EVALUATING GSA's FIRST EXPERIENCE WITH NATIONAL BROKER CONTRACTS

(111–48)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
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July 13, 2009

SUMMARY OF SUBJECT MATTER

TO: Members of the Transportation and Infrastructure Committee

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Subcommittee Staff

SUBJECT: Hearing on "Evaluating GSA's First Experience with National Broker Contracts"

PURPOSE OF THE HEARING

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Wednesday, July 15, 2009, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to examine the General Services Administration's (GSA) National Broker Contract (NBC) and whether it provides GSA a legitimate tool to meet its statutory obligation to procure commercial office space for Federal agencies. This hearing is being conducted as one of several hearings that meet the oversight requirements under clauses 2(n), (o), and (p) of Rule XI of the Rules of the House of Representatives.

BACKGROUND

The Subcommittee on Economic Development, Public Buildings, and Emergency Management has continuously pushed GSA to think innovatively on how to minimize costs to the Federal Government when procuring leases and construction projects for Federal agencies.

I. General Services Administration Leasing Program

The Government Accountability Office (GAO) added "Managing Federal Real Property" to its high risk list in 2003 for several reasons, including overreliance on costly leasing. While GAO acknowledges some improvements in management of Federal property assets, GAO reports that:

> [S]ome of the core problems that led to the designation of this area as high risk persist. For example, in January 2008, GAO reported that agencies' reliance on leasing instead of ownership was increasing. In fact, the General Services Administration (GSA), which acts as the government's leasing agent, predicted that in 2008 it would, for the first time, lease more property than it owned.[1]

GSA owns more than 1,500 Federal buildings totaling 176.5 million rentable square feet of space. GSA leases 177.5 million rentable square feet of space in almost 7,100 leased properties. In recent years, the construction program has been reduced essentially to land ports of entry and courthouses, while GSA has increasing relied on private commercial office space to meet the needs of housing the Federal Government. The GSA Public Building Service (PBS) provides vapital asset management and real estate services.

When GSA is unable to satisfy Federal space needs with Federally-owned space, it addresses Federal space needs through the commercial office space market. During the late 1980's and early 1990's, many veteran employees of GSA leasing retired. Although there is no empirical data to support contracting out leasing as a lower cost alternative to in-house leasing, GSA now found itself caught between a requirement to contract out a certain leasing services and having fewer in-house personnel to conduct leasing activities. Thus, in 1997, GSA signed a series of regional broker contracts to provide limited leasing services. These contracts were meant to assist the in-house leasing specialists, not replace them.

II. <u>National Broker Contract</u>

A. Origins of the NBC

Before GSA signed the NBC, the agency used regional broker contracts to supplement leasing services provided by regional GSA offices, and to address the lack of leasing specialists within the PBS. These contracts were problematic, because the contracts by region were inconsistent with respect to several material terms and proved difficult for GSA to administer and conduct proper oversight.[2]

B. Current NBC

Faced with criticism from the GSA Office of Inspector General[3] regarding the regional broker approach, the PBS moved to a national approach to supplement lease contracting. The NBC was awarded on October 4, 2004, by the GSA PBS[4] and is administered by it. The NBC is a competitively bid contract that augments services provided by PBS and allows PBS to outsource brokers services for leases for Federal agencies. The NBC for broker services was awarded to four companies: Julien J. Studley, Inc.; the Staubach Company; Jones Lang LaSalle Americas, Inc.; and the Trammell Crow. Because of consolidations and mergers, there are now three companies

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[1] GAO, *High-Risk: An Update* 45 (2009).
[2] GAO, *GSA Leasing: Initial Implementation of the National Broker Services Contracts Demonstrates Need for Improvements* 1-2 (2007).
[3] GSA Inspector General, *Review of PBS's Use of Brokerage Contracts For Lease Acquisition Services* (2002).
[4]GSA, *National Broker Contract Fact Sheet*, http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/National_Broker_Contract_General_Fact_Sheet_R2-oK1Y_0Z5RDZ-i34K-pR.doc (last visited July 8, 2009).

participating in NBC: Studley, Inc.; Jones Lang LaSalle Americas, Inc.; and CB Richard Ellis.[5] The contracts were awarded as one year base contracts and with option of annual renewal for up to five years. The current contracts will expire on March 31, 2010.

GSA executed the NBC with a view towards augmenting the PBS workforce. In addition, the contract allowed brokers to be paid the usual broker fee, instead of being paid by appropriations. The GSA Office of General Counsel further determined that is permissible for GSA to accept a rebate from the tenant brokers and credit that amount to the lease. GSA requested an opinion from GAO on the issue of "entering into contract with real estate brokers to represent GSA's interests in lease acquisition and related services for which GSA would not pay the brokers." GAO was not asked to address the conflict of interest issue.

GAO issued its opinion on August 25, 2003, and concluded that "GSA may enter into proposed contacts with real estate brokers without augmenting its appropriation…." GAO did acknowledge, "GSA's submission indicates a possible issue of conflict of interest between the government getting best value and the brokers' interest in getting the highest commission."[6]

As of April 2009, the four brokers (CB Richard Ellis, Jones Lang LaSalle, Staubach, and Studley) had received $78.7 million in broker fees for handling 942 leases representing about 15.5m square feet of space.

III. Evaluating the NBC

The original NBC that was signed on October 1, 2004 will expire in October 2009. The GSA PBS is contemplating issuing a new solicitation for the NBC. The Subcommittee on Economic Development, Public Buildings, and Emergency Management plans to conduct oversight of several outstanding issues related to the NBC:

- Whether the taxpayer has received a benefit from this contract;
- Whether there is an undue reliance on the contracts for this essential service;
- Whether GSA has been able to systematically address the issue of conflicts of interest in contracting real estate services to private contractors;
- Whether GSA has in fact received a benefit from the services provided by the NBC;
- Whether GSA has the in-house real estate expertise to conduct proper oversight over the real estate services provided by the National Broker Contract; and
- Whether government leasing is a core function of GSA, and therefore should not be contracted out to the private sector.

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[5] GSA, *Frequently Asked Questions about the National Broker Contract*, http://www.gsa.gov/Portal/gsa/ep/contentView.do?faq=yes&pageTypeId=17109&contentId=8318&contentType=GSA_OVERVIEW (last visited July 8, 2009).

[6] GAO, *GAO Decision: General Services Administration: Real Estate Brokers' Commission* (2003).

WITNESSES

Mr. Samuel "Chip" Morris, III
Assistant Administrator
Office of Real Estate Acquisition
U.S. General Services Administration

Ms. Regina O'Brien
Principal Deputy Assistant Inspector General
U.S. General Services Administration

Mr. Mark Goldstein
Director, Physical Infrastructure
Government Accountability Office

Ms. Julie Rayfield
Senior Managing Director
Studley, Inc.

Ms. Debbie Veltsistas
Account Executive
CB Richard Ellis Real Estate Services, Inc.

Ms. Christopher Roth
Project Manager
Jones Lang LaSalle Americas, Inc.

HEARING ON EVALUATING GSA'S FIRST EXPERIENCE WITH NATIONAL BROKER CONTRACTS

House of Representatives,

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
WASHINGTON, DC.

The Subcommittee met, pursuant to call, at 10:09 a.m., in Room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton [Chair of the Subcommittee] presiding.

Ms. NORTON. Good morning. This hearing is being conducted as one of several hearings to meet the oversight requirements under Clause 2(n), (o) and (p) of Rule XI of the Rules of the House of Representatives.

Welcome to today's hearing on the National Broker Contracts. Today, we will examine whether the National Broker Contract provides a tool to meet its statutory obligation to procure commercial service for Federal agencies and whether the contract has had benefit for the taxpayers. We also will hear suggestions for improving the contract. We begin with some background concerning GSA's decision to include private brokers.

Many of the services of the Public Buildings Service, or PBS, within GSA have private sector counterparts such as leasing, property management, and property maintenance. In response to President Reagan's Reform 88, the Agency contracted out virtually all its property management operations. GSA has also contracted out its engineering and architectural requirements, as well as interior design and space planning services.

During the mid-1990s, GSA engaged Arthur Andersen to conduct an exhaustive feasibility analysis of contracting out even the leasing function. The Agency did quite well in the comparative analysis with only a few administrative leasing functions identified as potential for further review for contracting. The Arthur Andersen report concluded, commercial broker is competitively priced; it will would be more costly to privatize and should be retained in house. However, concurrent with the contracting-out trend government-wide, OMB reduced full-time equivalents, or FTEs, in all agencies. Consequently, as employees retired, OMB eliminated these FTE positions.

During the late 1980s and early 1990s, PBS lost many of its veteran employees who had come into government in the 1960s, inspired by President Kennedy's call to public service. Although there was no empirical evidence to support contracting out of leasing, the

Agency now found itself caught between a requirement to contract out a certain number of positions on the one hand and fewer in-house personnel to conduct leasing activities on the other. Thus, in 1997, the Agency signed a series of regional broker contracts to provide limited leasing services. These contracts were meant to assist the in-house leasing specialists, not to replace them.

In December, 2002, the Office of Inspector General issued a review of PBS use of brokerage contracts for lease acquisition services. A special interest of the IG was the use of rebates and zero-dollar task orders where payment for leasing service rendered was expected to come from landlord or property owners signing the lease and not from GSA-controlled funds.

The IG's report contained information from the GSA's Office of General Counsel, which identified two serious issues: one, the obvious potential for a conflict of interest between the government's interest in receiving the best value and the broker's interest in receiving the highest compensation; and, two, the problem of possible illegal augmentation presented by allowing brokers to be compensated by anyone other than GSA for services provided.

The GSA General Counsel requested an opinion from the General Accounting Office regarding the compensation issues. The GAO issued its opinion on August 25, 2003, and concluded, and I am quoting, ″GSA may enter into proposed contracts with real estate brokers without augmenting its appropriation.″ However, GAO acknowledged, again quoting, ″GSA's submission indicates a possible conflict of interest between the government's getting the best value and the broker's interest in getting the highest commission.″ GSA proceeded to put together a National Broker Contract.

Today, GSA leases 177.5 million rentable square feet of space and almost 7,100 leased properties, now slightly exceeding GSA's own space. Thus, leasing, along with some Federal construction, is clearly a core function of GSA.

Contracting out this activity through the National Broker Contract has brought about a profound change within the Agency and one of the most significant changes since it was established in 1949. This approach raises concerns because the Agency has no fallback or reserve position of realty specialists, and limited recruitment and training funds today for these critical positions leaves the government with no alternative except to use these national contracts for a core function of the Public Buildings Service of the United States Government. For this reason, the Subcommittee has a special obligation to look closely at the existing experience with broker contracts to see if improvements are necessary.

The National Broker Contract is a competitively bid contract that augments services provided by PBS and allows PBS to outsource broker services for leases for Federal agencies. In addition, the contract allows brokers to be paid the usual broker fee instead of being paid by appropriations. The GSA Office of General Counsel further determined that it is permissible for GSA to accept a rebate from the tenant brokers and to credit that amount to the lease.

The original contract was awarded October 4, 2004, to four companies. The contracts were awarded as 1-year base contracts with an option of annual renewal for up to 5 years. The current contract will expire in March 31, 2010. The GSA is currently preparing the solicitation for the reissue of this contract. Therefore, it is important that this Subcommittee conduct oversight and address the concerns initially presented by the National Broker Contract by the GSA Inspector General and the General Accounting Office.

We must review the GSA's rationale for the decision to place a core GSA Public Buildings Service function in the private sector. We need to determine if the financial and management systems are in place for GSA properly to administer the National Broker Contract. We must scrutinize the assumptions used to justify the Agency's decision to contract out leasing service. We must understand how GSA has addressed conflicts of interest with brokers that both own and market buildings to Federal agencies.

If GSA believes it is in the best interest of not only of the government but of taxpayers to have the private sector solely responsible for providing leased space for the government, GSA must explain and justify its own relationship to agency leasing. If GSA is anything more than a bureaucratic middleman between Federal agencies and brokers, why GSA be in the leasing process at all?

There are a myriad of issues that need to be examined in the National Broker Contract process so that this Subcommittee can be confident that the contract properly shields taxpayers from waste and abuse and provides real value to taxpayers that would otherwise not be realized.

I look forward to hearing from all concerned parties on this important issue and appreciate their testimony.

I am pleased to ask our Ranking Member, Mr. Diaz-Balart, if he has any opening remarks.

Mr. DIAZ-BALART. Thank you, Madam Chairwoman. Thank you for the opportunity.

As you well stated, we are reviewing the National Broker Contract program, which adds value to GSA's broad lease programs and generates savings to the taxpayers, which is always a welcome thing in the Federal Government. This program does meet critical needs for GSA and has shown that the commission-based contracts are saving hundreds of millions of dollars and that potential conflicts of interest can be managed effectively, which obviously is key.

As the current contract is slated to expire next year, it will obviously be important to GSA's leasing program to ensure that the National Broker Contracts are reviewed in a timely fashion. I also hope that we can examine potential areas of improvement. There are obviously always places where we can add value to contracts.

Now, because of the significant amount of leased space that the Federal Government utilizes, it is critical that we ensure that the government secures the best lease rates possible. And as I think you stated, GSA began a contract for services to help carry out those leasing functions in 1997.

Now, there have been some growing pains obviously, and because of that, in response to concerns raised about this early lease part of the program by the inspector general and others, GSA developed a National Brokers Contract program. That contract began in 2005 with a 1-year renewable option up to 5 years, and that is the current situation.

That current contract will expire next year.

The National Brokers Contract program meets the need of the GSA, and it has demonstrated that it creates savings to the taxpayers. There is just no debating that. The contracts are no-cost contracts for the government. How often do you hear of that? The firms are paid commission by the building owners and only if the lease is approved and signed by GSA. These firms also add value by providing post-award services like the management of tenant improvements, for example, and add no additional cost to either GSA or to the tenant agency.

In addition, the leases negotiated by the brokers have resulted in leases nearly 11 percent below market rental rates. I think that bears repeating: 11 percent below market rental rates, which is exceeding the GSA's original goal of 9.25. So that is direct savings to the taxpayers, which I think is obviously one of the key components we should always look for.

And since the beginning of the contracts, the Federal Government has realized more than $155 million in rebates, actual rebates, from the brokers. And even in the Federal Government's standards, I think $155 million is real money.

With over half of the Federal workforce now in leased space—unfortunately, because we wish it wasn't; and that's something that the Chairwoman and I clearly have a frustration with, but that's just a fact—the savings and rebates can again potentially save taxpayers hundreds of millions of dollars.

As is the case in any contracting arrangement, oversight, proper oversight, and management are obviously necessary; and that is something that I know that our distinguished Chairwoman is—that is something that she is very concerned about.

Now, the program does have significant safeguards to ensure accountability, and accountability is something that I have dedicated, frankly, in my life in public service towards trying to work for. The brokers must carry out their responsibilities in accordance with 48 laws. Now, there is efficiency for you: 48 laws, regulations, executive orders, and procedures related to procuring leased space for government agencies. There is something we should probably look at for some efficiencies.

Currently each task order is validated by GSA realty specialists at six milestones during the leasing process. In addition, the work of the national brokers is reviewed on a quarterly basis by the GSA at the regional and the central office level, and the brokers are required by contract to adhere to very strict fire walls and other requirements to ensure that there are no conflicts of interest or sharing of sensitive information, which obviously is something we should all be concerned about. But there are very, very strict fire walls in place.

I do understand obviously that there are always areas, as I said before, that can be improved; and that is always good to look for. For example, I think one of the frustrations is GSA's internal processes for initiating a lease acquisition and for final sign-off of a lease completed by a broker. That process is very slow and cumbersome, and frankly it creates bottlenecks at the beginning and end of the process; and we should look at ways to streamline that, if possible. Finding ways to accelerate this process would maximize the value added by these broker contracts.

Again, obviously, we should always look for ways to improve anything that government does, because government usually has a long way to go. But this program, I think it is pretty evident is a win-win, a win-win for everybody.

Again, as I said, these contracts meet very important needs for the Federal Government, and the government benefits and the taxpayer benefits from the expertise and the experience of these firms. There are no up-front costs to GSA in the commission, and the commissions are only paid when a lease is signed.

Again, these are things that, frankly, other government agencies should be looking at to try to emulate.

The program has allowed GSA to better leverage its staff and its in-house personnel and has resulted in savings, real savings, including actual rebates to the government and to the taxpayers.

So, again, I believe that this has been shown to be an effective program, and I look forward to the program continuing in the years to come.

I want to particularly thank the witnesses for your time, for being here today. I look forward to hearing from you today about this important program.

And with that, Madam Chair, I would yield the remaining of part of my time.

Ms. NORTON. Thank you very much.

I want to ask Mr. Cao if he has an opening statement of any kind.

Mr. CAO. No, Madam Chairwoman. I don't have any opening statements. Thank you very much.

Ms. NORTON. Thank you, Mr. Cao.

The first witness is Mark Goldstein, Director of Physical Infrastructure of the GAO, or General Accountability Office.

You may proceed, Mr. Goldstein.

TESTIMONY OF MARK L. GOLDSTEIN, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOLDSTEIN. Thank you, Madam Chair and Members of the Subcommittee. I welcome the opportunity to provide this update in our recent work on issues that led us to designate Federal real property as a high-risk issue.

In January, 2003, GAO designated Federal real property as a high-risk issue because of longstanding problems with excess in underutilized property, deteriorating facilities, unreliable real property data, over-reliance on costly leasing, and security challenges.

In January, 2009, GAO found that agencies have taken some positive steps to address real property issues, but that some of the core problems that led to the designation of this area as high risk persist.

This testimony focuses on, one, the progress made by major real-property-holding agencies to strategically manage real property, ongoing problems GAO has identified in recent work regarding agencies' efforts to address property issues, and underlying obstacles we have found through prior work that hamper agencies's real property reform efforts government-wide.

To summarize, number one, OMB and real-property-holding agencies have made progress in strategically managing real property. In response to an administration reform initiative and related executive order, agencies have, among other things, established asset management plans, standardized data, and adopted performance measures. According to OMB, the Federal Government disposed of an excess of real property valued at $1 billion in fiscal year 2008, bringing the total of over $8 billion since fiscal year 2004.

OMB also reported success in developing a comprehensive database of Federal real property assets and implemented GAO recommendation to improve the reliability of the data in this database by developing a framework to validate these data.

GAO also found that the Veterans Administration has made significant progress in reducing underutilized space. In another report GAO found that six agencies reviewed have processes in place to prioritize maintenance and repair items.

The second point: While these actions represent positive steps, some of the longstanding problems that led GAO to designate this area as high risk persist. Although GAO's work over the years has shown that building ownership often costs less than operating leases, especially for long-term space needs, in 2008 the General Services Administration, which acts as the government's leasing agent, leased more property than it owned for the first time.

Given GSA's ongoing reliance on leasing, it is critical that GSA manage its leasing activities effectively. However, in January, 2007, GAO identified numerous areas that warranted improvement in GSA's implementation of four contracts for national broker services for its leasing program.

GSA has implemented seven of GAO's 11 recommendations to improve these contracting efforts. Although GAO is encouraged by GSA's actions on these recommendations, we have not evaluated their impact. Moreover, in recent work, GAO has continued to find that the government's real property data are not always reliable, and agencies continue to retain excess property and face challenges from repair and maintenance backlogs.

Regarding security, GAO testified just last week that preliminary results showed that the ability of the Federal Protective Service, which provides security services for about 9,000 GSA facilities, to protect Federal facilities is hampered by weaknesses in its contract security guard program. Among other things, GAO investigators carrying the components for an improvised explosive device successfully passed undetected through security checkpoints monitored by FPS's guards at 10 Federal facilities.

Third, as GAO has reported in the past, real property management problems have been exacerbated by deep-rooted obstacles that include competing stakeholder interests, various budgetary and legal limitations, and weaknesses in agencies' capital planning. While reforms, to date, are positive, the new administration and Congress will be challenged to sustain reform momentum and reach consensus on how such obstacles should be addressed.

Madam Chair, this concludes my prepared statement. I would be happy to respond to questions that you and Members of the Subcommittee have. Thank you.

Ms. NORTON. I want to thank you, Mr. Goldstein, for your work, your consistent work with this Subcommittee.

You mentioned in your testimony that real estate management has developed into a high-risk—real estate management has developed in a high-risk series. How has this happened? How and why has this happened?

Mr. GOLDSTEIN. Madam Chair, in our work since 2003, and the reason why we put Federal property on the high-risk list, we found five major areas that required further scrutiny based on the work we were doing.

First of all, we found that there were large amounts of excess and underutilized property, vacant property, underutilized property, millions upon millions of square feet of property that was not being effectively utilized and managed for the government.

Ms. NORTON. This is in owned property?

Mr. GOLDSTEIN. That is correct—across the government. And it costs a lot of money obviously to maintain and secure the space, particularly if it is not being used.

Ms. NORTON. The GSA doesn't manage the VA, does it?

Mr. GOLDSTEIN. Well, GSA—most VA space is on its own. But just as one example: One VA report that we did recently showed that they were spending $145 million a year to maintain property that was underutilized.

Ms. NORTON. But in office buildings that GSA owns? It is one thing—I wish we had, GSA had some of the authorities of the Veterans Administration.

With owned property of the Federal Government that GSA manages, you find——

Mr. GOLDSTEIN. There is a considerable amount of underutilized and vacant space; that is correct.

Ms. NORTON. You mean vacant space?

Mr. GOLDSTEIN. Vacant space and a good deal of underutilized, that is correct. The amount of it has varied over the years.

Ms. NORTON. Is that sufficient repairs and——

Mr. GOLDSTEIN. That is a separate issue that we categorize.

Of the five issues, there is the underutilized vacant space, there is the growing backlog of maintenance and repairs, unreliable property data, reliance on expensive leasing, as you pointed out, and then the security challenges. Those are the five reasons.

Ms. NORTON. All right. Reliance on expensive leasing may be something they can't do anything about because they don't have owned space.

Mr. GOLDSTEIN. Maybe not in the capital in any 1 year, as you know, to deal with that.

Ms. NORTON. Is there significant monitoring of the broker contract that is now essentially completely contracting out leased space?

Mr. GOLDSTEIN. When we did our work on the brokers program initially, we issued our report in early 2007. We did our audit between the middle of 2004 and the middle of 2006. At that point in time, we found three major problems. We found problems regarding conflict of interest, problems regarding compliance with the Federal Information Security Management Act requirements, and problems regarding program implementation and evaluation.

Ms. NORTON. How do you do—explain to us the notion of a fire wall if the same company is the brokerage company and ceasing to lease to the Federal Government? Is there an effective fire wall——

Mr. GOLDSTEIN. There should be protections in place that would prevent——

Ms. NORTON. Such as?

Mr. GOLDSTEIN. If you are going to have the same company, you need to have different individuals handling each side.

Ms. NORTON. That is minimal. That almost is fraud if the same person is handling——

Mr. GOLDSTEIN. But that needs to be stated. You need to have——

Ms. NORTON. Are you found that, that it was the same person that was handling——

Mr. GOLDSTEIN. We did not.

But, Madam Chairwoman, when we did our work, it was very early on in this contract, so there weren't enough task orders that had been completed for us to really evaluate.

Ms. NORTON. Were there any rules set up for how to avoid——

Mr. GOLDSTEIN. They did have conflict of interest rules set up. We asked them to put in some additional rules based on the contract, which they—they declined to add to the contract some additional rules, but they did put in some additional rules. We have not gone back to see if the additional rules have made a difference.

Ms. NORTON. We have other witnesses who are in a better position to comment on that.

Now, the Ranking Member makes the case that we save hundreds of millions of dollars—I am quoting you, Mr. Diaz-Balart. He doesn't offer the evidence yet, but I think he is making a kind of commonsense notion that if you get somebody else to do it, you are not spending the money.

We are spending hundreds of millions of dollars through the broker contract; is that correct.

Mr. GOLDSTEIN. At the time of our audit, Madam Chair, the GSA was not in a position to quantify any of the savings.

Ms. NORTON. I mean, somebody has got to be paid or it passes on to the Agency.

Let me ask you, because GAO may be in a better position to do this: Could you say for the record what the difference between cost avoidance and true savings is.

Mr. GOLDSTEIN. I mean, I think cost avoidance in this instance would be money that the government could save if they didn't have to pay for these particular items. However——

Ms. NORTON. So the government includes not only GSA, but obviously the Agency.

Mr. GOLDSTEIN. Sure.

Ms. NORTON. Somebody is going to pay for it. I want to know how at the bottom line the government is saving money. It is one thing to say this is more efficient. It is one thing to say it should be done. But on this Committee and on the Oversight Committee, over and over again, we have heard notions never shown to be true—I must tell you, never shown to be true—that contracting out actually produced savings.

I am for anything that saves the government money in the state we are in. I am for that. And this would seem to be a perfect example, to try to show savings. And some say that there are savings.

I have never understood the notion of savings. When the price—the reason that the airlines—let's take an industry that is in particular trouble, hates it when we require them to do anything. It is not that they hate paying it. They know they are going to pass it on to me when I get on the airlines. I went to Martha's Vineyard for the first time, and I had to pay 25 bucks for my bag. I didn't have to pay last summer; I had to pay this summer.

Now, the airlines aren't bleeding for me. They want to make sure as many people take the airplane to go. So I have got to understand this notion that there is something at the bottom line called ″savings,″ and I would like you to indicate whether, even theoretically, you can see that there would be savings and not costs simply passed on as perhaps they would be passed on if the government were doing the service.

Mr. GOLDSTEIN. It is hard for me to say, ma'am. We did not look at the contracts from a perspective of——

Ms. NORTON. Do you think that could be figured out, that notion, that claim could be tested so that we would have some sense, when we contract out the government, whether there are savings or whether we are doing it for some other purpose?

I don't mind if we are doing it for some other purpose. I mind someone throwing it in my face that we are saving some money and not showing me the bottom line where the savings are.

Mr. GOLDSTEIN. So, at the time of our work, they have not been able to quantify savings.

Ms. NORTON. I think Mr. Diaz-Balart is anxious to quantify savings so——

Mr. DIAZ-BALART. Madam Chairwoman, I think you are, frankly, hitting a very important issue.

I do have from GSA an update through May, 2009, which we have some notes on, so we have to clean it up, but we will submit it for the record later if that is something that you would want to pursue.

Ms. NORTON. So ordered.

Mr. DIAZ-BALART. Thank you. And if you would allow me to clean it up first and take away all the notes.

But according to GSA, again, which has an update through 2009, in actual rent savings for 216 leases, there are—I guess in the pipeline there are over 2,000 leases that are potentially—we could continue to find savings on. But just 216 leases. And in actual annual rent savings, it is $10.4 million, but——

Ms. NORTON. Will the gentleman yield for a moment?

Mr. DIAZ-BALART. Of course. I am sorry.

Ms. NORTON. Annual rent savings, parenthesis, cost avoidance?

Mr. DIAZ-BALART. Correct.

Ms. NORTON. I was seeking to see the difference there, and maybe GSA can point that out, but that is the problem I have.

Mr. DIAZ-BALART. Absolutely. No. And I agree with you. I think where you are going is key. I think GSA might be able to get us some more updated numbers because, according to their estimates and numbers, then we actually have, I guess, cash in hand from rebates. Right now, there is, what, $58.5 million.

And then the estimate—there is an estimate, credits for the 1,225 active task orders could be $97 million. So the total estimate of commission credits for all those task orders are $155.6 million according to GSA.

Now, these are questions we need to ask GSA to see if these numbers are accurate. But I like where you are going. I think the GSA might have some good numbers there.

Ms. NORTON. Thank you very much because you point out a very significant document that we—you are right, we need to reconcile.

Would you recommend the broker contract continue, Mr. Goldstein? Indeed, why did the GAO include the GSA real estate program?

I believe you believe that it was—that an earlier report believed it was fair to do broker contracts; isn't that the case?

Mr. GOLDSTEIN. GAO has never taken a policy decision, a policy role, one way or another on a position—on whether this program ought to exist as a contracted program or inside the government. Our position for any of these kinds of programs tends to be that if they are well managed and executed——

Ms. NORTON. You mentioned that OMB is using GAO's leased-versus-owned analysis to establish what you call a road map for future action. What are you referring to?

Mr. GOLDSTEIN. What we are referring to there is, as you know, for many years GAO has been concerned about the cost of leased versus owned property and that owned property is usually a better deal for the government.

So this isn't specifically related to the broker program itself in its contracting out, but we have provided our analyses of leased-versus-owned considerations; and OMB is re-examining some of those issues and recognizes that the government, long term, could save money in most cases by reducing the amount of property that it leases. So it is taking a look at that and is hoping to come up with its own recommendations.

Ms. NORTON. The government—and the President put in his budget—bought a building, the first time, I think, since I have been on this Subcommittee that the government plopped down some money, taking an advantage on an option to buy.

Mr. GOLDSTEIN. For the last 20 years we have made recommendations with respect to leased versus owned, but the administrations have tended not to do very much in this area. We are hopeful that the new administration might.

Ms. NORTON. Mr. Goldstein, looking again at your testimony on page 8, you mention that the GSA waived the prohibition against dual-agency broker firms in order to increase competition.

Now, has GAO done any analysis to determine whether the waiver did increase competition? What is the theoretical basis for that waiver to increase competition?

Mr. GOLDSTEIN. I think the point we were making was that in issuing the waiver, they allowed more firms to be able to participate than if they had not. We have not done any empirical analysis, but clearly, since so many firms are dual—you know, represent more than one—it is clear that that has made it easier for many more players to be involved and, therefore, add competition.

Ms. NORTON. In considering whether the waiver made sense, one would have to do some version of a cost-benefit analysis, that is to say, increase competition and also increase conflict of interest possibility or potential.

Mr. GOLDSTEIN. That is right. You have to balance the increased competition against——

Ms. NORTON. You would have to make sure that your conflict of interest rules insured the government?

Mr. GOLDSTEIN. Yes, ma'am.

Ms. NORTON. Of course, we will have to see if that happened.

I thank you very much, Mr. Goldstein, for your very helpful testimony, as always.

Mr. GOLDSTEIN. Thank you, ma'am.

Ms. NORTON. And I would like to call the next witness, Regina O'Brien, Principal Deputy Assistant Inspector General of the General Services Administration.

TESTIMONY OF REGINA O'BRIEN, PRINCIPAL DEPUTY ASSISTANT INSPECTOR GENERAL, U.S. GENERAL SERVICES ADMINISTRATION

Ms. O'BRIEN. Thank you, Madam Chair. I am pleased to appear here today to discuss the General Services Administration's National Broker Contracts. We are currently working on an audit report in this area.

In my testimony, I will briefly summarize our major observations to date. These focus on three areas: first, whether anticipated savings from using the brokers were realized; second, contract utilization; and third, issues that need to be addressed as GSA prepares to replace these contracts that expire March 31, 2010.

Leasing is critical to GSA's ability to satisfy tenant housing needs, and leased space now comprises 51 percent of GSA's real property portfolio. From April, 2005, the start of the National Broker Contract, through the 40-month period ending July 31, the brokers have negotiated a total of 711 leases.

In 2003, GSA presented a business case in support of commission-based National Broker Contracts. It argued that in addition to providing critical support to a thinly stretched in-house staff, the incentives created by commission-based compensation would actually lower the cost of acquiring leased space. This cost savings was to be accomplished through, first, an offset to rent as a result of the brokers turning over a portion of their commission to the government, referred to as commission credit; second, reduced rental rates attributable to the broker's superior market knowledge and expertise; and third, lower overhead in the form of reduced administrative and personnel costs.

The audit found that while some of the data for these areas are quantifiable, others are more ambiguous. First, the commission credits are quantifiable. Through July, 2008, commission contracts totaled $44 million, or approximately 1.3 percent of the value of the leases the brokers negotiated.

Secondly, as to whether brokers obtained more favorable rental rates than in-house staff, the limited number of broker transactions at the time of our audit and imprecise market data precluded a definitive answer. However, the audit did find that, at best, the data can support that the brokers are achieving results similar to GSA's realty specialists.

Lastly, as to lower administration and personnel costs, our analysis indicated that contract administration is resource intensive and that the number of realty specialists actually increased over the first 3 years of the contract by 11 percent.

The GSA business case also envisioned movement towards an almost completely outsourced lease acquisition process. This is not occurring. GSA's goal was to give 50 percent of the expiring lease workload to the brokers in the first year, culminating in 90 percent by the end of the contracts. GSA reports that it reached the 79 percent mark in fiscal year 2008; we found a significantly lower usage, closer to 33 percent. The point here is not the exact number, but why different views of the workload can occur and what this means for the future efforts.

Over the course of the contracts, GSA changed the basis on which it measures utilization. It now excludes about half of its expiring leases from the universe of broker tasks because either the leases are not likely to yield a commission, are noncommissionable or otherwise not suitable as a broker task. Even if brokers were tasked with 100 percent of commissionable work, a substantial workload remains.

I would also like to highlight four areas that GSA should consider as it moves forward to the next generation of broker contracts. First, there needs to be a clearer expectation of the work to be performed under the contract. The brokers expressed to us that the post-award exceeds usual and customary practices for commission-based commercial services. In further refining broker tasks, consideration should be given to what is expected in performing these post-award tasks.

Second, while the contracts provide lease acquisition services, they also interject new risks to be managed. Foremost among these risks is improper disclosure of procurement-sensitive data. GSA has taken many steps to prevent such disclosure. A key control is that GSA requires both the broker company and individual broker employees to notify it in writing for each task order whether any conflicts of interest exist. The audit found that while the majority of organizational forms were provided to GSA are about 92 percent, only 65 percent of the individual forms were provided.

Third, the broker performance evaluation process is complex and cannot provide results in time to facilitate performance-based tasking. While the projects are evaluated at different points in the acquisition process, key performance indicators are not available until the end of the procurement, which frequently takes over a year. The evaluation of the brokers' negotiated rental rate, compliance with subcontracting plans and customer satisfaction are by necessity done at the end.

Further, a sufficient pool of task orders is needed to compare performance among brokers, and this is not available until several years into the contract period.

Finally the eLease system, GSA's electronic leasing application, needs to better support workflow and analysis. A few of the criticisms noted during the audit were that there were delays in getting the broker access to the system, report generation capabilities were not functional, and eLease does not interact with other GSA systems.

GSA continues to make improvements to eLease, but what the audit found was that not all the information is put into the system and that the paper file is still the official file.

Thank you for your attention, and I ask that my statement be made part of the record. I would be pleased to respond to any questions from the Subcommittee.

Ms. NORTON. Thank you very much, Ms. O'Brien.

Would you indicate what the IG's criticism was, precisely, of the regional broker contracts that were used in the late 1990s?

Ms. O'BRIEN. The report that we issued in 2002 dealt with the zonal contracts. There were four zonal contracts, and in addition to zonal contracts, there were regional contracts; and I think they numbered approximately—I don't know—20 to 25.

What we saw was a conglomeration of methodologies to award broker tasks, and we had some underlying concerns about the funding mechanisms and the potential for violation of appropriation law.

Ms. NORTON. Was it the IG's recommendation that the PBS enter into the national contract to solve these deficiencies in particular?

Ms. O'BRIEN. No. Our recommendation was that they go back and reevaluate how they administer these types of contracts. It is totally management's decision as to whether they go out and acquire other contracts or not, but the collection of contracts that they had at the time were not well administered or managed.

Ms. NORTON. We have found in some circumstances that there needed to be more work done from Washington, but that apparently was not the case with the regional contracts that were closer to the ground.

Is it not true that the regional brokers got a better deal than the National Broker Contract?

Ms. O'BRIEN. Are you referring to the rental rates? I am not quite sure what advantage you are addressing in your question.

Ms. NORTON. I am referring to their own understanding of their regional market, of their familiarity with the tenants, with the area. I am trying to see what was the advantage of the National Broker Contract over the regional contract.

Ms. O'BRIEN. The advantage of the National Broker Contract over the regional contracts was supposed to be that there would be better or more centralized administration of the contracts, that you wouldn't have variation from region to region in your approach to the lease acquisition.

And what GSA did when it went from the zonal and regional contracts to the national contracts is, they went through their lease acquisition process, and to the extent that they standardized it, they standardized it.

They also standardized the administration of these contracts, which was not true in the prior generation of contracts. You could have the same company working under different contracts and approaching things differently.

Ms. NORTON. So there is not a proven advantage of one or the other? There may be a management value added?

Ms. O'BRIEN. Right.

Ms. NORTON. Let me ask you about something in your testimony about the audits. The audits did find that, at best, the data can support the brokers are keeping results similar to GSA's realty specialists. I think this is your first page?

Ms. O'BRIEN. Yes.

Ms. NORTON. Lastly, as to lower administration and personnel costs, I am quoting your testimony, "Our analysis indicates that contract administration is resource intensive and that the number of realty specialists actually increased over the first 3 years of the contract by 11 percent."

So there is a tradeoff of realty specialists doing line leasing to, really, specialists doing now administrative contracting work and actually increasing the number, when we would have thought there would have been a decrease in the number, at least of those kinds of specialists.

It looks like we made a new bureaucracy there of people with the expertise, with their administering contracts for others to do the work.

Ms. O'BRIEN. Well, the administration of the broker contract is definitely resource intensive. We were not able to quantify that.

Ms. NORTON. Would you explain what you mean by that.

Ms. O'BRIEN. Okay. Initially, GSA had it set up so that there were about 17 different points at which, you know, GSA personnel would evaluate the brokers' work. There are a lot of points where GSA has to review or prove milestones, negotiation objectives, you know, the summarization of the best offers. There are lots of different points that GSA has——

Ms. NORTON. Let me stop you there, because you also say, and I understand it, as you list your issues to be addressed, "The brokers expressed to us that the post-award work exceeds usual and customary practices for commission-based commercial services."

Darn right. It is the Federal Government, people, so—you know, I am very sympathetic to the private sector when they complain about overbureaucratization. I hate it.

You just heard what I said earlier about the bottom line, somebody pays. Frankly, in our case it is the taxpayer. But it looks like we got the realty specialists there doing what they had better do, because if they don't do it, then this Committee or the Oversight Committee will then say, Who is monitoring these great big contracts out here to make sure that there is no fraud, waste, and abuse; to make sure that at the bottom line we are not losing money?

So you put it into the private sector; then you end up, according to your testimony, having to hire people, whose expertise is leasing, in greater numbers to monitor the contract.

I am trying to find where the benefit to the government is here. Where is the benefit to the government, Ms. O'Brien?

Ms. O'BRIEN. The benefit to the government that we saw would be in the commission credits. And at the current time I don't believe that PBS is in a position to take this work fully in-house.

Ms. NORTON. I am sorry. I didn't hear that. Say it again.

Ms. O'BRIEN. I also believe that at this time PBS is not in a position to take this work fully back into——

Ms. NORTON. Oh, let's start there.

We understand that. That doesn't mean that this Subcommittee doesn't have an obligation to review what the government has done. I mean, that is like saying, You can't do it, so I don't care what happens out there. It can be all the conflicts of interest in the world. It can cost you all the money in the world. But there is nothing you can do about it because you don't have the people.

Well, you can get the people.

Ms. O'BRIEN. I agree with you, Madam Chair. What I was pointing out was that some alternative ought to be found.

Ms. NORTON. No. But we have got a contract out there.

Ms. O'BRIEN. Yes.

Ms. NORTON. And I am trying to find what benefit there is to the government, given the contract that is out there.

I have posed you a rather hard hypothetical, I understand that, that they have got an increased number of realty specialists to what they had when they were doing leasing. How could that be, now that they don't do leasing, that they give it to somebody else to do?

We are not fools sitting up here. We have got to say, Well, wait a minute. Isn't this what people complain that government does, that it just does paperwork and monitoring?

But then GSA looks and says, Oh, but if we don't do this monitoring and paperwork that the brokers complain about, that it is more than they are required to do when they do commercial; if we don't do it, then the government rebounds back on us.

We are trying to get out of this somehow because we are among those who complain when monitoring isn't done. But when we see this figure about an increase in realty specialists, we are having trouble finding out what the benefit to the government was in making such a Herculean change as this, especially since it was supposed to save money, be more efficient.

Well, the brokers say, That is not more efficient; we end up doing more work. Yes, you pass it on to the bottom line, but then you have got to give a kickback to the Agency so everybody remains happy. In the long run, the Agency, however, is the government, too; and we are paying their rent.

So I am just trying to honestly find out. I am not suggesting that we may have an alternative. I am not suggesting that we are going to set up immediately any kind of in-house system. We don't know what we are going to recommend. But we need to know what has been the value added to the government in making a cosmic change such that the leasing is—of a core function, the leasing which is a core function.

No one would doubt that it is that. It is a core function of the Agency, isn't it, Ms. O'Brien?

Ms. O'BRIEN. Yes, it is.

Ms. NORTON. It can't even do it anymore. So the burden on us and on GSA is extremely strong, so strong that I would put to you the ultimate law school hypothetical: Who needs the GSA? Why shouldn't the Agency go to these broker contracts and do their own thing? They get the kickback; maybe they would have to do the monitoring or something.

What role does GSA play? Why do you need GSA?

Ms. O'BRIEN. The concept there is to ensure that the leverage of the Federal Government is used in the marketplace, that the rules are consistently applied, that these things are done in compliance with——

Ms. NORTON. So you think that we still get the economies of scale even though the—because there is a national contract?

Ms. O'BRIEN. Well, I think you get the economies of scale from—we—when we looked at this, what we saw was approximately the same target was being achieved whether it was GSA personnel or whether it was——

Ms. NORTON. With more realty specialists not doing leasing, but monitoring people who were doing leasing, why was that value added for the government? An 11 percent increase in realty specialists?

Ms. O'BRIEN. Yes. And the number of leases have also increased during that time.

Ms. NORTON. Because we needed the space.

Ms. O'BRIEN. Yes, I know.

Ms. NORTON. That is not a matter of broker efficiency. It is because we don't have anyplace to put workers as the Federal Government has grown.

I really see us caught in a real bind here, that we have to monitor the contracts. Or if we, the Agency, doesn't, it is going to get criticized, so it has got to hire a lot of people to do that as it contracts out more and more of its work.

When you said there needs to be a clear expectation of the work to be performed under the contract, that puzzled me. You mean the National Broker Contract doesn't make it perfectly clear what work is expected?

Because you go on, honestly, to say ″The brokers came back and expressed to us that the post-award work exceeds usual and customary practices. In further refining broker tasks, consideration should be given to what is expected in performing these post-award services.″ RPTS REIDYDCMN ROSEN[11:10 a.m.]

Ms. NORTON. Do you mean the brokerage didn't understand that once you contract with the Federal Government, you are in a different ball game?

Ms. O'BRIEN. Well, I am not sure that they didn't understand that. I think there are aspects to the way the government does its post award that are somewhat unique.

Ms. NORTON. And could be improved? You say, The performance evaluation process cannot provide results in time to facilitate performance-based tasking. Would you speak in English? I think that goes to your point. Explain that.

Ms. O'BRIEN. That is a slightly different point. The point there is that if you were going to use the performance of the brokers to determine in, for example, the next year whether you give 50 percent of your work to the highest performing broker, what that point is that you are never going to have that information until almost the end of the contract if you have a 5-year contract.

So to think that you are going to start off and be able to award in year two and three based on how well the broker performed in year one, it is not accurate. You won't be able to do that because you don't have the information until years 3 or 4.

Ms. NORTON. I see. Now, what does the GSA need to do so that the brokers aren't apparently being surprised that there is a little more work to do when you do it for the government, because they are now responsible to the taxpayers of the United States of America?

Ms. O'BRIEN. Well, in terms of the post award services, the biggest issue there is the level of worker detail that you have to go to. For example, oftentimes when you are building out space for tenants, which is part of the post award services, you will have a reimbursable work authorization, in other words, the tenant wants additional work done in that space. And that is not something that is necessarily part of what their business experience was in the private sector, so there is a little more involved in that area, in the government's——

Ms. NORTON. Wait a minute. GSA doesn't do any of that work? The broker now does that work, that post award?

Ms. O'BRIEN. Post award services were part of the contract, yes.

Ms. NORTON. Well, what is it that the brokers did not understand? Was this not written? Was it not written out clearly enough? Why didn't the GSA's performance contract make it clear that this is how the government has to do work, unlike what you may be used to, or whatever they may be used to? Would you recommend a more precise contract so that everyone is on the same page and you don't have people complaining?

Ms. O'BRIEN. Yes. That is the direction of our recommendation.

Ms. NORTON. Is this, to your knowledge, occurring as they prepare for the new contract?

Ms. O'BRIEN. We have talked to PBS about this area. They are cognizant that they have to look at that particular area, particularly as it deals with additional tenant requirements that are usually done through reimbursable work authorization.

Ms. NORTON. Do you have any other recommendations as they prepare for this contract?

Ms. O'BRIEN. Yes. In fact, we met not too long ago with PBS to discuss some recommendations. And they had some suggestions for the recommendations, things that they felt would be feasible or not feasible, so we did discuss those.

Some of those recommendations would include some improvements that we felt needed to be made to the information systems that, again, the utilization of the contract to clarify that, as I said. What we are seeing is closer to 33 percent, what they are reporting is closer to 80 percent. The point there is that you are never going to have 100 percent contracting out. This is resource-intensive. There are a lot of aspects that are actually inherently governmental, so you are never going to be able to fully contract that out.

Ms. NORTON. Now, how does the work of the realty specialist compare with the private sector workers and brokers?

Ms. O'BRIEN. What we found, when we looked at the market rates that were achieved by both sets, is that statistically there was no difference. GSA has a performance measure called least cost relative to market. And what that is, is they take basically a midpoint for that particular market, and then they target a certain percentage below that. So if the average in that area was $35 a square foot, they would want to get 9 percent less than $35 a square foot. And that would be their target.

What we saw, when we looked at the data—and again, even though it was basically 2-1/2, 3 years into the contract, our data is still somewhat limited. What we saw was that there really wasn't any statistically valid difference between the two in terms of their achievement of the rental rates.

Ms. NORTON. Well, at least we have that information. The usual frustration in Committees is we don't even know whether there is any cost savings. At least we know that after going through all of this hullabaloo, we haven't saved the government a dime. And that is important to have on the record. But we haven't cost them any more and we haven't saved them anymore. And the reason, of course, should be clear. The assumption is that the government—because of course the government builds in inefficiency, what the government builds in is what we are now building into the broker contract, checks and balances so the taxpayers know how the money is being spent.

So in the long run, it costs more for the government to perform this service, and guess what? It costs more for private sector to perform this service. At least here, unlike my experience in Oversight and Government Reform, where nobody has any sense of whether there is savings or not, you have made the appropriate comparisons, and we do have that understanding.

Do you have any comparative analysis that might compare this service contract with GSA's other contracts for services?

Ms. O'BRIEN. You mean the prior broker services; is that what you are referring to?

Ms. NORTON. No, not broker services, other services it contracts for.

Ms. O'BRIEN. No. We did not look at that as part of this review, so I don't have that information.

Ms. NORTON. They have contracted for many architectural services, design services, other services. Some of this is understandable, but of course, as we look at what they are doing, we need to understand it and understand what the benefit or value added to the government. The most disturbing thing is that GSA has lost so much personnel, and yet it has increased realty specialists, necessarily so, to monitor these contract.

Do you believe these realty specialists, in a pinch, could pick up the slack for broker contracts or any portion of them?

Ms. O'BRIEN. Well, I think it is important to note that basically the realty specialists are still doing the bulk of the work. In terms of the number of leases that are being done, if you look at the expiring leases, the brokers are handling roughly 33 percent, in our view, and the government is handling the remaining amount. In addition to that, when a broker task is assigned, prior to that assignment it is the GSA people——

Ms. NORTON. Wait a minute. The broker specialists are doing the new leases? What is the difference between what the realty specialists are doing and what the broker contractors are doing?

Ms. O'BRIEN. The realty specialists actually have a few functions. First of all, they can negotiate and award the leases. And they are doing that work; it is not completely done by the brokers. And in addition to that, you have realty specialists who oversee the broker contract work. So they are actually performing——

Ms. NORTON. Just a moment. You have who oversee the broker contract work?

Ms. O'BRIEN. You do have realty specialists who oversee the work of the brokers.

Ms. NORTON. They are in the contract management business.

Ms. O'BRIEN. Yes. Yes, they are.

Ms. NORTON. What percentage of them are in the contract management business as opposed to those who are in the realty business?

Ms. O'BRIEN. We were not able to obtain that number since PBS does not have a system where they identify how much time people put in on various tasks.

Ms. NORTON. You mean, some of them do both?

Ms. O'BRIEN. Yes. That is our understanding.

Ms. NORTON. Thank you very much, Ms. O'Brien. This is very important testimony for the record.

Wait a minute. Mr. Diaz-Balart has returned. Did you want to ask the witness, the IG any questions?

Mr. DIAZ-BALART. Thank you, Madam Chairwoman.

Ms. NORTON. I am very sorry.

Mr. DIAZ-BALART. No, no, thank you very much. And again, I had to go and vote. I apologize for not being able to be here for the whole presentation.

Ms. NORTON. I apologize for not being able to vote.

Mr. DIAZ-BALART. And I apologize to the witness.

In your testimony you said that the brokers are securing leases at the same rental rate as GSA is, roughly.

Ms. O'BRIEN. What we are saying is, with the data that we had, the best assertion that we can make is that they are approximating with the GSA people.

Mr. DIAZ-BALART. Right. Now, does GSA get rebates when they do leases?

Ms. O'BRIEN. No, they do not.

Mr. DIAZ-BALART. And the brokers do get rebates——

Ms. O'BRIEN. That's correct.

Mr. DIAZ-BALART. — that is passed on to the Federal Government?

Ms. O'BRIEN. Yes. And that is pointed out in my testimony.

Mr. DIAZ-BALART. So when you are talking about equivalent rates, you are not including the rebates, correct?

Ms. O'BRIEN. No. That is included in a separate category.

Mr. DIAZ-BALART. So there are savings to the taxpayer.

Ms. O'BRIEN. Yes, and I pointed that out.

Mr. DIAZ-BALART. Okay. And I apologize, since I was voting, so I just wanted to make...

And how about overhead; is there a comparison about overhead that—obviously GSA has overhead, employees, space, et cetera, that all of a sudden we don't incur from the brokers, correct?

Ms. O'BRIEN. Well, no. I wouldn't go that far because to administer the contract takes a lot of time and effort by GSA personnel. I don't think you could say that there is overhead on the GSA portion and there is no overhead on the broker portion.

Mr. DIAZ-BALART. Do you have any way to know if there is more overhead, less overhead?

Ms. O'BRIEN. No, I don't, only because there wasn't a system in place to identify that type of demand.

Mr. DIAZ-BALART. Sure, I understand. But there is no denying that there are savings to the taxpayer because of the rebates.

Ms. O'BRIEN. Yes. And I said that that was quantifiable.

Mr. DIAZ-BALART. Right. Great. Thank you so much.

Thank you, Madam Chairman.

Ms. NORTON. Mrs. Capito.

Mrs. CAPITO. Thank you, Madam Chair. I would like to thank the witness.

I would like to ask a question. If the GSA were to allow this contract to expire this year, what would be the repercussions, do you believe, to the GSA leasing program?

Ms. O'BRIEN. You would have a significant portion of lease work without a corresponding workforce to handle it. So I would assume that what you would have is additional holdover leases, you would have lease extensions.

Mrs. CAPITO. And when you have holdover leases and lease extensions, you incur probably some penalties or some kind of—from obviously the owner of the property if they can't secure a contract, I would assume that they could assess a penalty to the GSA because of the lack of the contract in a holdover nature because there is not staff in place of this program, would you say that is an accurate statement?

Ms. O'BRIEN. I would say that, rather than that, that the leverage that the government has to acquire a fair and reasonable rental rate would be reduced.

Mrs. CAPITO. Reduced. And the reason is because there is not enough in-house—what did you call them? Realty specialists to be able to handle this work, correct? Because this program has been in effect for 4 years, and obviously the brokers have taken over a lot of that work.

Ms. O'BRIEN. When we talked to the people in the regions, we went to four regions and we spoke with the realty specialists and the management there, the message that we received was that they needed additional support, that they were not at the point where they could handle all of this work without some sort of additional assistance.

Mrs. CAPITO. Maybe this is a subjective question, but when you talked to the realty specialists in the different regions, how did you find their relationships with the brokers in this contract, the National Brokers Contract program in terms of communication, in terms of quality of service?

Ms. O'BRIEN. We didn't note any particular issues or problems in that area.

Mrs. CAPITO. So if there were problems, they probably would have mentioned it, I imagine.

Ms. O'BRIEN. Yes.

Mrs. CAPITO. I notice in one of your recommendations that you talk about the elease system.

Ms. O'BRIEN. Yes.

Mrs. CAPITO. That is the electronic leasing system through the GSA?

Ms. O'BRIEN. Yes.

Mrs. CAPITO. And I guess if you have a comment on that, I would like to hear it. I mean, obviously it needs better support, work flow and analysis. How do you think that is achievable? It is astounding to me. And GSA is not the only government agency that has this issue that, in this day and age of technology, we still have these gaps or miscommunications between systems where it seems to me something like a leasing program is a lay-up for a great e-leasing or an electronic leasing program. Can you make a comment about that, and what would solve that problem? Besides a bunch of money, probably.

Ms. O'BRIEN. Well, actually, we have been talking to PBS. They have instituted some changes while we were doing the audit. We also suggested some additional changes to them during the course of the review.

One of the things is that all the information should be there, and there should be more templates for various types of things that are done. So those would be two aspects of changes to elease. For example, they have required certain documents that the brokers put into the system, but there are other documents that have not been required, and yet they are very important, and they are mandatory to the leasing process acquisition plan, for example, is one.

Mrs. CAPITO. Well, I appreciate the recommendations.

I guess my comment would be that, if this contract is due to expire on March 31, 2010, the bottom line what I hear you saying is that GSA is not equipped through the property specialists to be able to handle the bulk of the work, which could result in holdovers and other kinds of penalties through the lease.

You have mentioned, and the Ranking Member mentioned, some of the savings that have occurred, and the Chairwoman has mentioned some of the issues in terms of, is the work getting done and the unexpected—you mention in your report, the unexpected workload that some of the brokers found as they were moving through this. But it seems to me, you know, we are 6 months out here, and this isn't something that can turn on a dime. So I would recommend that we look at this, make some of these improvements, and make sure that we do the best cost-benefit analysis to the taxpayer, which to me looks like has resulted in some pretty significant savings for the taxpayer, with the GSA property specialists working together with the private sector in what sounds to me to be a true public-private partnership.

So, thank you.

Ms. NORTON. I would like to clarify the rebate notion. Rebates are very common. Do you mean that GSA, when it handled this work in-house, could not get free rent for a month or two for people? Don't they negotiate like everybody else in the market?

Ms. O'BRIEN. The commission credits are somewhat different than the free rent. Realty specialists have, on occasion, depending on the market, negotiated free rent as part of the rental agreement.

What we are talking about, there is the piece in the rental rate, whatever that dollar portion turns out to be, that is normally paid to the brokers, and the perception was that that money was being left on the table when GSA negotiates because GSA could not collect that commission, that the licensed brokers could collect that money. And then under the first iteration of contracts, it was given back to GSA as a rebate in some instances, and now with the new version of the contracts, the National Broker Contracts, it is a commission credit.

Ms. NORTON. Are there any other questions?

Thank you very much, Ms. O'Brien.

And I would like to call the next witness, Samuel Morris, III, Assistant Commissioner Office of Real Estate Acquisition, GSA Public Building Service.

TESTIMONY OF SAMUEL ″CHIP″ MORRIS, III, ASSISTANT COMMISSIONER, OFFICE OF REAL ESTATE ACQUISITION, U.S. GENERAL SERVICES ADMINISTRATION, PUBLIC BUILDINGS SERVICE

Mr. MORRIS. Good morning, Chairman Norton, Ranking Member Diaz-Balart, and Members of the Subcommittee.

My name is Chip Morris. I am the Assistant Commissioner for the Office of Real Estate Acquisition in the Public Buildings Service at the General Services Administration. Thank you for inviting me here today to discuss GSA's leasing program and how we contract for brokerage services through our National Broker Contracts.

Although the current National Broker Contracts represent a major change in how we contract for broker services, GSA has a long history of retaining real estate brokers. Historically, we had individual regional contracts on a fee-for-service basis from a menu of available services.

Our first attempt to provide a national contract for broker services was in 1997, when we awarded eight national real estate contracts covering four zones. In response to audits by the Inspector General, GSA decided to centralize broker services into a national program. A number of factors drove our decision to enter into National Broker Contracts, including increasing our capacity to deliver leases consistently and leveraging our market share to reduce space cost.

Constrained budgets, limited staff, and the limited availability of new federally owned space continue to drive an increased need for leased space to meet agencies' requirements. As a result, GSA determined that our reliance on brokers was essential at that time.

Based on market research, we proceeded with a commission-based pricing contract, as is customary in the industry, in order to save public funds. Before proceeding with the solicitation, we requested an opinion from the Government Accountability Office on our decision to pursue a commission-based contract. In August, 2004, GAO determined that GSA would not be illegally augmenting its appropriations or asking contractors to perform voluntary services under the proposed contract.

After a full and open competition, four contracts were awarded on October 2004 to Jones Lang LaSalle Americas; the Staubach Company, Northeast; Julian J. Studley, Inc.; and the Trammell Crow company. The notices to proceed were delayed until April 1 of 2005 because of protests filed with GAO after the award.

Since the award, C.B. Richard Ellis Real Estate Services purchased Trammell Crow, and the Staubach Company merged with Jones Lang LaSalle, leaving us with three contractors at present: Jones Lang LaSalle Americas; C.B. Richard Ellis; and Julian J. Studley. While there have been challenges, we believe that over the last 4 years, the contracts have proven their value.

As of April 2009, 942 leased transactions for over 15.5 million square feet have been awarded using these broker services. Of these, 839 were for full lease acquisitions, totaling 13.5 million square feet; 89 were extensions for 1.8 million square feet; and another 14 were expansions of 313,000 square feet. These transactions resulted in 55.5 million in commission rent credits applied directly to reduce our rental obligations, which are also passed through to our customer agencies.

The total net commissions paid to broker firms through April 2009 has been $78.7 million, with the average commission per project at $83,500, and the average project size at 16,500 square feet.

Our change to commission-based pricing has not increased our lease-cost-relative-to-market averages. With 216 brokered leases for over 3 million square feet completed through the second quarter of fiscal year 2009, our average rental rates are 10.56 percent below the midpoint of the market compared to the GSA goal of 9.25 percent below market.

Sixty-nine percent of the brokered leases are in the new and succeeding lease categories and have average rental rates at 11.12 percent, and 11.32 percent below the midpoint of the market, respectively. This results in a cost avoidance of $10.4 million annually. The annual savings will continue for the life of each lease, which in some cases is 10 years or more.

There have also been challenges in this contract and its administration that we are continuing to address. Our brokers have had to learn government contracting principles that do not apply in the commercial real estate market. Our lease contracting is regulated by over 48 different laws, regulations, and executive orders that make acquisitions process-driven and document-intensive. Documentation is necessary to avoid costly protests and litigation, to comply with internal controls, and to achieve clean audits.

GSA's use of brokers is designed to add leverage to an in-house staff. Some of our leasing specialists are focusing to a greater degree on project management while others are focused on oversight of the brokers, including the evaluation of the broker performance, something left typically to contracting officers, and a new experience for leasing specialists.

Normal attrition, including retirement, has reduced staffing levels below thresholds necessary to perform in-house work and supervise the brokers. We continue succession planning for leasing specialists and lease contracting officers. In some instances, it can take up to 5 years to train a leasing specialist to become a seasoned lease contracting officer. As a result, we must rely on the brokers to supplement our workforce.

We have begun planning for the follow-on to these contracts by conducting industry conferences in Washington, D.C., and Los Angeles, California, and have posted the transcripts of those conferences of the Fed Biz Ops Web site. We have also conducted lessons-learned sessions with our previous procurement team, the Office of the General Counsel, our current brokers, and our regional program officials.

A team is currently developing the Statement of Work that will best support our needs for the next 5 years. Though not intended to replace our staff, it is necessary for GSA to continue to utilize brokers to supplement our in-house capacities to meet our program responsibilities and deliver space as efficiently as possible.

We need to capitalize on what has worked with these contracts and make improvements that will make them more efficient and user friendly. GSA also needs to better predict workload projections for the brokers and address continuing problems with extensions and holdovers.

While we believe that contracts have proven successful and bring savings to the government, we can improve their effectiveness in providing additional resources to assist our leasing specialists in meeting program demands.

This concludes my testimony. And I will be happy to answer any questions that you have.

Ms. NORTON. Thank you very much, Mr. Morris.

You say in your testimony, I think quite candidly, "These contracts are not intended to replace staff, rather to supplement the resources we have as we plan the most efficient space delivery program possible." That makes sense to me. Everybody in the government uses contracts.

Let me ask you what percentage of your work is done by the brokers and what percentage is done by staff, especially considering the 11 percent increase prior testimony revealed in realty specialists since you began to engage broker contracts?

Mr. MORRIS. We have heard from the IG earlier, their estimate is about 33 percent overall. I am guessing it is higher than that.

I would like to clarify a little bit because I think the IG witness really made a good point on how you interpret how that workload is divvied up. We have had successive increases in targets that we have worked on over the course of this contract. Beginning in 2005, we had a 50 percent of expiring leases target that increased 10 percent each year up until last year when we got to 80 percent. This year was supposed to be 90 percent; we kept it at 80 percent. But the important thing, Madam Chairman——

Ms. NORTON. You kept what at 80 percent?

Mr. MORRIS. The utilization rate for tasking brokers with our expiring lease workload. And it is important to really understand and drill down and see what that number means.

All of the work has not been going to the brokers. What we have been trying to do really and truly is to come up with a target each year——

Ms. NORTON. That is really my question; how much work should be given to the contract brokers and how much work should be kept inside? What is the goal? What is the target?

Mr. MORRIS. The target has been expressed as a percentage of expiring leases.

Ms. NORTON. Well, now, weren't the brokers originally supposed to address extensions and holdovers, and now they are doing more and more new leases?

Mr. MORRIS. Well, it wasn't that they were being assigned extensions and holdovers, but they were supposed to be helping us relieve that problem. So what we do each year is we look out about 18 to 24 months and see, in our leased inventory, what leases are expiring over the next 18 to 24 months. So that number, if you will, forms the denominator in calculating a percentage. So you take a number of 1,800 leases expiring in a particular year, and then you look to see, well, what do we need to give to the broker? And if our target——

Ms. NORTON. All right. You can continue that math. Based on the number expiring, what percentage should be given to the broker? You know how many realty specialists you have.

Mr. MORRIS. Right. Well, the target is that 50, 60, 70, 80, 90 percent that we have been using each year, increasing each year over the last—this is the 5th year.

Ms. NORTON. Wait a minute. You have a disproportionate number of leases expiring some years; is that what you are saying?

Mr. MORRIS. Yes. Actually, we have talked about this in one of our earlier hearings. If there are 1,800 leases expiring this year, for example, and we don't get all those leases either replaced in some form or fashion, say we only do half of them—I am just picking a number out of the air, say we only get to do 900, well, 900 leases that are left over, something happens to them. Some of them may go away, but those that we don't get to, we end up extending. And so next year——

Ms. NORTON. But you must know—you know right now when leases are going to expire, and that is why we have been into the holdover business and why I have given the agency 45 days to come back with a plan on early leasing and holdovers. Well, you know when a lease is going to expire the moment the lease is signed. So all this planning could be done up front, and you could know right now, as you sign a lease, how many brokers you are going to need in 10 years or 15 years.

Mr. MORRIS. Well, it is not just expiring leases. What is not calculated in there, Madam Chair, is what new requirements come back. We forecast every 6 months for the purpose of the broker contract what kind of workload projections we expect to assign to them from that expiring lease workload. But we haven't been doing a very good job on of this.

Ms. NORTON. What kind of what? I am sorry.

Mr. MORRIS. We project each month for the brokers what sort of workload we expect to be coming down the pike. The regions turn into us to say, here is the workload projection from the expiring leases. Well, all expiring leases aren't tasked to the brokers. They get all kinds of work. It is not just expiring leases. They would get new requirements that come in——

Ms. NORTON. But you are not making those on a monthly basis, surely. What kind of business is this? You must know all of this in advance, so you ought to be able to tell me next year.

Mr. MORRIS. I can tell you right now, in a snapshot, what will be expiring next year. But at the end of this year, we may not have addressed all of the leases that have expired this year, and so by the end—a snapshot taken at the end of September will be a different set of——

Ms. NORTON. And why, by the way, would you have not—this gets back to my holdover question. If you did early leasing, if you were internally more efficient, some of those problems, some of those doubts, with completely good planning, would be erased, wouldn't even be there because you would know, if it were the broker who was supposed to do the early leasing, well, he would do it. If the realty specialist was to do it, she would do it. Why isn't that kind of planning being done at the agency since it is at your beckon call? You have the leases.

Mr. MORRIS. We actually are doing that kind of planning now with a lot of impetus from your letter recently. We have talked about that in the past. We are doing a portfolio analysis now we hope to bring to you when the due date——

Ms. NORTON. That is so important. I mean, it is the only way for the brokers, it seems to me, they have got a contract. Doesn't the contract even tell them what to expect in the number of contracts or leases that will come up?

Mr. MORRIS. The contract did set, as 50 percent of the expiring lease workload, targets for them at the very beginning. So that is accurate. But I guess the point that I was trying to make was, in determining what gets tasked to the brokers, each year we look at and every 6 months we update what the projections are for expiring leases. They get tasked some of those. They also get tasked new requirements. And at the same time, and I think it is very important to point out, there is a large number of that same workload that is being performed by in-house personnel.

Ms. NORTON. And that is important to know the percentage. But what I am getting at, Mr. Morris, with the prior letter you just referred to, is how all of this seems to me to be wonderfully predictable, that is to say there are many areas in government where we can't predict—money is one of them. But guess what? A lease, when it expires and therefore who ought to be attending to the lease is contract law.

Mr. MORRIS. I agree with you 100 percent on that.

Ms. NORTON. And it is that kind of planning I want to see in the agency. I am sure the brokers would appreciate it, and the realty specialists—I don't understand why anybody would need to do a monthly analysis or a 6-monthly analysis when they know day one when the lease is going to expire. If there is an advantage to being the big foot in the marketplace, it is information, and using it as early as you can—the big foot is the Federal Government. I am determined that the Federal Government is going to reap more from the fact that it plays such an increasingly important role in the leasing marketplace.

In particular, I am determined, Mr. Morris, not only because I see savings for the government and greater use of its economic power, I believe that power ought to be used right now to stimulate this economy. The President did it when he bought a building somewhere here in Washington. And early leasing would do it if the banks sought that 6 months ahead of time or 3 months ahead of time. And in this market, one might want to do particularly early leasing if you look at the forecast and you look at reports for what is happening to commercial real estate with due dates on their loans, you are in a perfect position, you are in a position that nobody in the commercial sector is in to take advantage of a very bad situation. It is a bad situation for anybody who is in the business; it is a good situation for the government if we use it to our advantage.

Before I go further, I would like to ask the Ranking Member if he has any questions.

Mr. DIAZ-BALART. Thank you very much, Madam Chairwoman.

Would it seem to make sense that the leases where we could get rebates are the ones that should probably be not done in-house; and the other ones, where we can't get savings, maybe should be done in-house?

Mr. MORRIS. How do I answer that question?

Mr. DIAZ-BALART. The issue should be, in my view, as opposed to a fixed percentage of how much is done in-house versus how much is done through brokers, it should be how much we are saving.

Mr. MORRIS. And the rent credits are really a function of an industry practice of commission-based pricing. It is separate and apart from whether one is cheaper than the other. There are rent credits that are achieved through that commission-based pricing that the brokers bring to the table. So that is an important savings to the government.

To clarify that, what we have experienced and what we had understood for a number of years is that the government was leaving money on the table because landlords and developers build into their business plans when they offer space to the government an element of that business plan that includes commissions. They typically have realtors representing them in leasing up their buildings. And under their listing agreements, they agree to pay those realtors a certain percentage on a transaction.

And just as in a residential home sale, if you list your home with a realtor for 6 percent, that realtor is going to get 6 percent when the home sells. If another broker, a cooperating broker brings a buyer, those brokers split that commission. And it is that split that the government was theoretically leaving on the table.

So we had, in an earlier iteration of the contracts, tried to, when we were paying fees for services, instructing the brokers under those earlier contracts, because they are licensed to take that commission, either negotiate it out of the deal or capture that commission and rebate it to the government. When we switched to this contract, we switched to the commission-based pricing where we—and it was an experiment, let's go out, you are getting your fee based upon that opportunity to split under a dual-agency transaction. If the broker wasn't there and we had no broker and we were just using in-house staff, those developers and landlords still retain realtors to represent them, and they build into their business plan when they are offering to the government an element to pay commissions. And so it is that commission splitting that we hope to capture to pay for their services on our behalf under this contract.

Mr. DIAZ-BALART. You just answered two of my questions. And let me tell you, I think you need to be commended. GSA needs to be commended for, as you said, for doing an experiment—which seems to be working, frankly. And it might be interesting, if there is a way to better quantify those results of the experiment.

Mr. MORRIS. And the primary way that we have tried to see whether or not it is costing us more is in our rental rates that we are getting under these leases, are the rental rates, how do they compare to market rates? We do that anyway. We have to report to OMB, and we report to Congress each year on what kind of rental rates we are getting in our leases. And we use the lease cost relative to market as our measure for that. And that is a combination of a science and an art.

I mean, we rely on market data, submarket data that is published out there in the market, and we look at our rates and compare those to the rates in that market. And we found that, generally speaking, these leases that have been procured through the brokers based upon how many have gone through the whole process now, are exceeding our targets.

The IG made the point that there is a small universe that you have actually finished the projects on, and that is true. Out of over 2,000 tasks outstanding, we have about 10 percent, 216 leases, that we are actually comparing those rates on now. And they are exceeding our targets. When you compare those to our overall performance, they are comparable to what we are doing as an agency, which includes not only the brokered but our in-house deals.

Mr. DIAZ-BALART. Something that I mentioned in the beginning was that I understand that there are some delays, at either the front end or the back end, when a lease acquisition process is initiated, and again, at the end, when a lease goes through and there is a final approval process, there is some, I guess, bottleneck there. Are there any steps that GSA could take the streamline that internal process? And furthermore, is there any legislation, any authorization or legislation that you think would help you in that process?

Mr. MORRIS. Yes, sir. I will answer the last question first, if I may.

We are still working through these issues, but there are a number of our leases, hundreds of our leases are small leases in tertiary markets in rural areas—small towns, rural areas, small cities. The simplified lease acquisition threshold was last updated in 1996. Basically, under a simplified lease acquisition, you can do it faster and quicker on smaller leases, smaller dollar volumes, than when we do lease procurements that are above that simplified acquisition threshold. Right now it is $100,000 a year in rent. So if you are expecting to pay rent at $100,000 or less, then you can use this—I don't want to call it fast track; I will call it a faster track. It is a little bit more efficient. And because we have it updated, that is a statutory threshold, and it is not tied to any kind of inflation index. It could be helpful to us if that threshold were in increased now so it would capture more of those smaller leases and allow us to do more in that faster method.

Mr. DIAZ-BALART. Because that number has been static; that hasn't changed?

Mr. MORRIS. It hasn't changed in 10 years. So instead of $100,000 a year, if it were—I will pick a number, $1 million a year, that would capture a lot more of that anticipated work——

Mr. DIAZ-BALART. That and maybe a way to index it or attach it to inflation or something.

Mr. MORRIS. Yes, sir.

Mr. DIAZ-BALART. That would make a lot of sense. You know, it is interesting how those of us in Congress will criticize government agencies for not thinking outside the box, and then when you think outside the box, we criticize you for thinking outside the box. I feel the need to tell you that this is precisely the kind of approach that I think the American people demand. So I think you need to be commended for it, you really do. And is it a little bit risky to think outside the box and experiment with things that could save the taxpayer money? Yes, it is a lot easier to not do that.

But you have done so, and I think you have shown some pretty impressive results that we can continue to look at improving, but I think that you need to be commended for it. Som at least from this Member of Congress, I hope you take that as a slap on the back as a job well done, and we can always continue to improve, and you just mentioned some things that we should look at. So again, I thank you for your work.

Mr. MORRIS. Thank you, sir.

Ms. NORTON. I am very interested in the money that the government—I understand it was being left on the table and the commission. Did GSA ever come to the government to ask for authority to retain that fee themselves so the government could have profited or benefited from that?

Mr. MORRIS. Do you mean to turn it back over to the Treasury versus applying it to the lease?

Ms. NORTON. GSA be able to collect it, as far as I am concerned, in any case.

Mr. MORRIS. We felt like the cleanest thing to do was to apply the rent credits directly to the leases to reduce the rent. There has been a lot of push from some of our customers——

Ms. NORTON. So you never asked for it. The reason it occurs to me is because you had to, indeed—the general counsel had to get into the whole question of augmentation. So this is just another sliver of augmentation, yet it is not included. Somebody didn't want the government to get into the mind the private sector getting. I am trying to make sure the government at least gets what the private sector gets.

Let me ask you this umbrella question: In light of this goal—first let me find out if it is in fact a goal, that the GSA has a goal of contracting out 80 percent of its work. What work? Why 80 percent?

Mr. MORRIS. Well, that is where the confusion comes in a little bit. It is not 80 percent of all of our work, no. Leasing is a critical core function——

Ms. NORTON. Yeah. Is it 80 percent of that core function?

Mr. MORRIS. The target of 80 percent is with regards to an expiring lease load in a 24-month period that is developed each year. So there are a number of other lease actions that are being done in-house.

Ms. NORTON. So what percentage of work would be done in-house then of the leasing core function?

Mr. MORRIS. I am guessing it is about 50/50. The IG believes it is about 33 percent. There are a number of functions that don't have opportunities for commissions to be paid. So we don't task the brokers for work where there are not opportunities for commissions to be paid. That is a chunk of it. Then there are other, whether or not we——

Ms. NORTON. Such as, for example?

Mr. MORRIS. Well, antenna leases, TSA leases on airports, parking lots. Some extensions are tasked to the brokers if we expect them to get the follow-on, long-term space solution. Short-term extensions where we are doing those in-house, they don't get. A lot of expansions they don't get. Some consolidations they don't get. And then a lot of the core function work of expiring leases is divvied up between the brokers and the in-house staff. So there is a lot of work that realty specialists do in-house that never go to the broker.

Ms. NORTON. I am looking at my opening statement where I detailed—I want to be accurate about what has been contracted out; contracted out virtually all property maintenance, operations, engineering and architectural requirements, interior design and space planning services, now core function leasing.

I am going to ask you a question that I am going to have to answer. Who needs GSA? I raised that question in my opening statement. Increasingly, your reality specialists are used to monitor contract brokers. Why shouldn't the agency deal with the brokers? Eighty percent of your work is—at least leases of a certain kind should go to brokers. What would be the function of GSA in the leasing business, and how will you justify any appropriation from the Federal Government?

Mr. MORRIS. Madam Chairman, leasing is and remains a key core function of GSA and the Public Building Service. And it is critically important that we have an adequately staffed, experienced core lease contracting group of lease contracting officers.

Ms. NORTON. Did you request any additional FTEs in your 2010 budget request for these critical people you have just described?

Mr. MORRIS. I don't think we have asked for that in 2010. We are in the process of recruiting and training and filling vacancies that currently exist in the organization, and we are working very hard about doing that. One of the things that——

Ms. NORTON. How many specialists are dedicated solely to leasing activities today? How many 5 years ago? How many 10 years ago?

Mr. MORRIS. We have today totally dedicated—and these are rough numbers—approximately 500. And we have about 627 that are either totally or in part working on leasing projects.

Ms. NORTON. How does that compare?

Mr. MORRIS. The numbers that I have for 5 years ago is the umbrella group, not just totally dedicated to leasing. So, for example, in 2004, we had 495 realty specialists. There would have been a smaller number that would have been dedicated to leasing. I am going to estimate probably 400.

The next year, 2005, we dropped to 400, 1170 realty specialists. There would have been probably slightly over 300—for estimating purposes, 325 in leasing. We have, as the IG noted, grown. When the contract was let—notice to proceed in 2005; it was awarded in October 2004; we have consistently been increasing our number of realty specialists. They have not been solely dedicated to monitoring the broker contracts.

We are trying to rebuild a cadre, a core of competent leasing people that can assume some of that government work that we are contracting to the brokers for. I don't see us ever actually giving up brokers, but we have fallen below a critical threshold to be able to carry on that work.

Ms. NORTON. What is a competent core? Since it is a core function, and no one doubts that, what is a competent core of in-house specialists?

Mr. MORRIS. I think we need more. And let me just elaborate a little bit. We just finished a regional review in Atlanta, region four, the southeast region, biggest region in terms of geography in the country with a huge, huge amount of leasing that is currently ongoing and projected for the future. Some of the leasing specialists—we interviewed seasoned leasing specialists, contracting officers, they are staffing up now. And they have about—let me look at my notes here—they have about 54. They can easily use another 20 to 25 percent.

Ms. NORTON. Mr. Morris, these are very highly trained, specialized personnel. Why do you have leasing specialists doing project management work when you don't have enough realty specialists, as you just testified? Why don't you have contracting specialists doing contract management work?

Mr. MORRIS. Well, the lease transaction—we really approach lease transactions, lease acquisitions under the concept of project management. So there is the acquisition piece of that, but there is a lot more to procuring a lease for the government than just that pure acquisition part.

We approach it from a project management standpoint because we are really trying to bring in all parts of the organization to be a part of a team, to think like they are trying to be—to work on a transaction. One of the biggest things they have got to work on is requirements development. Requirements development with our customers is a huge part of the work that we have to do. And so we want those leasing specialists to be assigned tasks where their skills are best suited. You have people that are really skilled in that government contracting part of the transaction, of the project, if you will, and you have people that are better suited, really, for interfacing with our customers and consulting with them to develop their requirements so that we can establish that relationship.

Likewise—and we have actually talked about this, Madam Chair, in some of our earlier meetings with you in an earlier hearing—we want those people that are working in the backroom operations, the people that handle rent bill management to the commerce, the people that handle whether or not those leases are scoring or not, the people that look at their work from that kind of internal control standpoint on a onesy and twosy basis, we want them to know that they are part of a project team. And that team has a goal to procure a lease for the government and put a customer in there. And they need to be prepared to further that transaction. And they have got to play early on, and they have got to play their part whenever it is their time to fulfill their role.

So project management is a concept on how we go about doing our work. I would like to try and clarify that it is not about pulling competent people away from leasing and putting them somewhere else; it is how they are doing their work in trying to procure that lease. And that is the important notion there.

Ms. NORTON. You know, Mr. Morris, I have been trying to get at cost notions, and we have ascertained that there is apparently no cost difference. But you do use the word ″no-cost contracts.″ You know, of course, you have been in this business, that everything costs, nobody gets free lunch and nobody gets a break, least of all the government.

Commissions, of course, are always built into a lease rate and passed on to the customer—in this case, the client agency. So what do you mean by no cost contracts, page two of our testimony?

Mr. MORRIS. No appropriations. Maybe I should say it is no additional cost.

You are right, the commission is built into the rent. So we pay rent. Our customers pay us rent that we pass on to the landlords. And the point is that the developers and the landlords build in a commission into their offers. So you are absolutely right; it is not that there is no cost. It is that there is no additional cost to the government by utilizing these brokers under a commission-based structure.

Ms. NORTON. In fact, it is about the same cost, according to the IG, nobody has been able to find any value added in terms of money, have they?

Mr. MORRIS. Well, the measurement on whether or not there is an increase in cost, we have been relying on our lease-cost relative to market. Our rental rates are still meeting those——

Ms. NORTON. Let me just ask you, you use a figure of $10.4 million annually—what you call savings. Are you suggesting that that figure in your testimony is strictly due to the broker contract? What about market conditions? I mean, it is the same broker representing the Federal Government's—economy of scale, the Federal Government the same as the realty specialists represent.

Mr. MORRIS. You are right there. I see where you are headed. That is more of a cost avoidance. The calculation that you are looking at there on the 10.5 percent below market, that is a cost-avoidance savings. And that——

Ms. NORTON. And explain that cost avoidance. In other words, you are saying GSA is saving——

Mr. MORRIS. Our rental rates are below market. That is the only thing that is saying.

Ms. NORTON. Right. But your rates have always been below market.

Mr. MORRIS. Right. And so the comparable there is, if you are trying to say if they are bringing in more savings than if a government person was just doing that without a broker?

Ms. NORTON. Right.

Mr. MORRIS. There is little distinction right now because the Government is meeting that goal as well. So there is a cost-avoidance there. If you are trying to ask me, is that an additional benefit? It is something that the brokers are bringing to the table, but so are in-house people on the——

Ms. NORTON. What is it that you say the brokers are bringing to the table that the in-house people are not?

Mr. MORRIS. Well, the big thing there is the rental credits that they bring back from their pricing for us that goes back to reduce rent. That is a huge savings.

Ms. NORTON. Although you never asked for the government to—you got augmentation that had never been done before, but you never asked for this augmentation. Because this whole thing is augmentation of the appropriation.

Mr. MORRIS. Yes. That is why we want GAR——

Ms. NORTON. So this augmentation as well. I mean, as long as you are talking augmentation, and the government is saving money by allowing the private sector here, it is a little puzzling that the government would not—for example, you say that you are contracting out to the broker those leases where that fee could be collected. Are you able to contract every single lease to the broker where that thing can be collected so at least the agency would get the benefit?

Mr. MORRIS. No.

Ms. NORTON. That would be a target. Hey, that would be a target. If you are telling me that that money comes back to the government because of free rent, that would be a target.

Mr. MORRIS. No. We don't send every commissionable type to the broker.

Ms. NORTON. Why not? You say that there is advantage because an agency may get—we understand it isn't consistent, obviously that is negotiable, that has to do with market conditions. But look, if they can get the agency 2 months free rent and your realty specialist can't, and you don't have any authority from the government and never asked for any authority from the government to give them equal authority, then why wouldn't you want to get a couple of months free rent in every instance where you could? I mean, you have to follow the logic of your own rationale.

Mr. MORRIS. I think the most effective way to try and approach that is, what is the right mix? How do we maintain our core competencies with an experienced, in-house leasing staff to handle that core competency? It is very important that the government be able to perform, and that we have that ability to do that in-house.

Ms. NORTON. So what are you saying is important for the record. There is some cost to the government that it simply has to assume in maintaining a core function.

Mr. MORRIS. Absolutely.

Ms. NORTON. What is the status of the current broker contract and what are the plans for a new contract?

Mr. MORRIS. The current contract does expire March 31, 2010. And we are in the process now of planning for follow-on contracts.
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Mr. MORRIS. As I mentioned in my opening statement——

Ms. NORTON. Would you tell us, without divulging contract-sensitive information, what kinds of changes you are trying to make based on experience that the brokers know about, that the public knows about, that we know about? What kinds of changes do you think are necessary in the broker contract?

Mr. MORRIS. I think, well, for example, we are trying to determine to what extent and how to price the new contract. I think commission-based pricing will be a new element of the new contract.

Ms. NORTON. Say that again.

Mr. MORRIS. I think the commission-based pricing will be an element of the follow-on contract. What kind of mix, for example, what kind of role that will play is still under discussions. There have been, for example, in the past some requests from the regions that we, in addition to the full acquisition services that we call for under this contract, that we allow for a menu of other services that would be on a fee basis, and we have not decided that. That is under consideration.

Ms. NORTON. A menu of other services, like what?

Mr. MORRIS. Market surveys. I am trying to think of some other things, other types of services that they might provide.

Ms. NORTON. Like financial analysis, those kinds of services?

Mr. MORRIS. Yes.

Ms. NORTON. Why not open that up for competition? They are not pure broker services.

Mr. MORRIS. Well, the reason we didn't do this here and the resistance to doing it in this one is we really wanted to target that lease acquisition function. If we have a need for those kinds of services, there are a number of those kind of contracts that the Federal Acquisition Service, our sister business line at GSA, already has on schedule. And so we have really encouraged the regions in the past when they needed that kind of work to go to the schedule contracts to get that because it is quicker and easier.

Ms. NORTON. I see. How do you know that the broker fee being charged in any particular transaction is reasonable? How does GSA know it?

Mr. MORRIS. We have—when we assign the brokers a task, we have an orientation meeting where GSA sits down with a broker to review what that task order is going to consist of and what a market range would be, an appropriate market range in that market, for commission, in that market and for that work. And that can be tailored to that particular type of deal and that particular market.

And so when the broker leaves that orientation meeting, they are supposed to have basically a sign-off from the contracting specialist that, this is the range that they can seek, and it would be within that local market range. The follow-up to that—let me just propound to that. When the broker brings offers back to the government, that is one of our important internal controls. We require all offers brought back to the government to disclose all commissions being paid, not only to our broker but to their broker, and whether or not there are any offers that aren't paying any commissions. So we see when the broker brings those offers back to the government for an evaluation what——

Ms. NORTON. I would think that a higher—there would be a higher commission for a large lease over a small renewal, but the commission is, as I understand it, the same in both cases.

Mr. MORRIS. The commission may vary depending on what the deal is, depending on what the task is.

Ms. NORTON. So the commission is not the same in both cases. What is the difference—well, let me put it this way, why wouldn't be there be for renewals and extensions, which involves a lot less work, let's say, something more in the nature of a flat fee structure because not as much work is necessary if there are to be extensions or renewals?

Mr. MORRIS. Well, there may be—there would theoretically be a smaller percentage, but when you say a flat fee, to me, I interpret that to mean that we are paying them a fee to do that and this is really a commission-based structure——

Ms. NORTON. Flat fee. Commission is never flat.

Mr. MORRIS. Right.

Ms. NORTON. So I am saying, if a renewal and extension requires considerably less work and you know what that work is, should that be done on the same kind of commission basis that new business would be done?

Mr. MORRIS. Well, it really depends. They are not supposed to be getting extensions in a routine fashion unless they are getting the follow-on work.

Ms. NORTON. Of course, there is follow-on work.

Mr. MORRIS. No, I mean the follow-on solution. If it is a 1-year extension that should be going to the broker if they are going to get that follow-on task to provide a permanent lease——

Ms. NORTON. How about renewals?

Mr. MORRIS. Renewals really aren't tasked to the broker. That is really just exercising an option to renew. We do those in-house.

Ms. NORTON. So the brokers don't do those?

Mr. MORRIS. I wouldn't say we never do one.

Ms. NORTON. This is what we are going to expect from the agency. It ought not be what do we do today, what do we do tomorrow? This is the kind of work that is most appropriate for the broker; this is the kind of work that is most appropriate for in-house. We know the moment the lease is signed, therefore we have a way to plan our work. That is what the Subcommittee is looking for.

Mr. MORRIS. Right.

Ms. NORTON. There have been—I asked the IG about the criticism about the regional contracts. How does the national contract address those criticisms?

Mr. MORRIS. We really wanted to centralize the delivery of the contracting for brokerage services because we had a whole lot of different contracts going in a whole lot of different directions and doing a whole lot of different things. And the IG recognized that and their findings in their audit—I mean, the witness was right. They didn't recommend this as the solution, but we came up with this as a solution based upon some of the findings that they made.

Ms. NORTON. Have you found that the problems that they found were corrected but through use of a national broker——

Mr. MORRIS. I think so, yes. I think so. And the other thing that we have been able to do is really put in place the accounting system to track the money. And that was another thing that they thought that we just didn't have a good handle on because, especially in that iteration, right before the National Broker Contract when we were trying to capture those rebates, we did a good job of capturing the rebates, but trying to handle that money and account for it, we were not doing—it was all over the place, and we have improved that by doing this.

Ms. NORTON. Finally, let me ask you about the problem that really concerned everyone, even those who thought this was the only way to go, and that is the conflict of interest. There were two recommendations. I want to ask about them. One was to modify the two dual-agency contracts to ensure that GSA could enforce the recommendation resulting from the conflict wall inspections, and the other was to establish additional controls to mitigate the internal conflicts of interest created by allowing brokers to represent the government while negotiating commissions with building owners. Now, the GAO testimony leaves the impression that GSA did not implement either of these recommendations.

Mr. MORRIS. We take the recommendations of the GAO very seriously, and they look at this pretty thoroughly, and they did make those recommendations, Madam Chair, and we went back— we didn't ignore those recommendations. We went back, and looked very closely at what we had put in place at the time, and the bottom line was, we found what we had in place sufficient, we believe——

Ms. NORTON. Why? What is preventing conflict of interest? This is in your face, people in the same firm. We have got to be able to justify that.

Mr. MORRIS. I don't disagree with you there. I will tell you some of the things that we have in place. And we were driven to this in part, and the GAO witness, Mark Goldstein, mentioned this, because generally speaking the real estate brokerage market has consolidated and has continued to consolidate over the life of this contract, so there are fewer and fewer tenant-only reps, and to increase competition, we wanted to get out to the big national firms who have depth and experience nationwide to provide these services.

So these brokerage firms are regulated, you know, by every State in the Union. They have State licensing requirements. They have ethical responsibilities. They have conflicts of interest that they have to identify for all their clients, not just the government. But as the government, we had to go above and beyond what the private sector requires. We have built into our system prohibitions against conflicts of interest. So we could not move forward without being very——

Ms. NORTON. Give me an example. First, how would you know— how would the Subcommittee know if there were conflicts of interest going on in a particular transaction? How can we know it? I will tell you one thing. I don't want to find out about it in the newspaper, because then they will say, why didn't they do something about it?

Mr. MORRIS. Here is what is in place. They are required to have their firewalls within each of the organizations so that they keep our government information, our work, separate and apart from their landlord, the other side of the house, if you will, the landlord/lessor side of the house. The personnel cannot switch sides. If they switch sides, they are prohibited from coming back and doing government work for at least 6 months in that particular market. So we have a dedicated team from these dual-agency brokers who are doing only government work, only tenant rep work. Their systems and the information are kept separate and distinct. So these are the kinds of firewall things that we have in place.

Ms. NORTON. Completely separate computers?

Mr. MORRIS. Yes, the systems are separate. The personnel may be in the same building, but they are separated, and their systems are separated. And it is my understanding that, to some expense, they had to go to that to meet those kind of government requirements. But besides that, whenever they are——

Ms. NORTON. What monitoring, what inspection is done if there is ever some—this is only a precautionary question. I have no evidence whatsoever, no reason to believe that people are not complying with the firewall. But if—you can imagine what kind of terrible scandal it would look like if such a terrible problem were occurring. So now that you have a broker contract, now you have another burden. They have got a separate system. You just indicated how they operate. How do you know that?

Mr. MORRIS. We go out and inspect.

Ms. NORTON. Tell me about that. How often——

Mr. MORRIS. Over the life of this contract, we have been out twice. We went out at the beginning when we set the contract up, and we even went back as part of the followup after this GAO recommendation and said, we found that the firewalls are in place.

Ms. NORTON. So you didn't agree with the GAO that you should modify the dual-agency contracts. Did they want you not to have dual-agency contracts?

Mr. MORRIS. No. Their recommendation was, we think you ought to go out—we think you ought to make sure you have got adequate controls in place and modify the contracts to increase those controls if necessary. We went out. We did the inspections. We thought that what we had in place was sufficient, and so we chose not to modify the contracts to do anything else. So it was not like they told you, you should go make these particular changes——

Ms. NORTON. Well, they said you should institute additional controls——

Mr. MORRIS. Without being specific. They didn't say which controls. So we went out and looked and felt like we had sufficient controls in place.

Ms. NORTON. So far, so good. At least we haven't learned anything different. But I would caution you in these hard times, this is the way you get slippage. People are in trouble.

Mr. MORRIS. And I want to point out that that is not the only thing we have in place.

When a broker is tasked with an assignment, they have to—they are going to do a lease in a particular delineated area in a market around the country, they have to look at what they already have, who they already have contracts with in that market and report back to us before they start work. They have got a finite time to come back and say, we represent the following office building owners in this delineated market and the—that was part of the way we got our waiver was we had to make sure that we were neutralizing or mitigating these potential conflicts. So the government had to make a decision as to whether or not in the face of these potential conflicts that they have, whether it was in our best interest to pull that task order and reassign it to another broker or to bring it in-house.

Ms. NORTON. Did they have to certify as they sign a lease that they have abided by—does somebody have to sign on a dotted line that the conflict of interest controls have been enforced in this——

Mr. MORRIS. Yes. And we have gone out and audited that. The IG has found that the vast majority of our organizational conflicts where the brokerage houses are already representing people, they are in the files. Those disclosures are in the files——

Ms. NORTON. That is already—I am saying at the end of the transaction, where both functions were in the same entity, does somebody have to certify that there has been no breach of the conflict of interest wall?

Mr. MORRIS. You mean like a follow-up——

Ms. NORTON. A rule——

Mr. MORRIS. Clearance——

Ms. NORTON. Somebody, for example, the person who is the broker who has carried out the lease. Does the head of the company have to certify that there has been no breach——

Mr. MORRIS. I don't think I think there is a follow-on certification at the end of each transaction.

Ms. NORTON. For your own safety, you need to have someone certify that that breach—given the fact—you can only do so much monitoring. You go out twice a year. Somebody has to take responsibility for it. When people have to take responsibility, they get to be very honest.

Mr. MORRIS. Right. I hear what you are saying.

Ms. NORTON. And whoever is the appropriate person ought to take responsibility for certifying that the conflict of interest regulations—obviously, we want to look at them in connection with—or guidance in connection with the new contract as well, have indeed been observed with no breach, signed John Jones, who takes responsibility for it. That means somebody on the inside understands that, at the top of the agency, he is accountable. That is very necessary to do.

Thank you very much, Mr. Morris.

Mr. MORRIS. Yes, ma'am. Thank you.

TESTIMONY OF DEMETRA "DEBBIE" VELTSISTAS, CB RICHARD ELLIS NATIONAL BROKER ACCOUNT TEAM LEADER; JULIE RAYFIELD, SENIOR MANAGING DIRECTOR, STUDLEY, INC.; AND CHRISTOPHER ROTH, REGIONAL DIRECTOR, JONES LANG LASALLE, AND PROJECT MANAGER, NATIONAL BROKER CONTRACT

Ms. NORTON. The next panel is important for us to hear from. Private sector panel, Julie Rayfield, senior managing director of Studley; Christopher Roth, project manager, Jones Lang LaSalle Americas; Demetra Veltsistas, account executive, CB Richard Ellis Real Estate Services.

You may go in any order you choose.

Why don't you start? Is it Ms. Veltsistas?

Ms. VELTSISTAS. Yes, ma'am. Good afternoon, Madam Chair, Congressman Diaz-Balart, and distinguished Members of the Subcommittee.

My name is Debbie Veltsistas, and I am the National Broker Contract account leader for CB Richard Ellis. Thank you for inviting me to appear before you today to discuss our experience with the GSA National Broker Contract. We are proud of our excellent working relationship with the GSA's Public Buildings Service in support of their mission of providing a superior workplace for the Federal worker and the best value for the American taxpayer.

This morning I will talk about the National Broker Contract from CB Richard Ellis's perspective. The National Broker Contract benefits the GSA, its employees, the agencies it supports and the U.S. taxpayers in many ways. Among the principal benefits are the following: using industry knowledge and practices to assist GSA to achieve the most advantageous economic outcome for the taxpayer; enhancing the GSA's capability to manage its large annual volume of lease transactions; and ensuring that Federal employees are equipped in a timely manner with a modern, efficient workplace. We believe that each of these benefits have already been realized during the current term of the National Broker Contract and that the GSA will even see more benefits as time goes on.

CB Richard Ellis is actively involved in transactions and related post-award construction management services in all 11 GSA regions. We support the GSA with a core team of dedicated professionals located in McLean, Virginia. Our work begins when we receive a task order for the lease-related services from the GSA. We promptly conduct a rigorous conflict-of-interest review and assemble a task-appropriate team of commercial real estate experts.

That team guides the transaction from the task order assignment through occupancy. We have a network of field brokers across all 11 GSA regions who provide local market expertise.

Both the GSA and CB Richard Ellis are committed to the effective use of small businesses. In furtherance of that commitment, we partner with qualified small businesses throughout the country to assist in the implementation of GSA assignments. Throughout the process, we align our execution to support the GSA's goal of fair and open competition for all procurement opportunities. We report monthly to the regional GSA offices on the status of our assignments. In addition, we participate in quarterly meetings with

GSA representatives at which we review the quality of our work on each transaction.

The GSA provides strong oversight on every aspect of our account management as well as each transaction. Their quality control is applied regionally and nationally. They exercise prudent supervision of all of our work. Everything that we do to support the NBC is fully transparent to the GSA.

The value of the National Broker Contract to the American taxpayer is realized through achieving below-market rental rates and lowering the overall costs of the tenant improvements. In addition, the National Broker Contract allows for the GSA to spend more time focusing on the requirements of the client agencies. These significant value achievements for the American taxpayer are a direct result of the National Broker Contract's purpose, which calls for the GSA to partner with national, private sector, and small business commercial real estate firms who are uniquely qualified to provide consistent cost-effective and high-quality leasing and real estate post-award construction management services to GSA and its client agencies in a fully accountable and transparent manner.

The National Broker Contract enables the GSA to partner with private third-party commercial real estate firms in order to realize proven economic savings for the American taxpayer and significant efficiencies for the GSA and the agencies it supports. For organizations such as the GSA that have large and often complex commercial real estate needs, the type of partnering that the National Broker Contract provides is not only prudent but increasingly the industry standard. CB Richard Ellis' experience as an industry specialist in such partnerships is that the benefits that the GSA and the American taxpayers will realize as a result of the National Broker Contract will only increase as the partnership continues to evolve.

We are honored to be a partner with the GSA and stand ready to continue to support the GSA's mission.

This concludes my formal statement. I am pleased to answer to the best of my abilities any questions that the Subcommittee may have with regard to the contract. Thank you.

Ms. NORTON. Thank you, Ms. Veltsistas.

Mr. Roth.

Mr. ROTH. Good afternoon, Madam Chair, Ranking Member Diaz-Balart, and Members of the Subcommittee.

My name is Chris Roth, and I am a regional director of Jones Lang LaSalle and the project manager for our National Broker Contract. I have been in this role for the past 2 years, bringing to it my 18 years of experience in the real estate and construction industries, 5 of which were focused on Federal Government contracts notably in support of the military housing privatization initiative for the Department of Defense.

Jones Lang LaSalle is not solely a tenant representation brokerage firm, though having merged with the Staubach Company in July of 2008, our GSA National Broker Contract volume has doubled.

I am pleased to appear before you to discuss Jones Lang LaSalle's experience with the GSA's first National Broker Contract. You may know well a few of our successes on the contracts:

144,000-square foot lease for the U.S. Equal Employment Opportunity Commission now in NoMa, having moved from the CBD; a 49,000-square foot lease for the Broadcasting Board of Governors in Miami, Florida; a 71,000-square foot lease for the Consumer Product Safety Commission in Montgomery County.

How would we evaluate GSA's first experience? We would look to some of the GSA's own objectives. One objective was to obtain better pricing for the GSA's customers and the taxpayers. A component of pricing, as we see it, is the GSA's direct compensation to brokers. This amount can be quantified as zero. Jones Lang LaSalle has received no direct compensation from the GSA for its services nor reimbursement for any expenses.

The contracts have required us to hire specialized personnel, construct office space, augment our information technology controls, and travel extensively in order to perform. As is customary in commercial practice, we are permitted by the contracts to negotiate a market commission to be paid by the landlords.

A second component of pricing is the rent paid by the GSA's clients agencies. According to the GSA's independent metric, we are negotiating rents more than 11 percent below market rent midpoints, exceeding the government's expectation set at 9.25 percent.

A third component of pricing that should be taken into consideration is the rebate of market commissions, dollar for dollar, that goes directly toward GSA's client agencies' initial months of rent. By our calculations, this rebate has accumulated over $16 million in direct rent savings to government agencies.

Another objective was to increase flexibility in contract administration. We are able to respond quickly, and we work nights and weekends to find space when the GSA agency customers have an urgent and compelling need. For example, in August of 2007, we were engaged to secure multiple trailer pads for FEMA to house tornado victims and their families in northeast Minnesota. In July of 2008, we were engaged to find space for several agencies, DHS, IRS, U.S. Marshals, probate and bankruptcy courts, two senatorial offices, and the GSA's own field office in Cedar Rapids, Iowa, due to flooding. We finished seven leases in 30 days in this non-FEMA task. Most urgent and compelling assignments have been for a single lease and are awarded in 7 to 10 days.

Another objective was to provide more consistent service for GSA's agency customers. With a team of 24 professionals dedicated to the contract and a flexible workforce of more than 100, we have built institutional knowledge about specific agency requirements and tendencies. I see this knowledge shared almost daily across our team.

Without regional barriers, our dedicated team provides better and more consistent services to the GSA's agency customers. While a handful of larger high-profile leases in major Metropolitan markets may steal the show in the media, such leases misrepresent the true nature of our typical transactions. More than half are less than 7,125 square feet.

Geographically, we work from Nome, Alaska, to Guaynabo, Puerto Rico; from Pago Pago in American Samoa to Auburn, Maine. The volume of transactions we are handling for the government is steadily increasing every consecutive year. Of the 1, 275 task orders we have been assigned under the contracts, we are proud to have assisted the GSA in awarding 610 assigned leases to private-sector landlords.

Jones Lang LaSalle is pleased to participate in the contracts to date. Yes, they took longer to perform well than both we and the GSA anticipated, and we have offered to the GSA a thorough perspective on lessons we have learned. We do however believe the contracts work to benefit the GSA, us as contractors, the landlords, and the American taxpayer. We have learned to work together with our GSA counterparts to get better pricing for GSA's customers and the taxpayers, provide procurement flexibility, and deliver more consistent services to the GSA's agency customers.

I would be happy to answer any questions that the Committee may have.

Ms. NORTON. Thank you, Mr. Roth.

Ms. Rayfield.

Ms. RAYFIELD. Good afternoon, Madam Chair, Ranking Member Diaz-Balart, and Members of the Subcommittee.

I am Julie Rayfield, a senior managing director of Studley, Inc., a privately held employee-owned commercial real estate services firm dedicated solely to representing tenants or users of real estate.

As one of the three National Broker Contracts on the contract since its inception, Studley maintains a team of over 40 professionals dedicated to working on this contract, including several small, disadvantaged commercial real estate firms with whom we have partnered for the life of the contract.

To date, Studley has been assigned 691 task orders totaling 13.2 million square feet throughout the U.S. and its territories. These transactions range in size from under 200 square feet to over 500,000 square feet with 60 percent of these assignments under 10,000 square feet.

Regardless of transaction size or location, though, GSA demands of us, and we deliver the same high level of attention and quality of service on each of these requirements. GSA works closely with each broker contractor and monitors our work on every transaction, evaluating us at six distinct project milestones based on five individual evaluation factors. We are also rated overall on the financial terms of the transaction measured against the market. Studley has negotiated rental rates that are 13 percent below market, well below GSA's goal of 9 percent below market.

One example I would like to use to highlight this point is the significant GSA lease award for the Department of Justice at 145 N. Street Northeast in Washington, D.C., which will consolidate elements of the DOJ at this NoMa location. This lease has awarded $40 million net present value dollars below the prospectus level rent for a 15-year term and was a catalyst for the development in an emerging area of Washington, D.C., where prior lease actions met with resistance by client agencies.

The National Broker Contract, as you have heard already today, is defined as a no-cost contract. There are no Federal Government funds expended for the National Broker Contract services. We are compensated by successful offerers who pay market commissions to the broker teams upon lease award. We receive market commissions and cannot accept an above-market commission, and I would like to emphasize that we do not make the decision as to which landlord ultimately receives the award. We work at risk and receive no compensation until and unless the lease is fully executed. We are also responsible for expenses, all expenses related to the execution of each transaction. All overhead, compensation and expenses related to a transaction are paid for by the broker teams.

The mechanism for the broker team compensation allows the government to secure the value of leasing commissions that are already embedded in market rental rates and which would otherwise accrue solely to the benefit of the lessor.

Each broker team credits a portion of the commissions earned back to the government in the form of free rent which is reflected in the lease in the form of commission credits. Studley, Inc., credits 51.5 percent of its commissions to the government. To date, Studley has earned $31 million in commissions nationwide, which includes the money paid out to our subcontractors, and we have credited $33 million to the government. This is over a period of 4 years.

Of the previously referenced 691 task orders assigned to Studley, as I said, 60 percent of which are below 10,000 feet, the commissions on those completed leases average $20,000 per lease, and the cost of executing these transactions in terms of time and expense far exceeds this commission amount.

The National Broker Contract provides a number of additional benefits. Post-award services delivered to GSA is one such example.

In summary, the partnership between GSA and the broker teams has resulted in the successful melding of Federal Government procedures and private-sector-oriented results. The broker contract provides GSA with access to valuable broker services, substantial rent abatement at no additional cost to the Federal Government.

The National Broker Contract also allows GSA to leverage its national position, taking advantage of the best financial terms offered and providing consistent service nationwide to its client agencies. While the broker teams focus on transactions and using their expertise to secure space at the most reasonable rates, GSA is able to focus on customer service, strategic planning, portfolio management, and policy guidance to agencies and their entire team. The broker contractors do not make inherently government decisions.

Madam Chair, Ranking Member Diaz-Balart, this concludes my prepared statement. I am pleased to answer questions that you or other Members of the Subcommittee may have about my company, Studley, and its role in supporting GSA's National Broker Contract.

Ms. NORTON. Well, I particularly want to thank each of you for your testimony because you are the folks that we have been talking about. We always like to talk to folks rather than about them because you have the real experience.

In our oversight, we ask tough questions, not because we doubt the value of your services but because that is our job, particularly with GSA, which, in our experience, does not bring to the table the rigor that we sometimes find at least in the private sector and that we would like to see in the agency and indeed in the handling of these contracts.

Now, I do want to say to each of you, because each of you have talked about meeting targets for government savings in leasing below—or actually that you have been below the targets, but we have had no testimony here, and you have heard the testimony, to indicate that there was a difference between the realty specialists and the contractors. And we think that that has a lot to do with—we think that has less to do with either the realty specialist or, if you will forgive me, you. It has to do with who your client, the Federal Government.

And our problem with the Federal Government, in this case GSA and PBS, is, we want to see more of taking advantage of its role in the market. But I do not know how these claims can be made due to personnel when no one has offered any evidence to us that these claims are not attributable to at least a dozen factors I could name, such as the market and the government's position in the market. So I accept what you say, but I don't accept that that is what the broker contracts are brought to the table, unless you are prepared now to indicate that there is something specific to broker contracts apart from factors such as those I have named given the evidence that the in-house folks and broker contractors perform approximately the same.

Do you have any evidence to the contrary? I mean, I am not questioning the value of the broker contracts or trying to reestablish a whole new section of GSA. I just want to answer any questions that are put to me, especially since I am on another Committee which has not experienced the benefit, for example, that the government has experienced from your at least being able to rebate to the agency some of what the government in its wisdom has not acquired for itself. I mean, there I see a real benefit. But I will be darned if I can see a naked benefit other than that.

And that I am not even sure was not correctable, and even if it was correctable or is correctable, you would still have broker contracts because, as you have heard, the goal is not to contract out everything in the first place yet acknowledges it as a core function. So unless you are able to show something that, I have to tell you, that in my experience in Oversight and Government Reform, most people in contracts are not able to show.

Most people in contracts are not able to even tell us what the difference is, whether they are below or above. They simply assert it. Here with the IG documenting what you have done, what the realty specialists have done, I accept that you are more than meeting your target. We are going to require GSA to have the same kind of targets. I am not sure we even asked that, the same targets for the in-house people. I would think that the private sector, who has to compete with these contracts, wants to get the best deal because they want the contract to be renewed. Well, I think that they should be setting the mark for the in-house folks. Hey, you have got to do at least as well, perhaps better, but at least as well as the broker contractors.

Do you know anything about how well they do compare to your own performance?

Ms. RAYFIELD. Madam Chair, I can state that we are not familiar directly with the way in which GSA evaluates its internal personnel. We are only able to communicate to you the information that we receive——

Ms. NORTON. Yes, I am aware of that. You don't have any way to know that——

Ms. RAYFIELD. They do not share that information——

Ms. NORTON. And their IG tells us there is not any difference. I am simply using you to say, hey, they can do it; why can't you do it? And I congratulate you on doing it.

How much of what you are doing today—you have been in the business when it was much better than it is today. Are you able to reap any benefits from—with the government from the down market that the government now operates as a part of, any of you, as you——

Ms. RAYFIELD. If I could, Madam Chair, just say that my business and my team's business is both oriented in the private sector as well as working with the government. What we do believe that we are able to bring to the table is a significant expertise as it relates to private-sector practices in commercial real estate and bring that information and that knowledge and that expertise to bear on our work with the Federal Government, which I do believe was originally one of the objectives that GSA had in bringing broker contractors on board, was to be able to tap that private sector knowledge base and expertise.

Ms. NORTON. But we have not seen any difference in the performance. I don't think you should underestimate people who every day have to deal with the private sector the way you do. You are no different from them except that they happen to work for the Federal Government. They have got to understand the market. They have got to be able to negotiate the same way you do, so I don't see that—if they don't have the skills, the exact same skills that you do, they shouldn't be working for the GSA, as far as I am concerned.

Ms. RAYFIELD. Well, we do have the opportunity, Madam Chair, to work with institutions and with real estate organizations in the private sector that provide us with very good insight on critical issues that relate to our ability to effectively advise GSA and work with them on their transactions, everything from financial structuring to understanding the financial markets that are in play at any given time, you know, with real estate transactions, and we do bring that type of expertise to bear because we are doing it on a regular basis and working also directly in these markets.

One of the things that I heard said earlier today related to working in local geographic markets, and I think it was stated by some of my co-panelists here that we actually do utilize our brokers who are in local markets. We don't just work out of Washington, D.C. We have experts who are out in the markets working in their markets of expertise throughout the country.

Mr. ROTH. Madam Chair, if I could comment, not only are we not privy to the information on the performance of the GSA's employees, but not even to each other's, so what——

Ms. NORTON. Especially not to each other's.

Mr. ROTH. Especially not to each other's, other than what has been said in this testimony. So we focus on our own performance. We are pleased to be exceeding the measures, certainly, and though I would agree with you that——

Ms. NORTON. I have asked whether—and we should have asked GSA whether or not they are using the same measures this year that they were using 2 years ago, for God's sake. If you are the government looking for leasing, you are a rare bird in the market today. Are you finding that there are any advantages to representing the government in this market?

I asked that question before, Ms. Rayfield, and didn't get an answer. I would like to know, are we taking—that is one of my driving goals, to not have the big kahuna sitting up here acting as though it was a small business realtor.

Mr. ROTH. I can tell you absolutely. The driving force between below-market rents is the full faith and credit of the U.S. Government——

Ms. NORTON. Surely it is. Surely it is.

Mr. ROTH. That is more powerful than the negotiation ability of a broker. I am not saying that the negotiation ability in the tens of years of experience in major markets doesn't benefit the government in all of our work incrementally.

Ms. NORTON. No, I am sure you don't. It is just that it is very easy, and I don't blame you, frankly, for spending your own expertise. I suppose I take umbrage that the Federal worker is deprecated. I happen to have the highest regard for GSA personnel and lament how they have had a terrible brain drain, but I know that it is not even them. It is exactly what you say. It is whom they represent. If they are halfway competent, they ought to be able to get a good deal.

I continue to ask, were you representing the government in any contracts 2 years ago, any and all of you? Is there any difference today in the deal you can get for the Federal Government?

Ms. RAYFIELD. Madam Chair, absolutely. We are definitely seeing very aggressive deal structures that we are able to obtain at this point in the market——

Ms. NORTON. Lower rent leasing rates for the government——

Ms. RAYFIELD. Absolutely. We are about to complete a leasing action here in D.C., resulting in a lease in the ballpark area, and they are extremely—I can't at this moment divulge it. It is just closing. But it is extremely aggressive rental rates and overall structure that is setting a new low in the marketplace, absolutely, yes, ma'am.

Ms. NORTON. I mean, the buyers' market does not—does not characterize what your advantage should be. We deal in construction with the top people in this industry. We deal with all the owners. We know. We can see no signs of even people at the very top who could always get financing who can't get it and are completely in pain and hurting, and we are going to have to see from GSA's bottom line that GSA is taking advantage of that. We are going to have to see it over at—in the contracts that it is negotiating with the Department of Homeland Security. Imagine getting that kind of work in this economy. Well, we are concerned that increasingly these folks are in the leasing business, and they have got to learn to deal with—and, of course, they have. At least that is the evidence according to the IG. As the economy rolls up or down, it needs to reflect the expertise you bring and that we expect them to bring.

Now, we understand that the Studley Company agreed to credit—our figure is, and I think you may have offered a different figure, 51.5 percent of its commission to the Federal Government in the form of the free rent that we discussed with a prior witness. What percentage did CB Richard Ellis commit? What percentage did Jones Lang LaSalle commit?

Ms. Veltsistas. Madam Chair, for CB Richard Ellis, we had 37 percent of our commissions on the 1st and 2nd year; 38 percent on the 3rd year; 39 percent on the 4th year; and 40 percent on the 5th year. Thank you.

Mr. ROTH. I am overseeing two contracts. The Staubach contract is at 31 percent, and the JLL contract escalated year by year. It began at 26 and is now at 34 percent. That information was in the GAO's first report as well, I believe.

Ms. NORTON. In securing a contract, any big contract, the GSA has factors. It grades. There are significant differences among you. It is my information that GSA does not compete the amount of this give-back, rebate, commission, call it by any polite name you will, that it is not a factor in the competition. Is that your understanding?

Ms. RAYFIELD. Madam Chair, the commission credit back to GSA was competed as a part of the original contract. We all had to submit information related to our technical qualifications as well as our pricing, so that was initially a part of the competition. And it is not further competed on individual task orders but was competed on the contract overall.

Ms. NORTON. That must mean that, among other factors, you all must have been the top three in those factors. Why is there a difference between—why is Jones Lang agreeing to 51.5 percent and go down from there to the other two?

Ms. RAYFIELD. Madam Chair, Studley is the broker contractor that gets 51.5——

Ms. NORTON. I am sorry. The other two. I am just using something as a marker. Why not the same for the other two contracts and——

Mr. ROTH. I was not around at the time this was bid, but I do price contracts for JLL with the Federal Government, and what we do is price to win, and what we think is the most competitive without any information about what our competitors are going to price at. We escalate it over the years, assuming that there would be a learning curve and that we would learn more about the contract and therefore have less overhead, less expenses, and that is why our rebate increases over time.

Ms. Veltsistas. Madam Chair, similarly to JLL's comments, we price it to win. And we also escalate it over the course of the contract to where we are today at 40 percent.

Ms. NORTON. Your companies are all about the same size or not?

Ms. Veltsistas. I can't really speak for JLL, but I would say we are similar in size, but I believe that, as far as staffing, we have 30,000 folks on the CB Richard Ellis team. We have 158 offices in the U.S., and we offer over 300-plus global corporate services, corporate clients that we manage as part of the CB Richard Ellis team.

Mr. ROTH. We have around 13,000 employees in the Americas.

Ms. NORTON. How many did you have? How many employees?

Ms. VELTSISTAS. 30,000.

Ms. NORTON. And you have?

Mr. ROTH. I am saying 13,000 in the United States.

Ms. NORTON. You are talking about the United States.

Ms. VELTSISTAS. No, globally.

Mr. ROTH. I do not know the number globally.

Ms. RAYFIELD. And Madam Chair, Studley has approximately 350 brokers and 200 staff members in the firm and 20 offices across the country.

Ms. NORTON. Well, GSA, I am sure, will have a reason for why it accepted the differences. We will find out what those reasons were.

Small business plan, that is of great interest to this Subcommittee. Would you each explain what your small business plans are, how you monitor those plans, what small businesses you have, what number, any information you can give us to document your small business plan?

Ms. VELTSISTAS. Madam Chair, the detail of the small business plan, I don't have the specifics available this afternoon, but I can certainly follow up with those.

But our goal with GSA was 25 percent. We are currently exceeding that goal; we are at 31.9 percent. We have given $5.9 million to our small business firms in support of the GSA contract.

Ms. NORTON. Would you submit for the record here your small business plan and who have gotten those contracts?

Ms. VELTSISTAS. Who have gotten the contracts?

Ms. NORTON. Small businesses.

Ms. VELTSISTAS. The Names of the small businesses?

Ms. NORTON. That you have had to deal with. So whatever that percentage you just said, 39, or whatever percentage that is.

Ms. VELTSISTAS. Right. Our small business firms that work with us?

Ms. NORTON. Yes.

Ms. VELTSISTAS. The names?

Ms. NORTON. I would like you to submit that for the record. I would like all of you to do it.

Mr. Roth.

Mr. ROTH. Sure. Our small business goals are 25 percent of subcontracted dollars. Since the inception of the contract, we have used predominantly a single, disabled-veteran-owned business here in Washington, DC.

Ms. NORTON. Why is that?

Mr. ROTH. Because, initially, we found them to be the most suitable partner, able to do both the post-award services and the lease-acquisition components. Though we still retain them, we have now gone in some areas to other small businesses or small brokers that can help us out.

Ms. NORTON. How many, Ms. Veltsistas, how many small businesses do you deal with in your small business plan? One does not sound to us like a small business plan. It sounds like, to us, that you find—this is what contractors do. There is some risk in hiring small businesses. The Federal Government says we want and demand small business outreach. And the contractors who simply go to a small business may or may not be meeting that requirement. It doesn't sound to me as though one does or gives many opportunities for small businesses in this business.

Ms. VELTSISTAS. Madam Chair, C.B. Richard Ellis currently has eight small business firms, and we are in the process of signing up two more. We have firms that do specifically just the front-end brokerage fees. We also have firms that do the whole procurement from start to finish. We also have some firms that do the post-award services for us.

Ms. NORTON. You are going to have to break it up to do anything with small businesses. And guess what? They will come to me, and they will complain that we can't get any small business real estate business from the GSA. And no, you are not going to be able to get the same kind of business you do, Mr. Roth, from a small business. Sure, that is the easiest way to do it; I got one I signed on the bottom line, that is all I need to get.

We are trying to increase small business use within the Federal Government and certainly within the GSA. So we really do need to see that there is some outreach; otherwise we believe only the letter, not the spirit—indeed, I would argue that even the letter isn't being—it could be somebody's brother, you know, that is really not what we mean, Mr. Roth. And I don't want to have them on my doorstep. I am going to send them right to you. So I suggest you look for more small businesses than one.

Ms. Rayfield.

Ms. RAYFIELD. Thank you, Madam Chair.

We took an approach under this contract when we were organizing ourselves to respond to GSA's RFP, which was to reach out to small business concerns around the country in the different GSA regions and find professionals who had very solid, strong experience working with GSA in the past and understood how to handle GSA lease procurements, and who had a very good strong record of performance with GSA.

In essence, what we have done with these firms is we have partnered with them for the life of the contract. They are absolutely integral to our team and the execution of our work. They signed on with us at the beginning of our contract, and they have all been with us through the duration.

Ms. NORTON. How many?

Ms. RAYFIELD. We have a woman-owned small business that handles region 10. We have a small service-disabled veteran-owned firm who handles all of region nine for us. We have two woman-owned small businesses who support us in region four. And we have a small disadvantaged woman-owned 8A business who does all of our post-award work for us in regions one, two, three, and some of our work here in NCR. And we are increasing the scope of her work as she is able to bring on additional staff members.

Ms. NORTON. So you have five?

You see why you need more, Mr. Roth?

Did you say you did a—who did the RFP?

Ms. RAYFIELD. We did not issue an RFP, but when the GSA issued their request for broker contractors to submit proposals, at that time, they had requested we submit information on our team structures. It was at that point, before we even ever were awarded the contract, that we reached out and developed partnerships with these small business concerns.

And Madam Chair, if I could just emphasize that these aren't professionals who work with us on one-off transactional basis; they handle all of our work with us in close coordination with us in these regions. They have substantial integral roles as partners with us on this broker contract.

Ms. NORTON. This notion of partnering with small businesses is really important. That is why, Mr. Roth—who comes from Jones LaSalle—yes, you will not find full-service, small business real estate people as easily. I must say, I endorse the notion of partnering. We want them to learn as much of the business as we can. We don't insist on any particular form it takes, but we know what our goal is. And we know that if you are just looking for someone who is the easiest person to find, you really aren't reaching, particularly when you consider how large this firm and business in D.C., the notion of not partnering—if you don't partner, you might not be able to do it. And you won't be able to meet our goal, which is to spread the expertise that only larger firms have to smaller businesses. I have got to get out of here soon.

I do need to know, have you found any of your broker deals falling through?

Mr. ROTH. By falling through, I will assume, due to the economy, is that——

Ms. NORTON. Due to the economy, or any other reason.

Mr. ROTH. We haven't had any fall through. We have had many that we are concerned about, primarily due to developers in lease construct task orders, finding their construction financing. And in addition, often permitting issues and those sorts of things are slow to come to fruition.

Ms. NORTON. Ms. Veltsistas, you talked about your rigorous conflict-of-interest review.

And I am sure that all of you are aware, would any of you see any problem with having the firms certify that the conflict-of-interest guidance has been fully met when you do a transaction with GSA?

Ms. VELTSISTAS. We would have no issue with that at C.B. Richard Ellis.

Ms. NORTON. And there may be something I don't see. I am just trying to do what all of us have to do. You can believe I police my people because I can't say only LA did it, I have to take personal responsibility. And we are not in there looking over your shoulder, and shouldn't be, nor do we doubt your integrity. We believe in your complete integrity. But somebody has to feel responsible. That is why certification occurs to us as an additional safeguard. If there is something about the industry that I don't know that would make it difficult, then speak up or forever hold your peace.

There were complaints from—and we can understand it, where the first contracts complain about things the government makes you do that you didn't otherwise do. You understand that now. Are there any recommendations that you have for GSA regarding the new contract?

Ms. RAYFIELD. Madam Chair, if I could speak specifically to the question that was raised earlier and you just alluded to regarding post-award services. We worked very closely with GSA, all of the broker contractors did at the onset of the contract to bring clarity to that area of service that is required under the contract.

And I think the comments that have been made refer to the fact that the scope is perhaps very general. And we worked very closely together over the course of the first 2 years of the contract to make it clearer and to remove any gray areas so that we could deliver the value to GSA that we anticipated delivering under this contract. And I think once that occurred, that it was an entirely different story.

So the concern from the brokers related to just making sure we were all clear about the specific services that we were providing to GSA because post-award services can range from here to here.

Ms. NORTON. But did they direct you, you need more clarity in the upcoming contract? Do you need that?

Ms. RAYFIELD. I was going to say yes.

The only other thing that we would hope for in the reprocurement is, again, that it is clearly defined, and that perhaps GSA reaches out, you know, for some input from the industry on that scope of services because it is a really slightly different area than leasing services, particularly project management.

Ms. NORTON. Oh, I want staff to make this clear; I want GSA to sit down—now I have to avoid conflict of interest with the people. I understand there have been two industry forums. GSA had a lot to learn about what it had to do in order to make clear what it desired or required, so we want to make sure that all that is learned in the 5-year contract in fact is incorporated into the new one.

The Ranking Member is back.

Mr. DIAZ-BALART. Thank you, Madam Chair.

Thank you again.

I don't have to apologize to the Chairwoman because she knows where I have been, but I do want to apologize to the distinguished panel. I was on the floor voting, so, again, I apologize for not being here at the beginning of your testimony.

I do want to make a couple of observations and then maybe a couple of questions, if I may, Madam Chairwoman.

Staff was trying to get from GSA the real numbers as to what the potential savings were based on their lease-cost-relative-to-market measure. And we know from the conversations and we finally got some, I think, really good numbers. Obviously the goal was 9.25 below—market rates I guess is what it would be. They also gave us the fact that the brokers are 10.56 below; so that is, you all are exceeding the goal, but we also finally got from GSA their numbers. And these are not estimates, these are on the 216 leases. And that is 9.5. So GSA is meeting, and frankly exceeding, their goal slightly, but the brokers seem to be exceeding that goal, which is obviously a very good thing, by substantially more than that. So I think that is just, again, that is why I commended GSA for——

Ms. NORTON. Would the gentleman yield?

Mr. DIAZ-BALART. Of course, Madam Chair.

Ms. NORTON. I commend you for getting those numbers because I asked if anyone knew what realty specialists were doing compared to their 10.4. We don't have that number. But I have announced here that that has got to be the goal for the realty specialists in-house. If they are driving greater efficiency and more savings; they supposedly have the same expertise in this new contract. They have to put the same goals on their in-house people. Thank you.

Mr. DIAZ-BALART. Absolutely, Madam Chair. And you and I are on the same page on that as well.

A couple questions that I guess really kind of just adding to what the Chairwoman asked a little while ago, which is, there is a bottleneck, and the process takes a long time. Do you all have any recommendations how to accelerate the pace of the lease acquisitions so that, particularly now, by the way, the government can take advantage of the current conditions? So anything we can do to speed that up. If you have some recommendations now, or if you would have some recommendations at a future time, I think it would be very helpful.

Does anybody want to take a crack at it now?

Mr. ROTH. I will just put one out there. I have provided several to the GSA, but one that I think would help the process move quicker really throughout are the evaluations. As you have heard, we do monthly evaluation meetings in the regions, and quarterly evaluations at the national level. We are reviewed on every task order at six points across five metrics, and a final.

What we find in the private sector is that our clients can still be very diligent if they evaluate us at a few key milestones among some number of metrics so that the number of evaluations seems to be extraordinary at this time, and it seems to be occupying a lot of the government employees' time.

Mr. DIAZ-BALART. Great.

Madam Chairwoman, you have heard me talk about this issue time and time again, and I apologize one more time, and I think you and I also share the fact that we both believe that, whenever possible, the government should own as opposed to lease. So it is kind of a little bit off the subject, but I do want to ask, just because we have such great knowledge right here in this panel, would there be now, in this market, good purchase opportunities for the government where we have long-term space needs? I have been talking about it, and I don't want to put words in her mouth, but I think we all have concerns about the fact that if we could be purchasing, it would be a better deal for the taxpayer. Would this not be a good time for the government to purchase as opposed to lease, if possible? I am actually kind of asking about the market; what is out there? And know it is a little bit off topic, so——

Ms. RAYFIELD. Congressman, absolutely. We think this would be an excellent time for GSA to take advantage of the current market conditions. There are multiple situations here in this market and certainly in other markets around the country where there are landlords who are in distress, and there are opportunities for GSA to be able to step in, through a number of different transactional structures, and would be able to take advantage of those excellent opportunities right now. They exist, and now is the time to move on them, absolutely, sir.

Mr. DIAZ-BALART. Thank you.

Thank you, Madam Chairwoman.

Ms. RAYFIELD. Madam Chair, may I respond to a question that you had asked earlier that I just wanted to make a comment on?

You had asked if we had had any deals fall through. And I just wanted to identify, there were three in particular that come to mind under this contract that have fallen through for us. One would be the VA deal in Washington, D.C. This is not immediate or recent; it was 2005, which was a transaction just over 200,000 square feet that we worked on for well over a year before it was canceled.

Ms. NORTON. You are talking about up at Soldier's Home?

Ms. RAYFIELD. This was to be the Lafayette swing space in 2005. And ultimately, I believe that it related to funding for the renovation, and we were tasked with the swing space requirements. We worked on that for a little over a year, and then that was canceled.

We also worked on the Department of Commerce that same year. It was the same scenario. It was the renovation of the Department of Commerce. We were tasked with finding the swing space. That was 324,000 square feet. That was also canceled close to a year into the procurement.

And then the third example I would use is actually out in region 10 at the U.S. Attorney General's Office, which was a 70,000 square foot requirement that we actually worked on for 3 years before it was canceled. So I just wanted to respond to that.

Ms. NORTON. GSA never got the money in the first place, as I recall, on those deals.

Ms. RAYFIELD. Yes. Understandably on the swing space, it was the renovation dollars for the Federal buildings. But on the region 10 U.S. Attorney's Office, I believe there were other circumstances involved that weren't related to funding. But thank you for the opportunity to answer the question you posed before.

Ms. NORTON. And all of those were because GSA didn't get government funds, which when we are talking about swing space—these were all swing space?

Ms. RAYFIELD. Two of those three were the leased swing space requirement.

Ms. NORTON. That is very, very bad, very, very bad, and something we are going to have to look into. When you send people to work and don't have any idea if you are going to be able to go through with it, what is the point?

I do want to say to the Ranking Member that last week GSA did say it was going to ask for funds to purchase in this market. It is so rare that the government does it. I don't know, with this deficit, but there was that fat $100 million one-time payment in there. But it was such an irresistible deal for the government that had virtually no choice but to continue renting that building and poured millions of dollars into it; you wouldn't have thought it would have taken them this long.

I want to thank each and every one of you. This panel would have had a huge hole in it, in terms of what we do in proceeding with oversight of the broker contract, without your testimony, which has been indispensable and very helpful, and we very much thank you for that.

Thank you. The hearing is adjourned.

[Whereupon, at 1:27 p.m., the Subcommittee was adjourned.]

OPENING STATEMENT OF
THE HONORABLE RUSS CARNAHAN (MO-03)
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

Hearing on
Evaluating GSA's First Experience with National Broker Contracts

Wednesday, July 15, 2009
2167 Rayburn House Office Building

Madam Chairwoman Norton and Ranking Member Diaz-Balart, thank you for holding this hearing about the General Services Administration's (GSA) work with leasing federal and commercial property through national broker contracts (NBC).

In 2003, the Government Accountability Office (GAO) added "Managing Federal Real Property" to its high risk list, partly because of the growing overreliance on leasing instead of ownership. Coupled with larger levels of staff turnover, GSA began to sign a series of regional broker contracts to help supplement their leasing services and account for a lack of leasing specialists internally. Though the regional broker contracts did help offset some of the burden on GSA, these contracts were inconsistent across regions and were met with much criticism.

NBC was adopted in 2004 to address the inconsistencies of the regional contracts, and as NBC's October expiration date nears, we must examine the effectiveness of the system before renewing the program. NBC currently maintains contracts with three separate companies, and these contracts are set to expire in March 2010. As we begin our thorough investigation of NBC, we must explore its usefulness, efficiency, and benefits before we decide to renew the system.

In closing, I would like to thank the witnesses for joining us today. I look forward to hearing your testimony and working closely with you on this issue.

Statement of the Honorable John L. Mica
Ranking Republican Member
Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings and Emergency Management hearing on:
GSA's National Leasing Program and GSA's National Broker Contract: Problems and Progress
July 15, 2009

Thank you Chairwoman Norton for holding this hearing so the committee can review the results of GSA's National Broker Contract and identify areas for improving the contract in the future.

Now that we have five years of results from the contract, I believe we can say with confidence the brokers are adding tremendous value for the taxpayer at no direct cost to the government.

On average the brokers are securing leases that are 11% below market rates and 1% below GSA's own in-house leasing operation. By this measure alone, the brokers are saving taxpayers tens of millions of dollars in rent every year.

But the savings don't stop here.

In addition to better rates, the brokers rebate an additional 1.5% rent reduction to the government from their commissions. So far the government has received almost $60 million in rebates and it expects to realize $155 million from the leases under negotiation right now.

These are real savings to the taxpayer and it costs the government nothing.

Now let's compare this to the way GSA used to lease space before it implemented the national broker contract.

In the past, GSA would supplement its in-house leasing activities with a series of regional contracts to hire private real estate brokers – on a fee for service basis.

Each year GSA would pay tens of millions of taxpayer dollars in fees to the brokers for these services. Today, the brokers are paid a commission by the building owners, and GSA pays nothing.

Because GSA largely prohibited its brokers from receiving commissions in the past, GSA was unable to share in those commissions and lost hundreds of millions of dollars in rental rebates. Today the brokers essentially split their commissions with the government and save the taxpayer hundreds of millions of dollars.

In conclusion, I believe the results have shown a commission based broker contract results in lower lease rates for the government, hundreds of millions of dollars in savings for the taxpayer, and no direct costs for the government.

In general this has been a win-win program for the taxpayer, the government, and the brokers. However, like any new program there is room for improvement.

I am pleased the committee is holding this hearing to identify those areas, and I believe the committee should support GSA's efforts to improve the program and renew the contract by the end of the year.

Thank you.

National Broker Contract - Summary Update through May 2009

Tasking Levels

NBC Task Order Activity from Contract Start thru May 2009

	JLL	Staubach	Studley	CBRE	Totals
Number of commissionable task orders	595	415	655	563	2,228
USF of commissionable task orders	11,458,358	7,274,272	12,185,576	12,309,120	43,227,327

Task order goals, results & utilization rates

	Number of task orders		% of leases using NBC	Usable Sq Ft		
	PMT Goal	Actual		PMT Goal	Actual	
Contract Year 1	692	469	37%	n/a	10.0	million
Contract Year 2	712	436	39%	n/a	8.7	million
Contract Year 3	563	520	69%	n/a	9.9	million
Contract Year 4	608	650	86%	n/a	11.6	million
2nd month of Contract Year 5	105	153	116%	n/a	3.1	million
Totals	2,680	2,228		n/a	43.2	million

Rental Savings from Negotiated Rental Rates under NBC task orders *

Based on 216 leases completed after contract start through FY09 Q2 and assessed through the Lease Cost Relative to Market (LCRM) measure

Compares annual rent of NBC leases to midpoint of market range on lease-by lease basis
216 NBC leases for 3,169,457 square feet completed and assessed through FY09 Q2
In aggregate, the 216 NBC leases are 10.56% below the midpoint of the market compared to GSA goal of 9.25% below

Annual Rent Savings (cost avoidance) **$ 10.4 million**

Savings from Commission Sharing Credited Back to Government Resulting in Rental Savings to Customer Agencies
Estimated Commission Credits- Actual & Pipeline from Contract start through May 2009

	Totals
Commission credits reported by brokers as received or earned thru May 2009 for 1002 task orders with awarded leases	$58.4 million
Estimated commission credits for 1226 active task orders without awarded leases yet**	$97.2 million
Total, estimated commission credits for all 2228 task orders	$155.6 million

** Estimated future commissions and credits are based on each broker's average commission and credit rates per square foot-year of leases already signed, applied to each broker's outstanding task orders (no lease signed yet) measured in square-foot years.

File: C:\Documents and Settings\mobrock\Local Settings\Temporary Internet Files\OLK20C\NBC Comm'r summary thru May 2009, tab:comm'r report , printed 8/31/2009, 3:22 PM

STATEMENT OF
THE HONORABLE ELEANOR HOLMES NORTON
CHAIR, SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
"Evaluating GSA's First Experience with the National Broker Contract"
July 15, 2009

Good morning and welcome to today's hearing on the National Broker Contracts. Today, we will examine whether the National Broker Contract provides a tool to meet its statutory obligation to procure commercial office space for federal agencies, whether the contract has been of benefit to taxpayers, and we will hear suggestions for improving the contract. We begin with some background concerning GSA's decision to include private brokers.

Many of the services of the Public Building Service (PBS) within GSA have private sector counterparts, such as leasing, property management, and property maintenance. In response, to President Reagan's 'Reform '88' the agency contracted out virtually all of its property maintenance operations. GSA has also contracted out its engineering and architectural requirements, as well as interior design and space planning services. During the mid 1990's, GSA engaged Arthur Anderson to conduct an exhaustive analysis of its leasing program to determine the feasibility of contracting out that function. The agency did quite well in the comparative analysis, with only a few administrative leasing functions identified as potential for further review for contracting. The Arthur Anderson report concluded: "Commercial Broker is competitively priced. It would be more costly to privatize and should be retained in house."

However, concurrent with the contracting out trend government-wide, OMB reduced full time equivalents (FTE's) in all agencies. Consequently, as employees retired OMB eliminated these FTE positions. During the late 1980's and early 1990's PBS lost many of its veteran employees who had come into the government in the 1960's inspired by President Kennedy's call to public service. Although there was no empirical data to support contracting out leasing, the agency now found itself caught between a requirement to contract out a certain number of positions on one hand and fewer in-house personnel to conduct leasing activities, on the other. Thus in 1997 the agency signed a series of regional broker contracts to provide limited leasing services. These contracts were meant to assist the in-house leasing specialists, not replace them.

In December 2002 the Office of the Inspector General issued a *"Review of PBS' Use of Brokerage Contracts for Lease Acquisition Services".* Of special interest to the IG was the use of rebates and "zero dollar" task orders where payment for leasing services rendered was expected to come from the landlord or property owners signing the lease and not from GSA controlled funds. The IG's report contained information from the GSA's Office of General Counsel which identified two serious issues: (1) The obvious potential for a conflict of interest between the government's interest in receiving the best value and (2) the broker's interest in receiving the highest compensation and the problem of possible illegal augmentation presented by allowing brokers to be compensated by anyone other than GSA, for services provided.

The GSA general counsel requested an opinion from the Government Accountability Office regarding the compensation issues. GAO issued its opinion on August 25, 2003 and concluded "GSA may enter into proposed contacts with real estate brokers without augmenting its appropriation..." However, GAO acknowledged, "GSA's submission indicates a possible issue of conflict of interest between the government getting best value and the brokers' interest in getting the highest commission." GSA proceeded to put together a national broker contract.

Today, GSA leases 177.5 million rentable square feet of space in almost 7,100 leased properties, now slightly exceeding GSA's owned space. Thus, leasing, along with federal construction, is clearly a core function of GSA. Contracting out this activity through the National Broker Contract has brought about a profound change within the agency and one of the most significant changes since it was established in 1949. This approach raises concerns because the agency has no "fall back reserve position" – of realty specialists, and limited recruitment and training funds today for these critical positions, leaving the government with no alternative except to use these national contracts for a core function of the PBS. For this reason, the subcommittee has a special obligation to look closely at the existing experience with Broker contracts to see if improvements are necessary.

The National Broker Contract is a competitively bid contract that augments services provided by PBS and allows PBS to outsource brokers services for leases for federal agencies. In addition, the contract allows brokers to be paid the usual broker fee, instead of being paid by appropriations. The GSA Office of General Counsel further determined that it is permissible for GSA to accept a rebate from the tenant brokers and to credit that amount to the lease.

The original contract was awarded on October 4, 2004 to four companies. The contracts were awarded as one year base contracts, with an option of annual renewal for up to five years. The current contract will expire in March 31, 2010 and GSA is currently preparing the solicitation for the re-issue of this contract. Therefore, it is important that this subcommittee conduct oversight and address the concerns initially presented by the National Broker Contract by the GSA Inspector General and the Government Accountability Office. We must review the GSA's rationale for the decision to place a core GSA Public Building service function, in the private sector. We need to determine if the financial and managerial systems are in place for GSA to properly administer the National Broker Contract. We must scrutinize the assumptions used to justify the agency's decision to contract out leasing services. We must understand how GSA has addressed conflicts of interests with brokers that both own and market buildings to federal agencies.

If GSA believes it is in the best interest not only of the government and the taxpayer to have the private sector solely responsible for providing leased space for the government; GSA must explain and justify its relationship to agency leasing. If GSA is anything more than a bureaucratic middleman between federal agencies and brokers, why should GSA be in the leasing process at all?

There are a myriad of issues that need to be examined in the National Broker Contract process so that this subcommittee can be confident that the contract properly shields taxpayers from waste and abuse and provides real value to taxpayers that would otherwise not be realized. I look forward to hearing from all concerned parties on this important issue and appreciate their testimony.

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
SUBCOMMITTEE ON PUBLIC BUILDINGS, ECONOMIC DEVELOPMENT, AND EMERGENCY MANAGEMENT
HEARING ON: EVALUATING GSA'S FIRST EXPERIENCE WITH NATIONAL BROKER CONTRACTS
JULY 15, 2009

I would like to thank Chairwoman Norton for holding this important hearing on the General Services Administration's (GSA) National Broker Contract that outsources portions of GSA's national leasing program. The GSA national leasing program has continually remained of great concern to. As I have watched the GSA portfolio trend from most Federal agencies being housed in Federally-owned space to now being housed in leased space, I am genuinely alarmed that GSA is losing its ability to effectively manage the Federal real estate portfolio and, more importantly, the deleterious effect the trend has on the Federal Building Fund. The GSA trend to housing Federal agencies in leased space has significantly reduced the amount of payments made to the Federal Building Fund, which is used as a funding source for new construction and funds for maintenance of the Federal estate portfolio.

The undue reliance on private contractors to provide leasing services for GSA remains a core concern. A 2003 Government Accountability Office report indentified the management of Federal real property as an area of high risk in large part because of the government's overreliance on leasing expensive commercial office space to meet Federal space needs.

Furthermore, with GSA trending towards leasing to meet Federal space needs, I am also concerned that the lack of experienced leasing specialists has eroded GSA's ability to effectively procure leases in a timely manner and at attractive prices. I believe it is important to examine whether the National Broker Contract weakens GSA's ability to build up the institutional knowledge necessary for GSA to administer a strong national leasing program, which has become an essential governmental function.

Although the Federal government is currently operating at a deficit it is important for GSA not to operate in a short-sighted manner in its role of asset manager for the Federal Government's real estate portfolio, by reducing the amount of Federal construction, and thereby reducing the amount of agencies paying into the Federal Building Fund or taking any actions that would reduce GSA's ability to properly administer the national leasing program.

I strongly urge the members of this subcommittee to continue their oversight of the National Broker Contract. This Committee will continue to push the GSA to use all the authority it has to be good stewards of the taxpayer's money.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EDT
Wednesday, July 15, 2009

FEDERAL REAL PROPERTY

An Update on High Risk Issues

Statement of Mark L. Goldstein, Director
Physical Infrastructure Issues

GAO
Accountability * Integrity * Reliability

GAO-09-801T

July 15, 2009

FEDERAL REAL PROPERTY

An Update on High-Risk Issues

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-09-801T, a testimony to Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives

Why GAO Did This Study

In January 2003, GAO designated federal real property as a high-risk area because of long-standing problems with excess and underutilized property, deteriorating facilities, unreliable real property data, over-reliance on costly leasing, and security challenges. In January 2009, GAO found that agencies have taken some positive steps to address real property issues but that some of the core problems that led to the designation of this area as high risk persist.

This testimony focuses on (1) progress made by major real property-holding agencies to strategically manage real property, (2) ongoing problems GAO has identified in recent work regarding agencies' efforts to address real property issues, and (3) underlying obstacles GAO has identified through prior work as hampering agencies' real property reform efforts governmentwide.

This testimony is largely based on GAO's extensive body of work on real property high-risk issues, including reports on efforts by the Office of Management and Budget (OMB) and executive branch agencies to address real property issues. No new recommendations are being made.

View GAO-09-801T or key components. For more information, contact Mark L. Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

What GAO Found

OMB and real property-holding agencies have made progress in strategically managing real property. In response to an administration reform initiative and related executive order, agencies have, among other things, established asset management plans, standardized data, and adopted performance measures. According to OMB, the federal government disposed of excess real property valued at $1 billion in fiscal year 2008, bringing the total to over $8 billion since fiscal year 2004. OMB also reported success in developing a comprehensive database of federal real property assets and implemented a GAO recommendation to improve the reliability of the data in this database by developing a framework to validate these data. GAO also found that the Veterans Administration has made significant progress in reducing underutilized space. In another report, GAO found that six agencies reviewed have processes in place to prioritize maintenance and repair items.

While these actions represent positive steps, some of the long-standing problems that led GAO to designate this area as high risk persist. Although GAO's work over the years has shown that building ownership often costs less than operating leases, especially for long term space needs, in 2008, the General Services Administration (GSA), which acts as the government's leasing agent, leased more property than it owned for the first time. Given GSA's ongoing reliance on leasing, it is critical that GSA manage its leasing activities effectively. However, in January 2007, GAO identified numerous areas that warranted improvement in GSA's implementation of four contracts for national broker services for its leasing program. GSA has implemented 7 of GAO's 11 recommendations to improve these contracting efforts. Although GAO is encouraged by GSA's actions on these recommendations, GAO has not evaluated their impact. Moreover, in more recent work, GAO has continued to find that the government's real property data are not always reliable and agencies continue to retain excess property and face challenges from repair and maintenance backlogs. Regarding security, GAO testified on July 8, 2009, that preliminary results show that the ability of the Federal Protective Service (FPS), which provides security services for about 9,000 GSA facilities, to protect federal facilities is hampered by weaknesses in its contract security guard program. Among other things, GAO investigators carrying the components for an improvised explosive device successfully passed undetected through security checkpoints monitored by FPS's guards at each of the 10 federal facilities where GAO conducted covert testing.

As GAO has reported in the past, real property management problems have been exacerbated by deep-rooted obstacles that include competing stakeholder interests, various budgetary and legal limitations, and weaknesses in agencies' capital planning. While reforms to date are positive, the new administration and Congress will be challenged to sustain reform momentum and reach consensus on how such obstacles should be addressed.

Madam Chair and Members of the Subcommittee:

We welcome the opportunity to provide this update on our recent work on issues that led us to designate federal real property as a high-risk area. As you know, in January 2003, we designated federal real property a high-risk area because of long-standing problems with excess and underutilized property, deteriorating facilities, unreliable real property data, over-reliance on costly leasing, and building security challenges.[1] As we have reported as part of the high-risk series, the federal real property portfolio largely reflects a business model and the technological and transportation environment of the 1950s. Many federal real property assets are no longer needed; others are not effectively aligned with, or responsive to, agencies' changing missions. We issued our latest update on this area in January 2009, finding that agencies have taken some positive steps to address real property issues but that some of the core problems that led to our designation of this area as high risk persist.[2] My testimony today is based on our extensive body of work related to these issues.[3] We also spoke with officials at the Office of Management and Budget (OMB) and the General Services Administration (GSA) to update our information on agencies' efforts to address our prior recommendations, and we reviewed recently-introduced initiatives related to agencies' real property disposal authorities.[4] My testimony focuses on (1) progress made by major real

[1]GAO, *High-Risk Series: Federal Real Property*, GAO-03-122 (Washington, D.C.; Jan. 2003); the report on real property is a companion to GAO's 2003 high-risk update, GAO, *High-Risk Series: An Update*, GAO-03-119 (Washington, D.C.; Jan. 2003); GAO, *High-Risk Series: An Update*, GAO-05-207 (Washington, D.C.; Jan. 2005), and GAO, *High-Risk Series: An Update*, GAO-07-310 (Washington, D.C.; Jan. 2007.)

[2]GAO *High-Risk Series: An Update*, GAO-09-271 (Washington, D.C.: January 2009).

[3]See, among others referenced in this testimony, GAO, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, GAO-07-349, (Washington, D.C., Apr. 13, 2007) and GAO, *Federal Real Property: An Update on High-Risk Issues*, GAO-07-895T, (Washington, D.C. May 24, 2007).

[4]Appendix, *The President's Budget Request for Fiscal Year 2010*, General Provisions Government-Wide, p. 14-16, and *The Federal Real Property Disposal Enhancement Act of 2009*, H.R. 2495, 111th Cong. (2009).

property-holding agencies to strategically manage real property,[5] (2) ongoing problems we have identified in recent work regarding agencies' efforts to address real property issues, and (3) underlying obstacles we have identified through prior work as hampering agencies' real property reform efforts governmentwide. We conducted our work in Washington, D.C., in June and July 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Under Real Property Initiative, Agencies Have Taken Actions to Strategically Manage Real Property and Address Some Long-standing Problems

Major real property-holding agencies and OMB have made progress toward strategically managing federal real property. In April 2007, we found that in response to the President's Management Agenda (PMA) real property initiative and a related executive order, agencies covered under the executive order had, among other things, designated senior real property officers, established asset management plans, standardized real property data reporting, and adopted various performance measures to track progress.[6] The administration had also established a Federal Real Property Council (FRPC) that guides reform efforts.

Under the real property initiative, OMB has been evaluating the status and progress of agencies' real property management improvement efforts since

[5] Our 2007 report and testimony focusing on federal real property as high risk (GAO-07-349 and GAO-07-895T) from which we drew much of this testimony, focused on eight of the largest real property-holding agencies, including the Departments of Defense (DOD), Energy (DOE), Homeland Security (DHS), the Interior (DOI), State (State); and Veterans Affairs (VA); GSA; and the National Aeronautics and Space Administration (NASA). Also included is the United States Postal Service (USPS), which is an independent establishment in the executive branch and is among the largest property holders in terms of owned and leased space. Other recent work has included different agencies, which are described in the relevant sections of this testimony.

[6] Executive Order 13327 was signed by the President in February 2004 and established new federal property guidelines for 24 executive branch departments and agencies, not including USPS. The PMA is an administration program that has raised the visibility of key governmentwide management challenges, among other things. The real property PMA initiative, formally called the Federal Asset Management Initiative, is a program initiative applicable to the 15 largest landholding agencies.

the third quarter of fiscal year 2004 using a quarterly scorecard[7] that color codes agencies' progress—green for success, yellow for mixed results, and red for unsatisfactory. As Figure 1 shows, according to OMB's analysis, many of these agencies have made progress in accurately accounting for, maintaining, and managing their real property assets so as to efficiently meet their goals and objectives. As of the first quarter of 2009, 10 of the 15 agencies evaluated had achieved green status. According to OMB, the agencies achieving green status have established 3-year timelines for meeting the goals identified in their asset management plans; provided evidence that they are implementing their asset management plans; used real property inventory information and performance measures in decision making; and managed their real property in accordance with their strategic plan, asset management plan, and performance measures. (For more information on the criteria OMB uses to evaluate agencies' efforts, see app. I.)

[7]The agencies included on OMB's quarterly scorecard include GSA, State, VA, NASA, DOE, the Department of Labor (Labor), the Department of Health and Human Services (DHHS), the Department of Justice (DOJ), the Department of Transportation (DOT), the United States Agency for International Development (USAID), DOD, Army Corps of Engineers (Army Corps), DHS, and the United States Department of Agriculture (USDA).

Figure 1: PMA Executive Branch Management Scorecard Results for the Real Property Initiative

	4th quarter FY 2004	1st quarter FY 2005	1st quarter FY 2006	1st quarter FY 2007	1st quarter FY 2008	1st quarter FY 2009
GSA	Yellow	Yellow	Green	Green	Green	Green
State	Red	Red	Yellow	Green	Green	Green
VA	Red	Yellow	Yellow	Green	Green	Green
NASA	Red	Red	Yellow	Green	Yellow	Green
DOE	Red	Red	Yellow	Green	Yellow	Green
Labor	Red	Red	Yellow	Yellow	Yellow	Green
DHHS	Red	Red	Yellow	Yellow	Yellow	Yellow
DOI	Red	Red	Yellow	Yellow	Red	Yellow
DOJ	Red	Red	Yellow	Yellow	Green	Green
DOT	Red	Red	Yellow	Yellow	Yellow	Green
USAID[a]	NA	NA	Yellow	Yellow	Yellow	Green
DOD	Red	Red	Yellow	Yellow	Yellow	Yellow
Army Corps	Red	Red	Red	Yellow	Yellow	Yellow
DHS	Red	Red	Red	Yellow	Yellow	Yellow
USDA	Red	Red	Red	Yellow	Yellow	Yellow

Red for unsatisfactory
Yellow for mixed results
Green for success

Source: OMB scorecards.

Note: USAID was not evaluated until fourth quarter fiscal year 2005.

OMB has also taken some additional steps to improve real property management governmentwide. According to OMB, the federal government disposed of excess real property valued at $1 billion in fiscal year 2008, bringing the total to over $8 billion since fiscal year 2004.[8] OMB also reported success in developing a comprehensive database of federal real property assets, the Federal Real Property Profile (FRPP). OMB recently took further action to improve the reliability of FRPP data by

[8]The source for real property disposal valuation is the FRPP. The FRPP calculates total disposals by using the market price for those properties disposed through sale and the replacement value for those properties disposed through demolition or other conveyance. The replacement value represents the cost necessary to replace a facility and is often a higher than market value.

implementing a recommendation we made in April 2007 to develop a framework that agencies can use to better ensure the validity and usefulness of key real property data in the FRPP. According to OMB officials, OMB now requires agency-specific validation and verification plans and has developed a FRPP validation protocol to certify agency data. These actions are positive steps towards eventually developing a database that can be used to improve real property management governmentwide. However, it may take some time for these actions to result in consistently reliable data, and, as described later in this testimony, in recent work we have continued to find problems with the reliability and usefulness of FRPP data.

Furthermore, our work over the past year has found some other positive steps that some agencies have taken to address ongoing challenges. Specifically:

- In September 2008, we found that from fiscal year 2005 through 2007, VA made significant progress in reducing underutilized space (space not used to full capacity) in its buildings from 15.4 million square feet to 5.6 million square feet.[9] We also found that VA's use of various legal authorities, such as its enhanced use lease authority (EUL), which allows it to enter into long-term agreements with public and private entities for the use of VA property in exchange for cash or in-kind consideration, likely contributed to its overall reduction of underutilized space since fiscal year 2005. However, our work also shows that VA does not track the overall effect of its use of these authorities or of the space reductions.
- In October 2008, we found that in dealing with repair and maintenance backlogs, six agencies we reviewed focus on maintaining and repairing real property assets that are critical to their missions, and have processes in place to prioritize maintenance and repair items based on the effects those items may have on their missions.[10]

[9]GAO, *Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions*, GAO-08-939 (Washington, D.C.: Sept. 10, 2008).

[10]GAO, *Federal Real Property: Government's Fiscal Exposure from Repair and Maintenance Backlogs Is Unclear*, GAO-09-10 (Washington, D.C.: Oct. 16, 2008). For this report, we reviewed the six agencies that had told us in 2007 they had over $1 billion in repair and maintenance backlogs associated with their held assets: DOD, DOE, DOI, VA, GSA, and NASA.

Longstanding Problems in Real Property Management Persist

In spite of some progress made by OMB and agencies in managing their real property portfolios, our recent work has found that agencies continue to struggle with the long-standing problems that led us to identify federal real property as high-risk: an over-reliance on costly leasing—and challenges GSA faces in its leasing contracting; unreliable data; underutilized and excess property and repair and maintenance backlogs; and ongoing security challenges faced by agencies and, in particular, by the Federal Protective Service (FPS), which is charged with protecting GSA buildings.

Over-Reliance on Costly Leasing Continues, and GSA's Initial Implementation of Leasing Contracting Faced Problems

Over-Reliance on Costly Leasing Continues

One of the major reasons for our designation of federal real property as a high-risk area in January 2003 was the government's overreliance on costly leasing. Under certain conditions, such as fulfilling short-term space needs, leasing may be a lower-cost option than ownership. However, our work over the years has shown that building ownership often costs less than operating leases, especially for long-term space needs.

In January 2008, we reported that federal agencies' extensive reliance on leasing has continued, and that federal agencies occupied about 398 million square feet of leased building space domestically in fiscal year 2006, according to FRPP data.[11] GSA, USPS, and USDA leased about 71 percent of this space, mostly for offices, and the military services leased another 17 percent. For fiscal year 2008, GSA reported that for the first time, it leased more space than it owned.

In 10 GSA and USPS leases that we examined in the January 2008 report, decisions to lease space that would be more cost-effective to own were driven by the limited availability of capital for building ownership and other considerations, such as operational efficiency and security. For

[11] GAO, *Federal Real Property: Strategy Needed to Address Agencies' Long-standing Reliance on Costly Leasing*, GAO-08-197, (Washington, D.C.: Jan 24, 2008).

example, for four of seven GSA leases we analyzed, leasing was more costly over time than construction—by an estimated $83.3 million over 30 years. Although ownership through construction is often the least expensive option, federal budget scorekeeping rules require the full cost of this option to be recorded up front in the budget, whereas only the annual lease payment and cancellation costs need to be recorded for operating leases, reducing the up-front commitment even though the leases are generally more costly over time. USPS is not subject to the scorekeeping rules and cited operational efficiency and limited capital as its main reasons for leasing.

While OMB made progress in addressing long-standing real property problems, efforts to address the leasing challenge have been limited. We have raised this issue for almost 20 years. Several alternative approaches have been discussed by various stakeholders, including scoring operating leases the same as ownership, but none have been implemented. In our 2008 report, we recommended that OMB, in consultation with the Federal Real Property Council and key stakeholders, develop a strategy to reduce agencies' reliance on leased space for long-term needs when ownership would be less costly. OMB agreed with our recommendation. According to OMB officials, in response to this recommendation, an OMB working group conducted an analysis of lease performance. OMB is currently using this analysis as it works with officials of the new administration to assess overall real property priorities in order to establish a roadmap for further action.

GSA's Initial Implementation of the National Brokers Services Contracts Demonstrated Need for Numerous Improvements

With GSA's ongoing reliance on leasing, it is critical that GSA manage its in-house and contracted leasing activities effectively. However, in January 2007, we identified numerous areas in GSA's implementation of four contracts for national broker services that warranted improvement.[12] Our findings were particularly significant since, over time, GSA expects to outsource the vast majority of its expiring lease workload.

At one time, GSA performed lease acquisition, management, and administration functions entirely in-house. In 1997, however, GSA started entering into contracts for real estate services to carry out a portion of its leasing program, and in October 2004, GSA awarded four contracts to perform broker services nationwide (national broker services), with

[12] GAO, *GSA Leasing: Initial Implementation of the National Broker Services Contracts Demonstrates Need for Improvements*, GAO-07-17, (Washington, D.C.: Jan. 31, 2007).

contract performance beginning on April 1, 2005. GSA awarded two of the four contracts to dual-agency brokerage firms—firms that represent both building owners and tenants (in this case, GSA acting on behalf of a tenant agency). The other two awardees were tenant-only brokerage firms—firms that represent only the tenant in real estate transactions. Because using a dual-agency brokerage firm creates an increased potential for conflicts of interest, federal contracting requirements ordinarily would prohibit federal agencies from using dual-agency brokers, but GSA waived the requirements, as allowed, to increase competition for the leasing contracts.[13] When the contracts were awarded, GSA planned to shift at least 50 percent of its expiring lease workload to the four awardees in the first year of the contracts and to increase their share of GSA's expiring leases to approximately 90 percent by 2010—the fifth and final year of the contracts. As of May 30, 2009, GSA estimated that the total value of the four contracts was $485.6 million.

We reviewed GSA's administration of the four national broker services contracts (i.e., the national broker services program) for the first year of the contracts which ended March 31, 2006. In our January 2007 report, we identified a wide variety of issues related to GSA's early implementation of these contracts. Problems included inadequate controls to (1) prevent conflicts of interest and (2) ensure compliance with federal requirements for safeguarding federal information and information systems used on behalf of GSA by the four national brokers. We also reported, among other matters, that GSA had not developed a method for quantifying what, if any, savings had resulted from the contracts or for distributing work to the brokers on the basis of their performance, as it had planned. We made 11 recommendations designed to improve GSA's overall management of the national broker services program. As figure 2 shows, GSA has implemented 7 of these 11 recommendations; has taken action to implement another recommendation; and, after consideration, has decided not to implement the remaining 3. (For more details on the issues we reported in January 2007 and GSA's actions to address our recommendations, see app. II). We are encouraged by GSA's actions on our recommendations but have not evaluated their impact.

[13] While GSA waived the contracting requirements, it developed controls to help detect and mitigate conflicts of interest, including a control requiring the two dual-agency brokers to develop and maintain "conflict walls" to isolate GSA's procurement-sensitive information.

Figure 2: GSA's Progress in Implementing Our Recommendations on the National Broker Services Program

Category	Recommendation	Status
Conflicts of interest	Assess the adequacy of the two dual-agency brokers' conflict wall controls	●
	Modify the two dual-agency brokers' contracts to ensure that GSA can enforce recommendations resulting from its conflict wall inspections	⊘
	Establish consistent dual-agency and tenant-only conflict-of-interest contract requirements	●
	Establish additional controls to mitigate the inherent conflict of interest created by allowing the brokers to represent the government while negotiating commissions with building owners	⊘
Compliance with Federal Information Security Management Act requirements	Assess the risk from unauthorized access to GSA information collected or maintained by the four brokers	●
	Modify the four brokers' contracts to include controls appropriate to the assessed risk to ensure that the brokers safeguard information in accordance with the Federal Information Security Management Act	⊘
	Test the effectiveness of federal information security policies, procedures, and practices related to the national broker services program	●
Program implementation and evaluation	Develop processes for quantifying expected savings from the national broker services program	●
	To prepare for performance-based distribution, clarify the number and types of completed task orders needed to establish a record of the brokers' performance	◐
	Collect data on GSA's distributions of task orders for rural and urban areas	●
	Clarify and revise terminology in the national broker services program contracts and administrative guide to ensure applicability of evaluation measures and conformance to the National Institutes of Health's performance-related terminology	●

● Recommendation has been implemented

◐ GSA's actions to implement the recommendation are ongoing

⊘ GSA considered but did not implement the recommendation

Source: GAO.

Problems with Unreliable Data Persist

Quality governmentwide and agency-specific data are critical for addressing the wide range of problems facing the government in the real property area, including excess and unneeded property, deterioration, and security concerns. In April 2007, we reported that although some agencies have made progress in collecting and reporting standardized real property data for FRPP, data reliability is still a challenge at some of the agencies, and agencies lacked a standard framework for data validation.[14] We are pleased that OMB has implemented our recommendation to develop a framework that agencies can use to better ensure the validity and usefulness of key real property data in the FRPP, as noted earlier. However, in the past 2 years, we have found the following problems with FRPP data:

- In our January 2008 report on agencies' leasing, we found that, while FRPP data were generally reliable for describing the leased inventory, data quality concerns, such as missing data, would limit the usefulness of FRPP for other purposes, such as strategic decision making.[15]

- In our October 2008 report on federal agencies' repair and maintenance backlogs, we found that the way six agencies define and estimate their repair needs or backlogs varies.[16] We also found that, according to OMB officials, FRPP's definition of repair needs was purposefully vague so agencies could use their existing data collection and reporting process. Moreover, we found that condition indexes, which agencies report to FRPP, cannot be compared across agencies because their repair estimates are not comparable. As a result, these condition indexes cannot be used to understand the relative condition or management of agencies' assets. Thus, they should not be used to inform or prioritize funding decisions between agencies. In this report, we recommended that OMB, in consultation with the Federal Accounting Standards Advisory Board, explore the potential for adding a uniform reporting requirement to FRPP to capture the government's fiscal exposure related to real property repair and maintenance. OMB agreed with our recommendation.

- In our February 2009 report on agencies' authorities to retain proceeds from the sale of real property, we found that, because of inconsistent and unreliable reporting, governmentwide data reported to FRPP were not sufficiently reliable to analyze the extent to which the six agencies with authority to sell real property and retain the proceeds from such sales

[14]GAO-07-349.

[15]GAO-08-197

[16]GAO-09-10. The six agencies reviewed in this study each had told us in 2007 that they had over $1 billion in repair and maintenance backlogs and included DOD, DOE, DOI, VA, GSA, State, and NASA.

actually sold real property.[17] Such data weaknesses reduce the effectiveness of the FRPP as a tool to enable governmentwide comparisons of real property efforts, such as the effort to reduce the government's portfolio of unneeded property.

Furthermore, although USPS is not required to submit data to FRPP, in December 2007, we found reliability issues with USPS data that also compromised the usefulness of the data for examining USPS's real property performance.[18] Specifically, we found that USPS's Facility Database—developed in 2003 to capture and maintain facility data—has numerous reliability problems and is not used as a centralized source for facility data, in part because of its reliability problems. Moreover, even if the data in the Facility Database were reliable, the database would not help USPS measure facility management performance because it does not track performance indicators nor does it archive data for tracking trends.

Agencies Face Ongoing Challenges with Underutilized Property and Repair and Maintenance Backlogs

In April 2007, we reported that among the problems with real property management that agencies continued to face were excess and underutilized property, deteriorating facilities, and maintenance and repair backlogs. We reported some federal agencies maintain a significant amount of excess and underutilized property. For example, we found that Energy, DHS, and NASA reported that over 10 percent of their facilities were excess or underutilized.[19] Agencies may also underestimate their underutilized property if their data are not reliable. For example, in 2007, we found during limited site visits to USPS facilities that six of the facilities we visited had vacant space that local employees said could be leased, but these facilities were not listed as having vacant, leasable space in USPS's Facilities Database (see fig. 3).[20] At that time, USPS officials acknowledged the vacancies we cited and noted that local officials have few incentives to report facilities' vacant, leasable space in the database.

[17]GAO, *Federal Real Property: Authorities and Actions Regarding Enhanced Use Leases and Sale of Unneeded Real Property*, GAO-09-283R (Washington, D.C.: Feb. 17, 2009). The six agencies with authority to sell real property and retain the proceeds from such sales are DOD, GSA, The United States Department of Agriculture's (USDA) Forest Service, USPS, and VA.

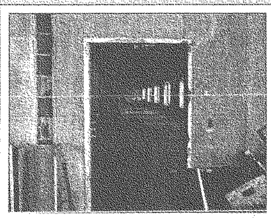
[18]GAO, *U.S. Postal Service Facilities: Improvements in Data Would Strengthen Maintenance and Alignment of Access to Retail Services*, GAO-08-41, (Washington, D.C.: Dec. 10, 2007).

[19]GAO-07-349.

[20]GAO-08-41

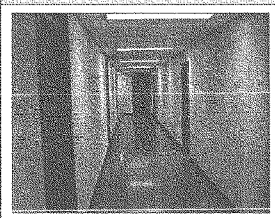
Figure 3: Vacant, Possibly Leasable Space in USPS Facilities Not Listed in the Facilities Database (FDB)

Circle City Station, Indianapolis, Indiana



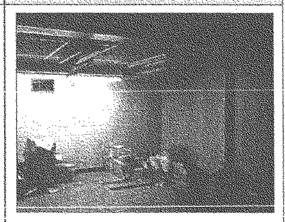
- **Vacant area:** A large portion of the second floor.
- **Status:** Postal officials said the Postal Service never built out the second floor because the space was not needed and could be subleased or returned to building owner.
- **Status listed in FDB:** No vacant leasable space.

Denton Main Post Office, Texas



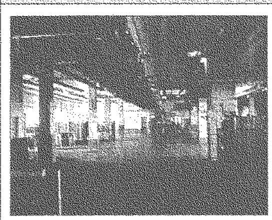
- **Vacant area:** Entire second floor of the large post office.
- **Status:** Postal officials said half of the building was occupied by other federal agencies that moved out about 10 years ago and that the space could be leased.
- **Status listed in FDB:** No vacant leasable space.

Downtown Finance Station, Gary, Indiana



- **Vacant area:** The basement (pictured) is completely vacant, and the second floor is used once per month or less for training
- **Status:** Postal officials said the Postal Service never used more than just the main floor and could lease the excess space.
- **Status listed in FDB:** No vacant leasable space.

Fort Worth Downtown Station, Texas



- **Vacant area:** Second floor (pictured) and basement are vacant. Third floor used periodically for storage and training.
- **Status:** Postal officials said most of the building has been vacant since the mail processing function was removed years ago.
- **Status listed in FDB:** No vacant leasable space.

Richland Station, Dallas, Texas

- **Vacant area:** Much of the second floor of this 53,000-square-foot post office.
- **Status:** Postal officials said the office space has been vacant for years, and another portion (pictured above) has not been occupied since the Postal Service purchased the building in 1989.
- **Status listed in FDB:** No vacant leasable space.

East Chicago Main Post Office, Indiana

- **Vacant area:** The entire second floor, which consists of several offices.
- **Status:** Postal officials said it has been vacant for years and could be leased.
- **Status listed in FDB:** No vacant leasable space.

Source: GAO.

Underutilized properties present significant potential risks to federal agencies because they are costly to maintain and could be put to more cost-beneficial uses or sold to generate revenue for the government. In

2007, we also reported that addressing the needs of aging and deteriorating federal facilities remains a problem for major real property-holding agencies, and that according to recent estimates, tens of billions of dollars will be needed to repair or restore these assets so that they are fully functional.[21] In October 2008, we reported that agency repair backlog estimates are not comparable and do not accurately capture the government's fiscal exposure.[22] We found that the six agencies we reviewed had different processes in place to periodically assess the condition of their assets and that they also generally used these processes to identify repair and maintenance backlogs for their assets. Five agencies identified repair needs of between $2.3 billion (NASA) and $12 billion (DOI). GSA reported $7 billion in repair needs. The sixth agency, DOD, did not report on its repair needs. Table 1 provides a summary of each agency's estimate of repair needs.

Table 1: Selected Agencies' Processes for Conducting Condition Assessments and Estimating Repair Needs to Calculate FRPP Condition Index for Fiscal Year 2007

Dollars in billions

Agency	Assets assessed	Frequency of assessments	What is included in the estimate of repair needs (backlog)	Identified repair needs
DOE	All assets	At least every 5 years	Work not done in time frame identified	$3.3
NASA	All assets	Annually	Work required to bring the asset up to current standards	2.3
DOI	Assets valued at $5,000 or more	Every 5 years	Work not done in time frame identified	12.0[a]
VA	All assets	At least every 3 years	Work required to correct identified deficiencies in systems determined to be in poor or critical condition	5.9
GSA	All assets	Every 2 years	Work identified to be done now or within the next 10 years	7.0
DOD	All assets	Varies by military service	No backlog estimated	[b]

Source: GAO analysis.

[a]According to DOI officials, DOI recognizes that due to the scope, nature and variety of DOI assets, exact estimates of backlogs are very difficult to determine. As a result, DOI prefers to think of its estimate as a range.

[b]DOD did not compute a dollar amount for repair needs in 2007.

[21]GAO-07-349.

[22]GAO-09-10. The six agencies reviewed in this study—DOD, DOE, DOI, VA, GSA, and NASA—each had told us in 2007 that they had over $1 billion in repair and maintenance backlogs.

Agencies and Federal Protective Service Face Ongoing Security Challenges

In addition to other ongoing real property management challenges, the threat of terrorism has increased the emphasis on physical security for federal real property assets. In 2007, we reported that all nine major real property-holding agencies reported using risk-based approaches to prioritize security needs, as we have suggested, but cited a lack of resources for security enhancements as an ongoing problem. For example, according to GSA officials, obtaining funding for security countermeasures, both security fixtures and equipment, is a challenge not only within GSA but for GSA's tenant agencies as well.[23]

Moreover, last week we testified before the Senate Committee on Homeland Security and Governmental Affairs that preliminary results show that the Federal Protective Service's (FPS) ability to protect federal facilities is hampered by weaknesses in its contract security guard program.[24] We found that FPS does not fully ensure that its contract security guards have the training and certifications required to be deployed to a federal facility and has limited assurance that its guards are complying with post orders. For example, FPS does not have specific national guidance on when and how guard inspections should be performed; and FPS's inspections of guard posts at federal facilities are inconsistent, and the quality varied in the six regions we visited. Moreover, we identified substantial security vulnerabilities related to FPS's guard program. GAO investigators carrying the components for an improvised explosive device successfully passed undetected through security checkpoints monitored by FPS's guards at each of the 10 level IV federal facilities where we conducted covert testing.[25] Once GAO investigators

[23]GAO-07-349.

[24]GAO, Homeland Security: Preliminary Results Show Federal Protective Service's Ability to Protect Federal Facilities Is Hampered By Weaknesses in Its Contract Security Guard Program. GAO-09-859T. (Washington, D.C.: July 8, 2009). FPS, which is part of DHS, provides law enforcement and related security functions to about 9,000 GSA facilities. To accomplish its mission of protecting GSA facilities, in 2009, FPS had a budget of about $1 billion, 1,200 full-time employees, and about 13,000 contract security guards.

[25]Of the 10 level IV facilities we penetrated, 8 were government owned, 2 were leased, and included offices of a U.S. Senator and U.S. Representative, as well as agencies such as the DOH, State, and DOJ. The level of security FPS provides at each of the 9,000 facilities varies depending on the building's security level. Based on DOJ's 1995 Vulnerability Assessment Guidelines, there are five types of security levels, with a level IV facility—which includes high risk law enforcement and intelligence agencies—having over 450 employees and a high volume of public contact. FPS does not have responsibility for a Level V facility, which includes the White House and the Central Intelligence Agency. The Interagency Security Committee has recently promulgated new security level standards that will supersede the 1995 DOJ standards.

passed the control access points, they assembled the explosive device and walked freely around several floors of these level IV facilities with the device in a briefcase. In response to our briefing on these findings, FPS has recently taken some actions including increasing the frequency of intrusion testing and guard inspections. However, implementing these changes may be challenging, according to FPS. We previously testified before this subcommittee in 2008 that FPS faces operational challenges, funding challenges, and limitations with performance measures to assess the effectiveness of its efforts to protect federal facilities. We recommended, among other things, that the Secretary of DHS direct the Director of FPS to develop and implement a strategic approach to better manage its staffing resources, evaluate current and alternative funding mechanisms, and develop appropriate performance measures. DHS agreed with the recommendations. According to FPS officials, FPS is working on implementing these recommendations.[26]

Underlying Obstacles Hamper Agencies' Real Property Reform Efforts Governmentwide

As GAO has reported in the past, real property management problems have been exacerbated by deep-rooted obstacles that include competing stakeholder interests, various legal and budget-related limitations, and weaknesses in agencies' capital planning. While reforms to date are positive, the new administration and Congress will be challenged to sustain reform momentum and reach consensus on how the obstacles should be addressed.

Several Agencies Cited Competing Stakeholder Interests as Impeding Real Property Management Decision Making

In 2007, we found that some major real property-holding agencies reported that competing local, state, and political interests often impede their ability to make real property management decisions, such as decisions about disposing of unneeded property and acquiring real property. For example, we found that USPS was no longer pursuing a 2002 goal of reducing the number of "redundant, low-value" retail facilities, in part, because of legal restrictions on and political pressures against closing them.[27] To close a post office, USPS is required to, among other things, formally announce its intention to close the facility, analyze the impact of

[26]GAO, *Homeland Security: The Federal Protective Service Faces Several Challenges That Hamper Its Ability to Protect Federal Facilities*, GAO-08-683, (Washington, D.C.: June 11, 2008) and GAO, *Homeland Security: The Federal Protective Service Faces Several Challenges That Raise Concerns About Protection of Federal Facilities*, GAO-08-897T, (Washington, D.C.: June 19, 2008.)

[27]GAO-08-41.

the closure on the community, and solicit comments from the community. Similarly, VA officials reported that disposal is often not an option for most properties because of political stakeholders and constituencies, including historic building advocates or local communities that want to maintain their relationship with VA. In addition, Interior officials reported that the department faces significant challenges in balancing the needs and concerns of local and state governments, historical preservation offices, political interests, and others, particularly when coupled with budget constraints.[28] If the interests of competing stakeholders are not appropriately addressed early in the planning stage, they can adversely affect the cost, schedule and scope of a project.

Despite its significance, the obstacle of competing stakeholder interests has gone unaddressed in the real property initiative. It is important to note that there is precedent for lessening the impact of competing stakeholder interests. Base Realignment and Closure Act (BRAC) decisions, by design, are intended to be removed from the political process, and Congress approves all BRAC decisions as a whole. OMB staff said they recognize the significance of the obstacle and told us that FRPC would begin to address the issue after the inventory is established and other reforms are initiated. But until this issue is addressed, less than optimal decisions based on factors other than what is best for the government as a whole may continue.

Legal and Budgetary Limitations Continue to Hamper Agencies' Disposal Efforts

As discussed earlier, budgetary limitations that hinder agencies' ability to fund ownership leads agencies to rely on costly leased space to meet new space needs. Furthermore, the administrative complexity and costs of disposing of federal property continue to hamper efforts by some agencies to address their excess and underutilized real property problems. Federal agencies are required by law to assess and pay for any environmental cleanup that may be needed before disposing of a property—a process that may require years of study and result in significant costs. As valuable as these legal requirements are, their administrative complexity and the associated costs of complying with them create disincentives to the disposal of excess property. For example, we reported that VA, like all federal agencies, must comply with federal laws and regulations governing property disposal that are intended to protect subsequent users of the property from environmental hazards and to preserve historically

[28]GAO-07-349.

significant sites, among other purposes.[29] We have reported that some VA managers have retained excess property because the administrative complexity and costs of complying with these requirements were disincentives to disposal.[30] Additionally, some agencies reported that the costs of cleanup and demolition sometimes exceed the costs of continuing to maintain a property that has been shut down. In such cases, in the short run, it can be more beneficial economically to retain the asset in a shut-down status.

Some federal agencies have been granted authorities to enter into EULs or to retain proceeds from the sale of real property. Recently, in February 2009, we reported that the 10 largest real property-holding agencies have different authorities for entering into EULs and retaining proceeds from the sale of real property, including whether the agency can use any retained proceeds without further congressional action such as an annual appropriation act, as shown in table 2.[31]

[29]GAO, *VA Health Care: Key Challenges to Aligning Capital Assets and Enhancing Veterans' Care*, GAO-05-429 (Washington, D.C.: Aug. 5, 2005).

[30]GAO-05-429.

[31]GAO-09-283R. For this review, we studied the authorities of the 10 largest real property-holding federal agencies (by value of real property). These 10 agencies include USDA, DOD, DOE, DOI, DOJ, State, VA, GSA, NASA, and USPS. For the purposes of this review, the term "real property" does not include real property that DOD has or is planning to dispose of through the Base Realignment and Closure Act (BRAC) process, lands managed by DOI or the Forest Service (except for Forest Service administrative sites), and transfers of individual properties specifically authorized by Congress. Under the BRAC process, the Secretary of Defense is authorized to close certain military bases and dispose of property. In the scope of our review, we included real property disposed of by DOD through its authority to convey or lease existing property and facilities outside of the BRAC process.

Table 2: Agencies' Authorities Regarding EULs and Real Property Sales

Agency	Authority to enter into EULs and retain leasing proceeds	Authority to use proceeds from EULs without further congressional action	Authority to sell real property and retain sales proceeds	Authority to use proceeds from sales without further congressional action
DOD	X	X	X	X[a]
DOE	X[b]			
GSA	X		X	
DOI[c]				
DOJ				
NASA	X	X		
State[d]	X	X	X	X[e]
USDA (except the Agricultural Research Service[f] and the Forest Service)				
USDA (Forest Service)[g]	X[h]	X	X	X
USPS	X	X	X	X
VA	X	X	X	

Source: GAO analysis and information provided by the above agencies.

Note: Authorities through fiscal year 2008.

[a]In certain cases, the use of proceeds from the sale of DOD real property is subject to further congressional action.

[b]According to DOE, the department has determined that it has EUL authority on the basis of the definition set forth in OMB Circular A-11 (June 2008). DOE officials said that the department has not entered into any EULs using this authority.

[c]While DOI has certain authorities to sell real property, we did not include in the scope of our review lands managed by DOI.

[d]State has used its authority under 22 U.S.C. § 300 to exchange, lease, or license real property outside of the country. According to State, in exceptional cases, the department has relied on this authority to enter into long-term leases to conserve historically significant properties, such as the Talleyrand Building in Paris, France. State's authorization to sell and retain proceeds from the sale of real property applies to its properties located outside of the United States and to properties located within the United States acquired for an exchange with a specified foreign government.

[e]According to State, committee reports accompanying State's appropriations acts routinely require the department to notify Congress through the reprogramming process of the specific planned use of the proceeds of the sale of excess property. Furthermore, State indicated that it routinely includes discussion of the use of proceeds from the sale of real property in its budget justifications and financial plans.

[f]Because USDA's Agricultural Research Service received pilot authority to enter into EULs for certain properties effective June 2008, but had not entered into any EULs during our review, we did not include it in the scope of our review.

[g]We are listing the Forest Service separately from USDA because it has authority to sell administrative property and retain the proceeds from the sales, unlike the rest of USDA.

[h]Although the Forest Service has EUL authority, it has not used that authority.

[a]Under certain circumstances, VA can use the proceeds from the sale of former EUL property without further congressional action.

Officials at five of the six agencies with the authority to retain proceeds from the sale of real property, (the Forest Service, GSA, State, USPS, and VA) said this authority is a strong incentive to sell real property.[32] Officials at the five agencies that do not have the authority to retain proceeds from the sale of real property (DOE; DOI; DOJ; NASA; and USDA except for the Forest Service) said they would like to have such expanded authorities to help manage their real property portfolios. However, officials at two of those agencies said that, because of challenges such as the security needs or remote locations of most of their properties, it was unlikely that they would sell many properties.

We have previously found that, for agencies which are required to fund the costs of preparing property for disposal, the inability to retain any of the proceeds acts as an additional disincentive to disposing of real property. As we have testified previously, it seems reasonable to allow agencies to retain enough of the proceeds to recoup the costs of disposal, and it may make sense to permit agencies to retain additional proceeds for reinvestment in real property where a need exists.[33] However, in considering whether to allow federal agencies to retain proceeds from real property transactions, it is important for Congress to ensure that it maintains appropriate control and oversight over these funds, including the ability to redistribute the funds to accommodate changing needs.

Two current initiatives relate to these issues. The administration's 2010 budget includes a real property legislative proposal that, among other things, would permit agencies to retain the net proceeds from the transfer or sale of real property subject to further Congressional action. On May 19, 2009, H.R. 2495, the Federal Real Property Disposal Enhancement Act of 2009, was introduced in the House of Representatives, and this bill, like the administration's legislative proposal, would authorize federal agencies to retain net proceeds from the transfer or sale of real property subject to further congressional action. Additionally, both the administration's legislative proposal and H.R. 2497 would establish a pilot program for the expedited disposal of federal real property.

[32]The sixth agency, DOD, stated that this authority was not a strong incentive to dispose of excess real property.

[33]GAO-07-895T.

Weaknesses in Capital Planning Still Exists

Over the years, we have reported that prudent capital planning can help agencies to make the most of limited resources, and failure to make timely and effective capital acquisitions can result in acquisitions that cost more than anticipated, fall behind schedule, and fail to meet mission needs and goals. In addition, Congress and OMB have acknowledged the need to improve federal decision making in the area of capital investment. A number of laws enacted in the 1990s placed increased emphasis on improving capital decision-making practices and *OMB's Capital Programming Guide* and its revisions to *Circular A-11* have attempted to address the government's shortcomings in this area. However, we have continued to find limitations in OMB's efforts to improve capital planning governmentwide. For example, real property is one of the major types of capital assets that agencies acquire, and therefore shortcomings in the capital planning and decision-making area have clear implications for the administration's real property initiative.[34] However, while OMB staff said that agency asset management plans are supposed to align with their capital plans, OMB does not assess whether the plans are aligned. Moreover, we found that guidance for the asset management plans does not discuss how these plans should be linked with agencies' broader capital planning efforts outlined in the *Capital Programming Guide*. Without a clear linkage or crosswalk between the guidance for the two documents, agencies may not link them. Furthermore, the relationship between real property goals specified in the asset management plans and longer-term capital plans may not be clear. In April 2007, we recommended that OMB, in conjunction with the FRPC, should establish a clearer link between agencies' efforts under the real property initiative and broader capital planning guidance.[35] According to OMB officials, OMB is currently considering options to strengthen agencies' application of the capital planning process as part of *Circular A-11*, with a focus on preventing cost overruns and schedule delays.

Federal Real Property Reform Efforts Continue to Face Challenges

In 2007, we concluded that the executive order on real property management and the addition of real property to PMA provided a good foundation for strategically managing federal real property and addressing long-standing problems. These efforts directly addressed the concerns we had raised in past high-risk reports about the lack of a governmentwide focus on real property management problems and generally constitute

[34]Other capital assets include information technology, major equipment, and intellectual property.

[35]GAO-07-349.

what we envisioned as a transformation strategy for this area. However, we found that these efforts were in the early stages of implementation, and the problems that led to our high-risk designation—excess property, repair backlogs, data issues, reliance on costly leasing, and security challenges—still existed. As a result, this area remains high risk until agencies show significant results in eliminating the problems by, for example, reducing inventories of excess facilities and making headway in addressing the repair backlog. While the prior administration took several steps to overcome some obstacles in the real property area, the obstacles posed by competing local, state, and political interests went largely unaddressed, and the linkage between the real property initiative and broader agency capital planning efforts is not clear. In 2007, we recommended that OMB, in conjunction with the FRPC, develop an action plan for how the FRPC will address these key problems.[36] According to OMB officials, these key problems are among those being considered as OMB works with administration officials to assess overall real property priorities in order to establish a roadmap for further action. While reforms to date are positive, the new administration and Congress will be challenged to sustain reform momentum and reach consensus on how the ongoing obstacles should be addressed.

Madam Chair, this concludes my prepared statement. I would be happy to respond to any questions you or other Members of the Subcommittee may have at this time.

Contact and Acknowledgments

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[36] GAO-07-349.

Appendix I: Executive Branch Management Scorecard Standards for the Real Property Initiative

In April 2007, we found that adding real property asset management to the President's Management Agenda (PMA) had increased its visibility as a key management challenge and focused greater attention on real property issues across the government. As part of this effort, the Office of Management and Budget (OMB) identified goals for agencies to achieve in right-sizing their real property portfolios. To achieve these goals and gauge an agency's success in accurately accounting for, maintaining, and managing its real property assets so as to efficiently meet its goals and objectives, the administration established the real property scorecard in the third quarter of fiscal year 2004. The scorecard consists of 13 standards that agencies must meet to achieve the highest status—green—as shown in figure 1. These 13 standards include 8 standards needed to achieve yellow status, plus 5 additional standards. An agency reaches green or yellow status if it meets all of the standards for success listed in the corresponding column in figure 1 and red status if it has any of the shortcomings listed in the column for red standards.

Figure 1: PMA Executive Branch Management Scorecard Standards for the Real Property Initiative

Green standards	Yellow standards	Red standards

Agency:
• Meets all yellow standards for success;
• Established an OMB-approved 3-year rolling timeline with date certain deadlines by which agency will address opportunities and determine its priorities as identified in the asset management plan;
• Demonstrated steps taken toward implementation of asset management plan as stated in yellow standards (including meeting established deadlines in 3-year timeline, meeting prioritized management improvement actions, maintaining appropriate amount of holdings, and estimating and optimizing cost levels);
• Accurate and current asset inventory information and asset maximization performance measures are used routinely in management decision making (such as reducing the amount of unneeded and underused properties); and
• The management of agency property assets is consistent with the agency's overall strategic plan, the agency asset management plan, and the performance measures established by the FRPC as stated in the Federal Real Property Asset Management Executive Order.
	Agency:
	• Has a Senior Real Property Officer (SRPO) who actively serves on the FRPC;
	• Established asset management performance measures, consistent with the published requirements of the FRPC;
	• Completed and maintained a comprehensive inventory and profile of agency real property, consistent with the published requirements of the FRPC;
	• Provided timely and accurate information for inclusion into the governmentwide real property inventory database; and
	• Developed an OMB-approved comprehensive asset management plan that:
	  • Complies with guidance established by the FRPC
	  • Includes policies and methodologies for maintaining property holdings in an amount and type according to agency budget and mission
	  • Seeks to optimize level of real property operating, maintenance, and security costs.
		Agency:
		• Does not actively participate on the FRPC;
		• Has not established asset management performance measures or has asset management performance measures that are inconsistent with the published requirements of the FRPC;
		• Has not completed or does not maintain a comprehensive inventory and profile of agency real property consistent with the published requirements of the FRPC;
		• Does not provide timely and accurate information for inclusion into the governmentwide real property inventory database; or
		• Has not developed an OMB-approved comprehensive asset management plan.

Source: OMB.

Appendix II: Status GAO Recommendations Related to GSA's National Broker Services Program

Table 1: Explanation and Implementation Status of Recommendations Related to GSA's National Broker Services Program

Reported issue	Recommendation	Status/Actions taken
1. While the General Services Administration (GSA) had confirmed that the two dual agency firms (firms that represent both building owners and tenants) had established "conflict walls" to help prevent the electronic and physical sharing of information between the brokers' employees, it had not assessed whether the conflict walls were adequate to prevent unauthorized information sharing between employees within the same firm who represent GSA, and other employees within the same firm who represent building owners.	Assess the adequacy of the two dual-agencies' conflict wall controls and recommend actions, if applicable, to correct any identified weaknesses.	**Implemented** GSA assessed the adequacy of the dual agencies' conflict walls and, on May 22, 2007, concluded that the conflict walls were satisfactory.
2. GSA conducted a preliminary inspection of the conflict walls maintained by the two dual-agency brokers, but had not ensured that the brokers implemented its inspection recommendations. GSA's inaction was attributable, in part, to uncertainty about whether GSA's contracts with the brokers permitted it to require brokers to implement its inspection recommendations.	Modify the two dual-agency contracts to ensure that GSA can enforce recommendations resulting from its conflict wall inspections.	**Not implemented** GSA reviewed its contracts with the two dual-agency brokers and determined that the language in the contracts was already sufficient to ensure that it could enforce compliance with its inspection recommendations. Therefore, according to GSA, there was no need to modify the contracts.
3. GSA had not established consistent conflict-of-interest contract requirements for all of its contractors. Specifically, while GSA required its dual-agency brokers (firms that represent both building owners and tenants) to (1) execute additional agreements to safeguard proprietary information; (2) notify GSA of any conflicts of interest discovered during the performance of work; and (3) include a conflict-of-interest clause in all of their subcontracts, its contracts with the two tenant-only contractors (firms that represent only tenants) did not contain similar requirements.	Establish consistent dual-agency and tenant-only conflict-of-interest contract requirements, including, at a minimum, the three conflict-of-interest requirements that address situations also faced by the two tenant-only firms.	**Implemented** GSA included the three conflict of interest requirements in its contracts with the two tenant-only brokers in May 2007. In addition, GSA included other conflict-of-interest requirements in the tenant-only broker contracts in response to other questions we posed during our review. Previously these requirements had been only explicitly applicable to the dual-agency brokers. Ensuring consistency in contractor requirements will help ensure that tenant-only firms are aware of all of the requirements applicable to their disclosure of potential or actual conflicts of interest. GSA also revised its administrative guide to reflect this point.

Reported issue	Recommendation	Status/Actions taken
4. Despite federal requirements, GSA had not fully assessed the risk and magnitude of harm that could result from the misuse of information and information systems used on behalf of GSA by the four national brokers. Such an assessment is required by the Federal Information Security Management Act to help ensure that contractors and others are protecting an agency's information and information systems in a manner commensurate with the risk level assigned to the information and information systems by the agency.	Assess the risk and magnitude of harm that could result from unauthorized access to, or use, disclosure, disruption, modification, or destruction of, GSA information collected or maintained by the four brokers (and their subcontractors) and the information systems used by the brokers on behalf of GSA.	**Implemented** GSA performed the recommended risk assessment on August 30, 2007, and concluded that the risk level was "moderate."
5. While requirements of the Federal Information Security Management Act are applicable to the national broker services brokers, GSA's contracts with them did not require the brokers to comply with the act's requirements.	Modify the four national broker services' contracts to include controls appropriate to the assessed risk to ensure that the brokers and their subcontractors safeguard information and information systems in accordance with the Federal Information Security Management Act.	**Not implemented** GSA informed us in August 2007 that it had developed a plan to complete the assessment and accreditation required to bring each of the four brokers into compliance with the Federal Information Security Management Act. As part of that process, GSA determined that it was in the best interest of the government to identify and analyze the brokers' existing controls and use them, where possible, to meet the requirements of the act. GSA expected this process would take several months to complete. In the interim, GSA stated that it would be inappropriate to modify the contracts. However, GSA further stated that, if warranted by its assessments of the brokers, it may modify its individual contracts with the brokers in the future.
6. Despite federal requirements, GSA had not tested the information security controls associated with its national brokers program, including the controls used by its four national brokers. The Federal Information Security Management Act requires such testing to ensure that controls are adequate for protecting agency information, including information maintained by contractors (and subcontractors). Testing must be conducted at least once per year.	Test the effectiveness of federal information security policies, procedures, and practices related to the national broker services program, including, as appropriate, broker controls for safeguarding GSA's information.	**Implemented** GSA developed a process to test the effectiveness of controls used for safeguarding its program information and, as of March 15, 2008, had completed testing at one of the four brokers. According to GSA, "The continuous monitoring required by its process means that it is never complete but must be done repeatedly..." throughout the life of the contracts.

Reported issue	Recommendation	Status/Actions taken
7. Conflict of interest controls were not adequate to ensure that brokers would not increase the government's rental costs by favoring building owners who offer them higher commissions. Specifically, we concluded that, until such time as GSA establishes effective controls to mitigate the brokers' inherent conflict of interest by, among other possible actions, precluding them from accepting commissions in excess of the rate approved by the contracting officer's technical representatives and included in GSA's solicitation for offers, there will remain at least the perception that the brokers might favor–at the government's expense—building owners who pay higher commissions.	Establish additional controls to mitigate the inherent conflict of interest created by allowing the brokers to represent the government, while also negotiating their commissions with building owners.	**Not implemented** GSA initiated a "multi-faceted approach" to address this recommendation, including an assessment of (1) peer review findings and (2) the results of prior protests on leasing actions. According to GSA, its assessment did not identify any instances of abuse or inappropriate actions by the brokers. Consequently, GSA determined that there was no need to establish additional controls.
8. While GSA anticipated that using national brokers would results in (1) reduce rental costs to the government, and (2) agency savings from reduced fees, administrative expenses, and personnel by shifting costs to the national broker services contracts, it had not developed a process for quantifying the expected savings.	Develop processes for quantifying expected savings from (1) rent reductions attributable to the brokers' greater knowledge of the commercial real estate market and (2) agency savings associated with reduced fees, administration expenses, personnel costs, and operational efficiencies associated with using the national broker services contracts.	**Implemented** GSA developed a process for quantifying savings from the national broker services program. Specifically, GSA extracted "as much relevant and reliable historical data as available" on its prior (regional/zonal) contracts and compared the data to available data on the national broker services contracts through the end of the first quarter of fiscal year 2008. GSA's analysis identified numerous cost savings attributable to its use of the national broker services contracts, including $25 million in commission credits earned by the brokers and/or credited to customer agencies.

Reported issue	Recommendation	Status/Actions taken
9. While GSA initially expected to start performance-based task order distributions after the first year of the contract, it delayed doing so because too few task orders had been completed to establish a record of their performance on a variety of commission-eligible task orders. When we completed our review in January 2007, GSA expected to begin performance-based distributions on April 1, 2007—the start of the third contract year. Before GSA can move to performance-based distributions, we reported that GSA must (1) ensure that it has sufficient data on each broker's performance and (2) develop clearly defined guidance and processes for allocating additional future work to those brokers who excel relative to the others.	As part of GSA's effort to prepare for performance-based distribution decisions, clarify the number and types of completed task orders needed to establish a record of the brokers' performance.	**Open**[a] According to a GSA official, GSA developed and tentatively approved a plan for implementing performance-based work distributions. However, it was forced to suspend implementation of the plan when testing revealed unspecified flaws that would have negatively impacted the national broker services program. According to this official, GSA is now focusing its efforts on developing a methodology for implementing performance-based work distributions for the follow-on national broker services contracts that are expected to begin on April 1, 2010.
10. Although GSA collected data on the number and size of the task orders distributed to the four national broker services brokers, it did not collect data on the geographic area (e.g., rural or urban) covered by the task orders. Such data was needed because GSA's contracts with the brokers specify that each broker will be provided projects on a nationwide basis in both rural and urban areas during the initial period of contract performance, as long as their performance is acceptable.	Begin collecting data on GSA's distributions of task orders for rural and urban areas (i.e., similar geographic areas) during the initial period of the contracts.	**Implemented** GSA developed a methodology and subsequently collected and analyzed data to better inform its distribution of task orders between the brokers during the initial period of the contracts.
11. The national contracts and administrative guidance had numerous inaccuracies, inconsistencies, and omissions that raised questions about how GSA could ensure consistency in its regions' evaluations of the brokers' performance. Problems included inapplicable evaluation criteria; variations in the criteria identified for use at different evaluation stages by the contracts, and inconsistencies between GSA's and National Institutes of Health's (NIH) performance-related terminology.	To improve overall management of the national broker services program, (1) clarify the national broker services contracts and the administrative guide to ensure that the evaluation measures used are applicable to the brokers' performance at each stage of evaluation. (2) Regarding the brokers' required annual performance evaluations, revise the terminology in GSA's contracts and administrative guide, as appropriate, to conform to NIH's required evaluation factors. (3) In addition, ensure that the various evaluation stages and processes are properly and adequately described in GSA's administrative guide.	**Open, but implemented**[b] GSA revised its administrative guide to clarify when each evaluation factor is to be used in assessing contractor performance at each stage of evaluation. The revised guidance also (1) clarifies how the National Institutes of Health's required annual evaluation fits within GSA's evaluation processes and (2) describes GSA's various evaluation stages and processes. (GAO intends to initiate action to close this recommendation.)

Source: GAO.

[a]In describing the status of recommendation 9 as "open", we are referring to the formal status of this recommendation in our recommendation tracking system. The description of GSA's ongoing actions demonstrates that GSA's actions to implement the recommendation are ongoing, as summarized in Figure 2 of the testimony.

[b]In describing the status of recommendation 11 as "open, but implemented" we are referring to the fact that in our recommendation tracking system, the recommendation is currently listed as open. However, as the description of GSA's actions to implement the recommendation demonstrate, we believe GSA has adequately implemented this recommendation and we plan to close this recommendation as implemented in our tracking system.

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STATEMENT OF

SAMUEL J. MORRIS, III

ASSISTANT COMMISSIONER

OFFICE OF REAL ESTATE ACQUISITION

PUBLIC BUILDINGS SERVICE

U.S. GENERAL SERVICES ADMINISTRATION

BEFORE THE

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS, AND EMERGENCY MANAGEMENT

U.S. HOUSE OF REPRESENTATIVES

JULY 14, 2006

Good Morning, Chairman Norton, Ranking Member Diaz-Balart and members of the Sub-Committee. My name is Chip Morris. I am the Assistant Commissioner for the Office of Real Estate Acquisition in the Public Building Service (PBS) at the US General Services Administration (GSA). Thank you for inviting me here today to discuss GSA's leasing program and how we contract for brokerage services through the National Broker Contracts.

Background

Although the current National Broker Contracts represent a major change in how we contract for broker services, GSA has a long history of retaining real estate brokers. Historically, we had individual regional contracts with real estate brokers retained on a fee-for-service basis from a menu of available services. Our first attempt to provide a national contract for broker services was in 1997 when we awarded eight (8) National Real Estate Services (NRES) contracts covering four (4) zones.

In 2002, in response to audits by the Office of Inspector General on the former contracts, GSA decided to centralize broker services into a national program. A number of factors drove our decision to enter into national broker contracts, including increasing our capacity to deliver leases consistently and leveraging our market share with the good credit rating of the Government. Our goals were to increase consistency in service delivery and contract administration, to provide a greater degree of customer service to Federal agencies, and to reduce space costs to the Government. Constrained budgets, limited staff, and the limited resources available for new, federally owned space continued to drive an increased need for leased space to meet agencies' workspace requirements. As a result, GSA determined that our reliance on brokers was essential to our ability to function.

Procurement

Based on market research, we proceeded with a "no-cost" commission-based contract as is customary in the industry in order to save public funds. Before proceeding with the solicitation, we requested an opinion from the Government Accountability Office (GAO) on our decision to pursue a commission-based contract. In August 2004, GAO issued an opinion that GSA would not be illegally augmenting its appropriations or asking contractors to perform voluntary services under the proposed contract. After a full and open competition, four contracts were awarded October 1, 2004 to Jones Lang LaSalle Americas, The Staubach Company- Northeast, Inc., Julien J. Studley, Inc., and The Trammel Crow Company. In the face of several protests that were filed with GAO after award, the Notices to Proceed were delayed until April 1, 2005. In 2007, CB Richard Ellis Real Estate Services, Inc. purchased The Trammel Crow Company, and in 2008, The Staubach Company merged with Jones Lang LaSalle, leaving us with three contractors at present: Jones Lang LaSalle Americas, CB Richard Ellis, and Julien J. Studley.

These contracts were structured to provide nationwide support to the regions for lease acquisition services. While there have been challenges in launching and administering the contracts, we believe that over the last four years the contracts have proven their value.

Contract Data and Administration

As of April 2009, 942 lease transactions for over 15.5 million square feet have been awarded using these broker services. Of these, 839 were for full lease acquisition transactions totaling 13.5 million square feet; 89 were extensions for 1.8 million square feet; and another 14 were expansions for 313,000 square feet. These transactions resulted in $55.5 million in commission rent credits being applied directly to reduce our rental obligations which are also passed through to our customer agencies. The total "take-home" or net commissions paid to the broker firms through April 2009 has been $78.7 million with the average commission per project at $83,500 and the average project size at 16,500 square feet.

We continually measure our lease rental rates against market rates. Our change to commission based pricing has not increased our lease costs relative to market averages. In fact, our lease costs remain significantly lower than and are increasing at a rate less than that of the market average. With 216 brokered leases for over three million (3,000,000) square feet completed and assessed through the second quarter of FY09, our average rental rates are 10.56 percent below the midpoint of the market compared to the GSA goal of 9.25 percent below market. Sixty-nine percent of the assessed brokered leases are in the new and succeeding lease categories and have average rental rates at 11.12 percent and 11.32 percent below the midpoint of the market, respectively. This results in a cost avoidance of $10.4 million annually. It should also be noted that the annual savings will continue for the life of each lease which in some cases is 10 years or more.

Challenges

In spite of what we believe are successes in the program, there have also been challenges that we are continuing to address. Our brokers have had to learn government contracting principles that do not apply in the private sector commercial real estate market. Our lease contracting is regulated by over 48 different laws, regulations and executive orders that make acquisitions process-driven and documentation intensive compared to private sector commercial real estate deals. Documentation is necessary to avoid costly protests and litigation, comply with internal controls and achieve clean audits. The brokers have had to essentially learn to speak a new language. GSA's use of brokers is designed to add leverage to the in-house staff. Some of our leasing specialists are focusing to a greater degree on project management, while others are focused on oversight of the brokers. This oversight role includes the need to evaluate broker performance, something typically left to contracting officers and a new experience for leasing specialists

Notwithstanding the use of brokers, normal attrition including retirement has reduced staffing levels below thresholds necessary to perform in-house work and supervise the brokers. We continue succession planning for the Leasing Specialists and Lease Contracting Officers. It can take up to five years to adequately train a Leasing Specialist to become a seasoned Lease Contracting Officer. As a result, we continue to experience a shortage of experienced Lease Contracting Officers and must rely on the Brokers to supplement our workforce.

GSA is very aware of the need to carefully manage data and report accurately. We require monthly reports from the brokers and regional Contracting Officers as well as source documents to track and measure contract performance. We also utilize a data management services contract to receive, log, validate and reconcile the reports and provide monthly status reports along with *ad hoc* reports as needed.

Future Contracts

We have begun planning for the follow-on to these contracts by conducting industry conferences in Washington, D.C. and Los Angeles, CA, and have posted the transcripts on the FedBizOpps website. We had a large turn-out from industry, including many small businesses seeking opportunities to team up with larger businesses for follow-on contract opportunities. There were also several questions about how we forecast workload for the contract. We have conducted lessons learned sessions with our previous procurement team, General Counsel, the current Brokers, and our regional program officials. A team is currently working to develop the statement of work that will best support our needs now and for the next five years. These contracts are not intended to replace our staff, rather to supplement the resources we have as we plan the most efficient space delivery program possible. It is necessary for GSA to continue to utilize brokers to supplement our in house capacities to meet our program responsibilities. GSA has learned that the commission based pricing can bring savings to the Government. We need to capitalize on what has worked with these contracts and make the necessary improvements to the follow on contracts that will make them more efficient and user friendly. GSA also needs to be able to better predict workload projections for the brokers and to utilize them to address continuing problems with extensions and holdovers.

Conclusion

While GSA believes the contracts have proven successful, we can improve their effectiveness in providing additional resources to assist our leasing specialists in meeting program demands.

This concludes my testimony and I will be happy to answer any questions that you may have.

Questions for the Record
for

A HEARING
BEFORE: THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

"General Services Administration Fiscal Year 2010 Capital Investment and Leasing Program"

July 8, 2009

Please give an update on where the agency is with the recovery projects.

As of September 4, 2009, GSA has obligated $1.31 billion and expended $34 million of the Recovery Act funds appropriated to the Federal Buildings Fund.

The agency is requesting $60 million for energy and water retrofit projects, high performance energy projects, and fire protection projects ($20m for each category). How do these projects fit into the recovery projects?

The Energy and Water Retrofit and Conservation line item will be used to reduce energy and water consumption in *existing buildings*. The High-Performance Green Building line item will be used to improve the design of new building construction and modernization projects *already in progress* to increase the efficiency of resource use generally. Although Recovery Act funding is being used for both of these purposes, the line-item requests are for other projects not funded under the Recovery Act.

The Fire Protection and Life Safety Line Item will be used to make fire protection and life safety upgrades, such as new alarms, sprinkler systems, and exit stairs in existing buildings.

Given that GSA received over $5 billion in Recovery Act funds, which require a significant energy component for each project, it is disturbing to me that the Office of High Performance Green Buildings has yet to have a permanent director. I believe this issue was mentioned back in April at a full committee oversight hearing and we were assured the appointment was "full steam ahead". What is the status of the director's appointment?

Kevin Kampschroer is acting in the position and performing the duties required of the position. The permanent position had been advertised, and we will complete interviews soon. When a GSA Administrator is confirmed, she or he will have a recommendation for the appointment of a permanent director.

Please explain in detail why construction, for what is basically a locker room, for the United States Secret Service is costing $1000 a square foot. ($10 million request for 10,000 sq feet)

The proposed structure is far more than just a locker facility for the United States Secret Service Uniform Division (USSS UD). USSS UD is the first response/defense to an event within the White House complex, and must be located within the White House complex fence line. The proposed North Court Structure will serve as a fully functioning central logistic operations center for USSS UD and will include:

- Office space
- Meeting space
- Roll call room
- Sensitive gear storage (not for office supplies)
- Operational staging areas
- Lockers and shower facility

Reasons for $971/SF Cost:

- The Secret Service requires the USSS UD command operations center and associated spaces to remain on the White House Complex. This requirement exists to ensure USSS UD personnel can quickly respond to any incident occurring at the complex. In addition, the Secret Service must have sufficient space on the complex to secure sensitive protective equipment (weapons, riot gear, life saving equipment, etc.).
- The USSS UD program requires fully functioning space such as the proposed North Court Structure to include a full complement of IT infrastructure, including secure and non-secure phone and data lines, physical security systems, cabling, etc.
- The location requires penetrating the existing North Court concrete slab to structurally connect to existing supports while preventing water intrusion from damaging new equipment in spaces below the North Court.
- Construction within an enclosed courtyard requires large, heavy supplies and materials to be raised by a crane up, over and down into the courtyard.
- Close proximity to White House operations requires extraordinary security precautions for materials, staff and construction actions.
- Premium time requirements for off-hours construction in order to accommodate ongoing crucial client operations increases salary costs.
- Cost would be $400 per SF if built on a "greenfield" without all of the above factors.

What are the security escort costs associated with the project in the OMB building? Couldn't these costs have been avoided if the contract required that all workers have a security clearance? Additionally, what are the costs for moving furniture and telecommunications?

The United States Secret Service (USSS) requires line-of-sight security escorts for all of the workers on the NEOB project, which is taking place within the White House complex while the building is occupied by tenant agencies. The security escorts must have at least a Top Secret (TS) security clearance, and are a cost for the duration of the project. The security escorts are estimated to cost approximately $4.7M.

There would be a tremendous amount of additional time and cost involved if the contract required every worker on the project to have a proper TS security clearance. The time required to obtain such clearances (typically at least 8 to 12 months) and the expense of both the clearances and project delays make this option infeasible.

To accommodate the project, GSA must build out swing space within the building that replicates typical office space, and relocate furniture and equipment to the swing space. While GSA is replacing the 9th and 10th floor risers and failing mechanical equipment, GSA will also need to repair or replace space within the building that is directly impacted by the project. The cost associated with that relocation and repair is approximately $5.5M.

I frequently hear concerns about the transportation plan for St. Elizabeth's campus. What is the status of the transportation plan? What role does the National Park Service have in the plan?

Following is a status update for the major transportation improvements required for the DHS Headquarters consolidation at St. Elizabeth's:

> **New intersection at Firth Sterling Avenue and the new access road into the West Campus** – District Department of Transportation (DDOT) has approved the design concept. GSA is finalizing construction access and is commencing due diligence for the necessary land acquisition. GSA has commenced Section 106 consultations on certain design aspects of the access road and additional consultation will be ongoing. (This portion of the access road is required for Phase 1 occupancy in 2013.)
>
> **Shepherd Parkway / Malcolm X Avenue Interchange Modification** - the Federal Highway Administration (FHWA) is currently finalizing its annotated Final Section 4(f) determination together with supplemental NEPA materials; FHWA's Record of Decision will be issued in September 2009, 30 days after the NEPA work is completed. Section 106 consultations on the Shepherd Parkway portion of the access road will commence this Fall as required to facilitate design development. (The interchange and remaining portion and south portion of the new access road are required for Phase 2 occupancy in 2014.)
>
> **Widening of Martin Luther King Avenue** - As part of the Section 106 process, GSA will be re-analyzing the gates along the West Campus and the MLK widening in the St. Elizabeth's East Campus environmental impact statement (EIS). We have signed a contract to prepare a master plan for our portion of East Campus, which includes preparation of the EIS. (MLK improvements are required for Phase 2 occupancy in 2014.)

GSA and FHWA continue to coordinate with the National Park Service (NPS) and DDOT on transportation issues related to the DHS Headquarters consolidation. In terms of NPS's role, that agency controls certain property necessary for the Malcolm X interchange and the related access road; FHWA's Section 4(f) process allows for acquisition of that property in consultation with NPS. Transportation coordination will be a significant on-going effort for the St. Elizabeth's Development as the DHS Headquarters facility will need to accommodate construction traffic, 14,000 employees, and regular visitors.

Note also that DDOT- implemented transportation infrastructure in the Ward 8 community is undergoing dramatic changes (e.g., 11th Street Bridge reconstruction, South Capitol bridge replacement, Street Car, etc.) in anticipation of local redevelopment plans.

Although GSA has done a commendable job regarding Columbia Plaza, I continue to be dismayed over lack of action regarding the US Department of Agriculture's "non-payment" of rent into the Federal Building Fund. As I understand the situation GSA is now supposed to be collecting rent from USDA for its headquarters buildings here, yet the GSA is not doing that. Why? Also, how much is being lost to the fund due to non-payment from USDA?

GSA has been working with OMB and the Department of Agriculture (USDA) to resolve these issues. The original agreement stated that USDA would renovate the Department's headquarters' complex in lieu of paying rent and would only resume rental payments upon completion of the renovation. To date, due to lack of funding, a major renovation has not occurred. It is our understanding that USDA is utilizing Recovery Act funding to continue renovation efforts to update the building and to improve necessary life and health safety systems. If USDA were to pay rent in FY2011 for the headquarters' complex, that year's rent for the complex would cost $64 million, as provided to the agency in the Rent Estimate process.

I commend GSA for requesting funds to exercise its purchase option at Columbia Plaza. What other major leases does GSA hold that would also provide such favorable purchase opportunity? Does GSA intend to request purchase funds?

GSA has determined that the following major leases in the table below contain purchase options that would, at this time, provide favorable purchase opportunities for GSA. Whether a purchase opportunity is favorable depends on market conditions, the amount of future lease payments avoided, and the cost of constructing a similar building. As part of its annual Capital Investment and Leasing Program, lease purchase option requests must be evaluated along with funding requests for repairs and alterations, new construction, limited scope and energy projects required to meet Congressionally-mandated reduction goals. As purchase options approach, these are some of the opportunities that GSA is evaluating to determine whether to request funds for exercising lease purchase options.

Leases Containing Purchase Options With Favorable Purchase Opportunity

GSA Region	Lease Number	Year Lease Effective	Building Name	Street Address	City	State
3	LWV40073	7/12/1995	IRS Computer Annex	145 Murall Drive	Martinsburg	WV
4	LGA34033	6/15/1996	Sam Nunn Atlanta Federal Center	100 Alabama Street	Atlanta	GA
7	LLA14506	4/8/1998	USA COE (Childcare Center)	7400 Leake Avenue	New Orleans	LA
10	LWA05544	9/22/1992	Union Station	1717 Pacific Avenue	Tacoma	WA
NCR	LDC10187	4/15/1992	Columbia Plaza, 2401 E Street, NW	2401 E Street, NW	Washington	DC
NCR	LDC30168	9/29/1995	Union Center Plaza IV	888 First Street, NE	Washington,	DC

What actions is GSA taking now to re-compete its national broker contract? Without divulging any procurement sensitive information, can you talk about any recommendations for change? New ideas for additions or deletions from the existing contract?

GSA has finalized the Acquisition Plan to re-compete its National Broker Contracts. In addition, GSA has conducted two Industry Conferences to provide historical information on the current National Broker Contracts and to discuss potential scenarios for the follow-on contracts. GSA has established a working group of subject matter experts to develop the statement of work for the follow-on contract and is incorporating lessons learned from the current contract. We are considering several recommendations to change the new contract, including clarifying post-award service needs and making contract administration more efficient and less burdensome.

The subcommittee has noticed the widely differing construction costs per square foot associated with land ports of entry (LPOE). Can you explain why the costs differ so widely between projects? ($206 in El Paso County, $743 Madawaska ME)

The Madawaska cost per square foot is $472 for buildings and canopies only. Infrastructure is not normally included in the "per square foot" cost for border stations. However, due to Madawaska's extreme site constraints, the new inspection facilities must be accessed via an elevated roadway approximately 3/8 mile from the international bridge landing. This roadwork infrastructure is included in the original cost figure of $743/SF.

Northern border stations generally cost more per square foot than their southern counterparts. Several factors contribute to the higher cost of construction for northern Land Ports of Entry (LPOE), including size, location and climate.

- Northern LPOEs are smaller than their southern counterparts and are therefore affected by economies of scale. Costs per square foot are typically higher at smaller facilities.
- Madawaska's location in northern Maine is far from the suppliers, equipment, and skilled labor pool that LPOE construction requires. Transportation of large excavation equipment is costly and time-consuming, and is impossible at certain times each year.
- Winters in Madawaska are severe and the frost line is too deep for construction approximately half the year.
- Temporary heat represents an additional cost. For example, at a similar site in Jackman, Maine, the cost of temporary heat was $500 per day during the autumn months.

Madawaska's cost is in line with the costs of similar Land Ports of Entry along the U.S.-Canada border. Excluding "green" energy efficiency and renewable power generation aspects, the Madawaska facility has virtually the same cost of construction per square foot as the recently funded Van Buren Land Port of Entry in Maine. Madawaska's innovative green technologies include solar systems that generate electricity and heat water, a geothermal system, and wind power generation. These technologies will reduce operating expenses, effectively paying for their initial cost over time.

When GSA puts together its annual submission, how does the agency prioritize projects? How does one project get funded and another does not?

GSA uses a structured analysis of several factors to determine which projects to undertake each fiscal year. These are:

- customer urgency (mission requirements and satisfaction levels);
- customer priorities (Courts – 5 year plan);
- physical urgency (building condition);
- economic justification (financial return and present value cost);
- project timing and execution; and
- emerging requirements and project management resource availability.

Why were prospectuses for courthouses in Yuma Arizona and Lancaster PA included in the request for FY 2010? These projects are not on any 5 year plan.

Both OMB and GAO have been closely reviewing lease construction projects and have determined that they are often not in the best interest of the Federal government and the taxpayer. The Recovery Act gave us the opportunity to fund 6 new construction courthouse projects, including the Judiciary's highest-priority courthouse in Austin; courthouses account for $241 million of the $300 million allocated for new construction of courthouses and Federal buildings under the Recovery Act. The Recovery Act project plan also includes funds for repair and alteration work on more than 110 courthouses. With so many courthouses funded under the Recovery Act, FY2010 was an ideal time to convert two lease construction courthouses to more economical new construction. The cost savings of converting these projects from lease construct to new construction are as follows:

- Yuma: The 30 year, present value cost of new construction is $7,893,000 less than the cost of leasing – equivalent to annual savings of $508,000.

- Lancaster: The 30 year, present value cost of new construction is $8,721,000 less than the cost of leasing – equivalent to annual savings of $561,000.

The reason why Yuma and Lancaster are not on the Judiciary's 5-year plan is that the Judiciary does not combine their lists of proposed lease-construct courthouses with their 5-year list of new construction courthouses. At the Senate Appropriations subcommittee hearing for the FY2010 budget, the Judiciary committed to trying to combine the 2 lists.

What projects has GSA attempted to complete using 412 authority? Why has the agency not been successful in using this authority?

We have utilized the retention of proceeds portion that the Section 412 authority provided GSA. Since receiving the authority in 2005, we have generated an additional $120 million as of July 1, 2009, which has been used to reinvest in the owned portfolio.

For GSA and other Executive Branch agencies, laws regarding budget scorekeeping are implemented for capital and operating leases through Office of Management and Budget Circular No. A-11 (A-11). All outlease-leaseback transactions must adhere to all of the Circular A-11 scoring rules. The scoring rules are intended to reinforce a basic principle of truth in budgeting: if the Government is acquiring an asset, it should record the full cost of paying for that asset up-front. This longstanding principle has been agreed upon by OMB, CBO, and the Budget Committees.

Multiple A-11 scoring criteria apply to whether a lease must be characterized as a capital or operating lease when funds are obligated. Among the scoring factors that need to be considered are the Federal occupancy of the building (how much will the Government pay per year to occupy the building), the long term need of the building and application of the Federal tenancy, and the full costs of the renovation (how much the renovation would cost if the Government paid for the renovation through appropriations). For buildings with high Federal occupancy, costs associated with private sector financing of the renovation can significantly increase the costs and risks to the Government. When the analysis indicates that the leaseback is a capital lease, the total cost must be recorded up front.

Extensive efforts have been undertaken to identify proposals where application of the 412 outlease-leaseback authority would be advantageous to the Federal Government. GSA continues to evaluate opportunities and the application of the existing scoring criteria.

You mention that the agency will be submitting more leases for authorization. When will the additional leases be sent to the Committee?

GSA will submit additional leases as part of the FY2010 Capital Investment and Leasing Program in September.

Please explain the remediation required at the Denver Federal Center.

Based on historical review of the Denver Federal Center (DFC), GSA has identified over 600 areas where hazardous materials may have been managed, disposed of, or used. The proposed work will bring the DFC into compliance with the State requirements and also bring the land up to residential standards for future development. GSA has completed varying levels of remediation on 27 different areas of the facility.

Appropriations required for all of the remediation is as follows:

Funded to date:	$ 18,114	thousand
FY 2010 Request:	$ 9,962	thousand
Anticipated Future Requests:	$ 17,264	thousand
Estimated Total Cost:	$ 45,340	thousand

The estimate for the funding needed for the remaining project costs is $17.264 million and could possibly change.

How will GSA determine the delineated area for the FBI in Miami, Florida for its district office?

The recently approved prospectus project is for a 9 acre site and a federally constructed building with the FBI as the sole occupant. We are using the previously designated area (for the previously-proposed lease-construct consolidation of the FBI, DEA, and ATF) as a starting point but will continue to expand the area until we get a representative sample of acceptable sites over the next couple of months. If we determine to deviate from the previously designated area, we will provide a notification as required under Section 515, Title V, Division D, of Public Law No. 111-8, January 6, 2009.

Our major goal is to provide the FBI with a site and building that the FBI determines to best meet their operational needs as well as keeps them within close proximity to their law enforcement and intelligence community partners.

STATEMENT OF REGINA O'BRIEN

PRINCIPAL DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITING

GENERAL SERVICES ADMINISTRATION

TO

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

U.S. HOUSE OF REPRESENTATIVES

JULY 15, 2009

Testimony on GSA National Broker Contracts

I am pleased to appear here today to discuss the General Services Administration's (GSA) National Broker Contracts. We are currently working on an audit report in this area. In my testimony I will briefly summarize our major observations to date. These focus on three areas: (1) whether anticipated savings from using brokers were realized; (2) contract utilization; and (3) issues that need to be addressed as GSA prepares to replace these contracts that expire March 31, 2010.

Background

Leasing is critical to GSA's ability to satisfy tenant housing needs, and lease space now comprises 51 percent of GSA's real property portfolio. From April, 2005, the start of National Broker Contract, through the 40-month period ended July 31, 2008, the brokers had negotiated a total of 711 lease awards.

Assessing the Current National Broker Contracts

Cost Savings

In 2003, GSA presented a business case in support of commission-based, national broker contracts. It argued that in addition to providing critical support to a thinly stretched in-house staff, the incentives created by the commission-based compensation would actually lower the cost of acquiring lease space. This cost savings was to be accomplished through: (1) an offset to rent as a result of the brokers turning over a portion of their commission to the government (referred to as a commission credit), (2) reduced rental rates attributable to the brokers' superior market knowledge and expertise, and (3) lower overhead in the form of reduced administrative and personnel costs.

The audit found that while some of the data for these areas are quantifiable, others are more ambiguous. First, the commission credits are quantifiable. Through July 2008, commission credits totaled $44 million or about 1.3 percent of the value of the leases brokers negotiated. Secondly, as to whether brokers obtain more favorable rental rates than in-house staff, the limited number of broker transactions at the time of our audit and imprecise market data precluded a definitive answer. However, the audit did find that, at best, the data can support that brokers are achieving results similar to GSA's Realty Specialists. Lastly, as to lower administration and personnel costs, our analysis indicates that contract administration is resource intensive, and that the number of Realty Specialists actually increased over the first three years of the contract by 11 percent.

Utilization

The GSA business case also envisioned movement towards an almost completely outsourced lease acquisition process. This is not occurring.

GSA's goal was to give 50 percent of the expiring lease workload to the brokers in the first year culminating in 90 percent by the end of the contracts. GSA reports that it reached the 79 percent mark in FY 2008. We found a significantly lower usage, closer to 33 percent. The point here is not the exact number but why different views of the workload can occur and what this means for future efforts.

Over the course of the contracts, GSA changed the basis on which it measures utilization. It now excludes about half of its expiring leases from the universe of broker tasks because either leases are not likely to yield a commission (non-commissionable) or are otherwise not suitable as a broker task. Even if brokers were tasked with 100 percent of commissionable work, a substantial workload remains.

Issues to be Addressed

I would like to highlight four areas that GSA should address as it moves forward to the next generation of broker contracts.

First, there needs to be a clearer expectation of the work to be performed under the contract. The brokers expressed to us that the post award work exceeds usual and customary practices for commission-based commercial services. In further refining broker tasks, consideration should be given to what is expected in performing these post award services.

Second, while the contracts provide lease acquisition services, they also interject new risks to be managed. Foremost among these risks is improper disclosure of procurement sensitive data. GSA has taken many steps to prevent such disclosure. A key control is that GSA requires both the broker company and individual broker employees to notify it in writing for each task order whether any conflicts of interest exist. The audit found that while the majority of organizational forms were provided to GSA (92 percent), only 65 percent of the individual forms were provided.

Third, the broker performance evaluation process is complex and cannot provide results in time to facilitate performance-based tasking. While the projects are evaluated at different points of the acquisition process, key performance indicators are not available until the end of the procurement which frequently takes over a year. The evaluation of the brokers' negotiated rental rate, compliance with subcontracting plans and customer satisfaction are, by necessity, done at the end. Further, a sufficient pool of task orders is needed to compare performance among brokers and this was not available until several years into the contract period.

Finally, the eLease system, GSA's electronic leasing application, needs to better support workflow and analysis. A few of the criticisms noted during the audit were that: there were delays in the brokers getting access; report generation capabilities were not functional; and eLease does not interact with other GSA systems. GSA continues to make improvements to eLease but what the audit found was that not all information is put into the system and the paper file is still the official file.

Thank you for your attention and I ask that my statement be made part of the record. I would also be pleased to respond to questions from the Subcommittee.

STATEMENT OF

JULIE RAYFIELD

SENIOR MANAGING DIRECTOR
STUDLEY, INC.

BEFORE THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

JULY 15, 2009

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Good morning, Madam Chair, Ranking Member Diaz-Balart, and Members of the Subcommittee. Thank you for inviting me here today to discuss the General Services Administration (GSA) National Broker Contract and the use of commercial real estate brokers to assist GSA in acquiring leased space to satisfy diverse customer agency real estate requirements.

Studley Inc., founded in 1954 by Julien J. Studley, is a leading commercial real estate services firm specializing in tenant representation. After 55 years in the business, Studley remains a privately held, employee-owned company. The firm has more than 350 brokers and 200 staff, strategically positioned throughout the United States in 20 offices, who are committed to providing their clients with entrepreneurial, innovative real estate advisory services. We solely represent the tenant and users of real estate, whether it is leasing a building, managing space, selling or acquiring a portfolio or financing a property. Studley's primary focus is to act in the best long-term interest of its clients.

The National Broker Contract, which is in its fifth and final year, was awarded in October 2004, with a notice to proceed April 1, 2005. GSA spent over two years procuring the services of these firms, during which the program was reviewed by GSA's Inspector General, the Government Accountability Office, and this Congressional Committee.

The National Broker Contract's purpose is to provide consistent, national real estate transaction services to GSA's Public Buildings Service, in accordance with the 48 laws, regulations, executive orders and procedures that apply to the procurement of leased space for the Federal government. Broker teams bring market knowledge, energy and private sector ingenuity to GSA's process and provide immediate market surveys and reports on availability of space and creative approaches to enhance the overall effort to acquire space for the government. Studley adheres to these government requirements and strives to provide know how, efficiency and negotiation techniques to achieve favorable results on behalf of the Federal government. We do not decide business terms, nor do we sign leases. That is the responsibility of the government. We do provide options for consideration and help negotiate the terms in accordance with government requirements.

Currently, three Broker teams support the National Broker Contract: Jones Lang LeSalle, CB Richard Ellis and Studley. Since April 2005 there have been over 2,600 lease requirements advertised for over 68 million square feet of space nationwide. The Brokers have provided lease acquisition services for 1,600 of these lease requirements totaling 38 million square feet of space – over half of which are still in negotiations. Each team has received an approximately equal amount of assignments by task order and square footage. Fifty-one percent of all Broker advertised task orders are for space requirements below 10,000 square feet; ninety-one percent are below 50,000 square feet.

Specifically, Studley has been assigned 691 task orders totaling 13.2 million square feet of space. Of those assigned, Studley has advertised 497 task orders for 10.9 million square feet of space. There is always a lag between assigned task orders and advertised task orders. Much work goes into providing market research, acquisition planning, developing Solicitation for Offer (SFO) language, obtaining sign offs, reviewing documents, and other vital work never seen by the general public. These task orders occur in all parts of the country and for all sizes and terms. For example, Studley has advertised a requirement for 181 square feet of space in Dallas, TX, compared to 521,000 square feet of space in Washington, DC. Every task order deserves and gets the same treatment and consideration and is subject to the same laws, rules, regulations, and procedures as the largest task orders issued by GSA. Every Broker team is evaluated on six discrete actions for each task order: 1) Project Orientation and Schedule; 2) Market Survey and Documentation; 3) SFO Issuance; 4) Evaluation of Offers; 5) Lease Award and Documentation; and 6) Post Award Services. All transactions are evaluated with the same level of importance without regard to size. These evaluations are quantified on a rating of 1 to 5, by task order, and rolled up by region each quarter. All Broker teams are evaluated by each of the 11 GSA regions, as well as by the Central Office for a national performance evaluation quarterly and annually. Of the past two years, Studley's performance has been highly rated, an accomplishment for which we are most proud. We have successfully procured space for simple transactions and the most

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complicated transactions that GSA client require. It is safe to say that GSA closely monitors every action taken by the Broker teams and evaluates the performance against a rating scale.

In addition to the Studley offices which have dedicated teams for the GSA National Broker Contract across the nation, we have contracts with a number of small, disadvantaged commercial real estate firms to provide services. For example, in Region 4 (Atlanta) Studley has agreements with two women-owned small businesses, which provide excellent service in connection with the 87 task orders advertised to date in that Region. This supplements Studley's Atlanta office for coverage in the Region. In Region 9 (California, Arizona, Nevada and Hawaii), we have an agreement with a Vietnam era service-disabled owned firm for coverage of the 68 task orders advertised to date. In Region 10 we have an agreement with a woman-owned small business providing coverage in Oregon, Washington, Idaho, and Alaska. When a task order is issued in Fairbanks, Alaska, that means substantial travel and expense, none of which is reimbursed by the government. In fact, no expense incurred in support of a task order for space is covered by any government funds. All overhead, compensation and travel is paid for by the Broker teams.

The National Broker Contract is defined as a "no-cost" contract in which Brokers are compensated through market-based commissions from successful bidders. The Government Accountability Office Advisory Ruling allowed GSA to enter into contracts with real estate brokers without augmenting its appropriations since the proposed contracts do not contemplate the government receiving funds from the Brokers. There are no Federal government funds expended for National Broker Contract services. Successful offerors pay market commissions to National Broker Contract teams only upon lease award and when GSA has fully approved every aspect of the transaction. Consequently, National Broker Contract Teams work entirely at their own risk and receive no compensation if a lease falls through and is not fully executed.

National Broker Contract teams do not obligate the Federal government; only a GSA contracting officer can sign a lease binding the Federal government to the leasing of space. Nor do National Broker Contract team Brokers supervise Federal employees. There is a bright line between the GSA organization and the National Broker Contract Brokers.

A substantial benefit of the National Broker Contract is that it provides a mechanism for the Federal government to secure the value of leasing commissions that are already embedded in market rental rates and which would otherwise accrue solely to the benefit of the Lessor and the Lessor's broker. The National Broker Contract Broker teams credit a portion of the commissions back to the Federal government in the form of free rent, which is reflected in the lease in the form of commission credits. As part of any GSA lease, the terms contained in the SF-2 spell out the amount of free rent that accrues to the client agency, so once occupancy occurs, that federal agency occupies the space rent free up to the amount of the credit. Studley agreed to credit 51.5 percent of its commissions to the Federal government as free rent for agencies occupying procured space. To date, Studley has earned $31 million in commissions nationwide (including money paid to our subcontractors), and has credited the government $33 million. This is over a period of four years. Of the previously referenced 691 task orders, 60% are for space assignments under 10,000 square feet. Commissions on completed leases of this size average $20,000 per lease. The cost in terms of time and expense far exceed this amount.

The National Broker Contract provides a number of additional benefits to the Federal government. GSA has determined that fully-executed leases negotiated by Studley have rental rates 13 percent below market (as of the winter 2009), which is well below the GSA goal of 9 percent. Of space successfully leased under the National Broker Contract, the new rental rates have the potential savings of hundreds of millions of dollars over market rents through the terms of new leases.

Every Broker team provides post award services to assist GSA in the build-out of agency space to meet their specific requirements. We provide a team of construction experts to perform this service, all funded by the commissions earned through the lease award. This provision of post award services adds years to the commitment of Broker personnel for each major task

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order. Studley has an agreement with a minority, woman-owned firm to provide post award services in Regions 1, 2, and 3 and on some of the recent lease awards in Northern Virginia (NCR).

I would like to highlight one significant GSA lease award for the Department of Justice, at 145 N Street NE, Washington, DC which will consolidate elements of the DoJ at this NoMa location. This lease was a source selection, best value lease, consolidating 6 locations of DoJ into one, and was awarded $40 million net present value below the prospectus level rent, for a 15-year term. This lease was a catalyst for development in an emerging area of Washington, DC, where prior lease actions met with resistance by client agencies.

In summary, the partnership between GSA and the Broker teams has resulted in the successful melding of Federal government procedures and private sector oriented results. The National Broker Contract provides GSA with access to valuable brokerage services and substantial rent abatement - all at no additional cost to the Federal government. The National Broker Contract also allows GSA to leverage its national market position, take advantage of the best financial terms offered, and provide consistent service nationwide to client agencies. While Broker teams focus on the transaction and using their expertise to procure the space required at the most reasonable rental rates, GSA personnel focus on overall customer service, which includes partnering with

Federal agencies to improve the determination of space requirements, manage GSA's portfolio and provide policy and guidance on project management.

Madam Chair, Ranking Member Diaz-Balart, this concludes my prepared statement. I am pleased to answer any questions that you or any other Members of The Subcommittee may have about my company Studley and its role in supporting GSA's National Broker Contract.

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STATEMENT OF

CHRISTOPHER ROTH

REGIONAL DIRECTOR, JONES LANG LASALLE

AND

PROJECT MANAGER, NATIONAL BROKER CONTRACT

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

"EVALUATING GSA'S FIRST EXPERIENCE

WITH THE

NATIONAL BROKER CONTRACT"

JULY 15, 2009

JONES LANG LASALLE.

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Good afternoon Madam Chair, Ranking Member Diaz-Balart and members of the Subcommittee. My name is Chris Roth and I am a Regional Director at Jones Lang LaSalle and the Project Manager for Jones Lang LaSalle's National Broker Contracts. I have been in this role for the past two years, bringing to it my 18 years of experience in the real estate and construction industries, five of which were focused on federal government contracts, notably in support of the Military Housing Privatization Initiative for the Department of Defense.

Jones Lang LaSalle provides comprehensive real estate services to both public and private sector clients. We are not solely a tenant representation brokerage firm, though having merged with The Staubach Company in July of 2008, our brokerage capabilities in many markets where General Services Administration leases space has significantly increased. Our GSA National Broker Contract work volume was doubled by the recent merger as The Staubach Company also held a Contract, and now our work for the GSA is an even stronger pillar in our public sector business and our firm's culture.

We operate on local, regional and global levels for owners, tenants and investors. In the Americas, we have 12,400 professionals serving clients in nearly 500 cities. The business unit that I support within Jones Lang LaSalle – Public Institutions – is dedicated to public sector clients and has worked under a variety of federal, state and local government service contracts for 10 years. We are not new to the rigors, complexities and goals of government contracting.

I am pleased to appear before you to discuss Jones Lang LaSalle's experience with the GSA's first National Broker Contract. The brokers and the GSA have come a long way in the first four years. We believe that Jones Lang LaSalle has made a positive difference for the American Taxpayers and our results speak for themselves.

As tenant representation brokers for the GSA, we present objective evaluations of landlord's offers. That is, we present the terms and economics of lease offers in such a way that does not subjectively give preference to any location within the delineated areas prescribed by the GSA. You may know well a few of our successes on the National Broker Contract:

- A ~144,000 square foot lease for the U.S. Equal Employment Opportunity Commission, now in NoMa having moved from the CBD (lease awarded in a new location through a competitive acquisition);
- A ~592,000 square foot lease renewal for the U.S. Coast Guard in the Southwest Waterfront (lease awarded in same location through a renewal);
- A ~113,000 square foot lease for the Bureau of Prisons in the Capitol Hill submarket on the border of NoMa and the East End (lease awarded in same location through a competitive acquisition);
- A ~49,000 square foot lease for the Broadcasting Board of Governors in Miami, FL (lease awarded in same location through a renewal);
- A ~115,000 square foot lease for the Federal Drug Administration in Montgomery County (lease awarded in same location through a renewal);
- A ~71,000 square foot lease for the Consumer Product Safety Commission in Montgomery County (lease awarded in a new location through a competitive acquisition); and
- A ~13,000 square foot lease for the Internal Revenue Service in Prince George's County (lease awarded in same location through a competitive acquisition).

How would we evaluate "GSA's First Experience...?" We would look to some of the GSA's own objectives set out six years ago during their procurement for brokerage services. Many of the GSA's objectives have be met and in some areas exceeded with these Contracts.

One objective was to <u>obtain better pricing for the GSA's customers and the taxpayers</u>. For this, there are measureable and quantifiable results.

- One component of "pricing" is the GSA's direct compensation to brokers on this panel for work performed under the Contracts. This amount can be quantified as zero. Jones Lang LaSalle has received no direct compensation from the GSA for its services, nor reimbursement of any expenses, on these "no cost" Contracts. The Contracts have required us to hire specialized personnel, construct office space, augment information technology controls and travel extensively in order to perform. As is customary in commercial practice, we are permitted by the Contracts to negotiate a market commission to be paid by the landlords.

- A second component of "pricing" is the rent paid by the GSA's client agencies. Do they benefit from having representation with specific market knowledge and real estate expertise? If so, it should be resulting in lower rents. According to the GSA's independent metric, the Lease Cost Reduction Measure, we are exceeding the Government's expectations set at 9.25% below mid-point rents in the markets where we have awarded leases. As of our last quarterly evaluation held in May of this year, Jones Lang LaSalle has negotiated rents more than 11.00% below market rent mid-points since the start of the Contracts.
- A third component of "pricing" that should be taken into consideration is the rebate of market commissions – dollar for dollar – that goes directly toward GSA's client agencies' initial months of rent. It is important to look at the source and structure of such commissions and to understand the benefit received by the government. It is a commonly accepted commercial practice that commissions for both landlord representation and tenant representation are incorporated into market rents. By our calculations, this rebate has accumulated over $16 million in direct rent savings to Government agencies from Jones Lang LaSalle's efforts on our National Broker Contracts alone. Prior to GSA's National (and regional) Brokerage Contracts, the distribution of the tenant representation commission was at the discretion of landlords, and therefore not measurable.

Another objective was to <u>increase flexibility in contract administration</u>. Contracted brokers can be a flexible staffing solution for the GSA. Though the financial success of the Contracts is dependent on having a range of assignments that balance our efforts, our teams can work well beyond standard business hours. We are able to respond quickly, and work nights and weekends to find space when the GSA's agency customers have an urgent and compelling need. For example, since January 2007 we have been active in 14 markets in the Great Lakes Region securing urgently needed and often unique space at market rates. Most, but not all, are requirements for the Federal

Emergency Management Agency. For example, in August 2007, we were engaged to secure multiple trailer pads for FEMA to house tornado victims and their families in Northeast Minnesota. In July 2008, we were engaged to find space for several agencies: DHS, IRS, US Marshalls, Probate and Bankruptcy Courts, two Senatorial Offices, and the GSA's own Field Office in Cedar Rapids, IA due to flooding. We finished 7 leases in 30 days in this non-FEMA task. *Most "urgent and compelling" assignments have been for a single lease and are awarded in seven to ten days.*

Another objective was to provide more consistent service for GSA's agency customers. With a team of 24 professionals dedicated to the Contract, we have built institutional knowledge about specific agency requirements and tendencies; I see this knowledge shared almost daily across the team – nationally. Examples would include: how Federal Bureau of Investigation security requirements are incorporated into a Solicitation For Offers and how the Social Security Administration market surveys should be conducted in different GSA regions. Without regional barriers, our dedicated team provides better and more consistent services to the GSA's agency customers.

The brokerage services that we provide the GSA extend beyond those offered to our commercial clients, and for good reason. Through our government contracting experience, we understand the additional and unique requirements – most significantly reporting and compliance with Federal Acquisition Regulations – required of all firms involved in federal procurements. Our services under the Contracts cover all non-inherently governmental functions of the lease procurement process through occupancy. All decision-making authority rests with the Government. While a handful of larger, high-profile leases in major metropolitan markets – like the ones mentioned earlier in my testimony – may "steal the show" in the media, such leases misrepresent the true nature of typical transactions. The actual space requirements in the portfolio of leases range from a few hundred to nearly a million square feet, but more than half are less than 7,125 square feet. Uses range from field offices for the Federal Bureau of Investigation in Portland, Oregon to a small office for the United States Geological Survey in Bozeman, Montana. Geographically we work from Nome, Alaska to Guaynabo, Puerto Rico; from Pago Pago, in the American Samoa to Auburn, Maine. The volume of transactions we are handling for the Government with a flexible workforce of more than 100 is steadily increasing, and more task orders have been issued to us every consecutive year.

Of the 1,275 task orders – lease procurements – we have been assigned under the Contracts, we are proud to have assisted the GSA in awarding 610 as signed leases to private sector landlords. Of the remainder, 448 are currently in procurement and 217 have been cancelled or put on hold. Projects are usually cancelled or put on hold when agencies reverse or change course on their anticipated requirements.

Jones Lang LaSalle has been pleased to have participated in the Contracts to date. We believe the Contracts work to benefit the GSA, us as contractors, the landlords and the American taxpayer. Yes, the Contracts took longer to perform well than both we and the GSA anticipated, and we have offered to the GSA a thorough perspective on lessons we have learned to date on these Contracts. We have also learned to work together with our GSA counterparts to get better pricing for the GSA's customers and the taxpayers; provide procurement flexibility; and deliver more consistent services to the GSA's agency customers.

Our firm looks forward to every opportunity to continue serving the Government in a real estate broker capacity, and we are confident that the objectives I mentioned, and many of the Government's other objectives, will be exceeded by an even greater margin with our involvement. I would be happy to answer any questions that the Committee may have.

End.

STATEMENT OF DEMETRA VELTSISTAS

CB Richard Ellis National Broker Account Team Leader

BEFORE THE

HOUSE TRANSPORTATION & INFRASTRUCTURE COMMITTEE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS & EMERGENCY MANAGEMENT

Hearing related to the GSA National Broker Contract

U.S. HOUSE OF REPRESENTATIVES

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Good Morning, Madame Chair, Congressman Diaz-Balart and distinguished members of the subcommittee. My name is Debbie Veltsistas. I am the National Broker Contract Account Leader for CB Richard Ellis. Thank you for inviting me to appear before you today to discuss our experience with the GSA's National Broker Contract.

We are proud of our excellent working relationship with the GSA's Public Buildings Service in support of their mission of providing a superior work place for the federal worker at the best value for the American taxpayer.

This morning I will talk about the National Broker Contract from CB Richard Ellis's perspective.

The National Broker Contract benefits the GSA, its employees, the agencies it supports and the U. S. taxpayers in many ways. Among the principal benefits are the following:

1. Using industry knowledge and practices to assist GSA achieve the most advantageous economic outcome for the taxpayer;
2. Enhancing the GSA's capability to manage its large annual volume of lease transactions; and
3. Ensuring that federal employees are equipped in a timely manner with a modern, efficient workplace.

We believe that each of these benefits has already been realized during the current term of the National Broker Contract and that the GSA will see even more benefits as time goes on.

CBRE's Role

CB Richard Ellis is actively involved in transactions and related post-award construction management services in all 11 GSA regions. We support the GSA with a core team of dedicated professionals located in McLean, Virginia. Our work begins when we receive a Task Order for lease-related services from the GSA. We promptly conduct a rigorous conflict-of-interest review and assemble a task-appropriate team of commercial real estate experts. That team guides the transaction from the Task Order assignment through occupancy. We have a network of field brokers across all 11 GSA regions who provide local market expertise. Both the GSA and CB Richard Ellis are committed to the effective use of small businesses. In furtherance of that commitment we partner with qualified small businesses throughout the country to assist in the implementation of GSA assignments. Throughout the process, we align our execution to support the GSA's goal of fair and open competition for all procurement opportunities.

We report monthly to the regional GSA offices on the status of our assignments. In addition, we participate in quarterly meetings with GSA representatives at which we review the quality of our work on each transaction.

GSA Role

The GSA provides strong oversight on every aspect of our account management, as well as each transaction. Their quality control is applied regionally and nationally. They exercise prudent supervision of our work; everything we do to support the NBC is fully transparent to GSA.

Value of the National Broker Contract for the American Taxpayer
The value of the National Broker Contract to the American taxpayer is realized through achieving below-market rental rates and lowering the overall cost of tenant improvements. In addition, the National Broker Contract allows the GSA to spend more time focusing on the requirements of its client agencies.

These significant value achievements for the American taxpayer are a direct result of the National Broker Contract's purpose which calls for the GSA to partner with national private sector and small business commercial real estate firms who are uniquely qualified to provide consistent, cost-effective and high quality leasing and related post-award construction management services to GSA and its client agencies in a fully accountable and transparent manner.

Conclusion
The National Broker Contract enables the GSA to partner with private, third-party commercial real estate firms in an order to realize proven economic savings for the American taxpayer and significant efficiencies for the GSA and the agencies it supports. For organizations such as the GSA, that have large and often complex commercial real estate needs, the type of partnering that the National Broker Contract provides is not only prudent, but is increasingly the industry standard. CB Richard Ellis' experience as an industry specialist in such partnerships is that the benefits that the GSA – and the American taxpayers - will realize as a result of the National Broker Contract, will only increase as the partnership continues to evolve.

We are honored to be a partner with the GSA and stand ready to continue to support the GSA's mission.

This concludes my formal statement. I am pleased to answer, to the best of my abilities, any questions that the subcommittee may have with regard to the Contract.