for continuing to work with stakeholders to collect, share, and apply lessons learned. To make the final FASTA round a success—and to identify concepts that could improve future real property disposal efforts and any potential reforms—stakeholders' will need to leverage knowledge and experiences from the first two rounds of FASTA. Identifying efficient methods and reliable utilization data for disposal of federal real property is especially important in the aftermath of the COVID-19 pandemic, as competition for federal funds remains high and agencies' space requirements continue to evolve.

June 8, 2023

Chairman Peters, Ranking Member Paul, and Members of the Committee:

I am pleased to be here today to discuss our work on the implementation of the Federal Assets Sale and Transfer Act of 2016—also known as "FASTA"—and its connection to efforts to optimize the federal real property footprint. Federal agencies have faced long-standing challenges in disposing of unneeded federal property, including lengthy disposal processes related to statutory and regulatory requirements and a lack of upfront funding to prepare properties for disposal. We previously reported that the process for disposing of federal real property may take years, sometimes decades, to complete.[1] During that time, agencies may incur costs for maintaining buildings they no longer need. These challenges are, in part, why the management of federal real property has remained on our High-Risk List since 2003.[2] Identifying efficient methods for disposing of federal properties is especially important in the aftermath of the COVID-19 pandemic, as competition for federal funds remains high and agencies' space requirements continue to evolve.[3]

[1]GAO, *Federal Real Property: GSA Should Leverage Lessons Learned from New Sale and Transfer Process*, GAO-23-104815 (Washington, D.C.: Oct 7, 2022).

[2]GAO, *High-Risk Series: Efforts Made to Achieve Progress Need to be Maintained and Expanded to Fully Address All Areas*, GAO-23-106203 (Washington, D.C.: Apr. 20, 2023).

[3]We previously reported that 17 of the 24 major federal agencies we surveyed reported that the pandemic resulted in limited reductions to office space due, in part, to the uncertainty on how employees will work in the future. However, agencies lack the space utilization data needed to make space planning decisions, including disposals. See GAO, *Federal Real Property: GSA Could Further Support Agencies' Post-Pandemic Planning for Office Space Use,* GAO-22-105105 (Washington, D.C.: Sept. 7, 2022).

FASTA established a new, temporary three-round process for reducing the federal government's inventory of federal civilian real property.[4] The intent of FASTA was to test concepts that could mitigate long-standing disposal challenges.[5] FASTA included provisions that gave federal agencies, including the Office of Management and Budget (OMB) and the General Services Administration (GSA), certain responsibilities for implementing the new approach. In addition, it temporarily established an independent board—the Public Buildings Reform Board (Board)—to recommend real property reduction projects. FASTA also established a new funding mechanism—the Asset Proceeds and Space Management Fund (Asset Proceeds Fund)—to collect proceeds from the sale of properties identified through FASTA that can be used to help with the costs associated with future OMB-approved Board recommendations.[6]

Our recent work found that stakeholders faced setbacks implementing the first two FASTA rounds—in 2019 and 2021—and could face similar challenges for the final round in 2024.[7] Specifically, there were delays

[4]Federal Assets Sale and Transfer Act of 2016 (FASTA) Pub. L. No. 114-287, § 2, 130 Stat. 1463, 1463-64. FASTA defines the term "federal civilian real property" to mean federal real property assets, including public buildings as defined in Section 3301(a)(5) of Title 40, US Code, occupied and improved grounds, leased space, or other physical structures under the custody and control of any federal agency. FASTA focuses on decreasing the federal government's inventory of civilian real properties and excludes many types of federally owned assets. Types of properties excluded from disposal include those: located on military installations; used in connection with federal programs for agricultural, recreational, or conservation purposes; and located outside the U.S. or maintained by the Department of State or the United States Agency for International Development. FASTA § 3(5)(B), 130 Stat. at, 1467. Under FASTA, the Public Buildings Reform Board is to cease operations and terminate 6 years after the date on which the Board members were appointed. FASTA § 10, 130 Stat. at 1468.

[5]FASTA utilizes concepts that could mitigate several long-standing disposal challenges. Although FASTA does not explicitly refer to the use of these concepts as "tests," FASTA is effectively a 6-year pilot program.

[6]The Asset Proceeds Fund is an account in the Treasury of the United States under the custody and control of GSA. FASTA § 16(b)(1), 130 Stat. 1463, 1475, as amended by Pub. L. No. 115-141, div. E, tit. V, § 527(2), 132 Stat. 348, 573 (2018). Use of funds in the Asset Proceeds Fund are subject to congressional appropriation.

[7]FASTA refers to the three rounds as the High Value Assets Round (2019), Round 1 (2021), and Round 2 (2024). FASTA § 12(b), 130 Stat. at 1469; FASTA § 12(g)(2)(A), 130 Stat. at 1471; FASTA § 12(g)(2)(B), 130 Stat. at 1471. For the 2019 round, only sales of real property were authorized. For the 2021 and 2024 Rounds, FASTA also provides that properties "can be transferred, exchanged, consolidated, co-located, reconfigured, or redeveloped, so as to reduce the civilian real property inventory, reduce the operating costs of the government, and create the highest value and return for the taxpayer." FASTA § 11(a)(2)(B), 130 Stat. at 1468.

selling properties already approved for disposal by OMB in the first round. In addition, the Board faced challenges identifying properties to dispose of in the second round—which was eventually terminated. The Board is required to submit its final round of recommendations to OMB for approval by December 2024.

This testimony is based on our October 2022 report that examined the implementation of the first two FASTA rounds.[8] Similar to the report, my statement will discuss (1) progress made in the implementation of the FASTA pilot program; (2) options to mitigate setbacks that stakeholders identified while implementing the FASTA pilot program; and (3) actions taken by GSA to identify and share lessons learned. My statement will also provide an update on actions taken by GSA to implement the recommendation made in our October 2022 report.

To examine these issues for our report, we analyzed agency documents about the implementation of the 2019 and 2021 FASTA rounds. We also interviewed GSA officials, Board members and staff, staff at OMB, and officials from six selected agencies.[9] We reviewed FASTA, project plans and projected timelines for selling the 2019 round properties, and documentation and guidance related to the Board's 2021 round recommendations, including a publicly issued report by the Board and letters by OMB.[10] We developed a list of potential options to address setbacks to the FASTA process based on interviews with federal stakeholders including officials from the Board, GSA, and selected federal agencies, and staff from OMB.[11] We then shared and discussed the potential options with federal stakeholders in order to identify and

[8]GAO-23-104815.

[9]We selected the Departments of Energy, Commerce, Agriculture, Interior, Veterans Affairs, and Labor, because they owned or were tenants of properties that: 1) were selected as part of the 2019 FASTA round; 2) were included on a published list of federal real properties OMB suggested the Board should consider for the 2021 FASTA round; or 3) had properties that were highlighted by the Board as potential future candidates for the 2021 round or as a "high-priority" for consolidation in the 2019 round according to 86 Fed. Reg. 8926, 8927 (Feb. 10, 2021).

[10]Board and OMB documents we reviewed included the Board's *First Round Report: Recommendations Pursuant to the Federal Assets Sale and Transfer Act of 2016 ("FASTA") and* OMB's letters on criteria for the Public Buildings Reform Board (PBRB) (Dec. 1, 2021) and Response to PBRB Round 1 Submission (Jan. 26, 2022).

[11]We refer to the Board, OMB, GSA, and selected federal agencies as "stakeholders" throughout this statement, unless noted otherwise. Stakeholders identified in FASTA also include the Board, OMB, GSA, and federal agencies.

summarize which options might improve the process for the final, 2024 round. More detailed information on our objectives, scope, and methodology for that work can be found in the issued report.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

FASTA, effectively a 6-year pilot program, uses different ways to facilitate and expedite the disposal process, and tests several new concepts designed to address long-standing disposal challenges.[12] Agencies have long struggled with managing excess and underutilized space due, in part, to the lengthy and costly disposal process. Specifically, we have reported that disposal of such property was often challenging because agencies often lack upfront funding to prepare the properties for disposal.[13] Agencies also must adhere to applicable statutory requirements when disposing of unneeded real property, including requirements related to preserving historical properties and the environment, which can increase the time required to dispose of certain properties. In addition to these funding challenges and statutory requirements, we have previously found that the federal government experiences challenges managing and disposing of excess, surplus, and underutilized properties due to data limitations. Most recently, we have found that limited space utilization data may impact agencies' ability to

[12]Although the enacting legislation does not specifically call FASTA a pilot program, key stakeholders—including the Board, OMB, GSA, and some congressional staff—have characterized it in this way. Further, FASTA provisions exhibit some characteristics GAO has found are commonly associated with pilot programs. For example, the FASTA process is temporary, ending in 2025.

[13]GAO, *Federal Real Property: Improving Data Transparency and Expanding the National Strategy Could Help Address Long-standing Challenges*, GAO-16-275 (Washington, D.C.: Mar. 31, 2016) and GAO, *Federal Real Property: National Strategy and Better Data Needed to Improve Management of Excess and Underutilized Property*, GAO-12-645 (Washington, D.C.: June 20, 2012).

plan for the post-pandemic environment including determining the amount of space required in the future.[14]

FASTA established the Board to recommend property reduction projects by identifying opportunities for the federal government to reduce its inventory of civilian real property through disposal, among other things, rather than solely depending on federal agencies.[15] In addition, FASTA attempted to reduce disposal time—a long-standing concern with the traditional disposal process—by creating a new, temporary disposal process and defining leadership roles and responsibilities for stakeholders. Specifically, the Board is required to submit a list of real property reduction recommendations to OMB. OMB is responsible for reviewing and approving or disapproving the Board's recommendations. GSA—as the federal government's disposal agent—is responsible for helping to execute activities necessary to carry out the OMB-approved Board recommendations, as are the federal agencies associated with the real property subject to the approved recommendations.

Other concepts used by FASTA that could address concerns over how long it takes to dispose of federal real property include establishing targeted timeframes and measurable goals and waiving the application of certain statutory requirements.[16] Each round has specific deadlines for when the Board must submit its list of candidates to OMB for review, when federal agencies must report OMB-approved properties as excess

[14]In September 2022, we recommended that GSA should develop a plan to broadly share with federal agencies, including those that do not use GSA services, information learned from GSA's pilots and other space utilization data collection efforts. See GAO-22-105105.

[15]FASTA does not replace the traditional disposal process. Federal agencies may still identify and dispose of properties through the traditional disposal process during the duration of FASTA.

[16]For example, FASTA exempted the sale procedures for the 2019 round properties from federal statutory provisions to identify and make real property available for public benefit conveyance and for assistance for those experiencing homelessness. FASTA did not extend these exemptions to the 2021 and 2024 rounds.

to GSA, and when GSA must help implement the OMB-approved recommendations.[17]

FASTA also established a new funding mechanism to help agencies cover costs associated with Board recommendations such as those associated with disposal-related activities, which agencies often cite as a challenge.[18] Specifically, the Asset Proceeds Fund, administered by GSA, was created to provide funding for costs associated with implementing OMB-approved Board recommendations.[19] Use of amounts in the Asset Proceeds Fund are subject to congressional appropriation. As a result, in order to fund proposed disposal or consolidation projects, the Board would need to coordinate with GSA to make an appropriations request in advance of formally submitting its recommendations to OMB. This made the 2021 and 2024 rounds at least partially dependent on the success of previous round(s), as we have reported.[20]

[17]For example, in the 2019 round, after Board approval of an identified property, federal agencies were required to submit Reports of Excess providing information about the excess real property to GSA within 60 days. As part of these submittals, GSA required certain due diligence information, including on environmental compliance and historic preservation aspects of the excess real property, among other things. For the 2019 round, GSA was also required to sell properties within 1 year of when officials accepted the agency's Report of Excess, which could be extended to up to 2 years if OMB determined it was in the financial interest of the government. FASTA does not specify when GSA had to accept the Reports of Excess.

[18]Disposal-related activities can include historical preservation and environmental assessments and remediation.

[19]The Asset Proceeds Fund is an account in the Treasury of the United States under the custody and control of GSA. FASTA § 16(b)(1), 130 Stat. at 1475, as amended by Pub. L. No. 115-141, div. E, tit. V, § 527(2), 132 Stat. 348, 573 (2018).

[20]See GAO-22-105345. To date, all funds available for use in the Asset Proceeds Fund are the result of direct Congressional appropriations from the General Fund of the U.S. Treasury. A combined total of $50 million was appropriated to the Asset Proceeds Fund in fiscal years 2018, 2019, 2021, and 2022 to be used pursuant to Board recommendations. Specifically, the Asset Proceeds Fund received $5 million in fiscal year 2018 appropriations to remain available until expended, $25 million in fiscal year 2019 appropriations to remain available until expended, $16 million in fiscal year 2021 appropriations, to remain available until expended, and $4 million in fiscal year 2022 appropriations, to remain available until expended. Pub. L. No. 115-141, 132 Stat. 348, 572 (2018), Pub. L. No. 116-6, 133 Stat. 13, 171 (2019), Pub. L. No. 116-260, div. E, title V, 134 Stat. 1182, 1413 (2020); Pub. L. No. 117-103, 136 Stat. 49, 275 (2022). No funds were appropriated for the Asset Proceeds Fund for fiscal year 2023.

Stakeholders Reported Limited Progress in Implementation of FASTA Pilot Program

Stakeholders reported numerous setbacks during the first two rounds of FASTA and progress identifying and disposing of properties has been limited. Specifically, a number of factors have: (1) delayed the sale of the 2019 round properties; (2) limited the number, value, and complexity of properties recommended by the Board for the 2021 round; and (3) resulted in the termination of the 2021 round.

- **Delays selling properties approved for disposal during 2019 round.** Although $194 million in sales of 10 unneeded properties have occurred as of May 2023, it took almost two years to sell any of the 12 properties that OMB approved for disposal during the 2019 round. Stakeholders told us that several factors contributed to delays in selling the properties approved for disposal during the 2019 round. These factors included: (1) changes in sales strategy; (2) time needed to complete required due diligence activities; and (3) time needed to conduct additional external stakeholder outreach and coordination. Specifically, GSA and Board officials told us that there were disagreements regarding the proposed sales strategy for the 2019 round properties and changes in this strategy contributed to prolonged disposal timeframes and a strained relationship between the Board and GSA.

  GSA officials also reported delays in selling several of the 2019 round properties because they required significantly more due diligence activities than initially identified to prepare for sale. For example, GSA officials told us that a Department of Veterans Affairs Medical Center in Denver, CO, required a mandatory environmental assessment that took months to complete.

  GSA officials told us that coordinating with external stakeholders, such as local interest groups and elected officials, also increased the time needed to sell the 2019 round properties. For example, the sale of the Department of Commerce's Southwest Fisheries Science Center located in Pacific Grove, CA, was delayed due, in part, to opposition from the local community. In another instance, issues related to external stakeholder outreach and coordination for the Federal Archives and Records Center in Seattle, WA led to the termination of its sale after OMB withdrew its approval.[21]

[21] OMB concluded that the process that led to the decision to approve the sale of the Federal Archives and Records Center was contrary to the administration's January 26, 2021, Memorandum on Tribal Consultation.

- **Limited Board Recommendations for 2021 Round.** Board members and staff told us that three factors limited the number, value, and complexity of its recommendations for the 2021 round: (1) the lack of sales proceeds deposited and appropriated from the 2019 round; (2) uncertainty regarding the impact of COVID-19 on agencies' future space needs; and (3) the lack of agency incentives in the FASTA process. For example, Board members and staff told us that because GSA had not sold a majority of the properties approved during the 2019 round by the time the Board was required to submit its 2021 round recommendations, the Board only submitted a list of 15 properties for OMB approval. According to Board members and staff, this was due, in part, to the lack of sales proceeds available (deposited and appropriated) to prepare the 2021 round properties for sale. Furthermore, the 15 properties initially recommended by the Board had a total estimated long-term savings of $275 million—more than $2 billion short of the $2.5 billion sales proceeds target for the 2021 round outlined in FASTA.
- **2021 Round Termination.** On January 26, 2022, OMB disapproved the Board's initial 2021 round submission, citing several significant concerns with the recommendations and casting doubt on whether it would be possible to gain OMB approval within statutory deadlines.[22] Specifically, OMB officials determined that the submission did not meet OMB's three evaluation criteria: (1) financial planning, (2) stakeholder consultation, and (3) schedule. For example, on financial planning, OMB found that the submission lacked sufficient information on project implementation costs to demonstrate that recommendations could be executed within the resources currently available (deposited and appropriated) to the Board from the Asset Proceeds Fund. OMB also noted that additional coordination between the Board and GSA was needed, including agreement on the list of recommended properties.[23] Subsequently, the Board determined that it lacked the quorum required under FASTA to respond to OMB's

[22]FASTA required the Board to submit its 2021 round recommendations to OMB no later than 2 years after submitting its 2019 round recommendations. OMB must transmit a report to the Board and Congress with its approval or disapproval of the Board's recommendations no later than 30 days after receiving the Board's recommendations, In the event of disapproval, the Board has 30 days to submit its revised recommendations to OMB for approval.

[23]OMB, *OMB Response to Public Buildings Reform Board (PBRB) Round 1 Submission* (Jan. 26, 2022).

concerns and to resubmit its recommendations after two Board members resigned.[24] As a result, the 2021 round was terminated.

Stakeholders Identified Options for the Final FASTA Round that Could Mitigate Prior Setbacks

Stakeholders we spoke with—including GSA, OMB, the Board, and selected federal agencies—identified several potential options for the final 2024 round to address setbacks encountered during the 2019 and 2021 rounds of the FASTA process. Some options were less complex, such as additional collaboration between stakeholders that might result in more positive outcomes for the final round. Other, more complex options would require higher levels of coordination across multiple stakeholders and potentially congressional action. Potential options identified by stakeholders are summarized in Table 1 and described in more detail below.

Table 1: Potential Options Identified by Stakeholders to Address Setbacks Encountered While Implementing the 2019 and 2021 Rounds of the Federal Assets Sale and Transfer Act of 2016 (FASTA)

FASTA Round	Setback	Contributing Factor(s)	Potential Option(s) to Address Setback	Responsible Stakeholder(s)
2019	Delays selling approved properties	Changes in sales strategy	Commit to a sales strategy early in the process	GSA and Board
		Due diligence activities	Increase collaboration for identifying and vetting properties	GSA and Board
			Examine FASTA deadlines	Congress
		External stakeholder outreach and coordination	Develop more comprehensive process for external stakeholder outreach	Board
2021	Board recommendations did not meet expectations	Lack of sales proceeds from 2019 round	Examine FASTA deadlines	Congress
		Impact of COVID-19 and lack of agency incentives	Align agency incentives and FASTA requirements	Congress
			Expand potential disposal pool	Congress and Federal Agencies
	Round termination	OMB disapproval	Clarify and assess OMB's process for evaluating Board recommendations	OMB

[24]FASTA provides that five Board members shall constitute a quorum for the purposes of conducting business and three or more Board members shall constitute a meeting of the Board. FASTA § 5(b), 130 Stat. at 1466. Board members and staff we spoke with interpreted this provision as prohibiting the Board from submitting or resubmitting recommendations to OMB without a five-member Board. In November 2022, the Board reached the quorum required to conduct business.

FASTA Round	Setback	Contributing Factor(s)	Potential Option(s) to Address Setback	Responsible Stakeholder(s)
			Develop more comprehensive process for external stakeholder outreach	Board
			Examine FASTA deadlines	Congress

Source: Documentation from and interviews with Public Building Reforms Board (Board) members and staff, officials from General Services Administration (GSA), staff from Office of Management and Budget (OMB), and officials from selected federal agencies. | GAO-23-106848

Note: This table is not a comprehensive list of all potential options that could be considered for the final 2024 FASTA round. Also, additional factors could have contributed to the setbacks identified by stakeholders in our review.

- **Commit to a sales strategy early in the process.** Stakeholders told us that committing to a sales strategy early in the process for the final 2024 round may help mitigate delays encountered during prior rounds. For example, Board members and staff, as well as GSA officials, told us that they are interested in improved coordination in selling properties approved for disposal. Specifically, Board officials told us that it would be helpful to reach a consensus with GSA regarding which sales strategies could meet the goals and objectives of FASTA. GSA officials acknowledged that it is important to have a fully vetted sales strategy in place and that there are opportunities to improve the working relationship between GSA and the Board.

- **Increase collaboration for identifying and vetting properties.** Stakeholders told us that increased collaboration between the Board and GSA during the identification and vetting process of the final 2024 round may help mitigate delays due to completing required due diligence activities. For example, in OMB's response to the Board's 2021 round submission, OMB suggested that agreement between the Board and GSA on detailed project plans could help ensure that the projects identified by the Board were viable and could be completed within required timeframes and available resources. Board and GSA officials agreed that additional collaboration during the identification phase for the final 2024 round could help ensure that the Board identifies and accounts for all activities needed for disposal as part of developing project plans and schedules.

- **Examine FASTA deadlines.** Stakeholders told us that examining the deadlines under FASTA could help mitigate some of the setbacks encountered in prior rounds. For example, GSA officials told us that the deadline for when the Board was required to submit its 2021 round recommendations may have not been realistic. Specifically, the 2021 round deadline was predicated on the assumption that FASTA expedites the disposal process and waives the application of certain statutory requirements so that sales proceeds from the 2019 round would have been subsequently appropriated and therefore available before the Board's 2021 round recommendations were due. However, not all of the due diligence activities required for the sale of the 2019 round properties were completed by the Board's deadline to submit its 2021 recommendations to OMB for approval thus affecting the amount of sales proceeds deposited and available for the 2021 round, pending congressional appropriation.

Board officials told us that it is critical that the Board has access to sales proceeds well in advance of its 2024 round submission deadline. The Board reported that it has identified approximately two dozen additional properties for disposal or consolidation for the final 2024 round. However, their inclusion is contingent upon the availability and appropriation of sales proceeds in the Asset Proceeds Fund in order to demonstrate that projects can be completed with the funds currently available (deposited and appropriated)—as required by OMB. Furthermore, Board officials told us that more timely access to sales proceeds could also incentivize agencies to participate in the FASTA process.

- **Develop more comprehensive process for external stakeholder outreach.** Stakeholders told us that a more comprehensive process for external stakeholder outreach and coordination prior to the Board's submittal of its final 2024 round recommendations to OMB could help mitigate or avoid some of the issues raised by external stakeholders during prior rounds. For example, OMB emphasized the need for more comprehensive information about the Board's outreach. OMB disapproved the Board's 2021 submission, in part, due to insufficient information regarding the Board's stakeholder outreach. According to OMB, the Board should improve its process by consulting and documenting direct engagement with members of Congress, affected Tribal governments, the general public, and the agencies occupying facilities, including tenant agencies.[25]

- **Align agency incentives and FASTA requirements.** Stakeholders told us that aligning agency incentives and FASTA requirements could help mitigate factors that contributed to the Board's limited 2021 round recommendations. For example, the Board proposed changes to

[25]OMB, *OMB Response to Public Buildings Reform Board (PBRB) Round 1 Submission* (Jan. 26, 2022).

FASTA to grant agencies the ability to retain sales proceeds within the current FASTA process rather than only after the Board terminates in 2025.[26] Such proceeds could be used by agencies for other pressing priorities and would give agencies a clear benefit for participating in the final 2024 round, according to Board officials.[27] In addition, the Board proposed FASTA requirements that may improve agency participation in the final 2024 round, according to Board officials. For example, the Board proposed that FASTA be amended to include a requirement for agencies to share plans on ways to consolidate, reconfigure, or otherwise reduce the use of owned and leased property in the post-pandemic work environment. Board officials also told us that providing them with the authority to submit 2024 round recommendations to OMB for approval on a rolling basis (i.e. submitting individual recommendations as they are ready rather than all recommendations for a round at the same time) may provide additional opportunities to identify potential candidates and help further incentivize agency participation.

- **Expand potential disposal pool.** Stakeholders told us that expanding the potential pool of eligible disposal candidates for the final 2024 round could help mitigate factors that contributed to the Board's limited 2021 round recommendations. Specifically, Board officials told us there are opportunities to expand the pool of eligible disposal candidates by removing the exclusions of certain types of properties from the FASTA process and improving federal real property data.[28] In particular, the Board reported challenges due to the lack of available and reliable data that made it difficult to identify

[26]Board members told us that at the request of a bi-partisan working group, in November 2021, the Board submitted a legislative proposal to amend FASTA. In general, section 20 of FASTA provides that, after the termination of the Board, the net proceeds from the transfer or sale of real property that is not pursuant to FASTA are to be deposited into the appropriate real property account of the agency that had custody and accountability for the real property at the time the property is determined to be excess. FASTA § 20, 130 Stat. at 1477.

[27]OMB staff told us that amending FASTA legislation to include the Board's proposal of agencies' retaining sales proceeds earlier than FASTA originally intended could have budgetary effects. For example, under current budget enforcement mechanisms, the cost of the proposal may need to be offset by an increase in mandatory receipts or a decrease in mandatory spending for other programs.

[28]We previously made several recommendations to GSA on the Federal Real Property Profile database it maintains, including improving the accuracy of the database, consulting with agencies on assets' information withheld from the database, and improving the public database's presentation. GSA is taking steps to implement these recommendations. See GAO, *Federal Real Property: GSA Should Improve Accuracy, Completeness, and Usefulness of Public Data*, GAO-20-135 (Washington, D.C.: Feb. 6, 2020).

viable disposal candidates. For example, Board members told us that during the 2019 round they found instances of warehouse buildings being listed as utilized in federal data but that when they visited the property, the warehouses were vacant. GSA officials told us that they recently initiated an effort to verify real property data in light of the effect of the COVID-19 pandemic on agencies' future space needs and potential increases in excess and underutilized space.

- **Clarify and assess OMB's process for evaluating Board recommendations.** Stakeholders told us that clarifying and assessing OMB's process for evaluating and approving the Board's recommendations could help mitigate factors that resulted in the disapproval of the Board's initial 2021 round submission. Specifically, the Board would like OMB to clarify the types and amount of community outreach and the level of financial detail required for each project recommendation. Board officials also told us that OMB should reassess its requirement that all recommendations submitted by the Board must be supported by the funds currently available (deposited and appropriated) within the Asset Proceeds Fund.[29] OMB staff stated that approving projects with projected costs beyond the current appropriated amount, including conditionally approving projects pending appropriation, posed a risk to the taxpayer. OMB staff acknowledged that timely access to sales proceeds is essential for the Board to recommend potential property candidates but maintained that congressional action would be required to make those funds available.

[29] In November 2019, OMB conducted a risk assessment and issued "Recommendation Guidelines" to help the Board identify candidates that were more likely to gain approval. As part of these guidelines, OMB stated that, based on its risk assessment, each submission must be supported by a financial execution plan that demonstrated that the projects identified by the Board could be completed with the funds currently available (deposited and appropriated) within the Asset Proceeds Fund. According to OMB, the recommendation guidelines were based upon OMB's reading of FASTA's statutory requirements and OMB's obligations under the law to ensure responsible stewardship of taxpayer dollars. See OMB, *Official Response to PBRB Recommendations*, November 27, 2019.

GSA Has Collected Some Lessons Learned but Has Not Yet Developed a Process to Inform Future Disposal Efforts

In our October 2022 report, we recommended that GSA, in consultation with relevant stakeholders, develop a process to collect, share, and apply lessons learned from the implementation of FASTA to improve the final 2024 round and future disposal efforts, including reporting any lessons learned through this process to Congress.[30] GSA agreed with our recommendation and stated that it had begun developing a plan to address it. In March 2023, GSA compiled an initial list of lessons learned, including a discussion of underlying assumptions, structural issues, and challenges implementing the FASTA process. In April 2023, GSA solicited and incorporated feedback from the Board regarding its initial list of lessons learned. According to GSA officials, they requested but did not receive input from OMB. In May 2023, GSA provided its initial list of lessons learned to Congress, according to a GSA official.

Although GSA has identified initial lessons learned, it does not have a documented process to work with stakeholders to collect, share, and apply lessons learned on an ongoing basis. As a result, at the time of this testimony, the recommendation has not been fully implemented. Establishing a lessons learned process could help facilitate continued communication and coordination among stakeholders—something that stakeholders have noted was lacking at times during the first two rounds. Ensuring early buy-in, support, and agreement on future recommendations is important, as indicated by the setbacks encountered in the first two rounds.

Addressing this recommendation is also critical in the aftermath of the COVID-19 pandemic, as competition for federal funds remains high and agencies' space requirements continue to evolve. As previously mentioned, managing federal real property has remained on our High-Risk List since 2003 due, in part, to long-standing challenges disposing of excess and underutilized space. To make the final FASTA round a success—and to identify ideas and lessons learned that could improve future real property disposal efforts and any potential reforms—stakeholders will need to continue to leverage knowledge and experiences from the first two rounds of FASTA. Therefore, as part our most recent update to GAO's High-Risk List in April 2023, we included a discussion of setbacks in implementing the FASTA process and that many agencies lack space utilization data needed to make cost-effective

[30] GAO-23-104815.

real property decisions.[31] And, in May 2023, we added recommendations related to FASTA and agencies efforts to collect additional space utilization data to our list of priority recommendations for GSA to implement.[32]

Chairman Peters, Ranking Member Paul, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contacts and Staff Acknowledgment

If you or your staff have any questions about this testimony, please contact David Marroni, Acting Director, Physical Infrastructure at (202) 512-2834 or marronid@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Matthew Cook (Assistant Director); Colleen Taylor (Analyst in Charge); Jeff Arkin; Melissa Bodeau; Adrienne Fernandes-Alcantara; Geoff Hamilton; Thomas McCabe; Tania Uruchima; and Elizabeth Wood.

[31] GAO-23-106203.

[32] GAO, *Priority Open Recommendations: General Services Administration,* GAO-23-106474 (Washington, D.C.: May 18, 2023).

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PUBLIC BUILDINGS REFORM BOARD

PBRB Testimony for Senate Homeland Security and Governmental Affairs Committee, June 8, 2023 presented by Nick Rahall, Board Member

Good morning, I am Nick Rahall, Board member of the Public Buildings Reform Board, and I wish to thank Chair Peters and Ranking Member Paul for inviting the Public Buildings Reform Board to speak. Congress created the PBRB as the sole engine that drives the execution of FASTA and we are pleased to be invited to this hearing to discuss our work. I will first provide you a brief overview of the Public Buildings Reform Board and the FASTA legislation, and then describe our approach to our final round of recommendations.

Overview

The Federal Asset Sale and Transfer Act (FASTA) was enacted on December 16, 2016, as a bipartisan and bicameral effort, and created the Public Buildings Reform Board. The Board currently has a sunset date of May 2025. Although the legislation was passed in 2016, Board members were not appointed until May, 2019, over two years after enactment. Currently, the Board members are D. Talmage Hocker (Acting Chair), Nick Rahall, David Winstead, Michael Capuano, and Jeffrey Gural who was nominated by President Biden to be the Chairman, and is awaiting Senate confirmation. We also still have one vacancy on the Board. Also the Board was unable to conduct business for approximately 11 months in 2022 when two Board members resigned, leaving us without a quorum until November 2022. As a result of this lack of quorum, we were unable to complete our First Round recommendations in 2022.

The law dictated three rounds of recommendations: the first, the High Value Asset round, was due December 2019 with targeted sales proceeds of $500-750 million; the First Round, due December 2021 with targeted sales proceeds up to $2.5 billion which we never completed because of a loss of quorum; and the Second and final round which is due not before December 2024 with a targeted sales proceeds up to $4.75 billion. The HVA round was streamlined in that it allowed the government to bypass the McKinney Vento Act homeless screening process. It also gave the government a three year lease back authority to expedite the sale. The proceeds from all sales of PBRB-recommended properties are deposited into the Asset Proceeds and Space Management Fund. This fund incentivizes agencies by providing resources to accomplish all the due diligence required to make a property available for disposal, such as environmental remediation, relocations costs, etc. The fund can only be used for PBRB-recommended and OMB-approved projects, and GSA holds the disposal authority.

The PBRB therefore, recognizes the centrality of GSA to the successful conclusion of the PBRB program, and has sought the Public Building Services engagement for the final round of recommendations.

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The PBRB Approach

Assuming that our sunset date of May 2025 is not extended, we are preparing for our final round of recommendations by continuing to work with GSA as they complete their internal portfolio reviews to determine disposal opportunities. Also, we have reached out to other agencies to review their lease portfolio to identify opportunities to consolidate leases and reduce lease costs. For this final round, I will emphasize that we are looking at both owned and leased assets for consolidation and disposal opportunities. We also are conducting our own portfolio review of several key Metropolitan areas with a large federal presence to determine opportunities for disposal and consolidation.

Key to a successful final round, the PBRB recognizes that GSA will need to prioritize how it will seek appropriations for major projects. The HVA round to date has realized $194 million in sales proceeds which are in the Asset Proceeds Fund. There are still two remaining HVA assets that have not been sold that could conceivably bring in an additional $100 to $300 million in proceeds, resulting in a total amount of funds between $300 and $500 million in that fund. The large range - from $100 to $300 million in anticipated proceeds - is due to the fact that it has taken GSA years to prepare the final two properties for sale, losing the market momentum, and positioning these large assets to be sold squarely in a commercial real estate downturn. The length of time to sell these properties will likely cost the government hundreds of millions if not billions of dollars when considering cost savings over the next thirty years. The PBRB's final round of recommendations are due no earlier than December of 2024, and these will be the final properties where the federal government can use the Asset Fund to generate even greater returns for the Treasury. We are seeking a partnership with GSA to understand how they intend to prioritize appropriations requests from the Asset Proceeds Fund versus the Federal Building Fund while staying within the 302(b) appropriations cap in FY2026 and beyond. We have asked GSA to identify a few large properties that might produce significant returns from both the sale and from cost avoidance for the next thirty years, and eagerly await their response. Once we have those properties, we will conduct an independent analysis and report our findings and recommendations.

We are also seeking partnership with GSA in using commercial real estate techniques that respond to one of the most volatile and depressed commercial markets of our time, as opposed to standard processes which have been effective during the past inflationary decades. One of the key drivers behind FASTA was to find innovations to speed up the sales process. Two of our Board members are well known in the commercial real estate sector, and have provided invaluable advice and perspectives that we continue to offer to GSA. As I described previously, the slowness to market two very valuable properties (at Menlo Park and Laguna Niguel, California), has resulted in a loss to the federal government of hundreds of millions of dollars. Previously, the Board advised GSA to use a broker to assist in the marketing of the High Value

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Assets, and as a result, GSA awarded a contract in January 2021 to a brokerage firm. In April, 2021 GSA terminated the contract and GSA decided to use its standard online auction process. This termination cost the government in excess of $300,000. One of these High Value Assets, the Chet Holifield Federal Building in Laguna Niguel (Orange County), CA, online auction opened in March 2023 and closed in April ***without receiving any bids***. This property is 90 acres in the middle of Orange County and the inconceivable lack of bidding reflects sales process issues as opposed to a lack of value. The PBRB has initiated a study of this disposition. To date, we have learned that one of the primary factors resulting in this lack of market interest was the historic preservation requirements to maintain the existing building, and GSA's decision to reject acceptable alternatives. Another factor was the lack of publicity: out of 22 surveyed local commercial developers, 16 were not aware of the auction since no commercially-standard process of marketing was used. A third factor was uncertainty surrounding the zoning and local community intent. This asset remains unsold while negotiations continue with the historic preservation agencies. We have advised GSA that a consultant is needed to facilitate this sale given the complexities with historic preservation and potential rezoning once the property leaves federal ownership. The government needs to demonstrate innovation in how these excess properties are managed, and the Board needs more authority in determining the disposal strategy.

Finally, we recognize that GSA is the central repository of data and information regarding the utilization and condition of the federal inventory. In order to make our recommendations, we need access to the current Federal real property data. However, we have not received a response from OMB to our request in March to gain access to this data, which is maintained in the Federal Real Property Profile (FRPP) system. Also, the Board has not received a list of properties recommended by agencies for consolidation and disposal that was due from OMB in March. This lack of data and information was addressed in a May 3, 2023 letter to the House Committee on Transportation and Infrastructure, House Committee on Oversight and Government Reform, the Senate Committee on Environment and Public Works, the Senate Committee on Homeland Security and Governmental Affairs, and the House and Senate Committees on Appropriations, in accordance with Section 11 of FASTA. Finally, OMB has denied the PBRB Executive Director a seat on the Federal Real Property Council - a meeting of senior federal property executives - further stifling the PBRB's access to information it needs about the shifting federal workplace. We look forward to working with GSA and OMB to access the required data and information they may have so we can more effectively partner on this important program.

Moving forward, the PBRB's approach seeks to capitalize on the opportunities presented by the new normal of post-COVID work. As you are aware, agencies are still trying to determine what their workplace environment will consist of in the post-COVID era as more agencies have adopted flexible work arrangements, remote work, and telework. Federal office buildings likely

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will continue to experience high vacancy rates and as a result, we expect more buildings to become excess to the government. Therefore, we have suggested legislation extending our sunset date to give us time to work with agencies to identify these excess properties. Repurposing these excess buildings will not only reduce the federal government's facility operating costs, but will also energize the local community as these buildings are redeveloped and placed back on the local tax basis. Good examples of our strategy include:

- The Lipinski Building on Chicago's Gold Coast, with an estimated value exceeding $25 million, which houses one sole agency, and which has been historically underutilized. As other federal agencies are able to consolidate, the tenant of the Lipinski Building can move out of the building and produce a cost savings and a positive return on investment.
- The DHS Headquarters consolidation out of the Nebraska Avenue Complex and into Saint Elizabeth's here in D.C. Moving out of the NAC will create a value of approximately $82 million, and significant cost savings over 30 years.

We thank you for your time and consideration, and I look forward to answering any questions you may have.

If asked:

Q: How does the PBRB conduct its real estate analysis?

A: The PBRB uses whatever data it can find, to include a set from the Federal Real Property data which is two years old, and has hired Jones Lang Lasalle to perform commercial due diligence.

Q: How much money is in the Asset Proceeds and Space Management Fund?

A: GSA reports approximately $194 million currently in the fund. We expect another $100-$300 million from the sale of Menlo Park and Laguna Niguel.

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Q: When did the Board lose/re-gain quorum?

A: The Board **lost** quorum in January 2022, and **re-gained** quorum in November 2023.

Q: How long should an extension be?

A; The Board believes an extension to December 2026 would be useful to execute its mission.

Senate Committee on Homeland Security and Governmental Affairs
"FASTA Implementation and Optimizing the Efficient Use of Federal Property"
June 8, 2023

GSA's Responses to
Questions for the Record Submitted by Senator Rick Scott

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1. **What was the occupancy rate for federal buildings in 2019 (pre-pandemic)?**

   GSA does not collect or maintain data about occupancy that can be aggregated at the national, regional, or building level for the federal inventory under GSA's custody and control. While GSA receives headcount data from federal agencies when executing occupancy agreements, individual agencies are responsible for collecting and managing data about their own space utilization.

2. **What is the occupancy rate for federal buildings currently?**

   As noted above, GSA does not maintain a dataset for occupancy. Each Department and agency is responsible for managing daily occupancy data in buildings that are part of its inventory, whether owned or leased by the Department or agency or occupied under an agreement with GSA.

3. **Is there a central list of all unused federal buildings or property that could be sold off or redeveloped?**

   GSA maintains a website (https://disposal.gsa.gov) that allows the public and interested stakeholders to view current and upcoming properties available for sale.

4. **Has anyone looked at potential savings of selling off buildings/offices in high-cost of living areas and relocating those offices to lower-cost of living areas?**

   GSA plays a key role in helping agencies to define their space requirements and adapt their physical workspaces to maximize value for taxpayers. Each agency determines its geographic footprint, which is tailored to its mission-related needs. GSA works with agencies to understand and meet their space needs based on requirements identified by agencies.