



January 2021

FEDERAL REAL PROPERTY

Additional Documentation of Decision Making Could Improve Transparency of New Disposal Process



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GAO@100 Highlights

Highlights of [GAO-21-233](#), a report to congressional committees

Why GAO Did This Study

GAO designated federal real property management, including the disposal of properties, as a high-risk area in 2003. FASTA included a provision for GAO to review the recommendations and selection processes such as those used in the first round of identifying and recommending high-value properties as candidates for disposal.

This report examines: (1) how stakeholders implemented FASTA to identify and evaluate high-value properties as potential disposal candidates and (2) stakeholder views on the extent to which FASTA helped agencies with the disposal of unneeded high-value properties and addressed long-standing challenges in disposing of federal properties. GAO reviewed FASTA and analyzed documents from the Board, OMB, GSA, and selected 14 federal agencies to examine the processes they used and the challenges they encountered under the FASTA process. Agencies were selected based on their recommendations of high-value properties and inclusion on the Board's final list, among other things. GAO also interviewed officials from the Board, OMB, GSA, and selected federal agencies.

What GAO Recommends

GAO is recommending that the Board fully document its process for recommending FASTA disposal candidates, including the rationales behind disposal decisions. The Board noted plans to develop more documentation of its future disposal decisions.

View [GAO-21-233](#). For more information, contact David Trimble at (202) 512-2834 or trimbled@gao.gov.

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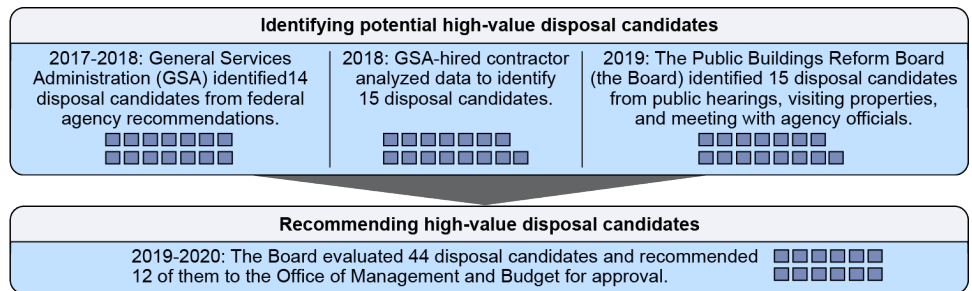
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Additional Documentation of Decision Making Could Improve Transparency of New Disposal Process

What GAO Found

In 2016, the Federal Assets Sale and Transfer Act (FASTA) created the independent Public Buildings Reform Board (the Board) to support a new, three-round process for disposing of unneeded federal real property. The first of these rounds required the Board to identify and recommend at least five high-value disposal candidates with a total market value between \$500 and \$750 million. To identify these properties, the General Services Administration (GSA) collected and evaluated agency recommendations; a GSA-hired contractor analyzed real property data; and the Board held public hearings, visited properties, and met with federal officials. This process resulted in identifying 44 properties. The Board then took various steps to evaluate the 44 properties and recommended 12 final disposal candidates that the Office of Management and Budget (OMB) approved in January 2020. (See figure.) However, the Board did not fully document the process used to evaluate these candidates. For example, the Board's rationales for why individual candidates were or were not recommended were vague or incomplete. Full documentation on the decision-making process would better position stakeholders, including members of Congress, to understand the Board's rationales, especially for decisions with financial implications.

Process Used by Stakeholders for Identifying and Recommending High-Value Federal Real Property for Potential Disposal Candidates



Source: GAO analysis of the Public Buildings Reform Board's information and interviews. | GAO-21-233

Note: High-value disposal candidates can be a collection of properties with a total market value of between \$500 and \$750 million.

According to Board and selected federal agency officials, FASTA made it easier for agencies to pursue high-value property disposals due, in part, to exemptions from some requirements, such as having to first offer properties to federal, state, or local agencies. However, FASTA's effect on other long-standing challenges, including funding to prepare properties for disposal, is unclear. For example, FASTA created a dedicated funding source to implement Board recommendations including those related to covering disposal costs, such as relocating agency staff. However, officials expressed concern that access to these funds is not automatic and must go through the annual appropriations process, which rarely coincides with the timing of these projects. The administration proposed legislative language to make proceeds from the sale of assets in fiscal year 2021 available without additional actions by Congress. However, as of January 2021, legislation containing the proposed language had not been enacted. This report discusses elements Congress may wish to evaluate when determining whether to grant such budget-related flexibility.

Contents

Letter		1
	Background	6
	Stakeholders Used a Multiphase Process to Develop a List of High-Value Disposal Candidates, but the Board’s Evaluation Process Was Not Fully Documented	14
	Stakeholders Reported That FASTA Helped Agencies Move the Disposal of High-Value Properties Forward, but Its Effects on Other Longstanding Challenges, Including Funding, Remain Unclear	22
	Conclusions	32
	Recommendation	32
	Agency Comments and Our Evaluation	32
Appendix I	Characteristics of the High-Value Properties the Public Buildings Reform Board Recommended for Disposal	34
Appendix II	Comments from the Public Buildings Reform Board	36
Appendix III	GAO Contact and Staff Acknowledgments	38
Table		
	Table 1: Characteristics of the High-Value Properties the Public Buildings Reform Board Recommended for Disposal	34
Figures		
	Figure 1: General Services Administration’s (GSA) Process for Disposing of Real Property	7
	Figure 2: Process Used by Federal Stakeholders for Identifying Potential High-Value Federal Real Property Disposal Candidates	15
	Figure 3: Process Used by the Public Buildings Reform Board to Evaluate Potential High-Value Federal Real Property Disposal Candidates	19
	Figure 4: Examples of Federal Real Properties Recommended for Disposal by the Public Buildings Reform Board	25

Abbreviations

COVID-19	Coronavirus Disease 2019
Energy	Department of Energy
GSA	General Services Administration
FASTA	Federal Assets Sale and Transfer Act of 2016
FRPP	Federal Real Property Profile
OMB	Office of Management and Budget
PBC	public benefit conveyance
Property Act	Federal Property and Administrative Services Act of 1949, as amended
the Asset Proceeds Fund	the Assets Proceeds and Space Management Fund
the Board	the Public Buildings Reform Board

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January 29, 2021

Chair
Ranking Member
Committee on Environment and Public Works
United States Senate

Chair
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Carolyn B. Maloney
Chair
The Honorable James Comer
Ranking Member
Committee on Oversight and Reform
House of Representatives

The Honorable Peter A. DeFazio
Chair
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

The federal government's real estate portfolio includes more than 3,800 buildings that agencies may not need to complete their missions.¹ With the current Coronavirus Disease 2019 (COVID-19) pandemic, federal agencies are requiring or encouraging telework for many workers, which may lead to an increase in underutilized real property.² Disposing of unneeded real property has been a longstanding challenge for the federal government. In 2003, we designated management of federal real property

¹GSA's Fiscal Year 2018 Federal Real Property Profile Open Data Set.

²Underutilized means an entire property or portion thereof, with or without improvements, which is used only at irregular periods or intermittently by the accountable landholding agency for current program purposes of that agency, or which is used for current program purposes that can be satisfied with only a portion of the property." 41 C.F.R. § 102-75.1160; accord 45 C.F.R. § 12a.1; 24 C.F.R. § 581.1. Real property is generally defined as facilities, land, and anything constructed on or attached to the land.

as a high-risk area in part because of challenges with unneeded real property.³

The Federal Assets Sale and Transfer Act of 2016 (FASTA) was enacted to decrease the federal government's costs by reducing its inventory of federal civilian real property, among other things.⁴ To facilitate this inventory reduction, FASTA included provisions that established both an independent board—the Public Buildings Reform Board (the Board)—and a temporary new process⁵ to dispose of unneeded federal real properties, among other things.⁶ Specifically, FASTA called for federal stakeholders—the Board, the Office of Management and Budget (OMB), the General Services Administration (GSA), and other federal agencies—to collectively identify and recommend real property disposal candidates within specific timeframes. This effort is to take place through three rounds of reviewing properties with the Board making recommendations that OMB may approve for agencies to implement. The first round was to identify at least five high-value properties—with a combined total fair market value between \$500 and \$750 million—for potential sales.⁷ FASTA also includes a provision for GAO to review the recommendations

³GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Area*, [GAO-19-157SP](#) (Washington D.C.: Mar. 6, 2019).

⁴Pub. L. No. 114-287, § 2, 130 Stat. 1463, 1463-64. FASTA defines the term “federal civilian real property” to mean federal real property assets, including public buildings as defined in Section 3301(a)(5) of Title 40, US Code, occupied and improved grounds, leased space, or other physical structures under the custody and control of any federal agency. FASTA focuses on decreasing the federal government’s inventory of civilian real properties and excludes many types of federally-owned assets. Types of properties excluded from disposal include those: located on military installations; used in connection with federal programs for agricultural, recreational, or conservation purposes; and located outside the U.S. or maintained by the Department of State or the United States Agency for International Development. FASTA § 3(5)(B), 130 Stat. 14634, 1467.

⁵Under FASTA, the Board is to cease operations and terminate 6 years after the date on which the Board members were appointed. FASTA § 10, 130 Stat. 1464.

⁶In general, FASTA also stated that properties “can be transferred, exchanged, consolidated, co-located, reconfigured, or redeveloped, so as to reduce the civilian real property, reduce the cooperating costs of the government, and create the highest value and return for the taxpayer.” FASTA § 11(a)(2)(B), 130 Stat. 1468.

⁷In general, fair market value is the price a buyer and seller would agree on when a property sells on the open market.

and selection processes such as those used to identify and recommend these high-value properties.⁸ This report examines:

- how stakeholders implemented FASTA to identify and evaluate high-value properties as potential disposal candidates, and
- how stakeholders viewed the extent to which FASTA helped agencies with the disposal of high-value properties and addressed longstanding challenges in disposing of federal real properties.

To examine how stakeholders implemented FASTA to identify and evaluate high-value properties for disposals, we reviewed FASTA, analyzed Board and agency documents, and interviewed officials from the Board, OMB, GSA, and selected federal agencies.⁹ We spoke with all five appointed Board members and their staff to assess the steps that were taken to evaluate the initial high-value properties as disposal candidates and how they made their decisions on the final properties to recommend to OMB for approval. We reviewed our prior work on the importance of transparency and accountability in decision-making processes.¹⁰ We also determined that the control activities component of internal control—the actions management establishes through policies and procedures to achieve objectives and respond to risks—was significant to this objective, along with the underlying principle that management should design appropriate types of control activities for the entity’s internal control system.¹¹ We assessed the Board’s evaluation process against this

⁸FASTA also included a provision for GAO to annually review agencies’ efforts to implement the Board’s recommendations. GAO plans to conduct this work once federal agencies make more progress in implementing the FASTA disposal process.

⁹We refer to “stakeholders” as the Board, OMB, GSA, and selected federal agencies throughout this report, unless noted otherwise. Stakeholders identified in FASTA also include the Board, OMB, GSA, and federal agencies. Board and agency documents we reviewed included the Board’s *High Value Assets Report: Key Findings and Recommendations Pursuant to the Federal Asset Sale and Transfer Act of 2016 (FASTA)* and OMB’s and GSA’s emailed guidance to agencies on identifying and recommending high-value properties.

¹⁰Our prior work identifies the importance of documenting rationales for selection decisions particularly when making award decisions. We previously reported that documentation of agency activities is a key part of accountability for decisions as part of internal control. See GAO, *Intercity Passenger Rail: Recording Clearer Reasons for Awards Decisions Would Improve Otherwise Good Grantmaking Practices*, [GAO-11-283](#) (Washington, D.C.: Mar. 10, 2011).

¹¹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

principle by reviewing the Board's internal documentation for making disposal decisions and interviewing Board officials. In particular, we examined whether the Board clearly documented its internal control procedures, all transactions, and other significant events in a manner that allowed the documentation to be readily available for examination. We also interviewed officials from OMB, GSA, selected federal agencies, and a private commercial real estate broker to examine the processes they used to identify and evaluate high-value properties for disposal candidates.¹² We selected 14 federal agencies—eight federal property owners (i.e., landholding agencies) and six tenant agencies—to obtain illustrative examples on the identification and evaluation processes.¹³ The eight federal property owners were selected based on whether agencies recommended high-value properties to GSA, OMB, and the Board; whether the agencies' properties were included in the Board's final list of recommended disposal candidates; and the estimated market value of the high-value properties on the Board's final list of recommended disposal candidates, among other things. The six tenant agencies were selected based on their occupancy level (e.g., sole tenant or one of several property tenants) and whether they were components or bureaus within one of the selected federal property owners. Our selection process was designed to get a mix of agencies across different criteria to obtain diverse perspectives. The results of our interviews with the selected federal agencies cannot be generalized to other agencies.

To assess stakeholders' views on the extent to which FASTA helped agencies with the disposal of properties and addressed long-standing disposal challenges, we interviewed officials from the Board, OMB, GSA, and the 14 selected federal agencies and reviewed our prior reports on

¹²We interviewed the private commercial real estate broker that was contracted in June 2018 to assist GSA and the Board in identifying high-value properties. The broker drafted a report that identified additional high-value properties and provided general recommendations for improving FASTA, among other things.

¹³The eight selected federal real property owners were: the departments of (1) Commerce; (2) Homeland Security; (3) Energy; (4) Interior; (5) Labor; and (6) Veterans Affairs as well as (7) GSA and (8) the National Aeronautics and Space Administration. The six selected tenant agencies were: (1) the U.S. Customs and Immigration Services; (2) the Federal Protective Service; (3) the National Archives and Records Administration; (4) the National Institute of Standards and Technology; (5) the U.S. Geological Survey; and (6) the Veterans Health Administration.

federal real property that identified long-standing challenges.¹⁴ We analyzed the contents of our interviews with the Board, GSA, and selected federal agencies to determine whether FASTA helped them in disposing of unneeded federal real properties and to identify any new challenges they cited encountering under the FASTA process. We analyzed how FASTA mitigated long-standing challenges associated with disposing of federal real properties, including the disposal process, funding, data, and unique property characteristics—challenges we had previously identified—to understand the extent to which FASTA addressed any long-standing disposal challenges. We assessed the funding challenges identified in this review against alternative budgetary structures and policy considerations to meet real property management needs.¹⁵ We also reviewed a commercial real estate broker’s report commissioned by GSA that identified additional high-value properties for disposal and the challenges associated with identifying them.¹⁶ The broker’s report included an evaluation of the Federal Real Property Profile (FRPP)—the government-wide database of federal real property—that was used for identifying unneeded real properties.

We conducted this performance audit from October 2019 to January 2021 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.

¹⁴GAO, *Federal Real Property: Improving Data Transparency and Expanding the National Strategy Could Help Address Long-standing Challenges*, [GAO-16-275](#) (Washington, D.C.: Mar. 31, 2016) and GAO, *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).

¹⁵GAO, *Capital Financing: Alternative Approaches to Budgeting for Real Property*, [GAO-14-239](#) (Washington D.C.: Mar. 12, 2014) and GAO, *Indian Health Service: Considerations Related to Providing Advance Appropriation Authority*, [GAO-18-652](#) (Washington, D.C.: Sept. 13, 2018).

¹⁶As previously mentioned, a private commercial real estate broker was contracted in June 2018 to assist GSA and the Board in identifying high-value properties.

Background

Federal Disposal Process

The Federal Property and Administrative Services Act of 1949, as amended, (“Property Act”)¹⁷ includes requirements for identifying and disposing of federal real property. The Property Act gives GSA the authority to dispose of real property for most federal entities and outlines the general steps that GSA and agencies need to take before disposal.¹⁸ GSA initiates its disposal process, under its Property Act authority, when a federal agency determines it no longer needs its real property and notifies GSA of the excess property.¹⁹ GSA then must circulate a notice of availability of the property to other federal agencies. Under this disposal process, if other federal agencies do not need the property, then GSA classifies the property to be a federal “surplus property.”²⁰ GSA screens surplus property for possible public use, a process known as “public benefit conveyance”. If the surplus property is deemed suitable to assist the homeless, then GSA is to give priority for this use.²¹ If the surplus federal property is not suitable for homeless use, then GSA may make it available to state and local governmental and eligible nonprofit organizations and institutions for public benefit uses, such as educational facilities, or fire and police training centers. If state and local governments

¹⁷Pub. L. No. 81-152, 63 stat. 377 (codified as amended in scattered sections of 40 U.S.C. and 41 U.S.C.).

¹⁸We have previously reported that while GSA has the authority to dispose of property for most federal entities, 20 federal agencies reported they have at least one statutory authority that allows them to dispose of federally owned buildings under their control. See GAO, *Federal Building Management: Building Disposal Authorities Provide Varying Degrees of Flexibility and Opportunities for Use*, GAO-17-123 (Washington, D.C.: Dec. 8, 2016). The statutory authorities dictate the process such agencies must follow to dispose of real property, if they operate under their own authority, and those processes may be different from GSA’s process. Those processes may include an agency’s authority to retain any proceeds.

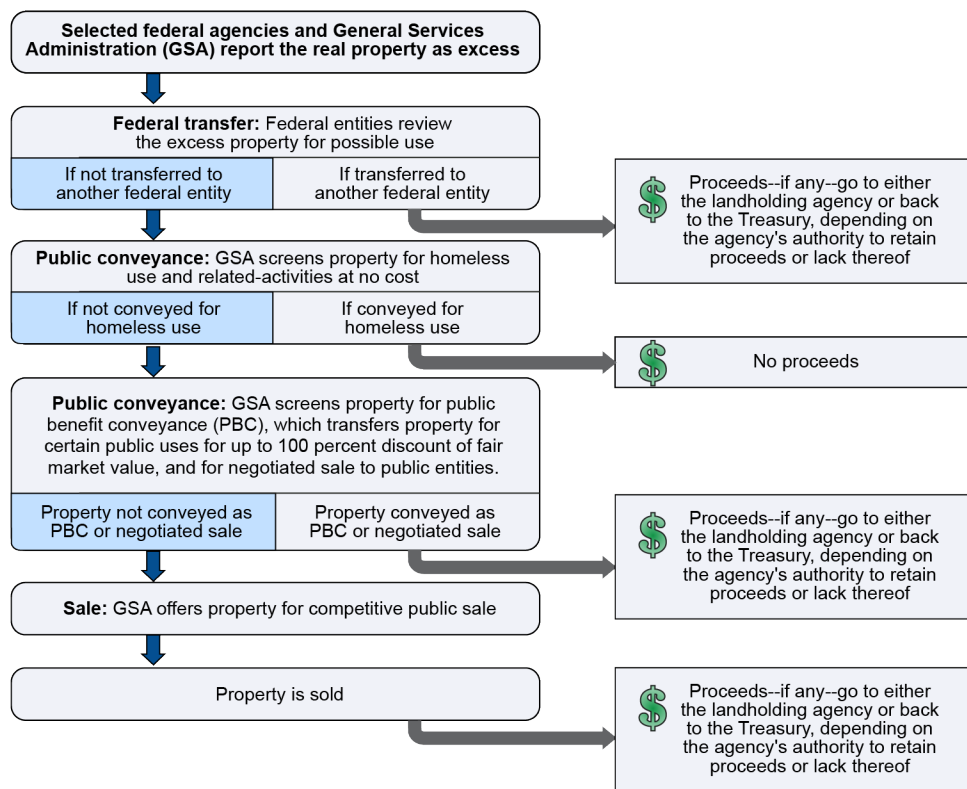
¹⁹The term “excess property” means property under the control of a federal agency that the agency head determines is not required to meet the agency’s needs or responsibilities. 40 U.S.C. § 102(3).

²⁰Surplus property is defined to mean excess property that GSA determines is not required to meet the needs or responsibilities of all federal agencies. 40 U.S.C. § 102(10).

²¹Title V of the McKinney-Vento Homeless Assistance Act, as amended, requires the identification of excess, surplus, unutilized or underutilized properties held by federal landholding agencies that are suitable for use to assist the homeless and that such properties be made available under a priority of consideration versus competing requests for such property. Pub. L. No. 100-77, 101 Stat. 482 (1987) renamed by Pub. L. No. 106-400, 114 Stat. 1675 (2000) (codified as amended at 42 U.S.C. § 11411). Federal agencies must coordinate with the Department of Housing and Urban Development to determine suitability of such properties for use by homeless assistance organizations.

or other eligible nonprofit organizations do not acquire the surplus property and public benefit conveyance is not executed, then GSA can dispose of or authorize the disposal of the property via a competitive sale to the public, generally through a sealed bid or auction. A large number of surplus properties are eventually disposed of through sales. For example, in fiscal year 2019, 138 properties were disposed of through sales that resulted in about \$98.3 million of sale proceeds. Figure 1 shows the federal disposal process, the different pathways, and multiple steps that GSA needs to take to dispose of federal real property.

Figure 1: General Services Administration’s (GSA) Process for Disposing of Real Property



Source: GAO analysis of GSA information regarding implementation of the Federal Property and Administrative Services Act (Property Act) of 1949, as amended. | GAO-21-233

Challenges in the Federal Disposal Process

Federal agencies face long-standing challenges with unneeded real property, in part, due to the costly and lengthy disposal process. Specifically, we have reported that disposal of such property was often

challenging because costs can outweigh the financial benefits and agencies often lack upfront funding to prepare the properties for disposal.²² We have previously reported that agencies are typically financially responsible for covering the upfront disposal costs, including maintenance or other work necessary to put the property on the market or to transfer it to another entity.²³ Both prior to reporting a property as excess and throughout the disposal process, federal agencies can be required to identify the resources and funding necessary to cover a wide range of disposal-related costs (e.g., costs for historic preservation and environmental assessments and remediation). These funds generally come from the agency's salaries and expense or operations and maintenance account, meaning that preparing a real property for disposal generally competes with an agency's ongoing funding requirements, such as maintenance.

In addition, we have reported that statutory requirements, particularly those related to historical preservation, environmental remediation, and screening for possible public benefit conveyance, including to homeless providers, can increase the time and cost required to dispose of certain properties.²⁴ For example, we have previously found that the process can take up to 290 days to determine a property's suitability for homeless assistance and transfer it, if applicable, to assistance providers.²⁵

Additionally:

- The National Historic Preservation Act of 1966, as amended, requires agencies to assume responsibility for the preservation of historic properties under their control and jurisdiction and to consider the effects of consolidation and disposal activities on historic preservation.²⁶ For example, one agency previously reported that meeting requirements set by states, such as conducting studies documenting whether a building should be designated historic can

²²GAO-12-645 and GAO-16-275.

²³GAO-14-239 and GAO-16-275.

²⁴GAO-12-645 and GAO-16-275.

²⁵GAO-16-275.

²⁶54 U.S.C. §§ 306101 (a), 306108.

cost between \$10,000 and \$100,000 and must take place prior to disposing of the property.²⁷

- The National Environmental Policy Act of 1969, as amended, requires federal agencies to identify, analyze, and remediate any environmentally hazardous materials prior to selling or transferring of real properties.²⁸ Agencies have previously reported that environmental remediation can cost millions of dollars and delay their ability to dispose of properties. In some instances, agencies have reported that the cost of the disposal (i.e., as a result of environmental remediation and repair) is greater than any proceeds realized.²⁹ We have also previously reported that agencies have experienced difficulties allocating upfront funds necessary to prepare buildings for disposal.³⁰

In addition to these funding challenges and statutory requirements, we have previously found that the federal government experiences challenges managing and disposing of excess, surplus, and underutilized properties due, in part, to data limitations and the location of buildings or the type of building. For example, we have previously reported on the need to improve the reliability of real property data and recommended that OMB and GSA continue to work with agencies to implement action plans to better assess, address, and track data quality.³¹ Agencies have also previously reported difficulty disposing of properties located in remote areas or on existing federal campuses due to security requirements that can limit private sector interest.³² As a result, excess, surplus, and underutilized properties may remain in an agency's possession for years.

²⁷[GAO-16-275](#).

²⁸Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. 4321 et seq.); 40 C.F.R. §§ 1501.3, 1501.4, 1508.4; 41 C.F.R. § 102-75.955.

²⁹[GAO-12-645](#).

³⁰[GAO-12-645](#) and [GAO-16-275](#). Agencies are typically responsible for paying the upfront costs under the traditional disposal process, and we have reported that agencies are often challenged to obtain these upfront funds.

³¹[GAO-16-275](#) and [GAO-19-157SP](#).

³²[GAO-16-275](#).

Federal Efforts to Improve Real Property Management

The federal government has undertaken several initiatives to improve the management of federal real property by reducing underutilized space and disposing of unneeded real property. For example:

- In 2004, the President issued Executive Order 13327 establishing the Federal Real Property Council, which is composed of senior federal real property managers, and representatives from OMB and GSA, among others.³³ In coordination with the Federal Real Property Council, GSA established the FRPP to address the order's requirement to create a single, comprehensive real property database.³⁴
- In 2012, OMB issued its Freeze the Footprint policy, which directed agencies to keep the total square footage of their domestic office and warehouse inventory at 2012 levels as documented in the FRPP.³⁵
- In 2015, OMB issued its *National Strategy for the Efficient Use of Real Property*—which identified actions to reduce the size of the federal real property portfolio by prioritizing consolidation, co-location, and disposal actions—and its accompanying Reduce the Footprint policy

³³Federal Real Property Asset Management, Exec. Order No. 13327, 69 Fed. Reg. 5897 (Feb. 6, 2004). The executive order applies to executive branch agencies listed at 31 U.S.C. § 901(b); the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs; the Environmental Protection Agency; the National Aeronautics and Space Administration; the U.S. Agency for International Development; GSA; the National Science Foundation; the Nuclear Regulatory Commission; the Office of Personnel Management; the Small Business Administration; and the Social Security Administration. The Federal Real Property Council was subsequently established in statute by the Federal Property Management Reform Act of 2016 (Pub. L. No. 114-318, 130 Stat. 1608), which kept the composition of the council the same and placed some additional responsibilities on the council such as establishing a real property management plan template.

³⁴FASTA codified and set out certain requirements for the FRPP previously established in response to the aforementioned Executive Order No. 13327.

³⁵OMB, M-12-12 *Memorandum to the Heads of Executive Departments and Agencies* (Washington, D.C.: May 11, 2012) and OMB, *Implementation of OMB Memorandum M12-12 Section 3: Freeze the Footprint*, Management Procedures Memorandum No. 2013-02 (Washington, D.C.: Mar. 14, 2013).

requiring agencies to set annual targets for reducing their portfolio of domestic office and warehouse space.³⁶

- In November 2019, OMB issued a memorandum to federal agencies outlining “capital planning requirements for real property in accordance with the Federal Property Management Reform Act of 2016.” These requirements aim to ensure that agencies consistently implement sound capital planning practices by effectively planning, procuring, and using assets throughout their life cycle and eventually disposing of assets to achieve maximum return on investment for the government.³⁷

FASTA Disposal Process

FASTA continues the federal government’s efforts to improve its management of excess, surplus, and underutilized property and to dispose of it more effectively. FASTA was designed, in part, to incentivize agencies to achieve greater efficiency in the disposal process and mitigate some of the longstanding disposal-related challenges.³⁸

Challenges can include the lack of upfront funding, statutory and regulatory requirements, data limitations, and unique characteristics that often make properties difficult to sell or transfer. Key differences between the traditional disposal process and FASTA disposal processes are as follows:

- **Centralized Process.** Unlike the traditional federal disposal process, which is relatively decentralized, FASTA established a centralized process with multiple stakeholders having specific leadership roles and responsibilities. For example, FASTA established an independent Board that was required to include individuals with expertise in commercial real estate and redevelopment, space optimization and utilization, and community development, including transportation and

³⁶OMB, *National Strategy for the Efficient Use of Real Property 2015-2020: Reducing the Federal Portfolio through Improved Space Utilization, Consolidation, and Disposal* (Washington, D.C.: Mar. 25, 2015) and OMB, *Implementation of OMB Memorandum M12-12 Section 3: Reduce the Footprint, Management Procedures Memorandum No. 2015-01* (Washington, D.C.: Mar. 25, 2015). In March 2020, OMB published the Addendum to the National Strategy, which provides an interim strategic government-wide framework to improve the effectiveness and efficiency of government-wide real property management. See OMB, *M-20-10 Memorandum to the Heads of Executive Departments and Agencies* (Washington, D.C.: Mar. 6, 2020).

³⁷OMB, *M-20-03 Memorandum for the Heads of Executive Departments and Agencies: Implementation of Agency-wide Real Property Capital Planning* (Washington, D.C.: Nov. 6, 2019).

³⁸FASTA § 2(7), 130 Stat. 1463, 1464; S. Rep. No. 114-291 at 6 (2016).

planning.³⁹ The Board is responsible for identifying opportunities for the federal government to reduce its inventory of civilian real property and its associated costs over the course of three rounds—the first focusing on high-value candidates with a total market value between \$500 and \$750 million. FASTA also required agencies to submit to GSA and OMB specified types of federal real civilian property data, such as operating costs, the number of federal employees and functions housed in a property, and square footage, and recommendations of properties to consider for disposal and consolidation.⁴⁰

- OMB, in consultation with GSA, was also required to develop standards and criteria for the second and third rounds that incorporate 10 factors outlined in FASTA.⁴¹ FASTA also required the Board to consider these same 10 factors in the first round to identify high-value properties.⁴² FASTA required OMB to approve or disapprove of the Board's recommendations for all three rounds.
- **Targeted Timeframes.** FASTA established targeted timeframes for disposals, which is different from the traditional disposal process that does not include specific timeframes for completing certain key disposal-related actions. For example, FASTA required Board

³⁹FASTA § 4(c)(5), 130 Stat. 1466. A quorum of five Public Buildings Reform Board members was appointed and sworn in in May 2019. The Board then appointed an Executive Director in September 2019 and additional personnel from federal agencies were detailed in the fall of 2019 to assist the Board in carrying out its duties under FASTA. We refer to the Executive Director and detailed personnel as “Board officials” throughout this report.

⁴⁰In general, consolidation is defined as the combining of systems, equipment, and people into fewer buildings or facilities than they previously occupied and is intended to support improved customer service, increased efficiency and effectiveness, or cost avoidances and cost savings. We have previously suggested that federal agencies could increase their efficiency and effectiveness by consolidating their real property, such as closing offices or other facilities like military bases, storage depots, and research facilities. GAO, *Streamlining Government: Questions to Consider When Evaluating Proposals to Consolidate Physical Infrastructure and Management Functions*, [GAO-12-542](#) (Washington, D.C: May 23, 2012).

⁴¹FASTA § 11(b)(1)(B), 130 Stat. 1463, 1468 (2016).

⁴²For the high-value round, FASTA directed the Board to consider several factors during its review and assessment of whether a property should be recommended for disposal, consolidation, or redevelopment. These factors were (1) taxpayer return, (2) operations and maintenance cost reduction, (3) utilization rate maximization, (4) cost savings potential, (5) reliance on leasing, (6) mission alignment, (7) consolidation of operations, (8) economic impact, (9) energy consumption, and (10) access to services. FASTA § 12(b)(3), 130 Stat. 1463, 1469.

members to identify and recommend high-value disposal candidates within 180 days of their appointment. After such Board recommendations, FASTA required agencies to submit an excess report for the high-value disposal candidates to GSA, no later than 60 days after OMB approved the Board recommendations. GSA must then execute the sales of the Board's recommended high-value disposal candidates within 2 years of accepting an agency's report of excess. In addition, FASTA required that the Board is to cease operations and terminate in 2025–6 years after the Board members were sworn-in.

- **Exemptions.** FASTA waived certain statutory requirements included under the traditional disposal process for properties that OMB approved during the first, high-value round of recommendations.⁴³ For example, the sale procedures for high-value properties are exempt from meeting other federal statutory provisions such as those designed to identify and make real property available for public benefit conveyance and for homeless assistance. FASTA did not extend the high-value round exemptions to the second and third rounds of Board recommendations.
- **Funding.** FASTA also established a dedicated funding source, the Assets Proceeds and Space Management Fund (the Asset Proceeds Fund), which is administered by GSA, to provide funding for necessary costs, associated with implementing OMB-approved Board recommendations, such as those related to disposing of properties.⁴⁴ A combined total of \$30 million was appropriated to the Asset Proceeds Fund for fiscal years 2018 and 2019 to be used pursuant to Board recommendations, such as those relating to the disposal costs of properties in the high-value round.⁴⁵ In general, sale proceeds from the high-value round as well as subsequent rounds are to be

⁴³Under FASTA, GSA is to initiate the sale of the high-value properties “notwithstanding any other provision of law (including section 501 of the McKinney-Vento Homeless Assistance Act)” except for certain environmental considerations specified in FASTA. FASTA § 12(b)(6)(A), 130 Stat. 1463, 1470.

⁴⁴The Asset Proceeds Fund is an account in the Treasury of the United States under the custody and control of GSA. FASTA § 16(b)(1), 130 Stat. 1463, 1475, as amended by Pub. L. No. 115-141, § 527(2), 132 Stat. 348, 573 (2018).

⁴⁵The Asset Proceeds Fund received \$5 million for fiscal year 2018 and \$25 million for fiscal year 2019 to remain available until expended. Pub. L. No. 115-141, 132 Stat. 348, 572 (2018), Pub. L. No. 116-6, 133 Stat. 13, 171 (2019). The Asset Proceeds Fund additionally received an appropriation of \$16 million for fiscal year 2021, to remain available until expended. Pub. L. No. 116-260, div. E, title V, 134 Stat. 1182, 1413 (2020).

deposited into the Asset Proceeds Fund and used, as provided in appropriations acts, to carry out future disposal-related actions pursuant to OMB-approved Board recommendations. For example, if the Board and GSA can sell \$500 million in high-value properties then the Asset Proceeds Fund could potentially receive \$500 million to offset upfront cost of future disposals, including to identify and implement the next round of recommendations. FASTA requires the Board to identify the next round of recommended properties worth a total value of no more than \$2.5 billion.⁴⁶

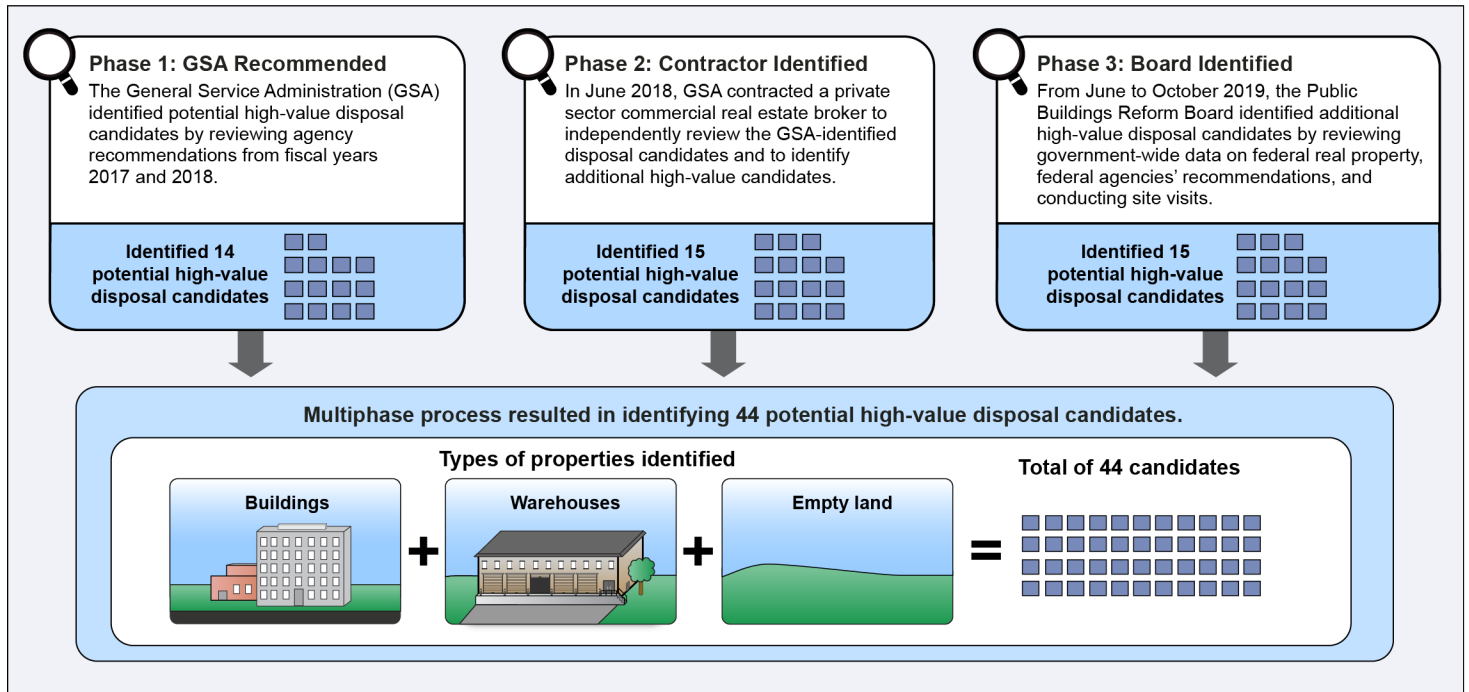
Stakeholders Used a Multiphase Process to Develop a List of High-Value Disposal Candidates, but the Board's Evaluation Process Was Not Fully Documented

Stakeholders Used a Multiphase Process to Identify Potential High-Value Disposal Candidates

Stakeholders, including federal agencies and GSA, helped the Board identify potential high-value candidates for disposal under the FASTA process using a three-phase process, as shown in Figure 2.

⁴⁶FASTA requires the Board to submit the next round of recommendations with a total value of up to \$2.5 billion to OMB no later than 2 years after the date of recommended high-value disposal candidates. FASTA § 12(g)(2)(A), 130 Stat. 1463, 1471. The next round of recommendations are due no later than December 2021.

Figure 2: Process Used by Federal Stakeholders for Identifying Potential High-Value Federal Real Property Disposal Candidates



Source: GAO analysis of the Public Buildings Reform Board's information. | GAO-21-233

Note: This figure describes the process used by stakeholders to identify high-value disposal candidates for the first round under the Federal Asset Sales and Transfer Act of 2016 Pub. L. No. 114-287, 130 Stat. 1463 (2016). This process may not be applicable for future FASTA rounds.

Stakeholders identified a total of 44 potential high-value disposal candidates through these three phases—14 candidates were identified through GSA recommendations (phase 1); 15 more candidates were identified by a GSA-hired contractor (phase 2); and 15 more candidates were identified by the Board (phase 3). Specifically:

GSA Recommendation. During this first phase, GSA identified 14 potential high-value disposal candidates by reviewing agencies' submissions. From fiscal years 2017 through 2018, GSA and OMB sent data calls to all applicable agencies to identify potential disposal candidates. As part of these data calls, GSA developed guidance—based on requirements outlined in FASTA—for how agencies should identify potential disposal and consolidation candidates. For example, GSA officials told us that they required agencies to consider elements—such as real estate market,

location, ownership, and marketability—when evaluating the potential for high value properties.⁴⁷ From fiscal years 2017 through 2018, 15 agencies submitted a total of 28 disposal candidates and 82 consolidation candidates. According to GSA officials, they convened a panel of subject matter experts to recommend 14 high-value candidates—defining high-value properties as those that had a replacement value of at least \$1 million—to forward to the Board for its consideration.

Contractor Identification. In the second phase, GSA contracted a private sector real estate broker in June 2018 to review GSA's recommended 14 high-value candidates and conduct an independent analysis of FRPP to identify additional candidates. GSA's contractor identified 15 additional eligible FASTA candidates using a methodology that included analyzing and filtering FRPP data and supplementing that data with market analysis. For example, the contractor analyzed supplemental market data to identify assets that would be most likely to generate more than \$1 million in sale proceeds and excluded properties listed in FRPP as being on military installations.

Board Identification. During the third phase, the Board independently identified 15 additional FASTA candidates by reviewing FRPP data and the GSA contractor's analysis, holding public hearings, conducting site visits, and meeting with agency officials. For example, between June and October 2019, the Board held four public meetings and conducted more than 20 site visits to gather additional insight into the property attributes, condition, and other factors that could affect disposal and value. In addition, Board members met with real property officials from 10 federal agencies and a number of congressional and local government representatives.

⁴⁷These elements are aligned with one factor included in FASTA to look at the extent to which a real property could be sold to produce the highest and best value and return for taxpayer. See FASTA § 11(b)(3)(A), 130 Stat. 1463, 1468.

The Board Used a General Framework to Evaluate Potential High-Value Disposal Candidates

Board members told us they took various steps to evaluate the 44 properties that were initially identified as high-value disposal candidates. Board members characterized these steps as their general framework to evaluate and recommend high-value disposal candidates. According to Board members, their institutional knowledge of real estate in the private and public sectors and the factors outlined in FASTA helped guide their evaluation process.⁴⁸ These FASTA factors were the same factors OMB, in consultation with GSA, were to include in developing standards and criteria to use in evaluating agency submissions.⁴⁹ Board members told us that they asked OMB for the standards and criteria. However, according to OMB officials, these standards and criteria were not issued in time for the Board to use to evaluate high-value disposal candidates because FASTA did not require OMB to do so until after agencies submitted data and disposal candidates to GSA and OMB. In January 2020, OMB officials told us they planned to publish standards and criteria in March 2020, but as of January 2021, had not done so. According to OMB officials, OMB is finalizing the standards and criteria with the intent to publish them for use in evaluating agency submissions and making recommendations for the second and third rounds, as previously noted. Board officials told us that it is critical that OMB issue the standards and criteria, as required by FASTA, in order to ensure that the Board can meet its mission and the intent of FASTA in future rounds.

Board officials told us that although the Board's general framework included a number of considerations—including the factors outlined in FASTA—for evaluating and recommending potential disposal candidates, Board members primarily focused on whether the properties were marketable and likely to provide financial gain for the government. Specifically, Board members told us they focused on three key attributes that included whether: (1) the property was “sellable”—meaning there were no known deed restrictions, covenants, agreements, or agency or government-wide factors, such as current mission need, that would prohibit or otherwise inhibit the sale of the property; (2) the disposal was

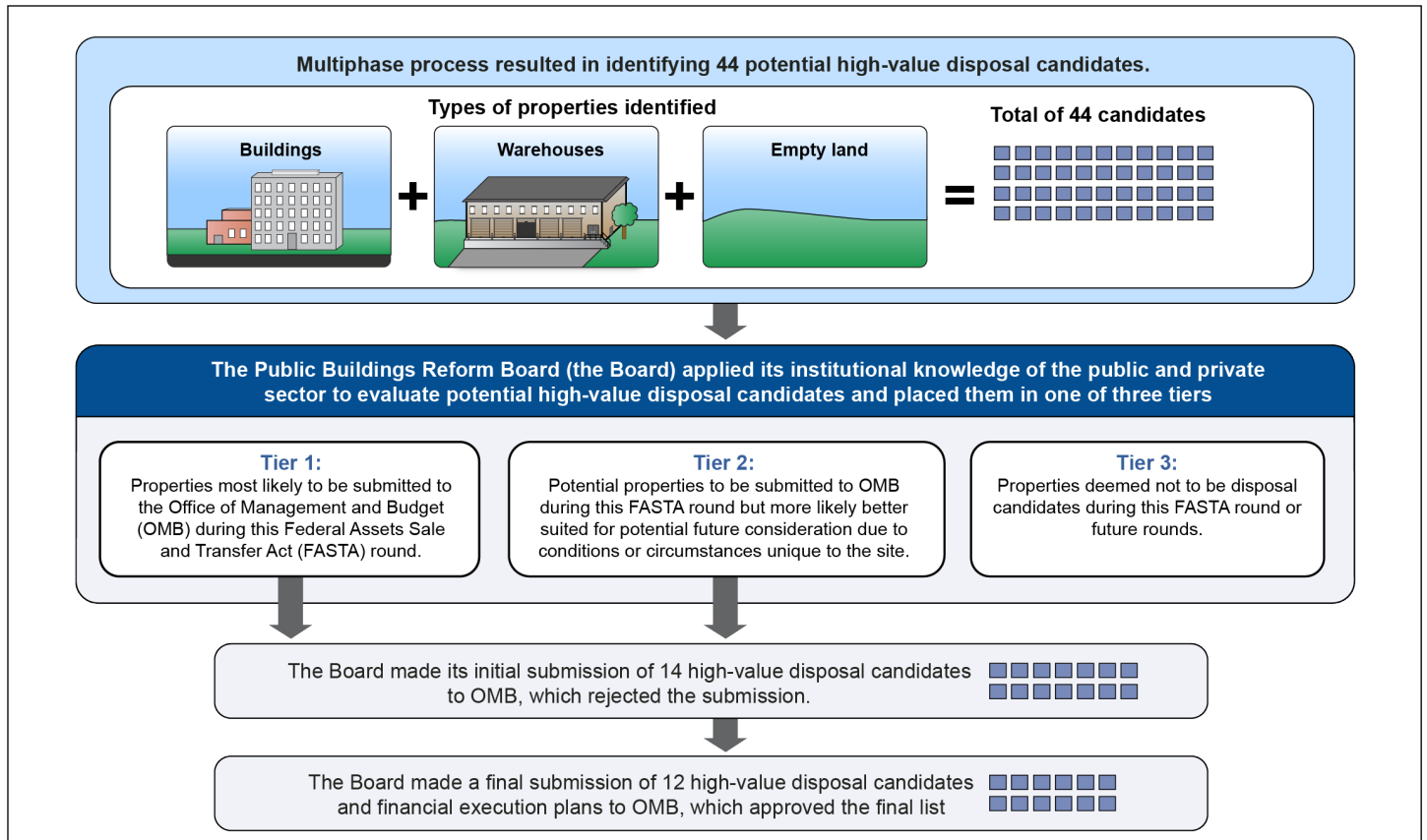
⁴⁸For the high-value round, FASTA directed the Board to consider 10 specified factors during its review and assessment of whether a property should be recommended for disposal, consolidation, or re-development.

⁴⁹OMB was required to (1) develop these standards and criteria—not later than 60 days after the deadline for submissions of agency recommendations to the first data call in fiscal year 2017 relating to the post high-value asset rounds—against which agency recommendations would be reviewed and (2) publish such standards and criteria. FASTA § 11(b)(1), (d)(2), 130 Stat. 1463, 1468-69. See also the Board's, *High Value Assets Report*.

in the best financial interest of the government; and (3) the property could be sold within FASTA's required timeframe of 1-2 years for the high-value properties. Further, Board officials told us that these attributes were critical, given the high-value requirements set forth in FASTA and in particular, the relatively short timeframes to sell these properties.

Board officials told us, that as the Board evaluated candidates using the general framework, they placed properties into different tiers: (1) properties to be submitted to OMB for approval to sell within 1-2 years during the first high-value round, (2) properties that may be proposed for the first high-value round but likely better suited for future FASTA rounds, and (3) properties deemed non-viable for the first high-value round or future FASTA rounds (See fig. 3). Board officials told us that, based on these tiers, one-third of disposal candidates were further vetted against the factors outlined in FASTA, including the extent to which operating and maintenance costs would be reduced, the extent to which reliance on leasing for long-term space needs would be reduced, the economic effect on surrounding communities, and the extent to which public access to agency services would be maintained or enhanced. According to Board members, they applied these factors by conducting site visits, reaching out to agency landholders, and evaluating key documents, such as appraisals, environmental conditions, and property surveys. Board officials also told us that not all factors outlined in FASTA were relevant to each property. For example, the extent to which reliance on leasing for long-term space needs is reduced would not be relevant for vacant properties because there would be no need to relocate personnel.

Figure 3: Process Used by the Public Buildings Reform Board to Evaluate Potential High-Value Federal Real Property Disposal Candidates



Source: GAO analysis of the Public Buildings Reform Board's information and interviews. | GAO-21-233

Note: This figure describes the process used by the Board to evaluate high-value disposal candidates for the first round under the Federal Asset Sales and Transfer Act of 2016 Pub. L. No. 114-287, 130 Stat. 1463 (2016). This process may not be applicable for future FASTA rounds.

According to Board officials, the Board determined that the remaining two-thirds of the 44 properties were non-viable for disposal as high-value assets, as the properties did not meet the Board-developed criteria. Board officials stated that some of these properties may be considered for future FASTA rounds but that others were eliminated for consideration through the FASTA process. For example, Board officials told us that properties in remote or rural markets were eliminated because they were located in less desirable regions and their sales may not be profitable for the federal government and may be better suited for the traditional disposal process.

Following its evaluation as described above, the Board recommended 14 out of the 44 initially identified properties to OMB for approval in October 2019. OMB rejected the Board's initial submission in November 2019 stating that the recommendations lacked information necessary to assess the feasibility of selling the properties within FASTA's required timeframe of 1 to 2 years for the high-value properties and ensure that the risks to the government posed by the sale of the properties were acceptable to the taxpayer. OMB requested that the Board provide a financial execution plan for each property to demonstrate the recommended high-value disposal projects could be completed with available funds, which at the time was \$30 million. To address these concerns, the Board requested additional documentation on the disposal candidates from federal agencies and met with agency officials to develop property disposal plans.

In December 2019, the Board resubmitted its recommendations along with expected timeframes for each sale, a financial execution plan for each project that demonstrated the funding responsibilities for each affected agency, and the total expected spending plan. The Board removed two properties from its initial submission due to learning, through follow-up conversations with agency officials, of anticipated delays regarding the construction of the replacement facilities. OMB approved the Board's final list of 12 high-value properties for disposal in January 2020. The list of the approved 12 high-value properties for sale can be found in appendix I.

Evaluation of Potential High-Value Disposal Candidates Was Not Fully Documented

Although Board members described the general framework used to guide their evaluation, their decision-making process lacked transparency because the Board did not fully document the process used to evaluate and recommend candidates. For example, while the Board published a report providing a high-level overview of how it selected the final 12 high-value disposal candidates, this report did not fully document the Board's evaluation or decision-making process. For example, the Board's report did not document how candidates were evaluated or scored against their conceptual framework or the Board's rationale for why individual disposal candidates were recommended or not recommended.⁵⁰ When we requested additional documentation regarding the Board's evaluation process, the Board provided supplemental documentation on its rationale for excluding potential high-value disposal candidates from its final list of recommended properties, but the documentation and rationales were too

⁵⁰The Board's [High Value Assets Report](#).

vague to assess. Specifically, many properties that were not recommended included rationales, such as “insufficient market value” or “possible environmental” and “historical issues” with no context or detailed information on whether it was possible to obtain sufficient market value information or resolve environmental or historical challenges. For example, the Board’s documented rationale for not recommending a warehouse with excess land located in Seattle, WA as a high-value disposal was to avoid “possible environmental issues,” but did not include a discussion of the specific issues or why they prevented the Board from further considering the property for the high-value round.

Board officials told us that due to FASTA’s tight 6-month timeframe—from when the Board was appointed to when Board members were required to make recommendations to OMB—the Board had to make quick decisions and did not have the time and resources to fully document the rationales for every decision. For example, if a property appeared to have potentially significant environmental constraints or was in a lower value real estate market, no further work was done on that property. Adding to the time pressures, officials noted that the Board did not initially have the administrative support in place to be fully functional. For example, the Board reported that they did not have any staff members for the first 4 months after Board members were appointed and initially lacked administrative resources, such as government identification badges and email addresses. As a result, they said that there was a substantial amount of work to do in the remaining 2 months before the Board was required to provide recommendations to OMB.

FASTA afforded the Board some discretion when evaluating high-value disposal candidates. However, *Standards for Internal Control in the Federal Government* states that all transactions and other significant events need to be clearly documented and that the documentation should be readily available for examination.⁵¹ For example, appropriate documentation of transactions—such as, in this instance, recommending disposal candidates—is a common control activity that would help ensure that the Board is achieving its objective under FASTA. We have also previously found that documentation on the rationales for selection decisions is a key part of ensuring accountability of high-profile

⁵¹[GAO-14-704G](#).

Status of the 12 Disposal Candidates

Since OMB's approval, the Board has been working with GSA to prepare the properties for sale. The Board had initially recommended selling each property individually. However, given the impact of the COVID-19 pandemic on the commercial real estate market, the Board has decided, in consultation with GSA, to attempt to sell the 12 high-value properties collectively as a single portfolio, although still enabling offers for individual assets. The Board believes that this broader approach will help ensure the sale or sales of the properties be completed within the statutory deadline set by FASTA. As of October 2020, the Board and GSA plan to take the properties to market for sale by early 2021.

Source: The Public Buildings Reform Board | GAO-21-233

decisions.⁵² In this context, an absence of documentation can challenge the integrity of the evaluation process and thus the decisions made. Specifically, the lack of documentation on the decision-making process used to recommend high-value disposal candidates can make it difficult for federal stakeholders, including agencies and members of Congress, to have confidence in the Board's final disposal recommendations. This is especially important given that the Board's decisions have financial implications, including whether an agency will receive funding for disposal activities. Further, transparent information is important for both the agencies and Congress to understand the Board's approach and how it will make disposal decisions in the upcoming second and third rounds.

Stakeholders Reported That FASTA Helped Agencies Move the Disposal of High-Value Properties Forward, but Its Effects on Other Longstanding Challenges, Including Funding, Remain Unclear

⁵²GAO has found similar issues related to consistency and transparency in our prior reviews of the Department of Transportation's (DOT) various discretionary grant programs, beginning in 2011. Specifically, we found that due to inconsistencies in DOT's review of applications and limited documentation of decisions regarding awards, we were unable to determine the rationale DOT used to award projects. Further, an absence of detailed records of selection decisions, leaves DOT vulnerable to criticism over the integrity of those decisions—an important consideration, given that passenger rail investments have a very public profile. See GAO, *Intercity Passenger Rail: Recording Clearer Reasons for Awards Decisions Would Improve Otherwise Good Grantmaking Practices*, [GAO-11-283](#), (Washington, D.C.: Mar. 10, 2011).

Stakeholders Cited Exemptions from Requirements, Upfront Funding, and Board Leadership as Helping Agencies Move the Disposal of High-Value Properties Forward

Exemptions from Statutory Requirements

Board and agency officials told us that exemptions from some statutory requirements in the high-value round and the availability of funding to pay for upfront disposal costs made it easier to pursue disposal of excess and underutilized properties through FASTA. Agency officials also noted that leadership from the independent Board helped push the process forward in meeting FASTA's short timeframe of recommending disposal candidates. In particular, they said the FASTA process helped agencies move forward in disposing of real properties that had previously been identified but faced challenges in getting through the traditional process.⁵³

As previously mentioned, FASTA exempted the recommended high-value properties from complying with certain statutory requirements in its first round; these exemptions targeted high-value recommendations and are not applicable in future rounds of recommendations. Board and selected agency officials we spoke with stated that exemptions from meeting these requirements provided an opportunity to dispose of the properties they recommended faster than through the traditional federal disposal process. For example:

- Officials from the Department of Energy (Energy) told us they decided to dispose of their Information Operations and Research Center in Idaho Falls, prior to the enactment of FASTA in December 2016. The agency had relocated most of its data center operations to a different building and officials had already submitted an excess report to GSA before GSA and OMB solicited agency recommendations for high-value properties. Energy officials noted that they formally withdrew the excess report after being advised that the property was identified by the Board as a good candidate for disposal through the FASTA process. Energy officials also stated that by participating in the FASTA process, GSA could expedite the disposal of the property since it could go directly to sale.
- According to officials from the Department of Labor, which has 2 out of the 12 high-value properties approved for disposal under the FASTA process, the advantage of FASTA is that properties can go more directly to sale; this direct step is not possible through the traditional process. The officials stated that the exemption of the public benefit conveyance requirements is significant and that many of

⁵³See appendix I for more information on those properties that had been previously identified under the traditional process.

their disposals going through the traditional process could be delayed as officials attempt to satisfy those requirements.

Availability of Upfront Funding

As previously mentioned, FASTA established a dedicated-funding source—the Asset Proceeds Fund—for the Board to carry out its recommendations, including funding disposal-related actions. Board officials told us that they allocated most of the \$30 million appropriated to the Asset Proceeds Fund to the agencies responsible for the 12 recommended disposal candidates.⁵⁴ The funds are to: (1) pay for the marketing and sales cost associated with selling the properties and (2) help in the relocation and consolidation costs associated with getting properties ready for disposal. Board and agency officials told us that having this dedicated funding available for these upfront disposal costs incentivized agencies to dispose of their previously identified, unneeded high-value properties through FASTA.⁵⁵ For example:

- Officials from the Department of Commerce and the National Institute of Standards and Technology considered disposing of the Nike Site in Gaithersburg, Maryland, (see fig. 4 below) about 8 years before FASTA was enacted. They told us that in 2008, the agency drafted a proposal requesting funding from Congress to demolish and remediate the property and transfer it to a local government agency as part of a public benefit conveyance agreement. However, the proposal was never approved by Congress, and the agency did not report the property to GSA as excess. Agency officials said they had intended to report the property as excess to GSA in 2021, but the availability of funds from the Board to pay for about half of the estimated relocation costs motivated them to move forward with trying to dispose of the property sooner than originally planned.
- Officials from the Department of the Interior and the U.S. Geological Survey told us they decided to move from the U.S. Geological Survey's current location in Menlo Park, California (located in the heart of Silicon Valley) to other vacant federal space in 2016. (See fig. 4 below.) After FASTA was enacted, officials decided to recommend

⁵⁴As previously mentioned, the Asset Proceeds Fund received a combined total of \$30 million in appropriations for fiscal years 2018 and 2019, as well as \$16 million for fiscal year 2021, to remain available until expended.

⁵⁵Officials from one agency also told us that that availability of funding from FASTA for due diligence and relocation costs may lead to an increased number of disposal actions. However, officials from two other agencies noted that the availability of funding is not applicable to them as they have their own authority to retain proceeds that can be used for future disposal efforts.

this property as a high-value disposal candidate with the thought of gaining access to funding for upfront disposal costs related to relocation and environmental reviews necessary prior to disposal.

Figure 4: Examples of Federal Real Properties Recommended for Disposal by the Public Buildings Reform Board



This free-standing commercial building in Idaho was used as a Department of Energy data center; most operations have been moved to an agency campus nearby.



The U.S. Geological Survey, the primary federal tenant of this office building in California, is relocating its operations to a nearby federal facility.



This obsolete building, Silo #3, is on an old missile launch facility in Maryland which was transferred to the Department of Commerce.



An underground chamber in Silo #3.

Source: Department of Commerce's National Institute of Standards and Technology and Public Buildings Reform Board. | GAO-21-233

Federal leadership from the Board

Board and agency officials told us that under the FASTA process, leadership from the Board helped facilitate the identification of potential high-value disposal candidates. Board officials told us that they engaged with different stakeholders who included senior leaders of several agencies, such as the departments of Energy, Veterans Affairs, and Labor; this approach resulted in identifying additional properties for disposal and improved agency coordination with the Board. GSA officials also noted that once Board members were sworn in in May 2019, they had to jumpstart the disposal process—specifically on the identification of high-value properties—since FASTA required the Board to independently identify and recommend disposal candidates to OMB within a short timeframe of 180 days of their appointment. We previously reported on

the importance of an independent body, like the Board, to lead and help manage stakeholders' interests and gain acceptance of disposal decisions.⁵⁶

FASTA required the Board to hold public hearings and consult with state and local officials.⁵⁷ The Board reported engaging with a broad spectrum of stakeholders that included both federal agencies and congressional members as well as state and local agencies. Board officials and members told us that they engaged with congressional representatives and staff with potential FASTA disposal candidates within their districts. For example, the Board reached out to seven congressional representatives from California, where 5 of the 12 recommended high-value disposal candidates are located. According to a Board official, while the Board did not consistently meet with all local stakeholders, including local groups that could be affected by the disposal decisions, the Board solicited input from state and local representatives familiar with zoning,⁵⁸ infrastructure, community development, and socio-economic effects of the proposed disposal candidates.⁵⁹

It Is Too Early to Determine FASTA's Effect on Other Longstanding Challenges

Stakeholders have not yet completed a full round of the FASTA process, and thus it is too soon to ascertain FASTA's effect on other long-standing property disposal challenges. For example, stakeholders reported continuing to deal with data limitations and difficulty identifying good disposal candidates with unique characteristics during the high-value round of the FASTA process.

⁵⁶[GAO-11-704T](#).

⁵⁷FASTA § 12(f), (d)(2), 130 Stat. 1463, 1470, respectively.

⁵⁸Zoning involves the regulation of the use and development of real estate. Local municipalities use zoning regulations to control and direct the development of property within their jurisdiction. Local municipalities are generally zoned for commercial, industrial, or residential use. According to Board officials, federal real property is exempt from local zoning regulations and knowing how local municipalities will zone properties can help assess the value of the property.

⁵⁹In January 2021, the State of Washington, among others, filed a complaint in federal district court seeking to stop the sale of the National Archives at Seattle under FASTA based, in part, on the allegations that certain FASTA requirements were not followed and that the Board did not conduct state, local, or tribal outreach or consultation prior to announcing the sale of the Seattle facility. *State of Washington, et al. v. Russel Vought, et al.*, Complaint No. 2:21-CV-00002, United States District Court, W.D. Washington (filed January 4, 2021).

Data Limitations

FASTA requires the Board to conduct an independent analysis of the inventory of federal civilian real property and develop recommendations, as the Board considers appropriate, based on existing data contained in the FRPP.⁶⁰ However, FRPP data limitations continued to make it challenging for the Board to identify excess and underutilized properties. Specifically, Board and selected agency officials told us that lack of available and reliable data made it difficult to identify and recommend high-value real property disposal candidates. As previously mentioned, stakeholders relied on data from FRPP, the government-wide database of real property, to identify unneeded real properties. Board members also told us that agencies provided supplemental data on the 44 properties the Board was considering for recommendation. However, the Board and the private commercial real estate broker that GSA contracted raised concerns regarding the reliability of existing FRPP data elements, such as utilization. For example, Board members told us that they found instances of warehouse buildings listed as utilized in FRPP and that when they visited the property (e.g., GSA's Auburn Complex listed with five tenant federal agencies in Auburn, WA), the warehouses were vacant and few staff were available at the buildings.

We have repeatedly identified reliability issues with federal real property data. For example, in February 2020, we reported that the street addresses of federal real properties in FRPP were incomplete and that GSA's data verification and validation process did not efficiently identify erroneous data.⁶¹ We recommended that GSA coordinate with federal agencies to ensure that property addresses are complete and to review the verification and validation process to better target incorrect data. According to GSA officials, the agency is working with the Federal Real Property Council, which in November 2018 established a data governance structure and an interagency data-governance working group, to address our recommendations.

According to GSA officials, FRPP was not designed as an asset-management data system to hold key data elements such as market value and environmental conditions of properties which are critical for

⁶⁰FASTA § 12(c), 130 Stat. 1463, 1470.

⁶¹GAO, *Federal Real Property: GSA Should Improve Accuracy, Completeness, and Usefulness of Public Data*, [GAO-20-135](#) (Washington, D.C.: Feb. 6, 2020).

identifying potential disposals.⁶² Board officials told us it is challenging for agencies to capture the additional data that is needed to help make disposal decisions, such as the extent to which a property is being utilized, as many agencies may not have the necessary tools to centrally collect or record this data. For example, environmental studies may be retained at local field offices and not at agency headquarters, which will make collecting data that more challenging. GSA officials noted that the use of the FRPP was intended as a starting point to identify potential disposal candidates and that federal agencies need to be involved with the Board when making disposal decisions, as the landholding agencies may have more data on their properties than is in the FRPP. Board officials told us that they plan to work with OMB, GSA, and federal agencies to obtain information, such as the key data elements mentioned above, not captured in FRPP, because it will be essential for making decisions about disposal candidates. GSA officials also told us that they will be working with the Federal Real Property Council's Data Governance Working Group, to make recommendations on any needed reporting requirement changes to improve the FRPP.

Unique Characteristics of Some Federal Real Properties

Stakeholders told us that during the high-value round, the unique characteristics and conditions of some federal real properties limited their suitability for recommending for disposal. For example, Energy officials told us that their properties are predominantly in remote locations with very low population densities and are often contaminated with hazardous materials that may need environmental assessments and remediation. They said that given these characteristics and conditions of the properties, the opportunities for recommending them for disposal as high-value properties were minimal.

We have previously found that the locations of some federal real properties can make property disposal difficult.⁶³ For example, our prior work has shown that most of the Veteran Administration's buildings are located on medical center campuses, which may not be easily accessible and which may have security requirements that exclude private sector

⁶²As previously mentioned, FASTA codified and set out certain requirements for the FRPP previously established in response to a 2004 executive orders. FASTA § 21, 130 Stat. 1463, 1477.

⁶³GAO, *Federal Real Property: Efforts Made, but Challenges Remain in Reducing Unneeded Facilities*, [GAO-16-869T](#) (Washington, D.C.: Sept. 23, 2016) and [GAO-12-645](#).

entities making sales or conveyances of these buildings challenging.⁶⁴ We also reported that geographically isolated assets often have little or no commercial value.⁶⁵ While the first round of identifying disposal candidates focused on high-value properties, FASTA does not require the identification and disposal of only high-value properties in subsequent rounds. Accordingly, it is too early to determine whether FASTA has had any effect on the disposal of federal properties with unique characteristics.

Funding to Cover Costs for Future FASTA Rounds Is Uncertain

While the Asset Proceeds Fund provides dedicated funds to carry out Board recommendations, such as those for disposal costs, officials from the Board, GSA, and federal agencies told us that the uncertainties around the amount and timing of funds available will make it challenging for the Board to carry out its mandate and may significantly affect future disposal actions under FASTA. Specifically, Board and GSA officials noted that money deposited into the Asset Proceeds Fund from potential sales proceeds is not immediately available for additional disposal actions. Funds deposited into the Asset Proceeds Fund, including funds from sales proceeds, become available for use only after being provided for in an appropriation act. Board officials stated that because the timing of real estate projects rarely coincides with the federal budget and annual appropriations process, there are uncertainties as to when and how much funding will be available to use toward future upfront costs in subsequent rounds. According to Board officials, these funding uncertainties could dramatically affect the number and type of properties recommended during the next FASTA round. The officials noted that accessing the \$500 million in potential sales proceeds from the high-value round in fiscal year 2021 will be critical for identifying and implementing the Board's future recommendations. They stated that the next round of recommendations can include consolidating real properties of federal agencies, which may require more funding for relocation than the mostly vacant properties that were identified during the high-value round. Board officials also stated that lack of funding certainties on the amount and timing of funding may also reduce the incentives for federal agencies to participate in future FASTA rounds.

According to Board officials, in an attempt to gain more certainty on access to the amounts in the Asset Proceeds Fund, the Administration

⁶⁴[GAO-16-869T](#) and [GAO-12-645](#).

⁶⁵[GAO-16-275](#).

proposed legislative language in the President's Fiscal Year 2021 budget to enable the Board to use sales proceeds, deposited in the Asset Proceeds Fund in fiscal year 2021, until they are expended, without further action by Congress.⁶⁶ According to Board officials, changing this language before the end of fiscal year 2021 is critical. While OMB officials project no sales proceeds in the Asset Proceeds Fund for fiscal year 2021, the Board expects to receive proceeds from the high-value disposal candidates during the fiscal year; these proceeds could be available for the Board to use to identify and recommend properties for the next round of disposals.⁶⁷ Board officials noted that without the proposed language, the Board will be required to request an appropriation for fiscal year 2022 up to the amount of its proceeds, which may be difficult to obtain. Board officials also stated that without such language, the Board may be challenged to meet FASTA requirements to recommend up to \$2.5-billion worth of properties in the next disposal round.⁶⁸ The Consolidated

⁶⁶In addition to the proposed legislative language on the sales proceeds, the Administration also proposed an appropriation of \$31 million for fiscal year 2021. OMB, *A Budget for America's Future Fiscal Year 2021: Budget of the U.S. Government* (Washington, D.C.: Feb. 10, 2020). The proposed legislative appropriations language read as follows by adding proviso language to the Asset Proceeds Fund appropriations provision: "*For carrying out section 16(b) of the Federal Assets Sale and Transfer Act of 2016 (40 U.S.C. 1303 note), \$31,000,000, to remain available until expended: Provided, That any proceeds from the sale of assets deposited in the Asset Proceeds and Space Management Fund shall remain available until expended and may be used for implementing the recommendations of the Public Buildings Reform Board.*" With respect to FASTA's requirement that the use of monies from the Asset Proceeds Fund be provided for in an appropriations act before it is available for future projects, the proposed language seeks to provide in and of itself the requisite appropriation for amounts deposited in fiscal year 2021.

⁶⁷Board officials also told us that if the proposed changes are enacted, they will be able to use the sales proceeds in fiscal year 2021 without being scored as new spending in the fiscal year 2021 budget. According to Board officials, they believed that funding for the next disposal round would not count against appropriators' spending allocations or discretionary spending caps and, therefore, would not need to compete with other GSA programs for limited resources, under budget scoring rules. Budget scoring is the process of estimating the budgetary effects of pending legislation and comparing them to a baseline, such as a budget resolution, or to any limits that may be set in law. Scorekeeping tracks data, such as budget authority, receipts, outlays, the surplus or deficit, and the public debt limit. The process allows Congress to compare the cost of proposed budget policy changes to existing law and to enforce spending and revenue levels agreed upon in the budget resolution.

⁶⁸As previously mentioned, the Board is required to submit the next round of recommendations with a total value not to exceed \$2.5 billion no later than 2 years after the date of recommending the high-value disposal candidates. The next round of recommendations are required not later than December 2021.

Appropriations Act, 2021⁶⁹ does not include the proposed language, and as of January 2021, the Board has no plans to seek an amendment or similar language in fiscal year 2021.

However, the policy implications for the proposed request are unclear. Both Congress and federal agencies have a role in effectively managing the federal government's real property portfolio, including disposing of unneeded properties. Our prior work noted that the authorization of more funding flexibilities requires a balance between providing support to help agencies achieve their missions, while also maintaining appropriate congressional fiscal control and oversight.⁷⁰ We have previously highlighted several policy elements Congress may wish to deliberate on when evaluating whether to grant funding flexibilities to GSA and the Board on real property management projects, including disposals.⁷¹ We reported that such elements are intended to help Congress ensure there is balance across several potential interests as it relates to funding flexibilities.⁷² Specifically, they include:

- **Operational elements.** If Congress were to grant more funding flexibilities to the Board and GSA, it would need to make a number of operational decisions, such as: (1) whether the full amount of the sales proceeds or portions of the proceeds would be provided, (2) how long funds would be made available for obligation, and (3) how Congress would be involved in determining whether the Board and GSA have adequately demonstrated the need for funds prior to accessing them. Depending on how Congress might structure the funding mechanism, federal scorekeeping rules may mean FASTA funding requests can compete with other programs for limited resources in GSA's budget.
- **Congressional oversight elements.** We reported that any proposal to change a program's funding mechanism should take into account the effect on the ability of Congress to conduct necessary oversight.⁷³ Board officials noted that FASTA includes a separate congressional

⁶⁹Pub. L. No. 116-260, 134 Stat. 1182 (2020).

⁷⁰[GAO-14-239](#) and [GAO-18-652](#).

⁷¹[GAO-14-239](#) and [GAO-18-652](#).

⁷²[GAO-18-652](#).

⁷³[GAO-18-652](#).

oversight provision that requires that an estimate of sales proceeds resulting from the Board's recommendations, and the obligations and expenditures needed to support such recommendations be submitted as part of the President's budget.⁷⁴ However, it is unclear whether this provision will provide an opportunity for Congress to review or provide input on recommended disposal projects. In evaluating legislative language, we previously reported that Congress could look at what oversight controls are in place to ensure that sales proceeds are prudently expended and used to reduce the cost of federal real property.

Conclusions

Disposing of unneeded federal real property is a long-standing challenge for the federal government, in part because the disposal process can be long and typically places upfront costs on agencies. FASTA established an independent Board, a temporary new disposal process, and a short timeframe that resulted in the recommendation of 12 high-value properties within the mandated 6 months. Stakeholders said that these factors helped make it easier for agencies to pursue the disposal of their excess and underutilized properties. However, the Board's lack of documentation on the full details of its evaluation and recommendation process (i.e., its decision-making process) may make it difficult for Congress to fully understand and have confidence in the Board's final recommendations. Establishing a record that provides full insight into how decisions were made would enhance the credibility and integrity of the Board's decisions to the extent that this record would provide more transparency and confirm that the Board's rationale for its recommendations can meet FASTA's goals in the second and third rounds in the upcoming years.

Recommendation

The Public Buildings Reform Board should fully document its process for future rounds of FASTA recommendations, including rationales for recommending or not recommending individual disposal candidates. (Recommendation 1)

Agency Comments and Our Evaluation

We provided a draft of this report to the Board, OMB, GSA, and eight selected federal agencies for comment. The Board provided comments, which are reprinted in appendix II and summarized below. OMB, GSA, and two of the selected federal agencies (Energy and Labor) provided

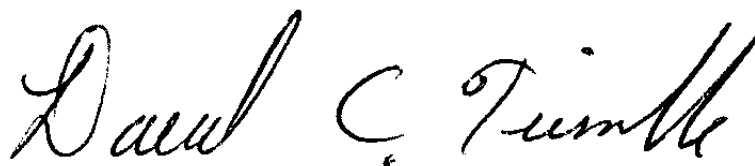
⁷⁴FASTA § 16(c), 130 Stat. 1463, 1476.

technical comments, which we incorporated, as appropriate. Six agencies informed us by email that they had no comments.

In its written comments, the Board did not agree or disagree with our recommendation but noted that for future rounds, the Board plans to develop a more robust, repeatable, and deliberative process, which will result in more extensive documentation of Board decision-making regarding future properties. The Board stated that our report did not raise questions regarding the basis for its decisions. The Board also stated that time and resources did not permit them to document what seemed from a real estate perspective to be self-evident as to why various properties were not recommended. We did not assess the Board's rationales of its decision on disposal recommendations. Regarding, the lack of documentation of the Board's decisions, we highlighted in our report that the tightened timeframe and limited resources made it challenging for the Board to fully document its rationales for every decision. Our recommendation focuses on the extent to which the Board can clarify and document the context of its rationales and how officials can better document decisions for each property in future rounds. If the Board develops a robust and deliberative process and documents its decision-making process as planned, this would meet the intent of the recommendation.

We are sending copies of this report to the appropriate congressional committees, the Public Buildings Reform Board, the Director of the Office of Management and Budget, the Administrator of the General Services Administration, and other interested parties. The report is also 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 trimbled@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 key contributions to this report are listed in appendix III.



David C. Trimble
Director, Physical Infrastructure

Appendix I: Characteristics of the High-Value Properties the Public Buildings Reform Board Recommended for Disposal

This appendix contains information on the Public Buildings Reform Board's (the Board) recommended 12 high-value properties for disposal that have been approved by OMB, pursuant to FASTA Section 13(c). Table 1 shows the characteristics of the recommended properties, including their locations and sizes and the status of the property's vacancy and whether agencies had previously considered them for disposal. Board members told us that they recommended these properties in part because they were already vacant or in the planning stages to be disposed of and could meet the tight timeframes of selling them within 1-2 years, as required by FASTA. Specifically, 10 of the 12 high-value disposal candidates that the Board recommended were previously planned for disposal under the traditional disposal process, before FASTA was enacted. In 6 of these 10 cases, agencies had vacated all or part of the properties. The two new properties that were identified under the FASTA process were excess land that, unlike occupied office buildings, do not require additional time and resources for relocating agency personnel.

Table 1: Characteristics of the High-Value Properties the Public Buildings Reform Board Recommended for Disposal

Landholding federal agency	Property and location	Total square feet	Estimated acres	Agency previously considered property for disposal	All or part of property is vacated
Department of Commerce	Nike Site Gaithersburg, MD	32,331	14	✓	✓
Department of Commerce	Southwest Fisheries Science Center Pacific Grove, CA	11,220	4	✓	✓
Department of Energy	Information Operations and Research Center and Shelley-New Sweden Park and Ride Lot	37,844	5	✓	✓
	Idaho Falls, ID	n/a	5		
General Services Administration (GSA)	Auburn Complex Auburn, WA	1,775,900	129	✓	✓
GSA	Chet Holifield Federal Building Laguna Niguel, CA	1,054,223	92	✓	
GSA	Federal Archives and Records Center Seattle, WA	187,752	10	✓	

**Appendix I: Characteristics of the High-Value
Properties the Public Buildings Reform Board
Recommended for Disposal**

Landholding federal agency	Property and location	Total square feet	Estimated acres	Agency previously considered property for disposal	All or part of property is vacated
GSA	Menlo Park Complex Menlo Park, CA	412,663	17	✓	✓
GSA	Ronald Reagan Federal Building and Courthouse Harrisburg, PA	251,179	71	✓	✓
GSA	WestEd Office Building Los Alamitos, CA	88,000	12	✓	
Department of Labor	Edison Job Corps Center (excess land) Edison, NJ	n/a	27		
Department of Labor	Sacramento Job Corps Center (excess land) Sacramento, CA	n/a	80 – 85 ^a		
Department of Veterans Affairs	Denver Medical Center Denver, CO	530,264	8	✓	✓

Legend:

n/a indicates not applicable.

✓ indicates characteristic applies to agency and property.

Source: GAO analysis of Public Buildings Reform Board documents and agency interviews. | GAO-21-233

^aThe number of acres that would be available for sale is pending a survey completion.

Appendix II: Comments from the Public Buildings Reform Board



January 12, 2021

Mr. David Trimble
Director, Physical Infrastructure
Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Trimble:

Thank you for giving the Public Buildings Reform Board (the Board) an opportunity to comment on draft Audit No. GAO-21-233, entitled, “Federal Real Property: Additional Documentation of Decision Making Could Improve Transparency of New Disposal Process.”

As the Government Accountability Office (GAO) makes clear in its report, the Federal Assets Sale and Transfer Act of 2016 (FASTA) mandated extremely tight timeframes not only for the Board to recommend properties for sale in the High Value Asset round (HVA), but also for the Government to actually dispose of the recommended properties. Yet despite the time constraints, the Board conducted an objective and thorough process, seeking input from federal agencies, the public, and other stakeholders, and evaluated each candidate property against a consistent set of criteria.

In response to GAO’s statement that “the Board’s rationales for why individual candidates were or were not recommended were vague or incomplete”, the Board would like to highlight two points. One, that the validity of the rationales themselves are not in question; and two, that time and resources did not permit any additional effort being spent documenting what seemed from a real estate perspective to be self-evident as to why various properties did not ‘make the list’.

The Board also takes issue with one aspect of GAO’s statement that an absence of documentation can make it difficult for “federal stakeholders, including agencies and members of congress” to have confidence in the Board’s recommendations. Although of course good documentation is critical; it should be noted that no recommendations were made without agency consent. Finally, the Board remains concerned that the absence of statutorily required standards

**Appendix II: Comments from the Public
Buildings Reform Board**

Mr. David Trimble

page 2

and criteria from the Office of Management and Budget is deleterious to the Board's mission and the intent of FASTA, and the Board would like to see a GAO recommendation to this point.

For future rounds, the Board is developing a more robust, repeatable and deliberative process, based on a wide range of criteria (including those outlined in FASTA), that will be used for identifying, recommending, and in some cases eliminating properties and projects. This foundational work will result in more extensive documentation of Board decision-making regarding future properties. The Board looks forward to working with GAO to ensure that this documentation meets or exceeds GAO's standards.

On behalf of the Board, thank you again for the opportunity to comment on the draft report and overall for GAO's participation in this new governmental initiative. The Board took extensive care to ensure that it followed all of the requirements of FASTA in carrying out its duties and obligations in this HVA Round, and is confident that it has done so to the letter (and the spirit) of the law. If you have any questions or need additional clarification, please let me know.

Sincerely,

Adam Bodner

Adam Bodner
Executive Director
Public Buildings Reform Board
Adam.Bodner@pbrb.gov
(202) 714-9060

Attachment

cc:

The Public Buildings Reform Board
Angela Styles, Board Member
Mary Phillips, Board Member
David L. Winstead, Board Member
Nick Rahall, Board Member
D. Talmadge Hocker, Board Member

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

David Trimble, (202) 512-2834 or trimbled@gao.gov

Staff

Acknowledgements

In addition to the contact named above, Lori Rectanus (Director); Matthew Cook (Assistant Director); Jennifer Kim (Analyst-in-Charge); John Bauckman; Melissa Bodeau; Geoff Hamilton; Terence Lam; Thomas McCabe; Malika Rice; Colleen Taylor; Janet Temko-Blinder; Crystal Wesco; and Elizabeth Wood made key contributions to this report.

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