



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

159801

General Government Division

B-279077

January 30, 1998

The Honorable Judd Gregg  
Chairman  
The Honorable Ernest F. Hollings  
Ranking Minority Member  
Subcommittee on Commerce, Justice, and  
State, the Judiciary and Related Agencies  
Committee on Appropriations  
United States Senate

The Honorable Harold Rogers  
Chairman  
The Honorable Allan B. Mollohan  
Ranking Minority Member  
Subcommittee on Commerce, Justice, State,  
the Judiciary and Related Agencies  
Committee on Appropriations  
House of Representatives

Subject: GSA: Causes of Delay in the Federal Communications Commission  
Move to the Portals II Building

In Conference Report 105-405 on the Commerce, Justice, and State, the Judiciary and Related Agencies appropriation bill for fiscal year 1998, conferees expressed concerns about the proposed move of the Federal Communications Commission (FCC) to the Portals building (Portals II), including significant delays in the construction schedule for the Portals II building. At the time of the fiscal year 1997 budget submission, FCC expected to move into the Portals II building in December 1997. Subsequently, however, the move was delayed until March 1998, and FCC now says it cannot begin to move into the Portals II earlier than July 1998. However, GSA believes that FCC can begin moving in June 1998. The conference report requested that we review the Portals II lease and the proposed move relative to the delay in occupancy and other concerns. As agreed with the House and Senate Committees on Appropriations, this letter provides information on the delayed occupancy of Portals II and the commencement of rental payments by the General Services Administration (GSA) before FCC moves into the building.

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Specifically, we addressed the following questions: (1) Why was phase I of the Portals II building not ready for delivery to GSA on July 1, 1997, the date specified in the lease? (2) What caused the delay in FCC's move into the building? (3) How much is GSA committed to pay in rent for the space in Portals II between July 1, 1997, and June 30, 1998?

## BACKGROUND

In 1987, FCC and GSA agreed to obtain space to consolidate FCC's operations. In September of that year, the House of Representatives approved the consolidation of FCC in about 260,000 occupiable square feet.<sup>1</sup> In March 1989, GSA issued a Solicitation For Offers (SFO) to consolidate FCC's office space in one building. On December 20, 1991, GSA orally notified Portals II ownership that it was the successful offeror.

GSA canceled the SFO in February 1992 citing increased space needs identified by FCC. The Portals II ownership filed a complaint in April 1992 with the U.S. Court of Federal Claims protesting the cancellation of the SFO and requesting injunctive relief. In February 1994, the court enjoined GSA from canceling the SFO and from resoliciting the space for FCC and ordered GSA to proceed with the award. In April 1994, GSA appealed this decision to the U.S. Court of Appeals for the Federal Circuit. On August 1, 1994, the appeals court affirmed the lower court's injunction and directed GSA to proceed with the solicitation process. Eleven days later, GSA signed a 20-year lease for about 287,000 net usable square feet (NUSF)<sup>2</sup> in the Portals II building to be constructed by the Portals II ownership. However, by then FCC's requested space needs had grown to more than 500,000 occupiable square feet. In September of 1994, the House Committee on Public Works and Transportation authorized an increase in space for FCC to about 450,000

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<sup>1</sup>Occupiable square feet is that portion of gross area that is available for use by an occupant's personnel or furnishings as well as space that is available jointly to the various occupants of the building, such as auditoriums, health units, and snack bars. Occupiable space is computed by measuring from the occupant's side of ceiling-high corridor partitions or partitions enclosing mechanical, toilet, and/or custodial space to the inside finish of the permanent exterior building walls or to the face of the convector (heating ducts) if the convector occupies at least 50 percent of the length of the exterior wall.

<sup>2</sup>NUSF is the area to be leased for occupancy by personnel and/or equipment. The total space is computed by measuring between the inside finish of the permanent exterior walls of the building or from the face of the convectors (heating ducts) if the convector occupies at least 50 percent of the length of exterior walls. NUSF is computed by deducting the gross area from the total space. The gross area includes such items as toilets and lounges; stairwells, elevators, and escalator shafts; building equipment; services areas, entrance, and elevator lobbies, stacks and shafts; corridors in place or required to be in place by local codes and ordinances; and enclosing walls for these items.

occupiable square feet. Thirteen months later, in October 1995, the Senate Committee on the Environment and Public Works also approved the same increase in space for FCC that the House had approved earlier.

In January 1996, GSA signed a supplemental lease agreement with Portals II ownership for a total of about 450,000 NUSF, which contained three options to lease about an additional 85,000 NUSF.<sup>3</sup> GSA exercised the three options in July and October of 1996. Subsequently, on January 5, 1998, through supplemental lease agreement, GSA obtained the right to use the garage and have security control over the entire garage. The remaining 12,000 NUSF in Portals II is to be used by the lessor for retail purposes, including food service.

According to a supplemental lease agreement, the new building was to be turned over to GSA in six phases, each consisting of about 89,200 square feet of space, over a 7-month period, between July 1, 1997, and February 1, 1998. However, the projected delivery dates to GSA for each phase have slipped about 6 to 7 months, now being between January 3, 1998, and August 18, 1998, as shown in the supplemental lease agreement. According to the GSA project manager, GSA received notice from the lessor on January 16, 1998, that phase I would be substantially complete as of January 26, 1998. GSA said it will conduct an inspection to see if phase-I requirements have been met. As GSA accepts delivery of each phase, it plans to turn over the space to FCC for that agency's installation of furniture and equipment necessary for its use and occupancy of the space. It is not clear at this time when the actual FCC relocation will begin, given the different positions of FCC and GSA on this issue.

Enclosure I contains more detailed information on the government's acquisition of the leased space at the Portals II building--contextual information that should be helpful to the Committees in their consideration of concerns that have been raised about the Portals II lease.

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<sup>3</sup>Between January and June 1996, GSA received four separate Standard Form 81s--Requests For Space--from FCC. The GSA Contracting Officer based his decision to exercise the options as separate actions on the fact that the Standard Form 81s were separate. According to GSA, the individual options were each below the level for which congressional approval was required. According to GSA, its congressional oversight committees had GSA issue a stop work order in December 1996 on the optional space because of their concern over GSA's exercising the option without first seeking amended prospectus authority. GSA said that after consultation with its oversight committees, it received a letter from the oversight committees stating that they did not object to GSA proceeding. GSA lifted the stop-work order in March 1997.

## RESULTS IN BRIEF

Phase I of the Portals II building was not ready for delivery to GSA on July 1, 1997, as originally scheduled, for several reasons. GSA was late in contracting for preparation of the design intent drawings (DID); problems were encountered in getting acceptable DIDs in a timely manner, which delayed the preparation of construction drawings; and the lessor requested extensions on the due dates for the construction drawing submissions. These delays resulted in the actual phased construction of the building being delayed by about 6 to 7 months. Consequently, the lease's initial substantial completion and delivery date (SCDD) of July 1, 1997, for phase I of the building was changed to January 3, 1998.<sup>4</sup> The lessor has notified GSA that phase I will be substantially complete on January 26, 1998. This change meant FCC would not be able to begin moving into the building as originally scheduled.

In addition to the approximate 6- to 7-month delay in turnover of phase 1 to GSA, FCC officials told us that their move into Portals II will be delayed further. They said that due to the lack of funding, they are not able to procure specific items and services needed to prepare the new space prior to moving into the building. To enable it to move into Portals II, FCC requested funds for this purpose in its fiscal years 1996, 1997, and 1998 budget requests. However, Congress did not approve the requested funds in any of these years because of Appropriations Committees' funding allocations, the Committees' concern about the cost of the relocation, and their concerns with the increased space requirement. In July 1997, GSA agreed to fund FCC's relocation costs with the understanding that although FCC had been unable to obtain congressional authority to fund these costs, FCC would continue, as an agency priority, to request annual appropriations necessary to reimburse GSA.<sup>5</sup>

GSA gave FCC about \$6 million in fiscal year 1997 but as of January 28, 1998, had not yet provided the \$24.1 million promised for fiscal year 1998. According to FCC officials, this continued lack of funds is likely to result in further delay of FCC's move beyond its current estimated date of July 10, 1998. Some of the items and

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<sup>4</sup>The SCDD is the date on which the lessor is to turn designated sections of the building over to GSA so that FCC can have the interior space adapted to meet FCC's needs.

<sup>5</sup>In December 1997, GSA and FCC agreed that FCC would not be obligated to reimburse GSA for any of the relocation costs if FCC could not obtain funding for these costs through the appropriation process. However, FCC agreed to continuously and vigorously pursue the appropriations necessary to reimburse GSA for the costs. FCC and GSA agreed that to the extent permitted by law reimbursement from FCC to GSA for relocation costs would be treated as either an Economy Act transaction under 31 U.S.C. 1535-1536, or as a reimbursement for special services provided under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 490(f)(6).

services for which FCC requested funding include duplicate rental costs during the phased move; temporary guard services during the adaptation of the new space for FCC; and purchase, installation, and configuration of moveable walls, modular furniture, and telecommunications and network equipment.

Rental payments that the lease requires GSA to make for the Portals II space from July 1, 1997, through June 30, 1998, should total about \$14 million. As required by the terms of the lease, GSA began making rental payments to the lessor in July 1997, when phase I of the building was originally scheduled to be delivered. However, FCC's liability for rent at Portals II does not commence until it occupies the building. According to GSA officials, these terms were negotiated based on a reasonable belief that the space would be ready for occupancy on the rental start date of July 1, 1997. They further said that lease terms that include a fixed date for starting rent payments, such as the Portals II lease, or that otherwise result in the payment of rent before actual occupancy by the tenant, are negotiated on a case-by-case basis. Generally, these rental payments are meant to cover the period when building space, although still unoccupied by the tenant, is ready for approved modifications and installation of furniture and equipment needed to support the tenant's operations. Currently, although GSA believes FCC should be able to begin its move into Portals II in June 1998, FCC believes that it will not be able to begin moving sooner than July 10, 1998. Further, the move may be delayed beyond July 10, 1998, because on January 26, 1998, FCC notified GSA that it would not accept assignment to Portals II unless GSA resolved security issues concerning public access at two building entrances, control of the loading dock area, and control of parking. GSA, in commenting on a draft of this letter, said that the security issue will be resolved without compromising the safety or security of employees and visitors to this facility. Further, GSA said it is confident that the security concerns will not interfere with or further delay FCC's move to Portals II.

#### VARIOUS PROBLEMS CAUSED DELAYED DELIVERY OF PORTALS II TO GSA

Portals II construction was delayed about 6 to 7 months because (1) the contract for DIDs was not issued until about 2.5 months after the first set of DIDs were due, (2) problems were encountered in getting acceptable DIDs in a timely manner, and (3) construction drawings were delayed. These delays resulted in the phase I initial SCDD slipping from July 1, 1997, to January 3, 1998. The SCDDs of the remaining five phases also have slipped about 6 to 7 months.

Supplemental Lease Agreement 1, dated January 3, 1996, required that the DIDs be submitted to the lessor by a specific date for each of the six phases of the project. The initial delay occurred when the contract to prepare the phased DIDs was not awarded until April 1996—about 2.5 months after the phase I DIDs were due. The GSA Contracting Officer told us that this delay was caused by (1) a lack of funds from FCC to award the contract and (2) the time involved in negotiating a contract

with the lessor, who then had to negotiate a contract with the design firm preferred by FCC.

The DIDs themselves were delayed for various reasons. The design firm's drawings for phase I of the project were rejected three times by the lessor because, according to GSA, there were several problems with the computer-aided design disks that resulted in incomplete and inconsistent transmittal of essential information, which made using the disks functionally impossible. After successful submission of phase-I DIDs to the lessor, GSA pulled back the DIDs for phases II and III to update them based on changes made to the phase-I DIDs.

Further, the lessor requested and was granted time extensions to prepare construction drawings. The lease called for the DIDs to be delivered on specified dates. According to the GSA Contracting Officer, the extensions were granted because the DIDs for phases II through V were delivered in shorter sequential intervals than the lease required. For example, the DIDs for phases IV and V were delivered on the same day. The lease required the lessor to deliver the construction drawings to GSA for review 43 days after receiving each of the DIDs. The lessor wanted 43 days to prepare phase IV construction drawings followed by 43 days to prepare phase-V construction drawings. This was necessary to ensure an orderly process and distribution of resources through preparation of construction drawings and construction. The GSA Contracting Officer said he agreed with this approach and granted the time extensions for the construction drawings.

Finally, GSA issued a stop work order in December 1996 because its congressional oversight committees expressed concern over GSA's exercising of the options for additional space without first seeking amended prospectus approval. GSA said that after consultation with its oversight committees, and after receiving a letter from them stating that they did not object to GSA's proceeding, GSA lifted the stop work order in March 1997.

All these delays caused the SCDD for each of the six phases of the project to be delayed as well. Table 1 shows the original and revised delivery schedule dates for both DIDs and SCDDs for each phase of the project. The GSA Contracting Officer stated that DIDs and SCDDs were renegotiated as a result of government delays.

Table 1: DID and SCDD Original and Revised Delivery Schedule Dates

Project phase	DID dates			SCDD dates	
	Original delivery	Revised delivery	Days delayed	Original delivery	Revised delivery
I	02/08/96	08/12/96	186	07/01/97	01/03/98
II	04/10/96	10/23/96	196	08/15/97	02/27/98
III	05/15/96	11/06/96	175	10/10/97	04/11/98
IV	06/24/96	12/10/96	169	11/19/97	05/24/98
V	08/07/96	12/10/96	125	01/02/98	07/6/98
VI	09/20/96	02/07/97	140	02/01/98	08/18/98

Source: GSA.

LACK OF FUNDS FOR FCC'S RELOCATION HAS ALSO DELAYED ITS MOVE TO PORTALS II

In addition to the approximate 6- to 7-month delay in the turnover of phase I of Portals II to GSA, FCC's move into the building has been further delayed due to the lack of available funds to pay for its relocation costs. Congress did not approve FCC's fiscal year 1996, 1997, and 1998 requests for relocation funds for required items and services FCC said it needed to prepare the building for FCC's occupancy. The requested funds were not appropriated because of Appropriations Committees funding allocations, the Committees' concern about the cost of relocation, and their concerns with the increased space requirement. FCC requested about \$40 million to acquire and install its furniture and some equipment in the building as well as to cover other costs it considers essential, including building system upgrades needed to accommodate FCC operations. These items and services include, among others, the following:

- duplicate rental costs during the phased move;
- adaptation of the new space to meet FCC's needs;
- cabling, moveable walls, and modular furniture;
- telecommunications equipment installation and configuration; and
- network equipment installation and configuration.

When Congress did not fund FCC's relocation expenses, GSA agreed, in July 1997, to fund FCC's relocation costs, with the understanding that although FCC had been unable to obtain congressional authority to fund these costs, FCC would continue, as an agency priority, to request annual appropriations necessary to reimburse GSA. In December 1997, FCC and GSA agreed that FCC is under no obligation to reimburse GSA for any relocation and related costs if FCC is unable to obtain such funding through the appropriation process. GSA gave FCC about \$6 million in fiscal year 1997, but as of January 28, 1998, had not yet provided the \$24.1 million promised for fiscal year 1998.

GSA's Contracting Officer said that the initial move date for phase I, with a July 1, 1997, SCDD, would normally have been around September 1997. However, due to the lack of available funding for FCC's relocation, the move schedule has been altered several times. The lessor has reported phase I to be substantially complete as of January 26, 1998, subject to GSA approval, and GSA officials believe that FCC should be able to begin moving into the building in June 1998. As of January 27, 1998, however, FCC's move-in date to phase-I space was unclear because GSA had not yet transferred to FCC the approximately \$24.1 million that FCC said it needs in fiscal year 1998 for its relocation. FCC officials do not believe FCC can begin moving into Portals II any earlier than July 1998 due to the lead time they believe is necessary to arrange for purchase, delivery, and installation of the moveable wall sections, modular furniture, and other items. These officials said they (1) cannot commit to a specific move-in date until they have the funds GSA agreed to provide and (2) will need at least 6 months after they receive the funds before they can begin to move. Further, FCC officials expressed concern that if they do not receive an increased appropriation to cover the higher rent at Portals II than it is paying now, FCC's ability to carry out its mission would be significantly impaired because most of its funds are used for employee salaries.

Also, the move may be delayed beyond July 1998 because on January 26, 1998, FCC notified GSA that it would not accept assignment to Portals II unless GSA resolved security issues concerning public access at two building entrances, control of the loading dock area, and control of parking. GSA, in commenting on this letter, stated that the security issue will be resolved without compromising the safety or security of employees and visitors to this facility. Further, GSA said it is confident that the security concerns will not interfere with or further delay FCC's move to Portals II.

#### GSA BEGAN PAYING RENT FOR THE PORTALS II SPACE IN JULY 1997

GSA began making rental payments for the Portals II space on July 1, 1997, and by June 30, 1998, these obligated payments will total approximately \$14 million. GSA was obligated to begin making monthly rental payments in accordance with the terms of the lease, by phase, for the leased space in Portals II beginning on July 1,



1997. This was the date on which phase I of the building was initially to be substantially completed and delivered. According to GSA officials, these terms were negotiated based on a reasonable belief that the space would be ready for occupancy on the rent start date of July 1, 1997. These officials said that lease terms that include a fixed date for starting rent payments, such as the Portals II lease, or that otherwise result in the payment of rent before actual occupancy by the tenant, are negotiated on a case-by-case basis. Table 2 shows the amount of rent GSA said it has paid and is obligated to pay to the lessor for the period from July 1, 1997, through June 30, 1998. FCC currently plans to begin moving into the building in July 1998, assuming it has obtained the necessary relocation funding from GSA in January 1998 and its security concerns are resolved.

Table 2: Portals II Building Rental Payment Schedule,  
July 1997 Through June 1998

<b>Month/year payment due</b>	<b>Actual/anticipated amount of rental payment</b>
July 1997	\$282,030
August 1997	436,691
September 1997	564,058
October 1997	784,221
November 1997	958,896
December 1997	1,128,112
January 1998	1,401,042
February 1998	1,692,170
March 1998	1,692,170
April 1998	1,692,170
May 1998	1,692,170
June 1998	1,692,170
<b>Total payments</b>	<b>\$14,015,900</b>

Source: GSA.

## SCOPE AND METHODOLOGY

To address the three questions concerning the delay of the Portals II building, we reviewed the lease and its amendments and various other documents related to the construction and funding of the Portals II building and FCC's relocation. We also interviewed GSA and FCC officials regarding the causes for the delays in FCC's move into the building. We observed the status of the building's completion and obtained data from GSA on the Portals II lease costs. We gathered some of the information used to respond to your request in connection with other work we had been requested to do on the Portals II lease in 1997. The additional information needed to address your request was obtained in December 1997 and January 1998. We did not independently evaluate technical or legal issues associated with building construction, lease payments, or the amount of the funds or funding mechanisms that GSA and FCC believe are necessary for rent and relocation. We did our work in accordance with generally accepted government auditing standards. We requested comments on a draft of this letter from the Administrator of GSA and the Chairman of FCC.

## AGENCY COMMENTS AND OUR EVALUATION

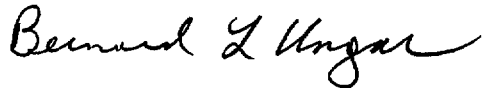
On January 23, 1998, we provided the Chairman, FCC, and the Administrator of GSA with a draft of this letter for comment. On January 27, 1998, we received written comments (see enclosure II) from FCC's Chief, Operations Management and Services Division, in which FCC (1) stated that our efforts in preparing the report adequately reflected the issues and events that have occurred and (2) provided us with new information that has been included in the letter, as appropriate. On January 28, 1998, we received written comments (see enclosure III) from GSA's Commissioner, Public Buildings Service, in which GSA (1) generally agreed that the letter adequately reflected the issues and events that have occurred, (2) provided us with new information or clarifications that have been included in the letter, as appropriate, and (3) said it would provide FCC with the requisite funds by January 30, 1998. GSA also noted that information in the letter that was provided by FCC does not necessarily represent its views and that it is working with FCC to resolve its concerns about Portals II, including FCC's concerns over security.

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We are sending copies of this letter to the Chairmen and Ranking Minority Members of the Senate Committee on Environment and Public Works; Senate Committee on Commerce, Science, and Transportation; Senate Subcommittee on Communications; House Committee on Commerce; and House Committee on Transportation and Infrastructure; the Chairman of FCC; the Administrator of GSA; and other interested Committees and Subcommittees. Copies will be made available to others upon request.

B-279077

Major contributors to this letter were Ronald King, Assistant Director; Thomas Keightley, Senior Evaluator; Susan Michal-Smith, Senior Attorney; and Hazel Bailey, Communications Analyst. Please contact me on (202) 512-8387 if you have any questions concerning this letter.



Bernard L. Ungar  
Director, Government Business  
Operations Issues

### BACKGROUND

In 1987, FCC and GSA agreed to consolidate FCC's offices at a single location. GSA and FCC agreed to consolidate FCC operations into one office building and one storage facility from four buildings—three offices in the District of Columbia and one storage facility in Maryland. The purpose of consolidation was to reduce FCC's leased space, improve its efficiency, and reduce its administrative costs.

On July 9, 1987, GSA submitted prospectus number PC-88W02 to Congress proposing the consolidation of the three FCC office locations into 260,416 occupiable square feet in one building while retaining the 12,000 square feet of storage space in Maryland. The prospectus called for a 20-year lease to ensure stable, long-term housing for FCC. On September 23, 1987, the House Committee on Public Works and Transportation approved the prospectus for 260,416 occupiable square feet for 30 years<sup>6</sup> at an estimated maximum annual cost of about \$9.4 million. In 1987, the Senate Committee on Public Works and Transportation was not reviewing prospectuses.

On August 1, 1988, GSA published an advertisement seeking expressions of interest for developing a federal complex of 273,500 to 287,160 NUSF of office, storage, and special-type space to accommodate the consolidation of FCC in downtown Washington, D.C. GSA received multiple letters of interest from developers. On March 14, 1989, it issued SFO 88-100 for 273,000 to 295,000 NUSF. The SFO stated that price was less important than were technical and other factors. According to the GSA Contracting Officer, the formal source selection process used the "Greatest Value Approach," which evaluates offers based on technical criteria and the reasonableness of the costs.

Best and final offers were requested on September 27, 1991. Four responses were received; however, one proposal had an occupancy date 22 months from the award, which was inconsistent with the SFO requirements. On November 6, 1991, selection proceedings were completed. According to the Contracting Officer, the Source Selection Board ranked the remaining three offers as follows, based on criteria outlined in the solicitation:

- (1) Warner Theater building, located on E Street, between 13th and 14th Streets, N.W.;
- (2) City Center, located at 1401 H Street, N.W.; and
- (3) the Portals II building, located at 445 12th Street, S.W.

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<sup>6</sup>Congressional approval identified the potential term of the lease to be 30 years. However, according to GSA officials, this was an error because GSA only has authority to issue 20-year leases. The 30-year term was changed when the amended prospectus was approved by the appropriate House and Senate Committees.

However, both Warner's and City Center's cost estimates exceeded the estimated maximum annual cost authorized by Congress in the approved prospectus. The Portals II building was the remaining ranked offer, and its cost estimates were within the authorized prospectus limits. Therefore, on December 20, 1991, the Portals II ownership was verbally notified that it was the successful offeror.

On February 10, 1992, GSA canceled SFO 88-100 citing FCC's increased space requirements. Two months later, the Portals II ownership filed a complaint in the U.S. Court of Federal Claims protesting the cancellation of the SFO and requesting injunctive relief. On February 28, 1994, the court enjoined GSA from canceling the SFO and from resoliciting the space for FCC and ordered GSA to proceed with the award. In April 1994, GSA appealed this decision to the U.S. Court of Appeals for the Federal Circuit. On August 1, 1994, the appeals court affirmed the lower court's injunction and directed GSA to proceed with the solicitation process. On August 12, 1994, GSA executed a 20-year lease for the Portals II building for 287,483 NUSF.

In September 1994, GSA submitted to Congress a revised prospectus requesting about 545,000 occupiable square feet due to an increase in FCC's space needs. On September 23, 1994, the House Committee on Public Works and Transportation authorized 450,416 occupiable square feet at an annual cost not to exceed approximately \$17.5 million. However, the Senate Committee on the Environment and Public Works did not approve the revised prospectus until October 24, 1995.

To lease the additional 162,939 NUSF, GSA's contracting officer signed a Justification for Other than Full-and-Open Competition for leasehold interest in real property. Five officials in GSA concurred with the justification, and the acting senior procurement executive approved it on August 15, 1994. On January 3, 1996, GSA and Portals II owners signed Supplemental Lease Agreement Number One to amend the original lease to provide a total of 449,859 NUSF at a total annual cost of about \$17.3 million. The amended agreement also contained three space options to lease an additional 47,058 NUSF, 29,565 NUSF, and 8,648 NUSF at a rate of \$37.95 per NUSF. These options raised the total value of the lease to about \$20.7 million annually.

Between January 10, 1996, and June 14, 1996, GSA received four Standard Form 81s--Requests For Space--from FCC for a total of 71,888 square feet. When an allowance is included for circulation, the total square footage is about 79,000 square feet. On July 2, 1996, GSA exercised the three options in the amended agreement for a total increase in space of 85,271 NUSF. Before exercising the options, GSA had evaluated market alternatives that showed the Portals II lease options were about 4-percent lower than the others considered. On July 3, 1996, GSA's Contracting Officer, GSA management, and legal personnel decided to rescind options two and three in light of concerns that were raised in another pending court case. On October 17, 1996, options two and three were again exercised to meet FCC needs identified in May and June of 1996. Thus, GSA has

leased a total of 535,130 NUSF at an annual cost of about \$20.7 million at the Portals II building for FCC. Subsequently, on January 5, 1998, through a supplemental lease agreement, GSA obtained the right to use the garage and have security control over the entire garage. The remaining 12,000 NUSF in Portals II is to be used for retail purposes, including food service.

COMMENTS FROM THE FEDERAL COMMUNICATIONS COMMISSIONFEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

January 27, 1998

Mr. Bernard L. Ungar, CPA  
Director  
Government Business Operations Issues  
United States General Accounting Office  
441 G Street, N.W., Mail Room 2A10  
Washington, D.C. 20548

Dear Mr. Ungar,

This is in reply to your letter to Chairman William E. Kennard dated January 23, 1998 referencing and enclosing your draft letter entitled GSA: Causes of Delay in the Federal Communications Commission Move to the Portals II Building. We appreciate the opportunity to review and comment on the report prior to being officially distributed.

In reference to footnote 3 on page four, regarding the four separate Standard Form 81's Requests For Space from FCC, it states that GSA exercised the options as separate actions based on the fact that the SF-81's were separate. The four separate SF81's with their respective square footage totals in no way correspond to the amounts of space in the three options contained in SLA #1, and subsequently exercised by GSA. The FCC issued the SF-81's consistent with the different requirements of each space request, and submitted them to GSA as the space requirement was identified and validated within the agency.

In reference to paragraph one on page four, it states that GSA obtained the right to use the garage and have security control over the entire garage. Although the supplemental lease says the government has the right to implement security measures for the garage, the lease provisions are not consistent with the Department of Justice (DOJ) minimum security standards for a federal Level IV building. The DOJ standards indicate that there should be as much control as possible over interior parking, (see B-4, DOJ study) and access to government parking should be limited where possible to government vehicles and personnel, (see B-2 DOJ study) and that leases should be avoided where parking cannot be controlled (see B-2 DOJ study). Additionally, the entire building security has been compromised by SLA #4 by permitting unimpeded public access at two of the building's entrances, and no measures have been contained in SLA #4 for securing the building common loading dock. In all of the above, SLA #4 is inconsistent with the guidelines contained in the DOJ standards.

All of these issues have been continually addressed to GSA by FCC, however GSA did not reflect these concerns in the most recent supplemental lease. The security issue for the building parking garage, and loading dock represents grave concerns to the FCC. As a

consequence, the FCC has indicated to the GSA it will not accept assignment to the Portals until the lease (SLA #4) is amended to comply with the DOJ guidelines for security at a federal facility.

We greatly appreciate your efforts in the preparation of the report to adequately reflect the issues and events which have occurred on this project. If you require any clarifications or additional information related to FCC's relocation to the Portals, please do not hesitate to contact me at (202) 418-1957.

Sincerely,



J.R. Ryan  
Chief, Operations Management  
and Services Division



COMMENTS FROM THE GENERAL SERVICES ADMINISTRATION

**U.S. GENERAL SERVICES ADMINISTRATION**  
Public Buildings Service

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January 28, 1998

By Facsimile and First Class Mail

Bernard L. Ungar  
Director  
Government Business Operations Issues  
General Government Division  
General Accounting Office  
441 G Street, NW  
Washington, DC 20548

Subject: Draft letter entitled GSA: Causes of Delay in the Federal Communications Commission Move to the Portals II Building.

Dear Mr. Ungar:

Thank you for the opportunity to comment on the subject draft letter. To the extent that the information in the report is based on information provided by the General Services Administration (GSA), and except for those items listed in Enclosure A, we believe it to be an accurate representation of both the history and the current status of the project. We note, however, that portions of the draft letter are based on information received directly from the Federal Communications Commission (FCC). Those portions do not necessarily represent the views of GSA.

After protracted litigation and in accordance with Congressional Committee resolutions, the General Services Administration (GSA) assigned the Federal Communications Commission (FCC) to the space in the Portals II building under the provisions of the Federal Property and Administrative Services Act of 1949, as amended. This assignment is the culmination of Congressional intent, first issued in 1987, to consolidate the FCC's headquarters in a single location. GSA is committed to this consolidation and, based on current information, intends to relocate the FCC to the Portals beginning in June 1998.

We are aware of most of the concerns you have attributed to the FCC in the draft letter and are working with the FCC to resolve them. For example, the FCC has attributed some of the delay in the move date to the fact that GSA has not transferred funds that it agreed to transfer during fiscal year 1998. GSA expects to transfer the requisite funds to the FCC by Friday, January 30, 1998.

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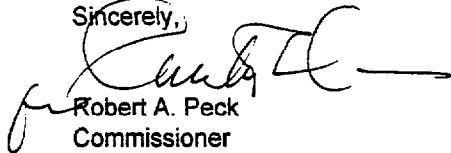
ENCLOSURE III

ENCLOSURE III

Further, although not mentioned in your draft letter, the FCC has raised security concerns in connection with GSA's recent execution of Supplemental Lease Agreement No. 4, which dealt in part with public access to the planned cafeteria. Food service in this location has long been an issue and GSA has worked to accommodate the FCC's desire for food service; the FCC has long considered food service a critical amenity and as such, a condition for moving into the Portals. At this point, the challenge to both FCC and GSA is how best to accommodate the desire for food service while accommodating the necessary security requirements. This issue will be resolved without compromising the safety or security of employees and visitors to this facility. Other security issues related to the loading dock and the garage will be similarly resolved. We are confident that the security concerns will not interfere with or further delay the FCC's move to Portals II.

If you have any questions concerning the foregoing, please contact Anthony Costa, Chief of Staff, Public Buildings Service. Mr. Costa may be reached on 202-501-1100.

Sincerely,



Robert A. Peck  
Commissioner

\* Enclosure (as stated)

cc: Nelson Alcalde  
Regional Administrator  
National Capital Region

\*Enclosure contains technical comments that have been reflected in our letter and is therefore not reprinted.

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