



Office of Audits  
Office of Inspector General  
U.S. General Services Administration

# GSA's Decisions to Vacate And Renovate the Leased Federal Courthouse in Pensacola Are Based on Faulty Premises

*Report Number A150132/P/4/R17001  
October 25, 2016*



Office of Audits  
Office of Inspector General  
U.S. General Services Administration

## REPORT ABSTRACT

### OBJECTIVES

The audit objectives were to determine whether:

- GSA's decisions to vacate the 1 North Palafox Street courthouse and relocate tenants into temporary leased space were supported by environmental surveys;
- GSA's short- and long-term plans for the 1 North Palafox Street courthouse and the housing for its former tenants are supported by building assessments, financial analyses, and legal opinions; and
- GSA's choice of temporary space meets the tenants' needs.

**Southeast Sunbelt  
Region Office (JA-4)  
401 West Peachtree  
Street, NW, Suite 1701  
Atlanta, GA 30308-3510  
(404) 331-5125**

### **GSA's Decisions to Vacate and Renovate the Leased Federal Courthouse in Pensacola Are Based on Faulty Premises**

Report Number A150132/P/4/R17001

October 25, 2016

#### **WHAT WE FOUND**

The PBS Commissioner's decision to vacate the 1 North Palafox Street (Palafox) courthouse and the GSA Administrator's decision to place tenants into temporary leased space were based on a finding of "widespread" mold in the building. However, 19 environmental surveys performed in the building since October 2014 found no evidence that mold was "widespread" and that tenants should be relocated. The rooms affected by mold make up only 3.7 percent of the building's usable square feet, and PBS contained or cleaned these rooms immediately after they were identified.

Due to the decision to vacate the courthouse, PBS has incurred over \$7.3 million in related costs, on top of the \$4.7 million in rent payments for the remainder of the lease for the now vacant courthouse. In addition, GSA's choice of temporary leased administrative space is problematic and the vacant courthouse is at risk for further deterioration.

PBS plans to spend over \$30 million initially and \$17 million at a later date to partially renovate Palafox. PBS's choice of this option over the lower cost option of building a new courthouse is based on a flawed financial analysis and does not provide a solution that is in the best interest of the tenants or the taxpayer. PBS's financial analysis does not compare equivalent options because PBS based the scope of the renovation on the amount of the funds available rather than the work needed to bring the courthouse up to current building standards. In addition, PBS's analysis understates the cost of the renovation and overstates the cost of a new courthouse.

PBS's plan will result in a renovated Palafox courthouse that is larger, more expensive, and **REDACTED**\* than a new courthouse built to current courthouse design standards.

\* Information deemed sensitive but unclassified building information has been redacted from this report.

## WHAT WE RECOMMEND

We recommend that the GSA Administrator direct PBS to:

1. Reanalyze options for housing the tenants of the 1 North Palafox Street courthouse. As part of this analysis, PBS should:
  - Ensure an equal comparison of the options is reflected;
  - Ensure that the designs for the renovation, new, and leased construction options meet current building standards;
  - Ensure the designs for the new and leased construction options comply with the U.S. Courts Design Guide;
  - Ensure the estimated reversion values of the new and leased courthouse options are developed by an independent appraiser;
  - Ensure lease-buyout and other potential settlement costs are incorporated; and
  - Develop and incorporate realistic project schedules into the financial analysis that are based on historical performance of projects with similar scope or scale.
2. Suspend all contracts and procurements for the prospectus project until PBS secures ownership of the 1 North Palafox Street courthouse, if PBS's revised analysis demonstrates that ownership is in the best interest of the government.
3. Develop and implement a solution to address the tenants' security, privacy, and storage concerns at the **REDACTED** leased space.
4. Implement an interim solution to address security, water intrusion, and mold issues, as well as sanitary conditions, at the 1 North Palafox Street courthouse.

## GSA COMMENTS

In its response to our report, GSA disagreed with most of our findings and recommendations and reaffirmed its decision to proceed with a partial renovation of the courthouse. GSA's comments can be found in their entirety in **Appendix C**.

We reaffirm our conclusions and findings and address specific comments made by GSA in **Appendix D**.

**Southeast Sunbelt  
Region Office (JA-4)  
401 West Peachtree  
Street, NW, Suite 1701  
Atlanta, GA 30308-3510  
(404) 331-5125**

---

## **Table of Contents**

---

<b>Introduction</b> .....	<b>1</b>
<b>Results</b>	
<i>Finding 1 – GSA’s decisions to vacate the 1 North Palafox Street courthouse and relocate tenants into temporary leased space based on “widespread” mold were not supported by environmental surveys. As a result of these decisions, PBS has incurred over \$7.3 million in related costs.....</i>	<i>7</i>
<i>Finding 2 – GSA’s plans to take ownership of and renovate the 1 North Palafox Street courthouse are not properly supported by an accurate and complete financial analysis.....</i>	<i>11</i>
<i>Finding 3 – GSA’s choice of temporary space at REDACTED [REDACTED] was unnecessary, does not meet all tenant needs, and REDACTED [REDACTED] .....</i>	<i>17</i>
<i>Finding 4 – The vacated 1 North Palafox Street courthouse is at risk for REDACTED [REDACTED], and further deterioration. ....</i>	<i>18</i>
<b>Conclusion</b> .....	<b>19</b>
<b>Recommendations</b> .....	<b>20</b>
<i>GSA Comments</i> .....	<i>20</i>
<b>Appendixes</b>	
<b>Appendix A – Scope and Methodology</b> .....	<b>A-1</b>
<b>Appendix B – Prospectus Sources of Funding</b> .....	<b>B-1</b>
<b>Appendix C – GSA Comments</b> .....	<b>C-1</b>
<b>Appendix D – OIG Response to GSA Comments</b> .....	<b>D-1</b>
<b>Appendix E – Report Distribution</b> .....	<b>E-1</b>

---

## **Introduction**

---

We performed an audit of GSA's decisions to vacate the 1 North Palafox Street leased federal courthouse in Pensacola, Florida; relocate tenants into temporary leased space at **REDACTED**; and, take ownership of and renovate the 1 North Palafox Street leased federal courthouse.

### **Purpose**

We initiated this audit in response to complaints received through the Office of Inspector General's (OIG) Fraud Hotline. The complaints alleged that PBS management unnecessarily relocated tenants from the 1 North Palafox Street leased federal courthouse without scientific evidence that the building is unsafe to occupy.

### **Objectives**

Our audit objectives were to determine whether: (1) GSA's decisions to vacate the 1 North Palafox Street courthouse and relocate tenants into temporary leased space were supported by environmental surveys; (2) GSA's short- and long-term plans for the 1 North Palafox Street courthouse and the housing for its former tenants are supported by building assessments, financial analyses, and legal opinions; and (3) GSA's choice of temporary space meets the tenants' needs.

### **Background**

The leased federal courthouse at 1 North Palafox Street in Pensacola, Florida (Palafox), was built in 1997 for approximately \$10 million by a developer as a lease construction project. For this project, the developer/lessor constructed and leased the building as a courthouse to GSA based on the Agency's requirements. According to the terms and conditions of the lease, PBS's Southeast Sunbelt Region is responsible for all maintenance and repairs to the courthouse, including mold remediation.<sup>1</sup> The term of the lease is for 20 years expiring on July 31, 2017, with two 5-year lease options. According to GSA's Office of General Counsel, GSA can take ownership of the site and the courthouse at the end of the initial lease term. The tenants included the U.S. District Court for the Northern District of Florida (District Court); the U.S. Marshals Service; the U.S. Attorney's office; and staff for a U.S. Senator.

Since occupancy began in 1998, Palafox has had various water intrusion and isolated mold issues. Complaints about water intrusion have been documented since before the tenants took occupancy through 2015. However, PBS has not been able to correct the problems. As early as 1999, an architectural consultant confirmed water intrusion on all

---

<sup>1</sup> GSA's Southeast Sunbelt Region, headquartered in Atlanta, Georgia, provides products and services to federal agency clients located in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

floors and tied the leaks to storm intensity and wind direction. Between 2003 and 2008, PBS spent \$1.4 million trying to correct the problems. The most expensive project was in 2006 and cost \$800,000. This project replaced three sections of the roof system, installed exterior flashing, and added weep holes to the exterior brick wall system.<sup>2</sup> However, this did not fix the issues and the building continued to experience water intrusion. In 2007, PBS's Asset Business Plan stated that GSA would need to replace Palafox between 2017 and 2022, and that the building consumes an excessive amount of energy.

In February 2012, in response to tenant complaints, PBS requested Federal Occupational Health (FOH) conduct a limited indoor air quality survey for mold on the third and fourth floors.<sup>3</sup> FOH found that the air and surface samples taken from the building were within acceptable levels.<sup>4</sup> FOH also found that moisture measurements throughout the sampled indoor spaces were dry with the exception of a breakroom with minor moisture next to a window sill.

In May 2014, a major disaster declaration was issued for Pensacola, Florida, due to flooding from severe storms and heavy rainfall. The flooding affected Palafox and led to water in the building. In June 2014, PBS began developing renovation projects to repair the water intrusion sources and remediate mold. PBS planned to implement an interim solution to repair and remediate the occupied building for a budget of \$800,000 while concurrently developing a prospectus submission for a comprehensive repair.

In September 2014, PBS contracted with an architecture firm for \$1.4 million to determine the causes and effects of the water intrusion. The architecture firm subcontracted with ten consultants, one of which is an indoor air quality consultant (IAQ consultant) and, from September to November, they reviewed Palafox's on-site conditions and history of the building issues. They also performed destructive testing, infra-red thermography examinations, moisture metering, water testing, and laboratory analyses of material samples. The destructive testing included cutting openings in brick walls, removing a section of existing gutters, cutting interior drywall under full containment, and pulling up carpet to test for water intrusion and mold. The testing was performed to determine the extent to which the water intrusion through the roof and brick walls affected the interior building environment. These tests and analyses were performed throughout Palafox.

In November 2014, the IAQ consultant started performing monthly air monitoring and surface sampling in Palafox. In December 2014, PBS's architecture firm and its ten

---

<sup>2</sup> Flashing is thin pieces of material installed to prevent water from entering the courthouse. Weep holes are openings between bricks and masonry walls that allow water to drain and allow ventilating air to enter behind the wall and dry the courthouse.

<sup>3</sup> FOH is a non-appropriated agency within the Program Support Center of the U.S. Department of Health and Human Services. FOH works with federal agencies to design and deliver health solutions to federal employees.

<sup>4</sup> There are no federal standards or codes for airborne concentrations of mold. The standard industry practice is to compare indoor airborne mold levels to outdoor levels to determine acceptable levels.

consultants, including the IAQ consultant, issued a report on their findings from their reviews performed from September to November 2014.<sup>5</sup>

Prior to the architecture firm’s evaluation, on-site personnel suspected that a water barrier had not been installed in the exterior walls during the original construction in 1997. However, destructive testing confirmed the presence of a water barrier. The destructive testing also discovered the absence of weep holes in the fourth floor roof areas where the 2006 renovation took place. The architecture firm determined that the weep holes may not have been reinstalled during that renovation. The report identified water intrusion points in the interior and exterior gutters, windows, exterior wall, roofs, and plumbing chases.<sup>6</sup> The architecture firm concluded that these conditions resulted from poor construction practices when Palafox was built and estimated it would cost approximately \$8 million to fix the water intrusion issues.

The IAQ consultant identified 44 rooms needing remediation, which includes repairing, replacing, or cleaning carpet, walls, and ceilings, as depicted in *Table 1* below.

**Table 1 – Results of IAQ Consultant’s Environmental Surveys**

<b>Reason for Remediation</b>	<b>Number of Rooms</b>
<b>Potential for Mold Exposure</b>	
Elevated Airborne Mold Levels and Surface Mold	3
Surface Mold	6
<i>Subtotal</i>	<u>9</u>
<b>No Potential for Mold Exposure</b>	
Tenant Reports of Previous Water Intrusion	18
Surface Mold in Enclosed Spaces	16
Bathroom, Small Amount of Mold Cleaned During Assessment	1
<i>Subtotal</i>	<u>35</u>
<b>Total</b>	<b><u>44</u></b>

The IAQ consultant found potential for occupant exposure to mold in 9 of the 44 rooms identified for remediation. Six of these rooms had surface mold and three had both elevated airborne mold levels and surface mold. Three of the nine rooms also contained traces of *Stachybotrys*, a toxigenic mold sometimes called “black mold” that can grow in drywall. By February 2015, PBS had contained these nine rooms at the recommendation of the IAQ consultant, one of which contains a private bathroom that also was contained. As a safety precaution, PBS added polyethylene over the doorways

<sup>5</sup> *Comprehensive Investigation Report of Existing Water Intrusion - Volume 1: Water Intrusion Findings, Assessment, and Recommendations; and Volume 2: Indoor Air Quality Findings and Assessment* (December 22, 2014).

<sup>6</sup> Chases are hollow sections of the wall or ceiling that pass from one space to another and are built to hide plumbing and duct work.

and installed air scrubbers with HEPA filters. In total, PBS contained 2,150 of the building's 69,015 usable square feet.

The IAQ consultant found no potential for mold exposure in 35 of the 44 rooms identified for remediation. Eighteen of the 35 rooms had been identified based on tenant reports to the IAQ consultant that water had previously leaked in those rooms; however, the IAQ consultant found no evidence of active mold growth in those rooms. Sixteen rooms had surface mold in enclosed spaces in the courthouse, such as plumbing chases. The IAQ consultant told us that there was no potential for occupants to be exposed to the mold in these spaces. In the last of these 35 rooms, a bathroom, the consultant cleaned a small amount of mold found during the assessment.

In early December 2014, the District Court Chief Judge and her staff relocated to the nearby Winston E. Arnow U.S. Courthouse (Arnow). In January 2015, the Chief Judge told PBS it should relocate all building tenants, repair Palafox, and move the tenants back after the renovations were complete.

Also in January 2015, the Administrative Office of the United States Courts (AOUSC) contracted with FOH to perform an additional IAQ survey on the second through fifth floors of Palafox.<sup>7</sup> Concurrently, PBS contracted with FOH to survey the first floor. FOH did not perform sampling in six of the nine rooms that were contained because the rooms were already contained at the time of the testing. FOH issued its surveys in March 2015.<sup>8</sup> According to the surveys, the total indoor airborne mold levels in all sampled areas of the building were acceptable. However, FOH found *Stachybotrys* in a carpet sample in two rooms, and surface mold in one of these rooms near a window. The room with the carpet and surface mold is one of the nine contained rooms. FOH recommended thoroughly cleaning all surfaces and carpeting in these rooms, and general cleaning and maintenance of the building's ventilation system.

In February 2015, the senatorial staff vacated Palafox. In March 2015, after GSA received correspondence from the Chief Judge and congressional inquiries about the issue, the region's renovation projects were put on hold pending a meeting in Pensacola, Florida, between the PBS Commissioner, Norman Dong, and the Chief Judge. During that April 1, 2015, meeting, the PBS Commissioner decided to relocate all tenants from Palafox. Soon after, PBS began gathering tenant space requirements, studying whether tenants could relocate into Arnow, developing a prospectus submission to remediate and repair Palafox, and searching for leasing options in close proximity to Palafox.

---

<sup>7</sup> The AOUSC provides administrative support, program management, and policy development to the federal courts.

<sup>8</sup> U.S. Department of Public Health Service, Federal Occupational Health, *Indoor Air Quality Survey: Completed for the Administrative Office of the United States Courts* (Survey date January 5-9, 2015) (FOH Survey, Floors 2-5); U.S. Department of Public Health Service, Federal Occupational Health, *Indoor Air Quality Survey: Completed for the General Services Administration* (Survey date January 20-21, 2015) (FOH Survey, Floor 1).



On May 20, 2015, the Committee on Transportation and Infrastructure of the U.S. House of Representatives (House T&I Committee) adopted a resolution directing the GSA Administrator to investigate and identify a long-term space solution for Palafox.

In June 2015, the Acting GSA Administrator, Denise Turner Roth, approved the award of a 5-year lease for temporary space at **REDACTED**. The lease award authorization documents state that the award was based on exceptional circumstances, including “widespread” mold throughout Palafox, “escalating health concerns” from the tenants, and that the tenants “demanded to be immediately moved” and “placed into temporary space.”<sup>9</sup> In late June 2015, the Acting GSA Administrator received a letter from 13 members of Congress asking her to consider the “substandard conditions” at Palafox when assessing the feasibility of courthouse replacement, in accordance with the resolution adopted on May 20, 2015, by the House T&I Committee. By June 30, 2015, the remaining Palafox tenants were relocated to Arnow or to **REDACTED**.

Also in May and June 2015, PBS’s national and regional cost estimators developed estimates to replace and repair building problems and upgrade the courthouse. They determined that renovations would cost PBS over \$55 million if performed in the next 3 to 4 years. However, PBS’s Central Office officials estimated that \$30 million could be reprogrammed from other projects, and instructed the technical experts to develop a scope of work within that budget. During a meeting on September 11, 2015, PBS management and the tenants agreed on the reduced scope of work.

On September 14, 2015, we issued a Management Alert to the GSA Administrator stating that we were unable to find evidence supporting the finding that mold was “widespread” in the courthouse and that all the tenants should be relocated pending remediation.<sup>10</sup> We reported that PBS had incurred over \$6 million in project-related costs, and was considering a lessor’s proposal for temporary lease space for an additional courtroom at the former Capt’n Fun Sports Bar and Nightclub. This space needed major repairs and alterations, and was projected to cost more than \$12 million over the 5-year term of the lease.<sup>11</sup> After issuance of our Management Alert, PBS cancelled the procurement on October 5, 2015.

When we issued the Management Alert, PBS was preparing a prospectus to take ownership of and renovate Palafox. In December 2015, PBS informed the City of Pensacola of its intention to take ownership of the Palafox courthouse and land. The following month, PBS responded to the May 2015 resolution, informing the House T&I

---

<sup>9</sup> *Determination and Findings to Authorize Multi-Year Lease and Decision Paper*, executed by the Acting GSA Administrator on June 12, 2015, and *Justification for Other Than Full and Open Competition, New Lease*, executed by the PBS Regional Commissioner, on June 12, 2015. These documents authorized PBS to negotiate and award, without full and open competition and based on exceptional circumstances, a temporary lease for the immediate relocation of building occupants for a term of 5 years.

<sup>10</sup> *OIG Management Alert: PBS Lacks Support for Its Decision to Vacate the Leased Federal Courthouse in Pensacola, Florida* (Audit Memorandum Number A150132).

<sup>11</sup> The Capt’n Fun Sports Bar and Nightclub was ultimately demolished in February 2016.

Committee of its intention to take ownership of and renovate the courthouse for \$30,781,000.

In February 2016, in anticipation of congressional approval to renovate Palafox, PBS awarded a contract for more than \$330,000 in architecture and engineering services to develop a program of requirements for the renovation project.

On March 31, 2016, GSA submitted a \$30,781,000 prospectus proposal to Congress to take ownership of and perform a limited alteration of Palafox. The proposal includes architecture, engineering, construction, and management and inspection services to repair the building exterior and roof, remediate mold, and repair interior finishes damaged by water. It also includes upgrades for security; fire protection; mechanical, electrical, and plumbing systems; restrooms; and landscaping. At the same time, PBS sent a letter to Congress requesting to reprogram funds from 23 previously funded building projects.

In April 2016, in anticipation of congressional approval to renovate Palafox, the PBS Deputy Commissioner provided authorization to PBS regional personnel to issue the Requests for Proposal for the architecture, engineering, and construction outlined in the prospectus proposal. On April 20, 2016, the House T&I Committee approved GSA's prospectus proposal to perform a limited alteration of Palafox for \$30,781,000. On April 28, 2016, the U.S. Senate Committee on Environment and Public Works approved the prospectus.

On July 22, 2016, GSA revised its request to reprogram funds for the \$30,781,000 limited alteration, stating that it intends to use funds from 35 previously funded building projects, 6 of which represent more than \$14 million and are still in progress. See **Appendix B** for details. This request was approved by the Subcommittee on Financial Services and General Government of the U.S. Senate Appropriations Committee on August 1, 2016, and by the Subcommittee on Financial Services and General Government of the U.S. House of Representatives Appropriations Committee on August 16, 2016.

On September 14, 2016, PBS cancelled the solicitation for the architecture, engineering, and construction services. A PBS official told us that PBS is preparing a new solicitation for architecture and engineering services.

See **Appendix A** – Scope and Methodology for additional details.

---

## Results

---

The PBS Commissioner's decision to vacate Palafox and the GSA Administrator's decision to place tenants into temporary leased space were based on a finding of "widespread" mold in the building. However, 19 environmental surveys performed in the building since October 2014 found no evidence that mold was "widespread" and that tenants should be relocated. The rooms affected by mold make up only 3.7 percent of the building's usable square feet, and PBS had contained or cleaned these rooms immediately after they were identified. Due to the decision to vacate the courthouse, PBS has incurred over \$7.3 million in related costs, on top of the \$4.7 million in lease payments for the now vacant courthouse.

PBS's plan to take ownership of and renovate Palafox for more than \$30 million is based on a flawed financial analysis and does not provide a solution that is in the best interest of the tenants or the taxpayer. PBS's financial analysis shows that renovating the courthouse is comparable to the lowest cost option of building a new courthouse. However, PBS did not scope the renovation work to include all measures needed to bring Palafox up to current building standards; instead, it based the scope on the amount of funds available. As a result, PBS's financial analysis does not reflect a comparison of equivalent options. In addition, PBS used a variable in its analysis that understated the cost of the renovation. Moreover, PBS overstated the cost of the new and leased courthouse options by including in the scopes of work for those options significantly more space than PBS officials believe is appropriate under current courthouse design standards. These flaws serve to make the cost of renovation appear far closer to the cost of building a new courthouse than it actually may be. PBS's plan to conduct a partial renovation of a troubled building will result in a courthouse that is larger, more expensive, and REDACTED than a new courthouse built to current courthouse design standards.

Further, GSA's choice of temporary leased space at REDACTED was unnecessary, does not meet the tenants' needs, and REDACTED, and the vacated Palafox is at risk for further deterioration.

**Finding 1 – GSA's decisions to vacate the 1 North Palafox Street courthouse and relocate tenants into temporary leased space based on "widespread" mold were not supported by environmental surveys. As a result of these decisions, PBS has incurred over \$7.3 million in related costs.**

In April 2015, the PBS Commissioner decided to vacate Palafox, and in June 2015, the GSA Administrator authorized the award of a multi-year lease for temporary space to relocate the Palafox tenants. The lease award authorization document cites

“widespread” mold throughout the building.<sup>12</sup> However, environmental surveys do not support that mold was “widespread.” We also found that PBS’s Central Office officials did not sufficiently consider repairing and remediating the building while it was occupied. As a result of vacating Palafox, GSA has incurred over \$7.3 million in related costs, and is spending an additional \$4.7 million in lease payments for the now vacant courthouse.

### **“Widespread” Mold Finding is Not Supported**

The PBS Commissioner told us that he made the decision to relocate the tenants of Palafox based on a finding of “widespread” mold throughout the building. However, we found no support for the finding that the mold is “widespread.” The three environmental surveys that the IAQ consultant and FOH performed between October 2014 and January 2015 identified elevated airborne mold levels and surface mold in only limited areas of Palafox. The rooms affected by the mold make up only 3.7 percent of the building’s usable square feet, and PBS had contained or cleaned these rooms by February 2015. Further, 16 additional environmental surveys conducted by the IAQ consultant throughout Palafox between November 2014 and June 2016 have found no additional areas of concern. PBS’s Southeast Sunbelt Region Risk Management Branch, which manages regional programs for facility safety and health, agreed with the results of the environmental surveys and concluded that the building is healthy. In addition, the IAQ consultant told us that the building is suitable for occupancy.

When asked about the basis for the finding of “widespread” mold, the PBS Commissioner said that when he toured the building, it was evident to him that there was “widespread” mold because he could smell it. He said he did not rely on the environmental surveys, which found only limited affected areas. He also said that the environmental testing performed by the IAQ consultant and FOH was inadequate, that a comprehensive analysis of the mold in the building was not performed, and that the IAQ surveys cannot be relied upon. He referred us to a 2012 National Institute for Occupational Safety and Health (NIOSH) Alert that questions the overall reliability of air sampling for mold and encourages other mold detection methods.<sup>13</sup> He said that NIOSH does not recommend routine air sampling for mold in damp building evaluations because air concentrations of molds and spores cannot be interpreted with regard to health risk and are highly variable over time.

---

<sup>12</sup> *Determinations and Findings to Authorize Multi-Year Lease and Decision Paper*, executed by the Acting GSA Administrator on June 12, 2016, and *Justification for Other Than Full and Open Competition, New Lease*, executed by the PBS Regional Commissioner, on June 12, 2015. These documents authorized PBS to negotiate and award, without full and open competition and based on exceptional circumstances, a temporary lease for the immediate relocation of building occupants for a term of 5 years.

<sup>13</sup> *NIOSH Alert: Preventing Occupational Respiratory Disease from Exposures Caused by Dampness in Office Buildings, Schools, and Other Nonindustrial Buildings*, published by the National Institute of Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services (November 2012). The PBS Commissioner specifically referred us to a highlighted section of the NIOSH Alert at pp.13-14 titled “Is Air Sampling for Mold Necessary?”

However, the PBS Commissioner's response did not consider that environmental testing conducted by the IAQ consultant and FOH in Palafox was not limited to air sampling. The testing included destructive testing, moisture metering, infrared thermography examinations, and surface sampling.<sup>14</sup> These tests found that exposure to mold was limited to the areas that were contained. Further, when asked why PBS performed air sampling in Palafox if the method was unreliable, the PBS Commissioner told us that using the NIOSH Alert is a new PBS best practice. However, we found no indication that PBS has adopted the NIOSH Alert as a best practice. PBS continues to use air sampling for mold in Palafox, as well as in other buildings in its inventory, and has issued no guidance based on the NIOSH Alert.

We also asked FOH about the NIOSH Alert since they reference it in the FOH surveys. The NIOSH Alert excerpt quoted in the FOH surveys states:

Even with containment, building occupants may be exposed to dampness-related contaminants during remediation work. Therefore, prior to the start of any remediation work, management should strongly consider relocating occupants who might be exposed during the remediation. This is especially true if several building occupants have developed building-related respiratory symptoms or disease that suggests high health risk from dampness-related exposures.<sup>15</sup>

FOH senior officials told us that they included a discussion of relocation considerations in their surveys at the request of the District Court. They also told us that the inclusion of the discussion was not meant to imply that Palafox should be vacated.

In support of the decision to relocate, the PBS Commissioner also gave us a document that listed symptoms for 51 unidentified building occupants. We learned that the District Court developed this document at FOH's request for a list of locations in Palafox where occupants were having problems. FOH used the document to develop a sampling plan for the tests it conducted in early 2015. However, like PBS's architecture and IAQ consultants, after conducting its tests, FOH did not find "widespread" mold.

### **Plan to Remediate the Building While Occupied Was Not Sufficiently Considered**

The decision to vacate the building also appears to have been made without sufficiently considering the region's plan to repair and remediate Palafox while the building remained occupied. Prior to the decision to relocate tenants, PBS's architecture and IAQ consultants had developed a remediation plan to mitigate any active water leaks or conditions that may pose a health risk until permanent solutions were implemented. PBS regional personnel were working to implement this approach when the PBS Commissioner made the decision to vacate Palafox. In our initial discussions, numerous

---

<sup>14</sup> The November 2012 NIOSH Alert cites thorough visual testing, moisture metering, and the use of infrared cameras among alternative means of detecting mold (*NIOSH Alert*, pp.14).

<sup>15</sup> *FOH Survey, Floor 1*, pp.20, and *FOH Survey, Floors 2-5*, pp.3.

PBS regional officials stated that the mold could be safely remediated while the building was occupied. In addition, we were told that PBS regional management and staff were opposed to the decision to vacate the building, but fear of repercussion for expressing their disagreement prevented them from voicing their concerns to PBS’s Central Office officials.

In support of the decision to vacate Palafox, the PBS Commissioner told us that the decision not to remediate while the building was occupied was based principally on the NIOSH Alert, which suggests that management should strongly consider relocating occupants who might be exposed to dampness-related contaminants during remediation. However, this Alert also states that careful planning can prevent exposures to building occupants during remediation. Further, neither the IAQ consultant nor FOH recommended relocating building occupants during remediation. Subsequently, PBS’s officials told us that PBS’s history of failure to permanently fix the water intrusion and mold issues had strained the relationship between the tenants and regional personnel and contributed to the decision to vacate.

**PBS has Incurred Significant Costs**

As a result of vacating Palafox rather than remediating while occupied, PBS has incurred over \$7.3 million in related costs as of July 2016, as depicted in *Table 2* below.

**Table 2 – Costs as of July 2016**

	[REDACTED] (Note 1)	Winston E. Arnow	1 North Palafox (Note 2)	Total (Note 3)
Lease payments	\$2,926,000	\$0	\$0	\$2,926,000
Security	846,000	547,000	0	1,393,000
Building renovations	0	819,000	0	819,000
Furniture cleaning/IAQ monitoring	0	0	982,000	982,000
Furniture storage/IAQ monitoring	0	0	675,000	675,000
New furniture and cabling	6,000	196,000	0	202,000
Furniture rental	81,000	0	0	81,000
<b>Subtotal</b>	<b>\$3,859,000</b>	<b>\$1,562,000</b>	<b>\$1,657,000</b>	<b>\$7,078,000</b>
Moving				148,000
Project-related travel				88,000
<b>Total</b>				<b>\$7,314,000</b>

**Notes:**

- (1) Lease term June 30, 2015, to June 29, 2020.
- (2) Does not include lease payments of \$4.7 million (July 1, 2015, to July 31, 2017) for the now vacated Palafox courthouse.
- (3) Dollar amounts are rounded.

As shown in *Table 2*, PBS is spending over \$3.8 million for lease payments, security, new and rental furniture, and cabling at **REDACTED**. At the nearby

Arnold courthouse, PBS spent over \$1.5 million to perform renovations, buy new furniture, and install cabling.

PBS also incurred over \$1.6 million for cleaning and storing Palafox furniture. The IAQ consultant and FOH recommended that PBS clean furniture in a total of five rooms in the courthouse. However, PBS spent \$982,000 to clean all furniture and other office items in Palafox, and for the IAQ consultant to oversee the cleaning. Some of this furniture was later discarded. Much of the cleaned furniture is currently being stored in “clean rooms” in Palafox, which the IAQ consultant is monitoring on a quarterly basis. PBS plans to relocate the cleaned furniture to a new leased facility while the building is being renovated. To monitor and store the cleaned furniture for 3 years will cost \$675,000. The remaining expenditures shown in *Table 2* include moving tenants into temporary swing spaces and project-related travel.

**Finding 2 – GSA’s plans to take ownership of and renovate the 1 North Palafox Street courthouse are not properly supported by an accurate and complete financial analysis.**

PBS’s financial analysis to support taking ownership of and renovating Palafox is misleading. PBS has developed multiple financial analyses to support its decision, with the most recent showing that renovating the courthouse is comparable to the lowest cost option of building a new courthouse. However, we identified significant issues with PBS’s calculations and assumptions, and have determined that the analysis does not reflect a comparison of equivalent options. Further, the analysis does not account for potential challenges by the lessor to GSA’s assumption of ownership of Palafox.

In May 2015, the House T&I Committee passed a resolution directing the GSA Administrator to investigate and identify a long-term space solution for Palafox “to address the space emergency of the U.S. District Court for the Northern District of Florida.” The resolution required that GSA’s response include “a full and complete evaluation including, but not limited to: (i) the identification and cost of potential options and (ii) 30 year present value evaluations of all options, including acceptance of the offer to donate the current building, repair and acquisition.”<sup>16</sup> After the resolution was passed, PBS developed a response while simultaneously developing a Building Prospectus Project submission and a request for reprogramming authority to fund a prospectus submission. PBS sent the response to the House T&I Committee in January 2016.

The response to the House T&I Committee states that PBS intends to take ownership of Palafox and perform a limited alteration at a cost of \$30,781,000. The response also states that the decision to renovate was based on a financial analysis of project alternatives, which included: (1) taking ownership of Palafox and performing a limited

---

<sup>16</sup> *Committee on Transportation and Infrastructure of the U.S. House of Representatives, Committee Resolution: Building Project Survey, U.S. District Court for the Northern District of Florida, Pensacola, Florida (Adopted May 20, 2015).*

alteration and future renovation; (2) taking ownership of Palafox, demolishing it, and building a new, smaller courthouse; and (3) not taking ownership of Palafox and building a new smaller, leased courthouse. See *Table 3* for the financial summary of the project alternatives transmitted to the House T&I Committee.

**Table 3 – PBS’s Financial Analysis,  
Submitted to House T&I Committee on January 12, 2016**

Alternatives	Description	Total Usable Square Feet	Total Present Value Cost <sup>17</sup>
Option 1	Assume Ownership of Palafox, Perform Limited Alteration of \$30,781,000, and Future Renovation Costs of \$17,314,574	69,015	\$43,866,010
Option 2	Assume Ownership of Palafox, Demolish, and Build a New Courthouse for \$50,554,000	57,781	\$45,265,236
Option 3	Do Not Assume Ownership of Palafox, and Build a New Leased Courthouse for Annual Rent of \$3,373,000 for 26 years	57,781	\$87,012,610

In PBS’s financial analysis, Option 1 - the limited alteration and future renovation - is shown as the most cost effective means for housing the District Court, based on the lowest Total Present Value Cost.

The \$30,781,000 limited alteration includes repairing the building exterior and roof and remediating the mold identified in the December 2014 building study. It also includes upgrading security, fire protection, plumbing, mechanical systems, restrooms, elevators, landscaping, and light fixtures. The \$17,314,574 future renovation includes upgrades to plumbing, mechanical, electrical, restrooms, elevators, and security. It also includes adding exterior stairs to the building and sound-proof partitions to the Grand Jury space. According to GSA’s response to the House T&I Committee, these enhancements will be funded from the Southeast Sunbelt Region’s future repairs and alterations allocation, which averages approximately \$30 million annually.

**PBS’s Financial Analysis Is Faulty and Misleading**

After PBS issued its response to the House T&I Committee, we reviewed the financial analysis and identified several concerns with PBS’s calculations. First, PBS did not use Palafox’s recently appraised value of \$332,000 in the financial analysis. Rather, it used \$27,824,000, which is the anticipated value of Palafox after the \$30,781,000 limited alteration. This contradicts the instructions in PBS’s financial analysis software that a pre-renovation appraisal value should be used. Next, PBS did not include the actual relocation and temporary lease costs, as presented in *Table 2*. As a result of our

---

<sup>17</sup> The financial summary uses present value analysis, which is a financial concept that calculates how much a future sum of money is worth today.



concerns, PBS's Central Office and regional staff revised the calculations and sent us a revised analysis on February 4, 2016. See *Table 4* for PBS's revised financial analysis.

**Table 4 – PBS's Revised Financial Analysis,  
Sent to GSA OIG on February 4, 2016**

Alternatives	Description	Total Usable Square Feet	Total Present Value Cost
Option 1	Assume Ownership of Palafox, Perform Limited Alteration of \$30,781,000, and Future Renovation Costs of \$17,314,574	69,015	\$65,714,972
Option 2	Assume Ownership of Palafox, Demolish, and Build a New Courthouse for \$50,554,000	57,781	\$53,463,930
Option 3	Do Not Assume Ownership of Palafox, and Build a New Leased Courthouse for Annual Rent of \$3,373,000 for 26 years	57,781	\$95,638,353

The revised financial analysis in *Table 4* indicates that Option 2 - assume ownership, demolish, and build a smaller courthouse - is the least expensive. Also on February 4, 2016, however, PBS awarded a contract for \$332,000 for architecture and engineering services to develop a design and program of requirements for the Option 1 renovation project.

When we asked whether PBS would select Option 2 and revise and resubmit the House T&I Committee response, PBS's Central Office officials provided us with another revised financial analysis. See *Table 5* for the financial analysis sent to us on February 19, 2016. PBS presented this financial analysis in the March 31, 2016, prospectus submission.

**Table 5 – PBS's Revised Financial Analysis,  
Sent to GSA OIG on February 19, 2016,  
Submitted in GSA's Prospectus Submission on March 31, 2016**

Alternatives	Description	Total Usable Square Feet	Total Present Value Cost
Option 1	Assume Ownership of Palafox, Perform Limited Alteration of \$30,781,000, and Future Renovation Costs of \$17,314,574	69,015	\$56,120,271
Option 2	Assume Ownership of Palafox, Demolish, and Build a New Courthouse for \$50,554,000	57,781	\$53,371,076
Option 3	Do Not Assume Ownership of Palafox, and Build a New Leased Courthouse for Annual Rent of \$3,373,000 for 26 years	57,781	\$100,838,333

The financial analysis in *Table 5* also suggests that Option 2 - assume ownership, demolish, and build a smaller courthouse - is the least expensive. Despite this, PBS's Central Office officials told us that they will continue to support taking ownership of and

renovating Palafox (Option 1). They stated that the cost difference between Options 1 and 2 in *Table 5* was only 5 percent, that PBS does not have enough available reprogramming funds for a new courthouse, and that it would take too long to build a new courthouse.

**PBS’s Financial Analysis Does Not Reflect a Comparison of Equivalent Options.**

While PBS refers to a 5 percent difference between Options 1 and 2, this difference is misleading because the options are not equivalent. Option 1 - the limited alteration and future renovation - will not provide a courthouse that meets current building standards. Most notably, Option 1 does not include costly REDACTED upgrades that would be required for building or leasing a new courthouse as in Options 2 and 3. Therefore, the cost figures presented in Option 1 are not representative of what is actually required to address all of the building’s renovation needs to meet current building standards. Instead, the cost figures reflect the funding available. These and other flaws are discussed below.

In April, May, and June 2015, PBS’s project team developed scopes of work and cost estimates to replace and repair current problems with Palafox (including water intrusion and mold), and upgrade the building to current security design standards. PBS estimated that such renovations would cost over \$55 million if performed in the next 3 to 4 years. However, PBS’s project team told us that PBS’s Central Office officials gave them a \$30 million budget to renovate the building and that they prioritized the scopes of work to meet that budget.

By September 2015, the scope of work was reduced to meet the \$30,781,000 budget. As an example of the reduction in scope, the alteration and renovation option (Option 1) excludes costly REDACTED

[REDACTED]

<sup>18</sup> REDACTED

. A PBS official told us that they are not incorporating REDACTED in Option 1 because they consider the \$30,781,000 project a “limited alteration” and not a major modernization, and as such, the project is not required to comply with the REDACTED.

<sup>18</sup> PBS-P100, *Facilities Standards for the Public Buildings Service* (March 2016), establishes design standards and criteria for new buildings, repairs and alterations, modernizations, lease construction buildings with government option to purchase, and work in historic structures. REDACTED

[REDACTED]

PBS investigated the cost and feasibility of REDACTED [REDACTED]. A PBS official stated that given the nature of the work required to correct the water intrusion issues, the only cost effective time to include REDACTED [REDACTED] measures would be during performance of the \$30,781,000 project. However, PBS estimated that to do so would add about \$5 million to the project costs and significantly increase the Total Present Value Cost in Option 1. Therefore, PBS plans to perform a less costly alternative to enhance REDACTED [REDACTED].

The limited alteration also does not replace building systems, such as mechanical, electrical, and plumbing, some of which may be inefficient and reaching the end of their useful lives. However, building a new or leased courthouse in Options 2 and 3 would provide building systems that are energy efficient and have lower operating costs. PBS’s financial analysis in Option 1 should include all costs to fully renovate Palafox to make a comparison to a new courthouse.

**Proposed New Construction Design Exceeds the U.S. Courts Design Guide.** PBS’s financial analysis is further flawed because the proposed courthouse design for Options 2 and 3 - building a new or leased courthouse - exceeds PBS’s estimate of the number of courtrooms allowable under the U.S. Courts Design Guide.<sup>19</sup> PBS’s officials told us that the District Court is entitled to four courtrooms according to these policies. The District Court currently has seven courtrooms: Palafox has five and Arnow has two.

PBS officials confirmed that they are not considering disposing of Arnow if a new courthouse is built to replace Palafox. Because Arnow will continue operating as a courthouse, the proposed designs in Options 2 and 3 provide significantly more space than the District Court’s entitlement. If a new courthouse were to be built today as in Options 2 or 3, to conform with the U.S. Courts Design Guide it should have only two courtrooms. However, the proposed new courthouse in Options 2 and 3 is designed with four courtrooms. Therefore, the estimated construction costs and the Total Present Value Cost in Options 2 and 3 are significantly overstated. See *Table 6* for a comparison of the District Court’s entitlement with PBS’s proposed design options.

**Table 6 – Comparison of District Court Entitlement to Proposed Design Options**

Design Option	Courtrooms Provided
District Court Entitlement	4
Option 1, Retain Palafox and Arnow	7
Option 2, Build New Courthouse and Retain Arnow	6
Option 3, Build New Leased Courthouse and Retain Arnow	6

<sup>19</sup> The U.S. Courts Design Guide (June 2016) sets the criteria for the design and construction of new court facilities. It was prepared under the direction of the Space and Facilities Committee of the Judicial Conference of the United States. Prior to submission to the Judicial Conference for approval, it was reviewed by judges, clerks of court, librarians, probation officers, staff attorneys, bankruptcy administrators, circuit and district court executives, the U.S. Marshals Service, and GSA.

**Inflated Reversion Value Used in the Financial Analysis.** One of the variables in PBS's financial analysis is the reversion value for the properties, or the estimated present value of the courthouses at the end of 30 years. PBS's Central Office officials said there are multiple ways to calculate the building's reversion value. They said the February 4, 2016, analysis (*Table 4*) assumed the reversion value of Palafox after the \$30,781,000 limited alteration is \$14,600,000 and the reversion value of a new courthouse is \$26,200,000. The February 19, 2016, analysis (*Table 5*) assumed that the reversion value of Palafox after the limited alteration is the same as the reversion value of a new courthouse.

When we asked about the change, PBS stated that Palafox is much bigger (about 20 percent) than a new courthouse and should be worth more because of higher potential revenue. For this reason, they changed the reversion value of Palafox after the limited alteration to be the same as the reversion value of a new courthouse. We question whether the reversion values will be the same because we believe that a new courthouse built to today's PBS standards would have a higher value than Palafox will have after the limited alteration project. Further, since Palafox generated less in rental revenue than it cost to operate in fiscal years 2013, 2014, and 2015, a present value analysis may reveal that the larger courthouse would be worth less than a smaller new courthouse.<sup>20</sup>

In effect, by using the same reversion value for each option, the February 19, 2016, analysis overstates the reversion value of the renovated Palafox courthouse and understates the Total Present Value Cost for Option 1. In other words, this variable in PBS's financial analysis understates the cost of the renovation. PBS should ensure the building reversion values are developed by an independent appraiser.

**PBS Did Not Develop Construction Schedules.** GSA's prospectus submission optimistically assumes that the proposed Palafox limited alteration will be completed in 2019, that building a new or leased courthouse can be completed by 2020, and that both options can be accomplished before the end of the 5-year lease term at **REDACTED**. We requested design and construction schedules to support these projected completion dates and were told that PBS has not developed such analyses. A PBS Central Office official told us that the development of proposed construction schedules would change PBS's financial analysis. PBS should develop and incorporate project schedules into the financial analysis that are based on historical performance of projects with similar scope or scale.

**Ownership Issue Complicates Project.** The Palafox lease expires on July 31, 2017, and includes two 5-year lease options. According to GSA's Office of General Counsel, GSA can take ownership of the site and the courthouse at the end of the initial lease term. On December 16, 2015, PBS notified the City of Pensacola of its intention to accept ownership of the Palafox building. However, PBS's officials told us that the

---

<sup>20</sup> Palafox expenses exceeded revenue for each month in Fiscal Year 2015 until PBS rescored the lease from operating to capital at the end of the fiscal year.

lessor may dispute GSA's right to take ownership prior to expiration of both lease option periods. PBS has not accounted in its financial analysis for a potential challenge (or cost) to GSA's assumption of ownership of Palafox. PBS previously settled a related claim in May of 2007 for \$825,000 with interest, and has been negotiating with the lessor to buy out the lease since late 2015, but has not agreed on a settlement. PBS should incorporate any potential settlement costs into its financial analysis.

**Finding 3 – GSA's choice of temporary space at REDACTED [REDACTED] was unnecessary, does not meet all tenant needs, and REDACTED [REDACTED].**

The temporary leased space at REDACTED [REDACTED] was unnecessary since the tenants could have been housed temporarily at Arnow. After the decision to vacate Palafox was made, PBS's national and regional architects visited Pensacola, Florida, to study whether all Palafox tenants could be relocated to Arnow. The architects' initial design drawings showed that the District Court in Pensacola, Florida, could be temporarily accommodated in Arnow, by moving more people into combined or less space. The initial design drawings were presented to the former tenants of Palafox and the representatives of the Space and Facilities Division of the AOUSC during a meeting in Washington, D.C., in late April 2015.<sup>21</sup>

PBS's Central Office officials told us they considered renovating Arnow to accommodate the Palafox tenants but that the renovation would have required relocating the United States Probation and Pretrial Services office to a leased space or to the Arnow basement. They said the District Court did not want to move anyone to the basement due to flooding concerns, although PBS discussed renovating the basement to prevent future flooding.

In May 2016, PBS's officials provided us cost estimates to show that it was less expensive to lease REDACTED [REDACTED] than it would have been to renovate Arnow and relocate the Probation Office to leased space. However, we question the accuracy and validity of the cost estimates since they were not developed to assist GSA in making the decision whether to lease REDACTED [REDACTED]. Instead, PBS developed the cost estimates almost a year after the District Court relocated. PBS also used numerous design and construction assumptions, including constructing in a hypothetical leased space, that are questionable.

Once it decided not to relocate all tenants to Arnow or relocate the Probation Office to leased space, PBS leased space at REDACTED [REDACTED] for the District Court and the U.S. Marshals Service. PBS's procurement documents state that PBS chose this leased space because it was in "move-in condition." However, PBS has spent over \$900,000 on renovations and upgrades in the leased space to meet the District Court's and U.S. Marshals Service's needs, including new carpet, security upgrades, and cabling; and is currently spending \$604,000 as part of the lease payments for new

---

<sup>21</sup> The Space and Facilities Division of AOUSC plans for expanding, renovating, or closing court facilities and constructing new courthouses.

carpeting, fencing, cabling, and additional security items. PBS also will have to pay the property owner to remove the fencing at the end of the lease term. In total, PBS could spend more than \$1.5 million to renovate this temporary, “move-in condition” leased space that will be occupied for only 5 years. See *Table 2* for costs associated with the REDACTED [REDACTED] lease.

REDACTED [REDACTED]  
[REDACTED]. The tenants also expressed concerns about privacy and storage space at REDACTED [REDACTED].

**Finding 4 – The vacated 1 North Palafox Street courthouse is at risk for REDACTED [REDACTED], and further deterioration.**

We performed site visits at Palafox in July and October 2015 and observed that REDACTED [REDACTED]  
[REDACTED].

During the site visits, we also found some areas of the courthouse in disarray. Piles of books, plants, and furniture were in common spaces, and leftover food was in kitchen facilities. We observed visible signs of insect infestation, and were told that the District Court personnel who have access to the vacant building have heard rodents in the building. Further, in July 2015, PBS eliminated janitorial service in an effort to reduce costs while they develop plans to renovate the courthouse.

In addition, PBS has not taken any action to repair the water intrusion or remediate the mold since the tenants vacated the building in June 2015. In late September 2015, we received photographs from the PBS Regional Commissioner showing active water intrusion into Palafox. In late October 2015, the Chief Judge also provided us with additional evidence of active water intrusion, including videos and photographs of water leaking into the courthouse after a heavy rain. When we inquired about actions PBS is taking to remedy the issues after this incident, the PBS Regional Commissioner responded that they were waiting for approval for the prospectus renovation. The lack of even temporary remediation measures has left the courthouse vulnerable to further water intrusion.

---

## **Conclusion**

---

The Palafox courthouse has been a problem for PBS since it was first occupied in 1998. PBS's inability to solve persistent water intrusion problems has led to tenant dissatisfaction with both the building and PBS. However, the PBS Commissioner's decision to vacate Palafox and the GSA Administrator's authorization to relocate tenants to temporary leased space were based on an unsupported finding of "widespread" mold. None of the 19 environmental surveys conducted in the building since October 2014 revealed evidence of "widespread" mold. The rooms affected by the mold make up only 3.7 percent of the building's usable square feet, and PBS contained or cleaned these rooms immediately after they were identified.

As a result of vacating the courthouse rather than remediating it while occupied, PBS has incurred over \$7.3 million in related costs to date, on top of the \$4.7 million in rent payments under the lease from July 1, 2015, to July 31, 2017 for the now-vacant courthouse. In addition, GSA's choice of temporary leased administrative space is problematic and the vacant courthouse is at risk for further deterioration.

Further, PBS's plan to take ownership of and renovate Palafox for more than \$30 million is based on a flawed financial analysis and does not provide a solution that is in the best interest of the tenants or the taxpayer. PBS's financial analysis shows that renovating the courthouse is comparable to the lowest cost option of building a new courthouse. However, PBS's financial analysis does not compare equivalent options because PBS based the scope of the renovation on the amount of funds available rather than the work needed to bring the courthouse up to current building standards. In addition, PBS used a variable in its analysis that understated the cost of the renovation. Moreover, PBS overstated the cost of the new and leased courthouse options by including in the scopes of work for those options significantly more space than PBS officials believe is appropriate under current courthouse design standards. These flaws serve to make the cost of renovation appear far closer to the cost of building a new courthouse than it actually may be.

PBS's plan to conduct a partial renovation of a troubled building will result in a courthouse that is larger, more expensive, and **REDACTED** than a new courthouse built to current courthouse design standards.

---

## Recommendations

---

We recommend that the GSA Administrator direct PBS to:

1. Reanalyze options for housing the tenants of the 1 North Palafox Street courthouse. As part of this analysis, PBS should:
  - Ensure a comparison of equivalent options is reflected;
  - Ensure the designs for the renovation, new, and leased construction options meet current building standards;
  - Ensure the designs for the new and leased construction options comply with the U.S. Courts Design Guide;
  - Ensure the estimated reversion values of the new and leased courthouse options are developed by an independent appraiser;
  - Ensure lease-buyout and other potential settlement costs are incorporated; and
  - Develop and incorporate project schedules into the financial analysis that are based on historical performance of projects with similar scope or scale.
2. Suspend all contracts and procurements for the prospectus project until PBS secures ownership of the 1 North Palafox Street courthouse, if PBS's revised analysis demonstrates that ownership is in the best interest of the government.
3. Develop and implement a solution to address the tenants' security, privacy, and storage concerns at the **REDACTED** leased space.
4. Implement an interim solution to address security, water intrusion, and mold issues, as well as sanitary conditions, at the 1 North Palafox Street courthouse.

### GSA Comments

In its response to our report, GSA disagreed with most of our findings and recommendations and reaffirmed its decision to proceed with a partial renovation of the courthouse. GSA's comments can be found in their entirety in **Appendix C**.

We reaffirm our conclusions and findings and address specific comments made by GSA in **Appendix D**.

### Audit Team

This audit was conducted by the individuals listed below:

Nicholas Painter	Regional Inspector General for Auditing
Arthur Edgar	Audit Manager
Valerie Smith	Auditor-In-Charge



---

## ***Appendix A – Scope and Methodology***

---

### **Scope and Methodology**

The audit scope included a review of GSA's decisions to vacate and renovate the 1 North Palafox Street leased federal courthouse.

To accomplish our objectives, we:

- Reviewed structural investigations and environmental surveys for the building;
- Reviewed supporting documentation to vacate Palafox and relocate to temporary leased space;
- Reviewed PBS's financial analysis of short- and long-term options to house former Palafox tenants;
- Reviewed courthouse design standards;
- Interviewed the architecture firm and its IAQ consultant, and FOH officials who performed structural and environmental surveys of the building;
- Interviewed PBS's Central Office, regional, and local officials involved in the decision-making process (commissioners, deputy commissioners, directors, deputy directors, branch chiefs, section chiefs, project managers, contracting officers, lease contracting officers, and technical staff);
- Interviewed tenants of Palafox and AOUSC officials;
- Visited and observed conditions in Palafox, **REDACTED**, and Arnow after tenants vacated Palafox; and
- Reviewed project correspondence related to the decision-making process.

We conducted the audit between May 2015 and May 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.

### **Internal Controls**

Our assessment of internal controls was limited to those necessary to address the objectives of the audit. Identified internal control issues are discussed in the Results section of this report.

## Appendix B – Prospectus Sources of Funding

### PBS's Sources of Funding, Submitted to Congress on July 22, 2016

Region	Project Description	Funding	Project Status (Note 1)	Project Type (Note 2)
2	Rodino Emergency Asbestos Abatement, Newark, NJ	\$3,466,884	Active	R&A
11	New Executive Office Building, Washington, DC	2,817,241	Active	R&A
3	George Fallon Federal Building Ducts, Baltimore, MD	2,282,902	Active	R&A
11	Federal Office Building 8, Washington, DC	2,088,391	Active	R&A
4	FBI Building, Miami, FL	2,000,000	Active	New
3	George Fallon Parking Garage, Baltimore, MD	1,781,638	Active	R&A
11	Nebraska Avenue Complex, Washington, DC	1,670,000	Closed	R&A
4	Joe L. Evins Federal Building, Oak Ridge, TN	1,121,781	Closed	R&A
4	Federal Building, Tuscaloosa, AL	967,515	Closed	New
11	GSA Building Design, Washington, DC	721,217	Closed	R&A
11	Nebraska Avenue Complex Design, Washington, DC	574,732	Closed	R&A
1	Norris Cotton Federal Building, Manchester, NH	480,944	Closed	R&A
11	Nebraska Avenue Complex 3, Washington, DC	413,726	Closed	R&A
11	Environmental Prediction, Prince Georges County, MD	356,933	Closed	New
2	U.S. Post Office and Courthouse, Brooklyn, NY	288,794	Closed	R&A
11	Heating, Operation, and Transmission, Washington, DC	268,996	Closed	R&A
11	Department of Transportation, Washington, DC	211,616	Closed	New
11	ATF Headquarters Building, Washington, DC	172,960	Closed	New
2	Emanuel Celler Courthouse, Brooklyn, NY	145,467	Closed	R&A
2	U.S. Courthouse and Federal Building, Brooklyn, NY	121,621	Closed	New
10	William Nakamura Courthouse, Seattle, WA	117,613	Closed	R&A
5	Glass Fragment Program, Region 5	111,976	Closed	R&A
11	Federal Office Building 10A, Washington, DC	96,729	Closed	R&A
6	Thomas Eagleton Courthouse, St. Louis, MO	68,346	Closed	New
7	FBI Building, Houston, TX	57,909	Closed	New
9	San Luis Border Station 2, San Luis, AZ	54,692	Closed	New
4	Martin Luther King, Jr. Building, Washington, DC	44,154	Closed	R&A
1	U.S. Courthouse Annex, Springfield, MA	39,838	Closed	New
10	Peace Arch Border Station, Blaine, WA	37,635	Closed	New
6	Edward Zorinsky Federal Building, Omaha, NE	25,088	Closed	R&A
9	Federal Building, Hilo, HI	24,479	Closed	R&A
6	Edward Zorinsky Federal Building Design, Omaha, NE	22,671	Closed	R&A
11	Federal Office Building 8 Design, Washington, DC	21,755	Closed	R&A
11	National Record Center, Suitland, MD	7,414,901	Cancelled	R&A
3	Lease Purchase, Martinsburg, WV	689,856	Cancelled	New
	Active Projects	\$14,437,056		
	Closed Projects	8,239,187		
	Cancelled Projects	8,104,757		
	<b>Total Project Funds</b>	<b>\$30,781,000</b>		

#### Notes:

(1) The projects included in the sources of funding will be completed without the funding identified (Active), are substantially complete (Closed), or are cancelled.

(2) Project types include New Construction (New) and Repairs and Alterations (R&A).

---

## Appendix C – GSA Comments

---



The Administrator

September 16, 2016

MEMORANDUM FOR: CAROL F. OCHOA  
INSPECTOR GENERAL - J

FROM: DENISE TURNER ROTH   
ADMINISTRATOR - A

SUBJECT: Draft Audit Report, *GSA's Decisions to Vacate and Renovate the Leased Federal Courthouse in Pensacola are Based on Faulty Premises* (Audit Number A150132) - GSA Response

Thank you for the opportunity to review and comment on the draft audit report entitled *GSA's Decisions to Vacate and Renovate the Leased Federal Courthouse in Pensacola are Based on Faulty Premises* (audit number A150132), dated August 31, 2016.

GSA continues to believe that the nature of this situation required immediate action, and the decision to vacate the courthouse and proceed with a repair and alteration project was correct. The analysis GSA performed to evaluate the alternatives presented the options fairly.

Our respective staffs have been working together on this matter since your office initiated a limited scope engagement on this project on May 28, 2015. As part of GSA's response to this draft report, GSA requests the previous responses and associated attachments to the September 14, 2015, *Management Alert* and May 6, 2016, *Summary of Findings* be considered part of the GSA response.

GSA would like to acknowledge and thank your office for the additional detail and perspective provided in the draft report's "Background" section. This additional context is helpful in presenting the challenges and complexities associated with this project.

---

## Appendix C – GSA Comments (cont.)

---

**Finding 1– GSA's decisions to vacate the 1 North Palafox Street courthouse and relocate tenants into temporary leased space based on “widespread” mold were not supported by environmental surveys. As a result of these decisions, PBS has incurred over \$7.3 million in related costs.**

### "Widespread" Mold Finding is Not Supported

GSA disagrees that mold was limited to only a small portion of the facility. In addition to the nine rooms referenced in the draft report, an additional 46 rooms and 56 other distinct areas of the building needed to have drywall removed and mold remediation performed. Based on GSA's previous experiences, simply cleaning up these spaces never addressed the source of the problem. As the draft report notes, GSA has been responding to repeated water intrusion and mold complaints at this facility for over 15 years. At no time in the building's history was GSA able to curtail the intrusion of water or contain the spread of mold. The expenditure of over \$2 million on this work, and the repeated failed attempts to correct this problem, pointed to a clear need to more aggressively address this issue. In addition, GSA could not ignore the health-related symptoms being reported by building occupants. These reports present a clear fact pattern of a problem that GSA needed to address. Over 50% of 89 Court employees in the building reported symptoms associated with the water and mold issues. GSA believes the inclusion of this data point was an appropriate consideration as part of the decision making process associated with remediation of this property. GSA's inability to fully address the water intrusion issues and contain the spread of mold in the building for more than 15 years led the building tenants to have no confidence in GSA's ability to manage this facility (as evidenced by the self-relocation of the Senator's office and the sentiments expressed in the Court's March 23, 2015, letter previously shared with your office). As noted in the National Institute for Occupational Safety and Health (NIOSH) Alert entitled *Preventing Occupational Respiratory Disease from Exposures Caused by Dampness in Office Buildings, Schools, and Other Nonindustrial Buildings* "... public health agencies recommend that indoor dampness be remediated because it creates conditions conducive to microbial growth, potentially resulting in health risks ..." (page 6), and on page 13 the NIOSH Alert states that "... even with containment, building occupants may be exposed to dampness-related contaminants during remediation work. Therefore, prior to the start of any remediation work, management should strongly consider relocating occupants who might be exposed during remediation." GSA believes that ignoring the totality of these issues would have been irresponsible.

### Plan to Remediate the Building while Occupied was not Sufficiently Considered

GSA disagrees that repairing and remediating the building while it remained occupied was not reviewed. GSA considered this option and, in fact, engaged in numerous prior attempts to address water and mold issues in the building with tenants in place. The extent of the work involved in addressing the building's deficiencies, the building tenants' (the Court, Justice Department – Marshals Service and Justice Department - Attorney's Office) clearly stated objections to remaining in space under construction (see the Court's March 23 letter), and the cost and time delays

---

## Appendix C – GSA Comments (cont.)

---

associated with working in occupied space were all factors GSA considered in making its decision. As noted in the May 6, 2016, *Summary of Findings*, GSA did review other alternatives. In the end GSA decided to proceed with the plan it presented to Congress.

### PBS has Incurred Significant Costs

GSA agrees with the information as presented in this section. All the relevant figures shared here were used by GSA in the life cycle cost analysis developed to obtain the necessary Congressional appropriations and authorizations for this project.

### **Finding 2 – GSA's plans to take ownership of and renovate the 1 North Palafox Street courthouse are not properly supported by an accurate and complete financial analysis.**

#### PBS's Financial Analysis is Faulty and Misleading

GSA disagrees that its analysis is faulty and misleading. The information presented on pages 12-14 of the draft report illustrates the results of changes made to the 30 year present value analysis from the time GSA submitted the *Report of Building Project Survey* to Congress on January 12, 2016, to the time that GSA submitted the prospectus to Congress on March 31, 2016. GSA revised this information following two concerns raised by your office regarding the 30 year present value analysis included in the *Report of Building Project Survey* (Table 3, page 12 of the draft report): (1) the exclusion of interim housing costs; and (2) the treatment of the reversion value for the Repair and Alteration alternative. The analysis used to produce the options on Table 5 (page 13 of the draft report) is based on GSA policy that is applied to all repair and alteration projects. This analysis presents a comprehensive picture of the costs associated with the different options reviewed for the project.

GSA acknowledges the first version (Table 3) of the financial model submitted to Congress had inconsistencies. Following suggestions from your office, PBS Southeast/Sunbelt Region revised the analysis, including the interim housing costs and its treatment of reversion value for the Repair and Alteration alternative. PBS Southeast/Sunbelt Region submitted this analysis (Table 4, page 13 of the draft report) to your office. However, that analysis (Table 4) was not reviewed by PBS Central Office and does not represent an accurate portrayal of these costs.

After becoming aware of the development of Table 4, PBS Central Office expressed concern with the disparity in reversion values between the Repair and Alteration, and New Construction alternatives, as more fully described in the "Inflated Reversion Value Used in Financial Analysis" section below. As such, PBS Central Office equalized reversion values between the two alternatives, as more fully described in the "Inflated Reversion Value Used in Financial Analysis", and submitted that analysis (Table 5) to your office on February 19, 2016. This version of the analysis was included in the prospectus which was submitted to Congress on March 31, 2016, and has subsequently been approved by GSA's oversight committees in both the U.S. House of Representatives and U.S. Senate.

---

## Appendix C – GSA Comments (cont.)

---

### PBS Financial Analysis Does Not Reflect a Comparison of Equivalent Options

GSA disagrees that the 30 year present value cost analysis, which was included in the prospectus submitted to Congress on March 31, 2016, and subsequently approved by GSA's oversight committees in both the U.S. House of Representatives and U.S. Senate, does not reflect a comparison of equivalent options. The draft report is correct that the proposed repair and alteration project focuses on correcting the building's water intrusion and mold issues so that the building can be reoccupied and its tenants can effectively execute their missions. As with all such analysis that GSA completes, each alternative has its own structure and scope of work. As noted, the Repair and Alteration alternative presents a project that would correct the existing facilities deficiencies. The New Construction alternative is the construction of a new facility with the inclusion of the [REDACTED] such an alternative provides. GSA's 30 year present value cost of the Repair and Alteration alternative does include \$17,314,574, in current dollars, for building system upgrades. This work involves replacements and enhancements which GSA acknowledges are being deferred. A list of these deferred items was included in the *Report of Building Project Survey*, which GSA submitted to Congress on January 12, 2016. The inclusion of the deferred items in the Repair and Alteration alternative cost analysis was done so GSA could compare the totality of the costs among the presented alternatives.

### Proposed New Construction Design Exceeds the U.S. Courts Design Guide

The New Construction alternative was developed to meet the Judiciary's requirement for four courtrooms, as specified under the current U.S. Courts Design Guide. GSA constructs courthouses to meet the 10 year requirements of the Judiciary. The Administrative Office of the U.S. Courts' "Long Range Facilities Plan for the Northern District of Florida" dated May 2010 presents the courtrooms needed in 2022 for this Court as six: two for District Judges, one for a Senior District Judge, two for Magistrate Judges, and one for a Bankruptcy Judge. Re-purposing the two existing courtrooms in the Winston E. Arrow Federal Building for other uses was not contemplated as part of the analysis.

### Inflated Reversion Value Used in Financial Analysis

GSA believes that its treatment of reversion value, whereby reversion values for the Repair and Alteration, and New Construction alternatives are considered to be equal, produces a more credible result than the reversion values included in the analysis results that are presented in Table 4 (page 13 of the draft report). The results presented in Table 4 are based on the reversion value for the New Construction alternative being \$11.56 million, or 79%, higher than the reversion value for the Repair and Alteration alternative.

GSA's approach, where the reversion values are considered to be equal is consistent with GSA guidance for major modernizations, and is done for two primary reasons: (1) the size of the existing 1 North Palafox Street facility is approximately 19% larger than a hypothetical newly constructed facility would be, resulting in higher revenue potential for the existing facility, which is a key input in valuing income-producing properties; and (2)

---

## Appendix C – GSA Comments (cont.)

---

in the Repair and Alteration alternative, GSA makes significantly more investments, as compared to the New Construction alternative, later in the 30 year life cycle. In fact, after the \$30,781,000 investment for the initial repair and alteration project, The Automated Prospectus System (TAPS) analysis includes approximately \$29,660,000 in additional investments during the 30 year life cycle, as compared to only \$4,570,000 of additional investments in the New Construction alternative, a difference of nearly 549%.

### PBS Did Not Develop Construction Schedules

GSA has developed and shared its schedules for this project with the Congress and your office. GSA is not aware of any formal requests for project documentation that GSA has not addressed. Since the time that the prospectus was submitted to Congress on March 31, 2016, the project schedule has become more clearly defined (as is the case for many GSA projects). The repair and alteration project duration is consistent with the timeframe included in the prospectus, as well as consistent with similar GSA projects. GSA did increase the hypothetical New Construction project duration from four to five years. These changes do not have a material impact on the present value cost analysis results. The Repair and Alteration alternative remains approximately 6% more expensive, on a 30 year present value basis, than the New Construction alternative (a copy of the current project schedule is attached).

### Ownership Issue Complicates Project

Pursuant to a Declaration of Offer of Donation from the City of Pensacola, GSA has the right to obtain title to the Palafox property upon expiration of the current lease. By letter dated December 16, 2015, sent to the Mayor of Pensacola, GSA exercised its rights under the Offer of Donation. As a result, GSA will be entitled to take ownership of the Palafox property following expiration of the current lease. Should it attempt to do so, GSA does not believe the lessor will be able to prevent the Government from taking ownership of the property. In addition, including an amount to cover potential settlement costs has no bearing on the results of the lifecycle cost analysis, since the amount would be included in both the Repair and Alteration, and New Construction alternatives. The New Construction alternative contemplates accepting the Offer of Donation from the City of Pensacola, razing the existing improvements, and constructing a new courthouse on the same site.

### **Finding 3 – GSA's choice of temporary space at [REDACTED] was unnecessary, does not meet all tenants needs, and [REDACTED]**

GSA disagrees that the lease of temporary space was unnecessary. The existing Amow building could not house six chambers for District and Magistrate Judges, and the Probation Office. As the *Summary of Findings* noted, the Probation Office moved into the Amow building in February 2015 at a cost of over \$285,000. The considerations of alternatives for housing the rest of the District Court began two months later in April 2015. The only way to accommodate the six chambers would have been to move the Probation Office out of the Amow building and back into

---

## Appendix C – GSA Comments (cont.)

---

leased space, or move this office to the basement of the building (an approach the tenant rejected).

Moving the Probation Office back into leased space after having just moved this function into newly constructed space in the Arnow building would not have been cost effective. The cost to replace the carpet, provide security items, and information technology reconfiguration at the temporary leased space was \$1.5 million. The cost to construct six chambers in the Arnow building (\$2.1 million) and construct new offices for the Probation Office at a separate new leased location (\$1.4 million) was estimated to be over \$3.5 million.

GSA agrees that the temporary space does not fully meet all the tenants' needs. As temporary space, the intent of this lease is to provide the tenants relocated from the 1 North Palafox Street facility space to perform their essential work functions. GSA worked with all the tenants to devise a temporary solution that addressed their mission requirements. The tenants accepted the temporary space arrangements and understood the limitations offered by this solution.

[REDACTED]  
[REDACTED]  
[REDACTED] As with the space arrangements, the tenants understood the limitations offered by this solution.

### **Finding 4 – The vacated 1 North Palafox Street courthouse is at risk for [REDACTED] and further deterioration.**

GSA has taken steps to ensure the 1 North Palafox Street facility remains safe and sanitary for personnel who have a need to continue to access this facility. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Following your office's issuance of the *Summary of Findings* that identified certain conditions in the building, GSA reinstated the pest control contract for the facility effective July 1, 2016. GSA contract personnel regularly monitor spaces in the building. GSA manages incidents of water intrusion by cleaning up affected areas after each significant rain event. No funds are being spent on larger corrective actions until the start of the repair and alteration project.



---

## Appendix C – GSA Comments (cont.)

---

### The draft report identified the following four recommendations:

1. Reanalyze options for housing the tenants of the 1 North Palafox Street courthouse. As part of this analysis, PBS should:
  - Ensure an equal comparison of the options is reflected;
  - Ensure that the designs for the renovation, new, and leased construction options meet current building standards;
  - Ensure the designs for the new and leased construction options comply with the U.S. Courts Design Guide;
  - Ensure the estimated reversion values of the new and leased courthouse options are developed by an independent appraiser;
  - Ensure lease-buyout and other potential settlement costs are incorporated; and
  - Develop and incorporate realistic project schedules into the financial analysis that are based on historical performance of projects with similar scope or scale
2. Suspend all contracts and procurements for the prospectus project until PBS secures ownership of the 1 North Palafox Street courthouse, if PBS's revised analysis demonstrates that ownership is in the best interest of the government.
3. Develop and implement a solution to address the tenants' security, privacy, and storage concerns at the [REDACTED] leased space.
4. Implement an interim solution to address security, water intrusion, and mold issues, as well as sanitary conditions, at the 1 North Palafox Street courthouse.

### Recommendation 1 – Reanalyze options for housing the tenants of the 1 North Palafox Street courthouse.

GSA does not concur with this recommendation.

- **Ensure an equal comparison of the options is reflected**

The 30 year present value cost analysis, which was included in the prospectus submitted to Congress on March 31, 2016, and subsequently approved by GSA's oversight committees in both the U.S. House of Representatives and U.S. Senate, does reflect a comparison of equivalent options. The draft report is correct that the proposed repair and alteration project focuses on correcting the building's water intrusion and mold issues so that the building can be reoccupied and its tenants can effectively execute their missions. As with all such analysis that GSA completes, each alternative has its own structure and scope of work. As noted, the Repair and Alteration alternative presents a project that would correct the existing facilities deficiencies. The New Construction alternative is the construction of a new facility with the inclusion of the [REDACTED] such an alternative provides. GSA's 30 year present value cost of the Repair and Alteration alternative does include \$17,314,574, in current dollars, for building system upgrades. This work involves replacements and enhancements which GSA acknowledges are being deferred. A list of these deferred items was included in the *Report of Building Project Survey*, which GSA

---

## Appendix C – GSA Comments (cont.)

---

submitted to Congress on January 12, 2016. The inclusion of the deferred items in the Repair and Alteration alternative cost analysis was done so GSA could compare the totality of the costs among the presented alternatives.

- **Ensure that the designs for the renovation, new, and leased construction options meet current building standards**

The design for all three options will meet current building standards. The design for the proposed repair and alteration project will meet the *Facilities Standards for the Public Buildings Service* (P-100) standards for a limited scope project. Items such as [REDACTED] are being addressed in the context of a repair and alteration project, and in alignment with GSA guidance on this matter. The repair and alteration project will meet State of Florida Hurricane Codes, the City of Pensacola governing codes, and associated national codes.

- **Ensure the designs for the new and leased construction options comply with the U.S. Courts Design Guide**

The New Construction alternative was developed to meet the Judiciary's requirement for four courtrooms, as specified under the current U.S. Courts Design Guide. GSA constructs courthouses to meet the 10 year requirements of the Judiciary. The Administrative Office of the U.S. Courts' "Long Range Facilities Plan for the Northern District of Florida" dated May 2010 presents the courtrooms needed in 2022 for this Court as six: two for District Judges, one for a Senior District Judge, two for Magistrate Judges, and one for a Bankruptcy Judge. Re-purposing the two existing courtrooms in the Arnov building for other uses was not contemplated as part of the analysis.

- **Ensure the estimated reversion values of the new and leased courthouse options are developed by an independent appraiser**

GSA believes that its treatment of reversion value, whereby reversion values for the Repair and Alteration, and New Construction alternatives are considered to be equal, produces a more credible result than the reversion values included in the analysis results that are presented in Table 4 (page 13 of the draft report). The results presented in Table 4 are based on the reversion value for the New Construction alternative being \$11.56 million, or 79%, higher than the reversion value for the Repair and Alteration alternative.

GSA's approach, where the reversion values are considered to be equal is consistent with GSA guidance for major modernizations, and is done for two primary reasons: (1) the size of the existing 1 North Palafox Street facility is approximately 19% larger than a hypothetical newly constructed facility would be, resulting in higher revenue potential for the existing facility, which is a key input in valuing income-producing properties; and (2) in the Repair and Alteration alternative, GSA makes significantly more investments, as compared to the New Construction alternative, later in the 30 year life cycle. In fact, after the \$30,781,000 investment for the initial repair and alteration project, The Automated Prospectus System (TAPS) analysis includes approximately \$29,660,000 in

---

## **Appendix C – GSA Comments (cont.)**

---

additional investments during the 30 year life cycle, as compared to only \$4,570,000 of additional investments in the New Construction alternative, a difference of nearly 549%.

- **Ensure lease-buyout and other potential settlement costs are incorporated**

Pursuant to a Declaration of Offer of Donation from the City of Pensacola, GSA has the right to obtain title to the Palafox property upon expiration of the current lease. By letter dated December 16, 2015, sent to the Mayor of Pensacola, GSA exercised its rights under the Offer of Donation. As a result, GSA will be entitled to take ownership of the Palafox property following expiration of the current lease. Should it attempt to do so, GSA does not believe the lessor will be able to prevent the Government from taking ownership of the property. In addition, including an amount to cover potential settlement costs has no bearing on the results of the lifecycle cost analysis, since the amount would be included in both the Repair and Alteration, and New Construction alternatives. The New Construction alternative contemplates accepting the Offer of Donation from the City of Pensacola, razing the existing improvements, and constructing a new courthouse on the same site.

- **Develop and incorporate realistic project schedules into the financial analysis that are based on historical performance of projects with similar scope or scale**

GSA has developed and shared its schedules for this project with the Congress and your office. GSA is not aware of any formal requests for project documentation that GSA has not addressed. Since the time that the prospectus was submitted to Congress on March 31, 2016, the project schedule has become more clearly defined (as is the case for many GSA projects). The repair and alteration project duration is consistent with the timeframe included in the prospectus, as well as consistent with similar GSA projects. GSA did increase the hypothetical New Construction project duration from four to five years. These changes do not have a material impact on the present value cost analysis results. The Repair and Alteration alternative remains approximately 6% more expensive, on a 30 year present value basis, than the New Construction alternative (a copy of the current project schedule is attached).

**Recommendation 2 – Suspend all contracts and procurements for the prospectus project until PBS secures ownership of the 1 North Palafox Street courthouse, if PBS's revised analysis demonstrates that ownership is in the best interest of the government.**

GSA does not concur with this recommendation.

The results of the 30 year life cycle analysis included in the prospectus submitted to Congress on March 31, 2016, indicate that the repair and alteration project is approximately 5% more expensive, on a 30 year present value basis, than the New Construction alternative. When the results of such an analysis are this close, the alternatives are considered to be equivalent, and GSA should consider other factors

---

## **Appendix C – GSA Comments (cont.)**

---

when making a decision on how to most appropriately proceed. In this instance, the upfront cost of the hypothetical New Construction project is \$19,773,000 more than the proposed repair and alteration project, a difference of more than 64%. The funding needed for New Construction exceeds the current readily available resources in the Federal Buildings Fund. In addition, GSA continues to believe that the nature of this situation requires immediate action. The funding shortfall and emergent situation informed the decision to vacate the courthouse and proceed with a repair and alteration project.

**Recommendation 3 – Develop and implement a solution to address the tenants’ security, privacy, and storage concerns at the [REDACTED] leased space.**

GSA concurs with this recommendation.

GSA has taken steps to address existing tenant concerns regarding these matters. Both GSA and the tenants understand that while moving into leased space was not ideal, it was necessary. The tenants also recognize the interim nature of this space and the limitations this temporary occupancy places on the Government.

[REDACTED] Moving forward, GSA will continue to discuss security, privacy and storage concerns with tenants. GSA is committed to reviewing any issues brought to its attention and will respond accordingly.

**Recommendation 4 – Implement an interim solution to address security, water intrusion, and mold issues, as well as sanitary conditions, at the 1 North Palafox Street courthouse.**

GSA concurs with this recommendation.

GSA has taken steps to ensure the 1 North Palafox Street facility remains safe and sanitary for personnel who have a need to continue to access this facility. The [REDACTED] within the facility [REDACTED] GSA contract personnel will continue to monitor spaces in the building. GSA will manage incidents of water intrusion by cleaning up affected areas after each significant rain event.

Please contact me with any questions regarding this information. Your staff may contact Noman Dong, Commissioner Public Buildings Service, at (202) 501-1100.

Attachment

## Appendix C – GSA Comments (cont.)

CMc Schedule Pensacola, Florida Courthouse	Actual	Planned
AE - SOW for POR to Acquisition	12/3/2015	
AE - Issuance of Request for AE Fee Proposal	12/14/2015	
AE - Proposal Due	1/29/2016	
AE - SOW Proposal Evaluation	2/1/2016	
AE - Contract Award	2/4/2016	
AE - Initial meeting for Q&A's - Kick off meeting	2/10/2016	
AE - On board 50% review	4/4/2016	
AE - 90% documents submitted & review with AE	5/13/2016	
AE - 100% review submitted	7/26/2016	
National SME comments on 100% POR	9/1/2016	
R4 - response on Central Office comments		9/7/2016
AE - Final		9/23/2016
CO posts the pre-solicitation notice (synopsis) to FBO	4/19/2016	
CO receives notice from SBA on full & open	7/7/2016	
CO posts the Phase 1 RFQ (Technical) on FBO	7/11/2016	
Due date for receipt of Phase 1 Technical proposals	8/10/2016	
Evaluation panel evaluates Phase 1 proposals	8/15- 8/18/2016	
Design/Build team and offerors notified D/B solicitation is cancelled including Fed Biz Opps	9/14/16	
GSA rec'd Congress letter restricting construction until GSA owns building & land	8/16/2016	
Lessor & GSA - negotiaions for global settlement at Board of Appeals		10/5-6/2016
Building & Land ownership - Lease experation plus 60 days per lease for ownership		9/30/2017
CM Acquisition - develop scope		2/15/2017
CM Acquisition - Reuest proposals		3/15/2017
CM Acquisition - Receive proposals		4/12/2017
CM Acquisition - selection & award		6/14/2017
AE - SOW draft ready for review to solicit IDIQ AE's to take the POR to full design		9/2/2016
AE - SOW draft comments received and incorporated		9/12/2016
AE - SOW issued to Florida IDIQ's for technical proposals		9/13/2016
AE - IDIQ's Technical Proposals due		10/13/2016
AE - SSEB for AE Technical Proposals		10/18 & 19/2016
AE - Request fee from selected AE		10/20/2016
AE - IGE completed		11/3/2016
AE - Fee proposal due		11/21/2016
AE - Fee proposal reviewed, negotiated & accepted		11/28/2016
AE - Kick off meeting & NTP		12/6/2016
AE - Design Excellence Peer Meeting(s)		TBD
AE - POR to 60% contract documents		3/21/2017
Gov't Review of 60% documents		4/11/2017
AE - Incorporate Gov't comments		5/2/2017
AE - Discussions from CMc on Bid Doc's (60%) & VE		8/1/2017
AE - 90% documents sent out for review to Gov't & CMc		9/15/2017
AE - 90% comments received from Gov't & CMc		10/5/2017
AE - 100% documents sent out for review to Gov't & CMc		11/14/2017
AE - 100% comments received from Gov't & CMc		12/7/2017
AE - issues final documents		1/9/2018
CMc Acquisition - Acq Plan & all approvals received		5/2/2017
CMc Acquisition - Request for proposals on FBO for CMc		5/9/2017
CMc Acquisition - Request for proposals Received		6/8/2017
CMc Acquisition - SSEB review & selection		6/29/2017
CMc Acquisition - Review & approvals, including Legal		7/10/2017
CMc Acquisition - Award CMc contract		7/10/2017
CMc - Initial meeting with CMc, comments on 60%CD's & CMc draft schedule provided		8/1/2017
CMc - NTP on Select Demo - interior perimeter walls & abatement		8/1/2017
CMc/Subs - order long lead items (CO issues NTP for materials & approved exterior demo)		10/5/2017
CMc not required to file for permits from city		
CMc/subs - 3 months @ side - demo, rebar/grout to anchor windows, new façade		1/7/2019
CMc/Subs - roofing complete NLT Facade weather tight		1/30/2019
CMc/Subs - starts interior finishes		5/16/2018
CMc/Subs - Finish interior finishes		5/7/2019
CMc/Subs - HVAC & Electrical - non critical path		
		FY17 early
		FY17 early
RWA - Courts layout changes		FY17 early
		FY17 early
RWA - USMS - cell area terazzo & detention grade ceiling		FY17 early
		FY17 early
RWA - USMS - space changes		FY17 early
		FY17 early
TYCO - design start		3/21/2017
		1/9/2018
TYCO - Complete		7/26/2019
TYCO - USMS training & shake down complete		8/24/2019
Courts & Marshals - Install of new data/telecom wiring		6/10/2019
Courts & Marshals - Install of new furniture		8/9/2019
Courts & Marshals - Install of IT equipment		8/24/2019
Courts & Marshals AT&T change notices 90 days prior to need		6/10/2019
Government - start phased moves		9/15/2019
CMc - Substantially complete		9/30/2019
Government - Phased moves completed		10/7/2019
		6/29/2020
Lease - Vacate furniture storage lease not awarded as of 9/2016		

---

## **Appendix D – OIG Response to GSA Comments**

---

In its response to our draft report, GSA disagreed with most of our findings and recommendations and reaffirmed its decision to proceed with a partial renovation of the courthouse.<sup>1</sup> After carefully considering GSA's response to our draft report, as well as its response to our previously issued Summary of Findings, we maintain our findings and recommendations. We describe our major concerns with the response below.

GSA devotes the bulk of its response to disputing our finding (and related recommendations) that its financial analysis concerning housing options for the District Court in Pensacola was flawed. The Agency contends that the analysis, which it included in its prospectus submission to the House T&I Committee, "presented the options fairly." GSA's comments state that the repair and alteration option it selected based on that analysis is approximately 5 to 6 percent more expensive than the new construction option and "when the results of such an analysis are this close, the alternatives are considered to be equivalent and GSA should consider other factors when making a decision on how to most appropriately proceed."<sup>2</sup> However, as detailed in our report, had GSA used appropriate assumptions, the financial analysis would have resulted in a greater cost differential and revealed that renovating the courthouse is much more expensive than building a new courthouse. We discuss the main flaws in GSA's analysis below.

First, the financial analysis does not reflect a comparison of equivalent options. A new or leased courthouse would be built to higher current standards than the renovated courthouse. The renovation plan does not incorporate all of the standards that a new courthouse would be required to meet, including costly **REDACTED** upgrades **REDACTED**, yet the financial analysis does not differentiate between the qualities of these options.

Second, the proposed courthouse design for the new construction option is larger than necessary, resulting in a significantly overstated Total Present Value Cost for this option and thus an understated cost differential between the new construction and renovation options. PBS officials told us that the District Court is entitled to four courtrooms under the current U.S. Courts Design Guide, and that the two courtrooms at the nearby Arnow courthouse will remain operational if a new courthouse is built. Thus, to conform to the U.S. Courts Design Guide a new courthouse should have only two courtrooms; yet, GSA's new courthouse design provides four. GSA's response to our audit states that "the *Long Range Facilities Plan for the Northern District of Florida* dated May 2010 presents the courtrooms needed in 2022 for this Court as six."<sup>3</sup> However, this planning document does not reflect current courtroom sharing criteria established for new court facilities in the U.S. Courts Design Guide dated June 2016.

---

<sup>1</sup> GSA requests that we consider its previous response to our September 14, 2015, Management Alert and May 6, 2016, Summary of Findings to be part of its response to this report. However, GSA did not provide us with a response to our Management Alert.

<sup>2</sup> GSA's September 16, 2016, response letter, pages C-9 and C-10 (see **Appendix C**).

<sup>3</sup> GSA's September 16, 2016, response letter, page C-8 (see **Appendix C**).

---

## ***Appendix D – OIG Response to GSA Comments (cont.)***

---

Third, GSA's response continues to assert that a renovated Palafox courthouse would have the same reversion value as a new courthouse. By using the same reversion value, GSA once again understates the cost difference between the two options. GSA bases its assertion that the reversion values are equal on the fact that Palafox would have larger square footage, and therefore, greater income producing potential. We continue to disagree that these two options would have the same reversion value. A new courthouse would provide building systems that are energy efficient and have lower operating costs. GSA's financial analysis also neglects to consider that Palafox has been operating at a loss.<sup>4</sup>

GSA also disputes our finding that its decisions to vacate the courthouse and relocate tenants based on "widespread" mold were not supported by environmental surveys. We will not repeat the analysis of this subject laid out in our report except to note that contrary to GSA's suggestion that a much larger portion of the courthouse was affected by mold, the environmental surveys made clear that the rooms with potential for occupant exposure to mold made up only 3.7 percent of the building's usable square feet.

GSA points to its previous costly and failed attempts to address the building's water intrusion issues, the resulting loss of tenant confidence, and the tenant reports of health-related symptoms as factors supporting its decisions. We agree that GSA's previous efforts to address the water intrusion problems in the building have not been effective and that GSA must take effective steps moving forward; however, we are concerned that proceeding as GSA plans based on a faulty analysis may result in yet another patchwork solution, this time on a much more expensive scale.

In summary, we remain concerned that based on a flawed financial analysis, GSA has elected to invest over \$30 million initially and an additional \$17 million in the future to renovate a courthouse that has known construction deficiencies and has experienced nearly 20 years of water intrusion issues. We reaffirm our recommendations that GSA reanalyze options for housing the District Court as detailed in our report and, if GSA's revised financial analysis demonstrates that ownership of the building is in the best interest of the government, suspend all contracts and procurements for the prospectus project until GSA secures ownership.

---

<sup>4</sup> We also note that GSA's response to this finding includes several inaccuracies. For example, the response states that the PBS Southeast Sunbelt Region revised the first version of the financial analysis, shown in *Table 3* of the report, because we made suggestions about the reversion value. However, this is not accurate. As stated in our report, we requested revision of the analysis because, contrary to instructions in its financial analysis software, GSA had not used the courthouse's current appraised value of \$332,000. Instead, GSA had skewed the analysis by using an estimated post-renovation value of \$27,824,000. In addition, GSA's response states that the information presented in *Table 4* of the report was not reviewed by Central Office personnel before being sent to us on February 4, 2016. That is incorrect. Our records show that *Table 4* was reviewed by knowledgeable Central Office personnel before it was sent to us by PBS's Southeast Sunbelt Region.

---

## ***Appendix E – Report Distribution***

---

GSA Administrator (A)

PBS Commissioner (P)

Deputy PBS Commissioner (P)

Chief of Staff (P)

Director, PBS Executive Communications (ZACB)

Regional Administrator (4A)

PBS Regional Commissioner (4P)

Chief Administrative Services Officer (H)

GAO/IG Audit Response Division (H1G)

Audit Liaison, PBS (P)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)