

**Calendar No. 631**

110TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 110-279

ESTABLISH A PILOT PROGRAM FOR THE  
EXPEDITED DISPOSAL OF FEDERAL REAL  
PROPERTY

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 1667

TO ESTABLISH A PILOT PROGRAM FOR THE EXPEDITED DISPOSAL  
OF FEDERAL REAL PROPERTY



APRIL 7, 2008.—Ordered to be printed

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

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Mr. LIEBERMAN, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

### R E P O R T

[To accompany S. 1667]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1667) to establish a pilot program for the expedited disposal of Federal real property, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

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#### I. PURPOSE AND SUMMARY

The purpose of S. 1667 is to provide the Office of Management and Budget (OMB) with temporary authority to sell or demolish property that the Federal government owns but no longer needs, and to do so under more flexible rules than currently exist. The bill would both expedite the disposal process and create a financial incentive for agencies to sell the property they no longer need.

As reported, the bill would also allow representatives of the homeless to apply for properties that might be useful to assist the homeless. Currently, under the McKinney-Vento Homeless Assistance Act, unneeded Federal property is made available for use to

assist the homeless. This bill would incorporate features from that process to ensure similar treatment of the properties for purposes of the pilot program.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

Property management is one of the most pressing management problems facing the federal government today, according to the Government Accountability Office (GAO). In 2003, GAO put “Managing Federal Real Property” on its biennial High Risk List to draw attention to its serious concerns surrounding this activity. According to GAO, the High Risk designation targets those programs that expose taxpayers to at least \$1 billion in waste, and its purpose is “to identify and help resolve serious weaknesses in areas that involve substantial resources and provide critical services to the public.”<sup>1</sup> The Committee believes urgent action is needed to resolve the problems related to real property management before they grow larger and put more tax dollars and agency missions at risk.

The Committee’s primary concern is that federal agencies are holding more property in their portfolios than they need. Rather than disposing of properties once they are no longer useful, agencies often opt to hold onto them at the same time that they are adding new properties to their inventory. For example, according to GAO, the Department of Energy, the Department of Homeland Security and the National Aeronautics and Space Administration—which are three of the largest real property-holding agencies—have reported that approximately 10 percent or more of the facilities in their inventories are excess or underutilized.<sup>2</sup> At the Department of Energy alone, the amount of unneeded square footage is approximately 20 million square feet. That is more square footage than would be contained within three buildings the size of the Pentagon, which is the largest office building in the world.

Every unneeded square foot of building space held by the federal government requires annual funding for operations and maintenance. This includes the costs of cleaning, heating, lighting, and landscaping a building, as well as any costs related to a mortgage or lease for the space, which also includes costs associated with security. Additionally, holding unneeded property carries a hidden opportunity cost due to both the lost revenues that would be gained from selling the property and the avoidance of future maintenance costs. Over a long period of time, and with a large number of unneeded properties in the government’s portfolio, the costs could likely add up to hundreds of millions, if not billions, of dollars wasted. In addition, when an agency holds on to a property it no longer needs, that property cannot be used for other activities that can create jobs, spur innovations and increase local and national prosperity.

In testimony before the Subcommittee on Federal Financial Management, Government Information, Federal Services and Inter-

<sup>1</sup> Government Accountability Office, High Risk Series: An Update, GAO-07-310, January 2007, p. 4. Can be found at <http://www.gao.gov/new.items/d07310.pdf>.

<sup>2</sup> Testimony given to the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security. Goldstein, Mark, Government Accountability Office, Federal Real Property: An Update on High Risk Issues, GAO-07-895T, May 24, 2007, p. 10. Can be found at <http://www.gao.gov/new.items/d07895t.pdf>.

national Relations, Mark Goldstein of GAO underscored the need for reform, stating, “The magnitude of the problem with underutilized or excess federal real property continues to put the government at risk for lost dollars and missed opportunities.”<sup>3</sup>

To understand the magnitude of the problem it is important to note the large number of unneeded properties that the federal government is currently holding. The Federal Real Property Council<sup>4</sup> reports that the federal government owned or operated more than 505,000 buildings worldwide in 2006, worth an estimated total of \$809 billion.<sup>5</sup> Of those, more than 21,000 buildings are reportedly no longer needed, all worth a total of \$18 billion, according to the Office of Management and Budget (OMB).<sup>6</sup> Under the Federal Property and Administrative Services Act of 1949, 40 U.S.C. et seq., agencies report excess real property to the General Services Administration (GSA), which makes it available to other federal agencies. If no federal agency expresses interest, it is deemed surplus federal property. The Act also authorizes a number of public benefit conveyances of excess and surplus properties. However, conveyances under these procedures do not occur as often as they should. Since 2004, the government’s building portfolio has grown by several thousand each year despite the tens of thousands of available excess properties. This, combined with the fact that more than four percent of the entire federal building inventory is unneeded, strongly indicates that there is a significant problem with the process for disposing of property.

According to David Winstead, the Commissioner of the Public Building Service at the GSA, 30 percent of all federal assets are considered underperforming or non-performing, and 7 percent of all rentable square footage is vacant.<sup>7</sup> In the short-run, annual maintenance is cheaper for agencies than conducting a lengthy and drawn-out disposal, and so the easy—and costly—decision is made to keep unneeded property.

The Committee is concerned that the current process in place for disposing of unneeded federal buildings is inefficient and cumbersome, and likely largely at fault for the disposal backlog of 21,000 properties. Federal rules and regulations have created enormous obstacles for agencies that try to dispose of property they no longer need. First, the disposal process itself is long, complicated and expensive, filled with numerous procedures that each agency must follow.

The disposal process, governed by subchapters III and IV of chapter 5, title 40 of the U.S. Code, and under part 102 of title 41 of the Code of Federal Regulations, requires agencies to go through

<sup>3</sup>*Id.*

<sup>4</sup>The Federal Real Property Council, an inter-agency council chaired by the Office of Management and Budget, was established by Executive Order 13327 on February 4, 2004 to develop guidance, serve as a clearinghouse for best practices, and facilitate the efforts of agency Senior Real Property Officers.

<sup>5</sup>Federal Real Property Council, FY 2006 Federal Real Property Report: An Overview of the U.S. Federal Government’s Real Property Assets, July 2007, p. 4. Can be found at [http://www.gsa.gov/gsa/cm\\_attachments/GSA\\_DOCUMENT/FRPP112007\\_R2-t13-v\\_0Z5RDZ-i34K-pR.pdf](http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/FRPP112007_R2-t13-v_0Z5RDZ-i34K-pR.pdf).

<sup>6</sup>Report of the Office of Management and Budget, Response to Section 408 of Public Law 109–396, July 15, 2007, p. 2. Can be found at [http://www.whitehouse.gov/omb/financial/fia/response\\_section408.pdf](http://www.whitehouse.gov/omb/financial/fia/response_section408.pdf).

<sup>7</sup>Testimony given to the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security. Winstead, David, General Services Administration, May 24, 2007, p. 4. Can be found at [http://hsgac.senate.gov/public/\\_files/FinalWinsteadStatement52407hearing0.pdf](http://hsgac.senate.gov/public/_files/FinalWinsteadStatement52407hearing0.pdf).

over a dozen separate processes to determine possible uses of real property before disposal may proceed. While undoubtedly well-intentioned, these requirements have created a patchwork of cumbersome and confusing rules. Their net effect has been to discourage agencies from initiating disposal, thereby depriving non-federal entities of the opportunity to make more productive use of the properties.

This leads to the second major obstacle in the disposal process, which is that many agencies do not have a financial incentive to dispose of their buildings. Current law requires that when an agency sells a building, all funds received revert to the Treasury even though it can be a significant expense to get a building ready for disposal. This means that the agency which undertook the process, and used significant budgetary and personnel resources to do it, does not get to share in the reward of its work, namely a portion of the proceeds from the sale.

With so little incentive to spend the money and energy needed to dispose of the property, these obstacles have served to encourage agencies to pay for continued maintenance of an unneeded property rather than go to the trouble and cost of getting rid of it, to the detriment of taxpayers who fund the maintenance through their tax dollars.

Certain agencies have specific statutory authority to retain proceeds from the sale of their properties.<sup>8</sup> Retention of proceeds has proven to be an effective tool for federal agencies to dispose of their unneeded properties. As David Winstead from GSA testified before the Committee, “Retention of proceeds from sale is a good incentive for agencies to dispose of unneeded assets and provides a much needed source of reinvestment funds.”<sup>9</sup> For that reason, the Committee believes it is appropriate under the pilot program to allow agencies to recoup the cost of selling buildings, plus an additional 20%, as an incentive for disposing of the properties.

### III. LEGISLATIVE HISTORY

S. 1667 was introduced by Senator Carper and Senator Coburn on June 20, 2007 and referred to the Committee on Homeland Security and Governmental Affairs. Prior to the bill’s introduction, the Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security held a hearing on May 24, 2007, to consider problems with real property management identified by GAO. Witnesses at the hearing were: the Honorable Clay Johnson III, Deputy Director for Management, Office of Management and Budget; Mark Goldstein, Director, Physical Infrastructure Issues, GAO; Boyd Rutherford, Assistant Secretary for Administration, United States Department of Agriculture; David Winstead, Commissioner of Public Building Service, GSA; Philip Grone, Deputy Undersecretary of Defense, Installations and Environment, United States Department of Defense; and Robert Henke, Assistant Secretary for Management, United States Department of Veterans Affairs.

<sup>8</sup>See, e.g., Consolidated Appropriations Act, 2005, Public Law 108–447, 118 Stat. 2809, 3259 (Dec. 8, 2004) (authority for GSA); Public Law 109–54, Title V, 199 Stat. 559–563 (August 2, 2005) (authority for the Department of Agriculture); and 38 U.S.C. 8162–8163 (authority for the Department of Veterans Affairs).

<sup>9</sup>Winstead testimony, *supra* note 7.

S. 1667 was reported favorably by the Committee by voice vote on November 14, 2007, as amended by the Lieberman-Collins-Carper-Coburn substitute. The substitute amendment: defines terms for purposes of the pilot program; creates procedures under which representatives of the homeless may apply for use of property; places a limitation on the total number of properties that may be disposed of by cash sale under the pilot program; requires GAO to review the effectiveness of the pilot program; and makes technical changes. Members present for the vote on the bill as amended were Senators Lieberman, Carper, McCaskill, Tester, Collins, Stevens, Voinovich, Coleman, and Coburn.

#### IV. SECTION-BY-SECTION ANALYSIS

##### *Section 1*

The bill amends chapter 5, subtitle I of title 40, United States Code, to add a new “Subchapter VII—Expedited Disposal of Real Property”. This new subchapter would contain new sections 621 through 630 in title 40, as follows:

##### *Section 621. Definitions*

Section 621 defines the following terms for purposes of the pilot program: Director, Expedited Disposal of a Real Property, Landholding Agency, Real Property, and Representative of the Homeless.

Real property is defined as property that an agency determines to be excess, surplus, underperforming, or otherwise not meeting the needs of the federal government. The Committee limited the definition of real property only to buildings and not to land assets. Additionally, property that is to be closed or realigned under the Base Realignment and Closure Act (BRAC)<sup>10</sup> is not eligible for disposal under the pilot program.

##### *Section 622. Pilot program*

Section 622 requires the Director of the Office of Management and Budget to establish the Federal Real Property Disposal Pilot Project and limits its duration to five years after enactment. The pilot project establishes a different process for disposing of unneeded property, and provides Congress an opportunity to evaluate the effectiveness of the process for possible permanent reforms.

##### *Section 623. Selection of real properties*

Section 623 allows agencies to nominate candidate properties for the pilot project, from which OMB is allowed to select properties for participation.

This section also requires OMB to establish a public website to post information about all of the properties selected for the pilot project. Under the McKinney-Vento Homeless Assistance Act (McKinney-Vento), 42 U.S.C. 11411 et seq., there is currently no requirement that information related to properties available for use to assist the homeless be posted on a dedicated website. The Committee added this requirement to ensure that any representative of the homeless, or member of the general public, will have easy ac-

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<sup>10</sup>Part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note.

cess to information about those properties. In this respect, the pilot program will be more transparent than the existing McKinney-Vento rules. The Secretary of Housing and Urban Development (HUD) also is required to conduct outreach to representatives of the homeless to inform them about the existence of the pilot project. The Committee believes that e-mail notifications to interested non-profit organizations would be one means of conducting effective outreach.

The Secretary of HUD is required to make available any information (other than valuation information) that is requested regarding each of the properties in the pilot program. This provision mirrors the requirement for information disclosure that is currently in McKinney-Vento.

#### *Section 624. Suitability determination*

This section requires the Secretary of HUD to make a determination for each property as to whether it is suitable for use to assist the homeless or not. The determination will be made using the existing criteria found within McKinney-Vento as well as two additional criteria: (1) For property located in the middle of a federal installation, whether such property can easily be transported to an off-site location; and (2) for property where the predominant use is other than housing, whether the size of the property is equal to or greater than 100,000 square feet.

Regarding the first additional criterion, the Committee believes that property in the middle of an existing federal installation, such as a military base, is not accessible to members of the homeless community and therefore not appropriate for assistance to the homeless. Such properties are not accessible to the general public because of their sensitive nature. However, some properties, such as trailers, may be easily transported to an off-site location. Regarding the second criterion, the Committee believes that since few properties of this size are applied for under McKinney-Vento procedures, and even fewer are conveyed to representatives of the homeless, it would be appropriate to generally exclude such properties from the pilot program.<sup>11</sup> (Section 625, though, does provide a process under which representatives of the homeless can appeal to have such large properties deemed fit for use by the homeless.)

As soon as the determination is made by HUD, pertinent information will be posted on the website created under Section 623. The Committee expects that the website will be in an easily located place to facilitate its use by representatives of the homeless. The website will contain, at a minimum, the following information for each property: The address of the property, the result of the suitability determination, and the date which the property was listed on the website. The Committee expects HUD to provide adequate justification of the determination so that representatives of the homeless may make an informed decision whether to appeal the determination.

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<sup>11</sup> According to OMB officials, only 5 of 84 properties conveyed to organizations representing the homeless under McKinney-Vento have been larger than 100,000 square feet.

*Section 625. Unsuitable real property*

Under section 625, if a property is determined by HUD to be unsuitable for use by the homeless, such property will be put on hold for 20 days, during which no disposal activity can take place regarding that particular property.

During that 20-day period, any representative of the homeless is allowed to appeal the suitability determination made by HUD. If the property has been determined unsuitable because it is larger than 100,000 square feet, and the representative can provide clear and convincing evidence that the property is in fact usable by the homeless, then HUD is required to reverse its determination. HUD has 20 days to make a final determination, at which point no further appeal is available.

If no appeal is made after HUD's initial determination, then any unsuitable property proceeds immediately to disposal under expedited procedures.

*Section 626. Suitable real property*

Under section 626, all property determined by HUD to be suitable for use by the homeless is put on hold for 90 days, during which time no disposal activity can be taken regarding the property.

During that 90-day period, any representative of the homeless can apply to the Secretary of Health and Human Services (HHS) to receive the property, at no cost, for use to assist the homeless. If HHS believes that the application will likely be accepted, but has otherwise run out of time in the 90-day period (for example, because of a request to the applicant for additional information), it may extend the deadline at its discretion. This extension authority is not intended to operate as an automatic extension for all applications, but should be used by HHS in circumstances where an extension is reasonably justifiable. The Committee recommends that HHS keep documentation regarding its procedures for granting extensions as well as for each instance in which an extension is granted.

HHS has 20 days to make a decision on whether to accept or deny any applications submitted. If no applications are submitted in the 90-day period, the property proceeds immediately to disposal under expedited procedures.

*Section 627. Expedited procedures*

All properties sold under section 627 must be sold for no less than fair market value. This provision is intended to ensure that open market sales are the means by which properties are sold in order to maximize the financial return to the federal government.

A property may be sold under the pilot program only if the property will generate monetary proceeds to the federal government. A disposal of property under the pilot program may not include any exchange, trade, transfer, acquisition of like-kind property, or other non-cash transaction as part of the disposal.

Expedited procedures waive the following existing provisions: subchapter IV of chapter 5 of subtitle I of title 40, U.S.C. (regarding proceeds from sale or transfer); sections 550 and 553 of title 40 (regarding disposal of property for certain purposes); section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

any other provision of law authorizing the no-cost conveyance of real property owned by the federal government; and certain congressional notification requirements.

The expedited procedures under section 627 do not waive requirements of the National Historic Preservation Act, 16 U.S.C. 470 et seq.

*Section 628. Special rules and use of proceeds from disposal of real property*

Section 628 allows federal agencies that sell property under this pilot project to keep 20% of the proceeds generated from the sale, in addition to the administrative costs of selling the property. The remaining 80% reverts to the Treasury.

The funds retained by agencies under the pilot remain available until expended, until the termination of the pilot program, for activities related to federal real property capital improvements and disposal activities. Upon termination of the pilot program, any unobligated amounts shall be transferred to the Treasury.

Under current rules, agencies are required to pay all of the administrative costs associated with disposal, but receive none of the benefits because all proceeds go to the Treasury. This section provides an incentive to get unneeded properties off the rolls, by allowing agencies to retain a share of the portion of the proceeds from the sale.

*Section 629. Limitation on number of permissible cash sales*

Section 629 restricts the number of cash sales under the pilot to 750. The number of demolitions is not be restricted by any cap.

*Section 630. Government Accountability Office study*

Section 630 requires GAO to conduct oversight of the administration of the pilot project and report to Congress within 3 years of the date of enactment. The Committee expects GAO to consult with the appropriate congressional committees and bill sponsors prior to setting the terms of the investigation and beginning the work.

## V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. The Congressional Budget Office states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments, or private entities. The enactment of this legislation will not have significant regulatory impact.

## VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JANUARY 30, 2008.

Hon. JOSEPH I. LIEBERMAN,  
*Chairman, Committee on Homeland Security and Governmental  
 Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1667, a bill to establish a pilot program for the expedited disposal of federal real property.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PETER R. ORSZAG.

Enclosure.

*S. 1667—A bill to establish a pilot program for the expedited disposal of federal real property*

Summary: S. 1667 would establish a pilot program to expedite the disposal of surplus or underutilized federal property for cash. The legislation also would create a process for representatives of the homeless, including public and private entities, to participate in the program. Finally, S. 1667 would require an evaluation of this program by the Government Accountability Office (GAO).

CBO estimates that enacting the bill would increase direct spending by \$20 million over the 2009–2018 period. Added administrative and reporting costs would come to another \$15 million over that period, assuming appropriation of the necessary funds. S. 1667 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1667 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—												2009– 2013	2009– 2018
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2018	2018		
CHANGES IN DIRECT SPENDING														
Estimated Budget Authority	4	4	4	4	4	0	0	0	0	0	0	0	20	20
Estimated Outlays .....	4	4	4	4	4	0	0	0	0	0	0	0	20	20
CHANGES IN SPENDING SUBJECT TO APPROPRIATION														
Estimated Authorization														
Levels .....	3	3	3	3	3	0	0	0	0	0	0	0	15	15
Estimated Outlays .....	3	3	3	3	3	0	0	0	0	0	0	0	15	15

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted before the end of 2008.

*Direct spending*

S. 1667 would amend the Federal Property and Administrative Services Act, which governs the disposition of most federal real property. That act and other statutes that govern real estate transactions of specific agencies and programs generally require agencies to allocate excess property to other public purposes before of-

fering it for sale. About 30 federal agencies with landholdings control approximately 1.2 billion real property assets worldwide with a value of about \$375 billion. The net proceeds from such sales are deposited in the Treasury as offsetting receipts and are not available to be spent. In addition, some of the largest landholding agencies have received special authorities to accept payments for leasing federal property. Such payments can be either in the form of cash or in-kind considerations such as construction, maintenance, restoration, and repair services.

In most years, only a small portion of excess federal property is sold. Some excess properties are transferred to public agencies and institutions through public benefit conveyances. S. 1667 would establish a five-year pilot program to expedite the disposal of excess, surplus, or underutilized federal property. The Director of the Office of Management and Budget, in consultation with agencies, would be required to select federal properties for disposal under the program. The program would terminate five years after enactment and would be limited to no more than 750 properties. Those selected properties would then be subject to an expedited review process by the Department of Housing and Urban Development (HUD) to determine if they are suitable to be converted into housing for the homeless. The remaining properties could be sold, and the net proceeds from such sales would then be divided: 80 percent would be deposited in the Treasury as miscellaneous receipts, while 20 percent would be retained and spent by the affected agency.

Under current law, CBO estimates that governmentwide receipts from the sale of surplus property will total about \$20 million per year. Under the proposed legislation, an agency could retain and spend 20 percent of the proceeds from the sale of its excess, surplus, or underutilized property. CBO expects that enacting S. 1667 would not significantly increase the number of properties sold above the number anticipated under current law because most federal agencies that manage significant numbers of properties would likely opt to continue using their flexible leasing authorities rather than disposition authority to manage underutilized property. Thus, we estimate that the use of proceeds under the bill from the future sale of surplus property would increase direct spending by \$20 million over the five-year period of the pilot program.

#### *Spending subject to appropriation*

Implementing S. 1667 would increase the workload of GSA and HUD to expedite the process of evaluating and disposing of properties for use as housing for homeless persons. In addition, the legislation would require GAO to report within three years on the pilot program, including recommendations for reforms to federal property laws. Based on information from some landholding agencies and the cost of similar activities and reports, CBO estimates that such activities would cost about \$3 million annually.

Intergovernmental and private-sector impact: S. 1667 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments, or private entities. The bill would allow representatives of the homeless, including public and private entities, to acquire federal property using an expedited process. Any costs that those entities

incur would result from complying with conditions of federal assistance.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private Sector: MarDestinee Perez.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1667 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**UNITED STATES CODE**

**TITLE 40—PUBLIC BUILDINGS,  
PROPERTY, AND WORKS**

\* \* \* \* \*

**CHAPTER 5—PROPERTY MANAGEMENT**

\* \* \* \* \*

***Subchapter VII—Expedited Disposal of Real Property***

621. *Definitions*

*In this subchapter:*

(1) *DIRECTOR.*—The term “Director” means the Director of the Office of Management and Budget.

(2) *EXPEDITED DISPOSAL OF A REAL PROPERTY.*—The term “expedited disposal of a real property” means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

(3) *LANDHOLDING AGENCY.*—The term “landholding agency” means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

(4) *REAL PROPERTY.*—

(A) *IN GENERAL.*—The term “real property” means—

(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

(I) excess;

(II) surplus;

(III) underperforming; or

(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

(ii) a building or other structure located on real property described under clause (i).

(B) *EXCLUSION.*—The term “real property” excludes any parcel of real property or building or other structure lo-

*cated on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).*

*(5) REPRESENTATIVE OF THE HOMELESS.—The term “representative of the homeless” means a representative of the homeless as defined under section 501(i)(4) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(4)).*

#### *622. Pilot program*

*(a) The Director of the Office of Management and Budget shall conduct a pilot program, to be known as the “Federal Real Property Disposal Pilot Program”, under which real property that is not meeting Federal Government needs may be disposed of in accordance with this subchapter.*

*(b) The Federal Real Property Disposal Pilot Program shall terminate 5 years after the date of the enactment of this subchapter.*

#### *623. Selection of real properties*

*(a) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.*

*(b) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the pilot program and notify the recommending agency accordingly.*

*(c) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—*

*(1) be updated routinely; and*

*(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.*

*(d) The Secretary of Housing and Urban Development shall ensure that efforts are taken to inform representatives of the homeless about—*

*(1) the pilot program established under section 622; and*

*(2) the website under subsection (c).*

*(e) The Secretary of Housing and Urban Development shall—*

*(1) make available to the public upon request all information (other than valuation information), regardless of format, in the possession of the Department of Housing and Urban Development relating to the properties listed on the website under subsection (c), including environmental assessment data; and*

*(2) maintain a current list of agency contacts for making referrals to inquiries for information relating to specific properties.*

#### *624. Suitability determination*

*(a) After the Director selects the candidate real properties that may participate in the pilot program under section 623, the Secretary of Housing and Urban Development shall determine whether each such real property is suitable for use to assist the homeless.*

*(b) The Secretary of Housing and Urban Development shall base the suitability determination required under subsection (a)—*

(1) on the suitability criteria identified by the Secretary of Housing and Urban Development under section 501(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(a));

(2) for real properties located within a Federal installation, campus, or compound, on whether such property can easily be transported to an off-site location; and

(3) for real properties where the predominant use is other than housing, on whether the size of the real property is equal to or greater than 100,000 square feet.

(c) Immediately after a determination of suitability is made under this section, the Director shall publish, on the website described in section 623(c) the following information:

(1) The address of each such real property.

(2) The result of the suitability determination required under subsection (a) for each such real property.

(3) The date on which the suitability determination was made.

#### 625. Unsuitable real property

(a) If a real property is determined unsuitable under section 624, such real property may not be disposed of or otherwise used for any other purpose for at least 20 days after such determination was made.

(b)(1) Not later than 20 days after a real property has been determined unsuitable under section 624 and before disposal of the real property in accordance with subsection (d), any representative of the homeless may appeal to the Secretary of Housing and Urban Development for a secondary review of such determination.

(2) Not later than 20 days after a real property has been determined unsuitable under subsection (b)(3) of section 624, the Secretary of Housing and Urban Development shall deem such real property suitable notwithstanding the requirements of that subsection if a representative of the homeless has produced clear and convincing evidence that such property can be utilized for the benefit of the homeless. Any determination under this paragraph shall be committed to the unreviewable discretion of the Secretary of Housing and Urban Development.

(c) Not later than 20 days after the receipt of any appeal under subsection (b), the Secretary of Housing and Urban Development shall respond to such appeal and shall make a final suitability determination regarding the real property.

(d)(1) If at the end of the 20-day period required under subsection (a), no appeal for review of a determination of unsuitability is received by the Secretary of Housing and Urban Development, such real property shall be disposed of in accordance with section 627.

(2) If after conducting a secondary review of a determination of unsuitability under subsection (b), the Secretary of Housing and Urban Development determines that the real property remains unsuitable under subsection (c), such real property shall be disposed of in accordance with section 627.

(3) If after conducting a secondary review of a determination of unsuitability under subsection (b), the Secretary of Housing and Urban Development determines that the real property is suitable under subsection (c), such real property shall be treated as suitable property for purposes of section 626.

626. *Suitable real property*

(a)(1) *If a real property is determined suitable under section 624 or upon a secondary review under section 625(d), any representative of the homeless shall have not more than 90 days after such determination to submit an application to the Secretary of Health and Human Services for the transfer of the real property to that representative. If an application cannot be completed within the 90-day period due to non-material factors, the Secretary of Health and Human Services, with the concurrence of the appropriate land-holding agency may grant reasonable extensions.*

(2) *If at the end of the time period described under paragraph (1), no representative of the homeless has submitted an application, such real property shall be disposed of in accordance with section 627.*

(b)(1) *Not later than 20 days after the receipt of any application under subsection (a)(1), the Secretary of Health and Human Services shall assess such application and determine whether to approve or deny the request for the transfer of the real property to such applicant.*

(2) *If the application of a representative of the homeless is denied by the Secretary of Health and Human Services under paragraph (1), such real property shall be disposed of in accordance with section 627.*

(3) *If the application of a representative of the homeless is approved by the Secretary of Health and Human Services under paragraph (1), such real property shall be made promptly available to that representative by permit or lease, or by deed, as a public health use under subsections (a) through (d) of section 550.*

627. *Expedited disposal requirements*

(a) *Real property sold under the pilot program established under this subchapter shall be sold at not less than the fair market value, as determined by the Director in consultation with the head of the executive agency. Costs associated with such disposal may not exceed the fair market value of the property unless the Director approves incurring such costs.*

(b) *A real property may be sold under the pilot program established under this subchapter only if the property will generate monetary proceeds to the Federal Government, as provided in subsection (a). A disposal of real property under the pilot program may not include any exchange, trade, transfer, acquisition of like-kind property, or other non-cash transaction as part of the disposal.*

(c) *Nothing in this subchapter shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under other provisions of law to dispose of Federal real property, except as provided in subsection (d).*

(d) *Any expedited disposal of a real property conducted under this subchapter shall not be subject to—*

- (1) *subchapter IV of this chapter;*
- (2) *sections 550 and 553 of this title;*
- (3) *section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);*
- (4) *any other provision of law authorizing the no-cost conveyance of real property owned by the Federal Government; or*

(5) any congressional notification requirement other than that in section 545.

628. *Special rules for deposit and use of proceeds from disposal of real property*

(a) *Agencies that conduct the disposal of real properties under this subchapter shall be reimbursed from the proceeds, if any, from such disposal for the administrative expenses associated with such disposal. Such amounts shall be credited as offsetting collections to the account that incurred such expenses, to remain available until expended.*

(b)(1) *After payment of such administrative costs, the balance of the proceeds shall be distributed as follows:*

(A) *80 percent shall be deposited into the Treasury as miscellaneous receipts.*

(B) *20 percent shall be deposited into the account of the agency that owned the real property and initiated the disposal action.*

(2) *Funds deposited under paragraph (1)(B) shall remain available until expended for the period of the pilot program, for activities related to Federal real property capital improvements and disposal activities. Upon termination of the pilot program, any unobligated amounts shall be transferred to the general fund of the Treasury.*

629. *Limitation on number of permissible cash sales*

*The total number of cash sales of real properties to be disposed of under this subchapter over the 5-year term of the Federal Real Property Disposal Pilot Program shall not exceed 750.*

630. *Government Accountability Office study*

(a) *Not later than 36 months after the date of enactment of this subchapter, the Comptroller General of the United States shall submit to Congress and make publicly available a study of the effectiveness of the pilot program.*

(b) *The study described under subsection (a) shall include at a minimum—*

(1) *recommendations for permanent reforms to statutes governing real property disposals and no cost conveyances; and*

(2) *recommendations for improving the permanent process by which Federal properties are made available for use by the homeless.*