United States General Accounting Office

GAO

Report to the Honorable Kent Conrad, U.S. Senate

March 1992

FEDERAL OFFICE SPACE

Obstacles to Purchasing Commercial Properties From RTC, FDIC, and Others

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GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

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March 31, 1992

The Honorable Kent Conrad
United States Senate

Dear Senator Conrad:

This letter responds to your request for information on (1) the General Services Administration's (GSA) efforts to consider and purchase buildings and other real property from the Resolution Trust Corporation (RTC) and the Federal Deposit Insurance Corporation (FDIC) and (2) any obstacles that could prevent GSA from purchasing such properties. RTC and FDIC control multibillion dollar inventories of commercial real estate that were assets of failed federally insured financial institutions and act in a fiduciary capacity to maximize return on sales of the assets. GSA potentially could purchase some of these commercial properties to satisfy the federal government's space needs and also increase the ratio of federal space owned to federal space leased, which could save the federal government billions of dollars.

Results in Brief

GSA has not purchased any RTC or FDIC properties. It has taken and is taking some actions intended to facilitate its identification, consideration, and purchase of such properties, but progress has been slow. GSA has considered a few RTC properties on an ad hoc basis, tried unsuccessfully to get special sales concessions from RTC, obtained information on certain RTC properties in some locations where it has building ownership plans and begun to consider them, and explored with the Office of Management and Budget (OMB) how prospective purchases of RTC, FDIC, and other commercially available properties could be financed. However, GSA has not yet begun to identify and consider available FDIC properties.

RTC and FDIC, as well as other sellers, may have properties that could cost-effectively satisfy the federal government's office space and ownership needs, and it would be advantageous for GSA to consider all potential sources. However, GSA's ability to purchase properties held by RTC, FDIC, and others is impeded by funding and budgetary limitations, its lack of a comprehensive strategic approach for meeting federal space needs, and its lack of discretionary building purchase authority.

Background

As the federal government's principal real estate and business agent, GSA provides office space and other facilities for federal agencies in about 7,400 buildings nationwide. GSA meets federal agencies' space needs through a combination of owned and leased space. The proportion of federal space that is leased has risen steadily since the 1970s. Associated lease costs soared from $389 million in fiscal year 1975 to $1.5 billion in fiscal year 1991 and are expected to rise to $2 billion by fiscal year 1994. As we first reported in 1989, the government could save billions of dollars by owning certain space it would otherwise lease.[1] In response, GSA has set a goal of increasing building ownership and can do so in three ways: direct construction, purchases, and lease-purchase agreements.

Subject to obligation limitations carried in annual appropriations acts, GSA finances building operating and capital expenditures through the Federal Buildings Fund (FBF) from the rents federal agencies pay GSA for the space they occupy. However, Congress occasionally has appropriated money to supplement the funds available for capital investment. All FBF expenditures for building capital and operating projects of $1.6 million or more require both OMB and congressional approval. To obtain this approval, GSA is to develop and submit to OMB and the House Public Works and Transportation and Senate Environment and Public Works Committees detailed project descriptions and analyses with associated cost estimates that are called prospectuses.

RTC and FDIC are major holders of commercial real estate. To help satisfy GSA's building ownership goal, the House Committee on Appropriations directed that GSA consider the suitability of available RTC properties. As of December 31, 1991, RTC had 6,260 commercial properties with a total book value of over $7.8 billion, and FDIC had 2,633 commercial properties with a total book value of nearly $2.1 billion.

RTC and FDIC sell properties that were assets of failed federally insured financial institutions. RTC and FDIC do not own these properties but hold them as receivers. As receivers, under general principles of law, RTC and FDIC are required to act in a fiduciary capacity by managing and liquidating these properties in an orderly manner and maximizing return on sales. In addition, RTC has a specific statutory mandate, under the Financial

[1] Federal Office Space: Increased Ownership Would Result in Significant Savings (GAO/GGD-90-11, Dec. 22, 1989).

Institutions Reform, Recovery, and Enforcement Act of 1989 to maximize net return.

Objectives, Scope, and Methodology

Our objectives were to (1) determine GSA's efforts to consider and purchase RTC and FDIC properties that could potentially satisfy the federal government's office space needs and (2) identify any obstacles that might prevent GSA from purchasing such properties.

To meet these objectives, we interviewed appropriate officials at the headquarters of GSA, RTC, and FDIC; reviewed relevant laws, regulations, policies, and other documents pertaining to GSA, RTC, and FDIC real property activities; and used our earlier work in the RTC, FDIC, and GSA real property areas. Also, we interviewed OMB officials about the prospects of GSA purchasing commercial property from RTC and FDIC. Finally, we obtained a list of properties RTC provided to GSA in December 1991 for its consideration.

We did our work between June 1991 and January 1992 in accordance with generally accepted government auditing standards. GSA, RTC, and FDIC officials provided oral comments on a draft of this report.

GSA's Efforts to Identify, Consider, and Purchase RTC and FDIC Properties

As of January 31, 1992, GSA had not purchased any RTC or FDIC properties, and its progress in identifying and considering potential properties had been slow. GSA had considered a few RTC properties on an ad hoc basis, tried unsuccessfully to get special blanket sales concessions from RTC, obtained information on some RTC properties in certain locations where it had building ownership plans and began to consider them, and explored how prospective purchases of commercial properties held by RTC, FDIC, and others could be financed. GSA's 1992 tactical plan for its Public Buildings Service identified a formal agreement with RTC to facilitate purchases as one of five actions the agency would take to increase ownership. Although GSA had not identified or considered available FDIC properties, it said it planned to do so after it first concentrates on available RTC properties. GSA chose to concentrate on RTC first because (1) RTC controls more commercial properties than FDIC and (2) the House Committee on Appropriations directed GSA to coordinate with RTC.

GSA first began to consider RTC properties in 1990 when it obtained lists of available RTC properties. However, GSA officials said that their headquarters and regional staffs had difficulty analyzing the RTC data and identifying suitable properties. To help facilitate its identification, consideration, and purchase of available RTC properties, GSA proposed in June 1991 that it and RTC establish a formal working agreement.

As a part of its proposal, GSA provided RTC with general criteria on the types of property it was looking for, such as location and size, and asked RTC to identify available properties and provide information on them quarterly. Secondly, GSA proposed that RTC offer its properties to GSA at a discounted price and place a freeze on the further marketing of a property while GSA considered purchasing it. GSA said that such sales concessions could enable it to add quality owned space to its inventory and avoid more costly new building construction and continued leasing costs. At the same time, GSA said that RTC could benefit because of the absence of sales fees, limited or no marketing costs, and additional savings due to a shorter-than-anticipated holding period. While RTC considered its proposal, GSA explored the potential suitability of RTC properties in Arizona, Colorado, Florida, and Texas.

RTC responded to GSA in October 1991 by proposing that they try a few sales in lieu of adopting a formal agreement. RTC officials we interviewed expressed concern about RTC's ability to give GSA special concessions because of its fiduciary responsibilities. In its capacity as a receiver for properties of failed federally insured financial institutions, RTC is responsible not only for representing and protecting the interests of taxpayers who finance the payments RTC makes to insured depositors but also the creditors, shareholders, uninsured depositors, and others holding an interest in the receivership property, including itself.[2] Taxpayers will suffer losses to the extent RTC asset sales do not cover those payments as well as RTC's operating costs. Consequently, RTC is expected to hold and sell properties to maximize net return for the benefit of all interested parties, including taxpayers.

In its response to GSA, RTC said that experience from a few property sales would allow them to establish a mutually beneficial approach consistent with the goals of both GSA and RTC. GSA agreed and in November 1991 identified to RTC some geographic locations (and size requirements) where it had known space and building ownership needs (see app. I). In response, RTC provided GSA with a list of potentially suitable properties in December 1991 (see app. II). RTC recommended that GSA respond quickly because it

[2]RTC wants to protect itself because it can become liable for the claims of interested parties.

will be competing for these properties with other buyers on the open market.

As of January 31, 1992, GSA was considering the suitability of these RTC properties. GSA said that it will seek the necessary budget and funding authority to purchase any RTC properties it determines are suitable and cost effective and had explored with OMB how such properties could be financed. In this regard, OMB said it would support a reprogramming request to Congress if and when GSA makes a compelling economic case to purchase a commercial property from RTC or other available sources.

Notwithstanding the absence of special blanket concessions, RTC and FDIC properties still may be attractive purchase opportunities for GSA to consider. Because of current economic conditions and the currently depressed commercial real estate market, it would be prudent for GSA to consider all commercially available properties, as we have recommended before.[3]

Obstacles That Could Prevent GSA From Purchasing Commercial Properties

As just discussed, RTC and FDIC, as well as other sellers, may have properties that could cost-effectively satisfy the federal government's office space and ownership needs. However, at least three major obstacles impede GSA's ability to purchase any commercial properties. These obstacles, which we identified and discussed in our past reports and testimonies on public buildings issues,[4] are funding and budgetary limitations, GSA's lack of a comprehensive strategic approach for meeting federal space needs, and GSA's lack of discretionary building purchase authority.

Funding and Budgetary Limitations

FBF does not generate sufficient revenue to cover both increasing building lease costs and the needed capital investment in new as well as existing federal buildings. A major reason is that the government's dependence on leased space has increased, and associated lease costs have soared since FBF became operational in 1975. Revenue that could be used more cost effectively to finance capital investment is being siphoned off to pay

[3]Building Purchases: GSA's Program Is Successful but Better Policies and Procedures Are Needed (GAO/GGD-90-5, Oct. 31, 1989).

[4]See Related GAO Products for a list of our recent reports and testimonies on public buildings issues.

spiraling annual lease costs—$1.5 billion in fiscal year 1991 and estimated by GSA to rise to $2 billion in fiscal year 1994.

Since 1975, periodic OMB and congressional restrictions on the amount of rent GSA was allowed to charge tenant agencies have reduced FBF revenue by about $4 billion (in 1989 dollars). However, OMB and Congress have discontinued most of these rent restrictions, and Congress compensated for past rent restrictions by supplementing FBF's revenue. Congress allowed GSA to use $1.9 billion that FBF borrowed from the Federal Financing Bank in 1990 and appropriated $1.6 billion in 1991 to allow GSA to acquire and construct several new federal buildings that had already been approved.

Another major problem with FBF is that its receipts (revenues) are not related to the actual costs of providing space or the expected costs of long-term capital needs but are based on local prevailing commercial rental rates. Because of continuing concerns about the adequacy and viability of the existing FBF financing mechanism, (1) OMB has suggested that GSA explore modifications to FBF as well as other financing options that could be more responsive to capital investment needs and (2) legislation has been introduced in the Senate (S.2067) to abolish FBF. The Chairman of the Senate Environment and Public Works Subcommittee on Water Resources, Transportation, and Infrastructure plans to hold a hearing sometime this spring to consider the merits of S.2067.

Similarly, budgetary limitations likely will restrict GSA's ability to purchase commercial properties from RTC, FDIC, and others. The federal budget process is inherently biased against new public building ownership. OMB's budget scorekeeping rules,[5] which are designed to implement the agreement the executive branch and Congress reached in 1990 to control the budget deficit, require that the total budget authority for building construction, purchases, or capital leases that commit the government to long-term obligations be recognized and recorded up front in the budget in the year the project is proposed. In contrast, the rules for ordinary operating leases require only that the current year's lease costs be recognized and recorded. This makes the operating lease option appear to be less costly.

Although operating leases, technically, do not commit the government to payments beyond 1 year, the government typically enters into multiyear

[5]OMB Bulletin 91-02, October 18, 1990.

operating lease arrangements and makes annual payments over the entire lease period. The costs of these operating leases show up in the budget as much lower than the relative costs of ownership or capital leases because operating lease costs are spread over the total lease period, not recorded all in the first year. This places ownership and capital leasing projects at a distinct disadvantage during budget deliberations. Consequently, GSA and Congress have been forced to make greater use of operating leases that generally are more costly over the long run.

As discussed earlier, GSA could realize significant savings by increasing the proportion of federally owned space and reducing its dependence on costly leased space. However, the continued emphasis on budget deficit reduction, the existing federal budget structure, and the budget scorekeeping rules serve as disincentives to funding building purchases, construction, and lease-purchase projects. Accordingly, we continue to believe, as we have proposed before, that Congress should restructure the federal budget to include a capital component.[6]

GSA'S Lack of Strategic Focus and Planning

Another obstacle limiting GSA's ability to purchase commercial properties held by RTC, FDIC, and others is its lack of a comprehensive strategic approach to asset acquisition and management. GSA's lack of strategic planning and analyses hampers congressional oversight and decisionmaking and provides no assurance that scarce capital investment resources are spent to maximize their return. OMB is reluctant to support GSA's capital investment proposals, including building purchases, because they are not part of a comprehensive strategic plan that ranks the relative cost effectiveness of competing capital investment alternatives and allows decisionmakers to choose the options that offer the greatest return on investment from scarce FBF dollars.

In this regard, GSA is unable to tell OMB or Congress the relative returns on investment from an FBF dollar spent on purchasing a building in Houston; constructing a building in Washington, D.C.; or modernizing a federal building in New York, taking into account that the cost of building leases in these cities ranges from $7 to $61 per square foot. Consequently, there is no clear rationale for GSA's list of needed projects, and alternative proposals seem just as defensible. This makes GSA vulnerable to the

[6]Budget Issues: Restructuring the Federal Budget—The Capital Component (GAO/AFMD-89-52, Aug. 24, 1989).

imposition of short-term demands and encourages OMB and individual Members of Congress to substitute alternative priorities.

GSA agrees that it needs to improve its strategic focus and planning and is currently working with OMB to develop a 5-year capital investment plan. However, until GSA has a sound, comprehensive, and convincing strategic plan for meeting federal space needs and increasing the ratio of federal space owned to federal space leased, it likely will have difficulty obtaining OMB and congressional approval for any purchases of available RTC and FDIC properties.

Lack of Discretionary Building Purchase Authority

Finally, the lack of discretionary building purchase authority may make it difficult for GSA to compete for commercial properties held by RTC, FDIC, and others with buyers who have financing readily available. This lack of authority places GSA at a distinct disadvantage because it cannot act quickly to purchase some attractive, highly sought after properties.

Without discretionary building purchase authority, GSA will have to seek and obtain approval from both OMB and Congress, under the existing prospectus authorization process, to spend FBF funds to purchase properties costing more than $1.6 million. After identifying a property it wants to purchase, GSA will have to develop a prospectus and get OMB and congressional approval. According to GSA, this can be a time-consuming process that could cause the agency to miss attractive purchase opportunities. GSA said that this is why it sought special sales concessions from RTC to allow it time to obtain the necessary approval.

Between 1983 and 1988, Congress authorized GSA to spend about $350 million from the FBF, without requiring prospectus approval, to purchase commercially available buildings. Under this program, which was aimed at increasing federal ownership of space and reducing the dependence on costly leased office space, GSA purchased 13 buildings. Our October 1989 report on GSA's building purchase program concluded that although individual purchases needed to be better managed, the program as a whole could be an economical means of acquiring office space and increasing federal ownership.[7] GSA agreed with our findings, conclusions, and recommendations for improvement. However, its budgets for fiscal years 1989 through 1993 contained no authority to spend FBF receipts on discretionary building purchases. As noted earlier, however, OMB said that

[7]GAO/GGD-90-5.

it will support a reprogramming request to Congress if and when GSA makes a compelling economic case to purchase a commercial property from RTC, FDIC, or other sellers.

Agency Comments

We provided a draft of this report to key GSA, RTC, and FDIC officials in February 1992 and obtained their oral comments. These officials agreed that the report is factually accurate. Also, GSA officials generally agreed with the report's characterization of GSA's efforts to consider and purchase commercial properties held by RTC, FDIC, and others and the obstacles the agency faces in purchasing them.

We are sending copies of this report to the Administrator of GSA, Chief Executive Officer of RTC, Chairman of FDIC, Director of OMB, and other interested parties. Copies of this report will be made available to others upon request.

The major contributors to this report are listed in appendix III. If you have any questions or would like additional information, please contact me on (202) 275-8676.

Sincerely yours,

L. Nye Stevens

L. Nye Stevens
Director, Government Business
Operations Issues

Building Location and Size Criteria Provided by GSA To RTC In November 1991

City	Number of square feet
Menlo Park, CA	19,000
Lafayette, LA	90,000
New Orleans, LA	500,000
Shreveport, LA	90,000
Muskogee, OK	84,000
Oklahoma City, OK	150,000
Amarillo, TX	30,000
Arlington, TX	100,000
Corpus Christi, TX	116,000
Dallas, TX	650,000
El Paso, TX	100,000
Ft. Worth, TX	100,000
San Antonio, TX	95,000
Tyler, TX	51,000
Salt Lake City, UT	200,000

Source: RTC.

Properties Identified by RTC in December 1991 for Consideration by GSA

City	Address	Number of square ft.
Dallas, TX	7220-7 Westmoreland Road	39,904
	7220 and 7222 Westmoreland	40,000
	17120 Dallas Park	47,983
	2414 N. Akard Street	50,101
	13490 Floyd Road	50,200
	17480 Dallas Parkway	61,132
	17000 Preston Road	61,562
	10660 Plano Road	74,710
	1949 Stemmons	75,541
	14850 Montfort Drive	76,211
	18383 Preston Road	92,840
	8214 Westchester Drive	104,170
	1440 W. Mockingbird	104,359
	2501 Oak Lawn Avenue	132,500
	10925 Estate Lane	141,659
	2351 W. Northwest Highway	142,250
	15770 N. Dallas Park	151,369
	3100 McKinnon	232,026
	13760 Noel Road	266,995
	14841 Dallas Parkway	321,488
	3500 Maple Avenue	395,136
El Paso, TX	Stanton and Missouri	31,200
	500 N. Mesa Street	50,681
	215 N. Stanton Street	52,505
	2150 Traewood	72,600
	815 Throckmorton	38,190
	910 Houston	52,843
	1600 W. Seventh Street	136,812
San Antonio, TX	7410 and 7418 John Smith Drive	33,302
	7272 Wurzbach	34,842
	314 E. Commerce Street	38,000
	10401 IH-10 West	38,224
	7835 and 7839 IH-10 West	39,953
	7614 Louis Pasteur	42,269
	2929 Moss Rock	48,711
	2235 Thousand Oaks Drive	52,785
	3737 Perrin Central	53,450
	7461 Callagan Road	56,968
	575 Spencer Lane	57,300
	1933, 1 Loop 410	65,346

(continued)

City	Address	Number of square ft.
	11118, 20, 22, 24 Wurzbach	70,432
	3463 Magic Drive	88,756
	8930 Four Winds Drive	89,123
	7900 Callaghan	111,367
	14100 San Pedro Avenue	112,137
	85 NE Loop 410	138,763
	8961 Tesoro Drive	141,873
	8023 Vantage	184,101
	84 NE Loop 410	190,675
	410 S. Main Avenue	197,550
	601 N. NW Loop 410	210,000
	111 Soledad Street	270,090
	1777 NE Loop 410	290,440
Tyler, TX	1800 Shiloh Road	39,060
	3200 Troup Highway	45,632
	821 E. S. E. Loop 323	97,300

Note: The addresses and square feet in this list are as they appeared in the document RTC provided to GSA. We did not verify the accuracy of the information or the availability of these properties. However, we deleted obvious duplicate entries. In those cases where the duplicate entries had minor square feet differences, we used the entry with the lowest number.

Source: RTC.

Major Contributors to This Report

General Government Division, Washington, D.C.

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Related GAO Products

Real Property Management Issues Facing GSA and Congress (GAO/T-GGD-92-4, Oct. 30, 1991).

Long-term Neglect of Federal Building Needs (GAO/T-GGD-91-64, Aug. 1, 1991).

Federal Buildings: Actions Needed to Prevent Further Deterioration and Obsolescence (GAO/GGD-91-57, May 13, 1991).

Facilities Location Policy: GSA Should Propose a More Consistent and Businesslike Approach (GAO/GGD-90-109, Sep. 28, 1990).

The Disinvestment in Federal Office Space (GAO/T-GGD-90-24, Mar. 20, 1990).

Federal Office Space: Increased Ownership Would Result in Significant Savings (GAO/GGD-90-11, Dec. 22, 1989).

General Services Administration: Sustained Attention Required to Improve Performance (GAO/GGD-90-14, Nov. 6, 1989).

Building Purchases: GSA's Program Is Successful but Better Policies and Procedures Are Needed (GAO/GGD-90-5, Oct 31, 1989).

Public Buildings: Own or Lease? (GAO/T-GGD-89-42, Sep. 26, 1989).

Budget Issues: Restructuring the Federal Budget—The Capital Component (GAO/AFMD-89-52, Aug. 24, 1989).

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