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Report to Congressional Requesters

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LEASE ACQUISITION

GSA Can Move HUD's Kansas City Offices More Quickly

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GAO

United States
General Accounting Office
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General Government Division

B-237262

November 21, 1989

The Honorable Bob Dole
United States Senate

The Honorable Nancy Landon Kassebaum
United States Senate

The Honorable Jan Meyers
House of Representatives

The Honorable Alan Wheat
House of Representatives

This report responds to your requests that we examine the actions taken by the General Services Administration (GSA) regional office in Kansas City to procure leased space for the Department of Housing and Urban Development (HUD). In your letters of April 26, 1989, and May 1, 1989, and in subsequent discussions, you questioned why the procurement process was terminated on the scheduled contract award date of April 14, 1989, despite earlier advisories from GSA that no delay was expected and that the successful awardee would be announced no later than April 14.

In our recent report on the overall management of GSA,[1] we pointed out that GSA has experienced a serious decline in its ability to provide space to agencies in a timely manner and has paid insufficient attention to customer concerns. Over the past 10 years, the time it took GSA to provide space grew by 28 percent, primarily because of the high turnover in qualified realty specialists. As explained below, the HUD leasing action is an example of the problems GSA has had in acquiring leased space and in not being responsive to its customers.

Results in Brief

GSA generally followed applicable regulations to obtain replacement space for HUD. However, GSA cancelled the first solicitation because it found the market survey inadequate. The realty specialist making the market survey did not adequately document the results of his work and inconsistently applied location requirements. He did not complete the market survey report until 3 weeks before the scheduled award date, which was 1 month after he left GSA's employment. Since GSA managers

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

Why the First Solicitation Was Cancelled

Federal regulations make GSA responsible for competitively procuring federal office space. GSA policy also allows local GSA officials to upgrade federal offices by obtaining "quality" space.

HUD's regional office is currently located in a leased building located in downtown Kansas City, Missouri. The 10-year lease under which GSA obtained this space expires December 31, 1989. In March 1988, HUD gave GSA a requirement for 55,735 square feet of office space, with occupancy to start on January 1, 1990. HUD's space request included a special requirement for one floor with 12,000 square feet of contiguous space to house all administrative units and a regional computer center used by these units. According to GSA officials, the HUD lease is one of the region's largest lease procurement in recent years.

GSA approved HUD's space requirement and in March 1988 set lease award and occupancy milestone dates as February 1 and December 1, 1989, respectively, thus allowing GSA 10 months to procure the space and the awardee 10 months to prepare it. (Additional key dates of the procurement are listed in app. I.)

On August 7, 1988, a GSA realty specialist began surveying the local commercial real estate market to determine the availability of 56,000 square feet of office space. In September 1988, the realty specialist and a HUD regional official inspected properties identified by the market survey. The realty specialist, who according to GSA officials was the most experienced in the region, used his professional judgment and GSA criteria to assess whether offered properties were currently able to meet physical, fire safety, and quality location requirements, or would be capable of meeting them by December 1, 1989. On October 25, 1988, GSA issued detailed specifications for a 10-year lease and solicited initial proposals from those properties believed to meet the requirements. The solicitation specified an occupancy date of December 1, 1989.

Between November 25, 1988, and February 9, 1989, GSA held discussions with the offerors and inspected additional properties offered after the market survey. Best and final offers were requested on February 9, 1989, and were due on February 23, 1989. Shortly after requesting best and final offers, the realty specialist handling the HUD procurement left GSA's employment. Another realty specialist was assigned to analyze the final offers, complete procurement documentation, and prepare the procurement package for review by the GSA IG.

shown in app. II.) Since the second procurement has not been completed, we did not review whether GSA consistently applied, or applied at all, the quality location requirements in the second solicitation. However, we determined that GSA managers reviewed the market survey for the second solicitation within 10 days of its preparation.

Management Review of the Market Survey Could Have Prevented Cancellation

GSA personnel failed to meet both agencywide procedures and regional policies regarding thorough documentation and timely review of the initial market survey. Together, these deficiencies resulted in cancelling the first solicitation. Had the contracting officer or other responsible GSA managers asked for and reviewed the market survey in a timely manner, they could have resolved apparent inconsistencies in the survey report before soliciting offers and thus prevented cancellation of the solicitation.

The market survey is crucial to the leasing process because it is used to assess the availability of space to meet requirements and determine which properties should be solicited. GSA procedures require that (1) the process be fully documented and (2) the record clearly explain why a property was excluded from further consideration.

One of the requirements that offerors had to meet in the HUD solicitation was that the space be located in a quality location. Criteria defining a quality location are general and subjective.[2] GSA officials said that individuals often disagree about whether a property or neighborhood meets the criteria.

In an interview with us after he left GSA's employment, the realty specialist who made the market survey for HUD's replacement space said he had made distinctions between properties located in generally the same neighborhoods. For example, the realty specialist said he solicited one property because it is located (1) on the city's main street where two other federal agencies have offices and several properties have been rehabilitated, (2) next door to the local office of a United States Senator, and (3) across the street from a small historic park. He said he did not solicit a proposal from another property two blocks away because one side of that property ran behind a row of deteriorating or abandoned retail commercial properties.

[2]For example, according to the HUD solicitation, quality location was defined as follows: for buildings located in city center neighborhoods, the space must be located "in a prime commercial office district with attractive, prestigious, professional surroundings with a prevalence of modern design and/or tasteful rehabilitation in modern use."

Extending Occupancy Date by 1 Year Does Not Meet HUD's Stated Needs

GSA's decision to extend the occupancy date in the second solicitation does not meet HUD's requirement for replacement space by January 1990. GSA made this decision even though HUD headquarters and regional officials notified GSA after the solicitation was cancelled that relocation by January 1990 was of the utmost importance.

HUD officials said that GSA failed to meet its space requirement and that the March 1988 notification to GSA for space gave GSA ample time to fulfill it. HUD officials said they want to vacate their current space because (1) they have a longstanding dissatisfaction with the accommodations in the building, (2) the building has fire safety and environmental concerns, (3) they need greater efficiency in operating their administrative division, and (4) the lease on the building expires in December 1989.

HUD discussed its space requirements with GSA early in 1988. In March 1988, HUD gave its space specifications and an acceptable geographic area (basically the entire Kansas City, Missouri and Kansas City, Kansas metropolitan area) to GSA, saying it needed to relocate by January 1990. GSA accepted HUD's requirements, including its required relocation date, as evidenced by GSA's plans for the acquisition, as shown in appendix I. HUD reaffirmed its space needs and milestones numerous times in correspondence and discussions with GSA.

When GSA cancelled the initial solicitation in April 1989 and extended the occupancy date to January 1991, it did not consult HUD. In fact, the day before the planned contract award under the first solicitation to an offeror who proposed new construction, HUD headquarters officials wrote to the GSA regional administrator saying that they accepted the low offeror on the condition that "the offeror and GSA both guarantee that HUD will be able to move into the new building no later than January 1990." GSA assured HUD that similar construction had been done many times previously within the time period allowed for this project.

However, GSA officials said that they decided to keep HUD in its current space for an additional year because holding to the original occupancy date of January 1990 would have inherently restricted competition to existing buildings.[3] In establishing the January 1991 occupancy date, GSA said that adequate time was allowed for full and open competition--6 months to acquire the space through a competitive procurement and 14

[3]In the first solicitation, GSA received five responsive best and final offers: one existing building and four build-to-suit sites. In the second solicitation, which was still in process at the end of our review, GSA received several offers from both existing buildings and from build-to-suit sites.

HUD Occupancy Date Extended Despite Fire Safety Risks and Added Costs to the Government

GSA's decision to keep HUD in its current space until January 1991 was made despite the building's fire safety risks and an added, but unknown at the time, cost to the government since GSA has to renegotiate the lease.

Fire Safety Risks

HUD management and the local employee union officials said that fire safety concerns were critical factors in their desire to vacate the current building by January 1990. Their major concerns included inadequate fire escapes and a lack of sprinkler systems. We noted that a GSA 1978 pre-lease inspection of the property showed, among other things, that it needed a sprinkler system and emergency lights in the corridors. However, GSA did not identify these fire safety deficiencies in 1983 and 1986 follow-up inspections of the property.

Since HUD raised questions about the fire safety of the building, we asked GSA to inspect it in August 1989. GSA's inspection disclosed major fire safety concerns and reported that the building represented an unacceptable level of risk to government employees. GSA's report contained numerous violations, including the following major concerns:

- Inadequate separation of the exit stairwells.
- Sprinklers located only in a computer room on the 10th floor.
- No emergency power source for exit markers, emergency evacuation lights, and elevators.
- No emergency lights in the corridors.
- Penetrations in the stairwell walls and doors that could allow smoke to enter the stairwells.

GSA has begun to correct deficiencies with the exit stairwells by closing up penetrations in the walls and doors to confine smoke in the event of fire and installing battery back-up power for emergency lights in the stairwells. However, GSA does not plan to address three of the major deficiency areas because, according to GSA, correcting these problems would require extensive reconstruction.

A GSA official said that even though most of the major deficiencies were not going to be corrected, the corrections already made or planned will bring the building into an acceptable level of risk. GSA did not know the management been more actively involved in the process, 4 months could have been available to take necessary corrective actions and proceed with the contract award as originally planned.

Moreover, once the first solicitation was cancelled, GSA unilaterally established a new occupancy date that demonstrated little responsiveness to HUD's needs. In addition, GSA exposed the government to additional costs that could be up to $570,000. Further, while GSA has just recently started to correct some of the fire safety deficiencies and the level of correction possible in the near term will lower the fire safety risks, the deficiencies will not be eliminated.

Since GSA has averaged about one-fourth the time between contract award and occupancy for other recent leases as it has planned for HUD, we believe it is possible that GSA could find suitable replacement space before January 1991. We recognize that an earlier occupancy date could result in even higher buyout costs at the existing building if the lease extension as currently planned is approved, but we also believe that GSA should recognize the trade-off such costs will have with the intangible benefits that could result, such as lower fire safety risks, higher morale for HUD employees, and improved ability for HUD to accomplish its mission.

Recommendation

We recommend that the Administrator of the General Services Administration direct the GSA Regional Administrator to reconsider present plans and attempt to (1) find suitable space for HUD in Kansas City before January 1991, possibly by amending the present solicitation and moving forward the occupancy date; and (2) avoid paying rental costs for the present location for the period it will not be occupied, possibly by utilizing the holdover option and not extending the lease as planned.

Views of the GSA Regional Administrator

We discussed our findings and recommendation with the GSA Regional Administrator in Kansas City on November 6, 1989. He agreed with our findings and conclusions, especially the need to be more responsive to HUD's needs. He also agreed in principle with our recommendation but said that amending the solicitation is not viable because he intends to make the award on November 22, 1989. He said he plans to vigorously negotiate a June or July 1990 occupancy for HUD, and that preliminary discussions with the probable contract awardee indicate that an early

Chronology of Events Subsequent to Decision to Resolicit Space for HUD

Event	Date
Decision to resolicit	April 14, 1989
Bid protest filed	May 5, 1989
Newspaper advertisement	May 29, 1989
Market survey conducted and responses evaluated	May 27 - July 27, 1989
Market survey report prepared	July 10, 1989
Solicitation for offers issued	July 28, 1989
Initial offers due	August 19, 1989
Bid protest decision	August 30, 1989
Best and final offers due	October 25, 1989
Award Anticipated	November 22, 1989
HUD occupancy date	January 1, 1991

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Chronology of Events Leading to Decision to Resolicit for HUD Space

Event	Date
HUD's initial request for space	March 29, 1988
Request finalized	July 27, 1988
Newspaper advertisement	August 7, 1988
GSA approves procurement	August 31, 1988
Market survey conducted and responses evaluated	August 7 - October 24, 1988
Solicitation for offers issued	October 25, 1988
Initial offers due	November 25, 1988
Best and final offers due	February 23, 1989
GSA IG starts pre-award lease review	March 29, 1989
Market survey report prepared	March 21 - 31, 1989
GSA briefs HUD on probable awardee	April 4, 1989
GSA IG informs contracting officer of intended no-award recommendation	April 6, 1989
GSA IG receives complete lease file	April 12, 1989
Award anticipated	April 14, 1989
GSA IG briefs Assistant Regional Administrator	April 14, 1989
GSA decision to cancel award	April 14, 1989

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Abbreviations

GSA	General Services Administration
HUD	Department of Housing and Urban Development
IG	Inspector General

occupancy date is likely. He also said he would consider using the hold-over option, as opposed to extending the present lease, to minimize rental costs at HUD's current location.

As arranged with your offices, we are sending copies of this report to the Administrator of GSA, the Secretary of HUD, and other interested parties.

Major contributors to this report are listed in appendix III. If you have any questions, please call me on 275-8676.

L. Nye Stevens
Director
Government Business Operations Issues

cost of the corrective actions but said the building owner, not the government, is paying for all of the repair costs.

Added Cost to the Government

GSA's decision to extend HUD's occupancy in its current space resulted in the need to negotiate an extension of the lease for the building. GSA estimated that the lease renegotiation and extension could cost the government up to $570,000 for space rental beyond the time the government will occupy the space.

GSA's current lease for HUD, which expires in December 1989, has a 5-year firm renewal option. Because of the decision to extend the occupancy to January 1991, GSA was forced to either (1) renew the lease for the full 5-year term; (2) negotiate a shorter term occupancy; (3) utilize holdover, whereby the government continues occupancy and lets Missouri state laws determine the rental rate; or (4) seek a leasehold interest in the property based on eminent domain proceedings in the federal courts.[4]

GSA has obtained the owner's agreement to extend HUD's lease 5 years, but the agreement allows the government to terminate occupancy after 2 years with no additional cost to the government for the last 3 years of the lease term. While GSA has not finalized the agreement,[5] the buyout incentives of the agreement provide for the payment of up to $570,000 during the second year of that lease.

Conclusions

GSA actions and management decisions related to obtaining replacement space for HUD were questionable and illustrate a classic case of the problems GSA has in being responsive to its client's space needs. Better management oversight of the leasing actions could have precluded the need for HUD to remain in its current space for an additional year.

In the first solicitation, GSA management said it was not aware of inconsistencies in applying quality space requirements until the issue was raised by the IG only days before the planned contract award. Had GSA

[4] Another option for GSA would have been to vacate the current space in January 1990 and house HUD in another building on a temporary basis from January 1990 to January 1991. GSA said it rejected this option because (1) the availability of space was uncertain, (2) HUD was concerned that a temporary move would be disruptive, and (3) the costs of a temporary move would be prohibitive.

[5] Although the renegotiated lease was signed by the owner and GSA on October 3, 1989, it is subject to approval by GSA's Office of Acquisition Management and Contract Clearance. This office had not approved the agreement as of November 6, 1989.

months for the successful offeror to either build or modify existing space. GSA said it allowed 14 months because a build-to-suit awardee would require at least 10 months to construct a building and an additional 4 months might be necessary because the November 1989 start date, owing to the weather that occurs that time of year, is not an ideal time to begin construction. GSA regional officials had no documentation or analysis to support these estimated time frames.

Our review of recently completed leasing actions for large GSA space procurements in the region leads us to question the decision to extend the HUD occupancy date to January 1991. In seven large space procurements made from September 1987 to May 1989, GSA allowed an average of 357 days from the space request to the planned occupancy date. The second HUD leasing action allows for 623 days for similar events, as shown in the following table. Although the seven procurements are not exactly comparable to the HUD procurement, they do serve as an indication that space procurement generally does not take as long as what GSA planned for HUD.

Table 1: Comparison of Time Allowed From Request for Space to Occupancy, Seven Leases Awarded in Region and HUD Lease

	Number of calendar days		
Milestone	**Average of seven large leases in region**[a]	**1st HUD solicitation**[b]	**2nd HUD solicitation**[b]
Request for space to contract award date	251	296	211
Contract award date to occupancy	106	262	412
Total time (request to occupancy)	**357**	**558**	**623**

[a]Leases varied from 24,000 to 40,000 square feet. One of these seven leases involved build-to-suit proposals, while the other six did not.

[b]Lease for 56,000 square feet.

The contracting officer responsible for the procurement disagreed that such distinctions were appropriate. She said that when two properties are located in the same neighborhood, they must logically share the same quality of location.

This difference of opinion illustrates that supervisory review of market survey results is critical before GSA issues its solicitations. Further, good management practice mandates strict adherence to procedures for timely and thorough documentation of market survey results to allow for review and oversight.

The realty specialist prepared a market report in March 1989, approximately 7 months after the survey and 1 month after leaving GSA's employment. In addition, the realty specialist did not record details about the properties he inspected, nor did he explain why the location of certain properties did not, in his opinion, meet GSA quality criteria.

GSA procedures generally require the realty specialist to take photographs and record on GSA Form 2991 details about the properties inspected, the areas surrounding them, and discussions with the offering agents. The realty specialist did not take photographs and prepared a narrative report instead of using the forms. Procedures do permit using narrative reports to assess "build-to-suit" sites. The realty specialist's narrative report did not include all of the information required by the form. The realty specialist said that he did not prepare the report within 10 days or use the form 2991 because of an extremely heavy workload, which included extensive travel. Further, he said that since many of the offers were for build-to-suit space, there were few buildings to inspect.

The contracting officer responsible for the HUD procurement said she did not review the market survey report until GSA's IG questioned whether the realty specialist had consistently applied quality criteria because (1) an excessive workload did not allow her time to get actively involved in the HUD procurement and (2) the market survey report was not prepared until March 1989. The contracting officer said that after reading the IG's report, the regional administrator decided that accepting and rejecting properties within the same neighborhoods was inconsistent and concluded that the solicitation be cancelled and reissued. However, she also said that, had the report been prepared and reviewed immediately following the survey, the region could have overruled the realty specialist's assessments and issued solicitations for proposals for properties in question, thus eliminating the deficiency that caused cancellation of the solicitation.

GSA policy requires the contracting officer to notify the IG of impending lease awards over $200,000 per year. If the IG chooses to review the lease, the contracting officer must provide a procurement review package to the IG auditors at least 15 days before awarding the lease. However, the realty specialist delivered the complete procurement review package to the IG on April 12, 1989, 2 days before the scheduled award date. Nevertheless, the auditors asked for and began reviewing part of the HUD procurement package on March 29, 1989, before receiving the completed procurement package.

On April 6, 1989, the IG auditors told the contracting officer they intended to recommend that award not be made to the low offeror because (1) GSA's Credit and Finance Branch questioned the low offeror's financial condition and (2) the IG auditors questioned whether his property met GSA's criteria for a quality location, since an adjacent property had been rejected by GSA in another lease procurement 1 year earlier and the low offeror's property was located in an area that had declined in recent years. On April 12, 1989, a regional IG official also informed the head of GSA's real estate division in Kansas City of her concern that the market survey report did not fully explain why GSA did not solicit offers from some properties, and why GSA requested proposals from properties in what appeared to be the same or worse neighborhoods as properties he had not solicited.

On April 14, 1989, GSA's regional administrator cancelled the solicitation without awarding a contract, citing the apparent inconsistency in evaluating properties in the same neighborhoods during the market survey, and decided to resolicit HUD's requirement.

On May 5, 1989, one of the offerors filed a bid protest with us. The protester contended that cancelling the first solicitation was not clearly in the government's interest. On August 30, 1989, we denied the protest. (See Lucas Place, Ltd., B-235423, 89-2 CPD 193.) In our decision, we concluded that GSA had a reasonable basis to cancel the solicitation because it had excluded four interested potential offerors during the market survey capable of meeting the solicitation's requirements and resoliciting the procurement could increase competition.

GSA began a second market survey in May 1989. This time GSA did not exclude any property for failing to meet quality location criteria—including properties excluded under the first solicitation for not having a quality location. GSA officials now plan to award the lease contract on November 22, 1989. (Dates for key events in the second solicitation are did not ask for the report sooner, they were not aware of the survey's inadequacies. If effective and timely supervisory review of the market survey had occurred, the first solicitation might not have had to be cancelled and significant delays could have been avoided. Instead of rectifying problems that it had with the first solicitation, GSA compounded the problems by (1) extending the occupancy date of the replacement space 1 year past HUD's requirements and (2) keeping HUD in its present space for an additional year despite fire safety risks in the building and an added cost to the government that could reach $570,000.

In our opinion, based on other recent lease acquisitions, GSA has the ability to move more quickly to meet HUD's needs. Accordingly, we are recommending that GSA reconsider its present plans and attempt to find suitable space for HUD before January 1991 and avoid paying rental costs for the period the space will not be occupied. The GSA Regional Administrator agreed with our recommendation and said he would attempt to move HUD by July 1990.

Objective, Scope, and Methodology

Our objective was to review GSA's actions in securing leased space for HUD in the Kansas City area to determine whether GSA complied with regulations and other requirements. To meet our objective, we reviewed GSA's lease files and interviewed GSA officials responsible for conducting and cancelling the procurement action. We also interviewed HUD officials responsible for defining space requirements. We reviewed pertinent GSA inspector general (IG) audit reports and workpapers and discussed audit results with IG managers.

We reviewed procurement regulations and GSA procedural manuals, policy statements, and directives that prescribe how leasing actions should be done. We compared GSA's actions with these requirements. We also requested and observed a fire safety inspection performed by GSA fire safety experts at the current HUD office space in August 1989 because of allegations by HUD employees that the building was unsafe.

We did our work primarily at GSA and HUD regional offices in Kansas City from July through October 1989. We did our review in accordance with generally accepted government auditing standards. We discussed our conclusions and recommendation with the GSA Regional Administrator in Kansas City and incorporated his views in this report.