

# FEDERAL ASSETS SALE AND TRANSFER ACT OF 2016

MAY 23, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

## R E P O R T

[To accompany H.R. 4465]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 4465) to decrease the deficit by consolidating and selling Federal buildings and other civilian real property, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

## CONTENTS

	Page
Committee Statement and Views .....	13
Section-by-Section .....	19
Explanation of Amendments .....	26
Committee Consideration .....	26
Application of Law to the Legislative Branch .....	26
Statement of Oversight Findings and Recommendations of the Committee .....	26
Statement of General Performance Goals and Objectives .....	26
Duplication of Federal Programs .....	26
Disclosure of Directed Rule Makings .....	26
Federal Advisory Committee Act .....	27
Unfunded Mandate Statement .....	27
Earmark Identification .....	27
Committee Estimate .....	27
Budget Authority and Congressional Budget Office Cost Estimate .....	27
Changes in Existing Law Made by the Bill, as Reported .....	30

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Federal Assets Sale and Transfer Act of 2016”.

## (b) TABLE OF CONTENTS.—

Sec. 1.	Short title; table of contents.
Sec. 2.	Purposes.
Sec. 3.	Definitions.
Sec. 4.	Board.
Sec. 5.	Board meetings.
Sec. 6.	Compensation and travel expenses.
Sec. 7.	Executive Director.
Sec. 8.	Staff.
Sec. 9.	Contracting authority.
Sec. 10.	Termination.
Sec. 11.	Development of recommendations to Board.
Sec. 12.	Board duties.
Sec. 13.	Review by OMB.
Sec. 14.	Implementation of Board recommendations.
Sec. 15.	Authorization of appropriations.
Sec. 16.	Funding.
Sec. 17.	Congressional approval of proposed projects.
Sec. 18.	Preclusion of judicial review.
Sec. 19.	Implementation review by GAO.
Sec. 20.	Agency retention of proceeds.
Sec. 21.	Federal real property database.
Sec. 22.	Streamlining McKinney-Vento Homeless Assistance Act.
Sec. 23.	Additional property.

**SEC. 2. PURPOSES.**

The purpose of this Act is to reduce the costs of Federal real estate by—

- (1) consolidating the footprint of Federal buildings and facilities;
- (2) maximizing the utilization rate of Federal buildings and facilities;
- (3) reducing the reliance on leased space;
- (4) selling or redeveloping high value assets that are underutilized to obtain the highest and best value for the taxpayer and maximize the return to the taxpayer;
- (5) reducing the operating and maintenance costs of Federal civilian real properties;
- (6) reducing redundancy, overlap, and costs associated with field offices;
- (7) creating incentives for Federal agencies to achieve greater efficiency in their inventories of civilian real property;
- (8) facilitating and expediting the sale or disposal of unneeded Federal civilian real properties;
- (9) improving the efficiency of real property transfers for the provision of services to the homeless; and
- (10) assisting Federal agencies in achieving the Government's sustainability goals by reducing excess space, inventory, and energy consumption, as well as by leveraging new technologies.

**SEC. 3. DEFINITIONS.**

In this Act, unless otherwise expressly stated, the following definitions apply:

- (1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of General Services.
- (2) **BOARD.**—The term “Board” means the Public Buildings Reform Board established by section 4.
- (3) **CERCLA.**—The term “CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).
- (4) **FEDERAL AGENCY.**—The term “Federal agency” means an executive department or independent establishment in the executive branch of the Government, and a wholly owned Government corporation.
- (5) **FEDERAL CIVILIAN REAL PROPERTY AND CIVILIAN REAL PROPERTY.**—
  - (A) **IN GENERAL.**—The terms “Federal civilian real property” and “civilian real property” refer to Federal real property assets, including public buildings as defined in section 3301(a) of title 40, United States Code, occupied and improved grounds, leased space, or other physical structures under the custody and control of any Federal agency.
  - (B) **EXCLUSIONS.**—Subparagraph (A) shall not be construed as including any of the following types of property:
    - (i) Properties that are on military installations (including any fort, camp, post, naval training station, airfield proving ground, military supply depot, military school, or any similar facility of the Department of Defense).
    - (ii) A base, camp, post, station, yard, center, or homeport facility for any ship or activity under the jurisdiction of the Coast Guard.
    - (iii) Properties that are excluded for reasons of national security by the Director of the Office of Management and Budget.

(iv) Properties that are excepted from the definition of the term “property” under section 102 of title 40, United States Code.

(v) Indian and Native Alaskan properties, including—

(I) any property within the limits of an Indian reservation to which the United States owns title for the benefit of an Indian tribe; and

(II) any property title that is held in trust by the United States for the benefit of an Indian tribe or individual or held by an Indian tribe or individual subject to restriction by the United States against alienation.

(vi) Properties operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.).

(vii) Postal properties owned by the United States Postal Service.

(viii) Properties used in connection with Federal programs for agricultural, recreational, or conservation purposes, including research in connection with the programs.

(ix) Properties used in connection with river, harbor, flood control, reclamation, or power projects.

(x) Properties located outside the United States operated or maintained by the Department of State or the United States Agency for International Development.

(6) FIELD OFFICE.—The term “field office” means any Federal office that is not the headquarters office location for the Federal agency.

(7) HUD.—The term “HUD” means the Department of Housing and Urban Development.

(8) OMB.—The term “OMB” means the Office of Management and Budget.

(9) VALUE OF TRANSACTIONS.—The term “value of transactions” means the sum of the estimated proceeds and estimated costs, based on the accounting system developed or identified under section 12(e), associated with the transactions included in Board recommendations.

#### SEC. 4. BOARD.

(a) ESTABLISHMENT.—There is established an independent board to be known as the Public Buildings Reform Board.

(b) DUTIES.—The Board shall carry out the duties as specified in this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall be composed of a Chairperson appointed by the President, by and with the advice and consent of the Senate, and 6 members appointed by the President.

(2) APPOINTMENTS.—In selecting individuals for appointments to the Board, the President shall consult with—

(A) the Speaker of the House of Representatives concerning the appointment of 2 members;

(B) the majority leader of the Senate concerning the appointment of 2 members;

(C) the minority leader of the House of Representatives concerning the appointment of 1 member; and

(D) the minority leader of the Senate concerning the appointment of 1 member.

(3) TERMS.—The term for each member of the Board shall be 6 years.

(4) VACANCIES.—Vacancies shall be filled in the same manner as the original appointment.

(5) QUALIFICATIONS.—In selecting individuals for appointment to the Board, the President shall ensure that the Board contains individuals with expertise representative of the following:

(A) Commercial real estate and redevelopment.

(B) Space optimization and utilization.

(C) Community development, including transportation and planning.

#### SEC. 5. BOARD MEETINGS.

(a) OPEN MEETINGS.—Each meeting of the Board, other than meetings in which classified information is to be discussed, shall be open to the public. Any open meeting shall be announced in the Federal Register and the Federal Web site established by the Board at least 14 calendar days in advance of a meeting. For all public meetings, the Board shall release an agenda and a listing of materials relevant to the topics to be discussed.

(b) QUORUM AND MEETINGS.—Five Board members shall constitute a quorum for the purposes of conducting business and 3 or more Board members shall constitute a meeting of the Board.

(c) **TRANSPARENCY OF INFORMATION.**—All the proceedings, information, and deliberations of the Board shall be open, upon request, to the Chairperson and ranking minority party member, and their respective subcommittee Chairperson and subcommittee ranking minority party member, of—

(1) the Committee on Transportation and Infrastructure of the House of Representatives;

(2) the Committee on Oversight and Government Reform of the House of Representatives;

(3) the Committee on Homeland Security and Governmental Affairs of the Senate;

(4) the Committee on Environment and Public Works of the Senate; and

(5) the Committees on Appropriations of the House of Representatives and the Senate.

(d) **GOVERNMENT ACCOUNTABILITY OFFICE.**—All proceedings, information, and deliberations of the Board shall be open, upon request, to the Comptroller General of the United States.

#### **SEC. 6. COMPENSATION AND TRAVEL EXPENSES.**

(a) **COMPENSATION.**—

(1) **RATE OF PAY FOR MEMBERS.**—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board.

(2) **RATE OF PAY FOR CHAIRPERSON.**—The Chairperson shall be paid for each day referred to in paragraph (1) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) **TRAVEL.**—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

#### **SEC. 7. EXECUTIVE DIRECTOR.**

(a) **APPOINTMENT.**—The Board shall appoint an Executive Director, who may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(b) **RATE OF PAY.**—The Executive Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

#### **SEC. 8. STAFF.**

(a) **ADDITIONAL PERSONNEL.**—Subject to subsection (b), the Executive Director may request additional personnel detailed from Federal agencies.

(b) **REQUESTS FOR DETAIL EMPLOYEES.**—Upon request of the Executive Director and approval of the Board and the Director of OMB, the head of any Federal agency shall detail the requested personnel of that agency to the Board to assist the Board in carrying out its duties under this Act.

(c) **QUALIFICATIONS.**—Appointments shall be made with consideration of a balance of expertise consistent with the qualifications of representatives described in section 4(c)(5).

#### **SEC. 9. CONTRACTING AUTHORITY.**

(a) **EXPERTS AND CONSULTANTS.**—The Board, to the extent practicable and subject to appropriations Acts, shall use contracts, including nonappropriated contracts, entered into by the Administrator for services necessary to carry out the duties of the Board.

(b) **OFFICE SPACE.**—The Administrator, in consultation with the Board, shall identify and provide, without charge, suitable office space within the existing Federal space inventory to house the operations of the Board.

(c) **PERSONAL PROPERTY.**—The Board shall use personal property already in the custody and control of the Administrator.

#### **SEC. 10. TERMINATION.**

The Board shall cease operations and terminate 6 years after the date of enactment of this Act.

#### **SEC. 11. DEVELOPMENT OF RECOMMENDATIONS TO BOARD.**

(a) **SUBMISSIONS OF AGENCY INFORMATION AND RECOMMENDATIONS.**—Not later than 120 days after the date of enactment of this Act, and not later than 120 days after the first day of each fiscal year thereafter until the termination of the Board,

the head of each Federal agency shall submit to the Administrator and the Director of OMB the following:

(1) **CURRENT DATA.**—Current data of all Federal civilian real properties owned, leased, or controlled by the agency, including all relevant information prescribed by the Administrator and the Director of OMB, including data related to the age and condition of the property, operating costs, history of capital expenditures, sustainability metrics, number of Federal employees and functions housed in the respective property, and square footage (including gross, rentable, and usable).

(2) **AGENCY RECOMMENDATIONS.**—Recommendations of the agency on the following:

(A) Federal civilian real properties that can be sold for proceeds or otherwise disposed of, reported as excess, declared surplus, outleased, or otherwise no longer meeting the needs of the agency, excluding leasebacks or other such exchange agreements where the property continues to be used by the agency.

(B) Federal civilian real properties that 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.

(C) Operational efficiencies that the Government can realize in its operation and maintenance of Federal civilian real properties.

(b) **STANDARDS AND CRITERIA.**—

(1) **DEVELOPMENT OF STANDARDS AND CRITERIA.**—Not later than 60 days after the deadline for submissions of agency recommendations under subsection (a), the Director of OMB, in consultation with the Administrator, shall—

(A) review the agency recommendations;

(B) develop consistent standards and criteria against which the agency recommendations will be reviewed; and

(C) submit to the Board the recommendations developed pursuant to paragraph (2).

(2) **RECOMMENDATIONS TO BOARD.**—The Director of OMB and the Administrator shall jointly develop recommendations to the Board based on the standards and criteria developed under paragraph (1).

(3) **FACTORS.**—In developing the standards and criteria under paragraph (1), the Director of OMB, in consultation with the Administrator, shall incorporate the following factors:

(A) The extent to which the civilian real property could be sold (including property that is no longer meeting the needs of the Government), redeveloped, outleased, or otherwise used to produce the highest and best value and return for the taxpayer.

(B) The extent to which the operating and maintenance costs are reduced through consolidating, co-locating, and reconfiguring space, and through realizing other operational efficiencies.

(C) The extent to which the utilization rate is being maximized and is consistent with non-governmental industry standards for the given function or operation.

(D) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the proposed recommendation.

(E) The extent to which reliance on leasing for long-term space needs is reduced.

(F) The extent to which a civilian real property aligns with the current mission of the Federal agency.

(G) The extent to which there are opportunities to consolidate similar operations across multiple agencies or within agencies.

(H) The economic impact on existing communities in the vicinity of the civilian real property.

(I) The extent to which energy consumption is reduced.

(J) The extent to which public access to agency services is maintained or enhanced.

(c) **SPECIAL RULE FOR UTILIZATION RATES.**—Standards developed by the Director of OMB pursuant to subsection (b) shall incorporate and apply clear standard utilization rates to the extent that such standard rates increase efficiency and provide performance data. The utilization rates shall be consistent throughout each applicable category of space and with nongovernment space utilization rates. To the extent the space utilization rate of a given agency exceeds the utilization rates to be applied under this subsection, the Director of OMB may recommend realignment, relocation, consolidation, or other type of action to improve space utilization.

## (d) SUBMISSION TO BOARD.—

(1) IN GENERAL.—The Director of OMB shall submit the standards, criteria, and recommendations developed pursuant to subsection (b) to the Board with all supporting information, data, analyses, and documentation.

(2) PUBLICATION.—The standards, criteria, and recommendations developed pursuant to subsection (b) shall be published in the Federal Register and transmitted to the committees listed in section 5(c) and to the Comptroller General of the United States.

(3) ACCESS TO INFORMATION.—The Board shall also have access to all information pertaining to the recommendations developed pursuant to subsection (b), including supporting information, data, analyses, and documentation submitted pursuant to subsection (a). Upon request, a Federal agency shall provide to the Board any additional information pertaining to the civilian real properties under the custody, control, or administrative jurisdiction of the Federal agency. The Board shall notify the committees listed in section 5(c) of any failure by an agency to comply with a request of the Board.

**SEC. 12. BOARD DUTIES.**

(a) IDENTIFICATION OF PROPERTY REDUCTION OPPORTUNITIES.—The Board shall identify opportunities for the Government to reduce significantly its inventory of civilian real property and reduce costs to the Government.

## (b) IDENTIFICATION OF HIGH VALUE ASSETS.—

(1) IDENTIFICATION OF CERTAIN PROPERTIES.—Not later than 180 days after Board members are appointed pursuant to section 4, the Board shall—

(A) identify not fewer than 5 Federal civilian real properties that are not on the list of surplus or excess as of such date with a total fair market value of not less than \$500,000,000 and not more than \$750,000,000; and

(B) transmit the list of the Federal civilian real properties to the Director of OMB and Congress as Board recommendations and subject to the approval process described in section 13.

(2) INFORMATION AND DATA.—In order to meet the goal established under paragraph (1), each Federal agency shall provide, upon request, any and all information and data regarding its civilian real properties to the Board. The Board shall notify the committees listed in section 5(c) of any failure by an agency to comply with a request of the Board.

(3) FACTORS.—In identifying properties pursuant to paragraph (1), the Board shall consider the factors listed in section 11(b)(3).

(4) LEASEBACK RESTRICTIONS.—None of the existing improvements on properties sold under this subsection may be leased back to the Government.

(5) REPORT OF EXCESS.—Not later than 60 days after the approval of Board recommendations pursuant to paragraph (1), Federal agencies with custody, control, or administrative jurisdiction over the identified properties shall submit a Report of Excess to the General Services Administration.

## (6) SALE.—

(A) INITIATION OF SALE.—Not later than 120 days after the acceptance by the Administrator of the Report of Excess and notwithstanding any other provision of law (including section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411), but except as provided in section 14(g)), the General Services Administration shall initiate the sale of the civilian real properties described in paragraph (1).

(B) COMPLETION OF SALE.—Not later than 1 year after the acceptance of the Report of Excess, the Administrator shall sell the civilian real properties at fair market value at highest and best use, unless the Director of OMB determines it is in the financial interest of the Government to execute a sale more than a year after the acceptance of the Report of Excess, but not greater than two years after the acceptance of the Report of Excess.

(c) ANALYSIS OF INVENTORY.—The Board shall perform an independent analysis of the inventory of Federal civilian real property and the recommendations submitted pursuant to section 11. The Board shall not be bound or limited by the recommendations submitted pursuant to section 11. If, in the opinion of the Board, an agency fails to provide needed information, data, or adequate recommendations that meet the standards and criteria, the Board shall develop such recommendations as the Board considers appropriate based on existing data contained in the Federal Real Property Profile or other relevant information.

## (d) INFORMATION AND PROPOSALS.—

(1) RECEIPT.—Notwithstanding any other provision of law, the Board may receive and consider proposals, information, and other data submitted by State and local officials and the private sector.

(2) CONSULTATION.—The Board shall consult with State and local officials on information, proposals, and other data that the officials submit to the Board.

(3) AVAILABILITY.—Information submitted to the Board shall be made publicly available.

(e) ACCOUNTING SYSTEM.—Not later than 120 days after the date of enactment of this Act, the Board shall identify or develop and implement a system of accounting to be used to independently evaluate the costs of and returns on the recommendations. Such accounting system shall be applied in developing the Board's recommendations and determining the highest return to the taxpayer. In applying the accounting system, the Board shall set a standard performance period of not less than 15 years.

(f) PUBLIC HEARING.—The Board shall conduct public hearings. All testimony before the Board at a public hearing under this subsection shall be presented under oath.

(g) REPORTING OF INFORMATION AND RECOMMENDATIONS.—

(1) IN GENERAL.—Subject to the schedule and limitations specified in paragraph (2), the Board shall transmit to the Director of OMB, and publicly post on a Federal Web site maintained by the Board, reports containing the Board's findings, conclusions, and recommendations for—

(A) the consolidation, exchange, co-location, reconfiguration, lease reductions, sale, outlease, and redevelopment of Federal civilian real properties; and

(B) other operational efficiencies that can be realized in the Government's operation and maintenance of such properties.

(2) SCHEDULE AND LIMITATIONS.—

(A) FIRST ROUND.—Not later than 2 years after the date of transmittal of the list of properties recommended pursuant to subsection (b), the Board shall transmit to the Director of OMB the first report required under paragraph (1). The total value of transactions contained in the first report may not exceed \$2,500,000,000.

(B) SECOND ROUND.—Not earlier than 3 years after the date of transmittal of the first report, the Board shall transmit to the Director of OMB the second report required under paragraph (1). The total value of transactions contained in the second report may not exceed \$4,750,000,000.

(3) CONSENSUS IN MAJORITY.—The Board shall seek to develop consensus recommendations, but if a consensus cannot be obtained, the Board may include in the reports required under this subsection recommendations that are supported by a majority of the Board.

(h) FEDERAL WEB SITE.—The Board shall establish and maintain a Federal Web site for the purposes of making relevant information publicly available.

(i) REVIEW BY GAO.—The Comptroller General of the United States shall transmit to Congress and the Board a report containing a detailed analysis of the recommendations and selection process.

#### SEC. 13. REVIEW BY OMB.

(a) REVIEW OF RECOMMENDATIONS.—Upon receipt of the Board's recommendations pursuant to subsections (b) and (g) of section 12, the Director of OMB shall conduct a review of the recommendations.

(b) REPORT TO BOARD AND CONGRESS.—Not later than 30 days after the receipt of the Board's recommendations, the Director of OMB shall transmit to the Board and Congress a report that sets forth the Director of OMB's approval or disapproval of the Board's recommendations.

(c) APPROVAL AND DISAPPROVAL.—

(1) APPROVAL.—If the Director of OMB approves the Board's recommendations, the Director of OMB shall transmit a copy of the recommendations to Congress, together with a certification of such approval.

(2) DISAPPROVAL.—If the Director of OMB disapproves the Board's recommendations, in whole or in part, the Director of OMB shall transmit a copy of the recommendations to Congress and the reasons for disapproval of the recommendations to the Board and Congress.

(3) REVISED RECOMMENDATIONS.—Not later than 30 days after the receipt of reasons for disapproval under paragraph (2), the Board shall transmit to the Director of OMB revised recommendations for approval.

(4) APPROVAL OF REVISED RECOMMENDATIONS.—If the Director of OMB approves the revised recommendations received under paragraph (3), the Director of OMB shall transmit a copy of the revised recommendations to Congress, together with a certification of such approval.

(d) TERMINATION OF PROCESS FOR GIVEN ROUND.—If the Director of OMB does not transmit to Congress an approval and certification described in paragraph (1) or (4)

of subsection (c) on or before the 30th day following the receipt of the Board's recommendations or revised recommendations, as the case may be, the process shall terminate until the following round, as described in section 12.

**SEC. 14. IMPLEMENTATION OF BOARD RECOMMENDATIONS.**

(a) DEADLINES.—

(1) PREPARATION.—Federal agencies shall—

(A) not later than 60 days after the Director of OMB transmits the Board's recommendations to Congress pursuant to paragraph (1) or (4) of section 13(c), immediately begin preparations to carry out the Board's recommendations; and

(B) not later than 2 years after such transmittal, initiate all activities necessary to carry out the Board's recommendations.

(2) COMPLETION.—Not later than 6 years after the Director of OMB transmits the Board's recommendations to Congress pursuant to paragraph (1) or (4) of section 13(c), Federal agencies shall complete all recommended actions. All actions shall be economically beneficial, cost neutral, or otherwise favorable to the Government.

(3) EXTENUATING CIRCUMSTANCES.—For actions that will take longer than the 6-year period described in paragraph (2) due to extenuating circumstances, Federal agencies shall notify the Director of OMB and Congress, as soon as the extenuating circumstance presents itself, with an estimated time to complete the relevant action.

(b) ACTIONS OF FEDERAL AGENCIES RELATED TO CIVILIAN REAL PROPERTIES.—In taking actions related to any civilian real property under this Act, Federal agencies may take, pursuant to subsection (c), all such necessary and proper actions, including—

(1) acquiring land, constructing replacement facilities, performing such other activities, and conducting advance planning and design as may be required to transfer functions from a Federal asset or property to another Federal civilian property;

(2) reimbursing other Federal agencies for actions performed at the request of the Board; and

(3) taking such actions as are practicable to maximize the value of Federal civilian real property to be sold by clarifying zoning and other limitations on use of such property.

(c) ACTIONS OF FEDERAL AGENCIES TO IMPLEMENT BOARD RECOMMENDATIONS.—

(1) USE OF EXISTING LEGAL AUTHORITIES.—

(A) IN GENERAL.—Except as provided in paragraph (2), when acting on a recommendation of the Board, a Federal agency shall—

(i) in consultation with the Administrator, continue to act within the Federal agency's existing legal authorities, including legal authorities delegated to the Federal agency by the Administrator; or

(ii) work in partnership with the Administrator to carry out such actions.

(B) NECESSARY AND PROPER ACTIONS.—The Administrator may take such necessary and proper actions, including the sale, conveyance, or exchange of civilian real property, as required to implement the Board's recommendations in the time period required under subsection (a).

(2) EXPERTS.—A Federal agency may enter into no cost, nonappropriated contracts for expert commercial real estate services to carry out the Federal agency's responsibilities pursuant to the recommendations.

(d) DISCRETION OF ADMINISTRATOR REGARDING TRANSACTIONS.—For any transaction identified, recommended, or commenced as a result of this Act, any otherwise required legal priority given to, or requirement to enter into, a transaction to convey a Federal civilian real property for less than fair market value, for no consideration at all, or in a transaction that mandates the exclusion of other market participants, shall be at the discretion of the Administrator.

(e) RELATIONSHIP TO OTHER LAWS.—Any recommendation or commencement of a sale, disposal, consolidation, reconfiguration, co-location, or realignment of civilian real property under this Act shall not be subject to—

(1) section 545(b)(8) of title 40, United States Code;

(2) sections 550, 553, and 554 of title 40, United States Code;

(3) any section of the Act entitled "An Act Authorizing the transfer of certain real property for wildlife, or other purposes" (16 U.S.C. 667b);

(4) section 47151 of title 49, United States Code;

(5) sections 107 and 317 of title 23, United States Code;

(6) section 1304(b) of title 40, United States Code;

(7) section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d));



(8) any other provision of law authorizing the conveyance of real property owned by the Government for no consideration; and

(9) any congressional notification requirement other than that in section 545 of title 40, United States Code.

(f) PUBLIC BENEFIT.—

(1) SUBMISSION OF INFORMATION TO HUD.—The Director of OMB shall submit to the Secretary of HUD, on the same day the Director of OMB submits the Board's recommendations to Congress pursuant to paragraphs (1) and (4) of section 13(c), all known information on Federal civilian real properties that are included in the recommendations (except those recommended under section 12(b)).

(2) HUD TO REPORT TO BOARD.—Not later than 30 days after the submission of information on Federal properties under paragraph (1), the Secretary shall identify any suitable civilian real properties for use as a property benefiting the mission of assistance to the homeless for the purposes of further screening pursuant to section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(3) ADDITIONAL AUTHORITY.—Following the review under paragraph (2), with respect to a civilian real property that is not identified by the Secretary as suitable for use as a property benefiting the mission of assistance to the homeless and that has been recommended for sale by the Board, the Director of OMB may exclude the property from the Board's recommendations if the Director determines that the property is suitable for use as a public park or recreation area by a State or local government and it is in the best interest of taxpayers.

(g) ENVIRONMENTAL CONSIDERATIONS.—

(1) TRANSFERS OF REAL PROPERTY.—

(A) IN GENERAL.—When implementing the recommended actions for civilian real properties that have been identified in the Board's report, as specified in section 12(g), and subject to paragraph (2) and in compliance with CERCLA, including section 120(h) of CERCLA (42 U.S.C. 9620(h)), Federal agencies may enter into an agreement to transfer by deed, pursuant to section 120(h)(3) of that Act (42 U.S.C. 9620(h)(3)), civilian real property with any person.

(B) ADDITIONAL TERMS AND CONDITIONS.—The head of the disposing agency may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the head of the disposing agency considers appropriate to protect the interests of the United States. Such additional terms and conditions shall not affect or diminish any rights or obligations of the Federal agencies under section 120(h) of CERCLA (including, without limitation, the requirements of subsections (h)(3)(A) and (h)(3)(C)(iv) of that section).

(2) CERTIFICATION CONCERNING COSTS.—A transfer of Federal civilian real property may be made under paragraph (1) only if the head of the disposing agency certifies to the Board and Congress that—

(A) the costs of all environmental restoration, waste management, and environmental compliance activities otherwise to be paid by the disposing agency with respect to the property are equal to or greater than the fair market value of the property to be transferred, as determined by the head of the disposing agency; or

(B) if such costs are lower than the fair market value of the property, the recipient of the property agrees to pay the difference between the fair market value and such costs.

(3) PAYMENTS TO RECIPIENTS.—In the case of a civilian real property covered by a certification under paragraph (2)(A), the disposing agency may pay the recipient of such property an amount equal to the lesser of—

(A) the amount by which the costs incurred by the recipient of such property for all environmental restoration, waste management, and environmental compliance activities with respect to such property exceed the fair market value of such property as specified in such certification; or

(B) the amount by which the costs (as determined by the head of the disposing agency) that would otherwise have been incurred by the Secretary for such restoration, waste management, and environmental compliance activities with respect to such property exceed the fair market value of such property as so specified.

(4) INFORMATION TO BE PROVIDED TO RECIPIENTS.—As part of an agreement under paragraph (1), the head of the disposing agency shall disclose, in accordance with applicable law, to the person to whom the civilian real property will be transferred information possessed by the disposing agency regarding the environmental restoration, waste management, and environmental compliance ac-

tivities that relate to the property. The head of the disposing agency shall provide such information before entering into the agreement.

(5) **CONSIDERATION OF ENVIRONMENTAL REMEDIATION IN GRANTING TIME EXTENSIONS.**—For the purposes of granting time extensions under subsection (a), the Director of OMB shall give the need for significant environmental remediation to a civilian real property more weight than any other factor in determining whether to grant an extension to implement a Board recommendation.

(6) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this Act may be construed to modify, alter, or amend CERCLA, the National Environmental Policy Act of 1969, or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

#### **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act an initial appropriation of—

- (1) \$2,000,000 for salaries and expenses of the Board; and
- (2) \$40,000,000 to be deposited into the Asset Proceeds and Space Management Fund for activities related to the implementation of the Board's recommendations.

#### **SEC. 16. FUNDING.**

(a) **SALARIES AND EXPENSES ACCOUNT.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States an account to be known as the “Public Buildings Reform Board Salaries and Expenses Account” (in this subsection referred to as the “Account”).

(2) **NECESSARY PAYMENTS.**—There shall be deposited into the Account such amounts, as are provided in appropriations Acts, for those necessary payments for salaries and expenses to accomplish the administrative needs of the Board.

(b) **ASSET PROCEEDS AND SPACE MANAGEMENT FUND.**—

(1) **ESTABLISHMENT.**—There is established within the Federal Buildings Fund established under section 592 of title 40, United States Code, an account to be known as the Public Buildings Reform Board—Asset Proceeds and Space Management Fund (in this subsection referred to as the “Fund”).

(2) **USE OF AMOUNTS.**—Amounts in the Fund shall be used solely for the purposes of carrying out actions pursuant to the Board recommendations approved under section 13.

(3) **DEPOSITS.**—The following amounts shall be deposited into the Fund and made available for obligation or expenditure only as provided in advance in appropriations Acts (subject to section 3307 of title 40, United States Code, to the extent an appropriation normally covered by that section exceeds \$20,000,000) for the purposes specified:

(A) Such amounts as are provided in appropriations Acts, to remain available until expended, for the consolidation, co-location, exchange, redevelopment, reconfiguration of space, disposal, and other actions recommended by the Board for Federal agencies.

(B) Amounts received from the sale of any civilian real property action taken pursuant to a recommendation of the Board.

(4) **USE OF AMOUNTS TO COVER COSTS.**—As provided in appropriations Acts, amounts in the Fund may be made available to cover necessary costs associated with implementing the recommendations pursuant to section 14, including costs associated with—

(A) sales transactions;

(B) acquiring land, construction, constructing replacement facilities, and conducting advance planning and design as may be required to transfer functions from a Federal asset or property to another Federal civilian property;

(C) co-location, redevelopment, disposal, and reconfiguration of space; and

(D) other actions recommended by the Board for Federal agencies.

(c) **ADDITIONAL REQUIREMENT FOR BUDGET CONTENTS.**—The President shall transmit along with the President's budget submitted pursuant to section 1105 of title 31, United States Code, an estimate of proceeds that are the result of the Board's recommendations and the obligations and expenditures needed to support such recommendations.

#### **SEC. 17. CONGRESSIONAL APPROVAL OF PROPOSED PROJECTS.**

Section 3307(b) of title 40, United States Code, is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) a statement of how the proposed project is consistent with the standards and criteria developed under section 11(b) of the Federal Assets Sale and Transfer Act of 2016.”.

**SEC. 18. PRECLUSION OF JUDICIAL REVIEW.**

The following actions shall not be subject to judicial review:

- (1) Actions taken pursuant to sections 12 and 13.
- (2) Actions of the Board.

**SEC. 19. IMPLEMENTATION REVIEW BY GAO.**

Upon transmittal of the Board’s recommendations from the Director of OMB to Congress under section 13, the Comptroller General of the United States at least annually shall monitor and review the implementation activities of Federal agencies pursuant to section 14, and report to Congress any findings and recommendations.

**SEC. 20. AGENCY RETENTION OF PROCEEDS.**

(a) IN GENERAL.—Section 571 of title 40, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

“(a) PROCEEDS FROM TRANSFER OR SALE OF REAL PROPERTY.—

“(1) DEPOSIT OF NET PROCEEDS.—Net proceeds described in subsection (c) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property at the time the real property is determined to be excess.

“(2) EXPENDITURE OF NET PROCEEDS.—The net proceeds deposited pursuant to paragraph (1) may only be expended, as authorized in annual appropriations Acts, for activities described in sections 543 and 545, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this chapter.

“(3) DEFICIT REDUCTION.—Any net proceeds described in subsection (c) from the sale, lease, or other disposition of surplus real property that are not expended under paragraph (2) shall be used for deficit reduction. Any net proceeds not obligated within 3 years after the date of deposit and not expended within 5 years after such date shall be deposited as miscellaneous receipts in the Treasury.

“(b) EFFECT ON OTHER SECTIONS.—Nothing in this section is intended to affect section 572(b), 573, or 574.

“(c) NET PROCEEDS.—The net proceeds described in this subsection are proceeds under this chapter, less expenses of the transfer or disposition as provided in section 572(a), from a—

- “(1) transfer of excess real property to a Federal agency for agency use; or
- “(2) sale, lease, or other disposition of surplus real property.”.

(b) EFFECTIVE DATE.—The provisions of this section, including the amendments made by this section, shall take effect upon the termination of the Board pursuant to section 10 and shall not apply to proceeds from transactions conducted under section 14.

**SEC. 21. FEDERAL REAL PROPERTY DATABASE.**

(a) DATABASE REQUIRED.—Not later than 1 year after the date of enactment of this section, the Administrator of General Services shall publish a single, comprehensive, and descriptive database of all Federal real property under the custody and control of all executive agencies, other than Federal real property excluded for reasons of national security, in accordance with subsection (b).

(b) REQUIRED INFORMATION FOR DATABASE.—The Administrator shall collect from the head of each executive agency descriptive information, except for classified information, of the nature, use, and extent of the Federal real property of each such agency, including the following:

- (1) The geographic location of each Federal real property of each such agency, including the address and description for each such property.
- (2) The total size of each Federal real property of each such agency, including square footage and acreage of each such property.
- (3) Whether the Federal real property is currently, or will in the future be, needed to support agency’s mission or function.
- (4) The utilization of each Federal real property for each such agency, including whether such property is excess, surplus, underutilized, or unutilized.
- (5) The number of days each Federal real property is designated as excess, surplus, underutilized, or unutilized.
- (6) The annual operating costs of each Federal real property.
- (7) The replacement value of each Federal real property.

(c) ACCESS TO DATABASE.—

(1) **FEDERAL AGENCIES.**—The Administrator, in consultation with the Director of OMB, shall make the database established and maintained under this section available to other Federal agencies.

(2) **PUBLIC ACCESS.**—To the extent consistent with national security and procurement laws, the database shall be accessible by the public at no cost through the Web site of the General Services Administration.

(d) **TRANSPARENCY OF DATABASE.**—To the extent practicable, the Administrator shall ensure that the database—

(1) uses an open, machine-readable format;

(2) permits users to search and sort Federal real property data; and

(3) includes a means to download a large amount of Federal real property data and a selection of such data retrieved using a search.

(e) **APPLICABILITY.**—Nothing in this section may be construed to require an agency to make available to the public information that is exempt from disclosure pursuant to section 552(b) of title 5, United States Code.

## **SEC. 22. STREAMLINING MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.**

Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) in subsection (b)(2)—

(A) by striking “(2)(A)” and inserting “(2)”;

(B) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(C) in subparagraph (A) (as so redesignated) by striking “and” at the end;

(D) in subparagraph (B) (as so redesignated) by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(C) in the case of surplus property, the provision of permanent housing with or without supportive services is an eligible use to assist the homeless under this section.”;

(2) in subsection (c)(1)(A) by striking “in the Federal Register” and inserting “on the Web site of the Department of Housing and Urban Development or the General Services Administration”;

(3) in subsection (d)—

(A) in paragraph (1) by striking “period of 60 days” and inserting “period of 30 days”;

(B) in paragraphs (2) and (4) by striking “60-day period” and inserting “30-day period”; and

(C) in paragraph (3) by adding at the end the following: “If no such review of the determination is requested within the 20-day period, such property will not be included in subsequent publications unless the landholding agency makes changes to the property (e.g. improvements) that may change the unsuitable determination and the Secretary subsequently determines the property is suitable.”;

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking “(2)” and inserting “(2)(A)”;

(ii) in subparagraph (A) (as so designated)—

(I) by striking “90 days” and inserting “75 days”; and

(II) by striking “a complete application” and inserting “an initial application”; and

(iii) by adding at the end the following:

“(B) An initial application shall set forth—

“(i) the services that will be offered;

“(ii) the need for the services; and

“(iii) the experience of the applicant that demonstrates the ability to provide the services.”;

(B) in paragraph (3) by striking “25 days after receipt of a completed application” and inserting “10 days after receipt of an initial application”; and

(C) by adding at the end the following:

“(4) If the Secretary of Health and Human Services approves an initial application, the applicant has 45 days in which to provide a final application that sets forth a reasonable plan to finance the approved program.

“(5) No later than 15 days after receipt of the final application, the Secretary of Health and Human Services shall review, make a final determination, and complete all actions on the final application. The Secretary of Health and Human Services shall maintain a public record of all actions taken in response to an application.”; and

(5) in subsection (f)(1) by striking “available by” and inserting “available, at the applicant’s discretion, by”.

**SEC. 23. ADDITIONAL PROPERTY.**

Section 549(c)(3)(B)(vii) of title 40, United States Code, is amended to read as follows:

“(vii) a museum attended by the public, and, for purposes of determining whether a museum is attended by the public, the Administrator shall consider a museum to be public if the nonprofit educational or public health institution or organization, at minimum, accedes to any request submitted for access during business hours;”.

**COMMITTEE STATEMENT AND VIEWS**

**PURPOSE AND SUMMARY**

H.R. 4465, the Federal Assets Sale and Transfer Act of 2016, would reduce the costs of managing the federal government’s real property portfolio. The bill establishes the Public Buildings Reform Board, a six-year board for identifying opportunities for cost savings and deficit reduction by reducing the federal government’s inventory of civilian real property. The bill establishes agency data submission requirements to inform the Board’s recommended actions, a process for approval of the Board’s recommendations, and requirements for implementation of approved recommendations.

In addition, the bill streamlines the federal real property disposal process through updates to the McKinney-Vento Homeless Assistance Act, creates a statutory requirement for a federal real property database that is publicly accessible, and incentivizes additional real property footprint reduction and savings efforts by allowing agency retention of sale proceeds for specific disposal related purposes.

**BACKGROUND AND NEED FOR LEGISLATION**

The federal government continues to maintain too much excess and underutilized property. Since 2003, the Government Accountability Office (GAO) has designated federal real property management as a high-risk area, citing concerns about the reliability of real property data, the deteriorating conditions of facilities, the quantity of excess and underutilized properties, an overreliance on leasing, and building security.<sup>1</sup> The federal government is the largest single holder of real property in the United States, with more than 920,000 assets in its inventory,<sup>2</sup> including 275,000 buildings.<sup>3</sup> According to the most recent data reported, the cost to the taxpayer for operating unneeded building space was \$1.6 billion annually.<sup>4</sup>

More effective management of federal property would offer improved opportunities for the federal government to right-size its real estate portfolio, reduce costs, and achieve savings through the

<sup>1</sup> Gov’t Accountability Office, *High-Risk Series: An Update* (Feb. 2015) (GAO–15–290), at 136–141, available at <http://www.gao.gov/assets/670/668415.pdf> (last visited Apr. 19, 2016) [hereinafter GAO, *High-Risk Series* (2015)].

<sup>2</sup> General Serv. Admin., FY 2014 *Fed. Real Property Profile (FRPP) Open Data Set*, at Table 20: FY 2014 U.S. & U.S. Territories—Asset Status by Number of Assets, available at <http://www.gsa.gov/portal/content/102880> (last visited Apr. 19, 2016).

<sup>3</sup> General Serv. Admin., FY 2014 *Summary of Real Property Data Set*, available at [http://www.gsa.gov/portal/mediaId/227451/fileName/Summary of FY 2014 Real Property Open Data Set.action](http://www.gsa.gov/portal/mediaId/227451/fileName/Summary%20of%20FY%2014%20Real%20Property%20Open%20Data%20Set.action) (last visited Apr. 19, 2016).

<sup>4</sup> General Serv. Admin., FY 2010 *Fed. Real Property Report*, at 6, available at [http://www.gsa.gov/graphics/ogp/FY\\_2010\\_FRPP\\_Report\\_Final.pdf](http://www.gsa.gov/graphics/ogp/FY_2010_FRPP_Report_Final.pdf); See also Cong. Research Serv., *Fed. Real Property Data: Limitations & Implications for Oversight*, at 3–5, (Nov. 25, 2015) (R44286).

sale of unneeded properties. The federal government could realize billions of dollars in savings by disposing of unneeded or underutilized property, as well as consolidating and co-locating properties to realize cost efficiencies. Given current fiscal realities, the federal government can no longer afford to pay to operate and maintain vacant buildings and unneeded or underutilized properties.

*Establishment of the Public Buildings Reform Board*

H.R. 4465 is the product of longstanding bipartisan efforts to address critical issues with the federal government's management of its civilian real property portfolio. H.R. 4465 creates a structure for expeditiously disposing of unneeded and underutilized federal civilian real property assets, with the goal of generating significant revenues and cost savings to the taxpayer. As a central way to begin achieving these goals, H.R. 4465 establishes the Public Buildings Reform Board (Board), which terminates after six years. The independent Board will be composed of experts in fields such as commercial real estate, development, space optimization, and utilization, with the purpose of taking a fresh look at what should be done to drive out waste and maximize efficiencies in the government's real property portfolio. The Board will then make recommendations to the Office of Management and Budget (OMB) on properties that can be sold, consolidated, leased, co-located, reconfigured, or even transferred. If OMB approves the Board's recommendations, H.R. 4465 requires agencies to implement the recommended actions in an expeditious and efficient manner with the goal of maximizing savings to the taxpayer.

Agencies will use their existing legal authorities—as well as authorities delegated to the agency by the Administrator of the General Services Administration (GSA)—and work in partnership with GSA to proceed with actions recommended by the Board. H.R. 4465 includes a provision allowing federal agencies to enter into no cost, nonappropriated contracts for expert commercial real estate services as part of the agencies' efforts to implement Board recommendations. GSA currently makes use of no cost, nonappropriated contracts, and this provision encourages other federal agencies to do so when it is the appropriate method. All actions should be geared toward obtaining efficiencies and should be in the best interest of the taxpayer.

The Board is largely equipped to carry out its functions using existing government resources, but there is a one-time appropriation of \$2 million for salaries and expenses of the Board and the Executive Director. Office space and the accompanying personal property, such as telephones, desks, chairs, and office supplies, will all be provided by GSA. The Administrator is directed to work with the Board and the Executive Director to ensure that GSA appropriately and adequately provides the personal property needs. The Board will also rely on existing federal employees to assist the Board in performing its functions. The Executive Director, with the approval of the Board and the Director of OMB, may appoint additional staff by requesting detailees from agencies. Upon this request, the head of any federal agency is required to detail the requested personnel of that agency to the Board for not more than two years. When requesting and providing detailees, the Executive Director, Board, Director of OMB, and the head of the federal agency shall work in

partnership to ensure that the Board has adequate and consistent staffing to perform its duties. Any staff rotations are to be timed with consideration toward staffing needs, continuity, and the transfer of information and knowledge between detailees.

In addition to the \$2 million for salaries and expenses, the bill also authorizes a one-time appropriation of \$40 million—placed in a revolving fund—for the initial implementation of the Board’s recommendations. This fund will be augmented by the net proceeds from the sale of federal civilian real property pursuant to a recommendation from the Board and subject to appropriations. These funds can be used for costs associated with a number of activities described in the bill, as well as additional activities not expressly described but covered under the provision allowing for other actions recommended by the Board for Federal agencies. While this is a seemingly broad category, the actions covered are only those taken in an effort to carry out the actions recommended by the Board and approved by OMB. This includes, among other things, testing necessary for determining environmental remediation requirements.

The bill includes a provision allowing the Board to receive and consider proposals and other information submitted by the private sector and state and local government officials. This does not preclude the Board from also soliciting such information from the private sector or state and local government officials. The Board is not required to solicit information because such a process would be particularly burdensome; however, the Board may do so for cases where such information might be helpful.

#### *Transparency and efficiency measures*

H.R. 4465 is designed to ensure agencies work together to achieve the best possible outcome. Agencies are directed to provide OMB, GSA, and the Board with accurate and complete information that is responsive to their requests. All entities are encouraged to be innovative in their recommendations. This is an opportunity ripe for creative thinking with the ultimate goal being obtaining cost savings for the taxpayer. H.R. 4465 is modeled toward efficiency and encourages private-sector-like thinking and solutions. For example, H.R. 4465 requires an expeditious identification and sale of high-value assets. These sales are exempt from certain laws that might otherwise slow the disposal process. Former GSA Public Buildings Commissioner Joseph Moravec, who has many years of experience in the private sector commercial real estate industry, testified to the importance of such provisions for achieving results. He said, “If a private sector result is expected, constraints on the federal government that would not constrain a private seller need to be modified, replaced, or suspended.”<sup>5</sup> Aside from certain requirements under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the identification of high-value assets round suspends the various requirements that federal real property disposals are often subject to. As stated by Mr.

<sup>5</sup>H. Comm. on Oversight & Gov’t Reform, *Hearings on Disposal of Federal Real Property: Legislative Proposals*, 112th Cong. (July 27, 2011) (No. 112–82) (statement of F. Joseph Moravec, Former Commissioner, GSA Public Buildings Service), available at <https://www.gpo.gov/fdsys/pkg/CHRG-112hhrg71985/pdf/CHRG-112hhrg71985.pdf> [hereinafter *Statement of F. Joseph Moravec* (July 27, 2011)].

Moravec, this is an important step for maximizing returns. The proceeds from sales under the high-value assets round will be available to fund the remainder of the actions pursuant to the Board's recommendations. The use of these proceeds will also be subject to annual appropriations legislation.

Congressional oversight is an important component of the bill. Congress—in particular the Committees on Oversight and Government Reform, Transportation and Infrastructure, and Appropriations in the House and the Committees on Homeland Security and Governmental Affairs, Environment and Public Works, and Appropriations in the Senate—will have complete access to all information and data surrounding activities taken pursuant to this bill. In addition, the bill mandates analysis and reviews by GAO, which will enhance Congressional oversight and help ensure accountability. The bill also requires that all information be provided to GAO. This is important for enabling GAO to provide Congress with timely information that is objective, nonpartisan, and fact-based.

H.R. 4465 ensures full transparency into the Board's processes and decision-making. The Board is required to establish and maintain a publicly accessible website, which is an appropriate location for posting information the Board is required to make publicly available under the bill.

H.R. 4465 includes a provision requiring a publicly accessible database of federal real property to increase transparency to the taxpayer and the private sector. Importantly, this database will also serve to address a longstanding concern raised by GAO. In particular, GAO has cited poor data as one of its reasons for inclusion of federal real property management on its annual High-Risk List.<sup>6</sup> According to GAO, "effective real property management and reform are undermined by unreliable real property data."<sup>7</sup> H.R. 4465 is a necessary step in the right direction, as the requirement that this data be publicly accessible and searchable allows for greater oversight of agency data. This will enable multiple groups to hold agencies accountable for reporting accurate data. Given the enormous size of the federal real property inventory, the legislation requires that this data be publicly accessible in an open, machine-readable format to allow taxpayers to make better use of the newly available data. Further, H.R. 4465 requires that the database be set up so that it permits users to search and sort the data, and that it includes a means for users to download datasets produced through criteria searches.

One of the key goals of the real property database is to help inform agency management and decision-making with regard to real property across the federal government. To ensure this goal is achieved, it is necessary for the data reported across the various agencies to be reported using consistent data definitions and measurements, and the legislation ensures this will be the case. To do this, H.R. 4465 specifies certain data elements that must be included and permits GSA to collect additional data for inclusion in the database. The data fields required by H.R. 4465 are modeled on elements of the current data dictionary for the Federal Real Property Profile (FRPP). The FRPP was established by Executive

<sup>6</sup> GAO, *High-Risk Series* (2015), *supra* note 1.

<sup>7</sup> *Id.*



Order 13327, which charged GSA with developing a single, comprehensive database of all federal real properties. Although some improvements have been made in recent years, the FRPP is still plagued by inaccurate data and limited accessibility.

*Agency retention of proceeds*

In addition to improved data quality through agency accountability, H.R. 4465 gives other tools for the Federal government to maximize efficiency of its real property portfolio. The Federal government spends nearly \$30 billion a year on operating costs alone. H.R. 4465 is largely aimed at obtaining efficiencies and other changes that will significantly cut these annual operating costs. The bill permanently incentivizes agencies to appropriately manage and efficiently dispose of their real property assets by allowing retention of sale proceeds, thus promoting additional savings in the long-term. These incentives will go into effect following the termination of the board. According to expert testimony from Mr. Moravec:

Federal executives have inadequate financial incentive to declare properties excess and turn them over to GSA for disposal. Agencies incur front end costs which are often not reimbursed, and in the absence of special legislative authority, they do not get to retain sales proceeds, even if their property makes it to the open market and has any market value.<sup>8</sup>

Allowing agencies to retain net sale proceeds is a fiscally responsible policy that incentivizes agencies to obtain long-term savings while generating additional property sales. The use of these funds would be subject to annual appropriations legislation, with remaining amounts going to the Treasury for deficit reduction after a predetermined period.

*Streamlining and Updating the McKinney-Vento Act*

H.R. 4465 streamlines the McKinney-Vento Act by providing updates to better enable the conveyance of suitable properties to homeless service providers. GAO found that “according to national homeless advocates, many homeless assistance providers remain unaware of the availability of properties because the Federal Register is not user-friendly.”<sup>9</sup> H.R. 4465 requires that the list of properties available for application for use to assist the homeless be posted on the Department of Housing and Urban Development (HUD) or GSA’s websites, rather than in the Federal Register. H.R. 4465 also allows buildings that are not optimal for use by the homeless to be listed for sale more quickly. In a February 26, 2016 letter of support for H.R. 4465, the National Law Center on Homelessness & Poverty described the advantages offered by the bill:

First, the bill streamlines the Title V application process in a manner that will make it more efficient both for providers to apply for properties they will use and for the government to dispose of properties that are unsuitable for

<sup>8</sup> Statement of F. Joseph Moravec (July 27, 2011), *supra* note 5.

<sup>9</sup> Gov’t Accountability Office, *Federal Real Property: More Useful Information to Providers Could Improve the Homeless Assistance Program*, (Sept. 30, 2014) (GAO-14-739), available at <http://www.gao.gov/products/GAO-14-739>.

homeless assistance. Second, the legislation gives successful Title V applicants important flexibility in determining whether to take the property by deed or lease. Finally, the bill clarifies that permanent housing, with or without supportive services, is an eligible use of property acquired through Title V. While permanent housing with supportive services is an important solution to the problem of chronic homelessness, many homeless people with no substance abuse problems—such as violence victims—simply need housing for longer than local shelters can provide, but do not require supportive services.<sup>10</sup>

#### *Enhancing eligibility for museums*

H.R. 4465 includes other long-term fixes. The bill includes a provision that clarifies the eligibility requirements for receiving certain personal property. Currently, GSA regulations state that for a museum to be considered a museum attended by the public, that museum must have posted hours of operation of at least 1,000 hours per year.<sup>11</sup> In an effort to make this requirement less burdensome but to maintain the requirement that the museum be regularly accessible to the public, H.R. 4465 includes a provision clarifying the meaning of “a museum attended by the public.” With the change, a museum attended by the public is one that accedes to reasonable requests submitted for access during business hours.

#### *Public access consideration*

The legislation also includes a requirement to consider whether public access to agency services is maintained or enhanced in the standards and criteria the Board use to develop its recommendations. OMB is responsible for developing the standards and criteria, which must include a list of considerations established in the bill. Specifically, it will require that the Board consider whether public access to agency services would be maintained or enhanced if the Board makes a specific recommendation for a facility, such as a consolidation, co-location, or transfer of that facility.

This provision will help prevent unintended, negative consequences of transferring agency services to a different building, such as moving services to a building with no public parking and no public transportation option or moving Social Security Administration (SSA) services or Veterans Affairs services to a building with inadequate access for those with limited mobility. The impetus of this provision was an incident where public access issues occurred when SSA consolidated offices and functions from two buildings into one building.<sup>12</sup> In this case, public SSA services were

<sup>10</sup>Letter from Maria Foscarinis, Founder & Exec. Dir., Nat’l Law Center on Homelessness & Poverty, to Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov’t Reform, Elijah Cummings, Ranking Member, H. Comm. on Oversight & Gov’t Reform, et al. (Feb. 10, 2016).

<sup>11</sup>General Serv. Admin., Fed. Mgmt. Regulation, Part 102–37 Donation of Surplus Personal Property, Appendix C—Glossary of Terms for Determining Eligibility of Pub. Agencies & Non-profit Organizations, available at [http://www.gsa.gov/portal/ext/public/site/FMR/file/Part102\\_37AppC.html/category/21858/#wp2019720](http://www.gsa.gov/portal/ext/public/site/FMR/file/Part102_37AppC.html/category/21858/#wp2019720) (last visited Apr. 19, 2016).

<sup>12</sup>See e.g., Sandra Ramirez, *Parking scarcity torments new Social Security office*, KOAT.com, Aug. 3, 2015, available at <http://www.koat.com/news/parking-scarcity-torments-new-social-security-office/34514470>; Rosalie Rayburn, *Social Security office in ABQ has new digs*, Albuquerque Journal, Aug. 3, 2015, available at <http://www.abqjournal.com/622618/abqnewsseeker/social-security-office-in-abq-has-new-digs.html>; *Parking remains a problem for downtown Social Security Office*, KOAT.com, Aug. 12, 2015, available at <http://www.koat.com/news/parking-remains-a-problem-for-downtown-social-security-office/34685746> (last visited Apr. 19, 2016).

moved to a building that had not served in a customer-facing capacity and thus was not outfitted for such purposes.<sup>13</sup> SSA has since taken steps to address the access issues.<sup>14</sup>

#### LEGISLATIVE HISTORY

H.R. 4465, the Federal Assets Sale and Transfer Act of 2016, was introduced on February 4, 2016 by Congressman Jeff Denham (R-CA) and referred to the Committee on Transportation and Infrastructure and the Committee on Oversight and Government Reform. On March 2, 2016, the Committee on Transportation and Infrastructure ordered H.R. 4465 favorably reported, without amendment. On April 14, 2016, the Committee on Oversight and Government Reform held a business meeting and considered H.R. 4465. During consideration of H.R. 4465, Chairman Jason Chaffetz (R-UT) offered an amendment in the nature of a substitute, and Congresswoman Michelle Lujan Grisham (D-NM) offered an amendment to the amendment in the nature of a substitute. The Committee agreed to both amendments by voice vote. Following the adoption of the amendments, the Committee ordered H.R. 4465 favorably reported, as amended, a quorum being present. Representatives Jason Chaffetz (R-UT), Bill Shuster (R-PA), Elijah Cummings (D-MD), Peter DeFazio (D-OR), Lou Barletta (R-PA), and Andre Carson (D-IN) are original cosponsors.

Additionally, provisions contained in H.R. 4465 have passed the House in previous Congresses. In the 112th Congress, H.R. 1734, the Civilian Property Realignment Act, introduced by Congressman Jeff Denham passed the House. Also in the 112th Congress, H.R. 665, the Excess Federal Building and Property Disposal Act of 2012, introduced by Congressman Jason Chaffetz, passed the House. In the 113th Congress, Congressman Denham introduced H.R. 695, the Civilian Property Realignment Act. Also in the 113th Congress, Congressman Chaffetz introduced H.R. 328, the Excess Federal Building and Property Disposal Act of 2013, which the Committee on Oversight and Government Reform ordered favorably reported by voice vote, without amendment, on March 20, 2013.

Additionally, the Committee on Oversight and Government Reform has held a number of hearings on federal real property disposal. On July 27, 2011, the Committee on Oversight and Government Reform held a hearing titled, Disposal of Federal Real Property: Legislative Proposals. On February 27, 2013, the Subcommittee on Government Operations held a hearing titled, Failures in Managing Federal Real Property: Billions in Losses. On July 29, 2014, the Subcommittee on Government Operations held a hearing titled, Federal Real Property: Eliminating Waste and Mismanagement of Real Property Assets.

#### SECTION-BY-SECTION

##### *Section 1. Short title; Table of contents*

Designates the short title of the bill as the Federal Assets Sale and Transfer Act of 2016.

---

<sup>13</sup>*Id.*

<sup>14</sup>*Id.*

### *Section 2. Purposes*

This section establishes the purposes of the legislation, which are aimed at reducing the costs of Federal real estate in the immediate and long-term future. These purposes include improving efficiency in the makeup of the footprint of Federal buildings and facilities through consolidating, selling or redeveloping, maximizing utilization of space, and assisting agencies in achieving sustainability goals by reducing excess space, inventory, and energy consumption. Other goals of the bill include reducing the reliance on leased space, the operating and maintenance costs of properties, and the redundancy, overlap, and costs associated with field offices. The bill aims to help facilitate agencies achieving greater efficiency and cost reductions by creating incentives for agencies to do so, by facilitating and expediting sales and disposals of unneeded real properties, and by improving the efficiency of real property transfers for the provisions of service to the homeless.

### *Section 3. Definitions*

This section defines terms used throughout the bill. The section defines the terms Federal civilian real property and civilian real property, excluding from those definitions certain properties under the jurisdiction of the Coast Guard, on military installations, on Indian reservations, or belonging to an Indian tribe or individual. It excludes properties used for Federal programs for agricultural, recreational, or conservation purposes, as well as those used in connection with river, harbor, reclamation, or power projects. Naval vessels, national parks, United States Postal Service properties, and Tennessee Valley Authority properties are all excluded. The definition also excludes properties determined for exclusion for national security reasons.

This section defines the value of transactions as the sum of estimated costs and estimated proceeds.

### *Section 4. Board*

This section sets up a Public Buildings Reform Board (the Board). The Board consists of a presidentially-appointed and Senate-confirmed Chairperson, and six other presidentially-appointed members. Each Board member has a six-year term.

The President is to consult with the Speaker and majority/minority leaders of the House and Senate in making appointments. Appointees should have expertise in commercial real estate and development, space optimization and utilization, and/or community development.

### *Section 5. Board meetings*

This section sets forth the requirements for Board meetings, including transparency requirements. The section establishes a quorum of five members, with three or more members constituting a meeting. The section makes clear the requirement of full disclosure of all information surrounding and related to the Board's activities to the Chairpersons and ranking members of the listed committees of Congress, as well as the related subcommittees. All information, proceedings, and deliberations are also available to the Government Accountability Office (GAO) upon request.

*Section 6. Compensation and travel expenses*

This section establishes the rate of pay of the Board Members and Chairperson. Board Members are to be paid according to level IV of the Executive Schedule. The Chairperson is to be paid according to level III of the Executive Schedule. Compensation is based on each day the member is actually engaged in their duties. The section allows travel expenses for the members in accordance with sections 5702 and 5703 of Title 5, United States Code.

*Section 7. Executive Director*

This section requires the appointment of an Executive Director. The Board appoints the Executive Director, who is permitted to be excepted from Title 5 regarding appointments in the competitive service. The Executive Director is to be paid according to level IV of the Executive Schedule.

*Section 8. Staff*

This section explains the allowances for staff, requiring the Board to rely on existing federal employees to assist the Board in performing its functions. The Executive Director, with the approval of the Board and the Director of the Office of Management and Budget (OMB), may appoint additional staff by requesting details from other agencies. To the extent practicable, the Board shall obtain staff with expertise in one or more of the following: commercial real estate and redevelopment, space optimization and utilization, and community development, including transportation and planning.

*Section 9. Contracting authority*

This section clarifies the Board's contracting authority. When practicable and subject to funding, the Board is to use General Services Administration (GSA) contracts. GSA will consult with the Board to identify existing office space and equipment for the Board.

*Section 10. Termination*

This section states the Board's termination date. The Board will terminate six years from the date of enactment of the Act.

*Section 11. Development of recommendations to Board*

This section requires federal agencies to develop recommendations to the Board. Each agency head shall make recommendations on properties that can be sold, consolidated, transferred, exchanged, collocated, reconfigured, redeveloped, or otherwise disposed to reduce operating costs. The head of each federal agency also provides GSA and OMB with data on Federal civilian real property owned, leased, or controlled by the agency and data related to the condition, use, operation, and costs of the properties. Each agency is required to provide the current data and recommendations 120 days after enactment of this Act and, thereafter, 120 days after the first day of each fiscal year until termination of the Board.

OMB will consult with GSA to develop standards and criteria to use to review recommendations, and then use those standards and criteria to conduct the review. The standards and criteria will incorporate elements that OMB and GSA determine appropriate.

This section requires that the standards and criteria include the following factors:

- (A) The extent to which the civilian real property could be sold, redeveloped, outleased, or otherwise used to produce the highest and best value and return for the taxpayer;
- (B) The extent to which operating and maintenance costs are reduced through consolidating, co-locating, and reconfiguring space, and through realizing other operational efficiencies;
- (C) The extent to which the utilization rate is being maximized and is consistent with industry standards in the private sector;
- (D) The extent to which potential costs and savings occur, as well as when those costs and savings are realized;
- (E) The extent to which reliance on leasing is reduced;
- (F) The extent to which civilian real property aligns with the current agency mission;
- (G) The extent to which opportunities exist for consolidation of similar operations across multiple agencies or within agencies;
- (H) The economic impact on surrounding communities;
- (I) The extent to which energy consumption is reduced; and
- (J) The extent to which public access to agency services is maintained or enhanced.

The standards and criteria must incorporate and apply clear standard utilization rates—to the extent that such standard rates increase efficiency and provide performance data—consistent throughout each applicable category of space and with nongovernment space utilization rates.

Using the standards and criteria, OMB and GSA will develop recommendations to the Board. The Director of OMB then submits standards, criteria, and recommendations to the Board, including all supporting information and analyses. The Director of OMB must submit to the Board the aforementioned information no later than 60 days after the deadline for agency data submissions.

The standards and criteria are then published in the Federal Register and transmitted to the appropriate committees of Congress and to GAO.

The section also requires federal agencies to provide the Board with additional information pertaining to the civilian real properties upon request. The Board shall notify the appropriate congressional committees if they encounter any difficulty obtaining the pertinent information.

#### *Section 12. Board duties*

This section explains the duties of the Board. The Board will identify opportunities to reduce the real property inventory, identify high-value assets, conduct an independent analysis of the real property inventory, and establish an accounting system to weigh the costs and returns of the recommendations. The Board will also conduct public hearings. The Board will establish and maintain a Federal web site.

This section requires the Board to make initial recommendations within the first 180 days to sell high-value assets, where the value of transactions would be between \$500 and \$750 million. The Board will send its recommendations to OMB and Congress and

post them publicly on the Board's website. Agencies are required to submit a Report of Excess on these properties after the recommendations are approved by OMB, as detailed in the following section. GSA is responsible for the sale of these properties and must do so within one year after the acceptance of the Report of Excess. In extenuating circumstances, the Director of OMB may determine it is in the financial interest of the government to execute a sale more than a year after the acceptance of the Report of Excess, but not greater than two years after the acceptance of the Report of Excess.

GSA must sell the properties at fair market value at highest and best use. Other recommendations are made in two additional rounds found later in this section.

This section makes clear that the Board is to notify the appropriate congressional committees if an agency does not comply with a request for information or data from the Board.

The Board may receive and consider proposals and other information submitted by the private sector. The Board may also receive and consider proposals and other information from State and local officials, and the Board must consult with those officials that make submissions. All of the information submitted to the Board by the private sector or State and local officials is to be made publicly available.

This section defines the timelines and construct for two additional rounds of Board recommendations. The total value of transactions for the first round are capped at \$2.5 billion, and \$4.75 billion for the second round. The Board is to develop and post publicly on the Board's web site reports containing the Board's findings, conclusions, and recommendations for the following:

(A) The consolidation, exchange, co-location, reconfiguration, lease reductions, sale, outlease, and redevelopment of Federal civilian real properties; and

(B) Other operational efficiencies that can be realized in the Government's operation and maintenance of such properties.

GAO will conduct a detailed analysis of the Board's recommendations and submit a report of the analysis to Congress and the Board.

### *Section 13. Review by OMB*

This section requires OMB review and approval or disapproval of Board recommendations. OMB shall review the Board's recommendations and transmit to Congress either their approval or their denial of portions/all of the Board's recommendations. The Board has 30 days to revise recommendations if OMB disapproves.

OMB can accept or reject the revisions. If rejected, the process is terminated until the following round.

### *Section 14. Implementation of Board recommendations*

This section gives agencies 60 days from the day OMB transmits the approved recommendations to Congress to begin preparations to carry out the Board's recommendations and 2 years to initiate all activities necessary to carry out the recommendations. Agencies have six years to complete recommendations, except for extenuating circumstances. Agencies are to work with GSA to carry out

recommendations, and agencies are to continue to act within their existing legal authorities to facilitate the recommendations.

This section makes a sale, disposal, consolidation, reconfiguration, or co-location of property under the Act not subject to numerous provisions of existing law that authorize the no-cost conveyance of property.

On the same day OMB transmits the recommendations to Congress, OMB submits the properties to the Department of Housing and Urban Development (HUD) for review pursuant to the McKinney-Vento Homeless Assistance Act.

The Director of OMB may exclude properties from disposal if the property is suitable for use as a public park or recreation area, but only if its use as such is in the best interest of the taxpayer.

This section allows federal agencies to enter into no cost, non-appropriated contracts for expert commercial real estate services as part of the agencies efforts to implement the Board's recommendations.

This section establishes a special option for agency disposition, including transfer, of Federal real property with environmental contamination concerns.

#### *Section 15. Authorization of appropriations*

This section authorizes an initial \$2 million in salaries and expenses and \$40 million for the Asset Proceeds and Space Management Fund for activities related to implementation of Board recommendations. Both are one-time authorizations.

#### *Section 16. Funding*

This section establishes the necessary accounts for salaries and expenses, as well as an account to receive the proceeds from property sales to fund activities related to implementation of the recommendations. The account related to the implementation of Board recommendations is established within the Federal Buildings Fund and is titled the Public Buildings Reform Board—Asset Proceeds and Space Management Fund.

#### *Section 17. Congressional approval of proposed projects*

This section requires GSA to include statements in prospectuses submitted to Congress that show consistency with the standards and criteria discussed earlier in the legislation.

#### *Section 18. Preclusion of judicial review*

This section limits judicial review on certain actions, including actions taken by the Board and actions taken pursuant to the Board's recommendations.

#### *Section 19. Implementation review by GAO*

This section requires GAO to monitor agency activities related to the Board's recommendations and to report to Congress on any findings and recommendations annually.

#### *Section 20. Agency retention of proceeds*

This section makes permanent changes to the disposal process after termination of the Board. The changes allow for agencies to retain, in appropriate accounts, the net proceeds from the transfer



of excess real property or the sale, lease, or other disposition of surplus real property. The net proceeds can then be used to pay for subsequent disposal-related activity, but only if authorized in annual appropriations Acts. Once deposited in the appropriate accounts, agencies have three years to obligate and five years to expend the net proceeds under this authority. Net proceeds not obligated or expended under this authority return to the Treasury to go toward deficit reduction.

*Section 21. Federal real property database*

This section creates a statutory requirement for GSA to create a comprehensive database on real property. The database will contain certain prescribed information. The database must be publicly accessible in an open, machine-readable format. This section requires that the database is set up so that it permits users to search and sort the data, and that it includes a means for users to download the data retrieved from their searching and sorting.

This section requires that the database includes the following information for each Federal real property:

- (1) Geographic location, including address and relevant description;
- (2) Total size of the facility;
- (3) Whether it is currently, or will in the future be, needed to support the agency's mission or function;
- (4) Utilization, including whether it is excess, surplus, underutilized, or unutilized;
- (5) Number of days it has been excess, surplus, underutilized, or unutilized;
- (6) Annual operating costs; and
- (7) Replacement value.

Information that may be sensitive for reason of national security is exempt from inclusion in the publicly accessible database. Certain information exempted from release under the Freedom of Information Act (5 U.S.C. 552(b)) are similarly exempt from public release via the Federal real property database.

*Section 22. Streamlining McKinney-Vento Homeless Assistance Act*

This section streamlines and updates the process under the McKinney-Vento Homeless Assistance Act. This section requires that the list of properties available for application for use to assist the homeless is posted on HUD or GSA's websites, rather than in the Federal Register. This section expedites the application process. The provision of permanent housing to the homeless, regardless of whether or not additional services are provided, will now be considered an eligible use to assist the homeless.

*Section 23. Additional property*

This section amends section 549(c)(3)(B)(vii) of title 40 to clarify requirements for eligibility to receive certain personal property, which will in turn broaden the scope of entities eligible to receive such property. It requires the Administrator of GSA to consider a museum to be a museum attended by the public if the museum—a nonprofit educational or public health institution or organization—accedes to any reasonable request submitted for access during business hours.

## EXPLANATION OF AMENDMENTS

During Full Committee consideration of the bill, Chairman Jason Chaffetz (R-UT) offered an amendment in the nature of a substitute to make a number of technical revisions to enhance the bill. Congresswoman Michelle Lujan Grisham (D-NM) offered an amendment to the amendment in the nature of a substitute, which was adopted by voice vote. The Chaffetz amendment in the nature of a substitute, as amended, was then adopted by voice vote, and its provisions are reflected in the section by section analysis of this report.

## COMMITTEE CONSIDERATION

On April 14, 2016, the Committee met in open session and ordered reported favorably the bill, H.R. 4465, as amended, by voice vote, a quorum being present.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill seeks to improve the management of the federal government’s real property portfolio. As such this bill does not relate to employment or access to public services and accommodations.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goals or objective of the bill is to decrease the deficit by consolidating and selling Federal buildings and other civilian real property.

## DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

## FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

## UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

## EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 19, 2016.*

Hon. JASON CHAFFETZ,  
*Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4465, the Federal Assets Sale and Transfer Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 4465—Federal Assets Sale and Transfer Act of 2016*

Summary: H.R. 4465 aims to better manage federal real property by reducing the inventory of such property and the cost of maintaining the remaining inventory. The bill would establish the Public Buildings Reform Board (board) to provide recommendations to the Office of Management and Budget (OMB) regarding specific federal properties that should be sold. The board would be charged with recommending specific operational efficiencies that could be implemented to reduce the inventory and cost of the government's real estate holdings. The legislation also would authorize the appropriation of \$2 million to fund the board and \$40 million to implement the board's recommendations.

Assuming appropriation of the specified amounts, CBO estimates that implementing H.R. 4465 would cost \$8 million in 2017 and about \$40 million over the 2017–2021 period. If the board's recommendations lead to the sale of facilities, the legislation also would result in additional receipts. However, CBO has no basis to estimate whether the board's recommendations would result in the sale of any properties that would not otherwise be sold under current law. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4465 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4465 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the federal government: The estimated budgetary effects of H.R. 4465 are shown in the following table. The costs of this legislation fall within all budget functions that contain federal real property other than 050 (national defense).

	By fiscal year, in millions of dollars—					2017– 2021
	2017	2018	2019	2020	2021	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Public Buildings Reform Board:						
Authorization Level .....	2	0	0	0	0	2
Estimated Outlays .....	*	*	*	*	*	2
Asset Proceeds and Space Management Fund:						
Authorization Level .....	40	0	0	0	0	40
Estimated Outlays .....	7	7	7	7	6	34
Other Requirements:						
Estimated Authorization Level .....	1	*	*	*	*	3
Estimated Outlays .....	1	*	*	*	*	3
Total Changes:						
Estimated Authorization Level .....	43	0	0	0	0	45
Estimated Outlays .....	8	7	7	7	6	39

Note: \* = less than \$500,000; components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2016, that the authorized amounts will be appropriated, and that spending will follow historical patterns for similar management efforts.

### *Public Buildings Reform Board*

H.R. 4465 would establish an independent board to recommend to OMB properties that could be sold in order to reduce the inventory of federal civilian real property. The board would consist of seven members appointed by the President. H.R. 4465 would specify two major objectives for the board. First, the board would be required to identify and recommend the sale of at least five federal civilian properties with a combined estimated fair market value of between \$500 million and \$750 million. Second, the legislation would require the board to recommend to OMB opportunities to consolidate, exchange, sell, or redevelop federal properties to further reduce the inventory of civilian real property and to reduce operating costs. All recommendations made by the board would be available to the public on a government website.

Under the bill, the board would terminate after six years. H.R. 4465 would authorize the appropriation of \$2 million for the board's expenses. Assuming appropriation of those amounts, CBO estimates the board would spend about \$2 million over the 2017–2021 period.

### *Asset Proceeds and Space Management Fund*

H.R. 4465 would establish a fund to help agencies cover any costs associated with implementing the board's recommendations. During its six-year term, the board would primarily work with the General Services Administration (GSA) to consolidate, reconfigure, redevelop, or co-locate agency operations in order to make additional properties available for sale. The bill would authorize the appropriation of \$40 million for those purposes. Assuming appropriation of the specified amount, CBO estimates that agencies would spend about \$7 million annually over the 2017–2021 period to prepare federal properties for sale or achieve other operational efficiencies.

### *Other requirements*

H.R. 4465 would require GSA and federal civilian agencies to prepare additional reports and recommendations about their real property holding and would require GSA to improve its database of federal property. CBO estimates that implementing those provisions would increase the workloads of GSA and other agencies. In addition, the Government Accountability Office would be required to report on all the recommendations. Based on information from GSA and some landholding agencies, CBO estimates that those activities would cost \$3 million over the 2017–2021 period; such spending would be subject to the availability of appropriated funds.

### *Effect on federal property sales*

Under current law, before an agency can offer federal real property that it considers to be surplus for sale to the public, the agency must first offer that property to other federal agencies, state and local governments, and in some cases nonprofit organizations, at no cost. H.R. 4465 would exempt properties recommended for sale by the board from those requirements, except for the purpose of alleviating homelessness. CBO does not expect that exemption would increase the proceeds from selling surplus properties above the ex-

pected amounts under current law because other barriers to selling such property will still exist.

Based on information from GSA and other agencies that hold significant amounts of real property, CBO has concluded that there are at least two other obstacles that constrain the amount of property offered for sale and ultimately sold to the public.<sup>1</sup>

- First, agencies generally lack funds to prepare properties for sale, including relocating any users of such properties. To help implement the board's recommendations, the bill would authorize appropriations to cover the costs of moving, consolidating, marketing, renovating property. However, those amounts may not be sufficient to cover such costs. Furthermore, any additional proceeds from sales would depend on the enactment of appropriated amounts and cannot be attributed to this bill.

- Second, many agencies resist efforts to sell property and prefer to leverage the value of their holdings rather than sell them outright. In most cases property-holding agencies do not have access to any of the proceeds from a sale of their property. However, they may have other authorities that enable them to add to their budgetary resources; for example, some agencies can lease unused real property and spend those proceeds on mission-related or administrative purposes. Whether or not the board that would be created by H.R. 4465 could overcome such resistance is unclear.

For these reasons, CBO has no basis to estimate whether the board's recommendations for \$8 billion in changes to the federal government real estate holdings would result in additional receipts.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: H.R. 4465 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO Estimate: On May 17, 2016, CBO transmitted a cost estimate for S. 2375, the Federal Asset Sale and Transfer Act of 2015, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on December 9, 2015. On May 19, 2016, CBO transmitted a cost estimate for H.R. 4465, as ordered reported by the House Committee on Transportation and Infrastructure on March 2, 2016. Both versions of H.R. 4465 and S. 2375 aim to better manage federal real property by reducing the inventory of such property and the cost of maintaining the remaining inventory; CBO's estimate of their costs are the same.

Estimate prepared by: Federal spending: Matthew Pickford; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

<sup>1</sup>For more information on the barriers to selling federal real property see Congressional Budget Office, *letter to Honorable Darrell E. Issa containing an analysis of a proposal to expedite the disposal of federal civilian real property* (June 27, 2011).

ted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

## TITLE 40, UNITED STATES CODE

\* \* \* \* \*

### SUBTITLE I—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES

\* \* \* \* \*

#### CHAPTER 5—PROPERTY MANAGEMENT

\* \* \* \* \*

#### SUBCHAPTER III—DISPOSING OF PROPERTY

\* \* \* \* \*

#### **§ 549. Donation of personal property through state agencies**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) PUBLIC AGENCY.—The term “public agency” means—

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY.—The term “state agency” means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator’s discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY.—

(A) IN GENERAL.—Property referred to in paragraph (1) is any personal property that—

(i) is under the control of an executive agency; and

(ii) has been determined to be surplus property.

(B) SPECIAL RULE.—In determining whether the property is to be transferred for donation under this section, no distinction may be made between property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) NO COST.—Transfer of property under this section is without cost, except for any costs of care and handling.

(c) ALLOCATION AND TRANSFER OF PROPERTY.—

(1) IN GENERAL.—The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient's request, transmitted through the state agency, for a specific item of property.

(2) ALLOCATION AMONG STATES.—The Administrator shall allocate property among the States on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) RECIPIENTS AND PURPOSES.—The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State—

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety;

(B) for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including—

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

[(vii) a museum attended by the public;]

*(vii) a museum attended by the public, and, for purposes of determining whether a museum is attended by the public, the Administrator shall consider a museum to be public if the nonprofit educational or public health institution or organization, at minimum, accedes to any request submitted for access during business hours;*

(viii) a library serving free all residents of a community, district, State, or region; or



(ix) a historic light station as defined under section 305101(4) of title 54, including a historic light station conveyed under section 305103 of title 54, notwithstanding the number of hours that the historic light station is open to the public; or

(C) for purposes of providing services to veterans (as defined in section 101 of title 38), to an organization whose—

(i) membership comprises substantially veterans; and

(ii) representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

(4) EXCEPTION.—This subsection does not apply to property transferred under subsection (d).

(d) DEPARTMENT OF DEFENSE PROPERTY.—

(1) DETERMINATION.—The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) PROPERTY USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) PROPERTY NOT USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) STATE PLAN OF OPERATION.—

(1) IN GENERAL.—Before property may be transferred to a state agency, the State shall develop a detailed state plan of operation, in accordance with this subsection and with state law.

(2) PROCEDURE.—

(A) CONSIDERATION OF NEEDS AND RESOURCES.—In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) PUBLICATION AND PERIOD FOR COMMENT.—The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) CERTIFICATION.—The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) REQUIREMENTS.—

(A) STATE AGENCY.—The state plan of operation shall include adequate assurance that the state agency has—

(i) the necessary organizational and operational authority and capability including staff, facilities, and means and methods of financing; and

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) EQUITABLE DISTRIBUTION.—The state plan of operation shall provide for fair and equitable distribution of property in the State based on the relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) MANAGEMENT CONTROL AND ACCOUNTING SYSTEMS.—The state plan of operation shall require, for donable property transferred under this section, that the state agency use management control and accounting systems of the same type as systems required by state law for state-owned property. However, with approval from the chief executive officer of the State, the state agency may elect to use other management control and accounting systems that are effective to govern the use, inventory control, accountability, and disposal of property under this section.

(D) RETURN AND REDISTRIBUTION FOR NON-USE.—The state plan of operation shall require the state agency to provide for the return and redistribution of donable property if the property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for that purpose within one year of being placed in use.

(E) REQUEST BY RECIPIENT.—The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other eligible institution in the State and, if requested by the recipient, to arrange shipment of the property directly to the recipient.

(F) SERVICE CHARGES.—If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS.—

(i) IN GENERAL.—The state plan of operation shall provide that the state agency—

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of \$5,000 or more.

(ii) SPECIAL LIMITATIONS.—If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) UNUSABLE PROPERTY.—

(i) DISPOSAL.—The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by eligible recipients shall be disposed of—

(I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or

(II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) PROCEEDS FROM SALE.—Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

(1) PARTIES TO THE AGREEMENT.—For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and—

(A) the Administrator;

(B) the Secretary of Education, for property transferred under section 550(c) of this title;

(C) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title; or

(D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) SHARED RESOURCES.—The cooperative agreement may provide that the property, facilities, personnel, or services of—

(A) a state agency may be used by a federal agency; and

(B) a federal agency may be made available to a state agency.

(3) REIMBURSEMENT.—The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) SURPLUS PROPERTY TRANSFERRED TO STATE AGENCY.—

(A) IN GENERAL.—Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) CONDITIONS.—Retention of surplus property under this paragraph is subject to conditions that may be imposed by—

- (i) the Administrator;
- (ii) the Secretary of Education, for property transferred under section 550(c) of this title; or
- (iii) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title.

\* \* \* \* \*

#### SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

##### § 571. General rules for deposit and use of proceeds

[(a) DEPOSIT IN TREASURY AS MISCELLANEOUS RECEIPTS.—

[(1) IN GENERAL.—Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

[(2) PROCEEDS.—The proceeds referred to in paragraph (1) are proceeds under this chapter from a—

[(A) transfer of excess property to a federal agency for agency use; or

[(B) sale, lease, or other disposition of surplus property.

[(b) PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.—Subject to regulations under this subtitle, the expenses of the sale of old material, condemned stores, supplies, or other public property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This subsection applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.]

(a) *PROCEEDS FROM TRANSFER OR SALE OF REAL PROPERTY.—*

(1) *DEPOSIT OF NET PROCEEDS.—Net proceeds described in subsection (c) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property at the time the real property is determined to be excess.*

(2) *EXPENDITURE OF NET PROCEEDS.—The net proceeds deposited pursuant to paragraph (1) may only be expended, as authorized in annual appropriations Acts, for activities described in sections 543 and 545, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this chapter.*

(3) *DEFICIT REDUCTION.—Any net proceeds described in subsection (c) from the sale, lease, or other disposition of surplus real property that are not expended under paragraph (2) shall be used for deficit reduction. Any net proceeds not obligated within 3 years after the date of deposit and not expended within 5 years after such date shall be deposited as miscellaneous receipts in the Treasury.*

(b) *EFFECT ON OTHER SECTIONS.*—Nothing in this section is intended to affect section 572(b), 573, or 574.

(c) *NET PROCEEDS.*—The net proceeds described in this subsection are proceeds under this chapter, less expenses of the transfer or disposition as provided in section 572(a), from a—

- (1) transfer of excess real property to a Federal agency for agency use; or
- (2) sale, lease, or other disposition of surplus real property.

\* \* \* \* \*

## SUBTITLE II—PUBLIC BUILDINGS AND WORKS

\* \* \* \* \*

### PART A—GENERAL

\* \* \* \* \*

## CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

\* \* \* \* \*

### § 3307. Congressional approval of proposed projects

(a) **RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.**—The following appropriations may be made only if the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives adopt resolutions approving the purpose for which the appropriation is made:

(1) An appropriation to construct, alter, or acquire any building to be used as a public building which involves a total expenditure in excess of \$1,500,000, so that the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for the buildings, except as provided in section 3305(b) of this title, is ensured.

(2) An appropriation to lease any space at an average annual rental in excess of \$1,500,000 for use for public purposes.

(3) An appropriation to alter any building, or part of the building, which is under lease by the Federal Government for use for a public purpose if the cost of the alteration will exceed \$750,000.

(b) **TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.**—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) a brief description of the building to be constructed, altered, or acquired, or the space to be leased, under this chapter;

(2) the location of the building or space to be leased and an estimate of the maximum cost to the Government of the facility to be constructed, altered, or acquired, or the space to be leased;

(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed fa-

cility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action;

(5) a statement by the Administrator of the economic and other justifications for not acquiring a building identified to the Administrator under section 3303(c) of this title as suitable for the public building needs of the Government;

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased; [and]

(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project[.]; and

(8) a statement of how the proposed project is consistent with the standards and criteria developed under section 11(b) of the Federal Assets Sale and Transfer Act of 2016.

(c) INCREASE OF ESTIMATED MAXIMUM COST.—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost.

(d) RESCISSION OF APPROVAL.—If an appropriation is not made within one year after the date a project for construction, alteration, or acquisition is approved under subsection (a), the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives by resolution may rescind its approval before an appropriation is made.

(e) EMERGENCY LEASES BY THE ADMINISTRATOR.—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).

(f) MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.—With respect to space to be leased, the Administrator shall include, to the maximum extent practicable, minimum performance requirements requiring energy efficiency and the use of renewable energy.

(g) LIMITATION ON LEASING CERTAIN SPACE.—

(1) IN GENERAL.—The Administrator may not lease space to accommodate any of the following if the average rental cost of leasing the space will exceed \$1,500,000:

(A) Computer and telecommunications operations.

(B) Secure or sensitive activities related to the national defense or security, except when it would be inappropriate to locate those activities in a public building or other facility identified with the Government.

(C) A permanent courtroom, judicial chamber, or administrative office for any United States court.

(2) EXCEPTION.—The Administrator may lease space with respect to which paragraph (1) applies if the Administrator—

(A) decides, for reasons set forth in writing, that leasing the space is necessary to meet requirements which cannot be met in public buildings; and

(B) submits the reasons to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(h) DOLLAR AMOUNT ADJUSTMENT.—The Administrator annually may adjust any dollar amount referred to in this section to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

\* \* \* \* \*

## **MCKINNEY-VENTO HOMELESS ASSISTANCE ACT**

\* \* \* \* \*

## **TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY**

### **SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS.**

(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless.

(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall promptly notify each Federal agency with respect to any property of that

agency that the Secretary has identified under subsection (a). No later than 45 days after receipt of such a notice, the head of the appropriate landholding agency shall transmit to the Secretary the agency's response to property identifications contained in such notification, which shall include—

(A) in the case of unutilized or underutilized property—

- (i) a statement of intention to determine the property excess to the agency's needs;
- (ii) a statement of intention to make the property available for use to assist the homeless; or
- (iii) a statement of the reasons (including a full explanation of the need) the property cannot be determined excess to the agency's needs or made available for use to assist the homeless; and

(B) in the case of excess property—

- (i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or
- (ii) a statement that there is further and compelling Federal need for the property (including a full explanation of such need) and that, therefore, the property is not presently available for use to assist the homeless.

(2) **[(A)]** All properties identified by the Secretary under subsection (a) shall be available for application—

**[(i)]** (A) in the case of property other than surplus property, for use to assist the homeless in accordance with the provisions of this section; **[and]**

**[(ii)]** (B) in the case of surplus property, for use to assist the homeless either in accordance with this section or as a public health use in accordance with paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1)(4)) **[.]**; and

*(C) in the case of surplus property, the provision of permanent housing with or without supportive services is an eligible use to assist the homeless under this section.*

(3) The Secretary shall maintain a written public record of—

(A) the identification of buildings and other properties by the Secretary under this subsection and the reasons for such identifications; and

(B) the responses of landholding agencies to such identifications.

(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall publish **[in the Federal Register]** *on the Web site of the Department of Housing and Urban Development or the General Services Administration*—

(i) a list of all properties reviewed by the Secretary under subsection (a); and

(ii) a list of all properties that are available under subsection (b)(2) for application for use to assist the homeless.

(B) Each publication of properties shall include a description and the location of each property (including the address and zip code) and the current classification of each property as unutilized, underutilized, excess property, or surplus property.



(C) The Secretary shall make available to the public upon request all information in the possession of the Department of Housing and Urban Development (other than valuation information), regardless of format, about all properties reviewed and not identified as being suitable for use to assist the homeless, including the reasons such properties were not so identified.

(D) The Secretary shall publish separately, on an annual basis, all properties identified as being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such properties were unavailable.

(2)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the list of available properties published under paragraph (1)(A)(ii) to the United States Interagency Council on Homelessness. The Council shall immediately distribute to all State and regional homeless coordinators area-relevant portions of the list.

(B) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as are necessary to ensure the widest possible dissemination of the information on such list.

(C) The Secretary shall establish a toll-free number to provide the public with specific information about properties on such list.

(3) The Secretary shall make available to the public upon request all information (other than valuation information) regardless of format in the possession of the Department of Housing and Urban Development about the properties published under paragraph (1)(A), including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

(4)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status and the current classification of each property controlled by the agency, that—

(i) was included in a list published in that year by the Secretary under paragraph (1)(A)(ii); and

(ii) remains available for application for use to assist the homeless or has become available for application during that year.

(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year and the current classification of the properties.

(C) For purposes of subparagraph (A), property shall not be considered to remain available for application for use to assist the homeless after the 60-day holding period provided under subsection (d) if—

(i) an application for or written expression of interest in the property is made under any law for use of the property for any purpose; or

(ii) the Administrator receives a bona fide offer to purchase the property or advertises for the sale of the property by public auction.

(d) **HOLDING PERIOD.**—(1) Properties published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless shall not be available for any other purpose for a period of

60 days] *period of 30 days* beginning on the date of such publication.

(2) If written notice of intent to apply for such a property for use to assist the homeless is received by the Secretary of Health and Human Services within the [60-day period] *30-day period* described under paragraph (1), such property may not be made available for any other purpose until the date the Secretary of Health and Human Services or other appropriate landholding agency has completed action on the application submitted under subsection (e) with respect to that written notice of intent.

(3) Property that is reviewed by the Secretary under subsection (a) and that is not identified by the Secretary as being suitable for use to assist the homeless may not be made available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless. The Secretary shall disseminate immediately this information to the regional offices of the Department of Housing and Urban Development and to the United States Interagency Council on Homelessness. *If no such review of the determination is requested within the 20-day period, such property will not be included in subsequent publications unless the landholding agency makes changes to the property (e.g. improvements) that may change the unsuitable determination and the Secretary subsequently determines the property is suitable.*

(4)(A) Written notice of intent to apply for a property published under subsection (c)(1)(A)(ii) may be filed at any time after the [60-day period] *30-day period* described in paragraph (1) has expired. In such case, an application submitted pursuant to the notice may be approved for disposal for use to assist the homeless only if the property remains available for application for use to assist the homeless. If the property remains available, the use to assist the homeless shall be given priority of consideration over other competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), except as provided in subsection (f)(3)(A).

(B) Surplus property for which an application has been approved shall be assigned promptly to the Secretary of Health and Human Services for disposition in accordance with and subject to subsection (f).

(e) APPLICATION FOR PROPERTY.—(1) A representative of the homeless may submit an application to the Secretary of Health and Human Services for any property that is published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless.

(2)(A) No later than [90 days] *75 days* after the submission of written notice of intent to apply for a property, an applicant shall submit [a complete application] *an initial application* to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the appropriate landholding agency, grant reasonable extensions.

(B) *An initial application shall set forth—*

- (i) the services that will be offered;*
- (ii) the need for the services; and*
- (iii) the experience of the applicant that demonstrates the ability to provide the services.*

(3) No later than **25 days after receipt of a completed application** *10 days after receipt of an initial application*, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written public record of all actions taken in response to an application.

(4) *If the Secretary of Health and Human Services approves an initial application, the applicant has 45 days in which to provide a final application that sets forth a reasonable plan to finance the approved program.*

(5) *No later than 15 days after receipt of the final application, the Secretary of Health and Human Services shall review, make a final determination, and complete all actions on the final application. The Secretary of Health and Human Services shall maintain a public record of all actions taken in response to an application.*

(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, property for which the Secretary of Health and Human Services has approved an application under subsection (e) shall be made promptly **available by** *available, at the applicant's discretion, by permit or lease, or by deed as a public health use under paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1) and (4)), to the representative of the homeless that submitted the application.*

(2) Unutilized or underutilized property that is the subject of an agency's statement of intention under subsection (b)(1)(A)(ii) shall be made promptly available by the appropriate landholding agency to the approved applicant by lease or permit for a term of not less than 1 year, unless the applicant requests a shorter term.

(3)(A) In disposing of surplus property by deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority of consideration to uses to assist the homeless, unless the Administrator or the Secretary of Health and Human Services determines that a competing request for the property under section 203(k) of such Act is so meritorious and compelling as to outweigh the needs of the homeless.

(B) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (A), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

(4) For any property made available by lease to a representative of the homeless before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey such property by deed to the representative in accordance with, and subject to the requirements of, section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

(g) RECORDS.—The Secretary shall maintain a written public record of—

(1) the reasons for determinations of the Secretary under this section that property is suitable or unsuitable for use to assist the homeless; and

(2) the responses of landholding agencies under subsection (b)(1).

(h) APPLICABILITY TO PROPERTY UNDER BASE CLOSURE PROCESS.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) after the date of the enactment of this subsection.

(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), before such date, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

(i) DEFINITIONS.—For purposes of this section—

(1) the term “Administrator” means the Administrator of General Services;

(2) each of the terms “excess property” and “surplus property” has the meaning given that term under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

(3) the term “landholding agency” means a Federal department or agency with statutory authority to control real property;

(4) the term “representative of the homeless” means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

(5) the term “Secretary” means the Secretary of Housing and Urban Development, except as otherwise provided.

\* \* \* \* \*