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November 2013

# FEDERAL COURTHOUSES

## Better Planning Needed Regarding Reuse of Old Courthouses

# GAO Highlights

Highlights of [GAO-14-48](#), a report to congressional requesters

## Why GAO Did This Study

During the last 20 years, GSA built 79 new courthouses for the judiciary that replaced or supplemented 66 old courthouses. Retaining and re-using or disposing old courthouses can be challenging for GSA because many of them are more than 80 years old, do not meet current court security standards, and have historic features that must be preserved by federal agencies in accordance with historic preservation requirements. GAO was asked to review how GSA and the judiciary are planning and managing the reuse or disposal of old courthouses. GAO examined (1) how the government is re-using old courthouses that were retained and the challenges involved; (2) how GSA disposed of old courthouses, the process involved, and the results; and (3) the extent to which GSA's proposals for new courthouses considered the future use of old courthouses. As case studies, we selected 17 old courthouses to represent a mix of retained and disposed buildings located in geographically diverse areas.

## What GAO Recommends

In proposing new courthouses, GSA, in consultation with the judiciary, should include plans for re-using or disposing of old courthouses, any required renovations and the estimated costs, and any other challenges to re-using or disposing of the buildings. GSA concurred with the recommendation and AOUSC agreed that GSA and the judiciary should work together to address the judiciary's housing needs.

View [GAO-14-48](#). For more information, contact Mark L. Goldstein at (202) 512-2834 or [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov)

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## What GAO Found

Of the 66 old federal courthouses that GAO reviewed, the General Services Administration (GSA) retained 40, disposed of 25, and is in the process of disposing of another. Of the retained old courthouses, the judiciary occupies 30 of them, 25 as the main tenant, most commonly with the district and bankruptcy courts. When determining whether to retain and reuse or to dispose of old courthouses, GSA considers, among other things, a building's condition, the local real estate market, and the existing and projected base of federal tenants. GSA officials said that after the judiciary moves to new courthouses, old courthouses often require renovations to be reused. Moreover, GSA officials said that it can be challenging to find new tenants for old courthouses due to the buildings' condition and needed renovations, among other reasons. Among the retained old courthouses GAO reviewed, excluding one building that was under major renovation, about 14 percent of the total space (nearly 1-million square feet) in them was vacant as of May 2013—significantly higher than the 4.8 percent overall vacant space in federally-owned buildings in 2012.

#### Old U.S. Courthouse in Tallahassee, Florida, Being Used by the U.S. Bankruptcy Court



Source: GAO.



GAO found that GSA took about 1.4 years to dispose of old courthouses that the agency determined were no longer needed. GSA officials told us that multiple parties' interest in re-using the old courthouses, the historic status of many buildings, and their specialized designs can slow the disposal process.

GSA is not specifically required by statute to include plans for old courthouses in its proposals to Congress for new courthouses. However, as with other building proposals over a certain dollar threshold, GSA is required to include, among other things, a "comprehensive plan" to provide space for all federal employees in the area, considering suitable space that may be available in nearby existing government buildings. In addition, GAO and the Office of Management and Budget have previously reported that complete cost estimates are a best practice in capital planning. GAO found that renovations needed to reuse the old courthouses, totaling over \$760 million to date, were often not included in GSA's new courthouse proposals. Specifically, for 33 of the 40 retained old courthouses, the new courthouse proposals described plans for reuse by federal tenants, but only 15 proposals specified whether renovations were needed to realize these plans, and only 11 included estimates of the renovation costs. GAO found that some old courthouses were partially or wholly vacant while awaiting renovation funding, sometimes resulting in money spent leasing space in commercial buildings for the judiciary.

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November 7, 2013

The Honorable Bill Shuster  
Chairman  
Committee on Transportation and Infrastructure  
House of Representatives

The Honorable Lou Barletta  
Chairman  
The Honorable André Carson  
Ranking Member  
Subcommittee on Economic Development, Public Buildings and  
Emergency Management  
Committee on Transportation and Infrastructure  
House of Representatives

The Honorable Jeff Denham  
The Honorable Eleanor Holmes Norton  
House of Representatives

The multibillion-dollar courthouse construction program that the General Services Administration (GSA) and the federal judiciary (judiciary) have undertaken since the early 1990s left GSA with responsibility for 66 old courthouses in cities where new ones were built. Because these buildings are usually located in city centers, there is often a high level of interest by the public, local governments, and Congress regarding their future use. However, re-using or disposing of old courthouses can be difficult because many were built in the 1930s or earlier, do not meet current court security standards, and those that have been designated as historic are subject to historic preservation requirements. Since 2003, we have identified real property management as a high-risk area for the federal government, as agencies continue to face longstanding problems with excess and unutilized or underutilized property.<sup>1</sup> In 2006, we found that the judiciary's annual rental obligations to GSA for courthouses had increased from \$780 million to \$900 million from fiscal years 2000 through 2005, after controlling for inflation, primarily due to a 19 percent increase

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<sup>1</sup>GAO, *High-Risk Series: An Update*, [GAO-13-283](#) (Washington, D.C.: February 2013).

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in space.<sup>2</sup> We also reported in 2010 that federal courthouses were often constructed larger than necessary because of poor planning, oversight, and inefficient courtroom use, resulting in \$835 million spent constructing extra space and \$51 million in additional annual costs for rent, operations, and maintenance.<sup>3</sup> The administration has made it a priority for executive branch agencies to dispose of unneeded properties and make more efficient use of the government's real estate assets.<sup>4</sup>

In response to these concerns, you asked us to review how GSA and the judiciary are planning and managing the reuse or disposal of old courthouses. We examined (1) how the government is re-using old courthouses that were retained and the challenges involved; (2) how GSA disposed of old courthouses, the process involved, and the results; and (3) the extent to which GSA's proposals for new courthouses considered the future use of the old courthouses.

To determine how the government is re-using old courthouses and the challenges involved and how GSA disposed of old courthouses, the process involved, and the results, we collected and analyzed GSA data on 66 old federal courthouses—i.e., ones that were replaced or supplemented by new courthouses in the last 20 years, including vacancy rates and financial performance. We also interviewed GSA officials about the factors used to determine whether to retain and reuse old courthouses or dispose of them, as well as the challenges involved, and interviewed judges and judicial officials about the judiciary's use of old courthouses or the disposal of those buildings. As case studies, we focused on 17 old courthouses, including 13 that we visited (Boston, MA; Camden, NJ; Eugene, OR; Ft. Myers, FL; Orlando, FL; Portland, OR;

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<sup>2</sup>GAO, *Federal Courthouses: Rent Increases Due to New Space and Growing Energy and Security Costs Require Better Tracking and Management*, [GAO-06-613](#) (Washington, D.C.: June 20, 2006).

<sup>3</sup>GAO, *Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs*, [GAO 10-417](#) (Washington, D.C.: June 21, 2010).

<sup>4</sup>On March 14, 2013, as part of the Administration's "Freeze the Footprint" initiative, the Office of Management and Budget directed executive branch agencies not to increase the total amount of office and warehouse space that they use, to work collaboratively with other agencies and for GSA to find opportunities for smarter space usage through co-locations and consolidations, and eliminate lease arrangements that are not space or cost effective.

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Reno, NV; Richmond, VA; Sacramento, CA; Springfield, MA; Tallahassee, FL; Tampa, FL; and Trenton, NJ) and 4 where we interviewed GSA officials by phone (Coeur d'Alene, ID; Greeneville, TN; Hammond, IN; and Kansas City, MO). We selected the 17 old courthouses to represent a mix of retained and disposed buildings located in geographically diverse areas. We reviewed the GSA's data for completeness and determined that the data were sufficiently reliable for the purposes of this report. To determine the extent to which proposals for new courthouses considered the future use of the old courthouses, we reviewed pertinent laws, regulations, and policies, and GSA's proposals submitted to Congress for new courthouses and appropriations made for renovating the old courthouses. Appendix I provides more details about our scope and methodology. A list of our related products on federal courthouses, real property disposal, and historic building preservation appears at the end of the report.

We conducted this performance audit from November 2012 through September 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Since 1993, GSA has built 79 new courthouses that replaced or supplemented 66 old courthouses.<sup>5</sup> GSA considers 15 of the new courthouses to be annexes—additions that are often larger than the old courthouses.<sup>6</sup> The judiciary identifies potential courthouse projects based on a capital-planning process that involves consultation with GSA. GSA is responsible for reviewing these projects and completing a feasibility study to further analyze and determine the best option, which may differ from the judiciary's preferred option, before forwarding projects it approves to the Office of Management and Budget (OMB). If approved by OMB, GSA is responsible for submitting requests to congressional authorizing

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<sup>5</sup>Twelve new courthouses were built in locations where GSA leased space for the judiciary, and one new courthouse was built where GSA did not lease space for the judiciary and where an old courthouse did not exist.

<sup>6</sup>The annexes are indicated in appendix II.

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committees in the form of detailed descriptions or prospectuses, hereafter referred to as “new courthouse proposals.”<sup>7</sup> Following congressional authorization and the appropriation of funds for the projects, GSA manages the site, design, and construction phases. After the tenants occupy the space, GSA charges federal tenants, such as the judiciary, rent for the space they occupy and for their respective share of common areas. In fiscal year 2012, the judiciary’s rent payments to GSA totaled over \$1 billion for approximately 42.4 million square feet of space in 779 buildings that include 446 federal courthouses. When new courthouses are built, GSA sometimes retains the buildings for occupancy by the judiciary or other federal tenants or GSA, which has custody and control of the federally-owned buildings, disposes of them as surplus real property. GSA works with the Administrative Office of the U.S. Courts (AOUSC), the judiciary’s administrative office, in addressing courthouse space needs and issues.

The rent that federal tenants pay GSA is deposited into the Federal Buildings Fund, a revolving fund that GSA uses to finance the operating and capital costs associated with federal space such as repairs and alterations, new construction, and operations and maintenance.<sup>8</sup> When the costs of a project’s capital improvements exceed a specific threshold, currently set at \$2.79 million, GSA must submit a prospectus to certain congressional committees for approval prior to the appropriation of funds to meet repair or new construction needs.

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<sup>7</sup>Before Congress makes an appropriation for a proposed project, GSA is to submit detailed project descriptions to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure, for authorization by these committees when the proposed construction, alteration, or acquisition of a building to be used as a public building exceeds a specified dollar threshold. See 40 U.S.C. § 3307. Funding for new courthouses we reviewed was also requested through project descriptions known as Fact Sheets and Reports of Building Survey. For the purposes of our report, these documents are also referred to as new courthouse proposals.

<sup>8</sup>For more information about the Federal Buildings Fund, see GAO, *Federal Buildings Fund: Improved Transparency and Long-term Plan Needed to Clarify Capital Funding Priorities*, [GAO-12-646](#) (Washington, D.C.: July 12, 2012). A revolving fund is a fund established by Congress to finance a cycle of business like operations through amounts received by the fund. GAO, *A Glossary of Terms Used in the Federal Budget Process*, [GAO-05-734SP](#) (Washington, D.C.: Sept. 2005) 88. In annual appropriations acts, Congress sets limits on how much can be obligated for various activities from the Federal Buildings Fund.



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The judiciary leases more space in federally-owned buildings than any executive or legislative branch agency. Judiciary components housed in courthouses may include a U.S. court of appeals (court of appeals judges, senior circuit judges, and staff); U.S. district court (district judges, magistrate judges, and clerk's office staff); U.S. bankruptcy court (judges and clerk's office staff); probation and pretrial services staff; or the office of the federal public defender. In addition to these judicial components, certain executive branch agencies integrally involved with U.S. court activities often lease space in federal courthouses, including the Department of Justice's U.S. Marshals Service, U.S. Attorney's Office, and the Office of the U.S. Trustee. In some cases, GSA also leases space for the judiciary in private office buildings. The district courts are the trial courts of the federal court system and occupy the most judiciary space. There are 94 federal judicial districts—at least one for each state, the District of Columbia, and four U.S. territories—organized into 12 regional circuits. Each circuit has a court of appeals whose jurisdiction includes appeals from the district and bankruptcy courts located within the circuit, as well as appeals from decisions of federal administrative agencies.<sup>9</sup>

When a new courthouse is built, GSA—rather than the judiciary—decides whether to retain the old courthouse and, when the building is retained, determines how it should be reused. In determining whether to retain an old courthouse, GSA considers the building's condition; its historic or architectural significance; the judiciary's interest in occupying the building; local market conditions, such as prevailing lease rates for commercial space; and the existing and projected base of other prospective federal tenants within the area. According to GSA, if the agency determines that the government no longer needs the building, the agency generally uses the Federal Property and Administrative Services Act of 1949,<sup>10</sup> as amended, (Property Act) to dispose of it, following the process shown in figure 1. In addition, GSA has other authorities to dispose of old

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<sup>9</sup>There are also two trial courts (the U.S. Court of International Trade and the U.S. Court of Federal Claims) and one court of appeals (the U.S. Court of Appeals for the Federal Circuit) with nationwide jurisdiction over certain types of cases.

<sup>10</sup>Pub. L. No. 81-152, 63 Stat. 377 (1949).

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courthouses, such as the Public Buildings Act of 1959, as amended,<sup>11</sup> which follow a different process.<sup>12</sup> As shown in figure 1, GSA may dispose of federal real property through public benefit conveyances (PBC)<sup>13</sup> to state or local governments and certain nonprofits for approved public benefit uses or negotiated sale to state and local government entities, but not before screening the property for use by other federal agencies and homeless service providers if the Department of Housing and Urban Development (HUD) has determined the property suitable for homeless assistance. If no interest is received from eligible public or nonprofit entities, the agency concludes that there is no public benefit use for the property and proceeds with plans to market it for competitive public sale.

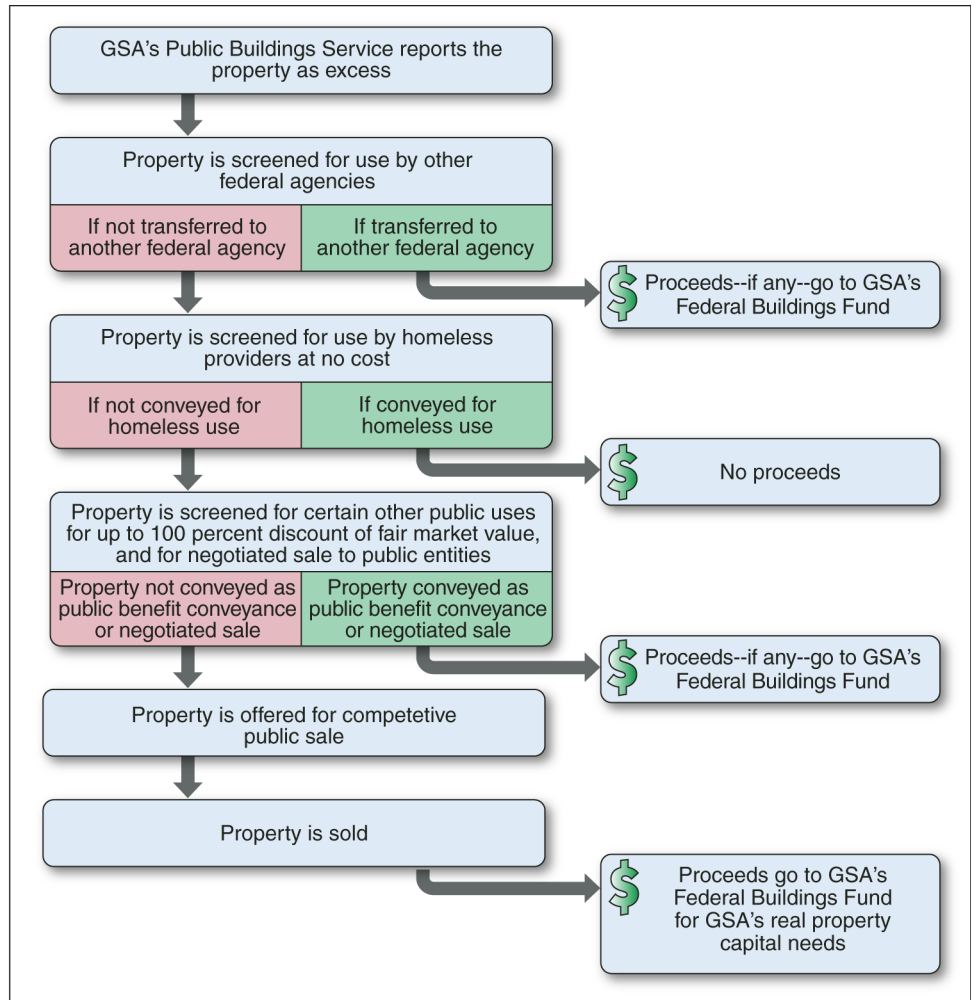
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<sup>11</sup>Pub. L. No. 86-249, 73 Stat. 479. See also, section 412 of Division H of GSA General Provisions, Consolidated Appropriations Acts of 2005, Pub. L. No. 108-447, 118 Stat. 2809, 3259. In general, under the Consolidated Appropriations Act, the Administrator of GSA, notwithstanding any other provision of law, is authorized to convey real property by sale, lease, exchange, or otherwise, including through leaseback arrangements, real and related personal property, or interests therein, and retain the net proceeds of such disposition in an account within the Federal Buildings Fund.

<sup>12</sup>When using these other authorities, for example, in property exchanges involving old courthouses, GSA does not declare the buildings to be excess and does not follow the screening process shown in figure 1.

<sup>13</sup>A PBC allows the federal government to lease or transfer title of surplus property to qualified entities for specific public uses at a substantial discount (up to 100 percent of fair market value in some cases). The concept of a PBC is to support property uses that benefit the community as a whole. A "Historic Monument" PBC requires that the properties must be maintained for historical monument purposes, which allow rehabilitation for new uses, including revenue-producing activities.

**Figure 1: GSA's Typical Process for Disposing of Old Courthouses and Other Federal Real Property**



Source: GSA.

Note: Under the McKinney-Vento Homeless Assistance Act, the Secretary of Housing and Urban Development is to solicit information from federal landholding agencies regarding federal buildings that are excess property, surplus property, or that are described as unused or underutilized in surveys by the heads of landholding agencies.

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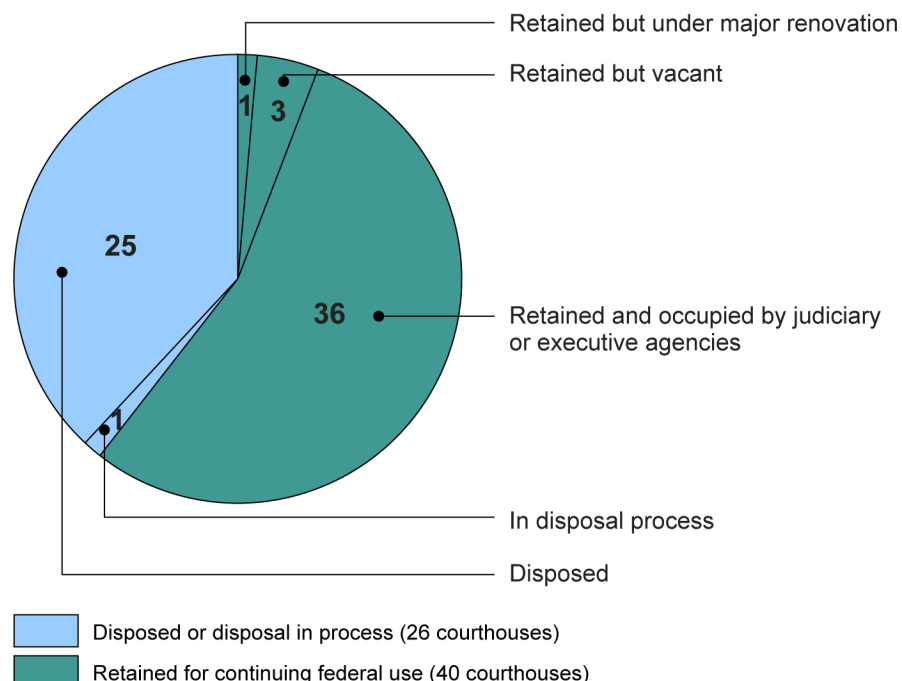
## Many Old Courthouses Were Retained, but Challenges Sometimes Exist with Building Costs, Replacing Tenants, and Space Utilization

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### Federal Government Still Owns Nearly Two-Thirds of the Old Courthouses

Forty of the 66 old courthouses replaced or supplemented by new courthouses since 1993 were retained for reuse by the government. GSA disposed of most of the remaining old courthouses through PBCs or sales to state and local governments, eligible nonprofits, or private sector entities. As figure 2 illustrates, of the 40 retained old courthouses, 36 were being reused by the judiciary and other federal tenants; 3 were vacant; and 1 was largely closed for a major renovation. Appendix II contains detailed information about the 66 courthouses, including their status, disposal method, proceeds, and current uses or major tenants.

**Figure 2: Status of Old U.S. Courthouses That Were Replaced or Supplemented by New Courthouses, 1993-2012**



Source: GAO analysis of GSA information.

Note: Data as of August 2013. Under major renovation refers to a building that is being renovated and is more than 50 percent vacant. One disposal action took place in 2013.

Among the retained and reused old courthouses, the judiciary had the largest share of space in 25, some space in 5, and occupied no space in the other 6. The various judiciary tenants are sometimes co-located within the same old courthouse. As of June 2013, of the retained old courthouses, the U.S. district courts occupied space in 15 and the U.S. bankruptcy courts occupied space in 19. The U.S. courts of appeals were using five old courthouses to hear cases.<sup>14</sup> In addition, the judiciary and

<sup>14</sup>The U.S. courts of appeals also occupies space in other old courthouses, such as the old courthouse in Trenton, New Jersey, which houses chambers and library space, though no courtrooms are dedicated to courts of appeals use. Appellate judges who do not maintain their duty station in a federal courthouse containing a court of appeals courtroom travel from their resident chamber to the circuit headquarters to hear cases and conduct other court business.

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other federal agencies are sometimes co-located in the same old courthouse. Executive branch agencies, particularly the U.S. Department of Justice, had the largest share of space in 11 of the retained and reused old courthouses.

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### Old Courthouses Have More Vacant Space and Many Do Not Cover Their Costs

Among the retained old courthouses we reviewed, excluding one building that was under major renovation,<sup>15</sup> about 14 percent of the total space (nearly 1-million square feet) in them was vacant as of May 2013—significantly higher than the 4.8 percent overall vacant space among federally-owned buildings in 2012. Eleven of these old courthouses were more than 25 percent vacant, including three (Miami, FL; Buffalo, NY; and Austin, TX) that were completely vacant. GSA officials told us that replacing tenants in old courthouses can be challenging due to the buildings' condition and needed renovations, among other reasons, as will be discussed later in this report. For example, the old courthouse in Miami has been vacant since 2008 because, according to GSA, of the high costs to renovate it for reuse. The agency plans to either dispose of the building or lease it to nonfederal tenants. The old courthouse in Buffalo has been vacant since 2011 because, according to GSA, it requires renovations that were not requested in the new courthouse proposal, as will be discussed in further detail later in this report. According to GSA officials, the old courthouse in Austin was vacated in December 2012 and GSA is working with the judiciary on a possible plan to reuse the building for the U.S. Court of Appeals for the Fifth Circuit.

Forty-one percent of the old courthouses were classified by GSA in 2013 as “nonperforming”—i.e., buildings that do not cover their operating

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<sup>15</sup>GSA's national average excludes space undergoing prospectus-level renovation. GSA is required by 40 U.S.C. § 3307 to submit a funding prospectus to Congress if the renovation is estimated to cost more than a threshold amount currently set at \$2.79 million. We excluded the old courthouse in Denver because it was undergoing prospectus-level renovations at the time of our review and the old courthouse in Laredo because it was in the disposal process.

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expenses and require moderate to significant renovation.<sup>16</sup> In 2012, 30 percent of all federally-owned buildings were classified by the agency as “nonperforming.”<sup>17</sup> Among other factors, GSA considers net operating income in classifying buildings as “nonperforming.” Buildings with net-operating-income losses drain the Federal Buildings Fund, which is GSA’s main source of funding used to maintain, operate, and improve federally-owned buildings. Therefore, old courthouses with net-operating-income losses subtract financial resources that could have been used for other buildings and projects. According to GSA, the financial performance of old courthouses may be affected by vacancy rates, low local commercial-market rental rates on which GSA bases its rates for federal tenants, as well as operational and administrative expenses associated with the buildings. Of the 41 federally-owned old courthouses, 31 (76 percent) had positive net operating income, totaling about \$119 million in fiscal year 2012. The remaining 10 old courthouses had net-operating-income losses totaling about \$13 million, most of which was the result of an approximately \$9-million loss at the old courthouse in New York City (the Thurgood Marshall U.S. Courthouse) that was wholly vacant for major renovations, followed by the vacant old courthouses in Miami and Buffalo, which had net-operating-income losses of about \$1 million and \$695,000, respectively.<sup>18</sup> According to GSA officials, the agency focuses on “nonperforming” buildings by developing strategies to address their problems, such as high rates of vacancy.

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<sup>16</sup>GSA annually categorizes federally-owned buildings, including buildings in the disposal process, as “performing,” “underperforming,” or “nonperforming” based upon a series of diagnostics that evaluate the financial performance and physical condition of individual assets. Because GSA considers other factors besides net operating income in categorizing buildings, “nonperforming” buildings may generate positive net operating income and “performing” buildings may generate net-operating-income losses. For example, in fiscal year 2012, eight of the old courthouses that GSA categorized as “nonperforming” had positive net operating income and one old courthouse that GSA categorized as “performing” had a net-operating-income loss.

<sup>17</sup>This was the most recent data on the share of all nonperforming buildings available at the time of our review.

<sup>18</sup>We previously reported on the old courthouse in Miami. See GAO, *Federal Courthouses Construction: Nationwide Space and Cost Overages Also Apply to Miami Project*, [GAO-13-461T](#) (Washington, D.C.: Mar. 8, 2013).

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## Replacing Tenants in Old Courthouses Can Be Difficult

Many old courthouses cannot be easily reconfigured to meet current federal space needs, and thus replacing previous tenants can prove difficult. For example, current U.S. courthouse security standards require the construction of three separate circulation patterns for judges, prisoners, and the public, which many old courthouses do not have. In addition, because of their age, old courthouses often need costly renovations, new mechanical systems, and other improvements before they are suitable for reuse.<sup>19</sup> Further, because many of old courthouses have official historic status—that is, they are listed on the National Register of Historic Places or are eligible for listing<sup>20</sup>—renovations by federal agencies to reuse these buildings for modern office space, for example, must follow the requirements of the National Historic Preservation Act of 1966, as amended, including, among others, compliance with Department of the Interior’s historic preservation standards.

Although an Executive Order and GSA regulations encourage executive branch agencies to seek federally-controlled space, especially in centrally

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<sup>19</sup>For the purposes of this report, renovations include repairs and alterations.

<sup>20</sup>The National Register of Historic Places (National Register) is the official list of the nation’s historic places, authorized by the National Historic Preservation Act of 1966, as amended. The Department of the Interior’s National Park Service administers the National Register and issues standards and guidelines for federal agency historic-preservation programs. A building is generally not eligible for National Register listing until it is at least 50 years old unless its historic significance is considered exceptional. For more information on the management of historic buildings and associated challenges, see GAO, *Federal Real Property: Improved Data Needed to Strategically Manage Historic Buildings, Address Multiple Challenges*, [GAO-13-35](#) (Washington, D.C.: Dec. 11, 2012).



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located historic buildings,<sup>21</sup> we found several cases in which GSA faced challenges replacing tenants in old courthouses. For example, according to GSA officials, it took more than 10 years to fill the old courthouse in Sacramento, California, after the judiciary moved to a new courthouse in 1999. The officials said that although the old courthouse is centrally located adjacent to California state office buildings in the downtown area, the building needed renovations before it could be reused by other federal tenants, and that limited parking made it difficult to attract new tenants. In Portland, Oregon, GSA officials told us that the 66-year-old courthouse was not extensively renovated after the judiciary moved to the new courthouse in 1998 and, as a result, some space remains vacant, including three former district courtrooms. Other old courthouses have experienced greater difficulty in attracting new tenants after the judiciary moved out. The old courthouse in Reno, Nevada, for example, remained nearly half vacant for almost 20 years after the U.S. district court moved to the new courthouse in 1996 and the bankruptcy court remained. GSA officials also said that it takes time—sometimes years—for federal agencies’ leases in commercial buildings to expire before they could relocate to federally-owned space. Moreover, in some cases, we found that GSA has been unable to find enough tenants to justify retaining buildings.

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<sup>21</sup>Executive Order 12072, for example, requires the GSA Administrator to develop programs to, among other things, “make maximum use of existing Federally controlled facilities which, in his judgment, are adequate or economically adaptable to meeting the space needs of Executive agencies.” In addition, GSA federal management regulations set out the real estate acquisition policy that “[w]hen seeking to acquire space, Federal agencies should first seek space in Government-owned and Government-leased buildings. If suitable Government-controlled space is unavailable, Federal agencies must acquire real estate and related services in an efficient and cost effective manner.” Federal management regulations further specify a general hierarchy of consideration that agencies must follow in their utilization of space. Under this hierarchy, federal agencies must, in general, (1) first utilize space in government-owned and government-leased buildings, (2) if there is no suitable space in government-owned and government-leased buildings, utilize space in buildings under the custody and control of the U.S. Postal Service, and (3) if there is no suitable space in buildings under the custody and control of the U.S. Postal Service, agencies may, among other things, acquire space in buildings not owned or leased by the federal government or the U.S. Postal Service. The National Historic Preservation Act of 1966 calls upon federal agencies to use available historic buildings. Executive Order 13006 further calls on federal agencies to follow a locational order of hierarchy giving first consideration to historic buildings within center city historic districts if such action is operationally appropriate and economically prudent, among other things. According to GSA, a majority of historic federal courthouses meet these locational goals. In addition, according to GSA, the agency seeks to enhance the financial performance of monumental historic federal buildings by, among other things, encouraging agencies to occupy space in these buildings and by seeking nonfederal tenants to occupy vacant space in them.

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For example, in Springfield, Massachusetts, although GSA initially planned to retain the old courthouse, the agency decided to dispose of it after the federal tenants that were expected to occupy the building changed their plans, which GSA determined would have resulted in a long-term vacancy rate of at least 40 percent.

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### Some Judiciary Space in Old Courthouses Remains Unused or Underutilized

Even when federal tenants, such as the judiciary, rent space in old courthouses, the space may sometimes be un-used or underutilized. In Trenton, New Jersey, for example, we found that the judiciary paid rent to GSA for space that, according to the judiciary, was used as a district courtroom until the construction of the new courthouse in 1994. However, the judiciary only released this space to GSA in 2012.<sup>22</sup> In addition, the judiciary was also paying rent for 3 other courtrooms in the same building but using them as office and meeting space instead of using them to conduct trials (fig. 3). According to the judiciary, these rooms were not used as courtrooms because, among other reasons, they did not meet modern security standards. We have previously raised concerns about the amount of space that the judiciary occupies.<sup>23</sup> The judiciary plans to return 2 of the 3 courtrooms to GSA in October 2013.

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<sup>22</sup>GSA officials told us that the agency is planning to lease the space to the U.S. Marshals Service.

<sup>23</sup>[GAO-10-417](#).

**Figure 3: Trenton, New Jersey, Old Courthouse Space Used as a Courtroom until the Completion of the New Courthouse in 1994 and Released to GSA in 2012 (left), and Courtroom Leased by Judiciary in the Same Building but Not Currently Used to Conduct Trials (right)**



Source: GAO.



Source: GAO.

Similarly, in Camden, New Jersey, we found that the judiciary paid rent to GSA since 1994 for courtroom space that has not been built, underscoring the importance of effective space planning in new and old courthouses to reduce the government's real property costs. The judiciary plans to return that space to GSA in October 2013.

We also found the judiciary's space planning in old courthouses may need to further consider changes in technology and trends in court operations. For example, in Camden, a U.S. bankruptcy court official told us that the need for file space had been reduced with growth in electronic filing. In Richmond, Virginia, judiciary officials told us that the use of law libraries has decreased with the growing popularity of online legal research. In addition, we found that the old courthouse in Richmond was mostly retained for use by the U.S. courts of appeals even though it is unclear whether the caseload at this location justified that amount of space. Specifically, an appellate judge in Richmond told us that the court has reduced how often it uses the courthouse for oral arguments (4-day

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periods known as “court weeks”) from eight times per year to six times per year due to improvements in efficiency. We found the appeals court in Richmond generally uses its six courtrooms simultaneously about 16 percent of the time. We have previously noted that older courthouses are suitable for use by the U.S. courts of appeals, given their comparatively lower security needs.<sup>24</sup> Judiciary officials added that reuse of old courthouses with historic features, such as in Richmond, is an ideal arrangement given limited opportunities for other reuses. However, we have previously raised concerns about the lack of space allocation criteria for the U.S. courts of appeals<sup>25</sup> and will review space utilization by the appeals court in a future study.

The difference between the U.S. Courts Design Guide (Design Guide) baseline for libraries in new courthouses, about 9,200 square feet, and the existing library space in Richmond, about 17,000 square feet, raises questions about whether the entire space is needed. The Design Guide<sup>26</sup> does not specify how much space should be allotted for judiciary functions, such as clerk space, libraries, and courtrooms, in existing buildings.<sup>27</sup> According to judiciary officials, space configurations in existing buildings make them difficult to retrofit consistent with current design standards. As a result, the judiciary does not apply its space planning tool, which uses Design Guide specifications, for space planning in old courthouses. However, AOUSC officials told us that the judiciary’s annual \$1-billion rent costs are unsustainable and that they are developing a program, called Right Fit, to examine opportunities to reduce the amount of space leased from GSA.

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<sup>24</sup>GAO, *Federal Courthouses: Rent Increases Due to New Space and Growing Energy and Security Costs Require Better Tracking and Management*, [GAO-06-613](#) (Washington, D.C.: June 20, 2006).

<sup>25</sup>[GAO-06-613](#).

<sup>26</sup>Judicial Conference of the United States, *U.S. Courts Design Guide 2007* (Washington, D.C.: 2007). The *U.S. Courts Design Guide* specifies the judiciary’s criteria for designing new court facilities and sets the space and design standards for court-related elements of courthouse construction.

<sup>27</sup>The Repair and Alteration Appendix to the U.S. Courts Design Guide is intended to be used in conjunction with the *Design Guide* and the *GSA Facilities Standards for the Public Buildings Service*, which establishes standards and criteria for, among other things, work in historic structures.

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## GSA Disposed of Many Old Courthouses That Are Being Reused for a Variety of Purposes, but the Process Can Be Lengthy

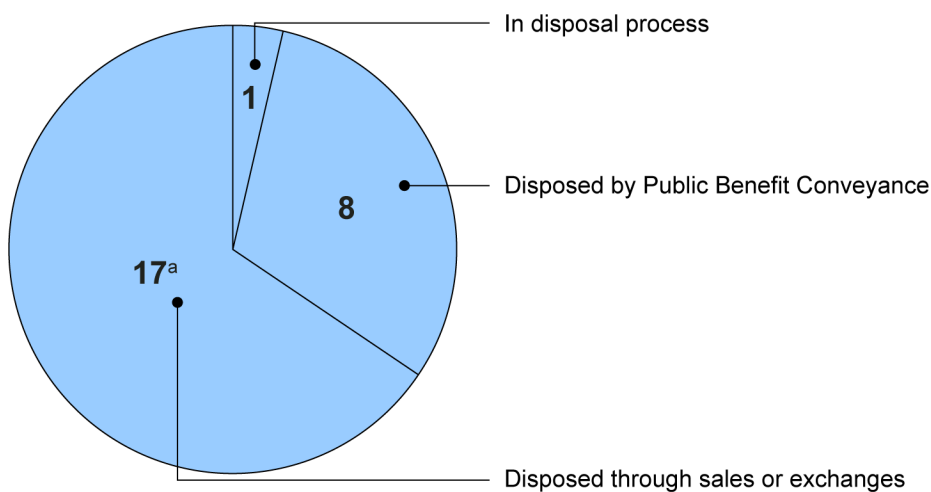
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### GSA Disposed of More Than One Third of the Old Courthouses

GSA disposed of 25 of the 66 old courthouses we reviewed by PBCs, sales, or exchanges. As shown in figure 4, GSA disposed of most courthouses through sales or exchanges (65 percent) followed by PBCs (31 percent).

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**Figure 4: Old Courthouse Disposals and Disposal Methods (Including Pending Disposals)**



Source: GAO analysis of GSA information.

Note: Data as of August 2013.

<sup>a</sup>Includes three exchanges of old courthouse buildings for land.

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Of the 17 old courthouses that GSA sold or exchanged, 14 were sold and 3 were exchanged for land used for the new courthouse.<sup>28</sup> From buildings GSA sold, it realized a total of about \$20 million in proceeds.<sup>29</sup> Sales prices for these buildings ranged from \$200,000 for the old courthouse in Greeneville, Tennessee, to \$5.4 million for the old courthouse in Minneapolis, Minnesota, with an average sale price of \$1.5 million. Purchasers of the 14 old courthouses disposed by sale included state and local governments as well as private sector entities. Most old courthouses disposed by PBC were disposed using historic monument conveyances, which, according to GSA, provide the greatest flexibility with regard to the future use of the building. Specifically, as long as the buildings' historic features are preserved in accordance with the Secretary of the Interior's Standards for Rehabilitation, the recipients may develop plans for a wide variety of uses. For example, old courthouses that were disposed of by historic monument conveyance included buildings that are being reused or plan to be used as affordable housing, a hotel, and for state and local government functions. Other old courthouses that were disposed of by PBCs were being used for educational and for criminal justice purposes such as juvenile justice centers.<sup>30</sup> Although PBCs do not typically generate any financial proceeds for the federal government, the public continues to realize a benefit from the buildings because they are conveyed with deed restrictions that ensure the building will be used for the approved public benefit purpose.<sup>31</sup> According to GSA, cost savings and cost avoidance is often realized with the disposal of unused or underutilized property, including properties disposed of via PBC.

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<sup>28</sup>GSA can negotiate a sale at appraised fair market value with a state or local government if the property will be used for another public purpose. See 41 C.F.R. § 102-75.880(d). If state or local governments or other eligible nonprofits do not wish to acquire the property, GSA can dispose of property via a competitive sale to the public, generally through a sealed bid or auction. See 41 C.F.R. § 102-75.935.

<sup>29</sup>In addition, GSA may receive proceeds from land exchanges when the properties are not of equal value. For example, in exchange for the old courthouse in Rockford, Illinois, GSA received about \$1.3 million in addition to land for the new courthouse because the old courthouse was valued higher than the land.

<sup>30</sup>Other public benefit uses include public health, parks and recreation, wildlife conservation, public airport, port facility, self-help housing, law enforcement, emergency management response, and homeless assistance.

<sup>31</sup>We found one instance in which GSA received proceeds from a PBC—the conveyance of the old courthouse in Tuscaloosa, AL, to the local government for educational use, which resulted in proceeds of \$392,000.

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## GSA's Process for Disposing of Old Courthouses Is Often Lengthy

We found that it took GSA an average of 525 days, or 1.4 years, to dispose of the old courthouses we reviewed. This excludes any time the buildings may have been vacant—sometimes years—before they were declared excess, the point at which GSA decides to dispose of them.<sup>32</sup> GSA officials said that the disposal process can be lengthy because old courthouses often (1) have a high level of congressional and public interest that can generate competing inquiries regarding their future use; (2) are historic and, thus, subject to lengthy reviews; and (3) have specialized designs that make the buildings difficult to reuse for other purposes. We attempted to compare how long it took GSA to dispose of the old courthouses with the length of time it took to dispose of all types of properties from its nationwide portfolio of federally-owned buildings, but were unable to make such a comparison due to data reliability issues. GSA's data on disposal times for all properties in its portfolio included "holds" when the disposal times were suspended to account for situations that GSA deemed to be out of its control, such as pending legislation, litigation, environmental concerns, and historic preservation reviews. To attempt to review comparable data, we asked GSA to provide information on the length of holds and the reasons for the holds that were placed on the disposal times for old courthouses in our review. However, the data were incomplete, and in some cases, the explanations for the holds did not fall within the categories that GSA defined as being out of its control.

As noted above, we found that during the disposal process, buildings might remain vacant for extended periods of time and, thus, do not earn any revenue to help offset the costs to operate mechanical systems and perform maintenance to help prevent deterioration, for example:

- Hammond, Indiana: Disposal of the old courthouse took 2 years. According to GSA, after the judiciary vacated the old courthouse in 2002, GSA and the City of Hammond conducted extensive discussions regarding the possibility of exchanging the building for city-owned land that could be used for parking space at the new courthouse. Those negotiations, however, were unsuccessful. After remaining vacant for 6 years, in 2006, GSA declared the property

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<sup>32</sup>This is the length of time between GSA's report of excess and the disposal (sale or public benefit conveyance). This average excludes courthouses disposed of using authorities such as 40 U.S.C. § 1304 relating to the transfer of obsolete buildings to States, also known as the "35 Act" for which, according to GSA, no report of excess is required.

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excess at which point the City of Hammond expressed interest in purchasing it through a negotiated sale. When the city subsequently decided it did not want the building, GSA decided against holding a public auction, given the minimal demand for property in the local market. In 2009, GSA sold the building through a negotiated sale to the First Baptist Church of Hammond, which owned a complex of buildings near the old courthouse, for \$550,000.<sup>33</sup>

- Kansas City, Missouri: Disposal of the old courthouse took 3 years. After the judiciary vacated the old courthouse in 1998, GSA initially tried to retain the building, which opened in 1939, because of its historical significance and location, but after studying alternative uses, found that it was impractical for the federal government to reinvest in the building. In 2003, GSA retained a private development company to explore and promote public uses of the building by local governments and institutions, but none demonstrated the ability to make full use of the old courthouse. As a result, after remaining vacant for 7 years, in 2005, GSA determined that the building was excess property and it was screened for PBC use. Subsequently, the City of Kansas City applied for a historic monument PBC and the building was conveyed to the city in 2008. According to GSA officials, the length of time between the report of excess by GSA and its conveyance to the city was partly caused by the complexity of the project's financing.

Nearly half of the 25 disposed old courthouses were historic buildings and listed on the National Register of Historic Places. According to GSA, any actions, including disposal, of buildings that are listed or eligible for listing on the National Register of Historic places, as required by National Historic Preservation Act, may be very lengthy. Disposing of old courthouses also involves the screening of properties for potential use by organizations for the homeless. More specifically, under the McKinney-Vento Homeless Assistance (McKinney-Vento) Act, as amended,<sup>34</sup> HUD is to solicit information on a quarterly basis from federal landholding agencies regarding federal buildings that are excess property, surplus

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<sup>33</sup>In general, under the Property Act, specified types of negotiated sales must be accompanied by an explanatory statement to the appropriate committees of Congress in advance of the disposal. According to GSA, this nonpublic negotiated sale was reviewed by the House Committee on Oversight and Government Reform without objection.

<sup>34</sup>Pub. L. No. 100-77, 101 Stat. 482 (1987). The Stewart B. McKinney Homeless Assistance Act, enacted in 1987, was renamed the McKinney-Vento Homeless Assistance Act in October 2000 by Pub. L. No. 106-400, 114 Stat. 1675 (2000).



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property, or that are described as unutilized or underutilized in surveys by the heads of landholding agencies. HUD is then to identify and publish in the Federal Register those buildings that are suitable for use to assist the homeless. The Secretary of Health and Human Services is then to evaluate applications by representatives of the homeless for the use of such properties. In general, upon an approved application, such property is to be disposed of with priority consideration of surplus property given to potential uses to assist the homeless. Although excess real property, including old courthouses, must be reported to and evaluated by HUD for suitability for homeless use, we found no instances in which old courthouses were conveyed for this purpose.

We found only one case, in Coeur d'Alene, Idaho, in which a homeless services provider's application to use the old courthouse was approved, but the organization subsequently withdrew its application after determining that the expense of renovating, maintaining, and operating the building would have been too costly. The old courthouse in Coeur d'Alene was eventually conveyed to the county government under a historic monument PBC and is now used as a juvenile justice facility. In 1997 and 2000, GSA disposed of two old courthouses (St. Louis and Ft. Myers) using an authority known as the "35 Act."<sup>35</sup> The agency interpreted the "35 Act" as not being subject to the surveying and reporting requirements of the Property Act and, in turn, the homeless-assistance screening process established by the McKinney-Vento Act because according to the GSA, the "35 Act" did not require GSA to declare a property as excess or surplus. As a result, GSA allowed the properties to be sold to local governments without reporting such property to HUD and did not undergo the homeless-assistance screening process.<sup>36</sup> However, an April 2000 federal district court opinion regarding the potential sale of a Lafayette, Louisiana, courthouse under this authority rejected GSA's interpretation of the law, ruling that property transferrable under the "35

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<sup>35</sup>In general, this authority, initially enacted into law in 1935 (Pub. L. No. 74-330, 49 Stat. 800 (1935) now codified at 40 U.S.C. § 1304, provides that GSA may sell a federal building site under GSA's control that has been replaced by a new structure and the GSA determines is no longer needed by the federal Government.

<sup>36</sup>Pursuant to the McKinney-Vento Homeless Assistance Act, the Department of Housing and Urban Development is to review the property to determine if it is suitable for homeless use. In general, if the property is deemed suitable for homeless use, it is first to be made available for homeless use consideration at up to a 100 percent discount of fair market value by state or local governments and certain tax-exempt nonprofit organization for 60 days prior to any other public benefit uses.

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Act” is subject to the surveying and reporting requirements of the Property Act and the McKinney-Vento Act.<sup>37</sup>

In addition, we found that GSA’s decision to dispose of old courthouses may be subject to change. For example, in Reno, Nevada, GSA initially decided to dispose of the old courthouse, but later decided to retain it after the judiciary raised objections and GSA further studied its decision. According to GSA, the agency had decided to dispose of the old courthouse because of the high cost of reinforcing the building against potential earthquake damage, but subsequently determined that it was the least costly alternative for housing the U.S. bankruptcy court, which was already occupying space in the building and preferred to stay. Moreover, the agency determined that tenants could reasonably accept the seismic risk of occupying the building through 2022. Other alternatives that GSA considered for housing the U.S. bankruptcy court in Reno included constructing a new building or expanding the existing new courthouse, which would likely have required additional congressional appropriations.

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### New Owners of Disposed Old Courthouses Are Re-Using the Buildings for a Variety of Purposes

Potential new owners of old courthouses face some challenges similar to those that GSA faced in re-using old courthouses. These challenges can affect the agency’s ability to dispose of the buildings. Representatives of the new owners of six old courthouses we reviewed told us that the buildings were being used—or will be used—for an art center, hotel, bank, affordable housing, church administration, and office space. In adapting the old courthouses to their current uses, these representatives told us they faced various challenges, including securing financing, making renovations, and meeting historic preservation requirements. However, several representatives said they were interested in acquiring the old courthouses for reasons such as their locations, architectural

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<sup>37</sup>*Nat’l L. Ctr. on Homelessness & Poverty v. United States Veterans Administration*, 98 F. Supp. 2d 25 (D.D.C. 2000). While the government’s appeal of the federal district court decision was pending, a settlement was reached under which, among other things, the transfer of the Lafayette, LA, courthouse would proceed without the property being reported as excess or surplus, unutilized or underutilized. See, Stipulation and Order, *Nat’l L. Ctr. on Homelessness & Poverty v. United States Veterans Administration*, No. 88-2503-RCL (D.C. Cir. Jan. 16, 2001). The old courthouse in Jacksonville, FL, which was transferred under the “35 Act” authority in June 2003 did undergo the homeless assistance screening process as required by the McKinney-Vento Act. See, 66 Fed. Reg. 57728 (Nov. 16, 2001).

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style, the quality of the construction materials, historic significance, and because they were able to purchase them at prices that were lower than the cost of constructing new buildings. In addition, two representatives said that historic preservation tax credits are sometimes an important incentive in redeveloping historic buildings that the government is disposing of. For example, the developer's representative for the old courthouse in Tampa, which is being converted into a hotel, said his company specifically became interested in the building because it qualified for federal historic-preservation tax credits. Those tax credits authorize a 20 percent credit in any taxable year on qualified rehabilitation expenses with respect to certified historic structures. Below are examples of old courthouses converted for alternate uses. (Additional examples are provided in Appendix III.)

- Former U.S. Courthouse, Kansas City, Missouri, now the Courthouse Lofts

The former U.S. Courthouse in Kansas City, Missouri, built in 1940, is now an apartment building (see fig.5). In 2008, after finding no other tenants or uses for the building, GSA conveyed it by PBC to a Kansas City redevelopment agency. The city worked with a developer to convert the old courthouse into an affordable-housing development that opened in 2011. An official from the city agency that acquired the old courthouse said the building's conversion to affordable housing was part of downtown revitalization efforts. A representative of the building's developer told us that the building has 176 loft-style apartments and offices of a law firm. The representative added that because the retained former courtrooms are not frequently used, the company is exploring having them used as a law library or as a venue for mock trials.

**Figure 5: Old Courthouse in Kansas City, Missouri, Converted into Affordable Housing**



Source: Alexander Company. Reprinted with permission.



Source: Alexander Company. Reprinted with permission.

- Former George W. Whitehurst Federal Building in Ft. Myers, Florida, now the Sidney & Berne Davis Art Center

The former George W. Whitehurst Federal Building in Ft. Myers, Florida, built in 1933, is now used as an art center and event space. In 2000, GSA sold the building to the City of Ft. Myers for \$215,000 (see fig. 6). In 2003, after soliciting proposals to use the building, the city leased it to Florida Arts, Incorporated and is now known as the Sidney & Berne Davis Art Center. According to an art center representative, the building is now used for events such as musical, dance, and theatrical performances. The representative added that the two former courtrooms were not historic and were not retained.

**Figure 6: Old Courthouse in Ft. Myers, Florida, Converted into an Art Center**



Source: GAO.



Source: GAO.

## New Courthouse Proposals Did Not Consistently Address the Need for Old Courthouse Renovations

While old courthouses are often retained to meet federal space needs, potential renovations key to re-using old courthouses are often not included in GSA's proposals to Congress for new courthouses.<sup>38</sup> GSA is not specifically required by statute to include plans for old courthouses in its proposals to Congress for new buildings. According to GSA officials, it can be challenging to include these plans because new courthouses often take many years to complete and reliable cost estimates for renovations are not always available when they are proposed. However, GSA's proposals are required under statute to include, among other things, a "comprehensive plan" to, in general, provide space for all federal employees in the locality of a proposed new building "having due regard" for suitable space that may continue to be available in nearby existing

<sup>38</sup>Under 40 U.S.C. § 3307, before Congress makes an appropriation for a proposed project, GSA is to submit a prospectus of the proposed project to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure, for authorization by these committees when the proposed construction, alteration, or acquisition of a building to be used as a public building exceeds a specified dollar threshold. Funding for new courthouses we reviewed was also requested through project descriptions known as Fact Sheets and Reports of Building Survey. For the purposes of our report, these documents are also referred to as new courthouse proposals.

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government buildings.<sup>39</sup> In addition, OMB and we have previously reported that complete cost estimates are a best practice in capital planning,<sup>40</sup> Moreover, while old courthouse plans may not be available when a new courthouse is initially proposed, GSA periodically updates Congress after the initial proposal to obtain additional authorizations. Since fiscal year 1993, Congress has appropriated a total of more than \$760 million<sup>41</sup> for courthouse renovations and with 12 new courthouses planned to replace or supplement existing courthouses, more funding requests for renovations will likely be forthcoming.<sup>42</sup>

GSA officials told us that renovations are often necessary to effectively reuse old courthouses and that several old courthouses were underutilized because they need renovating. We found that new courthouse proposals often included plans for the old courthouses, but few discussed whether renovations were needed to realize these plans. For 33 of the 40 old courthouses retained by GSA, the new courthouse proposals specified that the old courthouses would be reused for federal

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<sup>39</sup>A prospectus under 40 U.S.C. § 3307 is to include, among other things, a comprehensive plan for providing space for all government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing government-owned or occupied buildings, especially those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality.

<sup>40</sup>Office of Management and Budget, *Office of Management and Budget, Capital Programming Guide: Supplement to Office of Management and Budget Circular A-11, Planning, Budgeting, and Acquisition of Capital Assets* (Washington, D.C.: July 2012) and GAO, *Executive Guide: Leading Practices in Capital Decision-Making*, [GAO/AIMD-99-32](#) (Washington, D.C.: December 1998).

<sup>41</sup>This is an approximate number, based on Repairs and Alterations appropriations account items specifically associated with old courthouses covered in our review that does not reflect rescissions, transfers, reprogrammings, carry-over balances, supplemental appropriations, or amounts that may have been allocated for such renovations from lump sum appropriations.

<sup>42</sup>We have previously reported on new courthouses that would replace 12 existing courthouses. See, GAO, *Federal Courthouses: Recommended Construction Projects Should Be Evaluated under New Capital-Planning Process*, [GAO-13-263](#) (Washington, D.C.: Apr. 11, 2013).



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tenants.<sup>43</sup> However, only 15 of the 40 of new courthouse proposals addressed whether renovations were needed in the old courthouse and only 11 included estimates of the renovation costs. Nearly all of the proposals<sup>44</sup> that included a renovation cost were annexes to the old courthouses and, in such cases, costs related to courthouse renovation are often included in the cost of constructing the annex because GSA cannot separate out the costs.<sup>45</sup>

Among the retained old courthouses that we visited, seven required renovations to be reused; three still require renovations; and one neither had nor requires renovations.<sup>46</sup> For seven of those we visited, the new courthouse proposal included no discussion of the need to renovate the existing courthouse. Moreover, for eight, the new courthouse proposal did not include discussion of federal tenants in commercially leased space near the old courthouses, and none included discussion of the long-term costs associated with federal tenants staying in commercially-leased space versus occupying space in the old courthouses. In contrast, we found that most of the 40 new courthouse proposals we reviewed included discussion of the 30-year costs associated with using commercially-leased space versus building a new courthouse. We have previously reported that leasing commercial space is often more costly than using government-owned space.<sup>47</sup> Examples of old courthouses we

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<sup>43</sup>Among the new courthouse proposals for the 40 existing courthouses retained by GSA, 33 specified a government tenant or tenants to reuse the existing courthouse; 3 specified that GSA would conduct a study at a later date to determine what to do with the old courthouse; 2 laid out alternatives for congressional consideration that included reused by government tenants or disposal (according to GSA these proposals were in a format that the agency stopped using the mid-1990s); and 2 did not specify any plan for the old courthouse.

<sup>44</sup>The one proposal that included renovation costs and was not an annex was a type of proposal that laid out alternatives for congressional consideration that GSA officials told us the agency stopped using the in 1990s.

<sup>45</sup>GAO, *Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs*, [GAO-10-417](#) (Washington, D.C.: June 21, 2010).

<sup>46</sup>One of the three that requires renovation, the old courthouse in Reno, Nevada, already has some renovations completed. All renovations required and still required reached or exceed the current prospectus threshold of \$2.79 million

<sup>47</sup>GAO, *Federal Real Property: Strategy Needed to Address Agencies' Long-standing Reliance on Costly Leasing*, [GAO-08-197](#) (Washington, D.C.: Jan. 24, 2008).

visited for which the new courthouse proposal did not include discussions of renovations or federal tenants in nearby commercially-leased space include:

- Portland, Oregon: About 21 percent of the old courthouse (approximately 33,000 square feet) was vacant as of May 2013, including three courtrooms.<sup>48</sup> (See fig. 7.) The new courthouse proposal specified that the U.S. bankruptcy court would move into the old courthouse. However, according to judiciary and GSA officials, this plan was contingent on renovation needs and costs, which we found were not included in the new courthouse proposal. These renovations have not been completed and the bankruptcy court instead leases space in a commercial building at an annual cost of about \$1.3 million.

**Figure 7: Vacant Space in the Portland, Oregon, Old Courthouse, 2013**



Source: GAO.



Source: GAO.

<sup>48</sup> According to GSA officials, the annual cost of leasing these courtrooms would be about \$141,000. Since 2011, GSA has leased the spaces temporarily for events and backdrops for films, generating about \$12,000.



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- Richmond, Virginia: About 15 percent of the old courthouse (approximately 26,000 square feet) was vacant as of May 2013. Although the new courthouse proposal specified that the existing courthouse would be used by the U.S. court of appeals, it did not specify that renovations would be needed to fully realize this plan. As a result, although the U.S. district court re-located from the building in 2008, a U.S. court of appeals office has remained in commercially-leased space in the city at an annual cost of about \$362,000. In 2013, GSA requested \$3.9 million to renovate the vacant space so that it can be reused by the U.S. court of appeals.
  - Orlando, Florida: The new courthouse opened in 2007, but the old courthouse remained mostly vacant for several years until renovations not specified in the new courthouse proposal were completed. Specifically, according to GSA, about 85 percent of the old courthouse remained vacant until a \$48 million renovation project was completed with funding provided under the American Recovery and Reinvestment Act of 2009.<sup>49</sup> As of May 2013, the vacancy rate fell to about 23 percent (approximately 45,500 square feet). Judiciary officials noted that when new courthouse space is constructed as an annex, such as in Orlando, the old courthouse must be retained for use by the judiciary either in full or in part. The Orlando case illustrates the importance of planning for the old courthouse when the new courthouse will be an annex to the old building.

In addition to the courthouses that we visited, we also found that other old courthouses were wholly or mostly vacant due to needed renovations not included in the new courthouse proposals. In Miami, the new courthouse proposal specified that the U.S. bankruptcy court and other tenants would move into the old courthouse. (See fig. 8.) However, according to GSA, renovation needs totaling about \$60 million prevent this plan from proceeding, and, as a result, the building remains vacant. GSA indicated that more than \$10 million would be required to separate the old courthouse in our review (David W. Dyer Federal Building and U.S. Courthouse) from another old courthouse built in 1983 (C. Clyde Atkins U.S. Courthouse), which share building systems, a common courtyard, and underground parking facility.

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<sup>49</sup>Pub. L. No. 111-5, 123 Stat. 115.

**Figure 8: The Center Courtroom Entrance and Interior in the Dyer U.S. Courthouse, Miami, Florida**



Source: GAO.



Source: GAO.

In Buffalo, the new courthouse proposal specified that the U.S. bankruptcy court and other government tenants would relocate to the old courthouse. However, while tenants relocated from the old courthouse in 2011, it remains vacant pending \$25 million in renovations that were not included in the new courthouse proposal. According to GSA, numerous federal tenants remained in commercially leased space in Buffalo, including the U.S. bankruptcy court, at an annual cost of about \$360,000.

In Columbia, South Carolina, about 73 percent of the old courthouse was vacant as of May 2013, including large areas designed for court use, which, according to GSA, would cost about \$38 million to renovate for other uses. The new courthouse proposal specified that the U.S. bankruptcy court would move into the old courthouse, yet the bankruptcy court instead occupies another old federal courthouse, leaving GSA with court-configured space in the old courthouse that the agency has had difficulty re-using.

## Conclusions

Given the government's multibillion-dollar investment in new courthouses and the challenges inherent to re-using or disposing of old courthouses, comprehensive planning regarding both the new and old courthouses is critical to ensure that federal operations are housed in the most cost-effective manner. We believe that comprehensive planning includes

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identifying challenges associated with re-using or disposing of the old courthouses, including renovation needs and estimated costs when the buildings are expected to be reused. By not consistently including the need for renovation and estimates of renovation costs in its new courthouse proposals, GSA is not providing Congress and other stakeholders with key information needed to make informed decisions about new courthouse projects. Although there may be challenges to providing accurate costs for future renovations to the old courthouses, estimates of these costs and, as necessary, periodic updates of changes in these costs would provide greater transparency to congressional decision makers regarding the full costs of courthouse projects. Further, although neither federal statute nor GSA specifically requires proposals for courthouses to include plans for old courthouses, federal statute does require GSA's proposals to include a comprehensive plan considering space that may continue to be available in nearby existing government buildings. To the extent that the agency's plans for housing federal tenants include using both the old and new courthouses, we believe such related renovation plans should be viewed as an integral part of the comprehensive plan. Moreover, when the plans involve re-locating federal tenants from commercially-leased space to the old courthouses, a comprehensive plan would include estimates regarding long-term costs versus continuing to use commercially-leased space.

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## Recommendation

To improve the transparency of cost information regarding the retention and reuse of old courthouses, we recommend that when proposing new courthouses, the Administrator of the General Services Administration, in consultation with the judiciary as appropriate, include

- plans for re-using or disposing of the old courthouses;
- challenges with implementing those plans, including any required renovations and related cost estimates, to be updated as needed; and
- when the plans involve re-locating federal tenants from commercially-leased space to the old courthouses, estimates of the long-term costs of occupying the old courthouses versus continuing to occupy commercially leased space.

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## Agency Comments

We provided copies of a draft of this report to GSA and AOUSC for review and comment. GSA concurred with the recommendation and AOUSC agreed that GSA and the judiciary should continue to work together to address the judiciary's housing needs, but indicated that it is important not to delay the authorization and funding of new projects.

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GSA's letter can be found in Appendix IV. AOUSC's letter can be found in Appendix V.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Administrator of GSA and the Director of the AOUSC. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or [GoldsteinM@gao.gov](mailto:GoldsteinM@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.

A handwritten signature in black ink, appearing to read 'M. Goldstein', with a long horizontal flourish extending to the right.

Mark L. Goldstein  
Director, Physical Infrastructure Issues

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# Appendix I: Objectives, Scope, and Methodology

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Our objectives were (1) how the government is re-using old courthouses that were retained and the challenges involved; (2) how GSA disposed of old courthouses, the process involved, and the results; and (3) the extent to which GSA's proposals for new courthouses considered the future use of the old courthouses.

To determine how the government is re-using old courthouses that were retained and the challenges involved, we collected and analyzed GSA data on the 66 old courthouses that were replaced or supplemented by new courthouses from 1993 to 2012. With regard to old courthouses that GSA retained, we reviewed GSA data on the buildings' current uses, tenants, financial performance, and vacancy rates. For comparison purposes, we analyzed GSA data on the percentage of old courthouses that the agency categorized as "nonperforming" with the percentage in the agency's national real estate portfolio during 2012.<sup>1</sup>

To determine how GSA disposed of old courthouses, the process involved, and the results, we reviewed the authorities that GSA used to dispose of the buildings, data on the length of time it took to dispose of them, the proceeds, and interviewed representatives of the new owners of selected disposed old courthouses. We attempted to compare how long it took for GSA, on average, to dispose of the old courthouses in our review with how long GSA took to dispose of all types of properties from its nationwide portfolio of federally-owned buildings, but were unable to make such a comparison due to data reliability issues. GSA's data on disposal times for all properties in its portfolio included "holds" when the disposal times were suspended to account for situations that it deemed to be out of its control, such as pending legislation, litigation, environmental concerns, and historic preservation reviews. To attempt to review comparable data, we asked GSA to provide information on the length of holds and the reasons for the holds that were placed on the disposal times for old courthouses in our review. However, the data were incomplete, and in some cases, the explanations for the holds did not fall within the categories that GSA defined as being out of its control. We also reviewed other GSA data for completeness and determined that they were sufficiently reliable for the purposes of this report. To verify the data,

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<sup>1</sup>GSA annually categorizes its owned buildings as "performing," "underperforming," or "nonperforming" based upon analysis of the financial performance and physical condition of individual assets. Buildings in GSA's disposal process are included in this analysis because these buildings still require allocation of agency resources.

we obtained information from GSA about how the data were collected, reviewed our prior evaluation of similar GSA data,<sup>2</sup> and corroborated certain data with current and previous owners of old courthouses and through our research.

We also interviewed GSA officials about the factors they considered when deciding whether to reuse or dispose of old courthouses and the challenges involved, and reviewed building retention and disposal studies and applicable laws, regulations, and agency policies. In order to provide greater insight on reuses and disposals of old courthouses, we focused on 17 old courthouses as case studies, including 13 that we visited (Boston, MA; Camden, NJ; Eugene, OR; Ft. Myers, FL; Orlando, FL; Portland, OR; Reno, NV; Richmond, VA; Sacramento, CA; Springfield, MA; Tallahassee, FL; Tampa, FL; and Trenton, NJ) and 4 about which we interviewed GSA officials by phone (Coeur d'Alene, ID; Greeneville, TN; Hammond, IN; and Kansas City, MO). For all of our case studies, we reviewed GSA data and other documents and interviewed GSA officials. In 10 locations, we also interviewed judges and judiciary officials about their use of the old courthouses or disposal of those buildings. We selected the 17 old courthouses that represented a mix of retained and disposed buildings located in geographically diverse areas.

We interviewed GSA officials about the old courthouse in Coeur d'Alene, Idaho, because, among the 66 old courthouses in our review, it was the only instance in which a homeless services provider's application to use the old courthouse was approved.<sup>3</sup> We interviewed representatives of new owners of six old courthouses that were converted for alternate uses (Ft. Myers, FL; Greeneville, TN; Hammond, IN; Kansas City, MO; Springfield, MA; and Tampa, FL) about challenges involved in the disposal process and buildings' reuse. In three locations (Ft. Myers, FL; Springfield, MA; and Tampa, FL) we also visited the former courthouses. Because this is a nonprobability sample, observations made based on our review of the 17 case studies do not support generalizations about other old courthouses. Rather, the observations provided specific, detailed examples of selected old courthouse reuses.

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<sup>2</sup>GAO, *Federal Buildings Fund: Improved Transparency and Long-term Plan Needed to Clarify Capital Funding Priorities*, [GAO-12-646](#) (Washington, D.C.: July 12, 2012).

<sup>3</sup>As discussed earlier, the homeless services provider ultimately decided not to take possession of the property.

To determine the extent to which GSA's proposals for new courthouses built from 1993 through 2012 considered the future use of the old courthouses, we reviewed the proposals submitted to Congress for new courthouses in locations where the old courthouses were retained and appropriations made for renovating those old courthouses. We also reviewed pertinent laws, GSA regulations and policies on courthouse construction planning and space utilization, and prior GAO reports on courthouse construction<sup>4</sup> and the cost of federal tenants' use of leased versus federally-owned space.<sup>5</sup> In addition, we interviewed GSA about new courthouse proposals and renovations needed to reuse old courthouse space.

We conducted this performance audit from November 2012 through September 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>4</sup>[GAO-13-263](#), [GAO-13-461T](#), [GAO-10-417](#), [GAO-05-673](#).

<sup>5</sup>[GAO-08-197](#).

# Appendix II: Status of Old U.S. Courthouses since 1993

City (state)	Old courthouse <sup>a</sup> (year built)	Status	Disposal method (year disposed)	Proceeds (\$)	Major federal tenant <sup>b</sup> or current use (new name)
Montgomery (AL)	Frank M. Johnson Jr. Federal Building and U.S. Courthouse (1933)	Retained <sup>c</sup>			Judiciary
Tuscaloosa (AL)	Federal Building and U.S. Courthouse (1968)	Disposed	PBC (2012)	392,000	County school administration (Central Office for the Tuscaloosa County School System)
Little Rock (AR)	Richard Sheppard Arnold U.S. Post Office and Courthouse (1932)	Retained <sup>c</sup>			Judiciary
Phoenix (AZ)	Phoenix Federal Building and U.S. Courthouse (1962)	Retained			Judiciary
Tucson (AZ)	James A. Walsh Courthouse (1930)	Retained			Judiciary
Fresno (CA)	B.F. Sisk U.S. Courthouse (1968)	Disposed	PBC (2007)	0	State courthouse (B.F. Sisk Courthouse)
Sacramento (CA)	John E. Moss Federal Building (1961)	Retained			U.S. Department of Homeland Security
San Diego (CA)	Edward J. Schwartz Federal Building and U.S. Courthouse (1976)	Retained <sup>c</sup>			Judiciary
Santa Ana (CA)	Santa Ana Federal Building (1975)	Retained			U.S. Department of Homeland Security
Denver (CO)	Byron Rogers Federal Building and U.S. Courthouse (1965)	Retained			(Mostly vacant due to major renovations) <sup>d</sup>
Washington (DC)	Elijah Barrett Prettyman U.S. Courthouse (1952)	Retained <sup>c</sup>			Judiciary
Ft. Myers (FL)	George W. Whitehurst Federal Building (1933)	Disposed	Sale (2000)	215,000	Art center (Sidney & Berne Davis Art Center)
Jacksonville (FL)	U.S. Post Office and Courthouse (1933)	Disposed	Sale (2002)	0	Planned offices for state's attorneys



**Appendix II: Status of Old U.S. Courthouses  
since 1993**

Miami (FL)	David W. Dyer Federal Building and U.S. Courthouse (1933)	Retained			Vacant
Orlando (FL)	George C. Young Federal Building and Courthouse (1975)	Retained <sup>c</sup>			U.S. Department of Justice
Tallahassee (FL)	U.S. Courthouse (1937)	Retained <sup>c</sup>			Judiciary
Tampa (FL)	U.S. Tampa Classic Courthouse (1905)	Disposed	PBC (2003)	0	Planned hotel
Albany (GA)	U.S. Post Office-Courthouse (1912)	Disposed	Sale (2002)	350,000	Commercial office space
Cedar Rapids (IA)	U.S. Courthouse (1933)	Disposed	Property exchange (2010)	0	City government (City Hall)
Coeur D'Alene (ID)	Federal Building and Courthouse (1928)	Disposed	PBC (2009)	0	County courts (Juvenile Justice Building)
London (KY)	Federal Building and U.S. Courthouse (1910)	Retained <sup>c</sup>			Judiciary
Rockford (IL)	U.S. Courthouse (1977)	Disposed	Property exchange (2010)	1,280,840	County courts (Winnebago County Juvenile Justice Center)
Urbana (IL)	Federal Building and US Courthouse (1904)	Disposed	PBC (1991)	0	County cultural center (Springer Cultural Center)
Hammond (IN)	Federal Building and U.S. Courthouse (1906)	Disposed	Sale (2009)	550,000	Church administration (First Baptist Church of Hammond Administrative Office Building)
Kansas City (KS)	Federal Building-Post Office-Courthouse (1959)	Disposed	PBC (1995)	0	County courts (Correctional and Court Services Building)
Baton Rouge (LA)	Federal Building and U.S. Courthouse (1933)	Retained <sup>c</sup>			Judiciary
Lafayette (LA)	Lafayette Federal Building & Courthouse (1960)	Disposed	Sale (2001)	800,000	Storage for city government
Boston (MA)	John W. McCormack Post Office and U.S. Courthouse (1933)	Retained			U.S. Environmental Protection Agency

**Appendix II: Status of Old U.S. Courthouses  
since 1993**

Springfield (MA)	Federal Office Building (1982)	Disposed	Sale (2009)	2,500,000	Commercial office space
Minneapolis (MN)	U.S. Courthouse (1961)	Disposed	Sale (1999)	5,400,000	State courts (Family Justice Center)
Cape Girardeau (MO)	Cape Girardeau Federal Building and Courthouse (1967)	Disposed	Sale (2012)	375,015	Vacant
Kansas City (MO)	U.S. Courthouse (1940)	Disposed	PBC (2008)	0	Apartment building (Courthouse Lofts)
St. Louis (MO)	U.S. Court and Customhouse (1935)	Disposed	Sale (1997)	2,200,000	State courts and city offices (Carnahan Courthouse)
Jackson (MS)	James O. Eastland Federal Building – Courthouse (1933)	Disposed	Sale (2011)	1,400,009	Planned mixed residential-retail space
Billings (MT)	James F. Battin Federal Building and U.S. Courthouse (1965)	Disposed	Sale (2013)	3,275,000	Planned office space
Fargo (ND)	Federal Building/Courthouse (1931)	Retained <sup>c</sup>			U.S. Department of Justice
Omaha (NE)	Edward Zorinsky Federal Building (1960)	Retained			U.S. Army Corps of Engineers
Concord (NH)	James C. Cleveland Federal Building (1966)	Retained			U.S. Department of Justice
Camden (NJ)	U.S. Post Office and Courthouse (1932)	Retained <sup>c</sup>			Judiciary
Trenton (NJ)	Clarkson S. Fisher U.S. Courthouse (1933)	Retained <sup>c</sup>			Judiciary
Albuquerque (NM)	D. Chavez Federal Building (1965)	Retained			U.S. Department of the Interior
Las Cruces (NM)	Runnels Federal Building (1974)	Retained			U.S. Department of Homeland Security
Las Vegas (NV)	Foley Federal Building and U.S. Courthouse (1967)	Retained			Judiciary
Reno (NV)	C. Clifton Young Federal Building and U.S. Courthouse (1965)	Retained			Judiciary
Brooklyn (NY)	Emmanuel Celler U.S. Courthouse (1963)	Retained <sup>c</sup>			Judiciary

**Appendix II: Status of Old U.S. Courthouses  
since 1993**

Buffalo (NY)	Michael J. Dillon U.S. Courthouse (1936)	Retained			Vacant
New York (NY)	Thurgood Marshall U.S. Courthouse (1936)	Retained			Judiciary
Cleveland (OH)	Howard M. Metzenbaum U.S. Courthouse (1910)	Retained			Judiciary
Youngstown (OH)	Thomas D. Lambros Federal Building and U.S. Courthouse (1995)	Retained			Judiciary
Eugene (OR)	Eugene Federal Building (1974)	Retained			U.S. Department of Justice
Portland (OR)	Gus J. Solomon Courthouse (1933)	Retained			U.S. Department of Agriculture
Erie (PA)	Federal Building and Courthouse (1938)	Retained <sup>c</sup>			Judiciary
Scranton (PA)	William J. Nealon Federal Building and Courthouse (1931)	Retained <sup>c</sup>			Judiciary
Columbia (SC)	Strom Thurmond U.S. Courthouse (1978)	Retained			Judiciary
Greeneville (TN)	Federal Building-U.S. Courthouse (1904)	Disposed	Sale (2002)	200,000	Commercial bank (Greeneville Federal Bank Main Office)
Austin (TX)	U.S. Courthouse (1935)	Retained			Vacant
Brownsville (TX)	Brownsville U.S. Post Office and Courthouse (1933)	Disposed	Property Exchange <sup>e</sup> (1996)		City government (City Hall/Old Federal Courthouse)
Corpus Christi (TX)	Corpus Christi Courthouse (1918)	Disposed	Sale (2002)	552,956	Law offices
El Paso (TX)	U.S. Courthouse (1936)	Retained			Judiciary
Laredo (TX)	Post Office and U.S. Courthouse (1906)	In disposal process			
Alexandria (VA)	Martin V.B. Bostetter Courthouse (1931)	Retained			Judiciary

**Appendix II: Status of Old U.S. Courthouses  
since 1993**

Richmond (VA)	Lewis F. Powell Jr. U.S. Courthouse and Annex (1858)	Retained			Judiciary
Seattle (WA)	William Kenzo Nakamura Courthouse (1940)	Retained			Judiciary
Beckley (WV)	Beckley Federal Building (1933)	Disposed	PBC (2001)	0	Regional education service agencies (RESA 1 Building)
Charleston (WV)	Post Office and Courthouse (1961)	Disposed	Sale (1999)	2,000,000	Leased back to federal tenant
Wheeling (WV)	Federal Building and U.S. Courthouse (1907)	Retained <sup>c</sup>			Judiciary

Source: GAO analysis of GSA data and interviews with representatives of current building owners.  
Note: Major tenants as of June 2013 GSA data.

<sup>a</sup>For disposed buildings, name is that was used when it was a federal property.

<sup>b</sup>Federal tenants that occupied the largest share of leased rentable square feet.

<sup>c</sup>Location where the new courthouse was constructed as an annex to the old courthouse.

<sup>d</sup>Most of the Byron Rogers Federal Building and U.S. Courthouse is closed for major renovations, contributing to a vacancy rate of 69 percent. Part of the building is open and occupied by the judiciary.

<sup>e</sup>GSA did not have information on whether financial proceeds were received regarding the property exchange involving the old courthouse in Brownsville.

## Appendix III: Additional Examples of Old Courthouses Converted to Other Uses

- Former Federal Building and U.S. Courthouse, Hammond, Indiana, now the Administrative Office Building of the First Baptist Church of Hammond

The former Federal Building and U.S. Courthouse in Hammond, Indiana, built in 1906, is now used by a church for office and meeting space (see fig. 9). In 2009, GSA sold the old courthouse to the First Baptist Church of Hammond for \$550,000. According to a church representative, one of the building's three former courtrooms is mainly used as a meeting room, but also for church services, weddings, and funerals, and that the other two former courtrooms have few or no remnants of their prior use.

**Figure 9: Former Federal Building and U.S. Courthouse, Hammond, Indiana, Converted for Church Use**



Source: First Baptist Church of Hammond. Reprinted with permission.



Source: First Baptist Church of Hammond. Reprinted with permission.

- Former Federal Building-U.S. Courthouse, Greeneville, Tennessee, now the Greeneville Federal Bank Main Office

The former Federal Building-U.S. Courthouse in Greeneville, Tennessee, built in 1904, is now being used as a bank (see fig.10). In 2002, GSA sold the old courthouse to the Greeneville Federal Bank for \$200,000. According to a bank representative, of the building's three former courtrooms, one is now used as an employee training room and the other two were reconfigured for lobby, teller, and conference room space.

**Figure 10: Former Federal Building-Courthouse, Greenville, Tennessee, Converted into a Bank**



Source: Greenville Federal Bank. Reprinted with permission.



Source: Greenville Federal Bank. Reprinted with permission.

- Former U.S. Tampa Classic Courthouse, in Tampa, Florida, and Planned Le Meridien Hotel

The former U.S. Tampa Classic Courthouse in Tampa, Florida, built in 1905, is being converted into a hotel (see fig. 11). In 2003, after finding no other tenants or uses for the building, GSA conveyed the old courthouse to the City of Tampa as a PBC. In 2012, the city leased the building to a developer that proposed to convert the building into a hotel. According to a representative from the developer, the hotel will have 130 rooms. The representative said that the building's two historic former courtrooms will be used for a restaurant and ballroom/banquet facility. The hotel is expected to open in 2014.



Figure 11: Former U.S. Classic Courthouse, Tampa, Florida, to Become Hotel



Source: Development Services Group, Inc. Reprinted with permission.

# Appendix IV: Comments from the General Services Administration



The Administrator

October 25, 2013

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the draft report entitled *Better Planning Needed Regarding Re-Use of Old Courthouses* (GAO-14-48). The U.S. Government Accountability Office (GAO) recommends that when proposing new courthouses, the Administrator of General Services, in consultation with the judiciary as appropriate, include:

- plans for re-using or disposing of the old courthouses;
- challenges to implementing those plans, including any required renovations and related cost estimates, to be updated as needed; and
- when the plans involve re-locating Federal tenants from commercially leased space to the old courthouses, estimates of the long-term costs of occupying the old courthouses versus continuing to occupy commercially leased space.

GSA agrees with GAO's recommendations and will take action to implement them. GSA will include the above information in future proposals for new courthouses, with the understanding that, as GAO notes throughout the report, some of the information, such as cost estimates for required renovations to old courthouses, is subject to change due to fluctuating market conditions, dynamic agency requirements, and GSA's refinement to its plans for the old courthouses.

As GAO acknowledges, GSA does include all of the information required by 40 USC §3307(b) in prospectus submissions for new courthouses. Nonetheless, we remain committed to transparency in providing the aforementioned additional information, which will enable congressional decision makers to more accurately assess the viability of GSA's proposals and the full costs of those proposals to the American taxpayers.

Technical comments that update and clarify statements in the draft report are enclosed. If you have any additional questions or concerns, please do not hesitate to contact me at (202) 501-0800, or Ms. Dorothy Robyn, Commissioner, Public Buildings Service, at (202) 501-1100. Staff inquiries may be directed to Ms. Martha Benson, Assistant Commissioner for Real Property Asset Management, at (202) 208-7176.

U.S. General Services Administration  
1800 F Street, NW  
Washington, DC 20405  
Telephone: (202) 501-0800  
Fax: (202) 219-1243



Sincerely,

A handwritten signature in blue ink, appearing to read 'Dan Tangherlini', with a stylized flourish extending to the right.

Dan Tangherlini  
Administrator

Enclosure

cc: David Wise, Director, Physical Infrastructure Issues

# Appendix V: Comments from the Federal Judiciary



## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

HONORABLE JOHN D. BATES  
Director

WASHINGTON, D.C. 20544

October 4, 2013

Mr. Mark L. Goldstein  
Director, Physical Infrastructure Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, DC 20548

Dear Mr. Goldstein:

The Federal Judiciary appreciates the opportunity to review and respond to the Government Accountability Office's (GAO) draft report entitled, *FEDERAL COURTHOUSES: Better Planning Needed Regarding Re-Use of Old Courthouses* (GAO-14-48). In the draft report, the GAO makes one recommendation:

To improve the transparency of cost information regarding the retention and re-use of old courthouses, when proposing new courthouses, that the Administrator of the General Services Administration (GSA), in consultation with the judiciary as appropriate, include:

- plans for re-using or disposing of the old courthouses;
- challenges with implementing those plans, including any required renovations and related cost estimates, to be updated as needed; and
- when the plans involve re-locating federal tenants from commercially-leased space to the old courthouses, estimates of the long-term costs of occupying the old courthouses versus continuing to occupy commercially-leased space.

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A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

Mr. Mark L. Goldstein  
Page 2

We have no objections to the recommendation that GSA provide Congress with more information, and agree that it is appropriate for GSA to continue to work with the Judiciary to determine solutions that address the Judiciary's housing needs. However, any additional information about the cost of reusing or disposing of old courthouses should not delay the authorization and funding of new projects.

Older buildings, as GAO recognizes in its transmittal letter to the requesters, pose challenges for reuse "because many were built in the 1930s or earlier, do not meet current court security standards, and those that have been designated as historic are subject to historic preservation requirements." Moreover, as the draft report also cites, poor building condition, needed renovations, and the cost to correct such deficiencies are challenges GSA faces in finding tenants to replace the Judiciary.

These factors are not just a challenge for the reuse of old courthouses. They are also the very reasons why the Judiciary has sought replacement space and why the 12 projects on the Judiciary's current *Five-Year Courthouse Project Plan (Five-Year Plan)* were added to that list by the Judicial Conference of the United States. Of the 12 courthouse locations on the *Five-Year Plan*, nine of the courthouses currently in use were constructed between 1899 and the 1930s, one in the 1950s, and two in the 1960s (one of which was originally built as a circular theater for the 1968 HemisFair). All are plagued by a combination of deteriorated building systems, serious security issues, space deficiencies, and functional inefficiencies.

We have enclosed technical corrections to the draft report. The Judiciary will continue to work with the GSA and Congress to plan in a cost-effective manner for secure, accessible, and efficient court facilities. If we may be of additional assistance to you, please do not hesitate to contact the Office of the Deputy Director at 202-502-1300.

Sincerely,



John D. Bates  
Director

Enclosure

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# Appendix VI: GAO Contact and Staff Acknowledgments

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## GAO Contact

Mark L. Goldstein, (202) 512-2834 or [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Keith Cunningham, Assistant Director; Lindsay Bach; Lorraine Ettaro; Geoffrey Hamilton; Bob Homan; and James Leonard made key contributions to this report.

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# Related GAO Products

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*Federal Real Property: Excess and Underutilized Property Is an Ongoing Challenge.* [GAO-13-573T](#). Washington, D.C.: April 25, 2013.

*Federal Courthouses: Recommended Construction Projects Should Be Evaluated under New Capital-Planning Process.* [GAO-13-263](#). Washington, D.C.: April 11, 2013.

*Federal Courthouse Construction: Nationwide Space and Cost Overages Also Apply to Miami Project.* [GAO-13-461T](#). Washington, D.C.: March 8, 2013.

*Federal Real Property: Improved Data Needed to Strategically Manage Historic Buildings, Address Multiple Challenges.* [GAO-13-35](#). Washington, D.C.: December 11, 2012.

*Federal Buildings Fund: Improved Transparency and Long-term Plan Needed to Clarify Capital Funding Priorities.* [GAO-12-646](#). Washington, D.C.: July 12, 2012.

*Federal Real Property: National Strategy and Better Data Needed to Improve Management of Excess and Underutilized Property.* [GAO-12-645](#). Washington, D.C.: June 20, 2012.

*Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs.* [GAO-10-417](#). Washington, D.C.: June 21, 2010.

*Federal Real Property: Authorities and Actions Regarding Enhanced Use Leases and Sale of Unneeded Real Property.* [GAO-09-283R](#). Washington, D.C.: February 17, 2009.

*Federal Real Property: Strategy Needed to Address Agencies' Long-standing Reliance on Costly Leasing.* [GAO-08-197](#). Washington, D.C.: Jan. 24, 2008.

*Federal Courthouses: Rent Increases Due to New Space and Growing Energy and Security Costs Require Better Tracking and Management.* [GAO-06-613](#). Washington, D.C.: June 20, 2006.

*Courthouse Construction: Information on Project Cost and Size Changes Would Help to Enhance Oversight.* [GAO-05-673](#). Washington, D.C.: June 30, 2005.

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## Public Affairs

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