Congressional Budget Office

Testimony

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Selling Federal Property

before the
Committee on Oversight and
Government Reform
U.S. House of Representatives

July 27, 2011

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Chairman Issa, Congressman Cummings, Members of the Committee, thank you for inviting me to review the Congressional Budget Office's (CBO's) analysis of the President's proposal to expedite the disposal of federal civilian real property.[1]

The President included such a proposal in his 2012 budget submission to the Congress in February, and the Administration recently transmitted similar draft legislation to the Congress in the form of the Civilian Property Realignment Act. My statement summarizes CBO's analysis of that proposal, which was discussed in a letter that CBO sent to this Committee in June.[2] I will also offer some thoughts about how a process for disposing of unneeded federal property could be structured to increase proceeds to the federal government.

Summary

CBO's review of the President's proposal concluded that it was not likely to significantly increase receipts from sales of federal property in part because there is only a limited amount of excess property with significant market value and there are numerous legal, practical, and political obstacles to the sale of such property. The proposal might induce some agencies to sell property that cannot be sold under current law, and those sales would probably bring in a small amount of additional receipts to the Department of the Treasury. However, agencies also would be allowed to spend a portion of their proceeds from the sale of property, including those proceeds that would be obtained under current law and that would otherwise accrue entirely to the Treasury.

As a result, CBO estimates, enacting the proposal would *increase* net direct spending by $60 million over the 2012–2021 period.[3] In addition, under the assumption that the necessary amounts would be appropriated, CBO estimates that discretionary spending to identify and prepare property for sale or transfer would total $420 million over the 2012–2016 period. Some savings might accrue in later years because the proposal could significantly increase the number of properties disposed of, although not necessarily by sale, thus reducing future costs—and the necessary appropriations—to maintain them.

The Administration estimates that its proposal would result in more than $16 billion in additional gross receipts over the 2013–2017 period, an average of more than $3 billion per year from property sales. But CBO has reviewed the results of earlier

1. Federal real property consists of buildings, structures, and lands owned by the federal government within and outside of the United States.

2. Congressional Budget Office, letter to the Honorable Darrell E. Issa containing an analysis of a proposal to expedite the disposal of federal civilian real property (June 27, 2011).

3. Direct spending is the budget authority provided by laws other than appropriation acts and the outlays that result from that budget authority. Discretionary spending is the budget authority that is provided and controlled by appropriation acts and the outlays that result from that budget authority.

efforts to dispose of unneeded federal property and has concluded that the legislation probably would not result in a significant increase in proceeds over the next 10 years because the number and value of properties sold under the proposal would not be significantly greater than would be the case under current law.

To be successful in substantially increasing the proceeds from disposing of federal properties, legislation would probably have to do one or more of the following:

- Create clearer incentives for agencies to sell (rather than give away) property;
- Exempt property from federal laws that discourage or impede sales; and
- Be very specific about which properties must be sold.

The President's Proposal

The President proposes to create a Civilian Property Realignment Board (CPRB) to expedite the disposal of unneeded federal real property and identify opportunities to consolidate and make the best use of facilities it retains. Under the proposal, the board would present the Congress with recommendations for disposal of specific properties. Unless the Congress disapproved of those recommendations, the Administration would implement them.

As an incentive to dispose of unneeded property, agencies would be allowed to retain and spend up to 40 percent of the net proceeds from the sale of properties under their jurisdiction. One goal of the proposal is to have sales proceeds pay for the CPRB and any costs of preparing unneeded property for sale or disposal.

The CPRB would be modeled on the commission created as part of the Base Realignment and Closure (BRAC) program in 1988 to dispose of unneeded federal properties managed by the Department of Defense. Under that program, the Secretary of Defense sends the BRAC Commission recommendations for the realignment or closing of defense-related properties. The commission, which is appointed by the President, evaluates the list and can add properties to it. The President then approves or rejects the list in its entirety. If approved, the list is sent to the Congress to approve or reject within 45 days. If the Congress approves the list or takes no action, the commission begins disposing of the properties through transfer to other federal agencies, conveyance for a nominal amount to nonfederal entities, or sale.

CBO Estimates That the President's Property Proposal Would Not Result in Significant Additional Sales Receipts

CBO expects that the proposed CPRB legislation would not significantly increase the proceeds from the sale of unneeded federal properties compared with the amounts expected under current law. That conclusion is based on the experience of the BRAC program and other initiatives to dispose of federal properties, the incentives that some agencies have to retain unneeded properties, and the uncertain market value of properties that are available for sale or for disposal by some other method under current law.

The BRAC Process Has Yielded Modest Proceeds

BRAC was created to align the nation's inventory of defense-related real property with the needs of the military. The commission was not directed to maximize receipts to the Department of the Treasury from disposing of unneeded assets but to reduce expenditures on operation and maintenance and to reorganize the geographic disposition of military forces efficiently. Over the past 20 years, more than 350 military installations have been conveyed to nonfederal entities through the BRAC process. The proceeds from sales have amounted to about $1.5 billion. More than half of the receipts over the period resulted from the sale of two Marine Corps air stations in California.[4]

In addition to those proceeds, the transfer of properties to nonfederal entities through the BRAC process has eliminated the need to maintain those facilities. Whether the reduction in such maintenance costs resulted in outlay savings for the government depends on whether appropriations were reduced to reflect the lower maintenance costs or those funds were allocated for other purposes.

Other Efforts to Dispose of Unneeded Federal Properties Have Had Mixed Results

The federal government sells property on an ongoing basis, but the net budgetary impact is quite small. The proceeds from the sale of civilian real property, minus the share of the proceeds that agencies were allowed to spend, totaled about $70 million over the past five years. In its baseline projections, CBO anticipates that annual receipts of about $20 million will be deposited in the Treasury from such activities. Most of the property that the federal government disposes of is not sold: In 2009, the government disposed of 19,460 properties—only 2,200 through sales. On average, the annual operating cost per property of those that were disposed of came to about $7,500.[5]

Attempts to legislatively direct the sale of federal real property have produced mixed results. High-profile sales of federally owned properties that were specifically directed by legislation include the following:

- *Governors Island, a 172-acre island in Upper New York Bay near Manhattan*. The Balanced Budget Act of 1997 required the General Services Administration (GSA) to dispose of the property at fair market value. GSA appraised the island at

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4. Government Accountability Office, *Military Bases: Analysis of DOD's 2005 Selection Process and Recommendations for Base Closures and Realignments*, GAO-05-785 (July 2005), p. 48, www.gao.gov/new.items/d05785.pdf.

5. The Federal Real Property Council, *FY 2009 Federal Real Property Statistics* (September 2010), p. 11.

$500 million (later revised to $300 million) but sold it to the state of New York for one dollar.[6]

- *The Presidio, a 1,491-acre area in San Francisco, California.* Although the Presidio was slated for disposal through the BRAC process in 1994, the property was not sold; instead, it is managed mainly by the Presidio Trust, a public–private partnership that receives an annual federal appropriation.

- *The Old Chicago Main Post Office, which had an estimated replacement value of $300 million.*[7] The building was sold at auction in 2009 for $20 million, 12 years after it had been vacated.[8]

The government occasionally has sold property for a significant amount. For example, in 2007, the Department of State sold its Navy Annex building in London for $494 million.[9] Similarly, the Postal Service sold the Farley Building in New York City for $230 million.[10] However, in both cases the agencies had authority to retain and spend all proceeds.

In 2004, President Bush issued Executive Order 13327, Federal Real Property Asset Management, which set a target date of 2015 to reduce by a total of $15 billion the net expense associated with unneeded federal buildings.[11] The current Administration issued a Presidential Memorandum on June 10, 2010, which called on civilian federal agencies to produce total cost savings of at least $3 billion by 2012.[12] Those net

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6. Jaan Elias and others, *Governors Island: Local, State, & Federal Play Deal or No Deal,* Yale Case 07-027 (Yale School of Management, April 24, 2007), p. 2, http://pse.som.yale.edu/sites/pse.som.yale.edu/files/Case_Governors%20Island%20Final%20and%20Complete.pdf.

7. Replacement value is the cost of replacing an existing asset under current standards. See U.S. Postal Service, letter to Tom A. Samra, Vice President, Facilities, U.S. Postal Service, regarding the sale of the Old Chicago Main Post Office (August 25, 2009), www.uspsoig.gov/foia_files/SA-WP-09-001.pdf.

8. Melissa Harris, “British Developer Bill Davies Again Top Bidder for Old Post Office,” *Chicago Tribune* (October 22, 2009), http://articles.chicagotribune.com/2009-10-22/news/0910210598_1_post-office-top-bidder-british.

9. Government Accountability Office, letter to the Honorable Edolphus Towns and the Honorable Darrell Issa, “Federal Real Property: Authorities and Actions Regarding Enhance Use Leases and Sale of Unneeded Real Property” (February 17, 2009), p. 11, www.gao.gov/new.items/d09283r.pdf.

10. United States Postal Service, *Annual Report 2007*, p. 47, www.usps.com/financials/_pdf/AR2007_final.pdf; *Annual Report 2008*, p. 56, www.usps.com/financials/_pdf/annual_report-2008.pdf; and *Annual Report 2009*, p. 73, www.usps.com/financials/_pdf/annual_report_2009.pdf.

11. Presidential Documents, “Federal Real Property Asset Management,” *Federal Register,* vol. 69, no. 25 (February 6, 2004), pp. 5897–5900, http://edocket.access.gpo.gov/2004/pdf/04-2773.pdf.

12. The White House, “Presidential Memorandum—Disposing of Unneeded Federal Real Estate” (June 10, 2010), www.whitehouse.gov/the-press-office/presidential-memorandum-disposing-unneeded-federal-real-estate.

savings were to result from additional sales proceeds as well as from reducing operating costs as properties were disposed of and space was consolidated. CBO is not aware of any comprehensive reports regarding progress toward those goals, but even if property disposal efforts do not result in substantial additional receipts to the Treasury, savings could result from eliminating operation and maintenance costs for such facilities.

Many Agencies with Unneeded but Valuable Property Would Have Little Additional Incentive to Sell It

The purpose of the proposed CPRB is to increase the volume of the sales or other disposal of unneeded federal properties. However, in CBO's view, the proposal would not offer many agencies sufficient new financial incentives to part with valuable unneeded properties.

The President's proposal would allow agencies to retain up to 40 percent of the net proceeds from property sales as an incentive to dispose of unneeded property. However, under current law, some federal agencies that manage real property can retain and spend 100 percent of the proceeds from the sale of excess property; the President's proposal would offer no incentive for those agencies to increase the pace of their sales. Moreover, some of the civilian agencies that hold the large amounts of property, such as the Departments of Veterans Affairs, the Treasury, and Energy, as well as the GSA, already have authority under current law to enter into enhanced-use leases, which often prove more lucrative than sales. Those arrangements allow agencies to lease underused land and facilities for cash or in-kind services; the agencies thereby secure private financing—outside of the appropriation process—for construction or renovation of buildings, power plants, and other infrastructure.[13]

Some agencies that hold smaller amounts of property probably would consider the opportunity to retain some of the sales proceeds as an incentive to sell additional unneeded property. However, that added incentive would come at a price—allowing agencies to spend 40 percent of the proceeds, including those that would be collected by all agencies under current law—that CBO estimates would boost spending by more than the added sales.

The Inventory of Excess Property Has Uncertain Market Value and Much of It Is Already Being Disposed of Under Current Law

The GSA's annual reports on federal property reveal the great diversity and vast amount of real property owned by the federal government across the country and around the world.[14] Many excess government structures are located in rural areas, often on land in national forests or national parks that is not proposed to be sold.

13. See Congressional Budget Office, *Third-Party Financing of Federal Projects*, Issue Brief (June 2005).

14. For the most recent accounting, see The Federal Real Property Council, *FY 2009 Federal Real Property Statistics* (September 2010).

Such structures have little market value. By the time agencies are prepared to dispose of most real property, the facilities are often well into their useful economic lives, and many would need significant investments to be reused. Other facilities that are older may have environmental contamination issues that limit their marketability. Finally, local governments may or may not be amenable to redevelopment plans for unneeded federal facilities, and the potential need for rezoning may also affect the sales value.

The Administration recently released information about 12,000 federal buildings and structures it currently designates as excess.[15] Those properties—among them buildings, warehouses, sheds, roads, bridges, towers, and other facilities—can be disposed of or sold under current law. They are located across the country, in rural and urban areas, and many are on land controlled by the National Park Service or the Forest Service.

Data from the Administration's list suggest that gaining billions of dollars from the sale of such properties, even if some additional sales were triggered by the President's proposal, is unlikely. About one-third are held by the Department of Defense, and responsibility for their sale or disposal, which currently rests with the BRAC Commission, would not be transferred to the CPRB. In addition, those data indicate the following:

- Forty-five percent of the listed buildings and structures are already being disposed of under current law;
- Twenty-eight percent will probably be demolished;
- Twenty percent have already been disposed of, are no longer considered excess properties, or have been transferred to another federal agency;
- About 6 percent are slated to be conveyed for little or no cost to another public entity or transferred for economic development purposes; and
- Less than 1 percent of the properties (about 30 in all) are expected to be available for sale or have already been sold. Of that group, three are federal office buildings, and the largest, in Portland, Oregon, was sold at auction in 2010 for $2.5 million.[16]

If the Civilian Property Realignment proposal is to generate significant additional proceeds from property sales, more properties would have to be identified, and they

15. The White House, "Federal Excess Properties Interactive Map," www.whitehouse.gov/issues/fiscal/excess-property-map.

16. Wendy Culverwell, "Prem Group Wins Custom House Auction," *Portland Business Journal*, October 4, 2010, www.bizjournals.com/portland/stories/2010/10/04/daily3.html.

would need to be far more valuable in the private marketplace than are the properties currently on the Administration's list.

The President's Property Proposal Could Reduce the Need for Appropriations to Maintain Real Property

The sale, transfer, or disposal of federal property would lead to a reduction in the need for appropriated funds to maintain and improve federal properties. The Government Accountability Office (GAO) has reported that operation and maintenance costs typically account for between 60 percent and 85 percent of the lifetime costs of owning a building.[17] Some of those amounts would be eliminated even if the proceeds from selling or transferring a particular property were negligible.

In 2009, government agencies, including the Department of Defense, reported that they spent about $1.7 billion to operate about 45,000 underutilized federal buildings and about $0.3 billion to operate about 10,000 buildings classified as excess.[18] Some of those buildings are only slightly underutilized, and some of the space characterized as underutilized is not readily usable. Still, restructuring building occupancy to increase utilization of some facilities so that others could be disposed of and disposing of excess properties would eliminate some annual operating costs and thus reduce future spending if appropriations were reduced by corresponding amounts. However, most of such savings would have to come from consolidating existing operations and disposing of buildings that are currently being used.

Strategies That Could Help Increase Proceeds

On the basis of its analyses of many years' worth of property disposals, CBO has identified some steps the federal government could take to increase the proceeds from such sales.

Create a Clear Incentive to Maximize Proceeds, Not Just to Dispose of Property

Many proposals create incentives to dispose of property, but not necessarily to sell it. Simply authorizing or even requiring disposal could help reduce the stock of surplus properties (and thereby potentially decrease the need for future appropriations to manage them), but such a process would not necessarily generate significant additional receipts. Requiring that valuable properties be auctioned to the highest bidder could ensure that more of the value of unwanted federal property is returned to the Treasury.

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17. Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (March 2011), p. 222, http://gao.gov/new.items/d11318sp.pdf.

18. The Federal Real Property Council, *FY 2009 Federal Real Property Statistics* (September 2010), p. 8.

Exempt Sales of Surplus Property from Existing Laws That Slow the Disposal Process or That Allow Property to Be Donated First

The amount of property that can be sold is limited under current law. GSA and other federal agencies must follow certain statutory procedures for disposing of federal property that discourage sales. Proceeds could be increased if property sales were exempted from the host of laws that slow the disposal process or that require the government to donate surplus property or to offer it at a reduced cost to other parties before it is auctioned.

Current law places several constrains on the amount that the government can make from selling property. For example, before soliciting bids from potential buyers, GSA must offer property, at a discount of up to 100 percent, to states, local governments, and nonprofit organizations, which can use it for purposes such as parks, prisons, schools, airports, or other public facilities. In addition, numerous laws, including the Stewart B. McKinney Homeless Assistance Act and the National Historic Preservation Act, limit the ability of some federal agencies to sell their excess property.

Specify in Law Which Properties to Sell

Finally, specifying in legislation the exact list of properties that must be sold rather than allowing federal agencies or a commission to do so would result in additional proceeds from sales.

Other Considerations

The government's ability to sell some federal property—as well as that property's market value—often depends on local zoning. Most decisions about land use in the United States are made by local governments through zoning and other measures designed to ensure that land is developed according to coherent plans. Potential buyers must consider how local governments will let them use or redevelop a property that was, for example, an industrial site, post office, fuel depot, airfield, office building, port facility, or military site. A federally owned site on a river front, for example, may have been a costly investment in the past, but that does not ensure that such a site would be valuable to a private purchaser—especially if the local government is unwilling to see the property redeveloped but desires instead to have it be open space or parkland. It could be difficult to dispose of some properties or to maximize the proceeds from their sale as long as local stakeholders oppose such efforts.

The various steps the federal government could take to accelerate property disposal and increase sales proceeds could have other consequences. Some actions and undue speed could create errors in planning, invite legal challenges, lead to environmental damage, or impose mandates on a state or local government. The Congress and the Administration would need to weigh the relative benefits and costs of those possibilities.