



**GAO**  
Accountability Integrity Reliability

# Highlights

Highlights of [GAO-06-918](#), a report to the Chairman, Committee on Energy and Commerce, House of Representatives

## Why GAO Did This Study

The National Institutes of Health (NIH) is the nation's primary medical and behavioral research agency. NIH's need for leased space has more than doubled since 1996 to about 3.9 million square feet in 2005. In 1996, General Services Administration delegated leasing authority to NIH that includes performing budget scoring and prospectus analysis. In light of NIH's increased use of leased space, GAO was asked to address two issues: (1) Is NIH complying with budget scorekeeping guidelines and Office of Management and Budget's (OMB) requirements for implementing the guidelines to determine if a lease should be classified as operating or capital and ensure that no violations of the Antideficiency Act occur because of improper budget scorekeeping? and (2) Is NIH complying with the congressional prospectus process for both leases and alterations to leased buildings? To address these issues we interviewed leasing and financial officials, reviewed laws and reviewed budget scoring and prospectus analysis of 59 leases.

## What GAO Recommends

GAO recommends that the Director of NIH, using GSA as the proper channel, report to the appropriate congressional committees five previous NIH prospectus-level leases that did not follow the congressional prospectus process. In commenting on our report NIH concurred with our recommendation.

[www.gao.gov/cgi-bin/getrpt?GAO-06-918](http://www.gao.gov/cgi-bin/getrpt?GAO-06-918).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Mark Goldstein at (202) 512-2834.

## FEDERAL REAL PROPERTY

# NIH Has Improved Its Leasing Process, but Needs to Provide Congress with Information on Some Leases

## What GAO Found

NIH has implemented a formal leasing process that, if carried out effectively, should comply with budget scorekeeping guidelines and OMB's requirements for classifying operating and capital leases. This process should ensure that no Antideficiency Act violations occur due to leasing. The agency's new leasing process addresses previous problems with inconsistent and informal implementation of the guidelines and requirements by properly identifying operating and capital leases and properly recording lease obligations for budget scoring purposes. In October 2005, the U. S. Department of Health and Human Services expressed the belief that the potential \$565 million in unrecorded obligations from 50 active multiyear NIH leases were not Antideficiency Act violations. We agree that no Antideficiency Act violations exist because the GSA delegation of leasing authority included specific authority that directed NIH to obligate funds for multiyear leases, one year at a time, and that such actions were exempt from the Antideficiency Act. GSA is also modifying its guidance for delegated leasing authority, which would make it clear that agencies with delegated leasing authority can score operating leases in the same manner as GSA. The scoring process for capital leases would remain unchanged.

As part of its leasing process, NIH has also established decision points for identifying any leases for which a prospectus should be submitted through GSA for congressional approval, under the Public Buildings Act of 1959, as amended. This process involves submitting leases and alterations to leased buildings for approval whose costs exceed a legislatively established threshold. In addition, NIH has designated the Office of Acquisitions, Office of Resource Facilities to review prospectus-level alterations to leased buildings to ensure that the contracting for alterations to leased buildings does not exceed the prospectus threshold for alterations to leased buildings. However, NIH has taken no action to address five prospectus-level leases that were not submitted to the appropriate congressional committees in past years. While there is no penalty provided in law for not submitting a prospectus, failure to do so hinders the ability of the appropriate congressional committees to fulfill their oversight responsibilities for all prospectus-level leases.