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REPORT BY THE U.S.

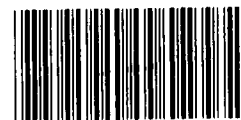
# General Accounting Office

## Relocation Of The EPA Regional Office From Kansas City, Missouri, To Kansas City, Kansas

At the joint request of Senators Dole and Kassebaum and former Representative Winn, GAO reviewed the actions of the General Services Administration (GSA) and the Environmental Protection Agency (EPA) in relocating EPA's Regional Office from Kansas City, Missouri, to Kansas City, Kansas.

GAO concludes that GSA acted reasonably and properly in selecting the lowest offer and awarding a February 1984 lease for space in Kansas to accommodate EPA's Regional Office. The offer from the Kansas property owner was lower than all other offers, including that of the Missouri property lessor. The Missouri space did not meet GSA firesafety standards, and compliance was an important issue. To alter the space to meet such standards would have increased the cost of the space.

EPA did not make its total space needs known to GSA before the February 1984 lease was awarded. GSA awarded another lease in December 1984 to accommodate EPA's request for additional space, but competition was limited in this second award because EPA requested the space to be within 450 feet of the space covered in the first award. GAO believes that EPA did not properly follow established regulations when it withheld from GSA the need for more space.



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UNITED STATES GENERAL ACCOUNTING OFFICE  
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GENERAL GOVERNMENT  
DIVISION

B-218635.2

The Honorable Robert J. Dole  
United States Senate

The Honorable Nancy L. Kassebaum  
United States Senate

Pursuant to your March 20, 1984, joint request with former Representative Larry Winn, Jr. and subsequent agreements, we reviewed the General Services Administration's (GSA) relocation of the Environmental Protection Agency (EPA) Regional Office from leased space in Kansas City, Missouri, to leased space in Kansas City, Kansas. As agreed with your offices, we reviewed the firesafety status of the Eleven Oak building that EPA was occupying in Missouri and the circumstances surrounding the leasing of that building.

At the joint request of Senator Thomas F. Eagleton, Senator John C. Danforth, and Representative Alan Wheat, we also reviewed the financial basis for the February 24, 1984, lease award for space in Kansas and the influence that firesafety requirements had on GSA's decision to relocate the EPA Regional Office; the circumstances surrounding the Missouri building leasing agent's lawsuit filed in the U.S. District Court for the Western District of Missouri on March 14, 1984, against GSA's award of the February 1984 lease in Kansas; and the circumstances surrounding the EPA March 1984 request for additional space after the February 1984 lease for space in Kansas had been awarded. We also obtained the results of an EPA Inspector General report (Case No. 1-84-045) addressing any undue influence EPA regional officials may have had on the decision to relocate.

The following pages summarize the results of our work on each of the issues we were requested to review. Additional details are provided in appendix I.

CIRCUMSTANCES SURROUNDING LEASE OF  
THE BUILDING IN MISSOURI THAT HOUSED EPA

GSA first leased the Eleven Oak building in Kansas City, Missouri, in 1977. EPA was not the initial tenant; it moved

into the building under a supplemental lease agreement dated April 1978.

The events leading to EPA's locating in the Eleven Oak building were as follows. In 1976 EPA, then located in leased space in Kansas City, Missouri, requested more suitable space for its Regional Office in either Kansas City, Kansas, or Kansas City, Missouri. GSA solicited offers for the space, but no award was made at that time. The management of the Eleven Oak building protested to GAO that its offer was improperly rejected on the basis that it could not meet EPA's restriction that the space be located on not more than five floors. The management contended that the floor requirement was unreasonable, arbitrary, and capricious. Following exchanges of correspondence between the parties involved, EPA reconsidered its request for space and GSA withdrew its Solicitation For Offers. In November 1977 the building management withdrew its protest to GAO. In February 1978 EPA submitted another request to GSA for space in Kansas City, Missouri. GSA then solicited offers for space in Kansas City, Missouri, and negotiations resulted in a supplemental lease agreement in April 1978 for EPA Regional Office space in the Eleven Oak building.

FIRESAFETY STATUS OF  
BUILDING THAT HOUSED EPA  
IN KANSAS CITY, MISSOURI

The lease covering EPA in the Eleven Oak building does not require an automatic sprinkler system. The lease does require an elevator capture system for firesafety purposes.<sup>1</sup> The sprinkler system is not covered in the lease, according to GSA officials, because the GSA standard requiring the system became effective after the Eleven Oak building space was leased.<sup>2</sup> In August 1983 GSA reinstated its firesafety standards for leases (which had been suspended since February 1982). The standards

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<sup>1</sup>Upon activation of a fire alarm or smoke detector, the elevator cabs return to the first floor without stopping at any other floor and the doors open and remain open. A firefighter can then override the system using a key to operate the elevator. This elevator capture system, which is required by GSA when government agencies occupy space on the 8th floor or higher, prevents the elevator from stopping on the fire floor and frees the elevator for use by incoming firefighters.

<sup>2</sup>In a 1981 report to the Administrator of General Services, GSA Can Do More To Ensure Leased Federal Office Space Meets Its Firesafety Criteria (PLRD-81-8, May 1, 1981), we reported the building had firesafety deficiencies.

require sprinklers on all floors up to the highest floor occupied by the government as well as all those below when a government agency occupies space on the 12th floor or higher. Because EPA and other federal agencies occupied space on the 12th floor and higher, sprinklers would have been required under a new or renewed lease for the same space.

The lease covering EPA space also covers several other federal agencies housed in the building. The other agencies are located on several floors above the 8th and 12th floors. Still another federal agency is housed on the 9th and 10th floors of the building under another lease that expires in November 1986. GSA is currently planning to relocate the agencies housed in the building. GSA informed us in March 1985 that some of its relocation plans are subject to availability of leasing funds.

As noted, the firesafety standard for an elevator capture system applies to both leases. However, GSA had overlooked this requirement until we brought the matter to its attention during our review. GSA advised the lessor on July 20, 1984, and again on September 21, 1984, that unless the deficiency was corrected the government would correct the deficiency and deduct the cost from the rental payments in accordance with the provisions of the leases. GSA advised us that it received a copy of a contract in October 1984 which showed that the building owner was correcting the deficiency.

The lease covering the EPA space does not require a sprinkler system. However, sprinklers would be required under a new or renewed lease for the same space. GSA renewed the lease, beginning March 1, 1984, and initiated a 1-year deferment of the requirement for sprinklers. This was done to allow itself time to obtain suitable space to relocate the agencies involved. GSA has a 90-day termination clause in the renewed lease. GSA provided us in March 1985 with its current plans to relocate each of the remaining Eleven Oak building federal tenants to other locations.

FINANCIAL BASIS FOR FEBRUARY 1984  
LEASE AWARD AND THE GSA DECISION  
TO MOVE EPA

In June 1983<sup>3</sup> the EPA notified GSA that its regional office space requirement was being reduced from about 50,400 square feet to about 44,800 square feet to achieve a space utilization goal of 135 square feet per employee and requested GSA to relocate it. Although the Eleven Oak building lease was

<sup>3</sup>The EPA request for space was signed on May 23, 1983, and transmitted to GSA with a justification letter dated June 10, 1983. This is referred to as the June 1983 request.

to expire on February 29, 1984, and included a 5-year renewal option at a low rate, EPA indicated renewal was undesirable for security reasons, safety, and administrative and effectiveness issues. EPA noted that the Eleven Oak building did not meet firesafety requirements; the lessor was sometimes delinquent in paying electric bills; the EPA offices were spread throughout seven floors, which caused operating problems; and there were problems in heating and cooling the building.

In August 1983 GSA performed an economic analysis prior to soliciting offers for space. The analysis indicated that relocating EPA would increase the government's space costs. But this analysis did not take into account the cost of a sprinkler system that would be needed to comply with firesafety requirements if the lease for existing space in the Eleven Oak building in Missouri were renewed. To obtain the sprinklers, GSA could either request the lessor to install the system at no expense to the government or install it at government expense. According to GSA officials, the Missouri building lessor was not willing to provide sprinklers at his own expense, and GSA did not attempt to negotiate this issue with the lessor because the lessor's representative indicated the lessor was losing \$50,000 a year and was unwilling to make the corrections under the existing lease. Therefore, GSA decided to solicit offers for space that would meet its current firesafety requirements. Of the offers received, including one from the Eleven Oak building lessor, the offer for the Kansas property was the lowest. The Eleven Oak building lessor offered space on lower floors (which would not require sprinklers) at a higher rate than the existing rate.

In February 1984, after evaluating the offers and before making the award, GSA also determined that had the government paid for the Eleven Oak building sprinkler system and renewed the lease for the existing space at the existing rate, the cost to the government would have been greater for that space than for the space offered in Kansas. Our review of GSA's cost analysis disclosed several errors, such as costing out a sprinkler installation only through the highest floor occupied by EPA rather than through higher floors in the building occupied by other federal agencies and allocating those costs to each agency involved, including EPA, but we determined the government's cost for EPA space was still lower at the Kansas property than at the Eleven Oak building in February 1984.

A GSA Office of Inspector General advisory review before the February 1984 lease award on the Kansas property showed no major discrepancies in the leasing process.

The lease for the Kansas City, Kansas, property was awarded for \$310,685 annually on February 24, 1984, with occupancy

scheduled to begin on July 1, 1984. The occupancy date was rescheduled to February 1985 primarily because of delays associated with preparing the space EPA would occupy pending the outcome of a lawsuit filed by the Missouri building leasing agent. On February 16 and 17, 1985, most of the EPA Regional Office was relocated from the Eleven Oak building to the Kansas City, Kansas, property leased in February 1984. The remainder of the agency will be relocated to an additional 11,000 square feet of space leased December 1984 in Kansas City, Kansas, in June or July 1985.

BUILDING LEASING AGENT'S  
CONTENTION NOT UPHELD BY COURT

The Missouri building lessor's leasing agent filed a lawsuit March 14, 1984, to enjoin enforcement, declare invalid, and rescind the lease awarded by GSA to relocate EPA and to enjoin GSA and the lessor from taking any action in preparation for or in performance of the February 1984 Kansas lease. The leasing agent, who reported he was in the process of acquiring the building,<sup>4</sup> contended in the lawsuit that he had offered to renew the lease at the existing rate and to modernize the building's elevator system, install a building-wide sprinkler system and smoke detectors, and put in other equipment to meet current safety requirements at his own expense. The leasing agent requested a ruling that the February 1984 lease of the Kansas property was illegal because the conduct of the GSA was allegedly arbitrary and unreasonable in failing to continue to take advantage of the lower cost lease in Missouri.

The U.S. District Court for the Western District of Missouri ruled on June 6, 1984, that the leasing agent's written offer to GSA in response to the solicitation for new space did not support the leasing agent's contentions. Moreover, the court ruled that GSA leasing procedures from June 1983 to February 1984 were reasonable and, therefore, lawful and did not overturn the February 1984 Kansas lease. The leasing agent did not file an appeal.

EPA REQUEST FOR ADDITIONAL SPACE

In November 1983 EPA headquarters advised the EPA Regional Office that additional personnel would be authorized as a result of a fiscal year 1984 budget amendment. In December 1983 an EPA regional staff person reevaluated EPA's June 1983 space reduction request and became concerned about the adequacy of the approximately 44,800 square feet of space EPA had requested. In January 1984 the staff person expressed these

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<sup>4</sup>GSA advised us in March 1985 that the leasing agent is now the owner of the building.

concerns in writing to the EPA Regional Administrator and briefed the Regional Administrator in mid-February 1984. EPA regional officials, aware that the Regional Administrator did not want to delay the ongoing space acquisition process for relocating the Regional Office, did not inform GSA that additional space was needed until after the lease award.

A GSA regional official questioned EPA headquarters' Facilities and Support Services Division staff in late December 1983 as to whether the request for approximately 44,800 square feet was still sufficient to meet EPA's needs. After receiving assurances from EPA headquarters' Facilities and Support Services Division staff that it was adequate, and after the EPA Regional Administrator concurred with the proposed lease award, GSA awarded the lease on the Kansas property in February 1984. In March 1984 EPA requested GSA to lease another 9,565 square feet of building space to meet additional needs. The space request was then increased to about 11,000 square feet in September 1984. Because EPA maintained the additional space had to be within 450 feet of the Kansas space already leased so that telephone and computer links could be economically accommodated, competition for the additional 11,000 square feet was limited.

The Federal Property Management Regulations prescribe the policies and procedures for assigning and utilizing space in government-controlled (owned and leased) space and the responsibilities that are applicable to federal agencies. Under the regulations, agencies are responsible for making their space needs known to GSA and taking measures to give GSA early notice of new or changing space requirements.

GSA regional officials told us that GSA would locate the additional space requested by EPA near the new leased Kansas City, Kansas, space. A GSA official told us in October 1984 that in view of the limited area to be considered for the additional space, competition would be limited. In December 1984, after our field work was completed, GSA awarded a lease for the additional 11,000 square feet of space for \$83,270 annually. The additional space leased is adjacent to the space initially leased in February 1984.

#### EPA INSPECTOR GENERAL INVESTIGATION

The EPA Administrator in Washington, D.C., requested the EPA Office of Inspector General to determine whether EPA regional officials improperly influenced the GSA relocation process. The EPA Inspector General informed the Administrator that the results of its investigation revealed that the EPA Regional Administrator publicly stated a preference to relocate the EPA office to Kansas and met privately with the winning offeror during the space acquisition process. The Inspector General further informed the Administrator that the Regional



Administrator knew approximately 1 month before the lease award that the amount of space would be inadequate, but he did not inform GSA since such information might have stopped the GSA space acquisition process. In commenting to the EPA Inspector General on the results of the investigation, the EPA Administrator noted that different managers may have dealt with the additional space requirement differently. Based on an analysis of the EPA Inspector General report and discussion with the EPA Regional Administrator, the EPA Administrator concluded further action was not warranted.

#### CONCLUSIONS

We believe that GSA acted reasonably and properly in selecting the lowest offer and awarding the February 1984 lease for space in Kansas to accommodate EPA's Regional Office. The offer from the Kansas property owner was lower than all other offers, including that of the Missouri property lessor. Further, the offer was less costly than remaining at the Missouri location and installing an automatic sprinkler system in that building at government expense.

We believe that EPA, on the other hand, did not properly follow established regulations when it withheld from GSA the regional office's need for more space. Agencies are responsible, under Federal Property Management Regulations, for making their space needs known to GSA and giving GSA early notice of new or changing space requirements.

GSA satisfied EPA's stated requirements in its February 1984 lease of the Kansas property. EPA's actions in not providing the additional space requirements restricted GSA's ability to obtain competition on the additional space. We have no way of determining whether GSA could have obtained space for EPA more economically had it been able to solicit offers for the total quantity of space EPA ultimately requested. GSA said it would have started the acquisition process over had it known about EPA's total space requirements prior to making the February 1984 lease award.

#### EPA ACTIONS

The EPA Administrator informed the EPA Inspector General on June 12, 1984, that he asked that EPA's office requirements decision system be reviewed to assure that headquarters experience and expertise are utilized before such decisions are made final in the future. An EPA headquarters official said the Administrator's directive was to the Assistant Administrator for Administration and Resources Management.

AGENCY COMMENTS AND OUR EVALUATION

We provided drafts of this report to GSA and EPA for review and comment on February 12, 1985. The comments from GSA are contained in appendix II, and the EPA comments are contained in appendix III.

GSA agreed with the overall conclusion of the report as it relates to GSA and provided updated information and clarifying comments on March 11, 1985, which have been incorporated into the report. GSA noted that it would have insisted on starting the acquisition process over had it been given accurate information, but the EPA Regional Office advised GSA that space was sufficient for their needs.

GSA also commented that for its February 1984 economic analysis, the costing out of the sprinkler installation only for EPA was the proper course of action since only EPA was being moved, and only costs associated with that move should be included in the analysis. We agree that the analysis of the EPA relocation should only include costs associated with that move. However, as we have stated in the report, and GSA agrees, other federal agencies were also housed above the 12th floor in the building, and GSA requires automatic sprinkler protection on all floors up to the highest floor occupied by the government, as well as all those below, where the government occupies leased space on the 12th floor or above. Accordingly, GSA's cost analysis should have costed out a sprinkler installation throughout the highest floor in the building occupied by federal agencies and allocated those costs to each of the agencies involved, including EPA.

EPA said on March 19, 1985, that it agrees with our observations and conclusions concerning the relocation and subsequent action. EPA noted that the Assistant Administrator for Administration and Resources Management issued a memorandum to its agency officials restating EPA's policy on space acquisition authority in response to the Administrator's directive that the expertise and experience of its headquarters officials responsible for real estate activities be used before space management decisions are made. The authority within EPA to acquire space has been specifically delegated to the Director of its headquarters' Facilities and Support Services Division, Office of Administration, and this authority has not been redelegated to any other agency official. In addition, EPA notes that the memorandum emphasizes key steps related to the space acquisition process that certifies to GSA that only the EPA headquarters Director can request and/or approve space.

The memorandum restating EPA's policy on space acquisition includes examples of various key steps subject to approval by the EPA headquarters' Facilities and Support Services Division

Director, such as establishing a need for and requesting space from GSA, conducting or accepting a market survey performed by GSA, and accepting space offered by GSA. In the EPA Regional Office relocation from Missouri to Kansas, however, the EPA headquarters Director was told by its Regional Office that help was not needed in the market survey process; the EPA Regional Administrator concurred with the GSA lease award for the Kansas space; and EPA headquarters was not informed by its Regional Office about the need for more space until after the lease award. We trust that the policy restatement will help insure that in the future EPA makes its total space needs known to GSA and gives GSA early notice of new or changing space requirements to help enhance the efficiency and effectiveness of the competitive award process and to insure that the government obtains the most economical space meeting its requirements.

We also provided excerpts of this draft report to the Missouri property lessor on February 12, 1985. The lessor of the Missouri property did not respond to our request for comments.

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We are also reporting this matter to Senators Thomas F. Eagleton and John C. Danforth and Representative Alan Wheat of Missouri pursuant to their joint request. We will send a copy of this report to former Representative Larry Winn, Jr. As arranged with your offices, we will also send copies to the Director of the Office of Management and Budget, the Administrator of General Services, and the Administrator of the Environmental Protection Agency. Copies will also be sent to parties directly involved in the matters discussed in the report and other parties upon request.

*W. J. Anderson*

William J. Anderson  
Director



SUMMARY OF GAO REVIEW OF THE  
RELOCATION OF THE EPA REGIONAL OFFICE  
FROM LEASED SPACE IN KANSAS CITY, MISSOURI,  
TO LEASED SPACE IN KANSAS CITY, KANSAS

INTRODUCTION

Pursuant to a March 14, 1984, joint request from Senators John C. Danforth and Thomas F. Eagleton and Representative Alan Wheat from Missouri, we reviewed the basis for the General Services Administration (GSA) decision to move the Environmental Protection Agency (EPA) Regional Office from leased space in Kansas City, Missouri, to leased space in Kansas City, Kansas.

Pursuant to a March 20, 1984, joint request from Senators Robert J. Dole and Nancy L. Kassebaum and former Representative Larry Winn, Jr. from Kansas, we also reviewed the firesafety status of the building that EPA occupied in Missouri and the circumstances surrounding the leasing of that building.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to respond to the requesters' questions on the financial basis of a February 1984 lease award in Kansas City, Kansas, and a GSA decision to move the agency on the grounds that, while the location in Kansas City, Missouri, had a cheaper lease, the cost of meeting GSA firesafety requirements would raise the cost to the government above the cost to relocate. Our review also covered information provided by the requesters that the leasing management of the building that housed EPA in Kansas City, Missouri, which reported it was in the process of acquiring the building, had indicated to GSA that it intended to meet the firesafety requirements at its own cost. We also reviewed the firesafety status of the building that EPA was occupying in Missouri and the circumstances surrounding the leasing of that building.

We performed our review at the GSA and EPA regional offices in Kansas City, Missouri. We interviewed GSA and EPA officials and examined files and records to develop information on (1) the space occupied by the EPA in Kansas City, Missouri, and its request for new space; (2) GSA's market survey and related evaluation and decisions made as a result of the request; (3) the renewal of the lease in Kansas City, Missouri, and the 1-year deferment of the firesafety requirements; (4) the Solicitation For Offers and negotiations for space to satisfy the EPA space requirements; (5) the basis for the award of the February 1984 lease for the space in Kansas City, Kansas; (6) the lawsuit filed March 1984 by the Missouri building leasing agent in Kansas City, Missouri, and its disposition; (7) the additional space requested March 1984 by the EPA after the GSA awarded the

February 1984 lease for the space in Kansas City, Kansas; and (8) the results of the request for additional space.

We obtained information from the U.S. District Court for the Western District of Missouri on the lawsuit filed by the agent for the lessor of the building in Kansas City, Missouri, to enjoin enforcement, declare invalid, and rescind the February 1984 lease awarded by GSA. In addition, we obtained the results of the EPA Inspector General investigation conducted at the request of the EPA Administrator addressing any undue influence EPA regional officials may have had on the relocation decision-making process and its disposition by the Administrator of the EPA. We also obtained the results of a GSA Inspector General review of the February 1984 lease prior to its award. We did not assess the adequacy of the work done by the Inspectors General.

Our review, which was made from April through October 1984, was conducted in accordance with generally accepted government auditing standards.

#### THE BUILDING LEASED IN MISSOURI

The EPA Regional Office was located in space leased by GSA in the Eleven Oak building located in Kansas City, Missouri. The building is approximately 285 feet high, has 26 stories, and has approximately 204,000 square feet of occupiable space, according to GSA records. Of this total space, GSA leased about 96,000 square feet of office space occupied by various federal agencies on different floors. Approximately 79,000 square feet were included in one lease and the remaining 17,000 square feet are included in another lease. GSA records further indicate that private organizations are on various floors, and some floors are empty.

#### The initial decision to lease space in the building

The initial lease for the Eleven Oak building, dated July 18, 1977, was for space on the 20th through 24th floors. GSA awarded the lease without competition on the basis of its market survey of available space in the central business district of Kansas City, Missouri. The lease file does not indicate why the market survey was limited to Kansas City, Missouri. We noted, however, that the initial tenant agency at the time (which was not EPA) was located in another building in Kansas City, Missouri, and this building was needed by GSA to house other federal agencies vacating the U.S. Courthouse due to an expansion of the U.S. Court facilities. GSA moved the federal agency to the Eleven Oak building, which at the time was under the same ownership as the other building, and assigned the vacated space to the agencies vacating the U.S. Courthouse.

Circumstances surrounding the leasing  
of EPA space in the building

In 1976 EPA, which was in other leased space in Kansas City, Missouri, requested GSA to provide space in the central business districts of either Kansas City, Kansas, or Kansas City, Missouri.

GSA sent out Solicitations For Offers, specifying the need for 44,000 square feet of office space in Kansas City, Missouri, and Kansas City, Kansas, with all space to be contiguous and located on not more than five floors in a single building. The management of the Eleven Oak building made an offer to GSA; however, GSA rejected the offer as nonresponsive because it could not meet the restriction on the number of floors. The building management then protested to GAO requesting it to rule that the space requirement be found unreasonable, arbitrary, and capricious. Partly because the Eleven Oak building management protested to GAO, no award was made at that time by GSA.<sup>1</sup>

In response to GAO's request to GSA for a documented report on the protest of the Eleven Oak building management, GSA reported that this procurement was properly and objectively justified and that the contiguous space requirement was neither unreasonable nor arbitrary but based upon the mission and program requirements of EPA. Following an extensive exchange of correspondence between the building management, GSA, and EPA about the merits of the EPA space requirements, the related GSA solicitation, and the offer of the Eleven Oak building management, EPA reconsidered its space needs, resulting in GSA withdrawing its Solicitation For Offers. Accordingly, in November 1977 the building management withdrew its protest and GAO closed its file on the matter.

EPA submitted another request for space to GSA in February 1978 that specified the Kansas City, Missouri, central business district as the area for location. GSA conducted a market survey in the delineated area and issued Solicitations For Offers to three potential offerors who had space that would meet the requirements. Following negotiations with the three offerors, GSA accepted the low offer, and by supplemental agreement dated April 19, 1978, to the July 1977 lease, GSA made an award to the lessor of the Eleven Oak building. Following the award, EPA requested additional space, and by supplemental agreement dated April 12, 1979, to the lease, the additional requested space was provided. In awarding the supplemental lease agreement, GSA noted that as a result of increases in the number of EPA personnel and changes in operational requirements, it became apparent

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<sup>1</sup>According to GSA, it may make an award if a protest is made if it can prove that the award is beneficial to the government.

that the amount of space leased in April 1978 for the agency was insufficient.

On August 22, 1980, GSA awarded a second lease for space in the Eleven Oak building without competition after a change in the building ownership and management. GSA officials indicated it was necessary to acquire the space in the building without competition so that a federal agency's components could be colocated with other components already occupying certain space in the building. The space is on floors 9 and 10.

#### Changes in the building ownership and management and tenant problems

The Eleven Oak building ownership and management has changed over the years that GSA has been leasing space in the building. The ownership and management of the building changed in July 1980, and the management leasing agents changed again in February 1981, in May 1982, and in February 1983. The leasing agent had indicated it was in the process of acquiring ownership of the building, and GSA advised us in March 1985 that the leasing agent was now the owner of the Eleven Oak building.

EPA and other federal tenants in the building have had many problems with the building services and management over the years. The problems covered many different areas, such as carpeting, firesafety, temperature control, elevators, plumbing, and threats to cut off electricity because of the lessor's nonpayment of bills.

GSA had worked with the tenant agencies and the lessor to attempt to alleviate the problems in the building and pursued corrective action when the lessor failed to comply. For instance, GSA notified the lessor in February 1980 of carpet deficiencies. In October 1981 the GSA Contracting Officer advised the lessor that GSA was ordering the carpeting replaced and the cost withheld from the lessor's rent. The lessor appealed the decision to the GSA Board of Appeals in January 1982. The Board dismissed the appeal in April 1982 and the last of the new carpeting was installed in February 1983.

#### Firesafety deficiencies

Current GSA firesafety requirements for leased buildings were not being met in the Eleven Oak building. An elevator



capture system<sup>2</sup> is required if a government agency occupies space on the 8th floor or above. An automatic sprinkler system is required if a government agency occupies space on the 12th floor or above. Although the elevator capture system is required under the present leases, the lessor is not obligated under the lease that covers the EPA space to provide the automatic sprinkler system as that requirement was not established until after the lease agreement became effective. (See p. 13 "Status of Firesafety Deficiencies in Missouri Building" for more details.)

#### GSA DECISIONS AND ACTIONS IN RESPONSE TO EPA SPACE REQUEST

##### The EPA request for new space

Following a lengthy and extensive series of correspondence exchanges and meetings between the tenant federal agencies in the Eleven Oak building and GSA regarding complaints and deficiencies and continued occupancy of the building, the EPA submitted to GSA a request for new space on June 10, 1983.<sup>3</sup> EPA notified GSA that it was reducing its regional office space requirement from 50,403 square feet to 44,765 square feet to achieve a space utilization goal of 135 square feet per employee and requested GSA to relocate the regional office. The request indicated renewal of the lease was undesirable because of concerns about firesafety; the owner's delinquency in paying the electricity bills, resulting in notices posted to discontinue electrical service; the office being spread throughout seven floors, resulting in inefficiency and difficulty in management control; and difficulty with temperature control.

##### The market survey and related evaluation and decisions

On July 13, 1983, GSA placed an advertisement in the Kansas City Star newspaper and notices were distributed indicating a

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<sup>2</sup>Upon activation of a fire alarm or smoke detector, the elevator cabs return to the first floor without stopping at any other floor and the doors open and remain open. A firefighter can then override the system using a key to operate the elevator. This elevator capture system, which is required by GSA when government agencies occupy space on the 8th floor or higher, prevents the elevator from stopping on the fire floor and frees the elevator for use by incoming firefighters.

<sup>3</sup>The EPA request for space was signed on May 23, 1983, and transmitted to GSA with a justification letter dated June 10, 1983. This is referred to as the June 1983 request.

need for about 44,765 net usable square feet of office space in the Kansas City Consolidated Metropolitan Statistical Area,<sup>4</sup> with preference to be given to the central business areas of Kansas City, Missouri, and Kansas City, Kansas. Responses were received for about 40 different buildings. GSA, assisted by EPA regional staff, conducted a market survey to determine which buildings met EPA and GSA requirements. As a result of the survey, 19 locations were considered mutually acceptable to GSA and EPA. The estimated rental range of the buildings was \$7.50 to \$15.00 a square foot.

#### The August 1983 analysis

A GSA cost analysis prepared in August 1983 showed that the lowest estimated rental rate obtained from the market survey was \$7.50 a square foot. The cost analysis also included a comparison of (1) the cost to remain in the 50,403 square feet of space under the renewal option at an average rental rate of \$6.60 a square foot, or \$332,875 annually; to (2) \$7.50 a square foot, the minimum rate established in the market survey for space at a new location, plus the additional cost associated with moving, or a total of \$351,861 annually for 44,765 square feet. The analysis showed that a move to a new location would result in a minimum increased cost to the government of \$18,986 annually. To provide greater flexibility, GSA's analysis also noted that as a result of recent negotiations with the lessor of the Eleven Oak building, GSA could terminate portions of the lease floor by floor on 90 days notice during the renewal term. The analysis recommended exercising the renewal option, which would allow sufficient time for procurement and adequate leadtime for preparing space at a new location, regardless of the GSA decision on whether to relocate EPA. Thus, in August 1983 GSA's analysis showed it would be cheaper to remain in the space under lease than to move to space in a new location, but firesafety deficiencies were also being evaluated by GSA at that time.

#### The GSA decision

On August 5, 1983, GSA's Central Office in Washington, D.C., reinstated its agencywide firesafety requirements for automatic sprinkler and automatic elevator capture systems; they had been suspended since February 1982. Following the reinstatement, GSA's Regional Office determined that the renewal right contained in the lease would be exercised. The GSA Regional Office also determined that a Solicitation For Offers containing current firesafety requirements would be issued to obtain competitive offers for the EPA space requirement since the Eleven Oak building did not meet current firesafety

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<sup>4</sup>A 10-county area covering Wyandotte, Johnson, Leavenworth, and Miami Counties in Kansas; and Jackson, Cass, Clay, Platt, Lafayette, and Ray Counties in Missouri.

requirements for automatic sprinkler and automatic elevator capture systems.

GSA's Regional Office files showed that the lease providing EPA space did not require the lessor to provide automatic sprinkler or automatic elevator capture systems. According to GSA officials, the requirement for sprinklers was not established until after the lease agreement for EPA space became effective. However, our review disclosed that the lessor was required under the terms of both leases (the July 1977 and the August 1980 leases) to provide an automatic elevator capture system. This was later confirmed by the GSA Regional Office.

GSA regional officials said that in August 1983 they met with a representative of the leasing agent who indicated that the lessor was losing \$50,000 a year and was not willing to install automatic elevator capture and automatic sprinkler systems under the existing rental rate at the building. The GSA Contracting Officer said that as a result, GSA would either have to correct the firesafety deficiencies in the leased building at government expense or solicit offers for space that would meet current firesafety requirements.

#### The October 1983 Solicitation For Offers

GSA issued a Solicitation For Offers for space for the EPA Regional Office on October 3, 1983. The solicitation specified a range of 43,900 to 45,700 square feet of space in the Kansas City Consolidated Metropolitan Statistical Area. The solicitation further specified the space must be on no more than five contiguous floors and meet current GSA firesafety requirements.

#### The deferment of firesafety requirements

The GSA Regional Office requested on October 18, 1983, that the GSA Central Office in Washington, D.C., defer firesafety requirements to coincide with the renewal term of the lease for the Eleven Oak building. The request stated that the GSA Regional Office planned to relocate EPA to another location or to space below the 8th floor in the existing location in fiscal year 1984 and that other federal agencies in the building were to be relocated from the building in late fiscal year 1984 or early fiscal year 1985. GSA's Central Office granted the region a 1-year deferment authority on November 17, 1983. The GSA Regional Office exercised the 1-year deferment of firesafety requirements beginning March 1, 1984, to coincide with the effective date of the renewal option.

#### The renewal of the lease

The initial term of the lease in the Eleven Oak building was expiring February 29, 1984, with the government having a

5-year renewal option. The GSA Regional Office exercised the renewal option on November 29, 1983, to provide sufficient time for the government to relocate EPA to another location or to space below the 8th floor in the existing location and to relocate other federal agencies.

GSA ANALYSIS OF OFFERS AND  
AWARD OF THE LEASE IN KANSAS

The offers made

Seven offers were received in response to the October 1983 Solicitation For Offers. One offer was withdrawn because the facilities lacked sufficient space. Of the remaining six offers, the lowest offer was a rental rate of \$7.03 per square foot for space located in Kansas City, Kansas. The agent for the lessor of the Eleven Oak building offered space below the 8th floor in the building for an overall rental rate of \$8.35 per square foot. The offer was contingent on GSA cancelling the lease for space it occupied in the building. The remaining four offers ranged from \$10.90 to \$14.95 per square foot.

The GSA evaluation of offers

According to the Price Negotiation Memorandum, GSA conducted negotiations of offers and at least one meeting with each offeror's representative. The memorandum shows no changes in the basic rental rate offered by either of the two lowest offerors. The GSA Contracting Officer determined that the lowest and best offer meeting the requirements of the Solicitation For Offers was the Kansas property offer and recommended the offer be accepted.

The GSA Regional Office of Project Control and Oversight, in reviewing the proposed award to the low offeror, decided that the lease file should be documented to show that the option of having GSA pay for correction of the firesafety deficiencies at the Eleven Oak building was considered. As a result, in February 1984 the GSA Contracting Officer prepared a comparison of the costs associated with the lowest offer and the cost of remaining in space in the Eleven Oak building under the renewal option with GSA paying for correction of firesafety deficiencies. This analysis showed that it was more economical for EPA to move.

The GSA analysis indicated no funds were available to upgrade the Eleven Oak building to meet firesafety requirements. It also indicated that if funds were available, it would be questionable if it was in the government's interest to spend about one third of a million dollars to improve a building where the government had only a 5-year lease term remaining. The analysis pointed out that there were also legal questions as to

who maintains the systems, who repairs them, and who is liable if they malfunction.

The GSA Regional Contracting Officer told us that since the August 1983 market survey had indicated a minimum rental rate of \$7.50 per square foot might be attainable, competition for the requirement seemed warranted. GSA regional officials said GSA did not attempt to negotiate with the lessor to correct fire-safety deficiencies because the lessor representative indicated it was losing \$50,000 a year and was unwilling to make the corrections under the existing lease at its own expense. A GSA regional official also said that GSA gave the lessor the opportunity to submit an offer that met firesafety requirements and the lessor made an offer.

#### The GSA Office of Inspector General review

The GSA Office of Inspector General performed an advisory review of the proposed lease award. The review included an examination of the lease file and related documentation and discussions with GSA regional officials. The report, dated February 7, 1984, shows no major deficiencies in the leasing process, no lack of major documentation, and no irregular events affecting the lease award.

Such reviews of proposed lease awards are performed pursuant to a December 14, 1981, letter from the Administrator of General Services to the Commissioner of Public Buildings Service requiring that certain changes be made to the leasing program, including the requirement that all proposed leases over \$200,000 be referred to the Regional Office of Inspector General for advisory review.

Our review of the GSA Regional Office of Inspector General work indicates that detailed steps were performed in major areas, including the request for space, market survey and advertising, the Solicitation For Offers, evaluation of offers, and other miscellaneous requirements, and that the basis for the lease award for the EPA space requirement was justifiable. In view of the work already performed by the GSA Office of Inspector General, we did not attempt to determine whether GSA complied with all of its regulations and procedures surrounding the award.

#### The GSA approval of the lease award

Following the GSA Office of Inspector General review of the proposed award, the GSA Regional Office approved the award of the lease contract for the Kansas space for the EPA Regional Office on February 8, 1984. The GSA Central Office approved the award by letter dated February 22, 1984. The GSA Central Office

pointed out that operating cost increases, moving costs, and lump-sum costs should have been evaluated on the basis of 10 years rather than 5 years. The reason was that the term of the lease was July 1984 through June 1994, with the government having termination rights anytime after June 1989. According to the GSA Central Office, this constitutes a 10-year, not a 5-year, term. The award was nevertheless approved because correction for 10 years did not change the relative standing of the offers.

#### The EPA approval of the lease award

On February 23, 1984, the EPA Regional Administrator concurred with the lease award for the Kansas space. The lease, dated February 24, 1984, provides for an annual rent of \$310,685 for 44,166 square feet of space.

#### GSA's decision to relocate EPA was economically justified

While our evaluation of the GSA Contracting Officer's February 1984 economic analysis raised several questions about certain cost elements, our evaluation of GSA's decision to relocate EPA indicates the move was economically justified in February 1984. The alternative of staying in the Missouri location with the government paying for correction of firesafety deficiencies would have been more costly than relocating.

GSA's analysis of the costs to provide sprinklers was based on the average square foot cost to install sprinklers in a similar building. Based on this estimated square foot cost, GSA estimated sprinkler costs of \$340,000 for EPA space in the Eleven Oak building. Amortized over 5 years, this results in about \$68,000 annually.

We believe GSA's analysis included questionable cost assignments and excluded some applicable costs. The analysis assumed sprinkler installation in the building only up through the highest floor occupied by EPA and assigned the sprinkler costs only to the space occupied by EPA in the building. (As previously noted, space for other agencies had been leased on higher floors.) We believe the GSA analysis should have more appropriately considered a sprinkler installation on all floors of the building up to the highest floor occupied by federal agencies and assigned the cost plus design and administration costs to all agencies. As a result, total costs to install sprinklers could be higher.

GSA comments on our report note that the costing out of the sprinkler installation only for EPA was the proper course of action since only EPA was being moved, and only costs associated with that move should be included in the analysis. We agree

that the analysis of the EPA relocation should only include costs associated with that move. However, as we have stated in the report, and GSA agrees, other federal agencies are also housed above the 12th floor in the building, and GSA requires automatic sprinkler protection on all floors up to the highest floor occupied by the government, as well as those below, if the government occupies leased space on the 12th floor or above. Accordingly, GSA's cost analysis should have costed out a sprinkler installation up to the highest floor in the building occupied by federal agencies and allocated those costs to each of the agencies involved, including EPA. As we have pointed out in the report, GSA deferred firesafety requirements to coincide with the renewal term of the lease for the Eleven Oak building because it planned to relocate EPA and the other federal agencies in the building. As GSA states in its March 1985 comments, it is still planning to relocate the other agencies housed in the Eleven Oak building to other locations, although some of its relocation plans are subject to availability of leasing funds.

The GSA analysis also erroneously included penalties assigned to both the Kansas property and the Eleven Oak building for a lack of energy efficiency. GSA, in its March 1985 comments, noted that this action is required by regulation and, therefore, was not erroneous, even though its regional office (Kansas City) does not necessarily agree with the policy of assigning energy penalties for fully serviced leases. We agree that GSA procedural guidelines dealing with acquisition of leasehold interests in real property provide for an evaluation of energy consumption and the assignment of energy penalties, if applicable. However, the guidelines also provide for exceptions to energy penalties in the case of sole source leasing actions, such as renewing an existing lease. Accordingly, the assignment of energy penalties to the renewal of the existing lease for the Eleven Oak building for a lack of energy efficiency was not necessary. In addition, the assignment of penalties for a lack of energy efficiency applies if the amount of energy consumption in the property involved exceeds a certain threshold; it does not apply if the energy consumption is below the threshold. GSA's calculations of the energy consumption for the Kansas property contained mathematical errors, and correction of the calculations shows the energy consumption to be below the threshold. Accordingly, the assignment of an energy penalty to the proposed lease for the Kansas property for a lack of energy efficiency was not applicable. Therefore, the assignment of penalties in the GSA analysis to both the proposed lease for the Kansas property and the renewal of the existing lease for the Eleven Oak building for a lack of energy efficiency was not applicable.

The estimated cost of staying under the lease renewal was not based on GSA's current definition of net usable square feet,

whereas the cost of relocating was. To properly compare the costs, GSA should have used the same measurement of space. Had it done so, the square foot rental rate for the Eleven Oak building would have been reduced for comparison purposes. However, this would not have resulted in any reduction in the actual total lease cost.

At a conference in July 1984 GSA regional officials told us that its leasing handbook did not require its February 1984 analysis comparing the lowest offer received in response to the Solicitation For Offers to the cost of remaining under the renewed lease. While we agree that such an analysis is technically not required after offers have been received, we believe GSA should have made the analysis of the cost of remaining in the Eleven Oak building under the renewal option with GSA paying for correction of firesafety deficiencies before soliciting offers and seeking competition in October 1983. GSA, in its March 1985 comments, stated that it did not agree as government procurement regulations stress the importance of seeking competition and require that sole source actions be held to the minimum. We are not advocating a sole source action, as stated in GSA's comments, and that is not at issue here. The issue is GSA's cost analysis. The GSA leasing handbook requires an analysis of the cost to stay in an existing location and the estimated cost of relocating to new space before soliciting offers and seeking competition. Although GSA did make a cost analysis in August 1983, it did not consider the cost of installing sprinklers at that time as a cost of remaining in the existing location. Had GSA compared its estimated sprinkler costs (about \$68,000 annually) to the cost of renewing the existing lease (\$332,875) and the minimum estimated costs of new space based on the market survey (\$351,861) it would have shown a cost advantage of soliciting offers and seeking competition for new space meeting firesafety requirements.

MISSOURI BUILDING LEASING AGENT SUES  
TO PREVENT RELOCATION OF EPA

Following the award of the lease on February 24, 1984, the leasing agent for the Missouri building filed a lawsuit in the U.S. District Court for the Western District of Missouri on March 14, 1984. The lawsuit was to enjoin enforcement, declare invalid, and rescind the February 1984 lease awarded by GSA to relocate the EPA office. The leasing agent reported that he was in the process of acquiring the building. The leasing agent contended in the lawsuit that he had offered at his own expense to modernize the building's elevator system, install a building-wide sprinkler system and smoke detectors, and put in other equipment to meet current GSA firesafety requirements. The leasing agent requested a ruling that the lease of the Kansas property was illegal because the conduct of the GSA



officials was allegedly arbitrary and unreasonable in failing to continue to take advantage of the lower cost lease in Missouri.

Hearings were held May 24 and 25, 1984, and a decision was rendered on June 6, 1984, in favor of the United States and GSA. The court ruled that the leasing agent's written offer to GSA in response to the solicitation for new space did not support his contention that he intended to install proper fire-safety equipment. The court did not overturn the February 1984 Kansas lease and concluded that the GSA leasing procedures from June 1983 to February 1984 were reasonable and therefore lawful. The leasing agent did not file an appeal.

The Missouri property lessor did not respond to our request for comments, and GSA advised us in March 1985 that the leasing agent is now the owner of the Eleven Oak building. The lease for the Eleven Oak building was amended on February 13, 1985, to reflect a change in ownership effective July 1, 1984.

#### STATUS OF FIRESAFETY DEFICIENCIES IN MISSOURI BUILDING

We reported on the lack of automatic sprinkler and elevator capture systems in the Eleven Oak building in our 1981 report to the Administrator of General Services titled GSA Can Do More To Ensure Leased Federal Office Space Meets Its Fire-safety Criteria (PLRD-81-8, May 1, 1981). Our 1981 report discusses the problems GSA had experienced in administering leases for firesafety requirements and in managing the firesafety program. The report identified cases in which GSA awarded leases for space that had not met its firesafety criteria and cases in which GSA had not adequately administered the leases because it failed to require lessors to correct deficiencies.

A GSA firesafety survey of the Eleven Oak building in May 1982 had identified the lack of automatic sprinkler and elevator capture systems as deficiencies previously noted but remaining uncorrected. The GSA survey indicated that the deficiencies likely will not be corrected either because of a change in requirements or because of a lack of cost efficiency and that a waiver should be considered. The requirement for automatic sprinkler and elevator capture systems was temporarily suspended by GSA headquarters in February 1982 and was not reinstated until August 1983. A GSA firesafety survey in August 1983 again cited the lack of automatic sprinkler and elevator capture systems as deficiencies. Shortly thereafter, in October 1983, the GSA Regional Office initiated deferment action, which was approved by GSA's Central Office. Based on this deferment, GSA had until March 1, 1985, to relocate the agencies under the lease providing space to EPA and other federal agencies. GSA's Central Office has limited deferments to no more than 1 year and

emphasized that the space must be vacated when the deferment expires.

GSA informed us in March 1985 that most of the EPA Regional Office relocation from the Eleven Oak building to Kansas City, Kansas, took place on February 16 and 17, 1985, and that the remainder of the agency will be relocated to the additional leased Kansas City, Kansas, space in June or July 1985. GSA also informed us in March 1985 that it has plans or is developing plans to relocate each of the remaining Eleven Oak building federal tenants to other locations.

The lease did not require the lessor to provide sprinklers. However, the lease did require an elevator capture system. In July 1984 GSA regional officials concurred with our position and told us they would notify the lessor that he is responsible for installing an automatic elevator capture system in the building. GSA issued a letter on July 20, 1984, and again on September 21, 1984, advising the lessor that unless the elevators are equipped with an automatic capture system, the government will correct the deficiency and deduct the cost from the rental payments in accordance with the provisions of the lease. GSA advised us in March 1985 that it received a copy of a contract in October 1984 that showed the building owner was correcting the deficiency. GSA noted it had written a letter requesting GSA be allowed to inspect the work done, but no additional updated information was provided.

MORE SPACE REQUESTED BY EPA  
AFTER THE LEASE WAS AWARDED

Following the February 1984 award of the lease for space in Kansas, EPA in March 1984 requested an additional 9,565 square feet. The request was to accommodate 59 additional employees above the 329 personnel associated with the June 1983 request.

Changes in the personnel levels  
and their effect on the space  
requirements

The June 1983 space request of 44,765 square feet for 329 personnel was to accommodate the then current EPA Regional Office staff, lab and field employees to be consolidated with that staff in the new space, vacant positions budgeted, and contractor and other personnel and related space. The GSA Regional Office requested clarification of the personnel figures contained in the EPA request, and the EPA Regional Office informed GSA in June 1983 that the 329 personnel level contained in the request was correct. A GSA regional official questioned an EPA regional official in July 1983 as to whether the space requested was sufficient, and the EPA regional official said

that EPA had requested plenty of space. The EPA regional official doubted that EPA would be able to fill the vacant positions budgeted and noted that, if necessary, it was not essential to consolidate lab and field office people with the regional office. However, in December 1983, the 44,765 square feet of space requested was reevaluated and EPA regional officials became concerned that the space was insufficient.

The EPA Assistant Regional Administrator submitted a memorandum to the EPA Regional Administrator on January 13, 1984, setting out these concerns and alternatives to provide the additional space, and in mid-February 1984 the Assistant Regional Administrator briefed the EPA Regional Administrator on the concerns. The need for approximately 9,000 square feet of additional space was identified, and an alternative was to request from GSA the additional space required after GSA awarded the lease for the new office space. The briefing document shows that the June 1983 request for 44,765 square feet submitted to GSA had become insufficient to meet current EPA requirements because of the considerable increase in authorized personnel levels realized in the fiscal year 1984 budget. In addition, EPA did not include certain space needs in its calculations supporting its June 1983 request.

The projected 329 personnel figure and associated 44,765 square feet of space were no longer valid because the EPA region was advised in November 1983 of additional workyears due to the fiscal year 1984 budget amendment which allowed for more people. EPA regional officials knew of this employee increase about 1 month after GSA's October 1983 Solicitation For Offers. Based on an end-of-year, on-board projection of employees (excluding the lab and field personnel, which had been included in the original space request), the EPA Regional Office projected a fiscal year 1984 office space requirement greater than was included in the June 1983 space request. The briefing document also shows that EPA headquarters advised the EPA Regional Office that should their required space be significantly more than the space solicited, GSA would most likely insist upon starting the acquisition process over.

The Federal Property Management Regulations prescribe the policies and procedures for the assignment and utilization of space in government-controlled (owned and leased) space and the responsibilities of federal agencies. Agencies are responsible, under the regulations, for making their space needs known to GSA and for taking measures to give the GSA early notice of new or changing space requirements. It is the responsibility of agencies to assist and cooperate with GSA.

We have no way of knowing whether GSA, if fully apprised of EPA's total requirements, could have obtained more economical space had it been able to solicit offers for the total quantity

of space EPA ultimately requested. GSA said it would have started the acquisition process over had the total space requirement been known before the February 1984 lease award for the Kansas property.

THE EPA INVESTIGATION OF ITS  
REGIONAL OFFICE RELOCATION

The EPA Office of Inspector General (IG) performed an investigation of the proposed relocation at the request of the EPA Administrator in Washington, D.C., to determine whether EPA regional officials improperly influenced the GSA relocation process. The results of the investigation are contained in a report of investigation (Case No. 1-84-045) dated April 23, 1984, and were reported to the EPA Administrator on May 18, 1984.

The IG informed the Administrator that the investigation revealed that the EPA Regional Administrator publicly stated a preference to relocate to Kansas City, Kansas, and had met with the winning offeror, a longtime acquaintance, during the space acquisition process. Further, the Kansas space was initially rejected by GSA as potential EPA space because of the extensive renovation needed and the large amount of basement space that would have to be used for offices. However, one of the EPA Regional Administrator's assistants instructed GSA to keep the space in the competition. After the lease award, an inspection of the space by the Director of Facilities and Support Services Division from EPA headquarters supported the initial GSA rejection.

According to the EPA IG's report, the Director of the EPA headquarters' Facilities and Support Services Division advised that in a regional office relocation, EPA headquarters has provided technical assistance in the market survey process. In this case, however, EPA headquarters was told by its Regional Office that help was not needed.

In November 1983 EPA regional officials became aware that additional staff resources were to be allocated to the region. They also became aware that the region's space needs in the June 1983 space request to GSA had been miscalculated, resulting in EPA underestimating its square footage requirements for the region, according to the EPA IG's report. By January 1984 approximately 55 new hires had been identified by the EPA Regional Office and there was concern that the space requested from GSA in June 1983 would be insufficient because of both the underestimated space needs and the hiring of new employees. The EPA Regional Administrator was informed of the need for more space on January 13, 1984, and a stated concern of EPA was that GSA would stop the space acquisition process if notified about the obvious need for more space. The EPA regional staff knew

that the EPA Regional Administrator did not want to delay the ongoing space acquisition process for relocating the EPA Regional Office. As a result, EPA did not inform GSA of the additional requirement for space until after the new lease was awarded.

The Director of the EPA Facilities and Support Services Division in Washington, D.C., on March 20, 1984, transmitted a request for space to GSA that reflected a need for additional EPA Regional Office space amounting to 9,565 square feet based upon the hiring of 59 new employees. The EPA headquarters said, according to the EPA IG's report, that it was not informed by its regional office about the need for more space until after the February 24, 1984, lease award on the Kansas City, Kansas, property; that it had not been told of a space requirement miscalculation in the 1983 request for space but that it knew of a need for more space based upon the new hires; and that had it been informed by its regional office before the award it would have contacted GSA.

According to the EPA IG's report, a GSA regional official had heard rumors in December 1983 that EPA might request additional office space and had attempted to confirm this because of concerns over the possibility that additional personnel might affect the space requirement package that was being negotiated at the time for the EPA Regional Office. An EPA Washington headquarters Facilities and Support Services Division staffer on December 28, 1983, confirmed to the GSA Regional Office the June 1983 space requirement request based on the 329 budgeted personnel. In accordance with the EPA headquarters' Facilities and Support Services Division confirmation, GSA continued on course to satisfy the EPA space requirement. A GSA regional official said that had the additional request for space, resulting in a revised EPA Regional Office space requirement, been received prior to the lease award on the Kansas property, GSA would have started the space acquisition process over.

According to the EPA IG's report, the EPA Regional Administrator acknowledged becoming aware of concerns by EPA's regional staff that the requested space was inadequate because of the hiring of new employees but disagreed with the need for more space and did not know how additional space was to be obtained. The EPA Regional Administrator concurred on February 23, 1984, with the GSA lease award for the Kansas space, and the lease was awarded February 24, 1984.

#### The EPA Regional Administrator's comments

The EPA Regional Administrator officially commented on the EPA IG report on June 8, 1984. His comments, addressed to the EPA Administrator, noted that the selection of the EPA office

space in Kansas City, Kansas, was a GSA decision and that GSA selected the best and lowest offer from multiple offers during a competitive award process conducted within GSA rules and regulations to assure that the government received the best available space at the lowest cost to the government. The EPA Regional Administrator noted that the determination of adequacy of space and whether space met government regulations was a responsibility of GSA and that EPA staff did not include or exclude any space for consideration in the GSA space acquisition process. In addition, the EPA Regional Administrator also noted that the Eleven Oak building office space firesafety deficiencies, accessibility for handicapped deficiencies, and heating and air conditioning problems were of such concern to EPA that it requested GSA move with deliberate speed to locate proper space. To that end, EPA regional management did not want to extend exposure of EPA employees to unsafe conditions and did not take any action to delay the process.

The EPA Regional Administrator also said, in the June 1984 comments, that the development of the region's space needs and the June 1983 space request had been coordinated closely with the GSA regional staff. He said that the space request was confined to a smaller figure than projections suggested because GSA would only allow the request to be based upon actual on-board strength, not projections for position increases due to supplemental fiscal year 1984 budget or fiscal year 1985 budget projections. The EPA Regional Administrator acknowledged being informed by EPA regional staff in January 1984 of a projected need for increased space, but his priority was focused on readjusting office space within the Eleven Oak building in Kansas City, Missouri, to more fully utilize the available space to house the new hires coming on board in January. The EPA Regional Administrator noted that the March 1984 additional space request to accommodate the additional personnel was sent to GSA from the EPA headquarters office in Washington and was based on the region's current strength plus projected needs through 1985.

#### The EPA Administrator's comments

The EPA Administrator, in a memorandum to the EPA Inspector General dated June 12, 1984, noted that different managers may have dealt with the need for additional space differently. Based on the Administrator's analysis of the findings in the EPA IG's report, and subsequent discussion and counseling of the EPA Regional Administrator on the potential for and need to avoid the appearance of any conflict of interest, the EPA Administrator believed further action on this matter was not warranted. The EPA Administrator did inform the EPA Inspector General on

June 12, 1984, of a directive<sup>5</sup> that EPA's office requirements decision system be reviewed to assure that in the future headquarters experience and expertise be utilized before such decisions are made final.

The EPA said in March 1985 that the Assistant Administrator for Administration and Resources Management issued an internal memorandum restating EPA's policy on space acquisition authority in response to the Administrator's directive that the expertise and experience of its headquarters officials responsible for real estate activities be used prior to making space management decisions. The authority within EPA to acquire space has been specifically delegated to the Director of its headquarters' Facilities and Support Services Division, Office of Administration, and this authority has not been redelegated to any other agency official. In addition, EPA notes that the memorandum emphasizes key steps related to the space acquisition process that certify to the GSA that the only EPA official to request and/or approve space is its headquarters' Facilities and Support Services Division Director.

The memorandum restating EPA's policy on space acquisition includes examples of various key steps subject to approval by the EPA headquarters' Facilities and Support Services Division Director, such as establishing a need for and requesting space from GSA, conducting or accepting a market survey performed by GSA, and accepting space offered by GSA. In the EPA Regional Office relocation from Missouri to Kansas, however, the EPA headquarters Director was told by its Regional Office that help was not needed in the market survey process; the EPA Regional Administrator concurred with the GSA lease award for the Kansas space; and EPA headquarters was not informed by its Regional Office about the need for more space until after the lease award. We trust that the policy restatement will help insure that in the future EPA makes its total space needs known to GSA and gives GSA early notice of new or changing space requirements to help enhance the efficiency and effectiveness of the competitive award process and to insure that the government obtains the most economical space meeting its requirements.

#### CURRENT STATUS ON THE KANSAS SPACE

GSA regional officials told us that GSA would locate the additional space requested by EPA near the new leased Kansas City, Kansas, space because telephone and computer link costs

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<sup>5</sup>An EPA headquarters official said the Administrator's directive was to the Assistant Administrator for Administration and Resources Management.

would be prohibitive to locations more than 450 feet away. A GSA regional official told us in October 1984 that EPA had increased its request for additional space from 9,565 square feet to 11,000 square feet. The GSA official said that in view of the limited area to be considered for the additional space, competition would be limited. After completion of our field work, GSA awarded a lease in December 1984 for the additional 11,000 square feet of space in Kansas City, Kansas, for \$83,270 annually (\$7.57 per square foot). The additional space leased is in another building adjacent to the space initially leased in February 1984.

Most of the EPA Regional Office was relocated from the Eleven Oak building to the Kansas City, Kansas, property (leased in February 1984) on February 16 and 17, 1985. The remainder will be relocated to the Kansas City, Kansas, property (leased in December 1984) in June or July 1985, according to GSA.





General  
Services  
Administration

Washington, DC 20405

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Honorable Charles A. Bowsher  
Comptroller General of the United States  
U.S. General Accounting Office  
Washington, DC 20548

Dear Mr. Bowsher:

This responds to the General Accounting Office (GAO) draft of a proposed report to Senators Eagleton and Danforth and Representative Wheat on "Relocation of the EPA regional office from Kansas City, Missouri to Kansas City, Kansas." This also responds to a similar draft report to Senators Dole and Kassebaum.

The General Services Administration (GSA) is basically in agreement with the overall conclusion of the report as it relates to the GSA. There are, however, several items in the report which should be clarified and appropriate comments on those items are enclosed. We hope you will consider them in compiling your final report.

Sincerely,

Dwight A. Ink  
Acting Administrator

Enclosure

Comments on the draft GAO audit report "Relocation of the EPA Regional Office from Kansas City, Missouri, to Kansas City, Kansas (Code 14305).

pg. 4 - paragraph 2 - The costing out of the sprinkler installation only for EPA was the proper course of action. Since only EPA was being moved, only costs associated with that move should be included in the analysis.

pg. 6 - paragraph 3 - Adjacency of second leased location: The 11,000 sq. ft. of space leased for EPA is in a building immediately adjacent to the first location. In fact, an interior access is being built which will connect both buildings.

pg. 3 - paragraph 2 - Elevator Capture System - updated information: The GSA Regional Office received a copy of a contract in early October 1984, that showed the building owner was correcting the deficiency and it would be completed by February '85. The region has written a letter requesting GSA be allowed to inspect the work done.

pg. 3 - Appendix I - paragraph 2 - GSA may make an award if a protest is made if we can prove that the award is beneficial to the Government.

pg. 4 - Appendix I - paragraph 2 - Updated information: The leasing agent is now the owner of the Eleven Oak Building.

pg. 8 - Appendix I - paragraph 3 - Correction: "The Office of the GSA Regional Administrator" should be changed to read: "The Office of Project Control and Oversight (OPCO)."

pg. 10 - Appendix I - paragraph 4 - Analysis for the installation of the sprinkler. As was discussed in our first comment, since only EPA was being moved, only costs associated with EPA's move should be included in the analysis.

pg. 11 - Appendix I - paragraph 1 - The report states that the GSA analysis erroneously included penalties for lack of energy efficiency. Although the Region does not necessarily agree with the policy of assigning energy penalties for fully serviced leases, it should be noted that this action is required of the region by regulation, and therefore was not erroneous.

GAO Note: Page and paragraph numbers have been changed to correspond to the final report.

pg. 12 - Appendix I - paragraph 1 - The report states GAO believes GSA should have made an analysis before seeking competition. We do not agree as Government procurement regulations stress the importance of seeking competition, and require that sole source actions be held to the minimum. These principles were applied in this case.

pg. 14 - Appendix I - paragraph 3 - Updated information: EPA has notified the GSA Regional Office that they are actually housing 335 people in the space rather than 388 as shown on their SF-81's.

pg. 15 - Appendix I - paragraph 2 - GSA would have insisted on starting the acquisition process over had we been given accurate personnel information.

pg. 17 - Appendix I - paragraph 4 - A meeting was held with EPA regional staff and members of GSA Regional Assignment and Space Planning Staff regarding ability of space to be laid out and concerns over whether EPA would fit. The EPA Regional Administrator advised GSA that space was sufficient for their needs.

pg. 20 - Appendix I - paragraph 1 - Updated information: Relocation of the EPA Regional Office took place on February 16 and 17.

pg. 19 - Appendix I - paragraph 3 - It should be noted that the new leased space is adjacent to the initial space.

The following is the current plan of space actions required to house the remaining Eleven Oak Building tenants:

A. Department of Energy - will be relocated from the 21st floor at the Eleven Oak Building to the 14th floor of the Federal Office Building, 911 Walnut Street. Relocation's projected for November 1, 1985.

B. Department of Education (DoED) - is currently housed on the 9th, 10th, 22nd and 24th floors. Previous plans called for relocation of this agency to backfill space to be vacated at the Federal Office Building, 911 Walnut Street. The availability of this space is now doubtful. The alternative plan now is to relocate DoED to other leased space, if leasing funds permit.

C. U.S. Marshal Service - we currently have a request to expand this function from approximately 2,200 square feet to 9,000 square feet. The agency recently advised us that the expansion space may no longer be required. Thus, we are developing a plan to relocate the U.S. Marshal Service to existing vacant Government-owned space, or an existing lease location where a sizeable portion of space may be released in the near future.

D. Federal Mediation and Conciliation Service - we have developed plans to relocate this agency to the 13th floor of the Professional Building into space vacated by the Department of Housing and Urban Development. The tentative schedule for relocation is April 30, 1985.

E. Immigration and Naturalization Service (INS) - we have established a delineated area for consideration in acquiring replacement space. INS desires to be located in proximity to the Kansas City International Airport for efficient mission performance. Should a decision be made to keep this agency in the downtown area, replacement space will be sought accordingly. In any event, plans to relocate this agency are subject to availability of leasing funds.

F. Environmental Protection Agency - The remainder of the agency will be relocated to an additional 11,000 square feet of space in Kansas City, Kansas, in June or July of this year.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
POLICY, PLANNING AND EVALUATION

MAR 19 1985

Mr. J. Dexter Peach  
Director  
Resources, Community, and Economic  
Development Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Peach:

On February 12, 1985, the General Accounting Office (GAO) sent the Environmental Protection Agency (EPA) a draft report for comment. The report is titled "Relocation of the EPA Regional Office from Kansas City, Missouri, to Kansas City, Kansas." As required by Public Law 96-226, EPA prepared this response on the draft report.

EPA agrees with GAO's observations and conclusions concerning the relocation efforts and subsequent action. Indeed, the Administrator directed that the EPA office requirements decision system be reviewed to assure that the expertise and experience of Headquarters' officials responsible for real estate activities be used prior to making space management decisions. The Assistant Administrator for Administration and Resources Management, in response to the Administrator's directive, issued a memorandum that restates EPA policy on space acquisition. The July 16, 1984, memorandum states that the Headquarters-based Director of Facilities and Support Services Division (FSSD) has the "authority to acquire space on behalf of the Agency." This authority has not been redelegated to other Agency officials. In addition, the memorandum emphasizes key steps related to the space acquisition process that certify to the General Services Administration that the FSSD Director is the only EPA official to request/approve space.

We appreciate the opportunity to comment on the draft report.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton Russell".

Milton Russell  
Assistant Administrator  
for Policy, Planning and Evaluation

(014305)





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