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Disposal of Unneeded Federal Buildings: Legislative Proposals in the 114th Congress

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Summary

Real property disposal is the process by which federal agencies identify and then transfer, donate, or sell real property they no longer need. Disposition is an important asset management function because the costs of maintaining unneeded properties can be substantial, consuming financial resources that might be applied to long-standing real property needs, such as repairing existing facilities, or other pressing policy issues, such as reducing the national debt.

Despite the expense, federal agencies hold thousands of unneeded and underutilized properties. Agencies have argued that they are unable to dispose of these properties for several reasons. First, there are statutorily prescribed steps in the disposal process that can take months to complete. Second, properties may not be appealing to potential buyers or lessees if they require major repairs or environmental remediation—steps for which agencies lack funding to complete before bringing a property to market. Third, key stakeholders in the disposal process—including local governments, non-profit organizations, and businesses—are often at odds over how to dispose of properties.

In addition, Congress may be limited in its capacity to conduct oversight of the disposal process because it currently lacks access to reliable, comprehensive real property data. The General Services Administration (GSA) maintains a database with information on most federal buildings, but those data are provided to Congress on a limited basis. Moreover, the quality of the information in the database has been questioned, in part because of inconsistent reporting of key data elements, such as how much space within a given building is unneeded.

Five bills have been introduced in the 114th Congress that would enact broad reforms in the real property disposal process—the Civilian Property Realignment Act (CPRA, S. 1750); the Federal Asset Sale and Transfer Act (FAST Act, S. 2375); the Federal Assets Sale and Transfer Act (H.R. 4465); the Federal Property Management Reform Act of 2016 (Property Reform Act, S. 2509); and the Public Buildings Reform and Savings Act of 2016 (Public Buildings Act, H.R. 4487).

Under CPRA, agencies would develop a list of disposal recommendations, which could include the sale, transfer, conveyance, consolidation, or outlease of any unneeded space, among other options. These recommendations would be vetted by a newly established Civilian Property Realignment Commission, and then submitted to the President. If the President approved the recommendations, then they would be sent to Congress for review. If Congress passed a joint resolution of disapproval, then the recommendations would not be implemented; if a joint resolution of disapproval was not passed, then implementation would proceed. In many cases, disposal would be expedited by exempting properties on the recommendation list from certain statutory requirements, such as screening for public benefit.

Under the FAST Act, agency recommendations would be sent to a newly established real property board for vetting, and then submitted to the Director of the Office of Management and Budget for approval or disapproval. The FAST Act does not provide Congress with an opportunity to vote for or against the list of recommendations.

The Property Reform Act seeks to improve the management of federal real property by establishing additional disposal guidance, allowing agencies to retain the proceeds from the disposal of their properties, and requiring the U.S. Postal Service to increase the amount of underutilized space it leases to other federal agencies.

The Public Buildings Act would establish a streamlined leasing pilot program, mandate lactation rooms in many public buildings, require GSA to notify Congress of cost overruns, and require real property prospectuses to include a comparison of costs between leasing and renting space.

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Background

Federal executive branch agencies hold an extensive real property portfolio that includes approximately 295,000 buildings.[1] These assets have been acquired over a period of decades to help agencies fulfill their diverse missions. Agencies hold buildings with a range of uses, including offices, health clinics, warehouses, and laboratories. As agencies' missions change over time, so, too, do their real property needs, thereby rendering some assets less useful or unneeded altogether. Health care provided by the Department of Veterans Affairs (VA) has shifted in recent decades from predominately hospital-based inpatient care to a greater reliance on clinics and outpatient care, with a resulting change in space needs. Similarly, the Department of Defense (DOD) reduced its force by 36% after the Cold War ended, and has engaged in several rounds of base realignments and installation closures.

Agencies are required to dispose of real property that they no longer need, but many continue to hold onto unneeded building space. In FY2010—the last year in which cost data were reported—the government spent $1.67 billion operating and maintaining unutilized and underutilized buildings.[2] Federal agencies have indicated that their disposal efforts are often hampered by legal and budgetary disincentives, and competing stakeholder interests.[3]

This report begins with an explanation of the real property disposal process and then discusses some of the factors that have made disposition relatively inefficient and costly. It then examines key provisions of five real property reform bills introduced in the 114th Congress: the Civilian Property Realignment Act (CPRA, S. 1750); the Federal Asset Sale and Transfer Act (FAST Act, S. 2375); the Federal Assets Sale and Transfer Act (H.R. 4465); the Federal Property Management Reform Act (Reform Act, S. 2509); and the Public Buildings Reform and Savings Act (H.R. 4487, Savings Act).

Obstacles to Timely and Efficient Disposition

As noted, the government maintains a large inventory of unneeded or underutilized properties. These properties not only incur costs to the government to operate and maintain, but could, in some instances, be utilized by nonfederal entities—state and local governments, nonprofits, private sector businesses—to accomplish a range of public purposes, such as providing services to the homeless, or facilitating economic development. Government Accountability Office (GAO) reports have consistently noted that efforts to dispose of unneeded and underutilized properties are hindered by statutory disposal requirements, the cost of preparing properties for disposal, conflicts with stakeholders, and a lack of accurate data. Each of these issues is discussed here.

Identifying Unneeded Space

Agencies are required to continuously survey property under their control to identify any property that they no longer need to carry out their missions—excess property—and to "promptly" report

[1] Federal Real Property Council, *FY2014 Federal Real Property Report: An Overview of the U.S. Federal Government's Real Property Asset*s, September 2015.

[2] Federal Real Property Council, *FY2010 Federal Real Property Report: An Overview of the U.S. Federal Government's Real Property Asset*s, September 2011, p. 13.

[3] U.S. Government Accountability Office, *Federal Real Property: The Government Faces Challenges to Disposing of Unneeded Buildings*, GAO-11-370T, February 10, 2011, pp. 4-8.

that property as excess to the General Services Administration (GSA).[4] Agencies are then required to follow the regulations prescribed by GSA when disposing of unneeded property or to follow independent or delegated statutory authority.[5] GSA's regulations, in turn, implement statutory disposal requirements, discussed below.[6]

Statutory Disposal Requirements

The steps in the real property disposal process are set by statute. Agencies must first offer to transfer properties they do not need (excess properties) to other federal agencies, who generally pay market value for excess properties they wish to acquire.[7] Unneeded properties that are not acquired by federal agencies (surplus properties) must then be offered to state and local governments, and qualified nonprofits, for use in accomplishing public purposes specified in statute, such as use as public parks or for providing services to the homeless.[8] Agencies may convey surplus properties to state and local governments, and qualified nonprofits, for public benefit at less than fair market value—even at no cost.[9] Surplus properties not conveyed for public benefit are then available for sale at fair market value or are demolished if the property could not be sold due to the condition or location of the property.[10]

Agencies have consistently argued that these statutory requirements slow down the disposition process, compelling agencies to incur operating costs for months—sometimes years—while the properties are being screened.[11] Real property officials have said the McKinney-Vento Act (P.L. 100-77)—which mandates that all surplus property be screened for homeless use—can extend the time it takes to dispose of certain properties by months or years.[12] Because public benefit conveyance requirements are set in law, agencies do not have the authority to skip screening, even for surplus properties that could not be conveyed anyway. Real property experts with the Army, for example, told auditors that they had properties that they felt could be disposed of only by demolition, due to their condition or location, but that still had to go through the screening process, thereby adding as much as 6 months to the disposal process and forcing the Army to pay maintenance costs that could have been avoided.[13]

Statutes pertaining to environmental remediation or historic preservation also add time to the process. It may take agencies years of study to assess the potential environmental consequences of a proposed disposal and to develop and implement an abatement plan, as required by law.[14]

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[4] 40 U.S.C.§524(a).

[5] Ibid.

[6] The disposal provisions of General Services Administration's (GSA's) real property regulations do not apply to agencies with independent authority to dispose of their own properties.

[7] 40 U.S.C. §102.

[8] Ibid.

[9] Ibid.

[10] 40 U.S.C. §545.

[11] There are benefits to these requirements as well, but they are not the focus of this report.

[12] U.S. Government Accountability Office, *Federal Real Property: More Useful Information to Providers Could Improve the Homeless Assistance Program*, GAO-14-739, September 2014, p. 21, at http://www.gao.gov/products/GAO-14-739.

[13] Ibid.

[14] U.S. Government Accountability Office, *High-Risk Series: Federal Real Property*, GAO-03-122, January 2003, p. 41.

Similarly, the National Historic Preservation Act[15] requires agencies to plan their disposal actions so as to minimize the harm they cause to historic properties, which may include additional procedures, such as consulting with historic preservation groups at the state, local, and federal level.[16]

Disposal Costs

Unneeded buildings are often among the older properties in an agency's portfolio. As a consequence, agencies sometimes find expensive repairs and renovations may be needed before the properties are fully functioning, meet health and safety standards, and comply with historic preservation requirements. It has been estimated, for example, that VA would need to spend about $3 billion to repair the buildings in its portfolio that it rated in "poor" or "critical" condition—56% of which were vacant or underutilized, and therefore might be candidates for disposal.[17]The poor condition of these properties, however, may deter potential buyers or lessees, particularly if they must cover the cost of required improvements as a condition of acquiring the properties. Similarly, agencies that wish to demolish vacant buildings face deconstruction and cleanup costs that, at times, exceed the cost of maintaining the property—at least in the short run—which may encourage real property managers to retain a property rather than dispose of it.[18] Federal agencies frequently cite the cost of complying with environmental regulations as a major disincentive to disposal.[19]

Stakeholder Conflict

Some agencies have found their disposal efforts complicated by the involvement of stakeholders with competing agendas. The Department of the Interior (DOI) has said that it can be stymied by the competing concerns of local and state governments, historic preservation offices, and political factors, when attempting to dispose of some of its unneeded real property.[20] Similarly, VA has found that communities sometimes oppose disposals that would result in new development, and veterans groups have opposed disposing of building space if that space would be used for purposes unrelated to the needs of veterans.[21] The Department of State (DOS) has had difficulty in disposing of surplus real property overseas due to disputes with host governments that restrict property sales.[22] These conflicts can result in delay, or even cancellation of proposed disposals, which, in turn, prevent agencies from reducing their inventories of unneeded properties.[23]

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[15] 16 U.S.C. §470.

[16] U.S. Government Accountability Office, *Federal Real Property: DHS Has Made Progress, but Additional Actions Are Needed to Address Real Property Management and Security Challenges*, GAO-07-658, June 2007, p. 42.

[17] U.S. Government Accountability Office, *Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions*, GAO-08-939, September 2008, p. 5.

[18] U.S. Government Accountability Office, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, GAO-07-349, April 13, 2007, pp. 40-41.

[19] Ibid.

[20] Ibid., p. 16.

[21] U.S. Government Accountability Office, *Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions*, GAO-08-939, September 2008, p. 5.

[22] U.S. Government Accountability Office, *High-Risk Series: Federal Real Property*, GAO-03-122, January 2003, p. 40.

[23] There is no government-wide real property guidance for addressing stakeholder conflicts.

Real Property Management and Oversight

In addition to the obstacles mentioned above, data about agency real property portfolios—which might be useful for congressional oversight—appear to be inaccurate, and government-wide data are accessible only to the agency that manages the database, the GSA. Moreover, agencies regularly enter into leases rather than seek funding for new construction when acquiring space, even when the leased space is more expensive over time.

Availability and Quality of Real Property Data[24]

The Federal Real Property Profile (FRPP) is the government's most comprehensive source of information about real property under the control of executive branch agencies. GSA manages the FRPP and collects real property data from 24 of the largest landholding agencies each year. Other agencies are encouraged, but not required, to report data to GSA.[25] The data elements that participating agencies collect and report are determined by the Federal Real Property Council (FRPC), an interagency taskforce that is funded and chaired by the Office of Management and Budget (OMB). The other members of the FRPC are agency senior real property officers (SRPOs) and GSA.

The FRPP contains data that could enhance congressional oversight of federal real property activities, such as the number of excess and surplus properties held by major landholding agencies, the annual costs of maintaining those properties, and agency disposition actions. GSA, however, does not permit direct access to the FRPP by Congress on the grounds that the data are proprietary. GSA does respond to requests for real property data from congressional offices, but GSA staff query the database and provide the results to the requestor.

Some FRPP data are made public through an annual summary report posted on GSA's website, but the summary reports are of limited use for congressional oversight for several reasons.[26] Most of the data are highly aggregated (e.g., the number of assets disposed of, government-wide, through public benefit conveyance), and very limited information is provided on an agency-by-agency basis. It is not possible, therefore, for Congress to monitor the performance of individual agencies through the summary reports. Basic questions, such as how many excess and surplus properties each agency holds or has disposed of in a given fiscal year, cannot be answered. Nor is it possible to compare the performance of agencies, which limits the ability of Congress to study the policies and practices at the most successful agencies and hold poorly performing agencies accountable.

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[24] For more information on real property data, see CRS Report R44286, *Federal Real Property Data: Limitations and Implications for Oversight*, by Garrett Hatch.

[25] Executive Order 13327, "Federal Real Property Asset Management," 69 *Federal Register* 5897, February 4, 2004. According to the provisions of E.O. 13327, only the 24 agencies listed in 31 U.S.C. 901(b)(1) and (b)(2), which are subject to the Chief Financial Officers Act, are required to report real property data to GSA. Those agencies are the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs; the Environmental Protection Agency; General Services Administration; National Aeronautics and Space Administration; National Science Foundation; Nuclear Regulatory Commission; Office of Personnel Management; Small Business Administration; Social Security Administration; and United States Agency for International Development.

[26] The annual real property summary reports may be found on GSA's Federal Real Property Report Library website, at http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=23962.

The quality of the FRPP data has also been questioned. GAO audits have found, for example, that real property data were unreliable in key areas, such as annual operating costs, and often were not reported correctly by agencies.[27] Another GAO report re-examined weaknesses in FRPP data collection practices, noting that key data elements—such as buildings' maintenance needs and utilization rates—are not consistently and accurately captured in the database.[28] The GAO report found that problems with FRPP data collection result in agencies "making real property decisions using unreliable data."[29]

There may be problems associated with changing definitions, as well. The FRPC stopped reporting data on underutilized and not utilized buildings in its FY2011 real property report.[30] It began reporting the data again in FY2013, but with different definitions than those used in FY2010.[31] The old definitions were based on the amount of space occupied in a building, while the new definitions are based on the frequency with which space was in use. Under the new definitions, the FRPC reported 5,532 underutilized and not utilized buildings in FY2013, down from 77,700 in FY2010—a 93% decrease in three years.[32] By FY2014, the number of underutilized and not utilized buildings reported decreased to 4,971, a 94% decline from FY2010.[33] Inconsistencies like this have led GAO to conclude that the FRPC's data on underutilized and not utilized federal real property are not reliable.[34]

The annual summary reports also omit data that might enhance congressional oversight. The FRPP contains, for example, the number of excess and surplus properties held by each agency and the annual operating costs of those properties—issues about which Congress has expressed ongoing interest—but the summary report only provides the number and annual operating costs of disposed assets, thereby providing the "good news" of future costs avoided through disposition while omitting the "bad news" of the ongoing operating costs associated with excess and surplus properties the government maintained. In addition, agencies estimate a dollar amount for the repair needs of their buildings and structures as part of their FRPP reporting, but the estimate is then folded into a formula for calculating the condition of each building. Given that repair needs are an obstacle to disposing of some properties, Congress may find it useful to have the repair estimates reported separately to help inform funding decisions.

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[27] U.S. Government Accountability Office, *High-Risk Series: An Update*, GAO-15-290, February 2015, p. 139, at http://www.gao.gov/assets/670/668415.pdf.

[28] U.S. Government Accountability Office, *Federal Real Property: Current Efforts, GAO Recommendations, and Proposed Legislation Could Address Challenges*, GAO-15-688T, June 2015, p. 6, at http://www.gao.gov/assets/680/670808.pdf.

[29] Ibid.

[30] Federal Real Property Council, *2011 Guidance for Real Property Inventory Reporting*, October 4, 2011, at http://www.gsa.gov/graphics/ogp/2011_RealPropInventory_User_Guidance.pdf.

[31] Federal Real Property Council, *2013 Guidance for Real Property Inventory Reporting*, August 15, 2013, at http://www.gsa.gov/portal/mediaId/178911/fileName/2013_Data_Dictionary_VERSION_2_912.action.

[32] Federal Real Property Council, *FY2013 Federal Real Property Summary Data Set*, p. 8, at http://gsa.gov/portal/content/102880. Federal Real Property Council, *FY2010 Federal Real Property Report*, p. 6, at http://gsa.gov/graphics/ogp/FY_2010_FRPP_Report_Final.pdf.

[33] Federal Real Property Council, *FY2014 Federal Real Property Profile, Summary Data Set, Table* 15, at http://www.gsa.gov/portal/content/102880.

[34] U.S. Government Accountability Office, *Federal Real Property: Better Guidance and More Reliable Data Needed to Improve Management*, GAO-14-757T, July 26, 2014, p. 8, at http://gao.gov/assets/670/665085.pdf.

Overreliance on Leasing

In a 2015 report, GAO wrote that it considers the government's "overreliance on costly leased space" to be one of the primary reasons federal real property continues to be designated as a "high risk" issue.[35] The percentage of square feet leased by GSA—which leases property for itself and on behalf of many agencies—now exceeds the percentage of square feet it owns. According to GAO, leasing space is typically more expensive than owning space over the same time period. GAO cited, for example, a long-term operating lease that cost an estimated $40.3 million more than if the agency had purchased the same building.[36] Similarly, in FY2014, the annual operating cost for a square foot of space in a building owned by the government was $5.77, but for leased space it was $24.04.[37]

GAO wrote that while the decision to lease rather than purchase space may be driven by operational requirements—such as the United States Postal Service (USPS) leasing space in areas that it believes will optimize the efficiency of mail delivery—agencies often choose to lease rather than purchase space because of budget scoring rules, even if the decision to lease is not the most cost-effective option. Under the Budget Enforcement Act of 1990, an agency must have budget authority up-front for the government's total legal commitment before acquiring space. Thus, if an agency were to construct or purchase a building, it would need up-front funding for the entire cost of the construction or acquisition, while leased space only requires the annual lease payment plus the cost of terminating the lease agreement.

In addition to the budget scoring issue, some agencies have been granted independent leasing authority, which means they do not have to work with GSA to acquire leased space. Some agencies with independent leasing authority, such as the USPS and VA, have established in-house real property expertise, while other agencies with independent authority have not. The Securities and Exchange Commission (SEC), for example, entered into a $557 million, 10-year lease for 900,000 square feet, which the SEC's inspector general (IG) called "another in a long history of missteps and misguided leasing decisions made by the SEC since it was granted independent leasing authority."[38] The IG found that "inexperienced senior management" at the SEC made poor decisions that led to acquiring three times the space needed—the original estimate provided to Congress was for 300,000 square feet—and bypassing other locations that were closer and less expensive.[39]

Civilian Property Realignment Act (S. 1750)

CPRA was introduced on July 13, 2015, and referred to the Committee on Environment and Public Works. As of February 12, 2015, no further action has been taken. In terms of overarching structure, CPRA would draw on the military base realignment and closure (BRAC) model of real property disposal by establishing an independent commission to assess agency portfolios and to recommend actions for reducing the government's inventory of unneeded and underutilized

[35] U.S. Government Accountability Office, *High-Risk Series: An Update*, GAO-15-290, February 2015, p. 135.

[36] Ibid.

[37] Federal Real Property Council, *FY2010 Federal Real Property Report: An Overview of the U.S. Federal Government's Real Property Asset*s, September 2011, p. 4.

[38] Securities and Exchange Commission, Office of Inspector General, *Report of Investigation: Improper Actions Relating to the Leasing of Office Space*, May 16, 2011, p. 2.

[39] Ibid.

buildings. These recommendations would need approval by the President and Congress in order to be implemented.

Scope

CPRA has a broad scope, applying to space owned and leased by all executive branch agencies and government corporations—not just properties that are excess or surplus. The bill would exclude some properties, such as those under the jurisdiction of the DOD, properties owned by the USPS, certain Indian and Native Alaskan properties, certain designated wilderness areas, property owned by the Tennessee Valley Authority, and any property the Director of OMB excludes for reasons of national security. The legislation would encompass most major real property asset management functions, collectively referred to as "realigning" actions—including the consolidation, reconfiguration, colocation, exchange, sale, redevelopment, and transfer of unneeded or underutilized properties.

Development of Recommendations

The first step in the process proposed by CPRA would be for federal landholding agencies to develop their own recommendations for realigning their real property portfolios and for reducing operating and maintenance costs. Agencies would submit these recommendations to GSA and OMB not later than 120 days after the start of each fiscal year, along with specific data on each of the properties they own, lease, or otherwise control. The data would include the age and condition of the property, its operating costs, size in square feet (broken out by gross, rentable, and usable footage), number of federal employees and functions housed in the property, and the history of capital expenditures. The recommendations would include categorization of properties into those that can be sold, transferred, exchanged, consolidated, relocated, redeveloped, reconfigured, or otherwise disposed of so as to reduce the costs of operating and maintaining the federal real property portfolio. Agencies may also recommend enhanced use leasing and terminating expensive leases as methods of disposing of unneeded space and reducing costs.

The GSA Administrator and the OMB Director would also work together to develop criteria that they would use to determine which properties should be realigned and what type of realignment should be recommended (e.g., sale, consolidation, conveyance for public benefit) for each property. The bill specifies that nine "principles" must be taken into account when establishing the criteria; some of the supporting data needed to develop the criteria may already be collected by agencies as they develop their asset management plans or meet existing reporting requirements, such as those for the FRPP.

- The extent to which federal buildings or facilities could be sold or redeveloped in a manner that would produce the best value.
- The extent to which the operating and maintenance costs would be reduced through the consolidation, colocation, and reconfiguring of space.
- The extent to which the utilization rate is being maximized and is consistent with nongovernment standards.
- The potential costs and savings over time.
- The extent to which leasing long-term space would be reduced.
- The extent to which a property aligns with the current mission of the agency.
- The extent to which there are opportunities to consolidate similar operations across or within agencies.

- The economic impact on existing communities in the vicinity of the property.
- The extent to which energy consumption specifically would be reduced.

The standards would also include new, standard definitions for utilization of space for each category of building.

The OMB Director would then conduct an independent analysis of agency recommendations and revise them, as deemed appropriate. The OMB Director would then submit the revised recommendations, along with the criteria, to a newly established Civilian Property Realignment Commission. The commission would be composed of seven members, each serving a 10 year term. The chair would be appointed by the President, with the advice and consent of the Senate. The President would appoint two other members of the commission, and the Speaker of the House, the minority leader of the House, the Senate majority leader, and the Senate minority leader would each appoint one member. CPRA would also require that the commission include members with expertise in commercial real estate and redevelopment, government management or operations, community development, or historic preservation. The commission would terminate after 10 years.

The commission would review the OMB Director's recommendations, but it would not be bound by them. The commission could reject, accept or modify the OMB Director's recommendations, and add recommendations of its own. As part of the review process, the commission would be required to develop an accounting system to help evaluate the costs and returns of various recommendations. While the commission "shall seek to develop consensus" in its recommendations, the report may include recommendations supported by only a majority of commission members. The commission would be required to submit its final recommendations to the President, and to establish a website and post its findings, conclusions, and recommendations on it. CPRA would require GAO to publish a report on the recommendations, including a review of the methodology used to select properties for realignment.

The bill would also require the commission to separately recommend at least five "high-value" federal properties to sell. These properties may not listed as excess or surplus, and must have an estimated fair market value of at least $500 million, in total.[40] The high-value list would be subject to the same process of review and approval as the much longer list of recommendations the commission is required to develop.

Review by the President

CPRA would direct the President to review the commission's recommendations and submit, within 30 days of receiving them, a report to Congress that identifies which recommendations are approved, and which, if any, are not. If the President approves all of the commission's recommendations, then he must submit a copy of the recommendations to Congress along with a certification of his approval. If the President disapproves of some or all of the commission's recommendations, he would be required to submit a report to Congress and to the commission identifying the reasons for disapproval, and the commission would have 30 days to submit a revised list of recommendations to the President. If the President approves of all of the revised recommendations, he must submit a copy of the revised recommendations along with a certification of his approval to Congress. If the President does not submit a report within 30 days

[40] This provision identifies possible opportunities to generate revenue from properties that are being utilized by agencies and therefore have not been declared excess or surplus. Given the relatively high market value of these properties, it is possible the government could generate significant revenue from selling them, even after accounting for the costs of relocating the federal employees that work there, if that were required under the terms of the sale.

of the receipt of the commission's original or revised recommendations, then the process terminates for the year and agencies are not required to dispose of any properties under CPRA. In effect, the President would be able only to approve or reject a complete list of recommendations. He would not be able to amend the commission's recommendations himself before approving them.

Congressional Consideration of the Recommendations

Congress, after receiving the recommendations approved by the President, would have 45 days to review them and debate their merits. As with the President, Congress would have the authority only to act on the entire list, not to approve or disapprove of individual recommendations. If no joint resolution of disapproval is passed within the 45-day time limit, then agencies would be required to implement the recommendations.

Implementation

Under CPRA, if a joint resolution of disapproval were not enacted, agencies would be required to complete implementation no later than three years from the date the President submitted his list of approved recommendations to Congress. The GSA Administrator would be given authority to "take such necessary and proper actions, including the sale, conveyance, or exchange of civilian real property, as required to implement the Commission recommendations" as enacted. Other federal agencies must either use their existing authorities to implement the recommendations or work with GSA to do so. Properties disposed of pursuant to a recommendation would be exempt from several statutory requirements that would otherwise apply, primarily related to screening for public benefit conveyance. This would appear to permit agencies to bypass steps in the existing disposal process. A property recommended for public sale, for example, may not have to go through the public benefit screening process. The bill would establish new guidelines for screening and disposing of properties recommended for use serving the homeless.

CPRA would also expand the reporting requirements for all construction or acquisition proposals that exceed the prospectus threshold—the dollar amount established in 40 U.S.C. Section 3307 above which agencies must obtain approval from the House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee. The bill would require each prospectus to include a statement of whether the proposal was consistent with CPRA and how life-cycle cost analysis was used to determine long-term costs, the life-cycle cost of a building, and "any increased design, construction, or acquisition costs identified" that are offset by lower long-term costs. CPRA would also require each lease prospectus to include a comparative cost analysis of leasing and buying space for the proposed project.

Funding

CPRA would establish two accounts: a salaries and expense account to fund the commission's administrative and personnel costs, and an asset proceeds and space management fund (APSMF), which would be used to implement recommended actions. Both accounts would receive funds from appropriations—the bill authorizes a one-time appropriation of $20 million for the salaries and expenses account and a $62 million appropriation for the APSMF—but the APSMF would also receive the proceeds generated by implementing the commission's recommendations. In addition, some of the savings generated by implementing the recommendations would be transferred to the APSMF. All of the funds deposited in the APSMF account could only be used to cover the costs associated with implementing the commission's recommendations.

Under CPRA, the first $50 million in net disposal proceeds generated each fiscal year would be deposited in the general fund of the Treasury. Net proceeds in excess of $50 million would be distributed as follows:

- 80% must be deposited in the general fund of the Treasury, and
- 20% would be allocated between the general fund of the Treasury and the APSMF at the discretion of the GSA Administrator.

Leasing Authority

CPRA would require most executive agencies seeking to acquire leased space to do so only by working through GSA. This restriction would not apply to the U.S. Postal Service, VA properties, or properties excluded for reasons of national security by the President.

Life-Cycle Costs

CPRA would require the Administrator to take a building's life-cycle cost into account when constructing or leasing a building. This requirement would apply only to buildings that meet three criteria: (1) the estimated construction costs exceed $1 million; (2) the federal portion of the estimated construction or lease costs exceed 50% of the total costs; and (3) in the case of a lease, the property has more than 25,000 square feet. The bills would both define "life-cycle cost" as the total sum of

- investment costs,
- capital costs,
- installation costs,
- energy costs,
- operating costs,
- maintenance costs, and
- replacement costs.

CPRA would define "lifetime of a building"—the length of time over which the life-cycle costs would be calculated—to be 50 years or the period of time during which the building is projected to be utilized. The GSA Administrator, when submitting a prospectus to acquire space, would be required to include in the prospectus a statement of how the life-cycle cost analysis was used and whether the analysis identified potential costs that could be offset by lower long-term costs.

Real Property Database and Reporting

As discussed earlier in this report, GSA currently does not permit Congress or legislative agencies to directly access the government's only comprehensive source of real property data, the FRPP database. CPRA would require GSA to provide access to the FRPP to six congressional committees: the House Committee on Transportation and Infrastructure, the House Committee on Oversight and Government Reform, the Senate Committee on the Environment and Public Works, the Senate Committee on Homeland Security and Governmental Affairs, and the House and Senate appropriations committees. CPRA would also require GSA to provide access to the Congressional Research Service, the Congressional Budget Office, and GAO. The commission would also have access to the FRPP.

CPRA would also require GSA to ensure that the FRPP includes the following information for each property:

- the age and condition of the property;
- the size of the property in square feet and acreage;
- the geographic location of each property, including a physical address and description;
- the extent to which the property is being utilized;
- the actual annual operating costs associated with the property;
- the total cost of capital expenditures associated with the property;
- sustainability metrics associated with each property;
- the number of federal employees and functions housed at the property;
- the extent to which the mission of the federal agency is dependent on the property; and
- the estimated amount of capital expenditures projected to maintain and operate the property for each of the five calendar years after the date of enactment of CPRA.

Federal Asset Sale and Transfer Act (S. 2375) and Federal Assets Sale and Transfer Act (H.R. 4465)

The FAST Act is structured like CPRA, in that it would establish a board to develop disposal recommendations. There are differences between the bills, however. Notably the FAST Act lacks a mechanism for congressional review and approval of the board's recommendations similar to the one provided under CPRA. The provisions discussed in the following sections are the same for both S. 2375 and H.R. 4465 companion versions of the FAST Act, unless otherwise noted.

Scope

S. 2375 was introduced December 8, 2015, and referred to the Committee on Homeland Security and Governmental Affairs. On December 9, 2015, the bill was ordered to be reported with an amendment in the nature of a substitute. As of February 12, 2016, no further action had been taken. H.R. 4465 was introduced February 4, 2016, and referred that same day to the Committee on Transportation and Infrastructure, and the Committee on Oversight and Government Reform. As of February 12, 2016, no further action had been taken by either committee. The FAST Act would apply to all federal executive branch agencies and wholly owned government corporations, but properties subject to BRAC would be excluded, as would most Coast Guard properties. The OMB Director could also exclude Properties for reasons of national security, and properties controlled by Indian and Native Alaskan tribes, the postal service, and the Tennessee Valley Authority would also be excluded. In addition, certain public lands would not be covered. H.R. 4465 would also exclude properties located outside the United States that are operated or maintained by the Department of State or the Agency for International Development.

Development of Recommendations

As with CPRA, the first step in the process proposed by the FAST Act would be for federal landholding agencies to develop their own recommendations for realigning their real property

portfolios and for reducing operating and maintenance costs. Agencies would submit these recommendations to GSA and OMB not later than 120 days after the start of each fiscal year, along with specific data on each of the properties they own, lease, or otherwise control. The data would include:

- age and condition,
- operating costs,
- history of capital expenditures,
- sustainability metrics,
- square footage, and,
- the number of federal employees a property houses.

The recommendations would include categorization of properties into those that can be sold, transferred, exchanged, consolidated, relocated, redeveloped, reconfigured, outleased, or otherwise disposed of so as to reduce the costs of operating and maintaining the federal real property portfolio. Agencies may also recommend properties be declared excess or surplus if they have not already been so designated.

The FAST Act would require the GSA Administrator and the OMB Director to work together to develop criteria that they would use to determine which properties should be realigned and what type of realignment should be recommended. The FAST Act specifies that nine "principles" must be taken into account when establishing the criteria:

- The extent to which a property could be sold, redeveloped, or outleased in a manner that would produce the best value.
- The extent to which the operating and maintenance costs would be reduced through the consolidation, colocation, and reconfiguring of space;
- The extent to which a property aligns with the current mission of the agency.
- The extent to which the utilization rate is being maximized and is consistent with nongovernment standards.
- The potential costs and savings over time.
- The extent to which leasing long-term space would be reduced.
- The extent to which there are opportunities to consolidate similar operations across or within agencies.
- The economic impact on existing communities in the vicinity of the property.
- The extent to which energy consumption specifically would be reduced.

The OMB Director would then conduct an independent analysis of agency recommendations and revise them, as deemed appropriate. The OMB Director would then submit the revised recommendations, along with the criteria, to a newly established Federal Real Property Reform Board (S. 2375), or Public Buildings Reform Board (H.R. 4465). Both boards would be composed of a chairperson appointed by the President with the advice and consent of the Senate, and six other members, also appointed by the President. In making appointments to the board, the President would be required to consult with the Speaker of the House of Representatives regarding two members, the majority leader of the Senate regarding two members, the House minority leader regarding one member, and the Senate minority leader regarding one member. Each version of the FAST Act would direct the President to ensure that the board includes members with expertise in commercial real estate, space optimization and utilization, and

community development. Board members under each bill would serve six-year terms, and the board itself would terminate after six years.

Under the FAST Act the board would review the OMB Director's recommendations, but it would not be bound by them. The board could reject, accept or modify the OMB Director's recommendations, and add recommendations of its own. As part of the review process, the board would be required to develop an accounting system to help evaluate the costs and returns of various recommendations. Once the board finalized its recommendations, it would be required to submit a report on them to the OMB Director. The report may only include recommendations supported by at least a majority of commission members. The board would be required to establish a website on which to post relevant information about its recommendations. As with CPRA, the FAST Act would require GAO to publish a report on the recommendations, including a review of the methodology used to select properties for realignment.

As with CPRA, The bill would also require the commission to separately recommend at least five "high-value" federal properties to sell. These properties may not listed as excess or surplus, and must have an estimated fair market value of at least $500 million, in total.[41] The high-value list would be subject to the same process of review and approval as the much longer list of recommendations the commission is required to develop.

Review by OMB

The OMB Director would have 30 days to review the board's recommendations and submit a report to Congress that discusses the decision to approve or disapprove of them. If the Director approves all of the board's recommendations, then he must submit a copy of the recommendations to Congress along with a certification of his approval. If the Director disapproves of some or all of the board's recommendations, he would be required to submit a report to Congress and to the board identifying the reasons for disapproval, and the board would have 30 days to submit a revised list of recommendations to the Director. If the Director approves of all of the revised recommendations, he must submit a copy of the revised recommendations along with a certification of approval to Congress. If the Director does not submit a report within 30 days of the receipt of the commission's original or revised recommendations, then the process terminates and agencies are not required to dispose of any properties under the FAST Act.

Implementation

Federal agencies would be required to begin implementation of all recommendations within two years from the date Congress received them, and complete implementation within six years. The GSA Administrator would have the discretion to convey real property for less than fair market value or for no consideration at all. In addition, several sections of the U.S. Code that pertain to real and personal property conveyances, particularly those for public benefit, would not apply to recommended disposals. The McKinney-Vento Homeless Assistance Act would still apply to properties which the HUD Secretary determines are suitable for use providing services to the homeless, but the bills would amend McKinney-Vento by shortening the screening and application process.

[41] This provision identifies possible opportunities to generate revenue from properties that are being utilized by agencies and therefore have not been declared excess or surplus. Given the relatively high market value of these properties, it is possible the government could generate significant revenue from selling them, even after accounting for the costs of relocating the federal employees that work there, if that were required under the terms of the sale.

Funding

As with CPRA, the FAST Act would establish both a salaries and expense account to fund the commission's administrative and personnel costs, and an asset proceeds and space management fund (APSMF), which would be used to implement recommended actions. Both accounts would receive funds from appropriations—the bills authorize a one-time appropriation of $2 million for the salaries and expenses account and a $40 million appropriation for the APSMF—but the APSMF would also receive the proceeds generated by the sale of real property pursuant to the board's recommendations. Unlike CPRA, the APSMF would not receive savings realized by agencies that implement board recommendations. All of the funds deposited in the APSMF account could only be used to cover the costs associated with implementing the board's recommendations.

Real Property Database

H.R. 4465 would require the GSA Administrator to establish and maintain a "single, comprehensive, and descriptive" database of all real property under the control of federal agencies. The database would include, for each property:

- size in square feet and acreage;
- geographic location of each property, including a physical address and description;
- relevance of each property to the agency's mission;
- level of use of each property, including whether it is excess, surplus, underutilized, or unutilized, and the number of days it has been so designated;
- annual operating costs; and
- replacement value.

The database must permit users to search and sort properties, and download data. Once the database was operational, it would be made available, at no cost, to federal agencies and the public.

Federal Real Property Management Reform Act of 2016 (S. 2509)

The Federal Real Property Management Reform Act (Property Reform Act) would not establish a new process for identifying and disposing of unneeded real property in the manner of CPRA or the FAST Act. Rather, the Property Reform Act would expand existing real property management requirements and guidance, particularly with regard to collocating federal agencies in underutilized space held by the U.S. Postal Service. It would also incentivize the disposal of unneeded property by providing agencies with the authority to retain the proceeds from the transfer, sale, or lease of surplus property.

Scope

The Property Reform Act was introduced February 4, 2016, and was referred to the Senate Committee on Homeland Security and Governmental Affairs that same day. On February 10, 2016, the committee ordered the bill reported with an amendment in the nature of a substitute.

Federal Real Property Council

The Property Reform Act would codify the establishment of a Federal Real Property Council (FRPC), which was originally created under the provisions of Executive Order 13327, "Federal Real Property Asset Management," signed by President George W. Bush on February 4, 2004. The FRPC would be structured almost identically under the Reform Act as it was under E.O. 13327. The FRPC is currently comprised of a senior real property expert at each of the 24 agencies covered by the Chief Financial Officers Act (CFO Act) of 1990, the Controller and Deputy Director for OMB, and the GSA Administrator. The Reform Act would add a representative of the U.S. Postal Service to the council. Under the Reform Act, the FRPC would develop real property guidance that, when implemented, would lead to more efficient and effective property management at federal agencies, resulting in reduced real property costs. This is very similar to the broad purpose for the FRPC stated in E.O. 13327.

The Property Reform Act differs from E.O. 13327 by requiring performance measures and goals that are not required by the executive order. The Reform Act would require the FRPC to develop a property management plan that includes performance measures and government-wide goals for reducing surplus property and increasing the utilization of federal buildings, as well as criteria for evaluating the effectiveness of agency real property management practices. The FRPC would also be required to

- develop utilization rates for each type of federal building;
- develop a strategy to reduce the government's reliance on long-term leases;
- provide guidance on eliminating inefficient practices in agency leasing processes;
- compile a list of field offices that are suitable for collocation;
- issue "best practices" guidance regarding the use of public-private partnerships to manage properties;
- issue recommendations on how the State Agencies for Surplus Property program could be improved to ensure accountability and increase efficiencies in the personal property disposal process; and
- issue a report that contains a list of the underutilized, excess, and surplus property at each agency; progress made by each agency towards the goals set in the annual plan; and any recommendations for legislation that would advance the goals of the council.

While completing these requirements, the FRPC would be required to consult with state, local, and tribal governments, as well as with private-sector and nonprofit organizations with expertise in commercial real estate, government management, community development, historic preservation, homeless housing, and personal property management.

The FRPC's work would not cover surplus property that is on military installations, held by the Tennessee Valley Authority, part of certain public lands administered by the Secretary of the Interior or the Secretary of Agriculture, or operated and maintained by the Postal Service.

Federal Agency Duties

The Property Reform Act would amend 40 U.S.C. 524(a) by adding several new paragraphs. These new paragraphs would require federal agencies to take additional planning and reporting steps. Specifically, the bill would require each covered agency to

- develop a means of assessing the capacity of its workforce to effectively manage its real property;
- establish goals and policies that will help reduce its inventory of excess and underutilized property;
- submit an annual report to the FRPC that discusses how to increase utilization rates and whether some underutilized properties could be declared excess;
- identify underutilized leased space; and
- adopt workplace practices, configurations, and management techniques that can increase productivity, thereby decreasing the need for real property assets.

The Property Reform Act would also require agencies to submit a range of data on their real property holdings to the FRPC, including, for each property, its address, size (in square feet and acreage), utilization rate, annual operating costs, and sustainability metrics. In addition, agencies would be required to provide the total capital expenditures associated with each property, the estimated amount of expenditures projected to operate and maintain the property over a five-year period, and the number of federal and contract employees housed at the property and what functions they perform. Agencies with independent leasing authority would be required to submit to the FRPC a list of all leases, including operating leases, that includes

- the date on which the lease was executed;
- the date on which the lease will expire;
- the size of the space;
- the location of the property;
- the tenant agency;
- the total amount of annual rent; and
- the amount of the net present value of the total estimated legal obligations of the government over the life of the contract.

This requirement would not apply to the Postal Service or properties excluded by the President for reasons of national security.

Real Property Database

The Property Reform Act would require GSA to establish a "single, comprehensive, and descriptive" database of all real property controlled by federal agencies. The database must include specific information for each property, including all of the data agencies would be required to submit to the FRPC, detailed in the previous section. In addition, the database would include a list of property disposals completed, and specific information about each disposed-of property, as follows:

- the date and disposal method;
- the proceeds obtained from the disposal;
- the number of days required to dispose of the property;
- the dates on which the property was declared excess, surplus, and the date on which the disposition was completed; and
- the costs associated with the disposal.

For purposes of the database, the term surplus would not include properties subject to BRAC, certain public lands, Indian and native Eskimo property held in trust by the federal government, properties controlled by the TVA, and postal properties.

The database must be made available initially to the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Environment and Public Works, the House Committee on Oversight and Government Reform, and the House Committee on Transportation and Infrastructure. No longer than three years after enactment of the Reform Act, the database must be made available to the public at no cost.

Retention of Proceeds

The Property Reform Act would permit all landholding agencies to retain the net proceeds generated by the disposal of their properties. The net proceeds could only be expended after being authorized in annual appropriations acts, for three purposes: to dispose of other properties, to implement the Federal Buildings Personnel Training Act of 2010, or to pay down the deficit.

The Reform Act would require that the net proceeds from the transfer or sale of *personal* property be deposited in the Treasury as miscellaneous receipts.

Donation of Personal Property to Museums

The Property Reform Act would permit GSA to transfer surplus federal personal property to states for donation to museums that are open to the public each week during normal business hours.

Postal Service

The Property Reform Act would require the Postal Service to create, on an annual basis, a list of postal properties with space available for use by federal agencies. The list would be required to be submitted to each federal agency and to the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform. Each federal agency would be required to review the list of postal properties, review its own list of properties, and identify opportunities for collocation.

The Postal Service would also be required to ensure it has adequate inventory controls and accountability systems for the properties it owns and leases, and to develop workforce projections that reflect the needs of the Postal Service for managing its real property portfolio. In addition, the Postal Service would be required to conduct a regular inventory of its real property, and make an assessment of each property that includes

- its age and condition;
- its size, in square feet and acreage;
- its geographic location, including its address;
- its utilization rate;
- its actual annual operating costs;
- the history of capital expenditures associated with it;
- the number of federal and contract employees housed in it;
- the extent to which the mission of the Postal Service depends on it; and
- the estimated amount of capital expenditures projected to maintain and operate the property for each of the five years following the enactment of the bill.

The Postal Service Inspector General would be required to submit to Congress a report that includes a survey of excess property held by the Postal Service, and recommendations for collocating or otherwise reducing excess space.

The Property Reform Act would also require the Government Accountability office to submit a report to Congress, within one year from the enactment of the Reform Act, a report on the feasibility of the Postal Service designing mail delivery vehicles for rural areas and areas with extreme weather conditions. The report would also include a discussion of the feasibility and cost of integrating the use of collision-averting technology into its vehicle fleet. Similarly, the Postal Service would be required to submit to Congress a report that includes a review of the Postal Service's efforts to replace and modernize its fleet, and a strategy for carrying out the fleet replacement.

Public Buildings Reform and Savings Act of 2016 (H.R. 4487)

The Public Buildings Reform and Savings Act of 2016 (Public Buildings Act) was introduced February 8, 2016, and reported to the House Committees on Financial Services and Transportation and Infrastructure the same day. Both committees reported the bill favorably on May 23, 2016, and it passed the House the same day. The bill was received in the Senate on May 24, 2016. No further action has been taken.

Streamlined Leasing Pilot Program

The Public Buildings Act would establish a streamlined leasing pilot program, which would require GSA to issue simplified procedures for acquiring leases of $500,000 or less. The pilot program would also permit GSA to consolidate more than one project into a single prospectus if the consolidated lease prospectus will result in a reduction of space and improved utilization rates. In addition, the bill would reduce the amount of information GSA is required to include in lease prospectuses, provided the proposed lease would have a term of at least 10 years, meet specified cost and utilization standards, and facilitate space consolidation. During each year of the pilot program (which would run from the date of enactment until December 31, 2021), GSA would be required to submit to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works, a report that identifies the number and square footage of leases expiring by the program's termination. GSA would also be required to submit to the committees a final report after the program terminates, which includes a review and evaluation of the pilot program and recommendations for permanent changes to GSA's leasing authorities.

Prospectus Requirements

The Public Buildings Act would require GSA to include new information in its prospectuses: first, the prospectus must include a cost comparison between leasing and constructing space; second, the prospectus must include an explanation of why such space could not be consolidated or collocated into other owned or leased space.

In addition, if work on an approved project has not been initiated within five years of the prospectus's approval, then the resolution which authorized the prospectus shall be deemed expired.

Cost Escalation Notification

The bill would also require GSA to notify the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works of any increase of 5% or more in the estimated cost of the project. GSA would also be required to submit an amended prospectus for approval if the scope or size of the project increases by more than 10%.

Department of Energy Headquarters

The bill would direct GSA to sell or exchange a portion of the Forrestal Complex—which houses the headquarters of the Department of Energy (DOE)—in order to obtain the funds necessary to construct a new DOE headquarters. The bill specifies that GSA would have two years from the date a portion of the Forrestal Complex was disposed of, to complete construction of the new DOE headquarters in a government-owned building on government-owned land (GSA would not be permitted to lease or leaseback the property). Proceeds from the sale or exchange of portions of the Forrestal Complex would be deposited into the Federal Buildings Fund and used as specified in future appropriations.

Discounted Purchase Options

The Public Buildings Act would limit discounted purchase options—whereby the government has an option to purchase a building at the end of a lease for less than fair-market value—so that they may only be exercised to the extent specifically provided for in legislation. The bill would also require GSA to consider the direct purchase of utilities, including energy, in bulk for leased facilities.

National Broker Contract

The Public Buildings Act would require the Government Accountability Office (GAO) to conduct biennial audits of GSA's National Broker Contract to determine whether brokers selected under the program obtain lower lease rental rates than the rates negotiated by GSA staff and the impact of the program on length of leases procured. GAO would also be required to determine whether the leases resulted in rental cost savings. GAO would be required to submit a report to Congress that summarized the audit findings, assessed whether the National Broker Contract provided greater savings than GSA staff, and included recommendations for improving GSA lease procurements.

Rental Rates in the National Capitol Region

The bill would require GSA to submit a report to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works that evaluated rental caps in the National Capitol Region, particularly whether current caps provide for maximum competition for build-to-suit leased space.

Lactation Rooms

Finally, the Public Buildings Act would require federal buildings that are open to the public and which have restrooms, to have at least one lactation room. The head of a federal agency may exclude a building under his or her purview if the building does not already contain a lactation room for employees who work in the building, or a room that could be converted into a lactation

room at a "reasonable cost." Agency heads may also exclude a building from the lactation room requirement if the cost of constructing such a room would be "unfeasible."

Comparison and Analysis of Key Provisions

Table 1 compares key provisions from CPRA and the FAST Act and is followed by an analytical discussion.

Table 1. Comparison of Key Provisions of CPRA and the FAST Act

	CPRA	FAST Act
Expedited Disposal Provisions	Apply to all recommendations	Apply to all recommendations
Final Disposal Recommendations	Proposed by newly established commission	Proposed by newly established board
Congressional Action on Recommendations	Joint resolution of disapproval to prevent implementation	None. OMB Director approves or disapproves recommendations
Real Property Data	Certain committees and legislative agencies would have access to FRPP	No new database or expanded access to FRPP (S. 2375). Public access to new searchable database (H.R. 4465).

Expedited Disposal

Agencies have long argued that public benefit conveyance requirements, particularly those that require screening for homeless use, create an administrative burden that delays disposition and drives up maintenance costs. Savings, therefore, may be generated by permitting agencies to bypass screening requirements and move through the disposal process more quickly. Under both CPRA and the FAST Act, the identification of individual properties for specific disposal or realigning actions may permit those properties to bypass certain statutory requirements that may otherwise have applied. For example, it appears that properties recommended for sale or transfer may not be automatically subject to certain statutory public benefit screening requirements, including screening requirements established under the McKinney-Vento Homeless Assistance Act.[42]

Final Disposal Recommendations

CPRA and the FAST Act both propose establishing new entities—the former a commission, the latter a board—that would be responsible for the final list of disposal recommendations. In addition, the bills would require the President to seek Senate confirmation of the chairperson, which could slow down the development of recommendations if there were delays in the nomination or confirmation process. Similarly, the other members of the commission would either be appointed by the President in consultation with Congress (under the FAST Act) or appointed by House and Senate leaders directly (under CPRA), which could enable Congress to influence the composition of the commission.

[42] 42 U.S.C. §11301 et seq.

Congressional Action on Recommendations

CPRA would require a 45-day timeframe for congressional action. Congress would have less than seven weeks to review all of the recommendations—of which there may be hundreds—before deciding whether to pass a joint resolution of disapproval. This could reduce oversight of major real property actions. Consolidation projects, for example, are often complex, multi-year efforts, with long-term consequences for the agencies and communities involved, and for which Congress is asked to provide hundreds of millions, or even billions, of dollars. For this reason, Congress regularly holds hearings on major consolidation proposals. For example, the effort to consolidate the Department of Homeland Security at St. Elizabeth's in the District of Columbia (DC) is estimated to cost $3.26 billion and has been the subject of several congressional hearings.[43] The consequences of the consolidation are wide ranging, and include changing traffic patterns in Washington, DC, relocating thousands of employees, and ensuring historic preservation requirements are met. Similar issues have been raised regarding the consolidation of Food and Drug Administration headquarters, a project that has received hundreds of millions of dollars since FY2000. Some might argue that Congress would not have sufficient time, under the proposed time constraints, to either approve or disapprove of the recommendations.

Requiring Congress to approve or disapprove of the entire list of recommended actions could reduce conflict among various stakeholders interested in the properties in question. Some civilian agencies have found their disposal efforts complicated by the involvement of state and local governments, nonprofits, businesses, and community leaders with competing agendas. In 2002, for example, the USPS identified a number of "redundant, low-value" facilities that it sought to close in order to reduce its operating costs. As part of the facility closure process, USPS was required to formally announce its intention to close each facility and solicit comments from the community. USPS ultimately abandoned its plans to close many facilities it identified—including post offices that were underutilized, in poor condition, or not critical to serving their geographic areas—in part due to political pressure from stakeholders.[44] By moving the locus of decision making away from executive branch agencies, the amount of pressure that stakeholders exert on the process might be reduced.

The FAST Act might limit the influence of Congress over the recommendation process, at least compared to CPRA, because there would be no opportunity for Congress to stop the process if it has objections. Under the FAST Act, the Director would approve or disapprove the list of recommendations, and Congress would only be notified of his decision. This model of decision-making would put relatively more authority in the hands of the executive branch.

Real Property Data

As discussed earlier in this report, basic data on the federal real property portfolio—including information on how many excess and surplus properties each agency holds—are currently

[43] U.S. Government Accountability Office, *Federal Real Property: DHS has Made Progress, but Additional Actions are Needed to Address Real Property Management and Security Concerns*, GAO-07-658, June 2007, p. 4. U.S. Congress, House Committee on Transportation and Infrastructure, *Subcommittee on Coast Guard and Maritime Transportation, Review and Status of the Multi-Billion Dollar Department of Homeland Security Relocation Project in Washington, D.C., and its Impact on the U.S. Coast Guard*, 112th Cong., 1st sess., September 23, 2011 (Washington, DC: GPO, 2011). U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *St. Elizabeths and the Department of Homeland Security Consolidation*, 111th Cong., 2nd sess., March 25, 2010 (Washington, DC: GPO, 2010).

[44] U.S. Government Accountability Office, *Federal Real Property: An Update on High-Risk Issues*, GAO-09-801, July 15, 2009, p. 15.

limited. Each bill would enable the bodies that develop recommendations—the commission under CPRA and the board under the FAST Act—to access all information pertaining to the recommendations, including detailed data on each property's age, condition, operating costs, size, history of capital expenditures, sustainability metrics, and the number of employees housed at the property. Similarly, both the commission and the board would be required to post a report on its findings, conclusions, and recommendations on a website, which may result in agency-level data being made public.

CPRA would also provide certain congressional committees and legislative agencies access to the FRPP. This could enhance oversight of the federal real property portfolio, since analysts and policymakers would have, for the first time, direct access to comprehensive, government-wide data on agency portfolios, which in turn can be used to track agency disposal actions on an on-going basis and conduct ad hoc analyses. Similarly, H.R. 4465 would establish a publicly accessible database with key information about the costs and level of utilization of federal buildings across the government, which will facilitate increased monitoring of agency portfolios and disposal actions. Neither CPRA nor H.R. 4465 included provisions designed to improve the quality of real property data collected from agencies. As a consequence, the value of expanded data content and access could be limited by ongoing problems with data quality.

The Senate bill, S. 2375, would not address either access to, or the quality of data in the FRPP.

Key Provisions of the Property Reform Act and the Public Buildings Act

The Property Reform Act would not establish a new process for the disposition of surplus federal buildings, but it would establish a publicly accessible database of federal properties. The Property Reform Act database would encompass a broader range of information than the other proposed databases, including data on the length of time federal properties were in the disposal process, the costs associated with the disposal of each property, and the proceeds received from the disposition. These data may be helpful in identifying the cause of delays in the disposal process, which is one the primary reasons federal property management is considered a "high risk" area by GAO. The data on costs and proceeds may also enhance estimates of the potential revenue that could be generated through increased disposal activity.

The Property Reform Act would take steps to ensure that federal agencies are aware of their options for leasing space in underutilized Postal Service buildings. Very little information is available on postal properties, and by requiring the Postal Service to submit a list of properties with available space to federal agencies, there may be an increase in collocation (federal agencies leasing space from the Postal Service). This would simultaneously provide housing for federal agencies that are relocating or consolidating operations, while reducing the inventory of unneeded space at the Postal Service.

The Public Buildings Act would establish a pilot program to address concerns about the overreliance on costly leasing—another factor in GAO's designation of federal real property management as a "high risk" area. The pilot program would essentially reduce the administrative burden associated with entering into leases, provided the leases meet certain criteria. These criteria, such as a lease length of at least 10 years and a cost per square foot cap, may result in fewer short-term leases with relatively high costs. In addition, the bill would provide Congress with enhanced oversight of space acquisition projects. By requiring GSA to notify Congress of any increase of 5% or more in the cost of a project, lawmakers may be better positioned to hold GSA accountable for staying within its approved budget. In addition, by establishing a 5%

threshold for notification, Congress may be able to sooner identify projects with the potential for significantly higher cost overruns.

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