



July 2016

FEDERAL REAL PROPERTY

Actions Needed to Enhance Information on and Coordination among Federal Entities with Leasing Authority

Accessible Version

GAO Highlights

Highlights of [GAO-16-648](#), a report to congressional requesters

Why GAO Did This Study

GSA leases real property on behalf of many federal tenants, but some federal entities have statutory independent leasing authority.

GAO was asked to review federal entities with independent leasing authority. This report examines (1) what is known about which federal entities have independent leasing authority and their use of this authority; (2) how selected independent leases compare to GSA and private sector leases in terms of cost; and (3) to what extent selected entities have leasing policies and practices that align with leading government practices. GAO conducted a survey of 103 federal entities identified in previous GAO work; selected eight entities for their diversity in size and mission, and visited 37 leased office and warehouse locations; analyzed leases and lease files for the 37 locations; reviewed applicable laws, policies, and guidance; and interviewed GSA, OMB, and officials from the selected entities.

What GAO Recommends

GAO recommends that OMB should establish efficient methods to: include data from non-FRPC members to the FRPP and increase collaboration between FRPC and non-FRPC entities. OMB concurred with both recommendations.

View [GAO-16-648](#). For more information, contact David J. Wise at (202) 512-2834 or wised@gao.gov.

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Actions Needed to Enhance Information on and Coordination among Federal Entities with Leasing Authority

What GAO Found

There is no comprehensive list of federal entities with independent leasing authority. The Federal Real Property Council (FRPC), chaired by the Office of Management and Budget (OMB), was established in 2004 through executive order to coordinate and share leading practices in real property management among federal agencies covered by the Chief Financial Officers Act of 1990. The General Services Administration (GSA) was directed to create a database intended to be a comprehensive inventory of federal facilities, which resulted in the Federal Real Property Profile (FRPP). However, federal entities that are not members of the FRPC are not required to submit data to the FRPP and few do so. Of the 103 federal entities that GAO surveyed, 52 reported having independent authority to lease office and warehouse space. As of October 1, 2015, these 52 entities leased 944 domestic offices and 164 warehouses. Twenty-five of those entities are not members of the FRPC and therefore not required to submit their real property data to the FRPP despite leasing 243 offices and warehouses. As such, the FRPP's incomplete data set reduces its effectiveness as an oversight and accountability mechanism for entities with independent leasing authority.

Offices and Warehouses Leased by Entities That Are Not Members of the Federal Real Property Council

Number of federal entities	Number of offices and warehouses	Rentable square feet	Approximate annual rent
25	243	8,321,232	\$303.4 million

Source: Information reported by federal entities in a GAO survey as of October 1, 2015. | GAO-16-648

GAO's review of the costs of 37 selected independent leases found that the rates of most were less costly or comparable to matched GSA leases. When independent leases have lower costs, it may be attributed in part to: (1) GSA's using standardized lease documents that include clauses with higher energy conservation, security, and seismic requirements, and (2) independent leases' having fewer space modifications, more periods of free rent, and private sector real-estate professionals negotiating with potential owners. Most of the independent leases were also less costly or comparable to matched private sector leases, particularly in the National Capital Region.

GAO reviewed the extent to which eight selected federal entities had policies that incorporated leading government leasing practices and found that six had policies that generally conformed to these practices. However, none of the lease files contained evidence that the practices were consistently followed. For example, 88 percent of the entities' lease files lacked evidence of ensuring best value by documenting advertisements to seek bids to fill their space needs, and 77 percent lacked evidence that entities effectively planned ahead by documenting the factors they used to evaluate lease offers. In addition, the average of all leases we analyzed for space-use more than doubled GSA's recommended target of 150 rentable square feet per employee for office space. It may help federal entities conform to leading practices and meet utilization targets for the space they lease if they can benefit from the coordination and leading real-property management practices shared at the FRPC.

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Abbreviations

CFO Act	Chief Financial Officers Act of 1990
FAA	Federal Aviation Administration
FDIC	Federal Deposit Insurance Corporation
FRPC	Federal Real Property Council
FRPP	Federal Real Property Profile
GSA	General Services Administration
NASA	National Aeronautics and Space Administration
NCUA	National Credit Union Administration

NOAA	National Oceanic and Atmospheric Administration
<i>National Strategy</i>	<i>National Strategy for the Efficient Use of Real Property</i>
OMB	Office of Management and Budget
PBGC	Pension Benefit Guaranty Corporation
USCG	United States Coast Guard
USPTO	United States Patent and Trademark Office

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July 6, 2016

The Honorable Bill Shuster
Chairman
The Honorable Peter A. DeFazio
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Lou Barletta
Chairman
The Honorable André Carson
Ranking Member
Subcommittee on Economic Development,
Public Buildings, and Emergency Management
Committee on Transportation and Infrastructure
House of Representatives

The federal government's real property portfolio of over 275,000 buildings held or leased by civilian and defense agencies is vast and diverse. GAO has identified federal real-property management as a high-risk area due in part to an overreliance on leasing from the private sector in cases where ownership would be less expensive in the long run.¹ As the federal government's principal civilian landlord, the General Services Administration (GSA) leases real property on behalf of many federal tenants. In fiscal year 2014, GSA leased 6,859 office and warehouse spaces from the private sector (approximately 187.6-million rentable square feet).² However, independent leasing authority can be provided to federal entities either through their enabling legislation or through an appropriations act.³ As such, the basis for such authority is unique to the

¹GAO, *High-Risk Series: An Update*, [GAO-15-290](#) (Washington, D.C.: Feb. 11, 2015). Other reasons for the designation included unreliable data, excess and underutilized property, and challenges associated with protecting the physical security of federal facilities.

²GSA Public Buildings Service, *FY2014 State of the Portfolio* (Washington, D.C.: 2014).

³A provision in an annual appropriations act is presumed to be effective only for the covered fiscal year unless language in the act or the nature of the provision makes it clear that Congress intended for the provision to be permanent.

federal entity. Generally, without such authority, federal entities rely on GSA for their space needs. While GSA tracks and reports on its tenants' real property holdings, less is known about the holdings of federal entities that independently lease real property.

You asked us to review federal entities' use of independent leasing authority. This report examines: (1) what is known about which federal entities have independent leasing authority and their use of this authority to lease office and warehouse space; (2) how selected independent leases compare to GSA and private sector leases in terms of cost;⁴ and (3) to what extent selected federal entities with independent leasing authority have leasing policies and practices that align with leading government leasing practices.

To determine what is known about which federal entities have independent leasing authority and use this authority to lease office and warehouse space, we administered a survey to 103 civilian federal entities. Our survey universe included all federal entities identified in a prior GAO report on federally created entities such as executive departments,⁵ other executive branch entities, government corporations, and other federally established organizations in the executive branch that received an average of over \$20 million in annual appropriations from fiscal years 2005 through 2008.⁶ The survey's responses indicate which federal entities report having independent leasing authority and the statute which provided them the authority. For the entities using their authority, additional questions asked how much office and warehouse space they leased and the annual rental cost, as of October 1, 2015. We achieved a 100 percent response rate to our survey.

To assess how selected independent leases compare with GSA and private sector lease costs, we contracted with a real-estate consulting firm to perform analyses of lease costs. With the consulting firm, we collected

⁴Independent leases are leases executed by federal entities using their independent leasing authority.

⁵We also surveyed the federal entities within executive departments that we either identified or the executive department identified as having independent leasing authority (e.g., Federal Aviation Administration (FAA) within the Department of Transportation).

⁶GAO, *Federally Created Entities: An Overview of Key Attributes*, [GAO-10-97](#) (Washington, D.C.: Oct. 29, 2009).

location, cost, and size information for 43 leases, commencing from calendar years 2001 through 2015, from eight selected federal entities, with offices and warehouses located in four different U.S. metropolitan regions: Atlanta, Georgia; Los Angeles, California; Miami, Florida; and Washington, D.C. We selected these four metropolitan regions because of the availability of independently leased office and warehouse spaces. The eight civilian federal entities were the Federal Aviation Administration (FAA) within the Department of Transportation, the Federal Deposit Insurance Corporation (FDIC), the National Aeronautics and Space Administration (NASA), the National Credit Union Association (NCUA), the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce, the Pension Benefit Guaranty Corporation (PBGC), the U.S. Coast Guard (USCG) within the Department of Homeland Security, and the U.S. Patent and Trademark Office (USPTO) within the Department of Commerce. We used information on these selected independent leases, such as location, initial year, size, and other cost-affecting factors, to match the leases to similar GSA and private sector leases during this time period. For the GSA matches, we assessed how the leases' net present value per square foot compared with one another, while for the private sector matches we assessed how the leases' first years' rents compared with one another.⁷ While our selection of 43 leases from eight federal entities is non-generalizable to the universe of all independent leases, this selection provides examples of how independent leases compare with GSA and private sector leases. When an independent lease's net present value was within 10 percent above or 10 percent below its matched GSA or private sector lease, we considered the two leases comparable in rate. We allowed this range to account for variations caused by the specific circumstances and unique features of each lease transaction. Otherwise, we considered an independent lease beyond the 10 percent comparable range to be either more costly or less costly than its matched lease.

To evaluate the extent that selected entities' leasing policies and practices aligned with leading government practices for leasing federal real property, we identified a broad set of applicable federal lease acquisition leading practices from a variety of federal sources including

⁷Of the 43 independent leases collected from the eight entities, we excluded four leases on the basis that they did not require the tenant to pay any rent, and excluded two additional leases because leases of comparable building finish quality could not be identified in their respective market.

the General Services Acquisition Regulation, the GSA's *Leasing Desk Guide*,⁸ the Federal Management Regulation, Office of Management and Budget's (OMB) *Circular A-11*,⁹ and prior GAO reports.¹⁰ To determine the extent that our eight selected entities' policies aligned with our list of leading practices, we reviewed the real property policies provided to us by each entity. To determine the extent that the entities' leasing practices aligned with leading government practices, we reviewed all documentation in individual lease files provided by the entities for selected 30 leases. In reviewing the lease files, we evaluated whether there was documentary evidence that the leading practices were used. To determine how these selected entities' utilization of office spaces compared with the GSA's recommended target of 150 rentable square feet per employee, we determined the space utilization rate for each leased office space by collecting data on the number of employees working at each leased office space. We divided the total rentable square footage of each leased office by the number of employees working at the office. We then compared these rates with the GSA's recommended target. We also interviewed relevant officials from the GSA, OMB, and the Small Agency Council. For more information on our scope and methodology, see appendix I.

We conducted this performance audit from June 2015 to July 2016 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.

⁸GSA, *Leasing Desk Guide*, (Washington, D.C.: 2015).

⁹OMB, *Preparation, Submission and Execution of the Budget*, OMB Circular No. A-11 (revised 2015).

¹⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014); GAO, *Acquisition Planning: Opportunities to Build Strong Foundations for Better Services Contracts*, [GAO-11-672](#) (Washington, D.C.: Aug. 9, 2011); GAO, *Framework for Assessing the Acquisition Function at Federal Agencies*, [GAO-05-218G](#) (Washington, D.C.: Sept. 1, 2005); and GAO, *Federal Office Space: More Businesslike Leasing Approach Could Reduce Costs and Improve Performance*, [GAO/IGD-95-48](#) (Washington, D.C.: Feb. 27, 1995).

Background

The federal government's civilian real-property holdings include thousands of leased office buildings and warehouses across the country that cost billions of dollars annually to rent, operate, and maintain. As the federal government's principal landlord, GSA acquires, manages, and disposes of real property on behalf of many civilian federal tenants. In this role, GSA is responsible for executing, renewing, and terminating contracts for leased properties. As of fiscal year 2014, GSA leased 6,444 office and 415 warehouse spaces (totaling 187.6-million rentable square feet) from the private sector.¹¹ However, there are some federal entities that have independent statutory leasing authority, which refers to the authority to lease space independently of GSA. Congress provides this authority in law through a federal entity's enabling legislation or through annual appropriations acts. Figure 1 illustrates examples of the types of spaces that federal entities lease directly from private owners.

¹¹GSA, Public Buildings Service, *FY2014 State of the Portfolio* (Washington, D.C.: 2014). Approximately 97 percent of the space GSA leases is for office and warehouse space. The other 3 percent were categorized as courthouses, land ports of entry, laboratories, and other. Government-owned properties constitute 183.5-million rentable square feet in GSA's Public Buildings Service portfolio.

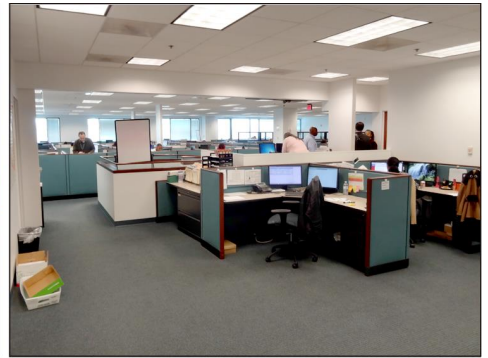
Figure 1: Examples of the Types of Spaces Federal Entities Lease from Private Owners



Conference room



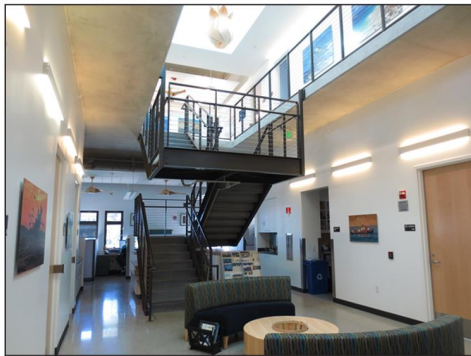
Training room



Customer service center



Administrative support space



Common area



Warehouse

Source: GAO. | GAO-16-648

Within the executive branch, the OMB and GSA provide leadership for the management of federal real property. As the chief management office for the executive branch, OMB is responsible for oversight of how agencies devise, implement, manage, and evaluate programs and policies. For real property management, OMB develops and provides direction to executive branch agencies and is responsible for reviewing their progress. GSA has two key leadership responsibilities related to real property management for the federal government. First, GSA's Public Buildings Service functions as the federal government's landlord, as described above. Second, GSA's Office of Government-wide Policy is tasked, among other things, to identify, evaluate, and promote best practices to improve the efficiency of management processes.

To promote the efficient and economical use of federal government real property, in 2004 the President issued Executive Order 13327 establishing the Federal Real Property Council (FRPC) composed of senior management officials from specified executive branch departments and agencies covered by the Chief Financial Officers Act of 1990 (CFO Act), including GSA, and chaired by OMB.¹² The executive order established FRPC with the goals of developing guidance, facilitating the implementation of agencies' asset-management plans, and serving as a clearinghouse for leading practices.

The executive order also directed GSA, in consultation with the FRPC, to establish and maintain a single, comprehensive database describing the nature, use, and extent of all real property under the custody and control of executive branch agencies.¹³ To meet this directive, GSA's Office of Government-wide Policy established the Federal Real Property Profile (FRPP) to be a government-wide real property inventory database. It also provided guidance to the FRPC member agencies about how to annually report data on real property under their custody and control for inclusion in the FRPP. Since the formation of the FRPP, only the FRPC member agencies have been required to annually submit their real property information to the database. According to GSA officials and OMB staff, other unspecified federal entities may voluntarily submit data to the FRPP.

In recent years, OMB has also undertaken several initiatives and issued guidance to federal entities to improve federal real-property management, specifically targeting offices and warehouses. In May 2012, OMB issued a

¹²Federal Real Property Asset Management, Exec. Order No. 13327, 69 Fed. Reg. 5897 (Feb. 6, 2004). Certain provisions of the executive order apply to executive branch departments and agencies listed in section 901 of title 31, United States Code: the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs; the Environmental Protection Agency; GSA; NASA; the National Science Foundation; the Nuclear Regulatory Commission; the Office of Personnel Management; the Small Business Administration; the Social Security Administration; and the U.S. Agency for International Development. For the purposes of our report, we will be referring to this group of executive branch departments (including federal entities within the departments) and agencies included in the FRPC as "FRPC member agencies."

¹³Some properties are withheld from being reported to the FRPP database by agency heads for reasons of national security, foreign policy, or public safety, among other reasons.

memorandum directing FRPC member agencies not to increase the size of their civilian real-estate inventory, stating that any increases in an agency's total square footage of civilian real property must be offset through consolidation, co-location, or disposal of space from the inventory of that agency.¹⁴ In March 2013, OMB issued another memorandum establishing implementation procedures for this policy, called *Freeze the Footprint*. This memorandum clarified that agencies were not to increase the total square footage of their domestic office and warehouse inventory compared to a fiscal year 2012 FRPP baseline.¹⁵ Most recently, in March 2015, OMB issued its *National Strategy for the Efficient Use of Real Property (National Strategy)*. The *National Strategy* employs a three-step policy framework to improve the cost effectiveness and efficiency of the federal real property portfolio: (1) freeze growth in the portfolio; (2) measure the cost and utilization of real property assets to provide performance information and support more efficient use; and (3) reduce the size of the portfolio through asset consolidation, co-location, and disposal.¹⁶ To assist with the third step, OMB issued the *Reduce the Footprint* policy that requires agencies to develop a Real Property Efficiency Plan, which among other things, describes an agency's overall approach to managing real property and establishes reduction targets for office and warehouse space, disposal of owned buildings, and the adoption of design standards to optimize owned and leased domestic office space usage.¹⁷ Only FRPC members are required to participate in these government-wide real property reform efforts.

As a result of these efforts, we acknowledged in the February 2015 update to our High-Risk Series that the federal government has demonstrated a high level of leadership commitment to improving real-property data to support decision making, and has made some progress in increasing its capacity to improve data reliability. In our previous

¹⁴OMB, *Memorandum to the Heads of Executive Departments and Agencies: Promoting Efficient Spending to Support Agency Operations* (Washington, D.C.: May 11, 2012).

¹⁵OMB, *Management Procedures Memorandum No. 2013-02* (Washington, D.C.: Mar. 14, 2013).

¹⁶OMB, *National Strategy for the Efficient Use of Real Property: Reducing the Federal Portfolio through Improved Space Utilization, Consolidation, and Disposal (2015–2020)* (Washington, D.C.: Mar. 25, 2015).

¹⁷OMB, *Implementation of OMB Memorandum M-12-12 Section 3: Reduce the Footprint* (Washington, D.C.: Mar. 25, 2015).

assessment of the FRPP, we found that FRPP's data can be used in a general sense to track assets to provide an overall perspective on FRPC members' real property portfolios. However, we raised concerns about the quality of the FRPP data specifically for some of the key variables, including utilization, condition, and annual operating costs. As such, we recommended that GSA develop and implement a plan to improve the FRPP, so that the data collected are sufficiently complete, accurate, and consistent. Most recently, we found that certain key FRPP data elements, such as utilization and status, continue to be inconsistently collected and reported by agencies. We recommended that GSA make transparent through its FRPP documents how its mission to provide space to federal agencies affects the reporting of the utilization and status data elements in the FRPP.¹⁸ GSA has taken steps to improve the reliability of FRPP data, but those efforts are ongoing.¹⁹

Twenty-five Federal Entities That Reported Having Independent Leasing Authority Are Not Members of FRPC or Consistently Tracked in FRPP

¹⁸GAO, *Federal Real Property: Strategic Focus Needed to Help Manage Vast and Diverse Warehouse Portfolio*, [GAO-15-41](#) (Washington, D.C.: Nov. 12, 2014).

¹⁹[GAO-15-290](#).

There Is No Comprehensive List of Federal Entities with Independent Leasing Authority

According to GSA officials and OMB staff, neither GSA nor OMB maintains a comprehensive list of federal government entities with independent leasing authority and neither is required to do so. GSA prepared a partial list of 33 federal entities with independent leasing authority for its own purposes in 2009, but this list, according to GSA, was not intended to be a complete list of all entities.²⁰

FRPP offers a possible way for determining which federal entities have independent leasing authority as it has a data field that indicates if a federal entity uses its own authority to lease real property. However, this information is incomplete as only agencies covered by the CFO Act, which are FRPC members, are required to annually submit their real property information to the FRPP. Federal entities outside FRPC membership can voluntarily submit real property data annually to FRPP, according to GSA officials and OMB staff, but few do. We found that three non-FRPC member entities reported to the FRPP in fiscal year 2014 that they independently leased office and warehouse spaces. Other non-FRPC member entities have submitted data to the FRPP inconsistently. For example, the U.S. Postal Service had previously chosen to submit some data to FRPP, but no longer does.

The population of federal entities with independent leasing authority can vary over time. As such, any list that is not regularly updated may not be comprehensive because it captures a snapshot in time. Some changes that may have taken place are, for example, federal entities that may have acquired leasing authority since the list was initially compiled. Also, individual leasing authority is specific to each federal entity and may change over time. For example, legislation may be enacted to create a new federal entity or change the nature of an existing entity's leasing authority—laws may place conditions on the leasing authority, such as specifying the location, type of space, or terms under which the entities can exercise this authority. A federal entity's leasing authority can range from an agency-wide, general authority to acquire real property (e.g., U.S. Postal Service, Tennessee Valley Authority), to authority given to specific components of a department or an agency (e.g., FAA within the

²⁰GAO, *Federal Real Property: Overreliance on Leasing Contributed to High-Risk Designation*, [GAO-11-879T](#) (Washington, D.C.: Aug. 4, 2011). GAO added 2 agencies to the original list GSA prepared in 2009, for a total of 33 identified federal entities with independent leasing authority. However, this update was not part of a major effort to update the list.

Department of Transportation), or for types of property (e.g., Commodity Credit Corporation within the Department of Agriculture has leasing authority for office space and storage space), or for a specific time frame.

Fifty-two Surveyed Federal Entities Reported Having Leasing Authority Independent from GSA for Office and Warehouse Space

To obtain more complete and reliable information on federal entities with leasing authority, we administered a survey to 103 civilian executive branch agencies and other federal entities that met our selection criteria.²¹ Sixty of the entities self-identified as having independent authority to lease real property of which 52 reported having the authority to lease domestic office or warehouse space.²² Of these, 37 federal entities reported that they are using their authority to lease 944 offices (approximately 16.6-million rentable square feet of space and an annual rent of \$556 million) and 164 warehouses (approximately 3.3-million rentable square feet of space and an annual rent of \$39.8 million) as of October 1, 2015.²³ The FAA alone leases 341 offices and 70 warehouses, which accounts for 36 percent and 43 percent of the total number of independently leased offices and warehouses. The remaining 36 entities use their authority to lease up to 91 offices and 36 warehouses. See table 6 and table 7 in appendix II for a full listing of the 52 federal entities that reported having independent leasing authority to lease office and warehouse space, legal citations for their authority, and summary statistics about the offices and warehouses they leased.

²¹GAO-10-97. Our survey universe included all federal entities identified in a prior GAO report on federally created entities such as executive departments, other executive branch entities, government corporations, and other federally established organizations in the executive branch that received an average of over \$20 million in annual appropriations from fiscal years 2005 through 2008.

²²Federal entities may have independent leasing authority to lease other types of real property other than buildings (e.g., offices and warehouses), mainly land and structures. There are also different types of building classifications that these entities may have authority to independently lease such as hospitals, laboratories, and prisons. However, for the purposes of our review, we focused on domestic offices and warehouses, which are the two primary types of federal real property that GSA generally leases and would be the most practical to try to compare across federal entities. For more information about the scope and methodology of our survey, see appendix I.

²³The aggregate numbers are provided to illustrate, based on our survey, the size of the federal government's real estate portfolio comprised of independently leased offices and warehouses. We did not independently verify their accuracy.

Of the 37 federal entities that reported using their leasing authority to lease office or warehouse space, 18 also reported using GSA to lease a portion of their space. There are a variety of reasons why federal entities use GSA to lease on their behalf in certain circumstances and use their independent leasing authority in other situations. For example, NASA officials told us NASA is legally required to use GSA to lease office and warehouse space inside the National Capital Region, but may choose to use its own authority elsewhere.²⁴ In contrast, according to FAA officials, the majority of FAA's office spaces are leased independently, though they may use GSA when FAA does not have the staff resources available to administer the lease process or if private sector availability is limited in certain markets. They said that obtaining a lease using independent leasing authority can generally be completed more quickly than acquiring space through GSA. According to FAA officials, when faced with tighter timeframes, FAA can fulfill space needs in as little as 4 months, whereas it can take over a year to lease through GSA.

Twenty-five Federal Entities That Reported Having Leasing Authority Are not Members of the FRPC, Creating Gaps in Data

In our survey, 25 federal entities that are not members of the FRPC reported having independent authority to lease offices and warehouses. Of those entities, 19 reported using their authority to lease domestic offices and warehouses. Combined, these 19 non-FRPC member entities reported that they leased 243 offices and warehouses (approximately 8.3-million rentable square feet of space and an annual rent of \$303.4 million) as of October 1, 2015.²⁵ Table 1 provides a listing of the 25 federal entities that reported having independent leasing authority and are not members of the FRPC, along with the amounts of domestic offices and warehouses they lease. To see more detailed information about these entities, see table 7 in appendix II.

²⁴The National Capital Region includes Washington, D.C., and local jurisdictions in the state of Maryland and in the Commonwealth of Virginia.

²⁵The aggregate numbers are provided to illustrate, based on our survey, the size of the federal government's real estate portfolio comprised of independently leased offices and warehouses by non-FRPC member entities. We did not independently verify their accuracy.

Table 1: Selected Data about Federal Entities That Reported Having Independent Statutory Leasing Authority for Domestic Offices and Warehouses and Are Not Part of the Federal Real Property Council

Federal Entity	Offices and Warehouses		
	Number	Rentable square feet	Annual rent (\$)
Federal Deposit Insurance Corporation	91	1,912,379	\$47,161,467
Smithsonian Institution	50	1,487,394	\$52,009,858
United States Postal Service	35 ^a	701,613	\$11,888,432
Tennessee Valley Authority	21	223,500	\$2,973,000
Pension Benefit Guaranty Corporation	9	564,703	\$28,222,074
Securities and Exchange Commission	8	1,882,484	\$90,854,696
National Credit Union Administration	7	73,741	\$1,456,317
United States Commodity Futures Trading Commission	4	434,679	\$20,066,000
United States Holocaust Memorial Museum	4	10,528	\$403,376
Federal Reserve Board	3	545,170	\$21,689,150
Millennium Challenge Corporation	2	129,206	\$8,300,000
National Transportation Safety Board	2	84,681	\$2,715,075
Appalachian Regional Commission	1	21,626	\$858,629
Farm Credit Insurance System Corporation	1	4,325	\$155,813
Federal Retirement Thrift Investment Board	1	92,179	\$5,236,601
Inter-American Foundation	1	14,332	\$713,000
Overseas Private Investment Corporation	1	116,487	\$7,504,813
Peace Corps	1	6,500	\$348,281
United States African Development Foundation	1	15,705	\$803,502
American Battle Monuments Commission	—	—	—
Farm Credit Administration	—	—	—
National Endowment for the Arts	—	—	—
National Endowment for the Humanities	—	—	—
Railroad Retirement Board	—	—	—
United States Tax Court	—	—	—
Total	243	8,321,232	\$303,360,084

Source: Information reported by the respective federal entities in a GAO survey. | GAO-16-648

Note: This list of selected civilian federal entities with independent leasing authority was compiled from responses to a survey. These federal entities are those with independent leasing authority that are not part of the Federal Real Property Council. All reported figures were as of October 1, 2015.

^aAccording to a United States Postal Service (USPS) official, USPS does not categorize its buildings as "offices." For the purposes of our review, we are using as a proxy, USPS's independently leased spaces where over 50 percent of the total square footage was used for administrative functions. These spaces may include office buildings, as well as small offices or administrative space located in non-office buildings. USPS does not lease warehouse space.

According to GSA's Office of Government-wide Policy, the FRPC's goals are that the FRPP database:

- leads to an increased level of agency accountability for asset management;
- allows comparing and benchmarking across various types of real property assets; and
- gives decision makers, including Congress, OMB, and federal entities, accurate and reliable data needed to make asset management decisions, including disposing of unneeded properties, in one comprehensive database.

However, the FRPP's incomplete data set reduces its effectiveness as an oversight and accountability mechanism for entities with independent leasing authority. It is not a comprehensive database of all federal real property because, as noted previously, only the specified entities that are covered under the CFO Act and that are also the member agencies of the FRPC have been required to annually submit their real property data. Other entities with independent leasing authority may voluntarily report their data, according to GSA officials and OMB staff, but as discussed, few do. As a result, the scope of the real property portfolios of all other entities with independent leasing authority is largely unknown. For example, only two of the above identified 19 entities that reported using their authority to lease domestic offices and warehouses—the Smithsonian Institution and the Tennessee Valley Authority—voluntarily reported data on their independently leased offices and warehouses to the FRPP in fiscal year 2014. As such, the remaining 17 entities' 172 independently leased offices and warehouses (approximately 6.6-million rentable square feet of space and an annual rent of \$248.4 million) were not accounted for in the FRPP.

The *Standards for Internal Control in the Federal Government* state that management should use quality information to achieve the entity's objectives. To do so, management should design a process to identify the information requirements needed to achieve its objectives. One key step is to ensure that quality information is obtained. Quality information is appropriate, current, complete, accurate, accessible, and provided on a

timely basis. Management should use quality information to make informed decisions and evaluate the entity's performance in addressing key objectives and assessing risks.²⁶ The gaps in FRPP's data limit the effectiveness of FRPP as a decision-making tool for policy leaders because the data are not a complete and accurate representation of the entirety of the federal government's real property holdings. According to OMB staff, the inclusion of data by federal entities not required by the CFO Act would help the FRPP to be more of a comprehensive database, but the staff also noted that the majority of real property is owned or leased by CFO Act agencies. According to these staff, the federal government has limited resources to provide technical assistance and training to entities regarding submitting data to the FRPP, therefore, including them would need to be accomplished in an efficient way. For example, GSA officials and OMB staff said that if more federal entities started submitting data to FRPP, it may require GSA to divert some attention from its current efforts to train those entities that have not contributed to the FRPP before.

In our review, most of the federal entities that reported having independent leasing authority, outside the entities that are covered under the CFO Act, are members of the Small Agency Council. The Small Agency Council is a voluntary association of about 80 independent federal entities with generally fewer than 6,000 employees that represents the entities' collective management interests. The Small Agency Council provides these smaller federal entities a line of communication with key decision makers, including OMB. GSA officials who manage the FRPP said that the Small Agency Council may be able to help coordinate its members' involvement in the FRPP. For example, the Small Agency Council could provide technical assistance to help its members collect and submit their real-property data to the FRPP and facilitate the process on behalf of GSA and OMB.

²⁶[GAO-14-704G](#).

For Various Reasons, the 37 Selected Independent Lease Rates Were Often Comparable to or Lower Than Matched GSA and Private Sector Rates

In our sample, the lease rates of most of the 37 independent leases we selected for review were less costly or comparable to matched GSA and private sector rates.²⁷ However, these results varied by region: selected independent leases in the National Capital Region were generally less costly or comparable to matched private sector lease rates, but outside the National Capital Region, independent leases were more likely to be above the private sector market rate. While our selection of 37 leases is non-generalizable to the universe of all independent leases, they provide examples of how independent leases compare with GSA and private sector leases.

The Majority of the 37 Selected Independent Lease Rates Were at or below Matched GSA Lease Rates

We reviewed 37 selected independent leases across seven federal entities.²⁸ Of these leases, 14 (38 percent) had rates that were less costly than matched GSA leases, and 11 (30 percent) had comparable rates.²⁹ The remaining 12 leases (32 percent) had rates that cost more than matched GSA leases. Many selected independent leases were at or below matched GSA rates in the National Capital Region as well as in our other selected metropolitan areas.³⁰ (See table 2.) Further, three of four

²⁷For the matched analysis of independent leases with GSA leases, we performed the analysis with the annual net present value for the full terms of the leases' rates per rentable square foot. Net present value is the sum of costs over a period of time, in this case a lease's term, adjusted using a discount rate. For the matched analysis of independent leases with the private sector, we performed the analysis using the full amount of the leases' first years' rent per rentable square foot. This matched analysis used only the leases' first years' rent due to limitations of the number of years of data available for private sector leases. Due to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (\pm) 10 percent of the matched GSA or private sector rates as comparable.

²⁸The seven federal entities included in our lease rate analysis were the FAA, FDIC, NASA, NCUA, PBGC, USCG, and USPTO. One of our selected federal entities—NOAA—was not included in this analysis because its only selected lease did not require rent payments. As such, this unique aspect of the lease did not allow for us to find a comparable GSA or private sector lease.

²⁹One of GSA's goals related to lease acquisition is to procure leased space below the private sector's market rate in order to generate savings to federal departments and entities.

³⁰In addition to the National Capital Region, our selected independent leases were also located in the Atlanta, Georgia; Los Angeles, California; and Miami, Florida, metropolitan areas.

federal entities with more than two leases had most of their lease rates comparable to or less costly than GSA rates. (See table 3 and fig. 2.)

Table 2: Selected Independent Real Property Lease Rates Compared to Matched General Services Administration (GSA) Real Property Lease Rates, National Capital Region versus Other Metropolitan Areas

Metropolitan area	Number of leases	Leases Below GSA Rate	Leases Comparable to GSA Rate ^a	Leases Above GSA Rate
National Capital Region ^b	19	7 (37%)	5 (26%)	7 (37%)
Other areas ^c	18	7 (38%)	6 (33%)	5 (28%)
Total	37	14 (38%)	11 (30%)	12 (32%)

Source: GAO analysis of federal lease data. | GAO-16-648

Note: All comparisons were made using the annual net present values per rentable square foot for the full terms of all leases.

^aDue to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (±)10 percent of the matched GSA rates as comparable.

^bThe National Capital Region includes Washington, D.C., and local jurisdictions in Maryland and Virginia.

^cIncludes Atlanta, Georgia; Los Angeles, California; and Miami, Florida, metropolitan areas.

Table 3: Selected Independent Real Property Lease Rates Compared to Matched General Services Administration (GSA) Real Property Lease Rates, by Federal Entity

Federal entity	Number of leases	Leases Below GSA Rate	Leases Comparable to GSA Rate ^a	Leases Above GSA Rate
Federal Aviation Administration	15	6 (40%)	4 (27%)	5 (33%)
Federal Deposit Insurance Corporation	7	1 (14%)	2 (29%)	4 (57%)
National Aeronautics and Space Administration	6	3 (50%)	3 (50%)	—
Pension Benefit Guaranty Corporation	5	2 (40%)	2 (40%)	1 (20%)
Other entities ^b	4	2 (50%)	—	2 (50%)
Total	37	14 (38%)	11 (30%)	12 (32%)

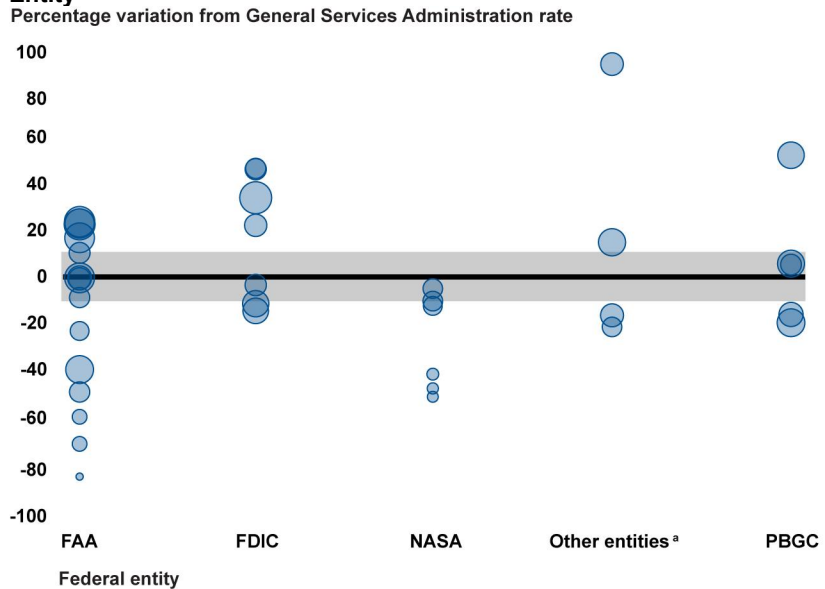
Source: GAO analysis of federal lease data. | GAO-16-648

Note: All comparisons were made using the annual net present values per rentable square foot for the full terms of all leases.

^aDue to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (±) 10 percent of the matched GSA rates as comparable.

^bFor the purposes of this table, the National Credit Union Administration, the United States Patent and Trademark Office, and the United States Coast Guard were combined due to the small number of individual leases per entity in our selected sample.

Figure 2: Selected Independent Real Property Lease Rates Compared to Matched General Services Administration (GSA) Real Property Lease Rates, by Federal Entity



● Lease cost per square foot^b
FAA: Federal Aviation Administration
FDIC: Federal Deposit Insurance Corporation
NASA: National Aeronautics and Space Administration
PBGC: Pension Benefit Guaranty Corporation

Source: GAO analysis of federal lease data. | GAO-16-648

Note: Due to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (±) 10 percent of the matched GSA rates as comparable. The gray band represents this range.

^aFor the purposes of this figure, the National Credit Union Administration, the United States Patent and Trademark Office, and the United States were combined due to the small number of individual leases per entity in our selected sample.

^bAll comparisons were made using the annual net present values per rentable square foot for the full terms of all leases.

Of the leases we analyzed, more independent leases were less expensive than matched GSA leases. Based on our analysis and interviews, we identified several possible factors that could be influencing why some of the independent leases we analyzed were less expensive than matched GSA leases:

Aspects unique to GSA leasing: Officials from GSA and two other federal entities said that aspects specific to GSA's leasing process itself may contribute to the higher lease rates. Specifically, GSA officials stated

that GSA uses standardized lease documents that include clauses that can be more rigorous than the leases provided by private sector landlords. For example, GSA leases could include clauses with higher—and thus possibly more expensive—energy conservation, security, and seismic safety requirements. The 37 selected independent leases we reviewed include a spectrum of different lease types, including leases that were provided by the landlord. GSA officials noted that GSA-provided leases shift more responsibility and risk to the landlord, and these requirements in GSA leases may increase lease rates. For example, private sector officials told us that GSA leases allow the government unilateral rights to substitute tenants, which increases landlord uncertainty. This uncertainty may result in less competition and higher rental payments. In addition, we previously found that GSA’s leasing process is lengthy and in some cases the process can take up to 8 years.³¹ This long process can result in potential landlords dropping out of the competition for GSA tenants, limiting competition and increasing rates.

Tenant improvement allowances: We found tenant improvement allowances in about 64 percent of the matched GSA leases and in only about 43 percent of our analyzed independent leases.³² In a recent report, we also found that nearly 60 percent of over 4,000 GSA leases included tenant improvement allowances.³³ GSA regional officials told us that tenants typically choose to amortize at least some of these tenant improvements over the term of the lease and ask landlords to assume the risk—GSA does so on behalf of its tenant agencies—of customizing a space according to specific requirements. Because landlords that lease to the federal government often assume this responsibility and obtain the resources required to construct, operate, and maintain real property over the course of its lifecycle, federal entities then pay private-sector interest rates as they pay for their improvements over the firm term of their GSA

³¹GAO, *Federal Real Property: GSA Could Decrease Leasing Costs by Encouraging Competition and Reducing Unneeded Fees*, [GAO-16-188](#) (Washington, D.C.: Jan. 13, 2016).

³²A tenant improvement allowance includes the costs of changes to leased spaces. These costs are associated with additions or alterations of the structure and base building systems that adapt the workspace to the specific uses of the tenant. The tenant typically bears these costs.

³³[GAO-16-188](#).

lease. Further, those independent leases that did include tenant improvements averaged \$2.93 per square foot per year over the amortization period, while matched GSA leases averaged \$4.01 (\$1.08 or about 37 percent more), and this can contribute to more costly leases for the GSA. In one instance, an analysis of an independent lease and its matched GSA lease (the leases share the similar term length, approximate size, and are in nearby locations), showed that the GSA paid nearly \$400,000 in tenant improvements, while its matched independent lease had no tenant improvement costs. Officials from two entities, including GSA, stated that GSA leases often include tenant improvement allowances.

Periods of free rent: The independent leases we analyzed had periods of free rent built into the leases more frequently than the matched GSA leases. These periods of free rent reduce the average lease rate over the term of the lease. According to GSA officials, landlords typically prefer to provide periods free of rent instead of decreasing the rate charged per square foot. These officials said landlords want to keep that rate as high as possible for when their property is advertised to other potential tenants. Analysis of the selected independent leases and GSA leases showed that only two of 56 (4 percent) matched GSA leases had periods of free rent, while 14 of 37 (38 percent) of our selected independent leases had periods of free rent.³⁴ On average, these 14 independent leases had periods of free rent for about 9 percent of the total duration of their tenancy. The majority of these leases' periods of free rent were within the range of 4 to 6 percent of the total duration of the lease. These periods of free rent can have a large impact on total rent paid—for example, in one independent lease, the federal entity had a period of free rent for the first 5 months of its 10-year tenancy (4 percent of the total lease's duration), resulting in about \$2.8 million less paid over the term of the lease.

Real estate brokers: Officials from one federal entity with independent leasing authority said that their use of private sector real-estate brokers with knowledge of particular market areas may have contributed to lower leasing rates. This entity's officials said they often use brokers with robust knowledge of local markets to find the best properties that also meet their

³⁴In some instances, independent leases were able to be matched with more than one GSA lease. This resulted in the greater number of GSA leases in the analysis when compared to our 37 selected independent leases.

entity's requirements. Additionally, officials from one entity said that when there are multiple offers, their broker would use the lowest offer as leverage to negotiate for lower rates with other potential landlords. As we previously reported, GSA does use private sector brokers for some leases, although the brokers are national in scope.³⁵ GSA officials also told us that these brokers are limited in the extent they can use one offer as leverage to solicit lower offers from other bidders.

Lastly, it is important to note that for both GSA and independent leases there are costs paid by the tenant outside of rent. For example, federal tenants pay GSA a fee for its services related to the leased space, and we found in January 2016 that GSA's fee is between 5 and 7 percent.³⁶ In contrast, an entity using independent leasing authority reported that there are administrative costs, such as paying its staff to perform various duties associated with the lease acquisition process.

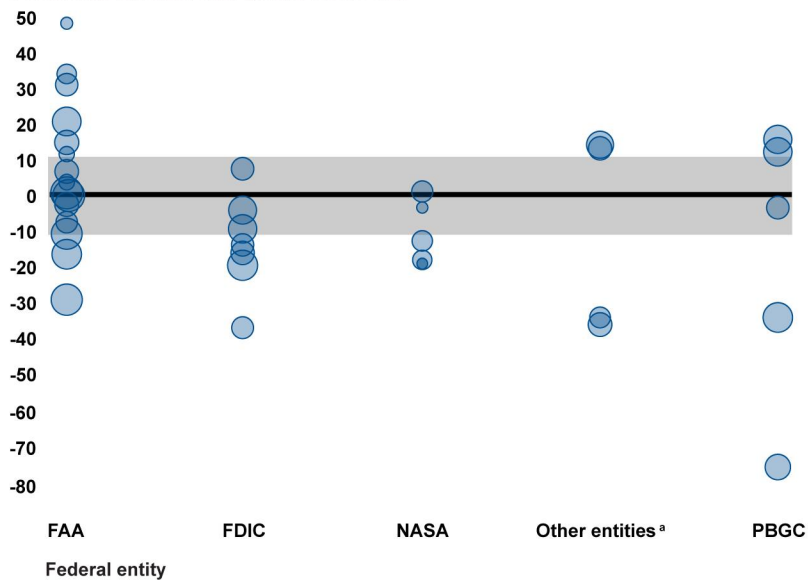
The 37 Selected Independent Lease Rates Were Comparable to Private Sector Rates, Particularly in the National Capital Region

Most independent leases we reviewed (27 of 37) had rates that were comparable to or below matched private sector rates. (See fig. 3.) Across the different regions, however, there was variation. We looked at 19 leases in the National Capital Region and found that 16 (84 percent) were comparable to or less costly than matched private-sector lease rates. Only 3 (16 percent) of the leases in the National Capital Region were more costly. However, we looked at 18 leases in the other three metropolitan areas and found that 7 (39 percent) independent leases were more costly than matched private sector rates. (See table 4.)

³⁵GAO, *Federal Real Property: GSA Should Clarify Savings Goals for the National Broker Contract Program*, [GAO-14-14](#) (Washington, D.C.: Oct. 31, 2013).

³⁶[GAO-16-188](#).

Figure 3: Selected Independent Real Property Lease Rates Compared to Matched Private Sector Real Property Market Rates, by Federal Entity
 Percentage variation from private sector rate



● Lease cost per square foot^b
FAA: Federal Aviation Administration
FDIC: Federal Deposit Insurance Corporation
NASA: National Aeronautics and Space Administration
PBGC: Pension Benefit Guaranty Corporation

Source: GAO analysis of federal lease data. | GAO-16-648

Note: Due to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (±) 10 percent of the matched private sector market rates as comparable.

^aFor the purposes of this figure, the National Credit Union Administration, the United States Patent and Trademark Office, and the United States Coast Guard were combined due to the small number of individual leases per entity in our selected sample.

^bAll comparisons were made using the full amount of the leases' first years' rent per rentable square foot.

Table 4: Selected Independent Real Property Lease Rates Compared to Matched Private Sector Real Property Market Rates, National Capital Region versus Other Metropolitan Areas

Metropolitan area	Number of leases	Leases Below Market Rate	Leases Comparable to Private Sector Market Rate ^a	Leases Above Market Rate
National Capital Region ^b	19	9 (47%)	7 (37%)	3 (16%)
Other areas ^c	18	5 (28%)	6 (33%)	7 (39%)
Total	37	14 (38%)	13 (35%)	10 (27%)

Source: GAO analysis of federal lease data and private sector lease data. | GAO-16-648

Note: All comparisons were made using the full amount of the leases' first years' rent per rentable square foot.

^aDue to variation caused by the specific circumstances and unique features of each lease transaction, we considered independent leases' rates that were within plus or minus (±)10 percent of the matched private sector market rates as comparable.

^bNational Capital Region includes Washington, D.C., and local jurisdictions in Maryland and Virginia.

^cIncludes Atlanta, Georgia; Los Angeles, California; and Miami, Florida, metropolitan areas.

Outside of the National Capital Region, private sector real-estate professionals from a real estate firm said that a lower supply of office space coupled with the federal government's smaller market share may result in higher lease rates. These professionals said that the federal government has the largest market share in the National Capital Region and can therefore get favorable rates in the market. These professionals added that the region's large supply of offices facilitates competition between landlords, which can result in more favorable lease rates for the federal government. GSA officials said that in other markets there sometimes is no suitable office space available. In several cases, a complete lack of office space required the government to instead lease retail space. Retail space can be more expensive than office space, and leasing retail space did result in higher rental payments in some instances. Additionally, GSA officials stated that although the government is highly reliable with rental payments and is often seen as a desirable tenant, landlords outside the National Capital Region might be uneasy and unfamiliar with working with the federal government. In a January 2016 report, we found that GSA was also able to secure leases in the National Capital Region generally at or below market rates.³⁷

³⁷[GAO-16-188](#).

Most Selected Entities' Leasing Policies Generally Align with Leading Practices but Lack Documentation, and Space Allocations Exceed the GSA Target

Leading Government Practices Can Help Improve Leasing Outcomes

We previously found that policies and procedures should establish expectations for strategically planning acquisitions and managing the acquisition process. Failing to address these principles can contribute to missed opportunities to achieve savings, reduce administrative burdens, and improve acquisition outcomes.³⁸ Federal internal control standards also state that documentation of transactions enables management to control operations and make decisions that can help the organization run efficiently.³⁹ We reviewed the Federal Management Regulation, GSA policies and procedures, and other applicable documents to develop a list of leading practices that all federal entities should incorporate into their real property leasing functions to help ensure that mission needs are met in a cost-effective and transparent manner. (See fig. 4.) In addition to leading practices, federal entities must follow all applicable laws related to real property management. For example, the recording statute requires that federal entities record the full amount of their contractual liabilities, including for leases, against funds available at the time the contract is executed.⁴⁰ Previously, we found that two federal entities with independent leasing authority—the Commodity Futures Trading Commission and the Securities and Exchange Commission—did not fully comply with the recording statute in the way they recorded the lease





³⁸[GAO-05-218G](#).

³⁹[GAO-14-704G](#).

⁴⁰31 U.S.C. §1501(a)(1). GSA, however, has the authority to record obligations for multiple-year leases on a year-to-year basis. 40 § U.S.C. 585(a)(2).

obligations against funds available at the time the leases were executed.⁴¹ Violations of the recording statute such as these can also result in Antideficiency Act violations if lease obligations exceed available budget authority at the time the lease is executed.

Figure 4: Leading Government Practices for Leasing Federal Real Property

Leading practice	Description of the leading practice applied to the federal real property leasing process
Assess needs 	<p>For lease acquisition purposes, assessing needs means gathering the pertinent information so that the correct amount and type of space can be acquired from a responsible source in a location that will meet the mission needs of the agency. This is the first step in the lease acquisition process and may include current and projected future staffing needs, the type and amount of space needed, agency space utilization policies, a specific geographic area requirement that does not limit competition, access to transportation and any other special requirements.</p>
Plan ahead 	<p>Lease acquisition planning is the process where a comprehensive plan is developed to fulfill an agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition. Among other planning activities, entities should document factors used to evaluate offers, expected cost, and timing requirements. They should conduct market research and document information about suitable properties within the specific geographic area requirement. This could include consulting with brokers or General Services Administration (GSA) and analyzing comparable properties using commercial databases.</p>
Ensure best value 	<p>Competition in lease acquisitions serves as the government's primary price control mechanism. Full and open competition for government leases is designed to ensure that all responsible sources are allowed to compete. All competitors must be provided the same information and judged on the same criteria. For larger properties, entities should advertise solicitations online and document them. GSA, for example, suggests that real property needs above 10,000 usable square feet should be advertised online and documented. Any sourcing method other than full and open competition should be justified and documented.</p>
Analyze and document the budget effects of the lease 	<p>Budget scorekeeping rules are meant to recognize costs as funding decisions are being made. OMB uses the rules to determine the amounts to be recognized in the budget when an agency signs a contract or enters into a lease. A capital lease requires that the full cost of the project must be recognized in the budget in the year in which the budget authority is to be made available, while operating leases require the amount needed to cover the first year's lease payments plus cancellation costs recorded. The criteria for capital and operating leases are contained in Appendix B of OMB Circular A-11. To determine whether a lease acquisition qualifies as a capital lease or operating lease, entities should analyze and document the budget effects to help ensure adequate funding is recognized in the budget.^a</p>

Source: GAO analysis of federal real property leasing regulations, GSA policies and procedures, and other applicable documents. | GAO-16-648

^aOMB Circular A-11, Appendix B outlines specific criteria in order for a lease to be considered an operating lease. If any of the specific criteria are not met, the lease is considered a capital lease. Entities other than GSA entering into an operating lease that includes a cancellation clause must possess budget authority sufficient to cover the lease payments for the first year plus an amount sufficient to cover the costs associated with cancellation of the contract. For each subsequent year, sufficient budget authority is required to be obligated to cover the annual lease payment for that year

⁴¹GAO, *Commodity Futures Trading Commission—Recording of Obligations for Multiple-Year Leases*, B-327242 (Washington, D.C.: Feb.4, 2016); GAO, *Securities and Exchange Commission—Recording of Obligation for Multiple-Year Contract*, B-322160 (Washington, D.C.: Oct. 3, 2011).

plus any additional cancellation costs. Entities entering into capital leases and operating leases without cancellation clauses are required to obligate upfront the amount necessary to cover the government's total legal obligation.

When the FRPC was created, it was envisioned to be an interagency collaboration of senior management officials who would develop guidance, facilitate the efforts of the members' overall management of federal real property, and serve as a clearinghouse for leading practices. As noted previously, the FRPC is composed of senior management officials from the specified agencies covered by the CFO Act, including GSA and chaired by OMB. OMB staff told us that FRPC currently meets on a monthly basis and provides a forum to discuss, among other things, current real-property management policies and their implementation, member agencies' leading practices related to real property management, and technical issues associated with data reporting. OMB staff said that the FRPC has been instrumental in improving the management of federal real property and serving as a forum for disseminating related guidance on government-wide initiatives, such as the *National Strategy for the Efficient Use of Real Property (National Strategy)* and *Reduce the Footprint*. Our body of work has shown the importance and value of interagency collaboration.⁴² Federal entities can enhance and sustain their coordinated efforts by engaging in key practices, such as defining and articulating a common outcome and developing mechanisms to monitor, evaluate, and report on results. However, successful collaboration benefits from having certain key features, such as including all relevant participants. But there are currently limited opportunities for non-FRPC member entities to participate in federal coordination on real property management issues and the sharing of leading practices that occurs in the FRPC.

According to OMB staff, increasing the membership of FRPC to include all executive branch federal entities would essentially double the size of the group, which would make it more difficult to manage. OMB staff said that although their focus has been on the current FRPC member entities, which lease and hold the majority of federal real property, any land-

⁴²GAO, *Evaluating and Managing Fragmentation, Overlap, and Duplication*, [GAO-15-49SP](#) (Washington, D.C.: Apr. 14, 2015); GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012); GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005); and GAO, *Managing for Results: Barriers to Interagency Coordination*, [GAO/GGD-00-106](#) (Washington, D.C.: Mar. 29, 2000).

holding federal entity would likely benefit from the collaboration and leading practices shared through FRPC. Currently, the guidance, resources, and leading practices shared during FRPC meetings are not publicly available, but may be requested by non-FRPC member entities. As previously mentioned, non-FRPC members are also not required to participate in the *National Strategy and Reduce the Footprint* initiatives; however, OMB staff said that they would support and assist any non-FRPC member federal entity in complying with the policies, if asked. The Small Agency Council may also be in a good position to efficiently coordinate with smaller federal entities and share relevant leading practices, such as those shared with FRPC member entities. An official from the Small Agency Council said that such a coordinating role would fit within the Council's mission.

Most Selected Federal Entities Have Established Leasing Policies That Generally Align with Leading Government Practices

Six of our eight selected federal entities have policies that generally aligned with leading government practices; two entities did not have any documented leasing policies.⁴³ The two entities without leasing policies (NCUA and PBGC) are non-FRPC member entities. However, the six entities with leasing policies (five of which are FRPC-member agencies and one, FDIC, which is not) either have established their own policies, refer to the Federal Management Regulation, or GSA policies that include, among other things, space utilization standards, market research requirements, preferences for full competition, and evaluating leases as operating or capital leases. The following bullets illustrate how the policies of these six federal entities addressed each of the leading practices.

- **Assess needs:** All of the leasing policies we reviewed contained some element of assessing needs including varied space-utilization targets.
- **Plan ahead:** All of the leasing policies we reviewed contained an element of acquisition planning, including a requirement for establishing clear criteria for evaluating lease offers.
- **Ensure best value:** Some entities we reviewed had more guidance regarding advertising than others. For example, FAA policy

⁴³To gain understanding about the extent to which federal entities with independent leasing authority have policies that align with leading practices, we reviewed our eight selected entities: FAA, FDIC, NASA, NCUA, NOAA, PBGC, USCG, and USPTO.

referenced specific forms of advertising to consider, whereas USCG policy listed advertising as an example of the responsibilities of the real estate specialist, but does not specify how advertising should occur. NASA, NOAA, and USPTO's leasing policies did not articulate strategies for advertising real-property leasing opportunities.

- **Analyze and document the budget effects:** Five of six policies we reviewed specifically mentioned evaluating leases as either operating leases or capital leases in accordance with *OMB Circular A-11*. Some budget scoring policies were more detailed. For example, while FAA policy includes a worksheet to score its leases, FDIC's policy did not explicitly require that the lease's budget-scoring evaluation be documented.

Selected Entities Often Lacked Documentation to Support That Leading Practices Were Used

Although most of our selected entities had established policies consistent with leading government practices, we found numerous instances where individual lease files lacked evidence to support that the leading practices were actually used. Federal internal control standards also state that documenting transactions enables management to control operations and make decisions that can help the organization run efficiently.⁴⁴ To evaluate the extent that entities' leasing practices aligned with leading government practices, we analyzed 30 selected lease files from 6 selected agencies.⁴⁵ We looked for documentation of 10 sub-practices within the 4 leading practices. (See list of sub-practices in figure 5.) Evaluating lease file documentation across these entities with independent leasing authority is inherently challenging because each entity may have its own specific requirements of what should be documented in a lease file and for what length of time. As such, we were only able to evaluate what was provided to us, which may not fully reflect all the steps taken by the entity to execute the lease. As a result, if there was documented evidence that all of the sub-practices were included in the lease file, we had reasonable assurance that the four leading

⁴⁴[GAO-14-704G](#).





⁴⁵NOAA and the USCG were not included in this analysis because all of their selected leases (one lease and four leases, respectively) fell below GSA's Simplified Lease Acquisition Threshold of \$150,000 net annual rent per year as some leading practices are not applicable for low value leases. We also excluded an additional 6 FAA leases that fell below GSA's Simplified Lease Acquisition Threshold. For example, GSA guidance says that some leases that fall under the Simplified Lease Acquisition Threshold are not required to have written acquisition plans or required to be advertised.

practices were implemented.⁴⁶ However, we found the extent to which the lease files contained documented evidence that the sub-practices were being used varied. For example, the vast majority of our 30 selected lease files lacked evidence of (1) advertisement of need for space (88 percent); (2) determining if the lease qualifies as an operating lease or a capital lease (83 percent); (3) documenting factors used to evaluate offers (77 percent); and (4) documenting the time frame for acquiring space (77 percent). However, most of our selected lease files contained some documented evidence of specifying geographical area for needed space (80 percent) and conducting market research (53 percent).⁴⁷ (See fig. 5.)

⁴⁶For the purpose of this analysis, we considered a lease file in alignment with a leading practice if there was sufficient documented evidence of the sub-practice in the lease file. We determined the lease file to be in partial alignment if there was some evidence in the file that a sub-practice was implemented, but the evidence was incomplete, insufficient, or not entirely aligned with the leading practice. We determined the lease file not to be in alignment if there was no evidence a sub-practice was being implemented in the lease file.

⁴⁷The percentages listed are the percentages of lease files for which the particular practice was applicable. All 10 sub-practices were not necessarily applicable to all 30 lease files. For example, if a lease was advertised, a sole source justification would not need to be included in the file.

Figure 5: Percentage of Selected Entities' Lease Files GAO Analyzed That Documented Alignment with Applicable Leading Government Practices for Leasing Federal Real Property

Leading practice	Sub-practice documentation	Alignment status
Assess needs 	Assess type and amount of space needed	<input checked="" type="radio"/> 30% <input type="radio"/> 10% <input type="radio"/> 60%
	Consider future staffing needs	<input checked="" type="radio"/> 22% <input type="radio"/> 19% <input type="radio"/> 59%
	Specify geographical area for needed space	<input checked="" type="radio"/> 40% <input type="radio"/> 40% <input type="radio"/> 20%
Plan ahead 	Document factors used to evaluate offers	<input checked="" type="radio"/> 23% <input type="radio"/> 0% <input type="radio"/> 77%
	Document expected costs	<input checked="" type="radio"/> 47% <input type="radio"/> 3% <input type="radio"/> 50%
	Document time frame for acquiring space	<input checked="" type="radio"/> 20% <input type="radio"/> 3% <input type="radio"/> 77%
	Conduct market research	<input checked="" type="radio"/> 53% <input type="radio"/> 0% <input type="radio"/> 47%
Ensure best value 	Advertise need for space	<input checked="" type="radio"/> 13% <input type="radio"/> 0% <input type="radio"/> 88%
	Justify other than full competition	<input checked="" type="radio"/> 35% <input type="radio"/> 13% <input type="radio"/> 52%
Analyze and document the budget effects of the lease 	Determine if lease qualifies as operating or capital lease	<input checked="" type="radio"/> 17% <input type="radio"/> 0% <input type="radio"/> 83%
<p> <input checked="" type="radio"/> In alignment <input type="radio"/> In partial alignment <input type="radio"/> Not in alignment </p> <p> Note: Percentages may not add up to 100 because of rounding. Also, the percentages listed are the percentages of lease files for which the particular sub-practice was applicable. All 10 sub-practices were not necessarily applicable to all 30 lease files. For example, if a lease was advertised, a sole source justification would not need to be included in the file. </p>		

Source: GAO analysis of 30 selected lease files. | GAO-16-648

The extent to which lease files documented alignment with the leading practices varied by entity, but none of the lease files contained evidence of full alignment with all the leading practices. For three of the six entities, all of the lease files were in partial alignment with leading practices.⁴⁸ Two entities had some lease files that were in partial alignment and others that were not in alignment with leading practices. We were unable to

⁴⁸Since all of the selected leases at two of the eight entities we reviewed (USCG and NOAA) fell below the Simplified Lease Acquisition Threshold of \$150,000 net annual rent per year, we excluded them from this analysis because, as previously mentioned, not all of the leading practices are necessarily applicable to smaller-value leases.

determine whether the one selected USPTO lease file was in alignment with leading practices because the entity was unable to provide required documentation. (See table 5.) Without documented evidence in the lease files that all of the leading practices and sub-practices were used in the acquisition of leased space, it is difficult to determine whether the federal entities performed the leading practices that would help them achieve the best lease rate in a competitive and transparent manner.

Table 5: Percentage of Selected Lease Files GAO Analyzed That Documented Alignment with Leading Government Leasing Practices, by Selected Entity

Federal entity	Number of lease files	In full alignment with all leading practices	In partial alignment with leading practices	Not in alignment with leading practices
Federal Aviation Administration	9	—	8	1
Federal Deposit Insurance Corporation	7	—	5	2
National Aeronautics and Space Administration	6	—	6	—
National Credit Union Administration	2	—	2	—
Pension Benefit Guaranty Corporation	5	—	5	—
United States Patent and Trademark Office	1	—	—	1 ^a
Total	30	—	26	4

Source: GAO analysis of 30 selected lease files. | GAO-16-648

^aWe were unable to determine whether this selected lease file was in alignment with leading practices because the entity was unable to provide required documentation.

Most Office Space Allocations Exceed GSA's Recommended Target, but Entities Are Taking Steps to Reduce Space Allocations

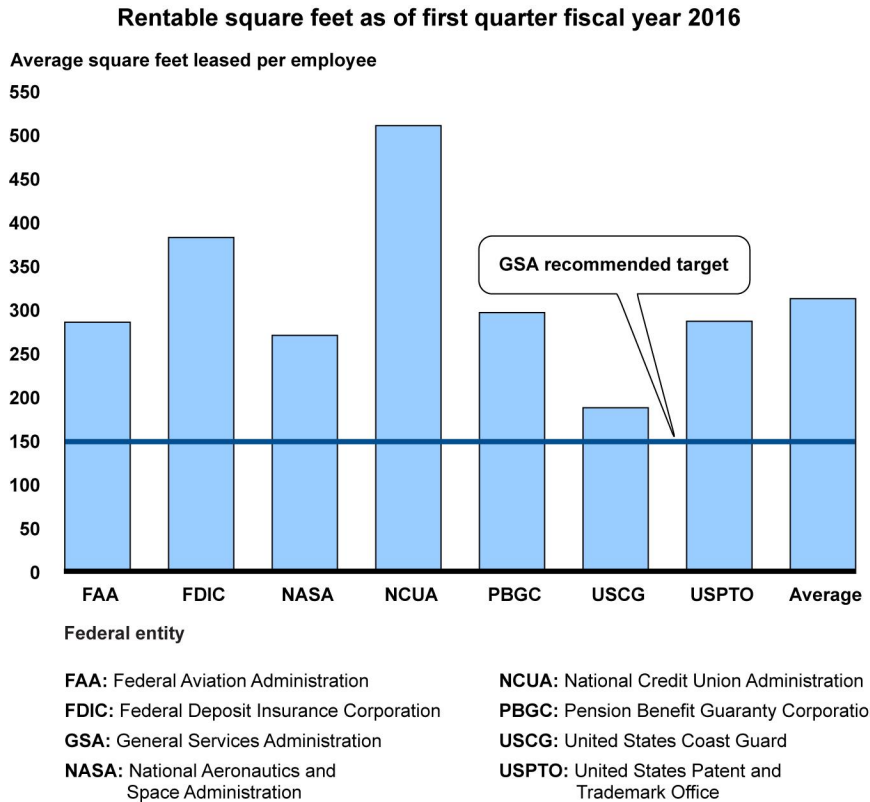
All selected entities we reviewed leased more office space per employee on average than GSA's recommended target. According to GSA officials, GSA recommends that federal entities allocate approximately 150 rentable square feet per employee for office space. The 30 selected leases we reviewed averaged more than double the GSA recommended target per employee.⁴⁹ Figure 6 below illustrates the comparison of the average rentable square feet per employee for our selected leases (grouped by entity) to the GSA target.

In most of the 30 selected leases we reviewed, more office space was leased per employee on average than the GSA recommended target of 150 rentable square feet per employee.⁵⁰ Twenty-eight of the 30 selected office leases analyzed for space allocation exceeded the GSA target, and two offices met the target. Both of the offices that met GSA's recommended target were FAA offices.

⁴⁹This analysis excludes 7 additional leases from our previously discussed sample of leases used in our GSA and private sector lease rate analysis: 5 warehouse leases where GSA's recommended target for office space is not applicable and 2 offices with large non-office related spaces attached which can skew the office space allocations. One of these offices is a PBGC office with a large space attached which is dedicated to a continuity-of-operations center, and the other is a NASA office with a large space attached that is used as a server room.

⁵⁰Entities vary in how they measure space utilization. However, because all of the leases in our review were measured in rentable square feet and because GSA's recommended target is also measured in rentable square feet, we felt it most appropriate to analyze utilization at the selected office locations in rentable square feet per employee.

Figure 6: Selected Federal Entities' Per-Employee Office Space Allocation Averages and GSA's Recommended Target



Source: GAO analysis of 30 selected leases. | GAO-16-648

Note: This analysis is based on information gathered from 30 lease files and interviews with entity officials. It excludes two office properties with significant non-office spaces attached and five warehouse properties.

Space allocations greater than the GSA's recommended target do not necessarily equate to larger offices. For example, we visited all of our selected independently-leased offices and found many vacant office spaces which can inflate the per-employee space allocation. Figure 7 illustrates some of the vacant spaces we observed at the selected lease sites. NCUA officials told us that its number of employees at one of its locations is lower than it was when the lease was signed due to a staff reorganization. Additionally, an FDIC official told us that the sizes of the offices at one location were likely larger than the entity's design standards because FDIC accepted the space as it was, without significantly reconfiguring it.

Figure 7: Examples of Unoccupied Office Spaces



Vacant office



Vacant office cubicles



Vacant office wing



Unassigned office used to store excess equipment and supplies



Empty file cabinets



Unused filing system and cabinets

Source: GAO. | GAO-16-648

Officials from FAA and FDIC also described actions they are taking to increase space utilization. For example, FAA officials told us that the staff at one of our selected office locations recently reduced from 13 to 5. In response to the recent downsizing, FAA officials said they are planning to reduce the office space by returning some space to the landlord. Officials at FDIC told us they had to temporarily increase the amount of space at one location from four floors to six floors when they brought on additional staff a few years ago in response to the financial crisis. In March 2015, after its staffing levels had decreased, FDIC exercised its right to terminate the lease of four of the six floors it was leasing to account for reduced staffing levels and currently occupies two floors of that building.

In addition, as part of the 2015 *National Strategy*, FRPC member entities are required to, among other things, establish space reduction targets for domestic office and warehouse space using FRPP data, and issue entity-specific maximums for usable square feet per workstation for leased

domestic office space.⁵¹ OMB staff said that FRPC has created an effective forum for promoting more efficient space-use standards that are key to the success of the *National Strategy*. However, the *National Strategy* does not extend to non-FRPC members. Though not required, non-FRPC member entities may also benefit from the leading practices shared at the FRPC to modify their internal policies to meet utilization targets for the space they lease.

Conclusions

Having complete and accurate data on the nature, use, and extent of federal real property assets is important for making informed decisions and identifying and addressing challenges. Currently, there is no mechanism to track federal entities with independent leasing authority and their real property assets, resulting in an information gap that can lead to a lack of oversight and accountability. This is particularly true for the 25 federal entities identified through our survey that are outside the FRPC's membership. FRPP was created to be a single, comprehensive database of the federal government's real property assets, but it cannot achieve that without data from all federal entities, including those with independent leasing authority. Currently, most of the 25 federal entities that are outside the FRPC's membership do not report their real property data to FRPP.

FRPC members coordinate efforts and share leading practices, and OMB staff said that the FRPC has been critical to improving real property management since its creation through executive order in 2004. However, FRPC's membership has remained limited to agencies covered by the CFO Act. We found that for the selected entities we reviewed, the FRPC member entities were more likely to have leasing policies that aligned with leading practices than the entities that were not FRPC members. Increasing FRPC participation would allow all federal entities to benefit from the collaboration and sharing of leading practices and increase the completeness of the FRPP. However, despite the benefits to any federal entity with a real property program, OMB staff noted that these federal entities represent a small overall share of the federal government's portfolio and that there would be administrative challenges associated with increasing the membership of the FRPC. OMB staff continued by

⁵¹OMB, *Memorandum to All CFO Act Executive Agencies: Implementation of OMB Memorandum M-12-12 Section 3: Reduce the Footprint*. Management Procedures Memorandum No. 2015-01 (Washington, D.C.: March 25, 2015).

saying that increasing participation would need to be done efficiently so that the FRPC and FRPP remain manageable and the effort does not draw from other critical efforts. The Small Agency Council already coordinates with OMB on other policy matters and may offer an efficient way to increase involvement in FRPC and FRPP.

Recommendations for Executive Action

To increase the completeness of information on the federal government's real property holdings and improve the coordination among federal entities that lease real property, we recommend that the Deputy Director of the OMB—as chair of the FRPC—establish efficient methods for:

- including data from non-FRPC member entities in the FRPP, and
- increasing collaboration between FRPC member and non-member entities, including sharing leading real-property management practices.

Agency Comments and Our Evaluation

We provided a draft of this report to OMB for review and comment. OMB concurred with our two recommendations and provided technical comments, which we incorporated, where appropriate.

We also provided a draft of this report for review and comment to GSA and our eight selected federal entities: FAA, FDIC, NASA, NCUA, NOAA, PBGC, USCG, and USPTO. FAA, FDIC, NASA, NOAA, and USCG did not have any comments on our draft report.

GSA provided technical and clarifying comments to the findings of our draft report, which we incorporated where appropriate. GSA officials stated that they did not have enough information to validate our comparison of the 37 independent leases with matched GSA leases. However, GSA officials provided a number of potential reasons that may explain the differences in GSA and independent lease rates that we observed. These reasons included, among others, relatively higher energy conservation, security, and seismic safety requirements in GSA leases. We included a discussion of these requirements and their impact on lease rates in our report. GSA also observed that a key difference between independent leases and GSA leases is that the GSA supplies its own federal lease contract documents in lease transactions. GSA noted that using standardized federal lease documents helps GSA more accurately compare the costs of different offers, helps to satisfy budgetary scorekeeping criteria, and ensures that various requirements of federal

law and regulation are complied with. Some federal entities with independent leasing authority supply their own lease documents. In our report, however, we stated that federal entities with independent leasing authority used a spectrum of lease types, which also include leases provided by the private sector landlord. GSA also provided an updated recommended target for office space utilization per employee of 150 rentable square feet that is in line with government-wide initiatives, such as the *National Strategy* and *Reduce the Footprint*, which are aimed at improving the efficiency of federal space. We incorporated changes throughout our report to reflect this updated target.

NCUA did not have any technical comments, but provided a letter with additional information on NCUA's office space requirements, which has been included in appendix III. NCUA noted that it is revising its leasing policies and plans on incorporating the leading government leasing practices provided in our report, as well as leading practices regarding space efficiency per employee, as appropriate. PBGC provided one technical comment, which we incorporated.

USPTO provided technical comments in a letter, which has been included in appendix IV. USPTO disagreed with our finding that the selected USPTO lease we reviewed was not in alignment with leading practices. We determined that a lease file was not in alignment because we were not provided with evidence that the leading practices were being met. USPTO opined that the selected independent lease project was an anomaly because it was done in conjunction with a much larger GSA space acquisition. As a result, the required documents were comingled with GSA documents. In the letter, USPTO asserted that leading practices were followed for the selected USPTO lease; however, USPTO was not able to provide us with additional supporting documentation, noting that on June 13, 2016, USPTO requested GSA to undertake a search for relevant documentation. Without any supporting documentation, we were unable to determine if the USPTO lease file aligned with leading practices, and we reflected this in table 5 of the report.

We are sending copies to the appropriate congressional committees and the Director of the OMB. In addition, the report will be available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or wised@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last

page of this report. GAO staff who made major contributions to this report are listed in appendix V.

A handwritten signature in black ink that reads "David J. Wise". The signature is written in a cursive style with a large, stylized initial "D".

David Wise
Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

Our objectives were to determine: (1) what is known about which federal entities have independent leasing authority and their use of this authority to lease office and warehouse space, (2) how selected independent leases compare to General Services Administration (GSA) and private sector leases in terms of cost, and (3) to what extent selected federal entities with independent leasing authority have leasing policies and practices that align with leading government leasing practices.

To determine what is known about which federal entities have independent leasing authority and use this authority to lease office and warehouse space, we administered a survey to 103 civilian federal entities.¹ Federal entities may have independent leasing authority to lease other types of real property besides buildings such as offices and warehouses, for example land and other structures. There are also different types of building classifications that these entities may have authority to independently lease such as hospitals, laboratories, and prisons. However, for the purposes of our review, we focused on domestic offices and warehouses, which are the two primary types of federal real property that GSA generally leases and would be the most practical to try to compare across federal entities. Our survey universe included all federal entities identified in a prior GAO report on federally created entities such as executive departments,² other executive branch entities, government corporations, and other federally established organizations in the executive branch that received an average of over \$20 million in annual appropriations from fiscal years 2005 through 2008.³

We administered our survey and collected responses from October 2015 to April 2016, and received a response rate of 100 percent. To inform our survey, we conducted pretests with three of our selected federal entities with different sized leasing portfolios. The survey was a Microsoft Word form that was sent to designated contacts at each of the federal entities. The survey was used to first identify whether or not a federal entity reported having independent leasing authority. If the federal entity

¹Defense and intelligence-related federal entities were outside of the scope of our review.

²We also surveyed the federal entities within executive departments that we either identified or the executive department identified as having independent leasing authority (e.g., Federal Aviation Administration (FAA) within the Department of Transportation).

³GAO, *Federally Created Entities: An Overview of Key Attributes*, [GAO-10-97](#) (Washington, D.C.: Oct. 29, 2009).

reported that it had independent leasing authority, it was also asked to complete additional survey questions to identify the authorizing legislation or appropriations act that granted it the authority to lease domestic office and warehouse space independently. The survey also asked the federal entity to complete additional descriptive information about the amount of domestic office and warehouse space and associated annual rent cost as of October 1, 2015, for the space that each entity independently leased. The majority of the information collected through the survey has been compiled and reported in appendix II.

To assess how independent leases compare with GSA and private sector lease costs, we collected and analyzed lease data from selected federal entities that reported having independent leasing authority and contracted with a professional services real-estate firm to compare independent leases to GSA and private sector lease rates. The scope of this review includes information on independent leases, GSA leases, and private sector leases commencing between calendar years 2001 through 2015. We initially collected 43 independent leases from eight selected civilian federal entities with offices and warehouses located in four different U.S. metropolitan regions: Atlanta, Georgia; Los Angeles, California; Miami, Florida; and Washington, D.C. We selected these four metropolitan regions because of the availability of independently leased office and warehouse spaces. The eight civilian federal entities were the Federal Aviation Administration (FAA) within the Department of Transportation, the Federal Deposit Insurance Corporation (FDIC), the National Aeronautics and Space Administration (NASA), the National Credit Union Association (NCUA), the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce, the Pension Benefit Guaranty Corporation (PBGC), the U.S. Coast Guard (USCG) within the Department of Homeland Security, and the U.S. Patent and Trademark Office (USPTO) within the Department of Commerce. We selected these federal entities using a variety of considerations based on professional judgment such as the type of entity, number of properties, square footage, and rent paid, among other factors. The selected leases encompass all independent leases present in each region from all eight entities except for selected FAA properties in the National Capital Region. We omitted FAA properties at Dulles International Airport, Reagan National Airport, and Baltimore Washington International Airport because of the relatively large representation of FAA leases already in our selection (15 of the 43 leases were from FAA) and resource limitations. While our selection of 43 leases from eight federal entities is non-generalizable to the universe of all independent leases, they serve as case studies and provide examples of how independent leases compare

with GSA and private sector leases. In addition to reviewing the leases and additional supporting documentation from our selected federal entities, we also interviewed knowledgeable officials at the respective entities regarding the history and details of each individual lease.

Of these 43 independent leases collected from the eight entities, we compared a subset of 37 leases from seven of the federal entities against GSA and private sector leases. We excluded four leases on the basis that they did not require the tenant to pay any rent,⁴ and excluded two additional leases because leases of comparable building finish quality could not be identified in their respective market.⁵ We extracted specific cost-affecting data elements identified by the contractor from each of the 37 leases to the extent they were available within the lease documents, as applicable. Specifically, we extracted data for the following parameters:

- lease address,
- rentable square footage of the leased space,
- total square footage of the building,
- building type (i.e., office or warehouse),
- soft and/or firm lease term periods,⁶
- the lease's start date,
- annual rent cost,
- any rental abatement periods,
- the tenant's share of operating expenses,
- any renewal options,
- lease holdover rates,
- the tenant's ability to sublet (assignment), and
- availability of parking spaces and their associated cost.

⁴The uniqueness of these arrangements and lack of rent payment precludes identification of comparable GSA and private sector leases. Excluding these leases eliminated NOAA's lease from the scope of analysis.

⁵These two properties were mobile trailers that were converted into open floor plan offices and subsequently leased to NASA. Consequently, the qualities of their finishes were below any comparable GSA or market leases in the region.

⁶The firm term is the length of the lease that the tenant is required by contract to pay rent for without breaking the terms of the lease contract. The soft term refers to the portion of a lease's term after the firm term ends and during which the tenant can terminate the lease without breaking the terms of the lease contract.

Other parameters of the leases that had implications on cost were also included—such as free shuttle services, the tenant’s right of first refusal, or the tenant’s ability to reduce its square footage—if present. One team member extracted the above parameters for each of the 37 leases, and the information was independently reviewed by another team member to ensure for consistency and accuracy.

The contractor used GSA’s lease data from 2001 through 2016. The contractor reviewed the data provided by GSA for inconsistencies, and we discussed the data in interviews with knowledgeable federal entity officials to assess the appropriateness of the data’s use. We also reviewed the contractor’s report, including its steps taken to assess the reliability of the GSA data used and the types of analysis conducted, and found them to be sufficiently reliable for the purpose of comparing independent lease rates to GSA lease rates.

The contractor subsequently performed the following steps to find comparable GSA lease matches for each of the 37 independent leases. For each independent lease, the contractor:

- filtered GSA leases that were potential matches for only those that shared the same building class and building type (i.e., office or warehouse);
- filtered leases for those that started in the same year, or one year before or after the starting year;⁷
- filtered the remaining GSA leases for only those leases in the same metropolitan region, opting for leases in the same submarket, if available; and
- filtered the results so that only GSA leases within 30 to 50 percent of the square footage of the independent lease remained. In instances in which there were not sufficient GSA leases within that range of square feet, the contractor appraised each potential comparable GSA lease on an individual basis, and leveraged its staffs’ professional discretion to determine if these potential GSA spaces could have been

⁷The contractor used a range of 3 years—the base year plus or minus one year—to increase the number of comparable GSA lease options.

considered when the independent lease was being negotiated.

This process resulted in each of the 37 selected independent leases being matched to at least one GSA lease, with up to five matches in some cases. The contractor then analyzed the matched leases' rates. In order to compare leases with different terms and sizes, the contractor calculated the net present value of the rent per square foot of the entirety of the GSA leases' terms. This net present value analysis used the Office of Management and Budget's (OMB) nominal 10-year discount rate of 2.9 percent for calendar year 2016. In instances where there was only one GSA lease available, the contractor compared the direct percentage difference between the rent in costs per square foot. For instances where there were more than one sufficiently comparable GSA lease, the contractor used the weighted average of the GSA leases' rents per square foot net present value to calculate the percentage difference. For this analysis, the contractor determined that a 10 percent variation above or below the independent lease's rate was the range for which the GSA lease(s) were considered equivalent to the independent lease's rate. We allowed this range to account for variations caused by the specific circumstances and unique features of each lease transaction. Otherwise, we considered independent leases beyond the 10 percent comparable range to be either more costly or less costly than its matched lease. Rent for all the leases included the shell rent, the amortized tenant-improvement costs—both general and custom—and the operating costs paid by the tenant.⁸ GSA's fee of 5 to 7 percent that it charges to tenant federal entities for its services related to the leased space—that we identified in a prior report—was not included in this analysis of rental rates.⁹

For the comparison of independent leases to private sector leases, the contractor collected the following data on private sector lease markets:

⁸The shell rent is the rent paid for the tenant's use of the building's physical structure and land.

⁹GAO, *Federal Real Property: GSA Could Decrease Leasing Costs by Encouraging Competition and Reducing Unneeded Fees*, [GAO-16-188](#) (Washington, D.C.: Jan. 13, 2016).

- Private-sector lease rate data for the four markets were collected from quarterly and annual market reports that included rental rates from national and regional brokerage companies from 2001 through 2015.
- For the operating expenses of these office buildings, the contractor reviewed line item breakdowns of central business districts' and regional submarkets' expenses in their respective markets from the Institute of Real Estate Management's database.
- To generally assess the appropriateness of these private-sector data, the contractor reviewed brokerage reports from several sources for each market and conducted interviews with 35 nationwide private-sector real-estate brokers using semi-structured interviews, which addressed topics such as typical term lengths, market practices, and responsible parties for various expenses and service fees.

In addition, we reviewed the source of the broker market reports and clarified analytical steps with the contractor. As a result of these steps, we found the private sector's lease data to be sufficiently reliable for the purpose of comparing independent lease rates to GSA lease rates.

To perform the analysis of the performance of the independent leases with the market data acquired, the contractor:

- Identified private sector lease rates from broker reports by city and submarket to compare with the base year independent lease rates, and developed separate city and submarket rates by building class—that is, Class A and Class B offices—for each year of the analysis;¹⁰
- Used the Institute of Real Estate Management's database to identify the average operating expenses in each annual Class A or B submarket's rental rate. Used broker reports to identify tenant improvement costs;
- Matched the appropriate annual Class A or B submarket rental rate to each of the independent leases; and

¹⁰Building class refers to the subjective quality of a building's exterior and interior finishes and amenities. There are three classes of buildings, Class A, B, and C, of which Class A is considered to be the highest quality.

- Compared the first year of the independent leases' rent per square foot to the same year's submarket's rate and calculated the percentage differences. The contractor determined that a 10 percent variation above or below the independent lease's rate was the range where the private sector's annual Class A or Class B submarket-lease rate was considered equivalent to the independent lease's rate.

To evaluate the extent that selected entities' leasing policies aligned with leading government leasing practices we first had to establish federal lease acquisition leading practices that could broadly apply to entities with various leasing authorities. We developed a list of leading practices that could be used by all federal entities to help ensure that real-property leasing acquisitions meet mission needs in a cost-effective and transparent manner. To develop our list of leading practices, we reviewed leasing acquisition practices contained in the General Services Acquisition Regulation, the GSA's *Leasing Desk Guide*,¹¹ the Federal Management Regulation, *OMB Circular A-11*,¹² and prior GAO reports.¹³ We identified practices common among these sources that dealt with the portion of the acquisition cycle that starts with identifying a need for space through selecting the offer that meets the entity's needs at the best value to the entity. The four leading practices we developed were: assess needs, plan ahead, ensure best value, and analyze and document the budget effects of the lease. (See fig. 4.) Once the list was developed, we shared it with GSA officials and incorporated their comments. In defining these leading practices, we identified 10 types of documentation (which we refer to as "sub-practices") that may be included in a lease file to provide reasonable assurance that the leading practice was used in acquiring the respective leased property. (See fig. 5.) To determine the extent that our selected entity's policies aligned with our list of leading practices, we reviewed the real property policies provided to us by the

¹¹GSA, *Leasing Desk Guide*, (Washington, D.C.: 2015).

¹²OMB, *Preparation, Submission and Execution of the Budget*, *OMB Circular No. A-11* (revised 2015).

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014); GAO, *Acquisition Planning: Opportunities to Build Strong Foundations for Better Services Contracts*, [GAO-11-672](#) (Washington, D.C.: Aug. 9, 2011); GAO, *Framework for Assessing the Acquisition Function at Federal Agencies*, [GAO-05-218G](#) (Washington, D.C.: Sept. 1, 2005); and GAO, *Federal Office Space: More Businesslike Leasing Approach Could Reduce Costs and Improve Performance*, [GAO/IGD-95-48](#) (Washington, D.C.: Feb. 27, 1995).

entity and documented where there was evidence that leading practices were incorporated into the policies. The evidence was aggregated in a spreadsheet and was verified by another team member.

To determine the extent that selected lease files aligned with leading government leasing practices, we reviewed all of the documentation provided by the entities related to 3 warehouse leases and 27 office leases selected in our four select metropolitan areas.¹⁴ In reviewing the lease files, we documented when there was evidence of the leading practices. We created an abstract of each of the selected leases and noted where, if at all, evidence was contained of leading practices within the lease files. Each of the abstracts was then reviewed by another team member and any discrepancies were reconciled. Thus, each lease file was reviewed by two different team members who came to the same decision with regard to the extent that the lease file contained evidence of the leading practices. For the purpose of this analysis, we considered a lease file in alignment with leading practices if there was sufficient documented evidence of the sub-practices in the lease file. We determined the lease file to be in partial alignment if there was some evidence in the file that the sub-practice was implemented, but either the evidence was incomplete, insufficient, or not entirely aligned with the leading practice. We determined the lease file not to be in alignment if there was no evidence of the sub-practice being implemented in the provided documentation.

To evaluate the independent leases' space utilization rates, we collected two pieces of information for each lease. First, we asked officials from our selected federal entities for the number of employees assigned to the selected offices during the first quarter of fiscal year 2016. Second, we determined total rentable square feet per lease.¹⁵ We obtained this

¹⁴There were 43 leases originally selected to be part of the review. Seven of the 43 leases were excluded from the analysis of lease files that fell below GSA's Simplified Lease Acquisition Threshold of \$150,000 net annual rent as some leading practices are not applicable for these low value leases. For example, GSA guidance says that some leases that fall under the Simplified Lease Acquisition Threshold are not required to have written acquisition plans or required to be advertised. Six leases were excluded for other reasons: two NASA offices in the original selection were excluded because they are housed in trailers located on NASA-owned property; and three USCG offices and one NOAA office were excluded because the offices were deemed special arrangements where no rent was paid and the terms were indefinite.

¹⁵Rentable square feet is the gross square footage of a building minus areas such as stairwells and elevator shafts.

information from each lease document that federal entities provided to us. If the square footage was not in a lease, we asked knowledgeable federal entity officials. We divided the number of rentable square feet per lease by the number of employees to determine the space utilization rate. We then compared each lease's space utilization rate with GSA's recommended space utilization target of 150 rentable square feet per employee for office space. We did not evaluate the per-employee space utilization of warehouses in our analysis because of the fundamentally different purpose of warehouses as compared to office space—warehouses are primarily intended for storage purposes. We also did not evaluate the utilization of spaces where there were special arrangements in which no rent was paid. In addition to reviewing the leases and obtaining employee counts from our selected federal entities, we also interviewed knowledgeable officials at their respective selected entities regarding the purposes of each of the buildings, and visited each office or warehouse space as part of our review. As a result, we excluded two additional buildings from this analysis since a large percentage of the buildings' space was not designed for typical office use—one PBGC office housed a large continuity-of-operations spare office space, while another NASA office housed a large computer server facility. In total, we reviewed 30 selected leases for this analysis. Lastly, we interviewed relevant officials from the GSA, OMB, and the Small Agency Council.

We conducted this performance audit from June 2015 to July 2016 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.

Appendix II: Federal Entities That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses, as of September 30, 2015

In our survey, 52 federal entities reported having independent leasing authority to lease domestic office and warehouse spaces. Of these, 27 entities fell within the specified member agencies of the Federal Real Property Council (FRPC), which are agencies covered under the Chief Financial Officers Act of 1990. (See table 6.) The remaining 25 were federal entities that were not FRPC member entities and also reported having independent authority to lease domestic office and warehouse spaces. (See table 7.)

Table 6: Federal Real Property Council Member Agencies that Reported Having Independent Leasing Authority for Domestic Offices and Warehouses

Federal Entity	Agency	Statute	Offices			Warehouses		
			Number	Rentable sq. ft.	Annual rent (\$)	Number	Rentable sq. ft.	Annual rent (\$)
Department of Agriculture	Agricultural Marketing Service	7 U.S.C. § 473a(f)	35	59,659	\$1,091,918	0	—	—
	Animal and Plant Health Inspection Service	7 U.S.C. § 8312	87	298,446	\$6,326,605	16	61,776	\$403,916
	Commodity Credit Corporation	15 U.S.C. § 714b(h)	0	—	—	0	—	—
	Federal Crop Insurance Corporation	7 U.S.C. § 1506(c)	0	—	—	0	—	—
Department of Commerce	National Institute of Standards and Technology	15 U.S.C. § 278e	0	—	—	0	—	—
	National Oceanic and Atmospheric Administration	16 U.S.C. §§ 1382(c), 1442(d); 49 U.S.C. § 47305	2	19,448	\$140,001	0	—	—
	United States Patent and Trademark Office	35 U.S.C. § 2(b)(3)	2	112,977	\$10,359,785	0	—	—
Department of Energy	—	42 U.S.C. § 7256	22	358,424	\$6,529,465	2	68,045	\$324,732
	Bonneville Power Administration	16 U.S.C. § 832a	14	158,348	\$4,219,210	6	80,771	\$356,745
Department of Health and Human Services	Indian Health Service	25 U.S.C. § 1674	6	29,722	\$530,557	2	5,447	\$61,134
Department of Homeland Security	Customs and Border Protection	8 U.S.C. § 1103(b)	0	—	—	0	—	—

Appendix II: Federal Entities That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses, as of September 30, 2015

Federal Entity	Agency	Statute	Offices			Warehouses		
			Number	Rentable sq. ft.	Annual rent (\$)	Number	Rentable sq. ft.	Annual rent (\$)
	Federal Emergency Management Agency	42 U.S.C. § 5196	0	—	—	0	—	—
	Transportation Security Administration	49 U.S.C. § 114(j)	81	2,148,236	\$72,077,948	2	317,251	\$1,767,755
	United States Coast Guard	14 U.S.C. § 92(f)	55	679,090	\$12,393,618	12	249,310	\$6,101,801
Department of the Interior	Bureau of Land Management	Pub. L. No. 113-235 (2014) ^a	4	19,095	\$124,695	5	30,318	\$314,642
	National Park Service	Pub. L. No. 96-487 (1980); Pub. L. No. 95-290 (1978); Pub. L. No. 108-413 (2004)	1	3,502	\$129,308	2	13,731	\$24,718
Department of Labor	Job Corps	29 U.S.C. § 3249	8	133,537	\$1,662,192	1	63,000	\$1,181,299
Department of Transportation	Federal Aviation Administration	49 U.S.C. § 106	341	3,085,667	\$71,303,155	70	1,301,513	\$10,285,536
	Maritime Administration	40 U.S.C. § 113(e)	3	5,326	\$391,149	2	152,700	\$2,258,000
	Saint Lawrence Seaway Development Corporation	33 U.S.C. § 984(a)(8)	1	6,380	\$358,767	0	—	—
Department of Treasury	Office of the Comptroller of the Currency	12 U.S.C. § 5416	71	1,466,761	\$63,688,730	0	—	—
	United States Mint	31 U.S.C. § 5136	1	232,000	\$12,702,400	0	—	—
Environmental Protection Agency	—	42 U.S.C. §§ 4704(b), 9604(j); 33 U.S.C. § 1254(k)	0	—	—	0	—	—
National Aeronautics and Space Administration	—	51 U.S.C. § 20113(c)	8	335,276	\$4,769,823	3	101,841	\$623,304
National Science Foundation	—	42 U.S.C. § 1870(e)	0	—	—	0	—	—
Nuclear Regulatory Commission	—	42 U.S.C. § 2201(g)	0	—	—	0	—	—

Appendix II: Federal Entities That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses, as of September 30, 2015

Federal Entity	Agency	Statute	Offices			Warehouses		
			Number	Rentable sq. ft.	Annual rent (\$)	Number	Rentable sq. ft.	Annual rent (\$)
United States Agency for International Development	—	22 U.S.C. § 2396	0	—	—	0	—	—
Total	27	—	742	9,151,894	\$268,799,326	123	2,445,703	\$23,703,582

Source: Information reported by the respective federal entities in a GAO survey. | GAO-16-648

Note: This list of selected civilian federal entities with independent leasing authority was compiled from responses to a survey. It is not intended to be a complete list of all entities or agencies that have independent leasing authority for office or warehouse space. We did not conduct an independent legal analysis to verify the information provided by the respondents. All reported figures were as of October 1, 2015.

^aThis authority is found in an annual appropriations act. A provision in an annual appropriations act is presumed to be effective only for the covered fiscal year unless language in the act or the nature of the provision makes it clear that Congress intended for the provision to be permanent.

Appendix II: Federal Entities That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses, as of September 30, 2015

Table 7: Federal Entities Not Part of the Federal Real Property Council That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses

Federal Entity	Statute	Offices			Warehouses		
		Number	Rentable sq. ft.	Annual rent (\$)	Number	Rentable sq. ft.	Annual rent (\$)
American Battle Monuments Commission	36 U.S.C. § 2103(a)	0	—	—	0	—	—
Appalachian Regional Commission	40 U.S.C. § 14306(a)(7)	1	21,626	\$858,629	0	—	—
Farm Credit Administration	12 U.S.C. § 2249	0	—	—	0	—	—
Farm Credit Insurance System Corporation	12 U.S.C. §§ 2277a-7, 2277a-8	1	4,325	\$155,813	0	—	—
Federal Deposit Insurance Corporation	12 U.S.C. §1819	91	1,912,379	\$47,161,467	0	—	—
Federal Reserve Board	12 U.S.C. § 244	2	498,038	\$21,309,208	1	47,132	\$379,942
Federal Retirement Thrift Investment Board	5 U.S.C. § 8474(c)	1	92,179	\$5,236,601	0	—	—
Inter-American Foundation	22 U.S.C. § 290f(e)(6)	1	14,332	\$713,000	0	—	—
Millennium Challenge Corporation	22 U.S.C. § 7713(a)(5)	2	129,206	\$8,300,000	0	—	—
National Credit Union Administration	12 U.S.C. §§ 1766(i)(2), 1789, 1795f(a)(14), (15)	7	64,480	\$1,371,304	1	9,261	\$85,013
National Endowment for the Arts	20 U.S.C. § 959(a)(7)	0	—	—	0	—	—
National Endowment for the Humanities	20 U.S.C. § 959(a)(7)	0	—	—	0	—	—
National Transportation Safety Board	49 U.S.C. § 1113(b)(1)(B)	2	84,681	\$2,715,075	0	—	—
Overseas Private Investment Corporation	Pub. L. No. 87-195, § 239(d) (1961), as amended, codified at 22 U.S.C. § 2199	1	116,487	\$7,504,813	0	—	—

Appendix II: Federal Entities That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses, as of September 30, 2015

Federal Entity	Statute	Offices			Warehouses		
		Number	Rentable sq. ft.	Annual rent (\$)	Number	Rentable sq. ft.	Annual rent (\$)
Peace Corps	Pub. L. No. 87-293, § 15(d)(1), (9) (1961)	0	—	—	1	6,500	\$348,281
Pension Benefit Guaranty Corporation	29 U.S.C. § 1302(b)(5)	9	564,703	\$28,222,074	0	—	—
Railroad Retirement Board	45 U.S.C. § 231f(b)(1), (9)	0	—	—	0	—	—
Securities and Exchange Commission	15 U.S.C. § 78d(b)(3)	8	1,882,484	\$90,854,696	0	—	—
Smithsonian Institution	Pub. L. No. 113-235 (2014) ^a	14	777,153	\$37,002,284	36	710,241	\$15,007,574
Tennessee Valley Authority	16 U.S.C. § 831c(f)	19	141,000	\$2,665,000	2	82,500	\$308,000
United States African Development Foundation	22 U.S.C § 290h-4(a)(8)	1	15,705	\$803,502	0	—	—
United States Commodity Futures Trading Commission	7 U.S.C. § 16(b)(3)	4	434,679	\$20,066,000	0	—	—
United States Holocaust Memorial Museum	36 U.S.C. § 2304(b)	4	10,528	\$403,376	0	—	—
United States Postal Service	39 U.S.C. § 401	35 ^b	701,613	\$11,888,432	0	—	—
United States Tax Court	26 U.S.C. § 7472	0	—	—	0	—	—
Total	25	202	7,465,598	\$287,231,274	41	855,634	\$16,128,810

Source: Information reported by the respective federal entities in a GAO survey. | GAO-16-648

Note: This list of selected civilian federal entities with independent leasing authority was compiled from responses to a survey. It is not intended to be a complete list of all entities or agencies that have independent leasing authority for office or warehouse space. We did not conduct an independent legal analysis to verify the information provided by the respondents. All reported figures were as of October 1, 2015.

^aThis authority is found in an annual appropriations act. A provision in an annual appropriations act is presumed to be effective only for the covered fiscal year unless language in the act or the nature of the provision makes it clear that Congress intended for the provision to be permanent.

^bAccording to a United States Postal Service (USPS) official, USPS does not categorize its buildings as “offices.” For the purposes of our review, we are using as a proxy, USPS’s independently leased spaces where over 50 percent of the total square footage was used for administrative functions. These spaces may include office buildings, as well as small offices or administrative space located in non-office buildings.

Appendix III: Comments from the National Credit Union Administration



National Credit Union Administration
Office of the Executive Director

June 16, 2016

Mr. David Wise
Director, Physical Infrastructure Issues
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

RE: Draft Report Entitled *Actions Needed to Enhance Information on and Coordination with Federal Entities with Leasing Authority (GAO-16-648)*

Dear Mr. Wise:

Thank you for the opportunity to comment on GAO's draft report entitled *Actions Needed to Enhance Information on and Coordination with Federal Entities with Leasing Authority*. The report provides an overview of the landscape for federal entities with leasing authority, including the National Credit Union Administration (NCUA). We are pleased GAO found the cost per square foot of NCUA space is similar or below typical GSA lease rates. This demonstrates that NCUA is prudently exercising its independent leasing authority.

NCUA's office space requirements are based on what is necessary to best implement our regulatory and supervisory mission. NCUA has historically expanded or consolidated office space based on the economic environment, financial trends and consolidation in the credit union industry, among other factors. NCUA continually analyzes these factors when assessing office space needs, along with other business factors, such as proximity to metropolitan areas, major airports, and access to public transportation. Even after leasing commitments are executed, NCUA continues to assess the office footprint for ways to improve efficiency.

Figure 4 of the draft report indicates NCUA's rentable square footage per employee exceeds the GSA average based on employees assigned to the office space. As GAO notes, this does not necessarily equate to having larger offices per employee. The unique business model employed by NCUA reduces the need for overall office space, but has the effect of showing a high level of rentable square footage per employee, since many of our employees that use the office space are not permanently assigned to it. Over 75 percent of our staff works virtually or remotely. We must maintain a level of unassigned offices in our limited number of leased locations to accommodate space for our virtual employees who come to the office to work on short and long term assignments. Additionally, our remote staff do not report every week to an office and do not get assigned a specific office, but we must maintain office space for these employees who regularly work in our office one or more weeks a month. Though these employees share office space, it nonetheless requires dedicated space. While NCUA understands the need for GAO to establish a baseline to compare 30 selected leases in a simplified manner, in this case, NCUA's space allocation in Figure 4 does not fully account for NCUA's remote and virtual structure.

1775 Duke Street – Alexandria, VA 22314-3428 – 703-518-6320

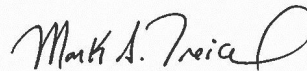
**Appendix III: Comments from the National
Credit Union Administration**

Mr. David Wise
June 16, 2016
Page 2

The report also highlights the importance of utilizing leading government leasing practices. NCUA is revising our leasing policies and will incorporate these leading practices, as well as best practices regarding space efficiency per employee, as appropriate.

Thank you again for the opportunity to comment. Please contact us with any questions.

Sincerely,



Mark A. Treichel
Executive Director

Appendix IV: Comments from the United States Patent and Trademark Office within the Department of Commerce



THE DEPUTY SECRETARY OF COMMERCE
Washington, D.C. 20230

June 22, 2016

Mr. David Wise
Director, Physical Infrastructure Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Wise:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report issued on May 25, 2016, entitled *Federal Real Property: Actions Needed to Enhance Information on and Coordination with Federal Entities with Leasing Authority* (GAO-16-648). The United States Patent and Trademark Office (USPTO) remains committed to aligning our acquisition of leased space with leading practices.

GAO made no recommendations to the Under Secretary and Director of the USPTO. However, the USPTO disagrees that the one USPTO lease reviewed was not in alignment with leading practices for real property leasing, particularly when this determination was based on the absence of files. This project was done in sync with a much larger General Services Administration (GSA) space acquisition, and the required documentation for assessing requirements, planning the acquisition, ensuring the best value, and scoring documentation may be commingled with the GSA documents. GSA had been assisting the USPTO in the development of the USPTO lease. A search was begun on June 13, 2016. GAO's categorization of the lease as being partially in alignment pending the search of GSA files is recommended.

The attached technical comments to the draft report provide more detail on this point.

Please contact Frederick Steckler, Chief Administrative Officer at the USPTO, with questions by phone at (571) 272-9600 or via email at frederick.steckler@uspto.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. H. Andrews".

Bruce H. Andrews

Enclosure

Appendix IV: Comments from the United States Patent and Trademark Office within the Department of Commerce

**Department of Commerce
United States Patent and Trademark Office's Comments on
the Government Accountability Office Draft Report
Entitled *Federal Real Property: Actions Needed to Enhance Information on and
Coordination with Federal Entities with Leasing Authority (GAO-16-648)***

The United States Patent and Trademark Office (USPTO) has reviewed the draft report, and our technical comments are below.

Technical Comments

On page 26, Table 7:

- The report states that “the one selected USPTO lease file was not in alignment with leading practices.” The Government Accountability Office (GAO) selected the December 19, 2001, Carlyle/Elizabeth Townhouse and Garage lease for their review. The USPTO noted, in meetings with the GAO, that this lease was written in concert with the much larger Campus lease, which was signed on June 1, 2000. As background, the USPTO furnished a copy of the Campus lease, which indicates that the townhouses were conceived as part of the original lease. From the campus lease, page 15 of 198:

2.1.4. Office Townhouses. Lessor shall have the right at its sole cost and expense to construct 3-story office townhouses along John Carlyle Street and Elizabeth Lane backing up on the parking garages (and without direct access to such parking garages) and to lease such office townhouses to third-party tenants. If constructed, such office townhouses shall not be considered part of the Leased Premises or Common Areas for the purposes of this Lease. However, all office townhouses adjacent to John Carlyle Street shall be considered part of the Optioned Property if the Government exercises its Purchase Option as to at least Buildings A and C, and all office townhouses adjacent to Elizabeth Lane shall be considered part of the Optioned Property if the Government exercises its Purchase Option as to at least Buildings A and B.

In leasing the Townhouse space, the USPTO exercised the option established in the Campus lease.

The Campus lease was investigated by GAO, and a report was issued on June 5, 2001 (GAO-01-578R, Leased Space for USPTO). The information in this GAO report supports that leading property real estate practices were followed for the campus lease, and by association, the Townhouse lease. The excerpts below enumerate that leading government practices for leasing federal real property were followed, such as lease acquisition, the establishment of a specific geographic area requirement, and competition in bidding. On page 3, it states:

By resolutions, the appropriate Senate and House committees approved the prospectus for the lease procurement in October and November 1995,

Appendix IV: Comments from the United States Patent and Trademark Office within the Department of Commerce

respectively. The resolutions authorized the competitive procurement of a 20-year operating lease for about 2 million square feet for the purpose of consolidating PTO in an area between the Potomac River and Dulles International Airport in Northern Virginia.

On June 26, 1996, GSA issued the SFO for the lease. The procurement was to be conducted in two phases. In Phase I, the offerors were to provide basic information about their sites, development plans, qualifications of design teams and developers, preliminary financial information, and a phase 1 environmental assessment and questionnaire. In Phase II, selected offerors were to provide more detailed information regarding the site, proposed design of the facility, the interior architect, the development schedule, and the operations and maintenance firm. On December 23, 1996, GSA received six offers. On March 11, 1997, four of the offerors were invited to proceed to Phase II of the procurement. After a bid protest to GAO and litigation concerning this procurement, on June 1, 2000, GSA signed a 20-year lease with LCOR Alexandria L.L.C for approximately 2.2 million rentable square feet, which are to be built to suit GSA/PTO needs and to house 7,100 staff at the Carlyle site in Alexandria, VA. The lease is valued at \$1.24 billion over 20 years, plus operating expenses and taxes.

In Enclosure I on page 7 of the same document, it further references that “GSA followed OMB’s and Its Own Guidance in Scoring the Lease as an Operating Lease.” Taken together, all these facts suggest that in order to be accurate, GAO’s draft report should acknowledge that the Carlyle/Elizabeth Townhouse lease was a component of the full campus lease and that this entire lease process was in alignment with leading practices as GAO acknowledged in its 2001 report.

The GAO’s determination of the USPTO lease not meeting best practices is based on the absence of files. The USPTO has asked GSA to provide documentation of the solicitation and the Program of Requirements. A search was begun on June 13, 2016.

The fact that GSA was part of the negotiations for the Carlyle/Elizabeth Townhouse lease make it an anomaly for independent leasing. The USPTO provided information relevant to a recent USPTO independent lease, within the City of San Jose City Hall which was signed on July 21, 2014, that more fully documents that all of the leading practices were followed.

Based on all of this information, the USPTO believes that Table 7’s conclusions are inaccurate and should be corrected to reflect that the USPTO is in partial alignment with leading processes.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Dave Wise, (202)512-2834 or wised@gao.gov

Staff Acknowledgments

In addition to the individual named above, Keith Cunningham, Assistant Director; Timothy Carr; Catherine Kim; Terence Lam; Hannah Laufe; Steve Rabinowitz; Malika Rice; Kelly Rubin; Sean Standley; Michelle Weathers; and Crystal Wesco made key contributions to this report.

Appendix VI: Accessible Data

Agency Comment Letter

Text of Appendix III:
Comments from the
National Credit Union
Administration

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National Credit Union Administration

Office of the Executive Director

June 16, 2016

Mr. David Wise

Director, Physical Infrastructure Issues

United States Government Accountability Office

441 G Street, NW

Washington, DC 20548

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Text of Appendix IV:
Comments from the
United States Patent and
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Page 1

THE DEPUTY SECRETARY OF COMMERCE

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Enclosure

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Department of Commerce

United States Patent and Trademark Office's Comments on the Government Accountability Office Draft Report

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Page 3

respectively. The resolutions authorized the competitive procurement of a 20- year operating lease for about 2 million square feet for the purpose of consolidating PTO in an area between the Potomac River and Dulles International Airport in Northern Virginia.

On June 26, 1996, GSA issued the SFO for the lease. The procurement was to be conducted in two phases. In Phase I, the offerors were to provide basic information about their sites, development plans, qualifications of design teams and developers, preliminary financial information, and a phase 1 environmental assessment and questionnaire. In Phase II, selected offerors were to provide more detailed information regarding the site, proposed design of the facility, the interior architect, the development schedule, and the operations and maintenance firm. On December 23, 1996, GSA received six offers. On March 11, 1997, four of the offerors were invited to proceed to Phase II of the procurement. After a bid protest to GAO and litigation concerning this procurement, on June 1, 2000, GSA signed a 20-year lease with LCOR Alexandria L.L.C for approximately 2.2 million rentable square feet, which are to be built to suit GSA/PTO needs and to house 7,100 staff at the Carlyle site in Alexandria, VA. The lease is valued at \$1.24 billion over 20 years, plus operating expenses and taxes.

In Enclosure I on page 7 of the same document, it further references that "GSA followed OMB's and Its Own Guidance in Scoring the Lease as an Operating Lease." Taken together, all these facts suggest that in order to be accurate, GAO's draft report should acknowledge that the Carlyle/Elizabeth Townhouse lease was a component of the full campus lease and that this entire lease process was in alignment with leading practices as GAO acknowledged in its 200 I report.

The GAO's determination of the USPTO lease not meeting best practices is based on the absence of files. The USPTO has asked GSA to provide documentation of the solicitation and the Program of Requirements. A search was begun on June 13, 2016.

The fact that GSA was part of the negotiations for the Carlyle/Elizabeth Townhouse lease make it an anomaly for independent leasing. The USPTO provided information relevant to a recent USPTO independent lease, within the City of San Jose City Hall which was signed on July 21, 2014, that more fully documents that all of the leading practices were followed.

Based on all of this information, the USPTO believes that Table 7's conclusions are inaccurate and should be corrected to reflect that the USPTO is in partial alignment with leading processes.

Data Tables

Data Table for Figure 2: Selected Independent Real Property Lease Rates Compared to Matched General Services Administration (GSA) Real Property Lease Rates, by Federal Entity

Federal entity	Percentage variation from General Services Administration rate	Lease cost per square foot
Federal Aviation Administration (FAA)	-47%	\$21.55
	0%	\$30.33
	-6%	\$21.49
	-21%	\$18.48
	0%	\$25.68
	19%	\$46.24
	25%	\$44.73
	2%	\$46.66
	27%	\$48.60
	26%	\$50.20
	-37%	\$40.59
	-58%	\$11.34
	-70%	\$11.33
	13%	\$22.96
-84%	\$2.69	
Federal Deposit Insurance Corporation (FDIC)	49%	\$23.51
	-1%	\$23.86
	37%	\$53.54
	25%	\$26.07
	49%	\$21.25
	-12%	\$34.31
	-9%	\$36.21
National Aeronautics and Space Administration (NASA)	-8%	\$20.35
	-3%	\$20.01
	-49%	\$6.20
	-40%	\$7.34
	-46%	\$6.55
	-9%	\$18.54
Other entities	-19%	\$20.03
	94%	\$26.80
	18%	\$38.72
	-14%	\$27.67
Pension Benefit Guaranty	8%	\$38.27

Federal entity	Percentage variation from General Services Administration rate	Lease cost per square foot
Corporation (PBGC)	-14%	\$30.67
	-17%	\$40.48
	8%	\$22.61
	55%	\$36.86

Data Table for Figure 3: Selected Independent Real Property Lease Rates Compared to Matched Private Sector Real Property Market Rates, by Federal Entity

Federal entity	Percentage variation from private sector rate	Lease cost per square foot
Federal Aviation Administration (FAA)	-27%	\$48.00
	-14.2%	\$43.13
	-8.4%	\$47.00
	-7.9%	\$22.80
	-5.1%	\$50.40
	0%	\$28.33
	3.2%	\$50.00
	5.9%	\$12.00
	8.5%	\$27.55
	13.8%	\$11.50
	16.7%	\$28.80
	23.4%	\$40.51
	33.3%	\$24.75
Federal Deposit Insurance Corporation (FDIC)	36.1%	\$18.60
	50.3%	\$7.04
	-35%	\$23.50
	-17.1%	\$44.68
	-14%	\$27.00
	-11.8%	\$24.60
	-7%	\$39.50
National Aeronautics and Space Administration (NASA)	-1.8%	\$38.25
	9.6%	\$25.08
	-17%	\$5.65
	-17%	\$5.65
	-15.3%	\$18.50
	-10.6%	\$20.51

Appendix VI: Accessible Data

Federal entity	Percentage variation from private sector rate	Lease cost per square foot
	-1.3%	\$6.15
	2.8%	\$21.95
Other entities	-33.8%	\$27.75
	-32.1%	\$21.19
	15%	\$26.75
	16.4%	\$35.88
Pension Benefit Guaranty Corporation (PBGC)	-74.1%	\$31.89
	-32.1%	\$43.00
	-1.1%	\$25.00
	14.4%	\$39.80
	18.3%	\$39.00

Accessible Text for Figure 4: Leading Government Practices for Leasing Federal Real Property

Leading practice	Description of the leading practice applied to the federal real property leasing process
Assess needs	For lease acquisition purposes, assessing needs means gathering the pertinent information so that the correct amount and type of space can be acquired from a responsible source in a location that will meet the mission needs of the agency. This is the first step in the lease acquisition process and may include current and projected future staffing needs, the type and amount of space needed, agency space utilization policies, a specific geographic area requirement that does not limit competition, access to transportation and any other special requirements.
Plan ahead	Lease acquisition planning is the process where a comprehensive plan is developed to fulfill an agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition. Among other planning activities, entities should document factors used to evaluate offers, expected cost, and timing requirements. They should conduct market research and document information about suitable properties within the specific geographic area requirement. This could include consulting with brokers or General Services Administration (GSA) and analyzing comparable properties using commercial databases.
Ensure best value	Competition in lease acquisitions serves as the government's primary price control mechanism. Full and open competition for government leases is designed to ensure that all responsible sources are allowed to compete. All competitors must be provided the same information and judged on the same criteria. For larger properties, entities should advertise solicitations online and document them. GSA, for example, suggests that real property needs above 10,000 usable square feet should be advertised online and documented. Any sourcing method other than full and open competition should be justified and documented.
Analyze and document the budget effects of the lease	Budget scorekeeping rules are meant to recognize costs as funding decisions are being made. OMB uses the rules to determine the amounts to be recognized in the budget when an agency signs a contract or enters into a lease. A capital lease requires that the full cost of the project must be recognized in the budget in the year in which the budget authority is to be made available, while operating leases require the amount needed to cover the first year's lease payments plus cancellation costs recorded. The criteria for capital and operating leases are contained in Appendix B of OMB Circular A-11. To determine whether a lease acquisition qualifies as a capital lease or operating lease, entities should analyze and document the budget effects to help ensure adequate funding is recognized in the budget. ^a

Data Table for Figure 5: Percentage of Selected Entities' Lease Files GAO Analyzed That Documented Alignment with Applicable Leading Government Practices for Leasing Federal Real Property

Leading practice	Sub-practice	In alignment	In partial alignment	Not in alignment
Assess needs	Assess type and amount of space needed	30%	10%	60%
	Consider future staffing needs	22%	19%	59%
	Specify geographical area for needed space	40%	40%	20%
Plan ahead	Document factors used to evaluate offers	23%	—	77%
	Document expected costs	47%	3%	50%
	Document timeframe for acquiring space	20%	3%	77%
	Conduct market research	53%	—	47%
Ensure best value	Advertise need for space	13%	—	88%
	Justify other than full competition	35%	13%	52%
Analyze and document the budget effects of the lease	Determine if lease qualifies as operating or capital lease	17%	—	83%

Data Table for Figure 6: Selected Federal Entities' Per-Employee Office Space Allocation Averages and GSA's Recommended Target

Federal entity	Average square feet lease per employee
Federal Aviation Administration (FAA)	285
Federal Deposit Insurance Corporation (FDIC)	382
National Aeronautics and Space Administration (NASA)	270
National Credit Union Administration (NCUA)	510
Pension Benefit Guaranty Corporation (PBGC)	296
United States Coast Guard (USCG)	187
United States Patent and Trademark Office (USPTO)	286
Average	312
General Services Administration (GSA) recommended target	150

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