



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

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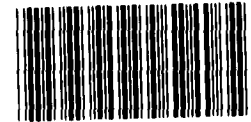
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PROCUREMENT, LOGISTICS,
AND READINESS DIVISION

B-208657

September 29, 1982

The Honorable Arlen Specter
United States Senate



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The Honorable Charles F. Dougherty
House of Representatives

**Subject: Disposal of Department of Defense Properties
in Philadelphia (GAO/PLRD-82-124)**

Your February 9, 1982, letter asked us to review how real property disposal policies and procedures may have delayed the disposal of three properties in Philadelphia--the Marine Corps Supply Center, the United States Naval Home, and the Frankford Arsenal. Included in your letter was information from the Department of Defense indicating that protection and maintenance costs for these properties exceeded \$12 million while awaiting disposal.

As agreed with your Office, we reviewed the disposal process and the causes for the delays in disposing of the properties. We did not, however, evaluate the protection and maintenance costs.

We reviewed the disposal history records on the three facilities. We interviewed General Services Administration (GSA) officials, examined GSA's files and records, and reviewed the basic laws and regulations that governed GSA's actions in disposing of the properties.

SUMMARY OF REVIEW

- Four principal factors delayed disposal of the properties.
- Priority given to transfers within the Federal Government.
 - Competing interests among organizations attempting to obtain surplus Federal real property.
 - Failure to achieve price agreement in negotiated sales.
 - The need to decontaminate property to a degree that will allow unrestricted use after disposal.

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The principal cause of delay in disposing of the three properties was the failure of GSA and the city of Philadelphia to reach agreement in negotiating a transfer of the properties from the Federal Government to Philadelphia. In each case, Philadelphia was unwilling to offer the minimum price that GSA could accept in exchange for the property. However, it is GSA's policy to not disclose the minimum price it is required to obtain so as to obtain the highest price possible.

The second longest delay in disposing of the properties was caused by GSA's requirement to consider alternate Federal uses whenever they are identified. Two properties, the Supply Center and the Naval Home, were delayed three times for consideration of Federal transfers after the initial screening process had indicated no further Federal need for the property.

Competing interests among non-Federal organizations desiring to obtain Federal property contributed the least to delay in disposing of these three properties. However, this problem may be one of greater magnitude in other cases because GSA attempts to seek a compromise among the competing applicants. The discussion and negotiation that ensues from the attempt could lead to lengthy delays in making a disposal decision.

Another cause of delay was decontamination. The Frankford Arsenal disposal involved an extensive decontamination effort that delayed its disposal. While the problem was unique to the Frankford Arsenal, it is a potential cause of delay in future property disposals.

BACKGROUND

The basic law controlling disposal of excess and surplus Federal real property is the Federal Property and Administrative Services Act of 1949, as amended. Under the law GSA is responsible for assuring that excess and surplus Federal real property is utilized and disposed of in the most economic, efficient and effective manner. However, the law places restraints upon GSA by establishing disposal priorities which, in some cases, can cause delays in the disposal process.

The first priority for utilization of excess and surplus property is alternative uses within the Federal Government. When a Federal agency declares a property excess to its needs, GSA screens other Federal agencies to determine if they have a need for the property. If no other Federal need is identified, the property is declared surplus. However, if a Federal need develops at any time before final disposal actions are completed, the property may be withdrawn from surplus status and considered for further Federal utilization.

Under the act, surplus properties can be disposed of by three methods:

- Public benefit conveyances to States and local governments and certain nonprofit institutions at discounts up to 100 percent of estimated fair market value. 1/
- Negotiated sales to States and local governments or, under limited conditions, to private parties at not less than fair market value.
- Competitive public sale at current market value.

MARINE CORPS SUPPLY CENTER

The Marine Corps Supply Center was the first of the three properties to be declared surplus. When reported excess by the Marine Corps on April 26, 1974, the property consisted of 4.49 acres and 10 buildings. The Marine Corps did not vacate the property until July 1, 1976. GSA declared it surplus on July 7, 1975, after screening disclosed no further Federal need for the property. Except for one building and the underlying 0.43 acre of land, the property was disposed of by public sale on March 30, 1982, for \$60,000.

The Center was in a surplus status for 81 months. Although the events causing the delay often occurred simultaneously, delays in disposing of the property after it had been declared surplus were as shown below.

<u>Reasons for delays</u>	<u>Months</u>
Priority given to transfers between Federal agencies	16
Requirement that GSA give equal consideration to all parties interested in obtaining surplus property	4
Failure to achieve a price acceptable to both parties during negotiation	31
Other factors	<u>30</u>
Total	<u>81</u>

Transfers between Federal agencies

On two occasions, after the property was declared surplus, GSA was forced to interrupt negotiations with Philadelphia to withdraw

1/Executive Order 12348, signed in February 1982, now requires that the Administrator of General Services consult with the Property Review Board before making public benefit conveyances.

portions of the property for transfer to other Federal agencies. The first occurred after the Marine Corps vacated the Center on July 1, 1976. GSA transferred 2.3 acres and two buildings to GSA's Region 3 Space Management Division for use as a motor pool. This action required GSA to send Philadelphia a new offer for purchase on October 4, 1976, adding about 3 months to the delay.

The second occasion occurred on November 8, 1979, when GSA agreed to delay acting on the disposal to allow GSA's Public Buildings Service (PBS) time to complete a utilization study for the property. On December 8, 1980, PBS requested transfer of one building and the underlying 0.43 acre, pending the appropriation of funds. This action added another 13 months to the delay in making a disposal decision.

Requirement for equal consideration

In 1976, following the failure of GSA and Philadelphia to negotiate an agreement, GSA offered the property for public sale. No bids were received for the bid opening on August 24, 1977. In October Philadelphia reaffirmed its interest in negotiating purchase of the property, but a new interest had also developed. A local community group, St. Rita's Community Center, expressed its desire to obtain the property for educational purposes.

GSA states that it must give equal consideration to all applications for surplus property, and following its consideration of both applicants, GSA approved the donation of one building to the community organization. ^{1/} A new offer for purchase was given to Philadelphia for the remaining property and about 4 months were added to the delay in the disposal decision.

Failure to achieve price agreement

Failure to achieve a price acceptable to both GSA and Philadelphia during negotiation lengthened the disposal process the most. GSA is required to obtain not less than the estimated fair market value when disposing of properties through negotiated sales. To determine fair market value, GSA obtains an appraisal of the property, usually from an outside appraiser. However, the appraisal report is only one tool that GSA uses in its analysis to determine the price at which the property can be sold. GSA states that "the appraised fair market value obtained for disposal purposes shall be the floor price for the disposal of the property. Disposal activities shall be conducted with the objective of obtaining the maximum price possible."

^{1/}In June 1977 the former Department of Health, Education, and Welfare, which sponsored the transfer to St. Rita's Community Center, reported to GSA that the organization had withdrawn its interest in obtaining the property. The building was then added to the property being negotiated for sale to Philadelphia.

Philadelphia was first invited to negotiate the purchase of the Center on July 7, 1975, although the Marine Corps would not depart for another year. The price offered to Philadelphia was \$1,920,000. No formal response was received before GSA withdrew a portion of the property for the first Federal transfer. A new offer for purchase for the remaining 2.19 acres and eight buildings for \$990,000 was sent to Philadelphia on October 4, 1976. GSA said it again received no satisfactory offer and on November 23, 1976, GSA decided to proceed with a public sale.

After the unsuccessful public sale, GSA sent Philadelphia an offer for purchase for 2.11 acres and seven buildings for \$250,000 on January 30, 1978. The negotiators never agreed on a price and in September 1981, GSA decided again to proceed with a public sale. During this period the delay from the second Federal transfer occurred. About 31 months of delay can be attributed to the failure to agree on a negotiated price.

Other factors causing delay

Of the remaining 30 months' delay between the date the property was declared surplus until it was finally sold, 1 year resulted from the Marine Corps occupying the Center beyond the date of surplus determination. The remaining time was used in such activities as advertising the property for public sale, awaiting bid response, and communicating with the ultimately successful bidder.

The remaining building and underlying 0.43 acre will be transferred to PBS if it can justify its request under the new Federal transfer procedures. If not, GSA states it will also be sold by public sale.

UNITED STATES NAVAL HOME

The second of the three properties declared surplus was the Naval Home. The Navy reported it excess on July 21, 1976. The Home consisted of 20.53 acres improved with 33 buildings. GSA declared the property surplus to Federal needs on August 20, 1976. On March 18, 1982, the property was awarded to the high bidder in a public sale for \$1,200,000.

Delays in disposing of this property after it had been declared surplus can be categorized as follows.

<u>Reasons for delays</u>	<u>Months</u>
Priority given to transfers between Federal agencies	12
Requirement for equal consideration	8
Failure of negotiations	33
Other factors	<u>14</u>
Total	<u>67</u>

Priority of Federal transfers

Both the city of Philadelphia and the former Department of Health, Education, and Welfare (HEW) indicated their interest in the Naval Home when it was declared surplus. GSA received an application on December 30, 1976, from one organization sponsored by HEW, the South Philadelphia Health Action, requesting the property for health uses. Before a disposal decision was made, however, a Federal agency requested transfer of the property.

In January 1977 the Department of Labor informed GSA it was interested in obtaining the Naval Home for use as a Job Corps Center. As a result of the request, GSA informed both Philadelphia and HEW that the Federal transfer took precedence and would be granted. However, no formal request was ever received from the Department of Labor for the property. Labor first had problems obtaining funds for the center; then it encountered opposition to the use of the Naval Home as a Job Corps Center. In December 1977 Labor informed GSA it no longer desired to obtain the property. One year was consumed because of the unsuccessful Federal transfer request.

Requirement for equal consideration

Two organizations were interested in obtaining the Naval Home when it was declared surplus--the city of Philadelphia and the South Philadelphia Health Action, a nonprofit organization providing community health needs. Initially, Philadelphia's interest was not clearly defined to GSA. South Philadelphia Health Action desired to obtain the property for a community health center under the public benefit conveyance provisions of the law, and its application was sponsored by HEW. GSA was prepared to award at least part of the property to the health organization when it was prevented from doing so by the Department of Labor application.

After Labor withdrew its application, both earlier interests were revived. On February 27, 1978, GSA approved Philadelphia's request for 45 days to develop a reuse plan and suggested that it consider the health organization's interest also as it developed

its plan. On March 23, 1978, Philadelphia was given a further extension of time to develop its plan. On April 12, 1978, Philadelphia informed GSA that it desired to obtain the Naval Home for city park and recreation purposes. GSA told Philadelphia that its application for such use had to be submitted through the former Historic Conservation and Recreation Service (HCRS) of the Department of the Interior and gave Philadelphia a 60-day deadline for its application. From this point, no further serious consideration of the application of the South Philadelphia Health Action is discernible. Altogether, 8 months passed during which both applicants were competing for the property, aside from the time when the Department of Labor's application was pending.

Failure of negotiations

Philadelphia informed GSA it intended to obtain the property for parks and recreation on April 12, 1978, and its application to HCRS was sent on June 23. HCRS rejected the application on July 27, 1978, because Philadelphia's plans did not provide sufficient protection of the historic buildings on the property. A new proposal to study reuse that preserved the historic structures was supported by HCRS. GSA sent Philadelphia the necessary forms for creating a historic monument on December 4, 1978. Two weeks later, Philadelphia told GSA it could not afford to create a historic monument. It asked GSA to delay the disposal of the Naval Home until a new reuse study could be completed that would consider commercial development of the property. Philadelphia said the study could be completed by June 1979.

GSA's Region 3 Administrator was opposed to granting further extensions. Nevertheless, on March 13, 1979, an extension was granted for the study. Philadelphia asked for and was given further extensions on March 22 and July 27, 1979, and April 16, 1980. Finally, on June 10, 1980, Philadelphia notified GSA that it desired to obtain the property through a negotiated sale. GSA ordered an appraisal to be done and it was received on October 1, 1980. The appraisal valued the property at \$1,745,000, but determined that necessary demolition would cost \$500,000, for a final property value of \$1,245,000. On February 27, 1981, GSA sent Philadelphia an offer for purchase for the property at \$2,290,000.

On June 20, 1981, Philadelphia returned a counter offer of \$700,000, of which 10 percent would be paid immediately and the balance deferred for 5 years at no interest. On July 15, 1981, GSA rejected the offer and stated it was proceeding with a public sale. In August GSA reconsidered its decision and gave Philadelphia another opportunity to make an offer for the property. Philadelphia proposed that a new appraisal be obtained, but GSA rejected the suggestion. On September 15, 1981, Philadelphia affirmed its earlier offer. On October 13, GSA informed Philadelphia it would sell the Naval Home publicly.

Altogether, 41 months had passed since Philadelphia first proposed obtaining the property for park use. As 8 months were used by GSA to obtain an appraisal and to send an offer for purchase, 33 months can be attributed to delays in negotiating a reuse of the property.

Other factors

Besides the 8 months GSA required to obtain an appraisal and prepare an offer for purchase, 6 months were used in selling the property. Two public sales were conducted. GSA rejected the bids it received at the first bid opening held on November 24, 1981. A second bid opening was held on March 10, 1982. The winning bidder, offering \$1,200,000 for the Naval Home, had also been the high bidder at the first sale.

FRANKFORD ARSENAL

Frankford Arsenal was the last of the three properties to be declared surplus. The Arsenal, consisting of 109.77 acres and 212 buildings, was reported excess by the Army on September 15, 1977. GSA determined the property to be surplus to Federal needs on January 13, 1978. A bid opening for the public sale of the Arsenal was held on August 26, 1982, and no bids were received.

Delays in disposing of the Arsenal fall into the following categories.

<u>Reasons for delays</u>	<u>Months</u>
GSA's requirement that the property be certified as decontaminated sufficiently for unrestricted reuse	38
Failure of negotiations	2
Other factors	<u>15</u>
Total	<u><u>55</u></u>

Property decontamination

The Federal Property Management Regulations (FPMR), issued by GSA, contain requirements for the decontamination of real property planned for disposal. The Regulations require all Federal agencies proposing to transfer real property to GSA for disposal to submit to GSA, with their report of excess, information on any contamination or other health and safety hazards. In some instances, prior to accepting the property, GSA also requires a certification that the property is free of these hazards and may later be conveyed by GSA without restriction.

GSA required the Army to certify that the Frankford property could be available for unrestricted use when GSA disposed of it. Two earlier GAO reports 1/ described the problems with decontaminating the Arsenal. The Army entered into a \$6.3 million contract to decontaminate the facility. Contract cost growth resulted from an unexpected increase of radiological contamination over what was expected. The total decontamination cost was about \$8.3 million. The Army furnished GSA with a decontamination certificate on March 31, 1981. A total of 38 months had passed since the property was declared surplus.

Failure of negotiations

Once GSA received the decontamination certificate, it proceeded to dispose of the property.

On August 4, 1981, 21.62 acres were assigned to the National Park Service, Department of the Interior, for conveyance to Pennsylvania for park and recreation use. On September 30, 1981, the remaining 88.15 acres were offered to Philadelphia for \$7.9 million. Philadelphia submitted a counteroffer of \$1 on January 8, 1982. On January 15, 1982, GSA advised Philadelphia that its offer was not acceptable and that the property would be offered for public sale. The bid opening was held on August 26, 1982, after nationwide advertising. No bids were received. The negotiations had lasted 2 months.

Other factors

Four months were used in assigning the 21.62 acres to Pennsylvania for park and recreation use. GSA took 2 months to prepare the offer for purchase for the remaining property and to send it to Philadelphia. GSA used the remaining 7 months to advertise the property nationally.

PROVISIONS OF EXECUTIVE ORDER 12348

On February 25, 1982, the President signed Executive Order 12348. The order replaced Executive Order 11954, as amended, and made considerable changes in the procedures and priorities for disposition of surplus Federal real property. The most significant changes were:

- The reestablishment of a Property Review Board within the Executive Office to provide overview for Federal real property activities.

1/"Review of the Costs Related to the Decontamination Contract for the Frankford Arsenal" (LCD-81-11, Oct. 24, 1980).

"Review of the Costs to Close the Frankford Arsenal" (PLRD-82-53, May 19, 1982).

- No public benefit discount conveyances without notification to the Property Review Board.
- Review and examination of prior disposals of surplus property for public benefit conveyances to ensure the property is being used and maintained for the purpose for which it was conveyed.


Soon after the Executive Order, the Property Review Board directed that property excessed by a Federal agency should be transferred to another Federal agency only upon payment of the full fair market value for the property. While exceptions to this policy are possible, the justification and review requirements that requests for exception are subject to are more rigorous than before.

The President has expressed his intent that the proceeds from the sale of unneeded Federal real property be utilized to offset the national debt. The provisions of Executive Order 12348 and the tightened provisions for interagency transfers appear to support this end. If these new provisions reduce the number of disposals between Federal agencies and for public benefit purposes, they could also reduce the delays in the disposal of properties for these purposes. However, none of these new policies will prevent problems associated with property decontamination and such possible future delays are not precluded.

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As agreed with your Office, we did not obtain written comments on this report from GSA. However, we discussed a draft of this report with GSA officials, and we have included their comments where appropriate.

As agreed with your Office, we are sending copies of this report to the Chairmen, Senate and House Committees on Armed Services, Senate Committee on Governmental Affairs, and House Committee on Government Operations. We are also sending copies to the Administrator of General Services, the Secretary of Defense, the Secretaries of the Army and the Navy, and the Director of the Office of Management and Budget.


Donald J. Horan
Director