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THE GENERAL SERVICES ADMINISTRATION'S FISCAL YEAR 2007 CAPITAL INVESTMENT AND LEASING PROGRAM

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HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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THE GENERAL SERVICES ADMINISTRATION'S FISCAL YEAR 2007 CAPITAL INVESTMENT AND LEASING PROGRAM

Thursday, March 30, 2006

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT, WASHINGTON, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2253, Rayburn House Office Building, Hon. Bill Shuster [chairman of the committee] presiding.

Mr. SHUSTER. The Subcommittee will come to order. I was going to welcome all the other members of the Subcommittee, but it looks like I am the only one that has made it here so far. I know Ms. Norton is on her way and will hopefully join us shortly, but we are going to go ahead and get started.

We have got a crowd here this morning, too. No members, but we have got people in the audience, which is a different twist for us. So welcome all of you here this morning. There is, I guess, interest in what we are going to be talking about today and the bills we are going to be marking up.

Each year, the General Services Administration submits to Congress prospectuses for the alteration, acquisition, design, construction, and lease of Federal buildings and courthouses to house Executive Branch agencies and the judiciary, and, in turn, perform a detailed review of the request and closely examine each project submitted for our consideration.

The resolutions we will mark up later this morning reflect those that the Committee has determined are acceptable, sensible, and beneficial to the Government and qualify for our consideration at this time. Other prospectuses are undergoing additional review and will be considered at a later date. The GSA will provide brief detail of the submitted prospectuses and I will explain them more fully during the markup.

It is important to note that the President did not include any new construction for the judiciary in fiscal year 2007 budget. The Committee is hesitant to authorize any additional courthouse construction projects at this time because they are not included in the budget and the Committee is awaiting GAO reports on the judiciary's rents and courtroom sharing. The judiciary has continued to raise issues over rent payments to GSA. The courts are concerned over the growing percentage of their budget going to GSA for rent and the related effects on court operations.

The Committee is aggressively examining the rent issue, as well as the courthouse building program. Last April we commissioned a study of the judiciary's rent by the GAO. We requested the GAO to investigate how rent payments were calculated by the GSA, how payments are planned and accounted for by the judiciary, which changes the judiciary has experienced in rent payment in recent years, and what impact a permanent rent exemption would have on the Federal Building Fund. I look forward to the upcoming release of this GAO study as we continue oversight of the courthouse construction.

This Committee has also requested that the courts initiate a comprehensive courtroom usage study in coordination with the GAO. This study will investigate how often courtrooms are actually used for official functions. I appreciate the fact that the courts are moving forward with this important undertaking, although I am very concerned by the slow pace and limited process that they have made to this date. I look forward to the results of the study and hope they assist this Committee in fully grasping the needs of the courts as we consider future requests for courtroom construction.

On a separate note, we must tackle the issue of market price increases today. Market price increases are not due to a change in the scope of a project or failures by the government or contractor to keep a project on budget. These increases are solely due to unexpected issues, such as significant increases in the cost of steel and cement and labor shortages. The Committee has examined these requests and found them reasonable and necessary to complete these projects.

Over the past few years, this Committee's ability to authorize GSA projects has been delayed by GSA's inability to provide this Committee with Capital Investment and Leasing Program by March, leaving little guidance for the appropriators as they consider project funding. This year is different.

I would like to commend Commissioner Winstead and Deputy Commissioner Tony Costa for submitting the Capital Investment Program in February and a majority of the leases program to the Committee by the first week of March. By providing this information shortly after the submission of the President's budget, our Committee can properly fulfill our role as the authorizers of these projects. I want to thank you gentlemen again for presenting those to us in a timely fashion, and I look forward to this promptness in the future.

I would also like to reiterate my intention to closely examine each project that is submitted for our consideration. While we are not delving further into the details of the courts' supposed rent crisis today, it is an issue that has forced us to reexamine our role in the approval of projects over the years and will require additional oversight in the future.

And, with that, we have no other members, so—oh, welcome. Thanks for coming today.

Mr. Winstead, why don't we ask you to come to the desk?

I need to ask unanimous consent that our witness's full statement be included in the record. Without objection, so ordered.

Since your written testimony has been made part of the record, the Subcommittee would request that you limit your summary to

five minutes or a little longer. We are not going to be too tough on you on time today.

We do have but one witness, for those of you in the audience today, Mr. David Winstead. He is Commissioner of the General Services Administration's Public Building Service.

This is your first time testifying before the Committee, so we welcome you. Congratulations on your appointment. We have worked together already and look forward to continuing to work with you and look forward to your testimony. With that, you may proceed.

TESTIMONY OF DAVID L. WINSTEAD, COMMISSIONER, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

Mr. WINSTEAD. Chairman Shuster, thank you. And, again, it is a pleasure. This is my first appearance before the Subcommittee, but I have met with other members prior to this to sort of brief on the continued program at GSA Public Buildings.

Obviously, our mission—former Commissioner Moravec has been here on a number of occasions, and our mission continues to be providing a superior workplace solution at best value to the American taxpayer, and I think we are charged, most importantly, with the responsibility of managing the Federal Building Fund and the Revolving Fund created in 1972 that funds the space needs of over 59 Federal agencies using a market based approach. And I think you all have had testimony over the last couple of years of new innovations that we put in place both a customer service and an asset management that had, I think, improved that delivery.

Each year, obviously, Congress vests us and appropriates funds to our customer agencies, who then pay user fees, a rent approximating the equivalent of commercial rents for the space that they utilize. One of the purposes of requiring these agencies to pay rent is to encourage them to both weigh the cost of their space needs within their budgets, as well as to prioritize their own mission versus their facility needs, and I think this funding approach requires agencies to make choices in balancing their demand for space, as well as fulfilling and having the budgets to fulfill their mission program.

At the same time, I think GSA offers them the flexibility in the selection of space options and quality, and obviously amenities. Congress does rely on the Federal Building Fund to provide that reliable source for GSA to both rent space from the private sector, operate, maintain, repair, and modernize their own inventory, as well as constructing new Federal facilities in support of GSA customer service missions.

We are pleased, as you said, Mr. Chairman, in submitting the Capital Investment and Leasing Program to you in mid-February this year. When we met at the end of last year, when I first got in this position, you encouraged us to get it in a little earlier, and I am pleased that you acknowledged that. I am testifying in support of that authorization of that program today, and GSA requests your authorization of the individual projects that are in the project, which we believe reflect wisely investments and scarce taxpayers, but ultimately provide the best support for our customer agencies,

as well as maintaining our very important Federal real estate portfolio.

We have analyzed all these projects and feel that they address the most critical customer needs, as well as the President's right-sizing goal for real estate asset management. Since we last—since I think the commissioner last was before this Committee, we have in fact achieved a green status in the President's Management Agenda for asset management approach, the tiering approach we have in our portfolio and a lot of our efforts to move both project completions, as well as dispositions of underutilized space.

We are obviously acquiring and constructing new Government-owned assets to meet these long-term needs, which we hope continue to be cost-effective; reducing the number of vacant underutilized facilities. Last year we disposed almost 30 properties. We have improved conditions of mission-critical and mission-dependent assets to ensure continued functionality, as well as increase security needs and life safety and a very pleasant work environment. And we continue to improve the operation efficiency of key facilities and achieving the energy efficiency goals set out in the 2005 Energy Policy Act.

As you know, in the repair and alteration section of this program we continue to be steward of over 1500 Federal buildings, with a replacement value of about $41 billion, and we are requesting a Repair and Alteration Program of about $866 million to maintain and improve these projects, which are critically needed for the missions of our customer agencies.

Some of the highlights of GSA's fiscal year 2007 Repair and Alteration Program include: $375 million for Basic Program, $23 million for more Limited Scope, as well as $398 million for Major Renovation. In addition, there is a section in the program which devotes about $25 million for our Design Program, $15 million for continuation of our energy focus, as well as $10 million for the CFC program; also, $10 million additionally for the Class Fragmentation Program, which, again, is meeting the security needs that we are for many of our buildings these days, another $10 million for Fire and Life Safety.

I should note that we have evaluated and ranked our repairs and alterations proposals based on a lot of following criteria: customer urgency based on mission requirements, as well as overall satisfaction levels; the physical urgency in these buildings in terms of the building conditions and needs; the economic justification in terms of financial return and present value; and as well as project timing and execution risks.

The projects before you today have passed these three criteria and reflect sound investment in our own portfolio, and, again, best return to the American taxpayer.

In addition, in the New Construction section we are requesting some $690 million under Construction and Acquisition of Facilities. We traditionally pursue a construction ownership solution for special and unique facilities. Two of these that are obviously of great concern to this Committee and are unique facilities are our border station program, as well as our courthouse program, which are not available in terms of their functional needs and designs in the real estate marketplace.

We recommend new construction where it meets new housing needs of specific agencies or to consolidate several dispersed agencies with long-term needs in terms of a given location. Our construction program requests include also funding for site acquisition, design, construction, and management inspection costs of these Federal facilities.

If you look at the program this year, our construction program reflects long-term customer needs in the Washington, D.C. area for agency headquarters, significant funding for border stations in support of our Customs and Border Protection role and their program in securing the border initiatives. The highlights of our fiscal year 2007 program include:—and I see Delegate Norton has joined us—$306 million for the Coast Guard consolidation at the St. Elizabeth's Campus; another $179 million for the Food and Drug Administration at White Oak—I recently toured that facility, as well as St. Elizabeth's campus—$40 million for the Remote Delivery Facility in Washington, D.C.; $6 million for general infrastructure support; $53 million for the transfer of the Nebraska complex to the Department of Navy; $97 million for site acquisition design and construction of eight border stations; and $10 million for Non-prospectus Construction Program.

In addition, the last component is a strong leasing program with total leasing inventory of over 166 million square feet located in 7200 buildings in the U.S. We are pleased that the vacancy rate, which is one of our benchmark performance that we review on a quarterly basis, is currently standing at 1.2 percent, a figure well below the current market industry average of 12.5 percent.

We strive to keep leasing costs below market levels, and have developed, as you know, comprehensive strategies to do that, including the new national brokerage contract, including the standard use of industry benchmark such as BOMA, operating costs, and market surveys to compare our shop with sort of best practices in the field.

This year, we are actually submitting 17 lease prospectuses for your consideration. This constitutes the majority of our lease program submittal. We are currently working on additional proposals, as the Chairman noted.

And one of the final notes I would mention is that we are always very, very conscious of budget constraints, both within GSA, we are looking to contain costs in our operation and our staffing. We obviously are very, very sensitive to the customer agencies and the budget constraints they are under. You mentioned the issues with the Judiciary. And we are continuing to devote ourselves and time to manage our real estate and manage our purchases to maintain and control those costs.

We are collaborating with a lot of tenant agencies to identify feasible approaches to meeting customer constraints. Some of those, including the FBI, which I know has a lot of lease prospectuses in this submittal. We are identifying ways to improve operational efficiency and reducing operating costs, managing procurements, providing information for customer decision-making, as well as consolidating requirements and maximizing customer utilization of space.

In an executive order in 2004, President Bush issued the Federal Real Property Asset Management Act, and I mentioned that it fo-

cused our efforts on managing that Federal inventory, as well as utilizing very cost-effective space actions in terms of leases, and I am pleased that, as I said before, that we have achieved green under the President's Management Agenda in that regard.

Mr. Chairman, I think that pretty much on target here concludes my prepared remarks. I thank the members of the Committee for being here and I am pleased to answer any questions about our 2007 Capital Investment and Leasing Program.

Mr. SHUSTER. Well, thank you very much, Commissioner. I have a couple questions on the Coast Guard headquarters. I know there are going to be other tenants that join the Coast Guard down there. Has it been determined who those other tenants are going to be in that facility with them?

Mr. WINSTEAD. Congressman, we are working very closely with the Department of Homeland Security, in addition to the Coast Guard. We were up here testifying at their budget hearing, the Coast Guard budget hearing, and, as you know, in the prospectus it has a number of investments to both look at St. Elizabeth's, in terms of design as well as access, and I know we are waiting for a housing plan from the Department of Homeland Security for final proposal for utilization of the St. Elizabeth's campus.

Mr. SHUSTER. In that plan, you have been working closely with them and looking at consolidating some of those DHS—

Mr. WINSTEAD. That is correct.

Mr. SHUSTER.—departments, because I know they are spread all over the city.

Mr. WINSTEAD. That is correct. And I know we are taking an active role through the NCR. We have 11 regions around the Country. NCR is obviously engaged in the leadership on this. Delegate Norton is having a meeting I think next week with some of the community around there, so we are trying to both keep very engaged with the community, as well as obviously address DHS and Coast Guard and other options.

Mr. SHUSTER. Okay. On the national brokers contract, we spoke about it briefly before we started the hearing. I have been talking to some of the brokers, and they feel as though they have not been getting the number of leases that they anticipated by this time. Do you have any—I was told by one firm that they received maybe $3 million to $4 million in contracts, and they expected to be at $20 million or $30 million. I don't know the exact number. Can you address that here?

Mr. WINSTEAD. Sure. Congressman, I know you had a concern about this earlier when I came up here to have sort of an introductory meeting, and I issued a letter, sent a letter to you on January the 3rd which outlined sort of the status of the contract. As you know, my predecessor, Commissioner Moravec, felt very strongly that we needed to restructure our customer service approach at GSA.

We actually did that by establishing national account managers, which enabled us to work through the regions and from head office to look at the long-term needs of our clients and to really look further out, anticipating their needs to be able to deal with market fluctuations to get them the best deals, and this is now still being implemented. Part of that effort was to expand our ability to get

the best market-based information on real estate options in the 6,000 communities that we are in around the Country.

We did contract, a year ago, with Jones Lang Studley, Starbuck Company and Trammell Crowe to aid in that effort. In addition to that, we have spent a lot of the past year training our realty specialists to understand the importance and the relationship that these brokers can provide through these contracts in delivering the best deal for the Federal Government in that regard.

We have had training that has taken part in all the regions around the Country and also in Washington. We are 12 months into the contract. We have basically had over 400 task orders issued and basically handled almost 9 million square feet through those leases. There is a renewal of that for a second year upon us, and we are working closely with them to try to achieve our goals set out for that program. They do vary from region to region.

Historically, some of our regions have been much more engaged in utilizing broker relationships. This is our new approach to these four contracts. Some are over 50 percent and on their targets, and others are less, and I think what we would like to do is to continue to focus on this as an important tool for us, and I would be happy, as we discussed before the hearing, to come up here and really bring the head of our customer service in our head office, our AC up here, to go through exactly what is happening in each region through these brokerage contracts.

But I will tell you, in conclusion, that I came back last week from meeting with the head of all of our real estate in all the 11 regions around the Country—we had a meeting—and we pushed and reviewed the brokerage contract, and what is very, very positive is that they feel it is a great tool; it is yielding benefit to us and our Federal tenants and achieving the best deal for the Government. So I think it is working. The question is making sure we achieve those goals.

Mr. SHUSTER. Right, because these folks are concerned that there has been some cherry-picking going on within the GSA and they are not getting the better contracts, they are getting sort of the low end contract. We want to make sure to share in your enthusiasm and moving forward, making sure this program works and that it will be a good tool.

Mr. WINSTEAD. And I would be happy to provide to the Committee sort of a quarterly update on that contract, if you would like.

Mr. SHUSTER. That would be great. And my final question had to do with the Federal judiciary. They are asking for permanent rent exemptions so they would be exempt from putting money in the Federal Building Fund. What is your view on that? How big a hole would that create in the Federal Building Fund if that was able to go forward?

Mr. WINSTEAD. Right. Mr. Chairman, we have expressed and have appreciated historically the support of this Committee for the Federal Building Fund and for our ability to deliver on an economic and best-value basis facilities to the courts. We have actually achieved almost 40 million square feet of courthouses and office space for the judiciary, some 330 owned and another 125 leased facilities, about 2500 courtrooms. It has been a remarkable legacy I think of a partnership.

I recently met with Judge Roth, who heads their facilities committee, and with Judge Hogan, who is a neighbor of mine and chairs the executive committee for the judiciary and reports to the chief justice, and shared with them this amazing 50 courthouse legacy of landmark buildings in our urban areas, and it has been a very strong partnership with our efforts to both realize and implement their space designs for their Federal courthouses, obviously work with this Committee and at the direction of this Committee in funding those courthouses, but also looking for cost savings where we can.

And I am concerned about the situation with the courts. Obviously, they have increased caseload. I am a lawyer by training. They have increased caseload, they have to meet those needs. At the same time, they are seeing budge constraints which are impacting. Their rent portion is getting bigger and bigger percentagewise. So what I have proposed—and I have talked to David Bibb, who is our acting administrator.

In fact, next week we have meetings, and will continue to on a quarterly basis, with the courts. We need to address this with them. But as you all know, and have been a strong supporter of GSA, the integrity of the Federal Building Fund is based upon rents, which allow us to both build new buildings at your direction, to renovate our buildings, and to deliver, in the case of the courts, 50 landmark, beautiful urban buildings over the last 10, 20 years.

So we are focused on this. We are going to be meeting regularly with them. You mentioned the utilization issue. I have actually and tried to understand better from the judges this 1:1 ratio between courthouses and judges, and why that is necessary or where it isn't necessary, and we are exploring those things and waiting for this report from GAO. The bottom line is—and I think we have responded to this Committee—that if you look at the fiscal year 2004 in terms of per square foot charges, their rent is about $25 a square foot, and the average rent for all our other Federal agencies is about $22 a square foot. In addition, over 2005, they actually achieved more back in terms of construction than they did in rent.

So I will be—

Mr. SHUSTER. Better return?

Mr. WINSTEAD. Sorry?

Mr. SHUSTER. They had a better return on their investment than—

Mr. WINSTEAD. Basically, they have been getting more back than they have paid in. And I think the real issue I raised with Judge Hogan, and will continue to raise with the leadership of the judiciary, is that this is a partnership that makes sense because the economies that are gained between centralized real estate control, our Design Excellence Program, our Construction Excellence Program, that we deliver better value than if the judiciary and every other Federal agency spin off and establish real estate departments to do so.

My last comment is that this Design Excellence Program, which is where we have had peer review from the best architects in the Country and selected them through a competition, has really yielded some remarkable structures. Now, I am not an architect, and I can't tell you that in every case is that design the most effective,

but when taken in aggregate, I think the program has not only been a legacy for this Country, but has also galvanized the Country's best architectural and design minds, and produced really very outstanding buildings for the judiciary. We are committed to considering that and continuing that relationship, and will continue to work with the courts on their rent problem.

Mr. SHUSTER. And their calculation on rent goes through the same process as any Federal agency?

Mr. WINSTEAD. Yes.

Mr. SHUSTER. And that $3 more per square foot is probably due to the fact that their buildings are more pleasing to the eye?

Mr. WINSTEAD. Right.

Mr. SHUSTER. Larger than—

Mr. WINSTEAD. I was just out in Fresno with Justice Kennedy for the opening of that courthouse, and if you have the opportunity to see it, it really is a remarkable building, as the Sandra Day O'Connor is in Phoenix. They are beautiful architectural landmarks.

I would tell you, though, I am very focused on the issues of our Design Excellence Program, Construction Excellence Program. We are actually hiring a new assistant commissioner and sort of bifurcating the construction function in that office so that we can have better pre-award control and post-award monitoring of these projects. What we have seen and has been reflected in the rent are the huge increase in material costs over the last four years in the marketplace, and that has translated into rent increases.

Mr. SHUSTER. Well, I don't see any reason why we can't continue to build beautiful structures, landmark structures, but we need to make sure we are utilizing them, so I urge you to continue, as I am going to continue to talk to the folks in the courts to get this utilization plan, because I am concerned they are dragging their feet because they are going to find out that they are not utilizing these buildings the way they should. And these are taxpayer dollars. We have got to be good stewards and make sure that the utilization is significant.

With that, I will turn to the Ranking Member, if you have any questions, statements, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. I apologize to you and the Committee that I was unavoidably detained, and you did just the right thing to go ahead with this important hearing.

I do want to say a few words. I won't read an entire statement, but I do want to say a few words, Mr. Chairman, about some of the issues, indeed, that you have raised and thank you for the way in which you have given oversight to important issues in this Committee. You mentioned in your last question the courthouses, for example, and the President—and I think for good reason—in his 2007 budget, did not authorize new construction for Federal courthouses. Now, virtually all that we build have been courthouses, and this has been perhaps the most troublesome form of construction in my 15 years on the Committee, and for reasons that vary from one period to another.

The so-called Design Excellence Program that you speak of, Mr. Winstead, I congratulate you on. Design was one of the great and terrible controversial issues that faced this Committee when GSA

virtually abdicated its responsibility some years ago to the courts and we have a virtual scandal, papers wrote about courthouses with high ceilings and chandeliers and kitchens and accouterments and trappings.

That was a sorry, sorry period, as far as I am concerned, in the history of American jurisprudence, and it happened because courts sometimes confuse their jurisdiction over cases and controversies, which is theirs alone, and, Mr. Chairman, the jurisdiction that is yours and mine and, if I may say so, especially GSA's, and that is the jurisdiction over building the things.

Building the things is not for judges. I had a very troublesome meeting with the very good friend who heads this work for the judiciary, where she literally cited cases and controversies as a reason why they ought to have input. I am a law professor. I had to then read her the riot case about cases and controversies and the Constitution of the United States.

This has been a chronic problem, though, as some of my questions will indicate, for GSA, that is to say, not as much for the courts, because this Subcommittee—and this was some years ago, Mr. Chairman—reined in GSA on that issue, but, frankly, on how much leverage an agency has when it comes to spending of taxpayers' money, and that has to do with everything from how it is located to how it is designed.

Now, I compliment you for the fast way in which you are moving ahead on what the President has included in his budget, and that is the construction of a new headquarters for the Coast Guard. And that comes at an opportune time not only because it is part of the Department of Homeland Security, but, Mr. Chairman, that is a building not fit to house Federal employees or anyone else in, and I think that moving first on the Coast Guard part of the Homeland Security—perhaps there will be others; we don't know exactly what yet—was very wise for the President and wise for you, and, yes, I look forward to working with you, as we will with the community. It is a truly historic building because it is the first time that the Federal Government has built east of the Anacostia River.

We own this huge piece of land that was St. Elizabeth's Hospital, closed decades ago, and we have let it lie there, even though the policy of this Committee is, of course, that the Federal Government will build on its own land before we go out and rent space from others. So this is a historic development for the District of Columbia because you are moving over to the other side of the Anacostia, and it is an important path-breaking work for you that the President has, himself, ordered.

Mr. Chairman, I appreciate that there is going to be a hearing on courthouses later. You and I sent a letter in 2005 for the courts to begin studying, with the help of the GAO, sharing of courtrooms, and I was very disappointed that that study seemed to have literally, or at least the involvement of the courts in it, had literally just begun when they met with me a couple of weeks ago. I am sure they met with the Chairman and his staff as well.

So it seems to me that there is real reticence doing what the Committee said, and that is seeing the extent to which courtrooms can be shared among judges. And here we have this radical notion that of all of the agencies, the courthouses don't have to pay into

the Building Fund. Of course, we who shouted to the hilltops, that means everybody else's budget in the Federal Government will make up for the fact that the courts are not paying into that fund, even though they are taking from that fund to build the courthouses. It doesn't work that way; it is a revolving fund, and I don't think that anybody in the Congress in either house is likely to do that.

There is a very serious set of other questions that I will reserve for my own questions, and I think probably the best thing to do, since I have given something of a statement during this, is to then let you go, Mr. Chairman, to the next person, and on the next round I will have a few questions.

Mr. SHUSTER. Thank you, Ms. Norton. I think you make a great point there, that what the courthouse looks like doesn't stop our courts from administering justice; they could that from a warehouse, they don't need these opulent places. But we certainly don't—we are not suggesting we move them into warehouses, but they could do it in a warehouse if they had to. That is the reality of it. And it wouldn't affect what we do up here with them administering justice.

Mr. Kuhl, you are recognized.

Mr. KUHL. Thank you for coming. I appreciated your testimony. Being a new member on the Subcommittee, there are some things that I will probably ask you about that everybody else here knows. But I am just curious as to your perception of the need across the Country as to other buildings. Obviously, you haven't included everything in your request here. How do you go about deciding what buildings are ready to be renovated or torn down and reconstructed?

Mr. WINSTEAD. Right. Congressman, we have—I mentioned a little earlier, the structure of our real property asset group at GSA is doing a constant assessment based on a return on equity, the same principles that a private real estate firm would do, looking at the rent and looking at the reinvestment in those facilities, and we have actually—and this is sort of—Bill Matthews, who is here, Assistant Commissioner, is in charge of that.

We have actually, over the last three years, completely—as we do regularly—review those assets and determine which ones are efficient to the goal to both return, as well as energy and operating costs, and we compare them to industry standards, the BOMA standards, which sort of evaluate operating costs. And if those facilities are in fact meeting the client need and are efficient, we continue to invest in them, and part of these requests are obviously the renovation, alteration programs as well. So that is how we sort of evaluate the properties in terms of reinvesting in them.

We also have a realty specialist on the local level and regional account managers that are dealing with our major Federal tenants in the 11 regions around the Country, so they are constantly understanding what their contracting needs are. There is much consolidation going on, as well as, in the case of the FBI and other agencies and DHS, major expansion. So we sort of can predict where they are moving.

And based on market information that we are getting for the national brokerage contract and our own information, we can, you

know, manage those flows, trying to keep them in government-owned buildings that historically are more cost-effective for the taxpayer, as well as where we need special space or we need space quickly, the marketplace in our lease program—which is actually half of our inventory—can address that.

So we are constantly managing our own inventory, constantly looking at our leased inventory to make sure that we understand when are leases expiring, working with our client agencies to understand what their space needs will be beyond that termination date, and renegotiating on their behalf to meet those needs.

Mr. KUHL. Okay. Are there facilities right now that you would like to do but the financial burdens of the Country really are kind of limited and prohibit you from doing that?

Mr. WINSTEAD. Yes, Congressman Kuhl. There are constantly an inventory of projects. These prospectuses before you are actually our current focus in 2007, but there are unmet needs that we are constantly sort of benching and preparing to move into the program in terms of renovation or new construction.

Mr. KUHL. Okay. Could you tell me, there is a facility in Buffalo, New York, I think it is a new Federal courthouse that is on, I think, the list to be done. Could you tell me where that rates as far as other projects that might be considered?

Mr. WINSTEAD. Yes. I personally went up with the regional administrator in New York to meet the judges in Buffalo, and it is remarkable what that new courthouse will do for the downtown area of Buffalo across from city hall. And we are moving to try to get that funded. It is in the queue to move forward, but it is not—I think there has been some Senate action on it, but it is not a part of this program here. They were concerned about that.

The existing courthouse up there, in my opinion, has been recently renovated, it is very attractive, quite unusual older building, and it is meeting their current needs, but they are very anxious to obviously get beyond the site acquisition, into design and completion of that new courthouse.

Mr. KUHL. Any thoughts about time line for completing that?

Mr. WINSTEAD. I know we are working very hard. It depends upon when the funding is approved. I know that we are constantly in touch with the courts and with the Buffalo interests in that regard, but I can't predict exactly when the construction dollars are going to be in the program.

Mr. KUHL. Okay. Thank you.

I yield back.

Mr. WINSTEAD. Congressman, I would be happy to get you a briefing on it, get back to you.

Mr. KUHL. That would be great. That would be great. Thank you.

Mr. SHUSTER. I don't want to beat a dead horse, but I am going to. I think it would help the courts immensely if they moved quickly on this study that we have requested, and I believe they have agreed to it now. As we bring up new courthouses, I know I will be hesitant to approve any new construction until we figure out exactly how to utilize it. So the courts need to move forward.

Mr. WINSTEAD. Right. Well, I look forward to the GAO study as well. I mean, we have looked at their new design guide. We are working in trying to save design costs and utilization, increase

space and things of that nature, but that would be very helpful to us.

Mr. SHUSTER. Mr. Michaud, questions?

Mr. MICHAUD. Thank you very much, Mr. Chairman. I have three questions; they are all related. Within GSA, how is the Border Crossing Station Program managed and is there an office dedicated specifically for this program? And my last question is how does GSA work within Homeland Security?

Mr. WINSTEAD. Right. Congressman, we do have an office of border station portfolio. They manage a huge increase for our client, Customs and Border Protection. Essentially, we have three offices. One is for the courts and one is for the border station because it is a large part of our construction program. You may see in this request for authorization, you will see six new requested border station programs totaling about $95 million. That is on top of fiscal year 2006, where we had five at about $211 million.

I had the occasion last week to meet with a coalition of communities on our northern and southern borders that are very interested in—it is called the Border Trade Alliance, I believe—very interested in the efficiencies that can be gained with throughput of traffic and commercial vehicles and these border stations.

Obviously, we have very, very specific needs in containment areas and all sorts of needs in terms of scanning freight, so it is a very unique facility. On a per square foot basis, they tend to be more expensive, and I know one question of the Committee that came back to our staff before this hearing was why do you have a variation between various border stations. It is because of both the need and a case configuration site specifics that might change some of those costs.

But we do feel—and I have a brochure that will lay out some of our stations in the northern part, on the Canadian border, that I can leave with you. But I think it has been an excellent program and I think, again, through the efficiencies of our design, construction, and architectural team, that we can deliver it very efficiently for, obviously, CBP, and we can continue to do that. And I would be happy to provide you specific information on any of the prospectus for any of the specific projects, background information, if you would like.

Mr. MICHAUD. What about leased? Are all your border stations leased, government-owned?

Mr. WINSTEAD. Yes. We have the majority of them are, but there are some situations where there are leased facilities. And I know that some of them are unusual in that regard. There are several cases where we essentially have the communities on the border and some private interests involved in certain passages, but the majority of them are government-owned, Federally-owned border stations.

Mr. MICHAUD. I would appreciate it if you can provide that for the Committee. I would be interested in seeing that.

Mr. WINSTEAD. I would be happy to.

Mr. MICHAUD. And what elements of the Homeland Security Department will be reassigned to St. Elizabeth?

Mr. WINSTEAD. Yes. We are working very closely with DHS now in that regard. They, as you know, have the Nebraska complex,

and although they haven't released a proposed plan, we are working the NCR here. The National Capital Region is working very closely with them to try to make sure that we take advantage of the St. Elizabeth's Campus. Congressman, it is about 176 acres. It is a large piece of ground with enormous visual impact on Washington. If you would like a tour of it, I would be happy to arrange it.

But it is very secure. It meets all the highest-end security setback requirements. There are some historic buildings that we will incorporate within the campus plan for the Coast Guard and other potential tenants from DHS. But we do feel that it is the last remaining piece of major secured real estate, and Washington, I think, offers an excellent opportunity for a campus for a lot of these high-end security DHS functions.

Mr. MICHAUD. Thank you.

I yield back, Mr. Chairman.

Mr. SHUSTER. Thank you, Mr. Michaud.

Ms. Norton, do you have further questions?

Ms. NORTON. Thank you very much, Mr. Chairman. I note that GSA and, it looks like, the State Department want or at least have put in their own bids for Walter Reed Hospital. I can certainly understand that given the hunger of the Federal Government for land here. There are millions of square feet of office space you need and, of course, you want to do as much in the Nation's capital, especially since cabinet agencies should be consolidated in the Nation's capital in particular.

I am wondering when we will know—well, first of all, I am wondering if there is any chance that some of that, for example, the part that borders Georgia Avenue, would be utilized by the District of Columbia, which has set up its own—according to, of course, Federal law—its own authority in case they may have some part of the land and, of course, in order for you to consult with the local authority.

The part of the land on 16th Street, of course, is very residential. You would expect the State Department to want that because there are embassies on 16th Street. Georgia Avenue is a very commercial, and the hospital has some considerable setback from Georgia Avenue. So what I am asking is whether you believe that some kind of mixed development with the Federal Government using the space it needs with the appropriate setback, but with a curbside commercial space being possibly used by the District of Columbia is a possible configuration.

Mr. WINSTEAD. Delegate Norton, you have been such a partner with our agency over the decades in terms of the District and of our needs here. In addition, some of these innovative projects such as St. Elizabeth's and the Southeast Federal Center. I know that Mayor Williams this morning had a comment in the paper regarding Walter Reed, that he has set up this local redevelopment authority committee to help look at some of these ideas, some of these mixed use ideas. Obviously, there has been, from GSA's perspective and the State Department, there are obviously needs in terms of embassy functions or potential Federal office options.

I would hope that our NCR—we chatted about this when I came to your office. We want to make sure that we have the best plan-

ning perspective in how we can help that partnership with the city, and it seems to me the most successful office environment, as you know well, is this mixed use approach. I just don't know, firsthand, what the whole campus utilization would be.

I agree with you that 16th Street is much more residential in character than Georgia Avenue with the investments made. Both on the D.C. and Maryland side of Georgia Avenue is a major commercial corridor and a major redevelopment area, and should be, also transit-served, which is helpful.

So I think we will continue to partner with the city, with the NCPC and other groups, State Department, in trying to look at the needs and options—

Ms. NORTON. But you don't know when a decision will be made as to whether or not the Federal Government agencies, GSA and State Department, who want the land will get the land. When will that decision be made?

Mr. WINSTEAD. Delegate, I believe NCR is currently working on trying to set a time line for that. I can't—but I can get to back to you on what our plans are.

Ms. NORTON. I wish you would get back to me. I just want to say—I am not going to take up the Committee's—

Mr. WINSTEAD. I am sorry, Delegate Norton. I apologize. We do expect by next month that decision. I apologize.

Ms. NORTON. That is important information. But I do want to say I don't think the Committee is going to have to think about Walter Reed for a very long time. I really do not believe that—although BRAC has said that the Walter Reed Hospital will now be constructed at Bethesda, I don't, for a moment, think that anybody is going to put down $1.5 billion to build a new hospital at a time when we have such a deficit, and when we have, if not a state of the art hospital—it was built in the 1970s—at least a going hospital that everybody was surprised to see closed anyway. So I am not going to spend a whole lot of time on that.

I just have a couple of questions.

Mr. WINSTEAD. Yes, ma'am.

Ms. NORTON. And this has been a perennial problem with GSA, and it really goes back to what I was saying about the courts, what the Chairman indicated when he talked about the plan, and that is the locational policy of GSA and its handing off its responsibility to other agencies. When I say the courts, it was certainly not the courts alone.

GSA has been roundly accused of participating with agencies in redlining, to just use the nasty word. Actually, GSA helped me fight an attempt by an agency to redline when an agency chose to put the FCC down where—which is now one of the up and coming elegant areas of the city, and the FCC wanted to renege on it literally after the building was built.

Now, here are people who had gone through a competitive process—and I want to stress that this is a competitive process, where you, the experts, say to the agencies, tell us your needs, and then you put out an RFP and people have to come in, and you do not award on the basis only of price, but you have a competitive process that you choose the best place based on the taxpayers' responsibilities and the agency's responsibilities.

With that as a preface, I have some real concerns about some leases, such as the Department of Justice consolidation lease. I mean, we have been trying to consolidate Department of Justice for decades, and the Department of Justice seems to have a total veto over leases even after you go through a competitive process. You canceled a recent Department of Justice process after, apparently, the winning party had been chosen.

The Chairman has pulled the FBI lease until we can all be briefed because you seem to be into piecemealing the FBI, whereas, the policy of the Federal Government is consolidation to the greatest extent possible. And if you see an agency like the FBI that is growing, you would think that the experts—and goodness knows that is what you are—would look at whether or not there would be a housing plan somewhere here, or somewhere else, if that is not possible, that would consolidate the agency. I think the Department of Justice is located in more than 20 different sites someplace around the city and the region.

So my question really goes to how you conceive of your role once a determination has been made through the competitive process that a site is in the best interest of the Federal Government. How do you conceive of your role when the agency may want to be elsewhere, such as wanting to be as near K Street as possible, wanting to be in the hub nearer the mall, when everybody knows that that space is virtually gone, not wanting to go to new areas, despite the statutory provision that says that the Federal Government has a responsibility to go to an area first, because when it does, it opens up the area and it renews the area almost instantly because other kinds of commercial and housing comes in? That has been the statutory role of the agency forever.

And yet, for example, I note there is an area of the District of Columbia which has been cleared, it is literally on the gateway to the District of Columbia in downtown Washington. It is the last remaining large site in downtown Washington. We call it NOMA, North of Massachusetts Avenue. You cooperate with me to have an opportunity for Federal agents to come in and find out about NOMA.

And what did they find out? That once, Mr. Chairman, the ATF decided to move—now, this is New York Avenue and Florida Avenue. It couldn't be more central. Once the ATF decided to build there, almost as if, magically, we have got hotels planned, restaurants planned, the renewal of a whole area, won't cost the Federal Government one dime, but all it had to do was to find the best space for an agency. The ATF agreed to that space. It did not want to go to the region, for example.

So when it saw—you know, let us see, what my choices are—it agreed to that space. Spaces had precisely the effect that Federal construction always has, and yet this block of land around it—where, by the way, Mr. Chairman, the Federal Government, the D.C. Government, and the private sector, for the first time in Metro's history, have cooperated to build a whole new subway station, new subway station that the Federal Government only had to pay one-third of the price for, the only one of its kind in the whole region where the private sector and the locals have contributed in

this way—vacant land where the private sector is doing what you would expect them to do. It is a new area.

Yes, we know those things are coming. Federal agencies haven't been there before. Yes, it is very close to Union Station. Yes, it is very close to downtown Washington. But, yet, there will be reluctance because it is a new area.

My question to you is whether or not there is any single agency which is going to this section. And, further, my question to you is whether or not you have advertised this section for any single agency so that RFPs could come in and you could see and compare it to other RFPs in the city and in the region.

Mr. WINSTEAD. Delegate Norton, I appreciate your concern and I understand it. You know, we do have authority under Section 120 to direct under the delineated areas, the agreed upon space and options and to procurement, both construction and lease. Your problem—and I did chat with you when I came by your office—in terms of the NOMA area is your commitment to it and my commitment to it are the same. My concern is that we will continue to make sure that it all of—

Ms. NORTON. Well, answer my question. Have RFPs come in?

Mr. WINSTEAD. There are a number of procurements underway in that area, and I know that because of that it is—

Ms. NORTON. Are these people bidding on the procurements you are putting out? The people who own that land, are they bidding or not?

Mr. WINSTEAD. Yes, they are. There are options—

Ms. NORTON. All right, let me just say this, Mr. Chairman. I want to put on the record, because I am very concerned that there is—these people tell me—because after GSA and I went and had this whole big thing to say to the agencies, look here, you then involve yourself in something that this Congress has nothing to do with.

You then have to decide competitively what is the best place. These people tell me that because they know they are a little distance away from where agencies are used to going, that they are putting in bids that they know that their competitors could not possibly put in. In other words, they are willing to be lost leaders in order to in fact get Federal agencies to come to this space.

So they tell me—and they don't know what your bids are from others and I don't know what your bids are from others. All I know, that if developers in D.C., of which there are a fair number who own space there, tell me they know they are very significantly under-bidding, under-pricing their land relative to everything in the region and everything in the city, then I have real questions as to whether or not you are engaged in redlining a central area of the District of Columbia from Federal agencies going there and costing the taxpayers more by either doing as you did for DOJ and saying, well, they don't want it, so we canceled the lease, or otherwise not doing the job of encouraging agencies to go there once you find that that is the best place for the taxpayers and for the agencies.

Mr. WINSTEAD. Delegate, I understand your concern, and our commitment is the same. We will continue to communicate with the developers and understand their options. We think this area,

with the investment of the new Metro there, which was, by the way, historically unique in its funding base. You actually had contributions through TIFs to bring that in place. It was brought online and completed faster than any system in the Metro system.

It is a very—it is a brilliant corridor in terms of office options for GSA, and we will continue, as I mentioned to you in a meeting, continue to make sure that we are engaged in information and both the options that exist there as well as, obviously, the procurements that are out there that this area is a part of. And I will be happy to continue to report to you on that. I know that our NCR realty specialists are reaching out through the DCBIA in a lot of these forums, real estate forums, where a lot of these areas of growth and opportunity are presented and are being educated—

Ms. NORTON. Mr. Winstead, just let me say this.

Mr. WINSTEAD. All right.

Ms. NORTON. Unless you do what realtors do, people in your position, for the private sector and market this part of the area, these people are not going to want to go there.

Mr. WINSTEAD. I understand.

Ms. NORTON. And they are going to force you if you look like GSA has always looked, like it will do anything to please the agency.

Because, Mr. Chairman, this Committee hasn't done the kind of oversight on this issue. We have complained about it.

And I think what you are doing—if you are going to leave a huge section of the District of Columbia in downtown Washington vacant, where there is a subway stop, where the private sector has already pioneered—

Mr. Chairman, this is where XM Radio has located and pioneered. We are not talking about some God-forsaken part.

If you are going to leave that, I think you invite further oversight of this Committee as to how you handle RFPs, and particularly if we find that, all of a sudden, RFPs for people like the DOJ are vacated—whoops—for no reason—there it goes; there it was—particularly since you have a number of agencies coming up. You know, some of these people are not going to want to go to St. Elizabeth's. The President has made it clear, though, that this is a secure agency we are building here.

But you are going to find people saying, well, we don't want to go to this new place. If they don't want to go to New York Avenue, imagine wanting to go across the river. Where are they going? And once they get there, they will find it is just fine. But if they don't have somebody besides me trying to convince me, if they don't have the experts in the field talking about what happens when a Federal Government builds a building.

All you have got to do is look at Southwest. Look at downtown Washington. If you think downtown Washington got to be the way it is somehow because people decided let us make a beautiful downtown, then you don't understand the role of the Federal Government.

One more question, Mr. Chairman. I am on the Homeland Security—

Mr. SHUSTER. I just want to mention we are going to have a vote at about 11:15, 11:30, so if you can have a final question, and we will try to get through as much as we can of the markup also.

Ms. NORTON. We have a markup?

Mr. SHUSTER. Yes.

Ms. NORTON. Well, Mr. Chairman, I will go to the markup. I just want to say—

Mr. WINSTEAD. I will get back on the—

Ms. NORTON. And I want to say the notion of your role in this interagency committee on security, I would like to know the difference between your own security guidelines and what that interagency security came up with.

Mr. WINSTEAD. I would be happy to get that back to you.

Mr. SHUSTER. All right.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. WINSTEAD. Thank you, Delegate Norton.

Mr. SHUSTER. Commissioner, just one question briefly, if you answer it. The design guide, allowing the—and I think Ms. Norton brought this up before—was it a good idea to give it to the Federal courts to design their own buildings? And is there any thought at the GSA of taking that back? Because I understand GSA decided to give it to them, and it would seem to me you would do a better job of that oversight.

Mr. WINSTEAD. Mr. Chairman, there has been repeated editing efforts on the design guide. We have the most recent input back from the courts' design guide and we had opportunities, actually since I have been at GSA the last six months, to input into that document to ensure that our designers and architects and their team are working that it is the most efficient guidelines, and the courts have been receptive to that. They are actually working with them. We have a meeting on April the 11th, Mr. Chairman, with the facility committee of the courts and the chairman of that, Judge Roth, to actually discuss the design guide and its impact—

Mr. SHUSTER. But to discuss GSA taking back that or not?

Mr. WINSTEAD. Well, we haven't approached that yet, but we will bring it up at that meeting.

Mr. SHUSTER. All right. Okay, well, thank you very much for being here with us today. Appreciate it and look forward to talking—

Mr. WINSTEAD. Thanks for all your support and for the Committee's support.

Mr. SHUSTER. I would also like to ask unanimous consent that the record of today's hearing remain open until such time as our witness has provided answers to our questions that may be submitted to him in writing, and unanimous consent that during such time as the record remains open, additional comments offered by individuals or groups may be included in today's record. Without objection, that is so ordered.

If no one else has anything to add, the Subcommittee is in recess.

[Whereupon, at 11:07 a.m., the subcommittee was adjourned.]

STATEMENT OF

DAVID L. WINSTEAD
COMMISSIONER

PUBLIC BUILDINGS SERVICE

U.S. GENERAL SERVICES ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

MARCH 30, 2006

Good morning, Mr. Chairman and Members of the Subcommittee. My name is David L. Winstead and I am the Commissioner of the Public Buildings Service (PBS), U.S. General Services Administration (GSA). Thank you for inviting me here today to discuss GSA's fiscal year 2007 Capital Investment and Leasing Program.

It is the PBS mission to provide a superior workplace for the Federal worker and a superior value for the American taxpayer. In support of our mission, PBS is charged with the responsibility of managing the Federal Buildings Fund (FBF), a revolving fund created by Congress in l972 that funds the space needs of more than 59 Federal agencies using a market based approach. Each year, Congress appropriates funds to our customer agencies who then pay user fees or rent approximating the equivalent of commercial charges reflecting the amount and value of space occupied. One of the purposes of requiring agencies to pay rent is to encourage them to weigh the cost of space against other federal priorities. This funding approach requires agencies to make choices and balance their demand for space with their ability to fund mission program. At the same time, GSA affords flexibility to each agency in the selection of space location, quality and amenities. Congress relies on the FBF to provide a reliable source of funds for GSA to rent space from the private sector, operate, maintain, repair and modernize government-owned facilities, and construct new Federal facilities in support of GSA's customer agency missions.

We are pleased to have submitted the Capital Investment and Leasing Program in mid-February this year. I am testifying before you today in support of your authorization of this program. GSA requests your authorization of the individual projects that make up the capital program because we believe they reflect projects that wisely invest scarce taxpayer dollars that will ultimately best support our customer agencies and maintain the Federal real estate portfolio.

More specifically, we have analyzed these projects and determined that they address the most critical customer needs as well as meet the President's rightsizing goals for real property asset management, such as:

- Acquiring or constructing new government-owned assets where there is a long-term customer need and it is the most cost advantageous to the government and the taxpayer;
- Reducing the number of vacant and underutilized facilities;
- Improving the condition of mission-critical and mission-dependent assets to ensure continued functionality and safeguard the health and life safety of building occupants; and
- Improve the operating efficiency of key facilities to reduce costs and assist the Agency in achieving the energy efficiency goals of the Energy Policy Act of 2005.

REPAIR AND ALTERATIONS

GSA is the steward of over 1,500 Federal buildings, which have a replacement value of about $41.1 billion. We are requesting a Repair and Alternations Program of $866 million to maintain and improve those properties that are the most critical to help of our customer agencies successfully carry out their missions.

The highlights of GSA's fiscal year 2007 Repair and Alterations Program include:

- $375 million for the Basic Program;
- $23 million for the Limited Scope Program;
- $398 million for Major Modernization;
- $25 million for the Design Program;
- $15 million for the Energy Program;
- $10 million for the CFC Program;
- $10 million for the Glass Fragmentation Program; and
- $10 million for the Fire and Life Safety Program.

I should note that we evaluate and rank our repair and alterations proposals based on the following criteria:

- Customer urgency based on mission requirements and overall satisfaction levels;
- Physical urgency based on building conditions and needs;
- Economic justification in terms of financial return and present value cost; and
- Project timing and execution risk.

The projects before you today have passed these criteria and reflect sound investment in the owned portfolio and the best value for the American taxpayers.

NEW CONSTRUCTION

We are requesting a Construction and Acquisition of Facilities Program of $690 million. PBS traditionally pursues a construction and ownership solution for special purpose and unique facilities (such as border stations and courthouses), which are not readily available in the real estate market. In addition, we recommend new construction where it will meet the new housing needs of a specific agency or to consolidate several dispersed agencies with long-term needs in a given locality. Our construction request includes funding for site acquisition, design, construction, and the management and inspection costs of these Federal facilities. This year our new construction program reflects long-term customer needs in the Washington, D.C. area for agency headquarters and significant funding for border stations in support of Customs and Border Protection's "Secure the Border Initiative."

The highlights of GSA's fiscal year 2007 Program include:

- $306 million for the Coast Guard Consolidation and Additional Development for Federal Agency Relocation to the St. Elizabeths Campus in Washington, DC;

- $179 million for the Food and Drug Administration Consolidation at White Oak, MD;
- $40 million for the Remote Delivery Facility in Washington, DC;
- $6 million for general infrastructure actives;
- $53 million for transfer to the Department of the Navy;
- $97 million for site acquisition, design, and construction of 8 border stations; and
- $10 million for the Non-prospectus Construction Program.

LEASING PROGRAM

GSA has a total leased inventory of over 166.8 million square feet located in 7,200 buildings across the United States and its territories. We are pleased that the vacant space within our leased inventory is only 1.2 percent–a figure well below the national industry average of 12.5 percent. In terms of cost to our tenants, we strive to keep leasing costs at or below market levels and have developed comprehensive strategies to do so, including the standard use of industry benchmarks and market surveys to comparison shop for the best value for our customers. This year we have submitted 19 lease prospectuses for your consideration. This constitutes the majority of our Leasing Program Submission. We are currently working on additional proposals and only the most critical requirements needing Committee approval will be sent to you.

Budget Constraints

As a general note for the Members of the Subcommittee, I would like to highlight GSA's efforts to best serve our customer agencies in this time of budget constraint, as well as our role in the Administration-wide effort to improve real property asset management.

At a time when Federal budgets are shrinking, Federal agencies are examining ways to manage costs, including the cost of workspace. GSA is collaborating with all of our tenant agencies to identify feasible approaches to address customer financial constraints while preserving the necessary capital for the FBF. For example, we are identifying opportunities to:

- Improving our operational efficiency to reduce cost to customer agencies;
- Managing procurements to ensure GSA is achieving the best value at a fair cost;
- Providing more information for customer decision-making;
- Consolidating requirements and maximizing customer utilization of space; and
- Using our real estate expertise to identify cost savings opportunities in the markets.

Through these efforts, we are working with our customers to better manage their costs and budget constraints while meeting their requirements.

Asset Management

In 2004, President George W. Bush issued E.O. 13327, Federal Real Property Asset Management, which focuses Government efforts on real property asset management and the stewardship of taxpayers' real property resources. In this era of heightened focus on the wise use of taxpayer resources, I am pleased to report that GSA was the first agency to achieve the "Green" designation on the Real Property Asset Management Scorecard.

Mr. Chairman, that concludes my prepared statement, and I will be pleased to answer any questions that you or Members of the Subcommittee may have about our proposed fiscal year 2007 Capital Investment and Leasing Program, or any other aspects of the public buildings program.

JUDICIAL CONFERENCE OF THE UNITED STATES

STATEMENT OF

JUDGE JANE R. ROTH
U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
CHAIR, JUDICIAL CONFERENCE COMMITTEE
ON SECURITY AND FACILITIES

BEFORE

THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE GENERAL SERVICES ADMINISTRATION
FISCAL YEAR 2007 CAPITAL INVESTMENT AND LEASING PROGRAM

March 30, 2006

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to submit a statement regarding the General Services Administration (GSA) fiscal year (FY) 2007 capital investment and leasing program. The judiciary asks that, in addition to the building projects included in GSA's FY 2007 budget, the Subcommittee also consider in FY 2007 the request by the Judicial Conference of the United States to authorize seven courthouse construction projects for funding (see attached chart).

As the Subcommittee is aware, in September 2004, in an attempt to gain greater control over the judiciary's budget, the Judicial Conference of the United States took multiple actions involving the space and facilities program. Specifically, since that time, the Judicial Conference of the United States: (1) imposed a two-year moratorium on the prospectus-level courthouse construction program, including a request that GSA cease the preparation of all new feasibility studies except those involving building systems; (2) approved changes to the *U.S. Courts Design Guide* for new construction that will result in reductions in the cost of new buildings built for the courts; (3) requested that chief judges and circuit judicial councils cancel pending space requests and recommend the closure of visiting facilities without a full-time resident judge wherever possible; and (4) through its Committee on Space and Facilities undertook a thorough re-evaluation of the judiciary's long range facilities planning process. During the moratorium, courthouse projects that were partially designed, but not yet constructed, were scrutinized for possible space reductions. Finally, all pending projects are required to undergo an extensive centralized budget check process before they may proceed as the Committee on Space and Facilities works towards the establishment of an annual cap on space rental costs.

There are several changes that will result from all these efforts. All projects not yet designed will be subject to the revised *U.S. Courts Design Guide*. For the next five years, the judiciary plans to request funds to complete only those courthouse projects already partially funded by Congress. During that time, we will review and update the long-range plans for proposed projects on the five-year courthouse project plan that do not have any congressional authorizations or appropriations. The judiciary is carefully scrutinizing all projects to ensure they are the most economical way to meet space needs.

With the moratorium ending in September 2006, we are now seeking authorization and funding for seven courthouse construction projects in fiscal year 2007. These projects have been approved by the Judicial Conference of the United States and have been previously authorized and funded to some extent. Finally, the San Diego, California courthouse, which was funded in fiscal year 2006, still requires authorization by the Transportation and Infrastructure Committee.

The judiciary is very conscious of the costs of new construction and the ensuing rent costs of the completed facilities. However, we present the following projects for authorization because the individualized space, operational, and security issues at each existing facility hinder the effective administration of justice in these cities. Indeed, each project for which new construction is requested is considered by the United States Marshals Service (USMS) to have serious security deficiencies,[1] while, in terms of space, most of the existing buildings do not have enough space to meet the judiciary's current needs, much less the projected needs of the judiciary.

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[1] The *National Security Survey Report* issued by the United States Marshals Service scores each court facility on a scale of 0-100. Any facility receiving a score of 80 or less is considered to have serious security deficiencies.

As you know, the President's FY 2007 budget did not include any of the courthouse construction projects on the judiciary's plan for this year. Therefore, the judiciary requests your aid in securing the authorizations necessary to make these projects a reality. To date, the Transportation and Infrastructure Committee has authorized a total of $183.961 million for these projects.[2] We are extremely grateful for the efforts the Committee has already made in authorizing funds for the initial phases of these projects. To help you understand the projects in more detail, I am providing below a summary of the need and merit for each project, and hope that my written testimony will enable the Committee to proceed to authorize the design, site acquisition, or construction that is needed for each project.

Buffalo, New York ($115.50 Million[3] for Additional S&D and Construction)

The existing historic Michael Dillon U.S. Courthouse, which was constructed in 1936, houses the district court, probation and pretrial services offices, and some other court-related agencies. The bankruptcy court moved into leased space in 1999 to accommodate the district court's growth. Buffalo's location on the nation's northern border has been cause for both space and security concerns. Partly due to its location, the judicial district has the seventh highest pending caseload in the country and has seen a 66% growth in the criminal caseload since 1996. The recent trial of the Lackawanna Six, a sleeper cell of al Qaeda, in this facility brought to light the significant security concerns with the building. Specifically, the lack of secure parking,

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[2] The breakdown of total authorizations by this Committee for each project is: $14.204 million for Buffalo, NY; $29.937 million for Salt Lake City, UT; $15.657 million for Jackson, MS; $5.013 million for Fort Pierce, FL; $56.051 million for Savannah, GA; $26.177 million for San Antonio, TX; and $36.922 million for San Jose, CA.

[3] These calculations are provided to the judiciary by GSA and, accordingly, may be subject to change due to increases in costs as determined by GSA.

secure elevators, a sallyport for prisoners, and separate circulation patterns for prisoners pose a daily threat to judges and the public. The building is also positioned across the street from a large public parking garage which has a clear line of sight into the judges' chambers and two courtrooms, neither of which have bullet-resistant glass. The air intakes are also located at street level, leaving the courthouse vulnerable to chemical or biological attack.

In terms of space, both the courtrooms and chambers of the Dillon Courthouse are undersized and do not meet the standards set forth in the *U.S. Courts Design Guide.* Of the seven courtrooms, three have columns which obstruct views from the public seating area and one even obstructs the jury's view of the defense table, while two others, used by magistrate judges, were created out of office space and are half the standard size. There is no more space for additional courtrooms, and the court anticipates it will need to accommodate five more judges over the next ten years. There is also no expansion space available for the growth in support personnel which is projected in the district's long-range facilities plan.

The construction of a new courthouse in Buffalo would allow the court to accommodate its ten-year growth projections. Building a new courthouse is imperative to the provision of functional court space and to the security of those involved in the judicial process. Therefore, the judiciary requests authorization of $115.50 million for additional site, additional design, and construction of the facility.

Salt Lake City, Utah ($16.00 Million for Additional Site & Design)

The existing Frank E. Moss U.S. Courthouse, originally constructed in 1905, simply cannot accommodate the district and bankruptcy courts' extensive caseloads, nor does it meet the latest life safety and security requirements. Five of the seven district judge courtrooms are

undersized, while all six magistrate judge and bankruptcy judge courtrooms were constructed from office space and do not meet the *Design Guide* standards. A newly-appointed fourth magistrate judge is sharing the three undersized magistrate judge courtrooms with the other three magistrate judges. One additional district judgeship has been recommended by the Judicial Conference, but there is no space available for this judge. Currently, both the district and bankruptcy clerk's offices are split between separate floors, which is indicative of the measures the court has had to take to accommodate its growth.

From a security standpoint, in the Moss Courthouse the judges must use the same elevator used for prisoners, there is no secure corridor for prisoner transport, and the lack of a sallyport requires the deputy marshals to unload prisoners on a busy public sidewalk, a circumstance that is ideal for an assisted prisoner escape.[4] Located in the middle of a seismically active area, the existing building would collapse if Salt Lake City were struck by a major earthquake.

In terms of growth, the number of criminal cases filed at Salt Lake City has grown 226% since 1996, while the number of bankruptcy cases has grown 138% in that same time frame. Within the next ten years, two new district judges, one new magistrate judge, and two additional bankruptcy judges are anticipated. A new court facility in Salt Lake City will accommodate this ten-year growth projection, while helping to centralize much of the court family currently dispersed throughout the Salt Lake City area. Therefore, the judiciary requests authorization of $16.00 million for additional site and design for the courthouse project in Salt Lake City.

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[4] In 2004, a violent defender had planned to have his associates pull-up next to the sidewalk as he was unloaded by the marshals, shoot the two deputies, and escape into the busy traffic corridor. Fortunately, the plan was foiled when another inmate notified officials.

Jackson, Mississippi ($123 Million for Additional Site& Design and Construction)

Currently, the court and court-related agencies in Jackson are located in multiple facilities throughout the city. In addition to the James O. Eastland Federal Courthouse, there are three leased buildings and two other federal buildings which house the bankruptcy court and court-related agencies. The Eastland Courthouse was originally constructed in 1934 with only one courtroom. Three more courtrooms have been added, but they had to be fashioned from former post office space and are significantly substandard in size and design, with two that have view-obstructing columns in the well of the court.

The security of the building is also deficient. There is no separate circulation pattern for prisoners, no secured elevator, and no sallyport. The courthouse's location is directly across the street from a motel and parking garage with a clear line of sight from these structures into court chambers and offices. The building has major plumbing issues which recently caused two judges' chambers to flood when a water pipe broke. Finally, the presence of asbestos has been identified in some of the construction materials.

The criminal and bankruptcy caseload of the court has grown by 45% and 38%, respectively, since 1996. Currently, there are only four existing courtrooms used by five district and magistrate judges. The bankruptcy court has one courtroom in leased space. A new courthouse in Jackson will not only accommodate the ten-year growth requirements of the court, but it will also have sufficient land available to enable future construction to accommodate the court's thirty-year space requirements. Therefore, the judiciary requests authorization of $123.00 million for additional site and design and construction of a new courthouse in Jackson, Mississippi.

Fort Pierce, Florida ($49.00 Million for Additional Site & Design and Construction)

All of the court and court-related agencies in Fort Pierce are located in four leased locations throughout the city of Fort Pierce. The Southeast Bank Building, in which the district and magistrate judges are housed, is currently on the market for sale. It was leased as a temporary home for the court due to deplorable conditions in the court's previous location. Both of the courtrooms in the leased space are significantly undersized and the chambers, while standard size for a visiting judge, are not adequate for a full-time judge with staff.

In addition to the space issues set forth above, the leased space has significant security and operational issues. There is no secured elevator to the floors containing the judges' chambers; prisoners and judges utilize the same corridor to access the courtrooms. There is no sallyport, leaving the prisoners to be unloaded in the staff and judges' parking lot. The building does not have the proper security setbacks, as the front and one side of the building are right on the street and another side is adjacent to a public parking lot. The building also has serious water leaks, which have created mold problems.

Fort Pierce is in dire need of a new courthouse. The proposed courthouse would consolidate all of the courts and court-related agencies into one central location, while accommodating the ten-year growth requirements of the court. The judiciary, therefore, requests the authorization of $49.00 million for additional site and design and construction of a new courthouse in Fort Pierce.

Savannah, Georgia ($62.30 Million for Additional Design and Construction)

The Federal Building-Courthouse located in Savannah was built in 1899, then expanded in the 1930s. Although it is of great historic value, in terms of space and security the building is

inadequate. The judiciary proposes the addition of an annex to the existing building. The current facility only has four courtrooms, two of which are significantly undersized, to accommodate seven judges. This lack of necessary space has caused the senior judge, on occasion, to hold court in the grand jury room.

The security of the building is also of concern to the judiciary, as the building has no separate circulation patterns, no secured elevator, no secure parking for judges and staff, and no courtroom holding cells. Most egregious of the courthouse's deficiencies, however, is the fact that there is no sallyport. As a result, the deputy marshals must bring in the prisoners (who are increasingly drug and gang-related offenders) through three unsecured entrances: (1) some prisoners are unloaded in a small judges' parking area and brought through a judge's chambers into the courtroom; (2) those going to a third floor courtroom require that deputy marshals with rifles close a public street to unload the prisoners and bring them in through a side entrance; and (3) some prisoners are unloaded at the front of the courthouse and brought in through the main public entrance.

The court's workload in southern Georgia is growing, with criminal case filings up 60% since 1996. Although additional personnel are needed, the building simply cannot accommodate them. Also, legislation is pending to add another bankruptcy judge, but the current facility has no more space. By 2007, two active judges could take senior status, which would only compound the court's space needs. The addition of the proposed annex would accommodate the ten-year requirements for court growth and would also consolidate to one facility all of the court and court-related agencies. The Transportation and Infrastructure Committee has previously authorized most of the funding requested this year and should check with GSA as to what

additional authorization may still be required.

San Antonio, Texas ($18.00 Million for Site)

At the present, the court and court-related agencies are housed in four buildings in San Antonio. Originally, GSA requested only design funds, as it planned to build on a federally-owned site. Now, GSA has advised the judiciary that a privately owned site will be necessary and therefore an authorization is required for an additional $18 million in funding for the site. Design has already been authorized and funded.

There are significant space deficiencies in San Antonio. District and magistrate judges' courtrooms and chambers, the district clerk's office, and most USMS employees are located in the John H. Wood, Jr. U.S. Courthouse. However, some of the district clerk's staff and USMS staff are located in another federal building. Only one of the five district judge courtrooms in the Wood Courthouse meets the *Design Guide* standards. The circular shape of the courthouse makes for inefficient use of space with pie-slice-shaped offices and a substantial amount of unuseable space. As for security, there are no separate circulation patterns for prisoners, no secured elevators, and no sallyport, leaving the deputy marshals to unload prisoners in the judges' parking lot.

San Antonio has seen a significant growth in criminal cases and, correspondingly, in probation and pretrial services personnel since 1996. The division also expects to gain one new district judge, three senior district judges, and two magistrate judges within the next ten years. Without a new courthouse, the current facilities simply will not be able to accommodate this growth. Therefore, the judiciary is requesting authorization of $18.00 million in site money for San Antonio.

San Jose, California ($16.00 Million for Additional Site)

Site funding in the amount of $10.80 million was authorized and appropriated in FY 1999. GSA had difficulty, however, identifying a appropriate courthouse site which was also acceptable to the city of San Jose. GSA has informed us that they now have preferred sites under consideration, but that due to the delay, the cost is higher than originally requested and will require another $16.00 million.

The Robert F. Peckham Federal Building-Courthouse in San Jose consists of two separate structures which pose both space and security issues for the court. Only one of the eleven courtrooms complies with the *Design Guide*, while the other ten have serious deficiencies that make them unsuitable for long-term use. There is a significant concern about acoustics in some of the courtrooms, because both jurors in the jury room and individuals outside of the courtroom itself can hear the proceedings occurring within. Practically, this has led the court not to be able to conduct evidentiary or procedural hearings while the jury is in the jury room, and the strict monitoring of witnesses outside of the courtroom while the court is in session.

In terms of security, the building has no secure courtroom to handle death penalty or high-security cases, lacks separate circulation patterns for prisoners, and has a narrow setback from the street. Future growth for the court is expected to be significant. The court expects to double in size from nine to eighteen judges over the next ten years. In both 2001 and 2003 the Transportation and Infrastructure Committee authorized additional site funding and design funding for the San Jose courthouse. The Subcommittee should request that GSA provide it with information as to whether any additional authorization is required to permit purchase of the selected site.

San Diego, California (Authorization Only)

In addition to the courthouse construction projects proposed for FY 2007, the judiciary is also requesting authorization for GSA to proceed with the construction of the San Diego courthouse. This project was one of the four space emergency projects which we permitted to proceed during our moratorium on courthouse construction and was the only project requested by the judiciary in FY 2006. The appropriation for the project was included in the FY 2006 Transportation, Treasury, the Judiciary, Housing and Urban Development and Related Agencies appropriations bill and the project was authorized last year by the Senate Committee on Environment and Public Works. It is our understanding that this Subcommittee postponed authorization of the San Diego courthouse because GSA informed the subcommittee last year that the cost had escalated due to construction market conditions and rising material costs. The judiciary and U.S. Marshals Service worked with GSA and the architect over recent months to revise the project in an effort to reduce its cost to a level where GSA could reprogram any additional funding required to construct it. The project is now at that point and GSA has revised its previous prospectus on San Diego to reflect these changes and the authorization required to proceed. We hope that the Subcommittee will soon be in receipt of the revised prospectus and urge you to authorize whatever is requested by GSA as soon as possible.

We thank the Subcommittee for its continued support of the courthouse construction program and we would be glad to answer in writing any further questions you may have with regard to our requests.

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