

096756

~~#29.07~~

~~74-0269~~

096756



REPORT TO THE CONGRESS



Changes In Law Recommended To Enable GSA To Be More Effective In Selling Excess Properties And In Acquiring Public Building Sites

B-165511

General Services Administration

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

FEB. 15, 1974

~~701845~~

096756



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-165511

6
-
To the President of the Senate and the
Speaker of the House of Representatives

This is our report on the changes we are recommending in the law to improve the acquisition of public building sites and to eliminate excess property exchanges by the General services Administration.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and to the Administrator of General Services.

James B. Stacks

Comptroller General
of the United States

C o n t e n t s

	<u>Page</u>
DIGEST	1
CHAPTER	
1 INTRODUCTION	3
Acquisition by exchange	3
2 CHANGES IN LAW RECOMMENDED TO IMPROVE AC- QUISITION OF PUBLIC BUILDING SITES AND TO ELIMINATE EXCESS PROPERTY EXCHANGES	6
Appraisals	6
Time spent in locating a suitable site and negotiating an exchange	10
Public buildings acquired by exchange without congressional review	10
Conclusion	11
Recommendations to the Congress	12
3 AGENCY COMMENTS AND GAO EVALUATION	13
4 EXAMPLES OF EXCHANGE TRANSACTIONS	14
Case 1--Exchange of excess Navy land for a building site in San Diego	14
Case 2--Acquisition of a parking facil- ity and building sites in ex- change for an excess Federal office building	16
Case 3--Acquisition of parking facility in Albuquerque in exchange for excess Government land	17
Case 4--Exchange of excess Navy land for a building site in Santa Rosa, California	19
Case 5--Exchange of excess land at Fort Des Moines, Iowa, for a building site in Huron, South Dakota	22

APPENDIX

Page

I	Exchanges included in GAO review	27
II	Principal officials of GSA responsible for activities discussed in this report	29

ABBREVIATIONS

GAO	General Accounting Office
GSA	General Services Administration
OMB	Office of Management and Budget
PBS	Public Buildings Service
PMDS	Property Management and Disposal Service

D I G E S T

WHY THE REVIEW WAS MADE

The General Services Administration (GSA) acquires, by purchase or exchange, public buildings and land considered necessary for building sites. GAO evaluated the exchange method to determine its usefulness in meeting the Federal Government's needs for property. (See pp. 3 and 4.)

FINDINGS AND CONCLUSIONS

GSA's 10 regions made 38 exchanges during a 6-year period ending June 30, 1973. They exchanged excess Government-owned property appraised at \$28.4 million for privately owned property appraised at \$29.4 million. (See pp. 3 and 4.)

GAO's review of 12 exchanges by 3 regions revealed that, although GSA obtained the appraised fair market value for much of the excess property and acquired properties which helped meet Federal needs without spending appropriated funds, some excess property was exchanged below appraised fair market value.

The property exchange method has two inherent weaknesses:

--It lacks competition in determining the value obtainable for excess properties.

--It requires too much time in locating a suitable building site and in negotiating an exchange.

For six exchanges for which information was readily available, the holding period for the property exchanged ranged from 3 to 10 years. These delays occurred because of (1) GSA's concern with satisfying its needs for sites without using appropriated funds and (2) the complexity of arranging and negotiating an exchange.

The Government would have more assurance of receiving the highest value for excess property under competitive bidding than it has under negotiated exchanges based on appraised fair market value.

Appraised values do not sufficiently assure that the Government is receiving the highest value obtainable because participation in an exchange is limited to one individual. In some cases former Government property was sold, shortly after an exchange, at prices much higher than the appraised value at which it had been exchanged.

To provide all interested parties an opportunity to acquire excess Government property and to avoid the delays encountered in exchanges, the Congress should consider amending the law to permit GSA to offer such property at competitive bid and to

deposit the cash proceeds into a building fund to be used, subject to annual appropriation acts, for acquiring public building sites. (At present, cash from property sales is deposited in the Treasury as miscellaneous receipts.) (See pp. 4 to 12.)

Given this change in law, GSA would not need the exchange authority in the Public Buildings Act of 1959, as amended. (See pp. 4 to 13.)

RECOMMENDATIONS

This report contains no recommendations to GSA.

AGENCY ACTIONS AND UNRESOLVED ISSUES

GSA agrees that the law should be amended to permit it to sell excess properties and deposit the receipts from such sales into the Federal Building Fund to acquire sites necessary to carry out its public building program.

GSA believes that the property exchange procedure offers flexibility and that retention of the exchange authority in the 1959 act is essential for its public building program.

GAO believes that the practice of acquiring public buildings and sites by exchange method should be discontinued. If an acquisition by exchange is at any time warranted, GSA could consummate the exchange under existing authority in the Federal Property and Administrative Services Act of 1949, as amended. (See p. 13.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

GAO recommends that the Congress amend the Federal Property and Administrative Services Act of 1949 so that GSA may offer excess Government properties at competitive bid and deposit the sales proceeds into a building fund to be used to acquire the sites necessary to carry out the GSA public buildings program. This process would give full play to the forces of competition and assure the Government that the highest value is received for excess properties.

GAO also recommends that the Congress amend the Public Buildings Act of 1959 to eliminate the provisions authorizing the acquisition of property by the exchange method. (See p. 12.)

CHAPTER 1

INTRODUCTION

By law and Executive orders, the Administrator of General Services is directed to maintain plans and programs for effectively acquiring and using Government-owned and Government-leased buildings. The Public Building Service (PBS) of the General Services Administration (GSA) carries out these operations in 10¹ regional offices under policy and procedural direction from the GSA central office in Washington, D.C.

Section 210(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), authorizes the Administrator to acquire--by purchase, condemnation, or otherwise--real estate and interests therein.

The Public Buildings Act of 1959, as amended (40 U.S.C. 601-606), provides that no appropriation may be made to construct, alter, purchase, or acquire any public building involving an expenditure over \$500,000 and also that no appropriation may be made to lease any space at an average annual rental over \$500,000, unless the Public Works Committees of the Congress approve a prospectus. A prospectus is a proposal document containing information about the need for a project, the estimated cost or rental, and other data.

ACQUISITION BY EXCHANGE

The 1949 and 1959 acts authorize GSA to exchange Government-owned property.

To minimize expenditures for property, section 202(a) of the 1949 act (40 U.S.C. 483) requires the Administrator of General Services to provide for transferring excess property among Federal agencies and to prescribe policies and methods to promote its maximum use. The act defines excess property as property controlled by any Federal agency but not required for its needs.

¹The responsibility for planning and constructing public buildings in the Washington regional office was transferred to the GSA central office in September 1970.

Section 203(c) authorizes the disposal of surplus property by sale, exchange, lease, permit, or transfer, for cash, credit, or other property. Surplus property is defined as any excess property not required for the needs of all Federal agencies, as determined by the Administrator of General Services. Under this section, GSA is to report¹ to the Committees on Government Operations before it disposes of surplus property over \$1,000 by negotiated exchange or sale.

Section 204(a) provides that, except in certain instances, proceeds from the sale of surplus property be deposited in the Treasury as miscellaneous receipts.

Section 3 of the 1959 act (40 U.S.C. 602) authorizes the Administrator to acquire, by purchase or exchange, any building and its site which he considers necessary to carry out his duties. Section 5 authorizes the Administrator to acquire, by exchange, land deemed necessary for use as sites, or additions to sites, for construction or alteration of public buildings. This act does not require any advance reporting to the Congress of exchange transactions.

According to GSA regulations, the Congress' approval of prospectuses is not required for public buildings acquired by exchange under section 3 of the 1959 act, regardless of the value of the building and site to be acquired, as long as the transaction does not involve an expenditure of appropriated funds over \$100,000. Office of Management and Budget (OMB) approval is required for the transfer of excess real property to PBS from other agencies or from GSA's Property Management and Disposal Service (PMDS), when the appraised value of the property is \$100,000 or more.

For exchange purposes, PBS may use nonexcess property (property within its inventory) or excess property transferred to it from other agencies through PMDS. The regulations state that PBS shall be expected to consummate an exchange of excess

¹An explanatory statement is used to report each negotiated disposal of surplus property to the Congress. This statement includes the justification, appraisal estimates, proposed purchase price, and other data concerning the proposed disposal.

property within a reasonable time or return the property to PMDS for disposal.

During fiscal years 1968-73, PBS, under authority of the 1959 act, consummated 38 transactions wherein excess Government-owned property was exchanged for privately owned property to be used for building sites or for public buildings. According to GSA's statistical reports, the appraised fair market value of the Government-owned property exchanged was \$28.4 million, and the appraised fair market value of the property received was \$29.4 million.

We reviewed 12 of the 38 exchange transactions in 3 GSA regions. We also reviewed laws, regulations, exchange agreements, negotiation records, appraisal reports, and other related files both in the GSA central office and in the three regional offices.

CHAPTER 2

CHANGES IN LAW RECOMMENDED TO

IMPROVE ACQUISITION OF PUBLIC BUILDING

SITES AND TO ELIMINATE EXCESS PROPERTY EXCHANGES

Although GSA obtained the appraised fair market value for much of the excess property and acquired properties which helped to meet Federal needs without spending appropriated funds, some excess property was exchanged below appraised fair market value.

The property exchange method has two inherent weaknesses:

--It lacks competition in determining the value obtainable for excess properties.

--It requires too much time in locating a suitable building site and in negotiating an exchange.

For six exchanges for which information was readily available, the holding period from the date properties were declared excess, to the date of the exchange agreement, ranged from 3 to 10 years. These delays occurred because of (1) GSA's concern with satisfying its needs for sites without using appropriated funds and (2) the complexity of arranging and negotiating an exchange.

GSA must seek out a private owner who has suitable property at a location that meets GSA's requirements. The private owner must be willing to trade his property for Government-owned property. Ordinarily he is willing to trade only if such action will benefit him. A lack of direct competition makes it easier for the owner to obtain the property on his own terms.

APPRAISALS

Independent appraisers selected from GSA's register of qualified applicants appraise property to be exchanged or acquired. These appraisals are intended to

establish the fair market values used by GSA in negotiating with a private owner who has a site that meets GSA's requirements and who is willing to exchange it for excess Government property. GSA obtained one or more appraisals for each piece of excess Government property exchanged and for each parcel of property acquired. The appraisals we reviewed generally conformed to GSA regulations.

GSA regulations, effective October 1969, require that the property plus any cash acquired by the Government must not be less than 90 percent of the appraised value of the Government property except where a lesser value can be justified.

Reliance on appraised values

In the 12 exchanges we examined the Government received properties appraised at \$11,433,200 and about \$434,000 in cash and other considerations, or a total of \$11.9 million in return for excess properties appraised at \$12.3 million. (See app. I for details.) Overall, the difference in value indicates that exchanges favored the private parties by about \$400,000 on the basis of GSA's appraisals.

Appraised value of property traded by Government (note a)	Appraised value of property acquired plus cash and other considerations (note a)	Variance of property acquired over and under (-) property traded	
		Amount	Percent
\$ 1,668,000	\$ 1,455,000	-\$213,000	-13
3,200,000	3,200,000	-	-
^b 937,500	992,500	55,000	6
651,000	627,000	-24,000	-4
334,000	318,800	-15,200	-5
825,000	825,000	-	-
690,500	690,500	-	-
^b 1,485,000	1,164,000	-321,000	-22
1,225,000	1,215,000	-10,000	-1
461,200	462,500	1,300	-
603,800	631,900	28,100	5
<u>180,000</u>	<u>285,000</u>	105,000	58
<u>\$12,261,000</u>	<u>\$11,867,200</u>		

^aRounded to nearest hundred.

^bSee app. I.

For 10 of the 12 exchanges, GSA received properties plus other considerations equal to at least 90 percent of the Government properties it traded. The variance of values acquired in these 10 exchanges ranged from 5 percent below to 58 percent above the values of properties traded. For the remaining two exchanges, GSA accepted properties which were 13 percent and 22 percent below the appraised value of the Government property it traded.

From this analysis we conclude that neither GSA nor the second parties to the exchanges relied consistently on appraised values.

Appraised value vs. sales price

Appraised values do not sufficiently assure that the Government is receiving the highest value obtainable because participation in an exchange is limited to one individual. In some cases, there was a sizable difference between the price at which former Government property was sold and the appraised value at which it was exchanged.

In the cases we observed, the amount buyers paid for properties was much higher than the appraised values. As a result of one¹ such resale of former Government property, GSA revised its procedures to require reappraisals within 6 months of an exchange. In this case, 100 acres of surplus property appraised at \$394,000 in 1967 was exchanged about a year later for an office building on which the Government had an option to buy for \$370,000, plus \$30,000 in cash. About 10 months after the exchange the new owner had it rezoned and sold about 25 acres for \$1.2 million--\$47,900 an acre, or 12 times GSA's appraised value of \$3,900 an acre.

It is unknown how much the owner had to spend to change the zoning classification. Rezoning of property can frequently involve complex political, social, and economic problems so that the purchase of land with the hope of rezoning may often be considered a risky speculation. Although appraisers should consider the possibility of rezoning and its effects on the fair market value of land, it is frequently very difficult to do so.

¹Not listed in appendix I since this is a negotiated exchange of 100 acres of surplus property.

In February 1970, GSA exchanged a 36-acre San Diego site appraised at \$1,668,000 for a downtown site appraised at \$1,455,000. Although the value received was less than 90 percent of the appraised value of the Government's property, GSA stated that the lesser value was justified. The new owner of the 36-acre site sold the former Government property for \$2.3 million a month later. This was \$630,000, or about one-third, more than the value established in GSA's appraisal.

In November 1971, GSA exchanged a 60-acre Fort Des Moines, Iowa, site appraised at \$334,000 (under residential zoning) for a 3-acre Huron, South Dakota, site appraised at \$218,800 plus cash of \$100,000, or a total of \$318,800. However a realty company, when negotiating the exchange, indicated that it valued the 60-acre site at about \$465,000.

The company held options to buy the 3-acre Huron site for \$451,400. It offered the 3-acre Huron site plus \$48,600 in cash stating that this \$500,000 offer was \$35,000 more than the value of the 60-acre Fort Des Moines site. The exchange finally negotiated included \$100,000 in cash to GSA.

Between the agreement in November 1971 and the closing in June 1972, the realty company succeeded in having the 60-acre site along with an adjacent tract changed from residential to commercial zoning. GSA obtained a revised appraisal showing that, under commercial zoning, the 60-acre site was worth \$407,000. It concluded that the exchange was favorable based on the following calculation.

Cost of 3-acre Huron site	\$451,400
Cash paid to the Government	<u>100,000</u>
Total value received from realty company	551,400
Fort Des Moines site appraisal under commercial zoning	<u>407,000</u>
Government's gain on the exchange	<u>\$144,400</u>

Although the cases that afford a chance to compare selling prices with appraisal value are few, we believe the wide margin that can exist between selling price and appraised value is enough to show that the appraised value of properties traded did not always indicate the price a buyer was willing to pay. Since GSA may not retain money received from selling

excess property, it uses the exchange method for acquiring public building sites without using appropriated funds.

TIME SPENT IN LOCATING A SUITABLE SITE AND
NEGOTIATING AN EXCHANGE

PBS is expected to consummate an exchange of excess property within a reasonable time, but the regulations do not define what a reasonable time would be.

For six exchanges for which information was readily available, the holding periods from the date the properties were declared excess, to the date of the exchange agreement, ranged from 3 to 10 years, as follows.

<u>Case</u> <u>(note a)</u>	<u>Month property was</u> <u>declared excess</u>	<u>Month of</u> <u>exchange</u> <u>agreement</u>	<u>Years</u> <u>elapsed</u>
1	Dec. 1965	Dec. 1969	4
3	Apr. 1966	June 1970	4
4	June 1965	Mar. 1972	7
5	Dec. 1968	Nov. 1971	3
6	Feb. 1961 (part of property)	Dec. 1971	10
	Aug. 1965 (part of property)	Dec. 1971	6
8	Oct. 1965	Feb. 1969	3

^aExcess properties in cases 2 and 7 were in the PBS inventory so a formal reporting date as excess would not apply.

The reason properties remain excess for several years seems to be due to the complexity of arranging and negotiating an exchange. GSA has little incentive to release the excess property for sale since the proceeds would be deposited in the Treasury and therefore be unavailable to GSA for use in acquiring public building sites.

PUBLIC BUILDINGS ACQUIRED BY
EXCHANGE WITHOUT
CONGRESSIONAL REVIEW

The Congress historically has treated the construction of public buildings under specific legislation which has included detailed procedures for authorizing and allocating

public building projects.¹ The Public Buildings Act of 1959, as amended (40 U.S.C. 606), provides that no appropriation shall be made to construct a public building involving an expenditure over \$500,000 (it was \$100,000 before June 16, 1972) unless the Public Works Committees of the Senate and House of Representatives approve a prospectus. The stated purpose of this provision is to insure an equitable distribution of public buildings throughout the United States with due regard to the urgency of such buildings.

It is GSA's position that, under the authority of the 1959 act, congressional approval is not required for public buildings and sites acquired by exchange, regardless of the value of the building or site, as long as the transaction does not involve the expenditure of appropriated funds over \$100,000.

In addition to the congressional approval process, GSA is required, when requesting funds for construction of public buildings, to justify the necessity of these funds to the Committees on Appropriations.

Our review revealed that, for 2 of the 12 exchange transactions, GSA acquired 2 parking facilities (public buildings) costing about \$1 million each. Since appropriated funds were not used, GSA did not have to go through the congressional approval and appropriation processes.

CONCLUSION

We believe that the Government would have more assurance of receiving the highest value for excess property under competitive bidding than it has under negotiated exchanges. A legislative amendment is needed to make the proceeds from the competitive sale of excess property available for acquiring public building sites. Such an amendment should provide the incentive for GSA to dispose of its excess properties within a reasonable time.

¹Public Buildings Act of 1926 (44 Stat. 630); Public Buildings Act of 1949 (63 Stat. 176); Public Buildings Purchase Contract Act of 1954 (68 Stat. 518); and Public Buildings Act of 1959 (73 Stat. 479).

Given this change in law, we believe that GSA would not need the exchange authority in the Public Buildings Act of 1959, as amended.

RECOMMENDATIONS TO THE CONGRESS

We recommend that the Congress amend the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490) so that GSA may offer excess Government properties at competitive bid and deposit the sales proceeds into a building fund to be used to acquire the sites necessary to carry out the GSA public buildings program. This process would give full play to the forces of competition and assure the Government that the highest value is received for excess properties. The Congress may wish to require GSA to screen properties before sale to insure they are not needed for a public purpose, i.e., educational, health, or recreational.

The sales proceeds could be deposited into a building fund in the Treasury along with the rents and other receipts GSA will collect and deposit starting July 1, 1974, under Public Law 92-313, dated June 16, 1972. This recent law also provides that GSA may use the moneys deposited into the building fund as specified in the annual appropriation acts to finance its public buildings operations, land acquisition, design, construction, repair, and improvements.

We also recommend that the Congress amend the Public Buildings Act of 1959 to eliminate the provisions authorizing the acquisition of property by the exchange method.

CHAPTER 3

AGENCY COMMENTS

AND GAO EVALUATION

GSA stated it fully agreed with the intent of our recommendation that the law be amended to permit it to sell excess properties and to deposit the receipts from such sales into the Federal Building Fund to acquire necessary sites. GSA felt also, that the property exchange procedure offers flexibility and that retention of the exchange authority in the 1959 act is essential for its public building program.

In view of the inherent weaknesses of the exchange procedure, we believe that the practice of acquiring public buildings and sites by the property exchange procedure should be discontinued. However, if an acquisition by the exchange method is at any time warranted, GSA could consummate the exchange under authority of the Federal Property and Administrative Services Act of 1949, as amended. There would also be congressional visibility of the exchange. This act requires that GSA report to the Committees on Government Operations before it disposes of surplus property over \$1,000 by negotiated exchange or sale.

CHAPTER 4

EXAMPLES OF EXCHANGE TRANSACTIONS

Following are summaries of 5 of the 12 GSA exchange transactions we reviewed.

CASE 1--EXCHANGE OF EXCESS NAVY LAND FOR A BUILDING SITE IN SAN DIEGO

In early 1970, GSA exchanged 36 acres of excess Navy land in San Diego for a downtown building site owned by a private interest. The appraised value of the Navy land was \$1,668,000 and the downtown site, \$1,455,000. Although the appraised values are not equal, GSA said it was the best it could arrange in making the exchange. However, the acquiring parties sold the Navy land for \$2.3 million 1 month after the trade.

The Assistant Commissioner for Space Management sent a memorandum approving the exchange, dated February 16, 1970, with endorsements by the Administrator and the Acting Commissioner, PBS, which stated:

"While the Government-owned property to be conveyed to the exchange proponent exceeds by \$213,000 (13.175%) the value of the property to be acquired, it has been determined that the exchange offer is the best obtainable and is, in fact, a significant accomplishment in view of our extended efforts since mid-1964 to acquire a three-block site in downtown San Diego by exchange."

One month later on March 16, 1970, a deed recorded the sale of the former Navy property by its new owners. The transfer tax paid indicated the selling price was \$2,300,000, which was confirmed in discussions with a real estate broker involved in the deal. According to the broker, the sales price consisted of \$680,000 cash, a first deed of trust for \$900,000, and a second deed of trust for \$720,000. We believe that the subsequent sale indicates that the exchange offer to the Government may not have been the best obtainable. Events leading up to the exchange follow.

The Navy's Warren Housing Project in San Diego was closed in August 1963. The buildings were sold and removed from the site, and the Navy retained the land for possible new housing.

The Navy notified GSA in December 1965 that the site of the former Warren Housing Project, containing 36.42 acres, was excess to the Department of Defense's needs. The Navy requested GSA to use the 36.42 acres as barter in an exchange for 11 acres of land owned by the city. The Navy wanted the 11 acres to provide a new entrance to the San Diego Naval Station. Because of the Navy's requirements, GSA did not screen the 36.42 acres against the needs of other Federal agencies and attempted for more than 2 years to effect the Navy's request. However, the exchange was not made because of differences in property appraisal estimates by GSA and the city.

Between July 1964 and July 1967, GSA made several unsuccessful attempts to acquire a site for a Federal building in San Diego by exchange of several excess properties. GSA then devised another plan whereby the city would exchange a three-block area, estimated to cost \$2.2 million, for the former Warren Housing site and other excess Government properties. GSA wanted the three-block area as a site for the San Diego Courthouse and Federal Office Building. Since the city did not own the entire site and did not have cash to purchase the parcels owned by private parties, GSA decided to make two exchanges--one involving the 36.42-acre Warren Housing site for land owned by private parties, and the other involving excess Government properties for land owned by the city. The first exchange was consummated in February 1970 and the second one in August 1972.

The two exchanges provided a three-block site for the San Diego Courthouse and Federal Office Building without the expenditure of appropriated funds. The site was acquired after years of negotiations during which this property was classified as excess.

CASE 2--ACQUISITION OF A PARKING FACILITY
AND BUILDING SITES IN EXCHANGE FOR AN EXCESS
FEDERAL OFFICE BUILDING

In August 1969, GSA entered into an agreement with a realty company whereby, in exchange for an excess Federal office building in New York (estimated value, \$3.2 million), GSA acquired (1) a garage and improvements thereto in New York City valued at \$1,103,000, (2) a site valued at \$1,575,000 for a Federal office building in Indianapolis, and (3) land valued at \$468,800 to fill part of the site requirements for a Federal office building in Roanoke, Virginia. Also, the realty company paid the Government \$53,200 in cash for the difference in the properties' appraised values. GSA said, by accepting this transaction instead of \$3.2 million in cash, it avoided the need to request funds for constructing a parking facility or to spend appropriated funds to purchase building sites. Since appropriated funds were not involved, congressional funding review and approval was avoided. Details follow.

In May 1968, the GSA regional office in New York requested the central office's permission to report the Federal building at 45 Broadway, New York City, excess after it was vacated. The office planned to report the building as excess with the understanding that it would be retained while extended efforts were made to exchange it for a parking facility that was urgently needed.

On October 24, 1968, the Administrator of General Services approved the region's plan to exchange the Federal building for the Howard Street Garage, a five-story garage at 203-209 Centre Street in New York City. By memorandum dated October 31, 1968, the central office informed the regional office that the owner of the garage would have to pay the difference in the two properties' value, estimated at the time to be \$1.4 to \$1.45 million.

The memorandum further stated:

"As you know cash proceeds paid to the Government as a result of the exchange of Government-owned real property cannot be paid out by Public Building Service to purchase or condemn public buildings sites or additions to sites. In this case

the amount that would be paid to the Government would be considerable. Accordingly, it would be in the best interest of PBS if your office, upon receipt of the approved staff appraisal reports covering these properties, would enter into negotiations with owner of the Howard Street Garage and attempt to effect an arrangement whereby, he would agree to acquire and convey to the Government title to the following public buildings sites [three sites] * * * as a credit against the total amount due and payable to the Government representing the difference between the AFMV [appraised fair market value] of the garage property and the Federal Building at 45 Broadway."

By letter dated February 4, 1969, the owner of the garage agreed to alter and improve the property at an estimated cost of \$353,000 and convey title to it to the Government in exchange for the Federal building at 45 Broadway. As a credit against the total amount of \$2,097,000 due and payable to the Government, representing the difference in value between the two properties, the company agreed to acquire and convey, to the Government, title to three building sites-in Albany and Syracuse, New York, and Washington, D.C.--or any other property the Government designated.

Because GSA thought the company would experience difficulty in acquiring the three sites, it decided that the company acquire and convey to the Government, title to a building site in Indianapolis, owned by Indiana University (GSA had a contract to purchase it for \$1,575,000), and part of a site in Roanoke, owned by the city of Roanoke.

The agreement to exchange the excess Government property at 45 Broadway for a parking facility and the two properties to be used for building sites was entered into on August 8, 1969, and the exchange was completed on May 7, 1970.

CASE 3--ACQUISITION OF PARKING FACILITY
IN ALBUQUERQUE IN EXCHANGE FOR
EXCESS GOVERNMENT LAND

GSA entered into an exchange agreement on June 6, 1970, with a realty company in Colorado, under which GSA exchanged 348 acres of excess land (part of the Denver Outdoor Firing Range) appraised at \$937,500, for a parking facility the

company appraised at \$942,500,¹ to be built in Albuquerque, plus a cash payment of \$50,000. The company built the facility according to GSA specifications. During construction GSA requested certain changes costing \$22,210, which reduced the cash payment to \$27,790. The exchange was completed in February 1971.

Because GSA used an exchange to have a \$964,700 parking facility constructed without using appropriated funds, congressional authorization was not necessary. Aside from the use of practices that avoided congressional funding review and approval, there was little assurance, in the absence of direct competition, that GSA had obtained full value for the 348 acres or that the garage was constructed at the lowest price possible. A chronology of events follows.

A study made early in 1967 by the GSA Denver regional office identified the need for a parking facility in Albuquerque. Recognizing that there would be a delay in obtaining prospectus approval and funding of the facility, and to conserve appropriated funds, the GSA Denver region, on March 15, 1967, requested central office approval for acquiring a parking garage owned by the city of Albuquerque through the exchange of excess Government property. The central office authorized the exchange on March 20, 1967, but it did not materialize.

In December 1968 and January 1969, Denver submitted a revised plan proposing a three-party exchange involving GSA the city of Albuquerque, and a realty company. The plan, as agreed to in April 1969, required GSA to convey about 400 acres of excess Government land in Colorado to the realty company; the realty company was to make a cash payment of \$950,000 to the city; and the city was to purchase a site and construct a parking facility for GSA. The agreement was canceled in June 1969 because the realty company did not pay the city.

¹An updated GSA contract appraisal, as of July 1, 1970, established a value of \$975,000 for the parking facility.

While trying to locate a substitute for the defaulting party, the city manager told GSA that the city had spent \$30,000 in preparing plans and that another realty company in Colorado would buy the plans and construct the facility in exchange for GSA's excess Government land in Denver.

A two-party exchange agreement was completed in June 1970 whereby GSA acquired a parking facility in exchange for the 348 acres of land which the Department of the Army had reported excess in 1966.

CASE 4--EXCHANGE OF EXCESS NAVY LAND FOR
A BUILDING SITE IN SANTA ROSA, CALIFORNIA

In March 1972 GSA exchanged 8.72 acres of excess Navy land in South San Francisco (a portion of the former Cape Esperance Housing Project), appraised at \$651,000, for about 3.43 acres of land (149,295 sq. ft.) in an urban renewal area valued at \$373,955, plus \$165,399 cash (a total of \$539,354 received). The difference in values of \$111,646 was accounted for in negotiations by discounting the appraised value of the Navy land by \$24,076 and allowing a credit of \$87,570 for overhead and site development costs incurred by the third party to the exchange.

Almost 7 years elapsed from the time the Navy reported this land excess to the time GSA disposed of it. During this period, GSA made two unsuccessful attempts to exchange the property, which are discussed below.

The Navy notified GSA that the land would become excess to the Defense Department's needs by July 1, 1965. GSA waived formal screening of the excess property because, at that time, the National Aeronautics and Space Administration and the Navy wanted to exchange it for land they needed for their joint use. This trade was not completed.

In September 1967, GSA prepared another proposal to use the excess Navy property with other excess properties, as barter, in an attempt to effect an exchange for a Federal office building or a building site in the San Francisco area. In April 1969 the central office deferred the proposed exchange plan because additional excess property was needed to match the construction cost of a Federal building.

A GSA community survey report in December 1969 disclosed a need for a new Federal building in Santa Rosa to be constructed on a site purchased or acquired by exchange.

The central office directed its San Francisco regional office on January 2, 1970, to make a site investigation for a Federal office building in Santa Rosa and obtain the site through one of the following methods:

- "(a) Government-owned, either in the real property inventory of GSA, or available by transfer.
- "(b) Donated with the donor tentatively identified, or with a firm offer of donation in hand.
- "(c) Acquired by exchange for Government-owned property without payment of any funds by the Government as additional consideration * * *."
- "(d) A site in an urban renewal project which has been approved and funded by the Department of Housing and Urban Development for land acquisition, and the local public agency is agreeable to reserving the proposed site for purchase by the Government when site funds have been appropriated."

The region selected two parcels of land, about 149,295 square feet combined. The Urban Renewal Agency of Santa Rosa owned one parcel, or 124,955 square feet, and the city of Santa Rosa owned the other parcel, or 24,340 square feet.

Department of Housing and Urban Development officials told GSA officials that they strongly favored locating the new Federal building in the urban renewal area and that they were prepared to offer the 124,955 square-foot parcel to GSA at \$2.50 a square foot. The State of California had considered this parcel for an office building, and a private party had an option on the parcel, which would expire June 30, 1971. The officials told GSA that the private party would waive his rights, clearing the way for GSA to buy the land.

The city of Santa Rosa offered to sell the 24,340 square-foot parcel directly to GSA at \$2.50 a square foot or make the land available to the private party. The city granted the private party an option to the land, effective March 1, 1970, to June 30, 1971, with the understanding that it would be used as a site for a Federal building.

On February 2, 1970, the private party offered the two parcels of land owned by the Urban Renewal Agency and the city of Santa Rosa in exchange for suitable excess Government property. In November 1970 the central office authorized the region to acquire the site by exchange.

In April 1971, GSA asked OMB to approve the transfer of 8.72 acres of excess land from the Navy Department to PBS for use in an exchange to acquire a site in Santa Rosa for future construction of an office building. GSA stated in its request that:

"We have reviewed this matter in light of the President's Executive Order 11508, dated February 10, 1970. On this basis, we have determined that the property is essential to the activities and responsibilities of PBS and that the property will be put to its optimum use."

Executive Order 11508 requires GSA to review real property held by the Federal Government to insure that each piece is promptly released by the agency concerned for appropriate disposal. In this case, GSA decided that the 8.72 acres of excess land would be exchanged for a building site. OMB approved GSA's plan in October 1971, and the exchange with the third party was consummated in March 1972. But it took almost 7 years after it was declared excess to dispose of the property.

Since the appraised value of the land given up (\$651,000) exceeded, by \$24,000, the total of the appraised value of the land acquired (\$374,000) and the cash payment and other consideration of \$253,000, GSA decided to discount the land values to balance the exchange. An exchange such as this tends to leave estimated valuations in doubt. GSA's decision, based on negotiations with a private party, offers

substantially less validation of values than would competitive sale and purchase of the properties. Since GSA used the exchange procedure, it did not have to justify to the Congress the basis for its decision.

CASE 5--EXCHANGE OF EXCESS LAND AT
FORT DES MOINES, IOWA, FOR A BUILDING
SITE IN HURON, SOUTH DAKOTA

In accordance with a November 15, 1971, agreement, GSA exchanged about 60 acres of excess land at Fort Des Moines, appraised at \$334,000, for 19 parcels of land containing about 3 acres in Huron, appraised at \$218,800, plus a cash payment of \$100,000. The difference in values was \$15,200, which favored the private party--a realty corporation in Des Moines. The exchange was negotiated on the basis that the excess Government land would retain its zoning for residential and multiple dwelling use. In May 1972, the property was rezoned for commercial use. The final settlement was on June 5, 1972, in accordance with the terms of the November 1971 agreement. A proposed Federal building to be erected on the Huron site has not been funded for construction. GSA plans to acquire this building under a purchase contract.

The Committees on Public Works of the Congress approved a prospectus in May 1968 for constructing a Federal building in Huron. In July 1969, GSA's Kansas City regional office reported to the central office that it had explored possibilities for acquiring a suitable site in Huron by methods other than direct purchase or condemnation, and that a site could, in its opinion, be acquired by exchange for available Government-owned property. The region said the Fort Des Moines and four other properties were available for exchange and two realtors in Huron were interested. The region told the central office in November 1969 that the Fort Des Moines property, which had been reported as excess in December 1968, held the greatest possibilities for an exchange.

One of the Huron realtors obtained commitments (options) from owners of 17 to 19 parcels comprising the proposed site in Huron, and he suggested to a realty corporation in Iowa that it exchange the Fort Des Moines land for land in Huron.

In its letter to the Huron realtor, dated March 26, 1970, the Iowa corporation stated its understanding of the exchange.

1. That the Federal Government was not in a position to pay any cash in connection with the exchange and that the amount invested in the Huron property could not exceed the value of the Fort Des Moines property.
2. That, in the corporation's opinion, the 61.917-acre tract had a value of \$7,500 per acre, or a total of \$464,377.50, and that the corporation was willing to pay not more than this amount for the Huron property. If acquired for less, the corporation would pay the difference in cash to the Government.

GSA, in accordance with its regulations, had the two properties appraised. The Fort Des Moines property was appraised in December 1970 at a fair market value of \$334,000. The appraisal was based upon 58.205 acres of usable land, the highest and best use being multiple family and one- and two-family residential development (then classified under R-3 zoning-multiple family residence). The Huron property was appraised in January 1971 at a fair market value of \$218,800.

The two appraisals had to be updated within 6 months of the actual exchange to comply with GSA regulations. A memorandum from the appraiser, dated November 24, 1971, indicated that the Fort Des Moines property had not gained value and again estimated the value at \$334,000 (assuming R-3 zoning). An update of the appraisal of the Huron property, dated December 17, 1971, decreased the estimated value to \$210,300 (a decrease of \$8,500) because the value of the improvements had declined.

In October 1971, after extensive negotiations, the realty corporation offered to exchange the 19 parcels in Huron for the Fort Des Moines tract and pay the Government \$48,600 in cash. The realty corporation stated that its options to purchase the Huron property for \$451,400 would expire November 1, 1971. The corporation also stated that

the Government was receiving property and cash value of \$500,000 (\$451,400 + \$48,600), which it believed to be \$35,000 more than the estimated value of the Fort Des Moines property. Although GSA wanted a cash payment of \$125,000, it accepted the corporation's final offer on October 12, 1971, to exchange the properties plus a cash payment of \$100,000.

On the basis of GSA's appraisals the difference in values was \$15,200, in favor of the corporation--\$334,000 appraised value of the Fort Des Moines property less the \$218,800 appraised value of the Huron property and cash payment of \$100,000. This difference complied with GSA regulations which require that the estimated value of property conveyed to the Government, plus the cash payment, if any, shall not be less than 90 percent of the appraised fair market value of the property received.

During the negotiations, GSA relied on its appraisal estimates, and it assumed that the Fort Des Moines property would retain its residential zoning. In a letter to the Mayor of Des Moines, dated June 4, 1971, GSA asked if the Fort Des Moines property would be rezoned. The city manager replied that the city planning department did "not envision any commercial rezoning in the frontage along Army Post Road." The corporation's attorney told GSA on September 20, 1971, that the plan-and-zoning staff of the city of Des Moines had advised the corporation that the staff would not recommend commercial zoning of the Fort Des Moines property.

Between the November 1971 exchange agreement and final settlement in June 1972, the realty corporation applied for and obtained commercial zoning for the Fort Des Moines tract and an adjacent tract owned by a college. (The corporation had a tentative agreement to purchase this tract from the college.)

After the realty corporation applied for commercial zoning, GSA's regional office informed the Administrator that the potential rezoning could result in adverse publicity and in noncompliance with GSA regulations, which required that the Government receive not less than 90 percent of the market value for the Government land conveyed. The region attempted to renegotiate the November 1971 agreement by adding a provision stating that, if the Government property

was rezoned for commercial use within an 18-month period from the date of closing, GSA would receive any additional value which might accrue because of commercial zoning. This attempt failed. A revised GSA contract appraisal based on commercial zoning showed a value of \$407,000 for the property.

The president of the realty corporation told us that, when he was first approached about the land exchange early in 1970, he believed the Fort Des Moines property would be a good location for a shopping center. A city official informed him that the property would not be zoned commercial because it did not have a major access to S.W. 9th Street. A college owned the land which fronted 9th Street. The president said that he realized he could not get the Fort Des Moines land rezoned without access to the street. Therefore, the corporation filed to rezone the Fort Des Moines property and the college property as a package.

GSA contends that, even though the Fort Des Moines property had been rezoned, the Government had not been short-changed because the realty corporation paid \$144,000 more than the revised appraisal value of \$407,000 for the Des Moines property, as follows:

Cost of Huron land	\$451,400
Cash payment to the Government	<u>100,000</u>
Cost to realty corporation	551,400
Revised appraised value of Fort Des Moines property	<u>407,000</u>
Excess to the Government	<u>\$144,400</u>

On the basis of GSA appraisals, we do not believe that the Government gained on this exchange. It would have been more economical for the Government to have made an outright sale of the Fort Des Moines property to the highest bidder and to have purchased the Huron site directly. The proceeds from the sale would then have been deposited in the Treasury, and funds for the purchase would have been obtained through the appropriation process.

The president of the realty corporation told us he made no appraisals. When he mentioned the \$464,000 for the Fort

Des Moines property in 1970, he stated he probably would have gone higher at the time and did so later when the Huron site was purchased.

During the negotiations, the realty corporation considered the Fort Des Moines property to be worth at least \$551,400 (\$451,400 for purchase of Huron site and \$100,000 cash payment). If GSA had purchased the Huron property directly rather than through a third party, it would not have paid 207 percent of its appraised value, or \$451,400, because GSA regulations provide that it can offer up to 110 percent of the appraised fair market value of land before recommending condemnation proceedings. It is unknown, however, how much GSA would have had to pay if the property were acquired by condemnation.

The realty corporation, acting as agent for GSA, did not have condemnation authority, and it paid the asking price for the property in Huron. GSA did not have to justify the substantial variances between the purchase price and appraised value because it did not purchase the property directly.

EXCHANGES INCLUDED IN GAO REVIEW

Property acquired		Government property exchanged	
Description	Appraised value and other considerations	Description	Appraised value
1. Part of a building site, San Diego	\$ 1,455,000	36 acres of excess land	\$ 1,668,000
2. Parking facility, New York City	1,103,000	Excess office building, New York City	3,200,000
Building site, Indianapolis	1,575,000		
Part of a building site, Roanoke, Va.	^a 522,000		
3. Parking facility, Albuquerque	^b 992,500	348 acres of excess land, Denver	937,500
4. 3.43-acre building site, Santa Rosa, Calif.	^c 627,000	8.72 acres of excess land, San Francisco	651,000
5. 3-acre building site, Huron, S.D.	^d 318,800	60 acres of excess land, Des Moines	334,000
6. Part of a building site, San Diego	825,000	255 acres of excess land, San Diego	825,000
7. Building site, San Diego	690,500	4.7 acres of excess land, San Diego	690,500
8. Building site and parking area, Santa Ana, California	1,164,000	58.58 acres of excess land, Santa Ana	1,485,000
9. Part of a site for U.S. Tax Court, Washington, D.C.	1,215,000	Excess office building Washington, D.C.	1,225,000
10. Part of a building site, New Orleans	462,500	918 acres of excess land, New Iberia, La.	461,200
11. Part of a building site, New Orleans	631,500	661 acres of excess land, New Iberia	603,800
12. Part of a building site, Fayetteville, Arkansas	<u>285,000</u>	Federal building, Fayetteville	<u>180,000</u>
Total	<u>\$11,867,200</u>		<u>\$12,261,000</u>

^aIncludes cash payment of \$53,200.

^bIncludes cash payment of \$27,800.

^cIncludes cash and other considerations of \$253,000.

^dIncludes cash payment of \$100,000.

GSA stated that the data employed in our report appeared to be substantially correct except for the figures in items 3 and 8 above.

According to GSA, the value of the property acquired, including cash, in the Albuquerque case (item 3) is \$1,002,790 and not \$992,500, or a difference of \$10,290. The \$992,500 figure, which we used, includes (1) the realty company's estimate (agreed to by GSA) of \$942,500 for constructing a parking facility in accordance with GSA's specifications, (2) changes requested by GSA during construction,

APPENDIX I

which cost \$22,210, and (3) a cash payment to the Government of \$27,790. GSA's figure of \$1,002,790 includes an appraisal estimate of \$975,000, made by a GSA contract appraiser 3 weeks after the date of the exchange agreement, and a cash payment to the Government of \$27,790.

In the Santa Ana case (item 8) GSA agreed, in February 1969, to exchange 58.58 acres of excess land in the western part of the city for a 3.43-acre site in the civic center area which the city owned. The Federal Communications Commission had reported the land excess in October 1965. In July 1968, a GSA contract appraiser valued the Government land at \$1,485,000 and the city land at \$1,164,000--a difference of \$321,000.

GSA contends that, if this exchange had not been consummated, the city could have acquired the Government land for park and recreational purposes at the then-established cost of 50 percent of its appraised value, or \$742,500. Therefore the Government, instead of receiving \$742,500 through a sale, obtained a building site valued at \$1,164,000, a net gain of \$421,500.

It is true that under the regulations then in effect, the city could have purchased the site for park and recreational purposes at a 50-percent discount, but there was no assurance that the city would have the opportunity or funds to do so. Because GSA may not retain money received from selling surplus land, it had no incentive to sell the 58.58 acres. In this case, 3 years elapsed from the time the land was reported excess to the time the exchange was completed.

PRINCIPAL OFFICIALS OF GSA

RESPONSIBLE FOR ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
ADMINISTRATOR OF GENERAL SERVICES:		
Arthur F. Sampson	June 1973	Present
Arthur F. Sampson (acting)	June 1972	June 1973
Rod Kreger (acting)	Jan. 1972	June 1972
Robert L. Kunzig	Mar. 1969	Jan. 1972
Lawson B. Knott, Jr.	Nov. 1964	Feb. 1969
Bernard L. Boutin	Nov. 1961	Nov. 1964
COMMISSIONER, PBS:		
Larry F. Roush	Aug. 1973	Present
Larry F. Roush (acting)	Jan. 1973	Aug. 1973
John F. Galuardi (acting)	July 1972	Jan. 1973
Arthur F. Sampson	Mar. 1970	June 1972
Arthur F. Sampson (acting)	Dec. 1969	Mar. 1970
Raymond F. Myers	June 1969	Dec. 1969
William A. Schmidt	Sept. 1966	June 1969
William A. Schmidt (acting)	Aug. 1966	Sept. 1966
Casper F. Hegner	Oct. 1965	Aug. 1966
William A. Schmidt (acting)	Dec. 1964	Oct. 1965
Robert T. Daly	Aug. 1962	Dec. 1964

Copies of this report are available at a cost of \$1 from the U.S. General Accounting Office, Room 6417, 441 G Street, N.W., Washington, D.C. 20548. Orders should be accompanied by a check or money order. Please do not send cash.

When ordering a GAO report please use the B-Number, Date and Title, if available, to expedite filling your order.

Copies of GAO reports are provided without charge to Members of Congress, congressional committee staff members, Government officials, news media, college libraries, faculty members and students.

AN EQUAL OPPORTUNITY EMPLOYER

UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE



THIRD CLASS