

STATEMENT OF THE HONORABLE EMILY W. MURPHY
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BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

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Good morning Chairwoman Titus, Ranking Member Meadows, and Members of the Subcommittee. My name is Emily Murphy, and I am the Administrator of the U.S. General Services Administration (GSA). I am here today to discuss GSA's congressionally-mandated outlease of the Old Post Office Building (OPO) and GSA's responses to document requests from the Committee.

I would first like to thank Chairwoman Titus and Members of this Subcommittee for the invitation to appear before you this morning. This is my first time testifying before the Subcommittee since I became Administrator in December 2017.

GSA's mission is delivering value and savings in real estate, acquisition, technology, and other mission-support services across government. I am proud to say that in fiscal year 2019 alone GSA was able to save Federal agencies more than \$7 billion, allowing agencies to dedicate those resources to mission needs. Moreover we were able to do this while improving the agency culture and saw our "Best Places to Work in the Federal Government" rating improve to 75.6, our fifth straight year of improvement and the agency's best rating ever. This rating places GSA second across all of government for agencies with more than 6,000 employees, only behind the National Aeronautics and Space Administration.

Vital to our success over the last several years are the partnerships our agency has built with suppliers, customer agencies, and Congress. As you know, this Subcommittee and GSA have had a long and productive partnership, under both Democratic and Republican leadership, which has resulted in more efficient and effective management of GSA's federally owned and leased portfolio. This collaboration has resulted in GSA optimizing and rightsizing our owned and leased portfolios, saving the taxpayer billions of dollars. This has allowed Federal agencies to invest more resources into core agency missions and related activities, instead of real estate.

Later in my testimony, I will discuss two current GSA initiatives that I believe the Subcommittee and GSA can work on together to deliver increased value to federal agencies: investing in GSA's owned-portfolio and restoring funding to address GSA's pressing need to address a growing repair and maintenance backlog.

As you may remember, Dan Mathews, the Commissioner of GSA's Public Buildings Service (PBS), testified before you last September. As part of his testimony, he provided a narrative

timeline of the OPO lease. While I am happy to answer questions about the timeline today, in the interest of time, I would like to focus my opening statement on GSA's efforts to accommodate the Committee's interest in this topic, as well as on the challenges and opportunities facing both GSA and this Committee.

First, GSA has provided the vast majority of what the Committee has asked for with regard to the OPO related requests. As of today, GSA has provided more than 3,700 documents totaling more than 10,000 pages on this topic alone, which is only a part of the more than 7,000 documents and nearly 30,000 pages GSA has provided to this Committee on numerous topics since I became Administrator in December of 2017.

With regard to the OPO requests, it is my understanding that the only outstanding documents fall into two categories. In the first category are agency legal opinions regarding the OPO lease. These documents are highly deliberative in nature and contain attorney-client communications that implicate core confidentiality interests of the Executive Branch. It is the long-standing practice of multiple Administrations of both parties generally not to disclose internal legal advice, especially in the absence of any articulation of a particularized congressional need.

The second category includes confidential financial records provided by the tenant pursuant to the terms of the lease. Prior to October 24, 2019, GSA was unable to provide those materials without violating the terms of the lease. However, following receipt of the Committee's subpoena, GSA offered on November 12, 2019, to make the unredacted records available for the Committee's review, provided the Committee agreed not to publicly disclose the information contained within the records without GSA's consent.

The purpose of the condition on GSA's offer was not to "resist" congressional oversight, but rather to preserve the confidentiality of proprietary information provided by those who seek to do business with the government. If tenants and suppliers come to believe that GSA will not protect their confidential data, then it will be much more difficult--and expensive--for GSA to acquire space, goods, and services for our federal customers. While the Committee has not yet agreed to these terms, I am hopeful you will agree soon, as our offer to view the documents still stands.

Turning to the two initiatives I mentioned earlier, GSA is making strategic investments in its owned real estate portfolio of more than 1,600 assets, such as modernizing and expanding land ports of entry (LPOEs) on the northern and southern border. Two specific projects that I would like to bring to the Subcommittee's attention are the expansion of the Alexandria Bay LPOE in Upstate New York and the Calexico West LPOE in Southern California.

Now that Congress has recently funded specific phases of these projects, as well as passed the United States-Mexico-Canada Agreement, it is important that GSA controlled LPOEs on the northern and southern border are modernized and sustainable for the future. This will ensure that our partners at U.S. Customs and Border Protection, the Food and Drug Administration, and the U.S. Department Agriculture - just to name a few - will have state of the art facilities that promote legal trade, tourism, and commerce with our North American partners.

GSA's leased portfolio consists of more than 8,000 leases equating to almost 200 million rentable square feet of space. Leasing represents more than half of PBS's total expenditures and 66 percent of those leases are due to expire during the next five years. That's more than 100 million square feet of leased set to expire. The lifetime contract value of these leases is about \$60 billion dollars. Over the next few years, GSA will work closely with this Subcommittee, through the lease prospectus process, to cut billions of dollars from that figure by negotiating longer firm terms with lessors in order to secure lower rental rates, concessions, and other discounts.

Finally, I would like to highlight to the Subcommittee an issue that continues to negatively impact GSA's ability to invest in its existing buildings and construct new facilities - not providing GSA the authority to access and spend all of the revenues collected in the Federal Buildings Fund (FBF).

The FBF is an intra-governmental fund authorized and established by Congress that is subject to annual spending limits as part of the appropriations process. Beginning in 1975, the FBF replaced direct appropriations from Congress as the primary means of funding the operating and capital costs associated with public buildings under the custody and control of GSA. Specifically, GSA charges federal agencies rent for space they occupy in GSA-owned or leased facilities and deposits those funds into the FBF. Congress then exercises control over the FBF through the appropriations process, by setting annual obligational limits on how much of the fund can be expended for various activities.

Since FY2010, total deposits and collections into the FBF have substantially exceeded the amounts Congress has allowed GSA to spend. As a result, the year-over-year fund balance in the FBF has continued to grow and now exceeds \$8 billion, forcing GSA to delay repairs on dozens of buildings. In recent years, this problem has grown even more acute with GSA receiving nearly \$4.4 billion less than it has requested over the last four fiscal years.

This funding shortfall has most severely impacted the backlog of GSA's capital investment needs over the same time period: GSA now has a backlog of \$1.93 billion in immediate repairs needed to restore or maintain a building's acceptable condition. Only approximately half of GSA's requested projects have received full or partial funding over the last three years. The impact of this shortfall will only continue to grow unless Congress takes action since GSA operates and maintains a portfolio of over 1,600 federally owned assets, in which the average building age is more than 50 years. Furthermore, historic assets, meaning those listed or eligible for listing on the National Register of Historic Places, comprise 25 percent of GSA's portfolio. As appropriation allowances continue to fall below the amount of rent collected, GSA is forced to defer critical repairs, suspend capital reinvestment, and forego new construction and consolidation opportunities.

I would ask that Members of this Subcommittee support and advocate for GSA's annual budget request to be able to spend projected FBF collections. This will allow GSA to make critical

maintenance and repair investments in existing infrastructure, as well as construct new facilities, allowing the Federal government to better carry out its mission.

With that, I again thank the Committee for their time today and welcome any questions.