PUBLIC BUILDINGS REFORM BOARD

PBRB Testimony for Senate Homeland Security and Governmental Affairs Committee, June 8, 2023 presented by Nick Rahall, Board Member

Good morning, I am Nick Rahall, Board member of the Public Buildings Reform Board, and I wish to thank Chair Peters and Ranking Member Paul for inviting the Public Buildings Reform Board to speak. Congress created the PBRB as the sole engine that drives the execution of FASTA and we are pleased to be invited to this hearing to discuss our work. I will first provide you a brief overview of the Public Buildings Reform Board and the FASTA legislation, and then describe our approach to our final round of recommendations.

Overview

The Federal Asset Sale and Transfer Act (FASTA) was enacted on December 16, 2016, as a bipartisan and bicameral effort, and created the Public Buildings Reform Board. The Board currently has a sunset date of May 2025. Although the legislation was passed in 2016, Board members were not appointed until May, 2019, over two years after enactment. Currently, the Board members are D. Talmage Hocker (Acting Chair), Nick Rahall, David Winstead, Michael Capuano, and Jeffrey Gural who was nominated by President Biden to be the Chairman, and is awaiting Senate confirmation. We also still have one vacancy on the Board. Also the Board was unable to conduct business for approximately 11 months in 2022 when two Board members resigned, leaving us without a quorum until November 2022. As a result of this lack of quorum, we were unable to complete our First Round recommendations in 2022.

The law dictated three rounds of recommendations: the first, the High Value Asset round, was due December 2019 with targeted sales proceeds of $500-750 million; the First Round, due December 2021 with targeted sales proceeds up to $2.5 billion which we never completed because of a loss of quorum; and the Second and final round which is due not before December 2024 with a targeted sales proceeds up to $4.75 billion. The HVA round was streamlined in that it allowed the government to bypass the McKinney Vento Act homeless screening process. It also gave the government a three year lease back authority to expedite the sale. The proceeds from all sales of PBRB-recommended properties are deposited into the Asset Proceeds and Space Management Fund. This fund incentivizes agencies by providing resources to accomplish all the due diligence required to make a property available for disposal, such as environmental remediation, relocations costs, etc. The fund can only be used for PBRB-recommended and OMB-approved projects, and GSA holds the disposal authority.

The PBRB therefore, recognizes the centrality of GSA to the successful conclusion of the PBRB program, and has sought the Public Building Services engagement for the final round of recommendations.

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The PBRB Approach

Assuming that our sunset date of May 2025 is not extended, we are preparing for our final round of recommendations by continuing to work with GSA as they complete their internal portfolio reviews to determine disposal opportunities. Also, we have reached out to other agencies to review their lease portfolio to identify opportunities to consolidate leases and reduce lease costs. For this final round, I will emphasize that we are looking at both owned and leased assets for consolidation and disposal opportunities. We also are conducting our own portfolio review of several key Metropolitan areas with a large federal presence to determine opportunities for disposal and consolidation.

Key to a successful final round, the PBRB recognizes that GSA will need to prioritize how it will seek appropriations for major projects. The HVA round to date has realized $194 million in sales proceeds which are in the Asset Proceeds Fund. There are still two remaining HVA assets that have not been sold that could conceivably bring in an additional $100 to $300 million in proceeds, resulting in a total amount of funds between $300 and $500 million in that fund. The large range - from $100 to $300 million in anticipated proceeds - is due to the fact that it has taken GSA years to prepare the final two properties for sale, losing the market momentum, and positioning these large assets to be sold squarely in a commercial real estate downturn. The length of time to sell these properties will likely cost the government hundreds of millions if not billions of dollars when considering cost savings over the next thirty years. The PBRB's final round of recommendations are due no earlier than December of 2024, and these will be the final properties where the federal government can use the Asset Fund to generate even greater returns for the Treasury. We are seeking a partnership with GSA to understand how they intend to prioritize appropriations requests from the Asset Proceeds Fund versus the Federal Building Fund while staying within the 302(b) appropriations cap in FY2026 and beyond. We have asked GSA to identify a few large properties that might produce significant returns from both the sale and from cost avoidance for the next thirty years, and eagerly await their response. Once we have those properties, we will conduct an independent analysis and report our findings and recommendations.

We are also seeking partnership with GSA in using commercial real estate techniques that respond to one of the most volatile and depressed commercial markets of our time, as opposed to standard processes which have been effective during the past inflationary decades. One of the key drivers behind FASTA was to find innovations to speed up the sales process. Two of our Board members are well known in the commercial real estate sector, and have provided invaluable advice and perspectives that we continue to offer to GSA. As I described previously, the slowness to market two very valuable properties (at Menlo Park and Laguna Niguel, California), has resulted in a loss to the federal government of hundreds of millions of dollars. Previously, the Board advised GSA to use a broker to assist in the marketing of the High Value

Assets, and as a result, GSA awarded a contract in January 2021 to a brokerage firm. In April, 2021 GSA terminated the contract and GSA decided to use its standard online auction process. This termination cost the government in excess of $300,000. One of these High Value Assets, the Chet Holifield Federal Building in Laguna Niguel (Orange County), CA, online auction opened in March 2023 and closed in April ***without receiving any bids***. This property is 90 acres in the middle of Orange County and the inconceivable lack of bidding reflects sales process issues as opposed to a lack of value. The PBRB has initiated a study of this disposition. To date, we have learned that one of the primary factors resulting in this lack of market interest was the historic preservation requirements to maintain the existing building, and GSA's decision to reject acceptable alternatives. Another factor was the lack of publicity: out of 22 surveyed local commercial developers, 16 were not aware of the auction since no commercially-standard process of marketing was used. A third factor was uncertainty surrounding the zoning and local community intent. This asset remains unsold while negotiations continue with the historic preservation agencies. We have advised GSA that a consultant is needed to facilitate this sale given the complexities with historic preservation and potential rezoning once the property leaves federal ownership. The government needs to demonstrate innovation in how these excess properties are managed, and the Board needs more authority in determining the disposal strategy.

Finally, we recognize that GSA is the central repository of data and information regarding the utilization and condition of the federal inventory. In order to make our recommendations, we need access to the current Federal real property data. However, we have not received a response from OMB to our request in March to gain access to this data, which is maintained in the Federal Real Property Profile (FRPP) system. Also, the Board has not received a list of properties recommended by agencies for consolidation and disposal that was due from OMB in March. This lack of data and information was addressed in a May 3, 2023 letter to the House Committee on Transportation and Infrastructure, House Committee on Oversight and Government Reform, the Senate Committee on Environment and Public Works, the Senate Committee on Homeland Security and Governmental Affairs, and the House and Senate Committees on Appropriations, in accordance with Section 11 of FASTA. Finally, OMB has denied the PBRB Executive Director a seat on the Federal Real Property Council - a meeting of senior federal property executives - further stifling the PBRB's access to information it needs about the shifting federal workplace. We look forward to working with GSA and OMB to access the required data and information they may have so we can more effectively partner on this important program.

Moving forward, the PBRB's approach seeks to capitalize on the opportunities presented by the new normal of post-COVID work. As you are aware, agencies are still trying to determine what their workplace environment will consist of in the post-COVID era as more agencies have adopted flexible work arrangements, remote work, and telework. Federal office buildings likely will continue to experience high vacancy rates and as a result, we expect more buildings to become excess to the government. Therefore, we have suggested legislation extending our sunset date to give us time to work with agencies to identify these excess properties. Repurposing these excess buildings will not only reduce the federal government's facility operating costs, but will also energize the local community as these buildings are redeveloped and placed back on the local tax basis. Good examples of our strategy include:

- The Lipinski Building on Chicago's Gold Coast, with an estimated value exceeding $25 million, which houses one sole agency, and which has been historically underutilized. As other federal agencies are able to consolidate, the tenant of the Lipinski Building can move out of the building and produce a cost savings and a positive return on investment.
- The DHS Headquarters consolidation out of the Nebraska Avenue Complex and into Saint Elizabeth's here in D.C. Moving out of the NAC will create a value of approximately $82 million, and significant cost savings over 30 years.

We thank you for your time and consideration, and I look forward to answering any questions you may have.

If asked:

Q: How does the PBRB conduct its real estate analysis?

A: The PBRB uses whatever data it can find, to include a set from the Federal Real Property data which is two years old, and has hired Jones Lang Lasalle to perform commercial due diligence.

Q: How much money is in the Asset Proceeds and Space Management Fund?

A: GSA reports approximately $194 million currently in the fund. We expect another $100-$300 million from the sale of Menlo Park and Laguna Niguel.

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Q: When did the Board lose/re-gain quorum?

A: The Board **lost** quorum in January 2022, and **re-gained** quorum in November 2023.

Q: How long should an extension be?

A; The Board believes an extension to December 2026 would be useful to execute its mission.