GENERAL MANAGEMENT:
The Mint Leased Excessive Space For Its Headquarters Operation

OIG-02-074 March 29, 2002

Office of Inspector General

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The Department of the Treasury

Contents

Abbreviations

ASM/CFO	Assistant Secretary for Management and Chief Financial Officer
Customs	U.S. Customs Service
FAR	Federal Acquisition Regulation
GSA	General Services Administration
IRS	Internal Revenue Service
ITC system	Inventory, Tracking and Closure system
PEF	Public Enterprise Fund
ULLICO	Union Labor Life Insurance Company

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In November 1995, Congress enacted legislation known as the Public Enterprise Fund (PEF),[1] which exempted the United States Mint (Mint) from certain provisions of law and the Federal Acquisition Regulation (FAR) governing Government procurements and public contracts. Through this legislation, the Mint determined it also had statutory lease authority, and did not have to be governed by the rules and guidelines set forth by the General Services Administration (GSA) when an entity is granted independent leasing authority to conduct its own leasing activities. We examined the following long-term building lease agreements entered into by the Mint under the PEF and independent leasing authority for its headquarters operations in Washington, D.C.:

- A 20-year lease with four 5-year renewal options for 801 9th Street, N.W., dated December 30, 1997, for approximately 232,000 square feet. Payments over the lease term, excluding renewal options, will total approximately $192 million.

- A 10-year lease for 799 9th Street, N.W., dated December 30, 1999, for approximately 149,600 square feet. Payments during the lease term will total over $60 million. (The builder/landlord is the same for both the 799 and 801 9th Street properties.)

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[1] Section 522 of Public Law 104-52, codified at 21 USC 5136.

We also reviewed two short-term leases that were apparently used as temporary "swing" space until the Mint's move to the 801 and 799 9th Street buildings:

- A 3-year lease for One Massachusetts Avenue, N.W., dated April 21, 1997, for approximately 22,500 square feet, which was increased to 44,900 square feet in February 1998. Payments over the lease term total $2 million.

- A 2-year lease for 10 G Street, N.E., dated May 31, 2000, for approximately 29,500 square feet. Payments over the lease term total approximately $1.1 million annually.

Our objectives were to determine whether the Mint (1) acquired the appropriate amount of space in accordance with its needs and (2) followed prudent business practices in procuring these lease agreements. We performed our fieldwork primarily from March 2001 to November 2001. A more detailed description of our objective, scope, and methodology is provided as Appendix I.

Results in Brief

During 1996 and early 1997, the Mint determined it needed to acquire additional office space and consolidate personnel in one location for its headquarters operations, and it obtained approval by Department of the Treasury (Department) management for its plan to acquire 125,000 square feet. At the time, the Mint based this on 350 to 400 persons. As of December 1996, the Mint had 366 people working in about 82,900 square feet of space in two separate buildings. Therefore, the plan would provide for an average of 342 square foot per person. At the time, the Mint anticipated an average growth in staffing of one percent annually.

Over the next 4 years, the Mint, using its independent leasing authority under the PEF, eventually acquired through long-term lease agreements approximately 381,600 square feet in two new buildings on 9th Street, N.W., or approximately 256,600 more square feet than initially planned in 1997. It began occupancy at the 801 9th Street building with 232,000 square feet in December 1999, and shortly thereafter subleased approximately 61,400 square feet of this space to the Internal Revenue Service (IRS). It began occupancy of approximately 149,600 square feet of space at the second building—located across H Street at 799 9th Street—in December 2001. Although it leased approximately 149,600 square feet in this second building, the Mint has arranged to sublease 42,200 square feet to the U.S. Customs Service (Customs). As of February 2002, the Mint was attempting to sublease more space in the 801 9th Street building to another Treasury component.

801 9th Street, N.W.

799 9th Street, N.W.

Between 1997 and 2001, the Mint's headquarters staffing had increased considerably more than one percent a year. As of December 2001, information provided by the Mint showed that it had 521 employees supported by 193 contractor personnel (714 total). By virtue of the fact that it has already subleased substantial portions of the space in these two buildings, the Mint clearly leased space in excess of it needs. We estimate, using as a benchmark the average 342 square foot per person space needs in its initial plan, that the Mint still has approximately 33,800 square feet of space in excess of its need to house 714 personnel. This excess space, when combined with the space subleased to IRS and Customs, roughly equates to the space the Mint leased in the 799 9th Street building. Essentially, it did not need to lease space in this second building. By taking action to sublease excessive space still on hand, the Mint could potentially save $13.9 million over the

10-year lease term for the 799 9th Street building. Should the subleases with IRS and Customs not be renewed, the Mint will need to find other tenants to offset costs of approximately $25.1 million associated with this space over the remaining term of the 799 9th Street building.

The Mint acquired the excess space because it did not follow prudent business practices in its leasing activities. Specifically:

- The Mint did not follow its initial acquisition plan for 125,000 square feet for long. It signed the 801 9th Street building lease for 232,000 square feet shortly after receiving the Department's approval of the initial plan. The Mint should have adjusted its plan with sufficient analytical data before making he apparent determination to not follow or change the plan.

- Mint personnel responsible for the day-to-day operations and decisions concerning the leasing activities had neither the training nor the experience in leasing, including the Mint official who served as the contracting officer on the leases.

- The Mint used the same broker, who was unlicensed in the District of Columbia, for the two 9th Street leases and for two other leases for "swing" space during the consolidation of personnel in these buildings. Although we determined that the Mint did not adequately compete its broker services for the 801 9th Street lease, the Mint did not attempt to compete its broker services for the other three leases because, we were told, it was satisfied with the services it had received from the broker for the 801 9th Street lease.

- The Mint did not demonstrate that it fully analyzed its options when leasing the 9th Street buildings. In fact, had it performed such an analysis, the Mint may have found it less expensive to purchase the 801 9th Street building rather than lease it, or may have been able to negotiate better lease terms. For example, at one point, the builder proposed to sell the building to the Mint for $67 million. During our audit, Mint officials asserted that the lease represented an exceptional deal. Documentation was not provided to support this assertion; evidence we developed indicated that it obtained a fair price for the area, not an exceptional deal.

- The lack of documentation supporting the Mint's decision-making process for the lease transactions was a pervasive problem. While documentation should, in our opinion, have been readily available in the Mint's records to support things like the fair market value of the 801 9th Street building, we were referred by the Mint to its broker for this information. Records provided by the Mint's broker, obtained in part through an Inspector General subpoena, were also incomplete and inadequate.

Lack of documentation supporting procurement transactions was also a pervasive problem noted in a recent review of the Mint by the Department's Office of Procurement. In our view, this is a basic tenet of public accountability by Federal agencies that did not go away with the PEF legislation. Accordingly, we believe that strong executive leadership by the new Mint Director will be necessary to ensure that the conditions noted by our audit and the Department do not reoccur.

Furthermore, we believe that collectively, these conditions constitute a material weakness in the Mint's management controls over its procurement operations as defined in Office of Management and Budget Circular A-123, *Management Accountability and Control*. Accordingly, Mint management should consider reporting its procurement operations as a material weakness under the Department's Federal Manager's Financial Integrity Act process during the fiscal year 2002 reporting cycle.

We are recommending that the Mint perform a comprehensive analysis of its space needs and take steps to eliminate unneeded space in the 801 and 799 9th Street buildings. We are also recommending that the Mint institute appropriate policies and procedures with effective management controls to avoid repeating these mistakes in the future. One such policy should be to require consideration be given for obtaining future space needs through GSA or other Federal agencies more experienced in space acquisition before deciding to perform this function in-house.

The Mint responded that it has already started to reevaluate its Headquarters needs for space both to economize and to reflect recent downsizing operations. The Mint further responded that it has taken steps to improve management controls to include better internal controls and documentation of procurement activities. The actions planned and taken by the Mint meets the intent of our recommendations. The complete text of the Mint's response is provided in Appendix 4. Although the Mint concurred with our recommendations, its response took a number of exceptions to the information contained in our draft report. We made some limited changes as appropriate in our final report based on its comments. Our comments specific to other matters raised by the Mint's response are provided in Appendix 5.

Background

The Mint produces coinage and commemorative coins for the United States. While production operations are in Philadelphia, Denver, West Point, and San Francisco, the Mint maintains headquarters operations in Washington, D.C. Since 1985, the Mint's headquarters operation has been relocated several times in various downtown Washington, D.C., buildings.
In 1996, the Mint determined it needed additional office space to house its headquarters staff and, for efficiency of operations, to consolidate its staff into one building. During the period 1996 to 2001, the Mint acquired additional space and moved its operations from two separate buildings known as the Judiciary Square Building located at 633 3rd Street, N.W., and the Union Labor Life Insurance Company (ULLICO) building located at 111 Massachusetts Avenue, N.W., into two newly constructed buildings at 801 and 799 9th Street.

Authority Under The PEF

The Public Buildings Act of 1959 (PBA), as amended, contains many provisions concerning the acquisition and construction of Federal office buildings. It gives responsibility in this area to GSA. The PBA defines five facets of activity involved in a construction or acquisition project, all of which are assigned to GSA: (1) the decision whether to construct or acquire a building, (2) the decision as to what kind of building is to be constructed or acquired, (3) the execution of the decision in terms of who performs the work of acquisition or construction management, (4) what laws and/or rules will apply to the construction or acquisition, and (5) how the building will be paid for. The PBA also requires Congressional committee approval of leases with annual rental, excluding services and utilities, in excess of a threshold amount, which is indexed annually. For fiscal year 1997, this threshold amount was $1.74 million.

In a memorandum entitled *Acquisition or Construction of Public Buildings* to the Mint Director dated January 15, 1997, the Mint's Chief Counsel states:

> "We conclude the Secretary of the Treasury possesses independent authority to acquire or construct a new Mint office building because the Public Enterprise Fund supersedes provisions of the Public Buildings Act. This conclusion stems from the legislation establishing the Public Enterprise Fund, which contains (1) exclusive authority for the Secretary to determine what expenses are ordinary and reasonable incidents of Mint operations and programs; (2) an express waiver of laws governing procurement or public contracts; and (3) explicit authorization to fund construction or acquisition of new buildings as part of Mint operations and programs."

Findings and Recommendations

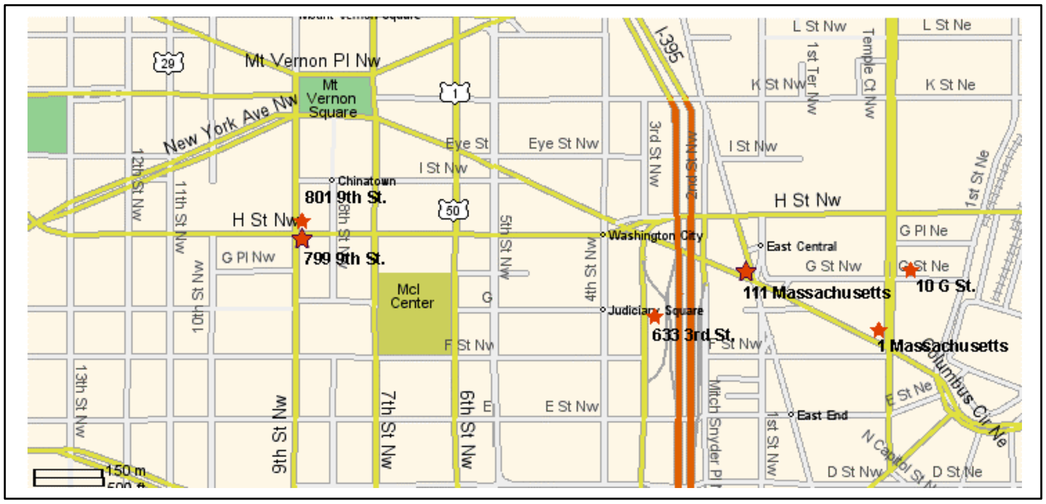
Finding 1 The Mint Leased More Space Than Needed

During 1996 and 1997, the Mint determined it needed to (1) consolidate its headquarters operations from two buildings into one location and (2) increase its office space from approximately 82,900 square feet to approximately 125,000 square feet. Over the next 4 years, the Mint, using its independent procurement authority under the PEF, eventually acquired through long-term lease agreements approximately 381,600 square feet in two new buildings, or approximately 256,600 more square feet than initially planned in 1997. The Mint began occupancy at the first of these buildings in December 1999 (at 801 9th Street with 232,000 square feet under lease); occupancy of the second building began around December 2001 (at 799 9th Street consisting of approximately 149,600 square feet under lease). While the number of Mint Headquarters employees and contractor personnel has increased significantly from the number originally planned for in 1997, the Mint has clearly leased more space than it needed both at the time it entered into the lease agreements or currently.

As discussed in this and our second finding, the Mint's documentation supporting the decision-making process for its lease transactions was inadequate, and proper managerial oversight of its leasing activities was lacking. However, our analysis of available documentation indicates that, in total, the Mint leased at least 137,400 square feet more than it needed. This roughly equates to the space under lease in the 799 9th Street building and, in our opinion, the Mint should not have leased this building. The Mint has subsequently subleased approximately 103,600 square feet of this excessive space to other Treasury components, and efforts are underway to sublease other space and establish a Mint museum/visitor center, pending congressional approval. However, we believe that the Mint still has approximately 33,800 square feet of excessive space and, based on the average cost of this space, could realize a monetary benefit of approximately $13.9 million by subleasing it. Should the subleases with the other Treasury components not be renewed, the Mint will need to take action to sublease that space to offset approximately $25.1 million associated with the costs of the space over the remaining term of the 799 9th Street lease.

It should also be noted that the Mint's Headquarters employees are now located in closer proximity to each other (the 801 and 799 9th Street buildings are separated by a city street whereas in 1996, personnel were located in buildings that were several blocks from each other). However, the Mint did not achieve full consolidation of its Headquarters operations as it had initially planned.

The following map depicts the locations in Washington, D.C., of the Mint's initial space in the Judiciary Square and ULLICO buildings, the "swing" space in the One Massachusetts and 10 G Street buildings, and the permanent space on 9th Street:

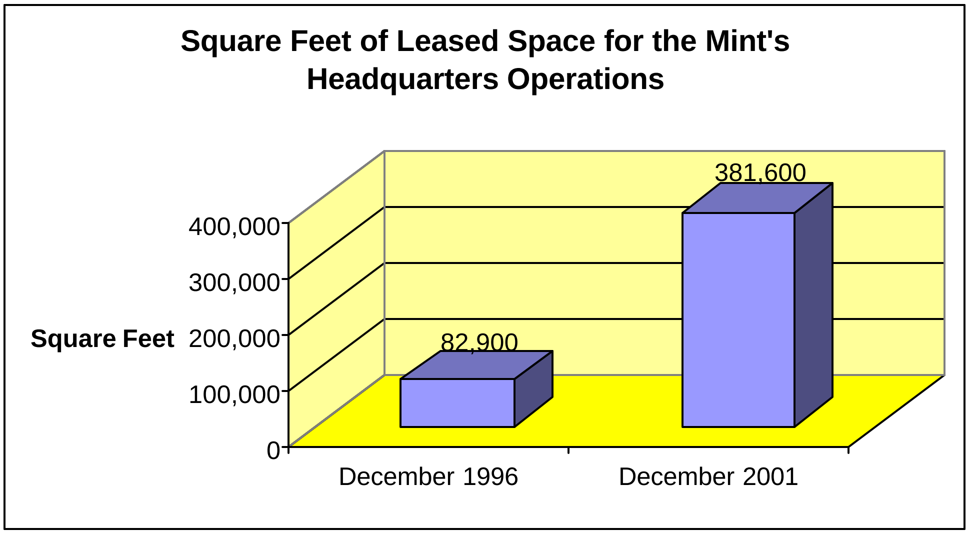


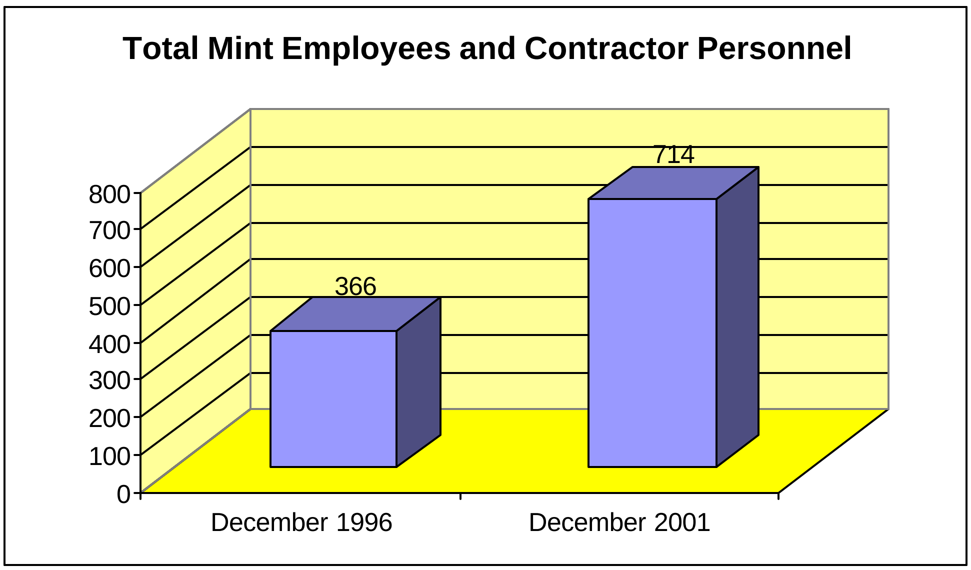
<u>The Mint's Space Acquisition Plan</u>

In 1996, the Mint developed a space acquisition plan to move its headquarters operation from the two buildings it occupied—the Judiciary Square and ULLICO buildings. As of December 1996, these two buildings had 82,900 square feet of space and housed 366 Mint employees and contractor personnel. The space plan prepared by the Mint estimated that it would need up to 125,000 square feet of space to meet its expected growth in staffing of one percent annually over the next 15 years. Using the Mint's growth estimate, we estimate that this would increase the Mint's number of employees and contractors over 15 years from a total of 366 people in 1996 to about 425 people in 2011.

The Mint also planned to consolidate from two buildings into one.

The following charts show a comparison of the space under lease in 1996 and 2001, and the number of total Mint employees and contractor personnel for these years.





<u>What The Mint Acquired</u>

Although the Mint planned in 1996 to acquire 125,000 square feet of new space, results indicate quite a different picture. The Mint actually acquired approximately 381,600 square feet of leased space, some 256,600 square feet more than originally planned. The number of Mint employees and contractor personnel also increased well beyond the one percent planned growth rate. By

December 2001, according to information provided by the Mint, it had a total of 714 personnel located at the 801 9th Street and 799 9th Street buildings, including 521 Mint employees and 193 contractor personnel.[2] While the growth in personnel would explain the need for more space than planned for in 1996, it does not explain why the Mint leased as much space as it did. It also remains unclear why the Mint chose to lease space at 801 9th Street, then sublet space to IRS, then lease additional space (105,500 square feet) at 799 9th Street, then lease additional space in the 799 9th Street building (for a total of 149,600 square feet), and then sublet space (42,200 square feet) in this building to Customs. We were not provided with a justification or a rational explanation for these multiple moves and dealings.

We repeatedly requested data through the Mint's Chief Financial Officer, the Assistant Director for the Office of Business Alignment, and other designated persons to support the initial decision for space and the related decisions for additional space requirements. We eventually received some data, but in our opinion, the data is unsupported to justify the requirements. For example, to date we have received a number of space documents, some of which are not comparable. To illustrate, some documents were apparently based on "desk counts" of personnel and not on persons actually occupying leased space, while others were based upon numbers of full time Mint employees and contractor personnel (see Appendix 2 for data provided by the Mint on employees and space utilization). Although requested, we still have not been given an estimate or analyses of the amount of excess space in the 801 9th Street building as a result of personnel moving into the 799 9th Street building.

Because data and analyses provided by the Mint were incomplete, we also were unable to determine the exact amount of excess space that still remains.

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[2] According to information provided by the Mint, the total number of employees and contractor personnel was 448 as of December 1997, 448 as of December 1998, 631 as of December 1999, and 785 as of December 2000. We did not, as part of the scope of this audit, assess the reasons for the significant overall increase and fluctuations in personnel from the Mint's initial staffing growth estimate of persons in its 1996 space acquisition plan.

Chronology Of Events

The following is a chronology of the events leading to the move from the space the Mint occupied in 1996 to the new space it had under lease by the end of 2001. As these highlights below show, the Mint did not move directly over this 5-year period from the Judiciary Square and ULLICO buildings to the 9th Street buildings. The Mint leased additional short-term space along the way, apparently as "swing" space, at One Massachusetts Avenue and at 10 G Street.

August 1996 — The Mint hired a real estate broker to assist in locating office space to consolidate its headquarters operations, which at that time consisted of two buildings. These two buildings were the Judiciary Square building, where the primary headquarters operations were located, and the ULLICO building. The Mint had a total of 82,900 square feet under lease at the time. The two buildings housed, in total, 366 Mint employees and contractor personnel as of December 1996, according to the Mint.

January 1997 — The Mint's Chief Counsel concluded that the Secretary of the Treasury possessed independent authority to acquire or construct a new Mint office building, based on a determination that the PEF legislation superseded provisions of the Public Buildings Act (PBA) of 1959, to GSA.

According to documentation provided by the Mint, it determined that its space at the time was inefficient, and the annual lease payments were above market rates.[3] The space also had certain security issues. The Mint concluded that it needed about 125,000 square feet to accommodate all

[3] Information the Mint provided on March 22, 2002, indicated the rental rates for the Judiciary Square and the ULLIC buildings in 1996 were $34.60 and $28.30, respectively.

current space requirements plus a modest one percent annual growth rate in staffing over the next 15 years. The 125,000 square feet of space planned would provide for an average of 342 square feet per person (125,000 square feet divided by 366 employees and contractor personnel housed in the ULLICO and Judiciary Square buildings as of December 1996).

April 1997	The Mint presented its need to consolidate its headquarters offices to the Department. The need for consolidation was approved. The Mint also signed a 3-year lease for approximately 22,500 square feet of space at One Massachusetts Avenue, NW.[4] Payments over the term of this lease totaled approximately $2 million. The Mint continued to also house personnel at the Judiciary Square and ULLICO buildings.
Dec. 1997	The Mint signed a 20-year lease, with four 5-year renewal options, for 232,000 square feet of space at the 801 9th Street building, which was under construction. The lease agreement requires that the Mint pay a total of approximately $191.7 million during the 20-year lease term consisting of: (1) $127.0 million for base rent; and (2) $64.7 million for executory costs (e.g., property taxes, building maintenance, parking, etc.). Annual lease payments range from approximately $7.0 million to $11.8 million.
Sept. 1998	ULLICO building personnel were moved to the One Massachusetts Avenue and Judiciary Square buildings.

[4] The Mint amended the One Massachusetts lease in February 1998 to increase the amount space from approximately 22,500 square feet to approximately 44,900 square feet.

Dec. 1999 Occupancy in the 801 building had begun. The Mint was in the process of subleasing approximately 61,400 square feet of the 801 9th Street building to IRS.[5] At this time, however, the Mint was still housing personnel at the One Massachusetts building and also had personnel located in another building at 10 G Street.[6] The Mint also entered into a 10-year lease for approximately 105,500 square feet of space located in a building under construction at 799 9th Street. The lease agreement provided for an annual base rent of $41.08 a square foot for this space during the first year, at a cost of approximately $4.3 million. This annual base rent escalates during the term of the lease, up to $49.09 a square foot, or $5.2 million, during the final year. Eventually, the Mint increased the space leased in the 799 9th Street building to approximately 149,600 square feet, with a total annual rent during the first year of approximately $6.3 million, or $41.88 a square foot. Although asked, the Mint did not provide us details and

[5] We received somewhat conflicting information during our audit as to why the Mint subleased this space to IRS. Mint officials told us that the Assistant Secretary for Management and Chief Financial Officer (ASM/CFO) at the time, and a special assistant on her staff, both of whom no longer hold these positions, directed the Mint to sublease the space to the IRS. We interviewed the former special assistant who told us that it was well known at the time that the Mint could not fill the 801 9th Street building. He and the former ASM/CFO decided that another Treasury bureau should fill the additional space. In the beginning, according to the former special assistant, the thought was for all Mint personnel to move into the building and there would still be space left over. Documentation was not made available to us to substantiate the decision-making process behind the Mint subleasing the space to IRS.

[6] According to information provided by the Mint, 88 personnel occupied approximately 29,500 square feet of space at the 10 G Street location as of December 1999. The lease agreement for this location, however, was executed by the Mint in May 2000. It provided for a 2-year term, with payments to total approximately $1.1 million annually.

documentation as to why the leased space in the 799 9th Street building increased.[7]

March 2000	The Mint subleased 61,400 square feet of space in the 801 9th Street building to IRS, for a 5-year term, with a 5-year renewal option by mutual agreement. Rent to be paid by the IRS offsets the Mint's lease costs for this space, and includes a charge for the Mint's administrative costs.
Sept. 2001	An email message was circulated to Treasury bureaus by the Department advising that, because of internal budget and staff cuts, the Mint had two floors available that would be fully furnished for sublease in the 799 9th Street building.
Oct. 2001	The Mint signed a sublease with Customs for approximately 42,200 square feet of space in the 799 9th Street building. The sublease is for a 5-year term, with a 5-year option to renew by mutual agreement. The rent to be charged Customs exceeds the rent paid by the Mint for this space to cover the Mint's administrative costs.
Dec. 2001	The Mint moved into 799 9th Street. The space available to the Mint after the sublease to Customs was approximately 107,400 square feet.

The Mint Did Not Need The 799 9th Street Space

To summarize, when the Mint embarked on finding new space for its Headquarters operations, it determined that it needed about 125,000 square feet for 366 personnel (including both Mint

[7] The Mint provided the information on the increase in the space in the 799 9th Street building to our auditors in an email dated February 6, 2002, in response our request for a final payment schedule for the building lease. We learned that the amount of space to be leased had increased to 149,600 square feet. According to information from the Mint received in December 2001, the amount of space at that time was still the original 105,500 square feet. We were never provided the final payment schedule.

employees and contractor personnel). This equates to an average of 342 square feet a person.[8] At the end of this process, by December 2001, the Mint had leased and taken occupancy of a total of approximately 381,600 square feet, in two buildings. At this time, it had 714 personnel (521 Mint employees and 193 contractor personnel). This equates to an average of 535 square feet per person, clearly in excess of its original plan. Using as a benchmark and assuming that 342 square feet per person was appropriate to the Mint's needs, the total amount of space that should have been leased to accommodate the significant increase in personnel occurring between 1996 and 2001 equates to approximately 244,200 square feet (342 square feet per person times 714), or 137,400 square feet less than it actually leased. This is roughly equivalent to the total space that was acquired in the 799 9th Street building and, in our opinion; the Mint should not have leased this building. As discussed in more detail in our second finding, the Mint did not produce for our review any documentation that provided a plausible reason or justification for leasing the amount of space that it did, although we repeatedly asked for this information.

We recognized that the 5-year subleases the Mint now has in place have mitigated the cost associated with its leasing of this excessive space. As stated above, we estimate the amount of excessive space was 137,400 square feet. As of February 2002, the Mint had subleased a total of approximately 103,600 square feet to IRS and Customs. Therefore, the Mint, based on our analysis, still has approximately 33,800 square feet of excessive

[8] As additional perspective, GSA has published guidelines for office space by grade level in the Code of Federal Regulations (41 CFR Chapter 101). These guidelines prescribe, for example, that the office size for a GS-17 should be approximately 350 square feet. At the GS-14/15 level, the guidelines call for approximately 225 square feet; at the GS-13 level, the guidelines call for approximately 150 square feet. It should be noted that space necessary for conference rooms, mechanical rooms, and other common space would need to be added to office space estimates under these guidelines to determine the total amount of space needed by an agency to accommodate its personnel. Nonetheless, and with the lack of any justification otherwise, there appears to be no basis for the Mint to have acquired space in excess of the 342 square foot per person average provided by its initial space plan.

space. Using a cost of $41.08 per square foot (the first year base rent) over the 10-year term of the 799 9th building lease, we conservatively estimate that the monetary benefit that can be realized by subleasing this space is approximately $13.9 million. Additionally, the Mint will have additional excess space in future years should the subleases with IRS and Customs not be renewed (renewal is based on mutual agreement between the Mint and these bureaus). The Mint will need to be ready to sublease out this space. The monetary benefit associated with subleasing this space to other entities, if necessary, is estimated at approximately $25.1 million.[9]

On February 22, 2002, after repeated requests, the Mint provided some additional information about its efforts to sublease excessive space in the two buildings. According to the Mint, it was negotiating a sublease with the Treasury Executive Institute for part of the first floor of the 801 9th Street building. According to information provided by the Mint on March 22, 2002, in its response to our draft report, the amount of space is 4,800 rentable square feet. It further advised that there were still plans for a Mint museum/visitor center, also to be located on the first floor of the 801 9th Street building. The museum project, however, is subject to congressional approval.[10]

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[9] We estimated the monetary benefit associated with the space now occupied by the IRS, which expires about mid-2004, on 61,400 square feet times $41.08/square foot times 6 ½ years—the remaining term of the 799 9th Street building lease at this time. This amount comes to approximately $16.4 million. The monetary benefit associated with the space now occupied by Customs is based on 42,200 square feet times $41.08/square foot times 5 years. This amount comes to approximately $8.7 million. We believe these estimates of monetary benefits are conservative in that they are based on the Mint's first year cost for the 799 9th Street building lease, and do not include add-ons for administrative costs that are currently included in the IRS and Customs subleases.

[10] The Treasury and General Government Appropriations Act, 2002 states, as a general provision, that: "None of the funds appropriated or otherwise made available by this or any other Act may be used by the United States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs."

Future Occupancy Plans

Although it was not the objective of this audit to review staffing, we believe the Mint needs to carefully assess and document current available space in relation to its current and future staffing projections for its Headquarters operations to identify where there may be additional opportunities to sublease unnecessary space. The Mint also needs to continually monitor its space needs going forward and be prepared to act in a timely and prudent manner, consistent with its space requirements at the time, when the current subleases with IRS and Customs expire.

Recommendation

The Mint Director should:

1. Perform a comprehensive and documented analysis of the Mint's space needs for its Headquarters operations to, among other things, identify excess space currently under lease. A plan should then be developed and implemented to sublease, or put to other appropriate and authorized use, the excess space identified. These actions should be taken in a manner to ensure the Mint's net lease expenses associated with Headquarters operations are minimized.

   Management Comments. The Mint stated that it concurred with and in fact, independent of the audit findings, has been reevaluating its Headquarters' space needs, both to economize as well as better reflect the recent downsizing of operations that was necessitated by decreasing revenues, and are two-thirds through the implementation of this effort.

   OIG Comments. We consider the recommendation to have a management decision; however, the Mint needs to establish a target date for performing a comprehensive and documented analysis of its Headquarters space needs.

Finding 2 The Mint Did Not Follow Prudent Business Practices To Acquire Its Headquarters Space

The Mint did not follow sound procurement practices in its acquisition of space to consolidate its headquarters operations. The Mint's leasing activities lacked proper planning, in-house leasing expertise, adequate documentation to show the basis for decisions made, sound internal controls, and managerial oversight. As a result, the Mint ended up leasing more space than it needed.

Mint officials explained that the increase in space needs from its initial plan was necessary because of the increase in headquarters employees and contractor personnel. As stated in the previous finding, we did not assess the reasons underlying this doubling in size of personnel. Nonetheless, questions remain about the need for acquiring all of this space, particularly the 799 9th Street building after subleasing a portion of the 801 9th Street building. We believe this would not have occurred had the Mint followed prudent business practices.

During our audit, Mint officials commented to us on several occasions that it had negotiated what they considered a very good deal for the 801 9th Street building. However, the Mint was unable to produce documentation, such as appraisals, to support this assertion. We therefore polled industry brokers and performed other procedures to evaluate the reasonableness of the lease terms. Based on our inquiries, the best we could tell is the lease terms for this building did not represent an exceptional deal at the time as represented by the Mint, but were average for similar buildings in the area. Additionally, we were provided documentation showing that at one point early in the negotiations for the 801 9th Street building, the builder/landlord proposed to sell the building to the Mint for $67 million in September 1997. The Mint did not provide us documentation supporting the decision-making process that resulted in the Mint deciding to lease the building at the terms it did instead of accepting the builder/landlord's purchase offer.

It should be noted that the Mint official who acted as the contracting officer for these lease agreements passed away unexpectedly in July 2001. We therefore had to direct our requests for further documentation after that time to other Mint officials and personnel instead. These other individuals may not have been as familiar with the key events surrounding the decisions made with respect to the lease transactions.

With regard to the lease transactions, the Mint used the services of the same third party to broker the leases for the 801 9th Street building, the space in the 799 9th Street building, the "swing" space in the One Massachusetts and 10 G Street buildings, all which were leased before our audit began. It should further be noted that the broker engaged by the Mint was unlicensed in the District of Columbia.[11] In addition, as discussed below, we were unable to substantiate evidence of competition for broker services in the Mint's files for the 801 9th Street building lease. During our audit, Mint personnel told us that the broker had the documentation supporting certain aspects of the lease transactions, such as support for the fair market value of the 801 9th Street building. This type of information should have been readily available in the Mint's records. Nevertheless, we conducted several interviews with the broker and the broker eventually provided our auditors with some additional records that were not available in the Mint's files.[12] However, the information obtained from the broker, even when combined with information obtained from the Mint, did not provide for a complete and adequate record of the lease transactions.

Prudent Business Practices

Under the PEF, the Mint determined it did not have to follow GSA rules or the FAR. During our audit, we asked the Mint for its policies and procedures with respect to procurement in general and for space acquisition specifically. We were told that the Mint followed "industry practice." The Mint did provide, during the

[11] The District of Columbia Department of Consumer and Regulatory Affairs verified to our auditors that the Mint's broker was not licensed in the District of Columbia. We referred this matter to the Board of Licensing for appropriate action.

[12] We obtained some of these records through informal requests of the broker. Other records were obtained by an Inspector General subpoena.

audit, procurement procedures in a document entitled *Corporate Procedure, Guidelines for Exempt Purchases*, dated April 30, 1998. Accordingly, these procedures were not in place until after the Mint signed the lease for the 801 9th Street building in December 1997. The procedures, however, were in effect when the Mint entered into the leases for the 799 9th Street building (in December 1999) and for the swing space at the 10 G Street location (in May 2000). On March 22, 2002, the Mint provided general procurement guidelines dated May 31, 1996.

The Mint's April 1998 procurement procedures state that the contracting officer is responsible for procurement source selections and a decision document is to be prepared, which shows the relative differences between the sound comparative judgments made that led to the selection decision. In addition, the procurement procedures state that competition reduces the risk of having to rely on only one source for critical goods or services and, therefore, should be limited to a reasonable number of capable sources. Furthermore, the contract file shall contain documentation necessary to record the basis for key decisions made and actions taken during the procurement phases.

Because the Mint did not provide us with any formal procedures for the period of time covering the leasing of the 801 9th Street building, we developed a set of criteria, which we consider to be "prudent business practices," against which to evaluate the Mint's process for acquiring this space. Using information we obtained from a variety of sources, including GSA and other industry sources, we identified general principles that businesses and Government agencies would be expected to follow in acquiring and leasing office space to ensure that they achieve their goals at least cost. We do not believe this list is necessarily comprehensive but we believe it includes certain key steps that would help avoid, among other things, the situation the Mint finds itself in with excess space. The following are the steps we pieced together from these sources:

- Occupancy and space data should contain comprehensive, reliable, and updated comparative cost and occupancy needs that clearly document and incorporate changes in plans, justification for changes, cost analyses, and future (long-term and short-term) projections.

- All decisions should be properly reviewed through the chain of command and all steps and transactions should be properly documented and files maintained to provide essential internal and management controls and an audit trail.

- All services, including broker services, for potential leases or acquisitions should provide for full competition to ensure that a fair market price is obtained and the best available resources are used, including Government sources and assistance.

- A real estate appraisal should be performed to ensure that a fair market rent or fair market value of the property is obtained and decision-making is based on competent and reliable data.

- A comprehensive cost benefit analysis should be performed to justify, document, update, and support lease versus purchase decisions.

A Space Acquisition Plan Was Developed But Not Followed Or Modified

In 1996, the Mint developed a space acquisition plan for its Headquarters operation. The plan, which was presented to the Department, included a goal to increase its space from 82,900 square feet to 125,000 square feet and to consolidate its operation into one building from two. While this is an important first step in a sound acquisition plan, the Mint did not follow this plan for long. In fact, within a year, the Mint was acquiring space that did not follow this plan as discussed in more detail in the chronology provided in Finding 1. We believe the Mint should have adjusted its plan with sufficient analytical data.

In-House Expertise Was Lacking

Mint personnel responsible for the day-to-day operations and decisions concerning the leasing activities had neither the training nor the experience in leasing. Since the Mint contended it followed industry practices, we queried industry representatives and reviewed the GSA requirements for contracting officers performing independent leasing authority. We determined that the Mint's contracting officer did not have a lease warrant or the training recommended by GSA under its delegated leasing authority criteria. Under GSA guidelines, an individual should have 40 hours of training in each of the following classes: Federal real property leasing, cost and price analysis of lease proposals, Federal real property lease law or property lease law, techniques of negotiating Federal real property leases, and real estate principles. We found no evidence that the contracting officer completed any of these classes. Additionally, the contracting officer did not hold a lease warrant. Furthermore, the contracting officer's personnel file did not document prior experience related to space acquisition.

Evidence of Competition For Broker Services Could Not Be Substantiated

The contracting officer told us that the Mint had contacted three brokerage firms, in addition to the broker selected, as part of the broker selection process. According to the contracting officer, the broker who was selected did not require any money in advance for preliminary work associated with finding space at the 801 9th Street building. In this regard, the contracting officer stated that another broker contacted wanted $10,000 up front.

During our review of the Mint's leasing files, we found a Pre-Award Log on which the contracting officer recorded three companies and their phone numbers as the potential sources used in the broker selection process. We contacted the listed firms to verify the information. The principal of one company stated that no consideration was given to the company for brokering the Mint's 801 9th Street building lease, or any other lease. The principal from another company stated he talked to the contracting officer in reference to renting floors in another building, but no conversation took place about any other Mint lease deals. After numerous attempts, we did not get a response from the third firm listed in the Pre-Award Log. We, therefore, were unable to substantiate the accuracy of the information recorded in the Pre-Award Log as evidence of the Mint's competitive process to obtain broker services.

During a later review of the contract files, we observed an undated memorandum prepared by the contracting officer that stated the broker was selected because the broker was willing to accept a lower than market fee. It further stated the broker reduced the fee based on the expected gross value of the sale/lease. The files did not show any indication that other brokers were contacted to see if they would have matched or given a better rate than the selected broker.

For the reason discussed previously, we were unable to interview the contracting officer about the unsubstantiated information recorded in the Pre-Award Log.

The Mint Did Not Document How It Determined That The Lease Terms For the 801 9th Street Building Were Reasonable

The Mint did not demonstrate through documentation that it fully analyzed its options when leasing the 801 9th Street building. We learned that the builder/landlord proposed to sell the building to the Mint for $67 million in September 1997 but the Mint chose to lease it over 20 years. Which option was better would have needed to be fully analyzed before making the determination, but the Mint did not document such an analysis. (Also in September 1997, the builder presented the Mint with an option to purchase a 255,000 square foot building for approximately $68.6 million.)

In addition, the 801 9th Street building lease does not include a purchase option at the end of the 20-year lease term. Mint officials stated that by not including a purchase option, the Mint was able to obtain a better base rent. The base rent for this lease was $21.57 per square foot. The Mint, however, did not document what the base rate would have been with a purchase option. The Mint initially told us this, the base rent rate, was the reason for leasing rather than purchasing. Upon further examination, we found that this rate did not include operating expenses, taxes, and other costs included in the actual lease payments. After these costs are added, the Mint paid a fully loaded rental rate of $32.72 per square foot at lease inception, which escalates each year. According to industry brokers we polled, this was not an exceptional bargain, but about average, for office space during the period of 1996/1997 in the 9th and H Street area.

During June 1998, about 6 months after the 801 9th Street building lease was signed, the builder/landlord made another offer to sell the Mint the building for $93 million, with the settlement to occur between January to March 2002. This offer expired July 1998. Again, we were not provided with documentation showing the basis for the Mint's decision not to accept this offer.

<u>Adequate Documentation And Managerial Oversight Were Lacking</u>

Basic tenets of a system of good internal controls include adequate policies and documentation. The Mint did not have adequate policies and procedures in place when critical decisions were being made with respect to the headquarters leases. In addition, documentation to support its decisions and methodology were lacking.

For example, the Mint did not issue its policy entitled *Procurement Guidelines for Exempt Purchases* until December 1999, after the 801 9th Street building lease was signed. This document addressed the Mint's policy for carrying out procurements and included discussions of contracting officer authority, source selection, competition, simplified purchasing and internal controls, along with administrative issues. Under the "Internal Controls" section, for example, the policy prescribes that:

> The contract file shall contain documentation necessary to record the basis for key decisions made and actions taken during the solicitation, evaluation, award, and administration phases of the procurement.

In June 2000, the Mint issued another policy statement *Guidance for Contractor Selection and Award,* which provided additional information on the solicitation process, non-competitive purchases, and post solicitation processes. This document addressed, in some detail, the solicitation process, the evaluation process, price analysis, and notification to unsuccessful bidders, among other things.

The Mint's lease files lacked essential documentation to support critical decisions, including financial analyses, source selection, evaluation of data, and correspondence. For example, we repeatedly requested the detailed support for the broker's data that the fair market value of the 801 9th Street building was $80 million. The Mint provided us only the total dollar amount along with the broker's definition of fair market value. We contacted the broker, who ultimately provided us some additional data, but this data was not fully supported. In the absence of a formal appraisal, we were unable to ascertain the fair market value of the 801 9th Street building.

We believe this type of data should have been documented in the Mint's lease files, along with evidence of analysis and oversight by Mint personnel and management to support it as a good business decision. Instead, the Mint apparently accepted and relied upon whatever it was given by the broker. When we questioned Mint personnel about these practices, and especially about the lack of documentation, we were told that the Mint did not have to follow the FAR.

Adequate documentation is a prudent business practice whether or not an entity is required to follow the FAR. Industry sources we polled confirmed that adequate and timely documentation is essential and is a standard practice to ensure justification and approvals for decisions made. Data we repeatedly requested, both verbally and in writing, was needed for us to evaluate the lease activities in terms of internal controls and prudent business practices. The information and documentation often took inordinate periods of time for the Mint to provide, and oftentimes, the information we did receive was incomplete. For example, in March 2001, we requested basic information regarding the amount of lease payments and operating and tax expenses associated with the lease for the 801 9th Street building. It was not until January 2002 before the Mint was able to provide us this information.

Lack of appropriate documentation supporting procurement transactions by the Mint was cited by the Department's Office of Procurement in a recent review of the Mint's procurement operations. The Office of Procurement made a number of recommendations to correct these contract documentation deficiencies in a December 2001 report to the Mint.

<u>Overall Conclusion and General Observation</u>

In our opinion, the Mint did not follow prudent business practices throughout the process that led to the acquisition of its permanent headquarters space in the 801 and 799 9th Street buildings. The most telling example is the fact that the amount of space leased was clearly excessive, as evidenced by the fact that the Mint began subleasing part of this space to the IRS early in the process, then later subleased additional space to Customs, and it is still searching for additional tenants.

One thing that it is very troublesome to us were statements made by Mint officials and personnel to our auditors that because the PEF exempted the Mint from the FAR, this was somehow justification for things like not maintaining basic documentation supporting the lease transactions. This a basic tenant in public accountability by Federal agencies that did not go away with the PEF legislation, in our opinion.

Going forward, we believe that strong executive leadership by the new Mint Director will be necessary to ensure that the conditions noted by our audit, as well as those by the Office of Procurement in its recent review, do not reoccur. As noted by the actions cited in its response to our draft report, there are positive indications that this is occurring. As a general observation, we also believe that the Mint should reconsider using its procurement authority for space acquisitions in the future. Given the infrequent nature and complexity of this type of procurement activity, it would be difficult to maintain the in-house expertise necessary to ensure that these transactions are carried out in a prudent manner. A better course when such needs arise may be for the Mint to use the services of GSA or other Federal agencies that have the track record and expertise in this area

Recommendation

The Director of the Mint should:

1. Implement appropriate management controls to ensure that sound business practices are followed for future space acquisitions. Among other things, the controls should ensure that proper records are maintained; competition is used in source selections; financial analyses, internal reviews and evaluations are conducted; and staff is adequately trained. Additionally, a policy should be established requiring that the services of GSA or other Federal agencies more experienced in space acquisition be considered before performing this activity in-house with Mint procurement personnel.

   Management Comments. The Mint stated that it agreed that improvement to the documentation of procurement actions is needed, and has taken aggressive action to improve its documentation which will leave a better audit trail that demonstrates competition in source selections and other analyses.

   OIG Comments. We consider this recommendation to have a management decision; however, the Mint needs to establish a target date for implementing appropriate management controls.

* * * * * *

We appreciate the cooperation and courtesies extended to our staff during this audit. The major contributors to this report are identified in Appendix 6. If you have any questions, please contact me at (202) 927-5904.

Thomas E. Byrnes
Director, Manufacturing and Procurement Audits

Our objectives were to determine whether the Mint (1) acquired the appropriate amount of space in accordance with its needs and (2) followed prudent business practices in procuring these lease agreements.

The scope of our audit generally covered the Mint's leasing activities during the period 1996 through 2001. To accomplish our objectives, we: (1) interviewed Mint officials and personnel responsible for procurement, budget, accounting, and facilities management, (2) reviewed the Mint's procurement policies and procedures governing procurement contracting actions and files applicable to the lease, and (3) reviewed the Mint's procurement files related to the lease agreements for the 801 and 799 9th Street buildings, the One Massachusetts Avenue building, and the 10 G Street building. We also obtained information from Mint staff about the total numbers of Mint headquarters employees and contractor personnel at various points in time between 1996 and 2001. We did not verify this information.

Because the Mint determined that PEF exempted it from the FAR and did not apparently have formal procurement policies in place until 1998, we interviewed GSA and building industry representatives to establish criteria for "prudent business practices" for space acquisition against which we compared the Mint's leasing activities. In establishing this criteria, we also considered GSA requirements and basic tenants of the FAR governing procurement actions by the Federal government.

As discussed in Finding 2, the Mint's leasing files were incomplete and we were referred by the Mint to its broker for these transactions to obtain key supporting documentation for things like the fair market value of the 801 9th Street building, which the Mint represented was $80 million. We interviewed the broker and obtained some documents. In December 2001, we issued an Inspector General subpoena to the broker and obtained some additional documentation. To corroborate whether $80 million represented the fair market value of the 801 9th Street building, we interviewed industry representatives, including real estate brokers, about market values of buildings in the general area of 9th Street and H Street in Washington, D.C. We also reviewed information obtained by the independent auditor for the Mint's annual financial statements in support of the valuations used to by the Mint to account for the building lease transactions in its financial statements.[13]

As also discussed in Finding 2, the Mint had documented, as evidence that it competed broker services for the 801 9th Street building lease, the names of the three real estate brokerage firms brokers it contacted. We interviewed, or attempted to interview, the principals of these firms.

Others we interviewed during our audit included representatives or staff of (1) the builder/landlord for the 801 9th Street building, and (2) the District of Columbia Government Office of Regulatory Affairs. We also interviewed specialists in lease scoring for Federal budget purposes from the Office of Management and Budget, GSA, and the U.S. General Accounting Office.

Our audit fieldwork was performed primarily from February 2001 to November 2001. We performed our audit in accordance with generally accepted government auditing standards. It should be noted, however, that the Mint official who functioned as the contracting officer for the lease transactions passed away unexpectedly during our audit, before we were able to interview her about our specific findings.

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[13] The Mint is required by statute to prepare audited financial statements annually. The audits are performed by an independent public accountant under contract, with oversight by our office. For fiscal year 2001, the Mint received an unqualified opinion on its financial statements. The independent auditor, however, noted two material weaknesses regarding the Mint's computer controls and a reportable condition related to the approval of invoices. The independent auditor also reported that the Mint's financial management system was not in substantial compliance with the requirements of the Federal Financial Management Improvement Act.

The following two tables present information provided by the Mint in December 2001 in response to our requests for (1) Mint headquarters employee and square footage data and (2) a chronology of Mint headquarters space utilization.

TABLE 1

Actual number of Mint headquarters employees and contractor just prior to 801 9th Street building being occupied			
Building	***Square Footage***	***Mint Employees****	***Contractors***
Judiciary Square	70,984	268	60
Ullico	Employees were moved to #1 Mass Ave.		
1 Mass	44,912	60	60
10 G	No occupants until after the move to 801.		

Mint headquarters employees, IRS employees, and contractor personnel (FY 01)			
Building	***Square Footage***	***Mint Employees****	***Contractors***
801 (Mint)	142,852***	458	43
801 (IRS)	61,446***	193**	20**
1 Mass (Mint)	44,912	73	89
10 G (Mint)	29,484	25	97

Latest projections per occupancy of 799 9th Street building			
Building	***Square Footage***	***Mint Employees****	***Contractors***
801 (Mint**)**	142,852***	371	48
799 (Mint a/	105,460	150	145
801 (IRS**)**	61,446***	193**	20**

*Based on actual desk counts **Estimated ***The total building square footage is 232,000. a/ Per Mint 2-6-02 =149,647 sq ft

TABLE 2

CHRONOLOGY OF MINT HQ SPACE UTILIZATION 12/96 – 12/01

LOCATION	SF 12/96	P 12/96	SF 12/97	P 12/97	SF 12/98	P 12/98	SF 12/99	P 12/99	SF 12/00	P 12/00	SF 12/01	P 12/01
Judiciary Square	74,700	328	74,700	328	74,700	328	---	---	---	---		
ULLICO	8,200	38	8,200	38	---	---	---	---	---	---		
One Mass	----	----	22,456	82	44,912	120	44,912	184	44,912	162		
10 G Street NE	----	----	----	----	----	----	29,484	88	29,484	122		
801 9th	----	----	----	----	----	----	142,852	359	142,852	501	142,852	419
799	----	----	----	----	----	----	----	----	----	----	105,460	295
TOTAL SQ FT/EMPL	82,900	366	105,356	448	119,612	448	217,248	631	190,708	785	248,312	714
TOTAL: UTILIZATION SQFT/E	__	**226**	__	**235**	__	**266**	__	**344**	__	**243**		**348**

A recommendation that funds be put to better use is a recommendation that funds could be used more efficiently if management took actions to implement and complete the recommendation, including (1) a reduction in outlays, (2) a deobligation of funds from programs or operations, (3) a cost not incurred by implementing recommended improvements related to operations, (4) avoidance of an unnecessary expenditure noted in pre-award reviews of contract agreements, or (5) any other savings which is specifically identified. The following amount of potential funds that could be put to better use will be recorded in the Inventory, Tracking and Closure system (ITC). The amount of potential funds that could be put to better use will also be included in the next Office of Inspector General Semiannual Report to the Congress.

Recommendation Number	Potential Funds Be Put to Better Use Amount
Finding 1 - Recommendation 1	$39,000,000

The funds to be put to better use amount relates to potential additional revenue that the Mint could receive over a 10-year period by subleasing excessive space in its headquarters buildings at 801 9th Street and 799 9th Street, and would offset its lease costs for this excessive space. As discussed in Finding 1, the monetary benefit amount consist of three components: (1) $13.9 million associated with the estimated 33,400 square feet of current excess space, (2) $16.4 million associated with space currently occupied by IRS, should its sublease with the Mint not be renewed, and (3) $8.7 million associated with space currently occupied by Customs, should its sublease with the Mint not be renewed.

It is Mint management's responsibility to record the actual funds put to better use as a result of its implementation of this recommendation in the ITC system.

Note: OIG Comments appear in Appendix 5.

DEPARTMENT OF THE TREASURY
UNITED STATES MINT
WASHINGTON, D.C. 20220

DIRECTOR OF THE MINT

March 22, 2002

MEMORANDUM FOR JEFFREY RUSH, JR.
INSPECTOR GENERAL

FROM: Henrietta Holsman Fore #4
Director, United States Mint

SUBJECT: Response to Draft Audit Report-- *General Management*: The Mint Leased Excessive Space for its Headquarters Operations

This is in response to the draft audit report entitled "*General Management*: The Mint Leased Excessive Space for Its Headquarters Operations" dated March 15, 2002. We appreciate the opportunity to review the draft report and provide our response for the record, which we expect would be shown in its entirety as an attachment to the final report.

Since I became Director of the United States Mint in August 2001, I have come to respect the work done by the Office of the Inspector General in its many reviews of Mint operations. I have grown accustomed to good communication and an open sharing of ideas with the audit staff, both on the financial and programmatic sides. The United States Mint has benefited from these reviews. Given this frame of reference, I find the results of this particular review to be frustrating, and certainly not contributing to a continued cooperative relationship between our respective organizations. Hopefully, this report represents an aberration, and we can continue with our efforts to develop a constructive dialog with your staff.

Summary of Our Response

The Mint agrees in general with the two recommendations in your draft report and, in fact, has implemented several elements of the two recommendations already. Under my direction -- and independent of the results of your audit -- the Mint has begun reevaluating its Headquarters' space needs, both to economize as well as better reflect the recent downsizing of operations that was necessitated by our decreasing revenues. Further, significant steps have been taken to improve our management controls, including better internal controls and documentation of procurement activities. The Mint is constantly looking for ways to improve its operations and the two recommendations contained in the draft report are valuable contributions to that end.

While we agree with the two recommendations, we take strong exception to the manner in which the Mint has been characterized and the selective application and presentation of information. The tone of the report and the misapplication of information it contains are so questionable, that I ask you look at our responses, to see if you should reexamine the tone of the report. Because of an apparent lack of understanding of Mint procurement systems and applicable real estate practices, the result is a portrayal of the Mint in an excessively negative light. Equally frustrating is that there is virtually no credit given for all the substantive changes the Mint has already accomplished to date. **Our detailed response is included in the attachment** and, taken in its entirety, sufficiently evidences the basis for our objections. Even if the audit report properly depicted our operations -- *which we contend it does not* -- it reflects activities largely attributable to fiscal years 1997 through 1999 and does not represent current operations. While we agree that past practices needed improvement and that current practices can always be further improved, the Mint's past practices were nowhere as negative as the audit report indicates, nor is the report an accurate depiction of our current practices.

We also believe that the Office of Inspector General's computation of monetary benefits attributable to this audit is inaccurate. It is our understanding that monetary benefits declared by the Office of Inspector General should be attributable to the recommendations rather than to what is already standard policy. For example, there are a number of ways of computing space utilization, and, therefore excess space. Each would lead to a different conclusion. However, even if we assume the OIG's excess space computations are correct, we take exception to their claiming savings that are attributable to Mint practices already in place and not true results of audit recommendations. Specifically, the audit claims $25.1 million in savings attributable to the recommendation that "Should the subleases with the other Treasury components not be renewed, the Mint will need to take action to sublease that space to offset approximately $25.1 associated with the costs of the space over the remaining term of the 799 9th Street lease." The Mint's standard practice has been to sublease space excess to its needs and the Mint had always intended to do so if and when the subleases with IRS and Customs were not renewed. Claiming these savings are attributable to the results of the audit is clearly inaccurate.

Response to Specific Audit Recommendations

It will be this agency's goal to address the report's finding and recommendations in a manner and in a spirit to improve processes for future space acquisitions, and to provide the Government and its taxpayers with the best value for the space we already have.

Recommendation 1: The Mint Director should perform a comprehensive and documented analysis of the Mint's space needs for its Headquarters operations to, among other things, identify excess space currently under lease. A plan should then be developed and implemented to sublease, or put to other and appropriate use, the excess space identified. These actions should be taken in a manner to ensure the Mint's net lease expenses associated with Headquarters operations are minimized.

Mint Response: We concur and in fact, independent of the audit findings, have been reevaluating our Headquarters' space needs, both to economize as well as better reflect the recent downsizing of operations that was necessitated by decreasing revenues, and are two-thirds through the implementation of this effort. The Mint was in the midst of tremendous demand for circulating coinage, a new and highly successful circulating commemorative coin program, a robust expansion of its numismatic product lines, and a wide-ranging conversion to new electronic business systems to meet general and web-based retail sales demand. Indeed, had our projected growth continued as we expected, the Inspector General's report may well have found that the Mint leased far less space than needed. The downturn in the economy required us to realign a number of functions, streamline its operations, become less dependent on contractor employees for services, and delay some of our planned program initiatives. The Mint will continue to take measures to mitigate the financial impact of any unused space it controls. The Mint already has taken the prudent steps to sublease its unneeded space to other government agencies such as the Internal Revenue Service, the Customs Service and the Treasury Executive Institute. At the same time, the Mint needs to plan for the better economic times when it will plan for the inevitable increase in demand for coinage and numismatic products. When this occurs, the Mint must be poised to reclaim some of the now excess space so it can expand its operations in a responsible, prudent, and business-like manner. We will, of course, take all of these actions in a manner to ensure the Mint's net lease expenses associated with its Headquarters operations are minimized.

Recommendation 2: The Director of the Mint should implement appropriate management controls to ensure that sound business practices are followed for future space acquisitions. Among other things, the controls should ensure that proper records are maintained; competition is used in source selections; financial analysis, internal reviews and evaluations are conducted and staff is adequately trained. Additionally, a policy should be established requiring that the services of GSA or other Federal agencies more experienced in space acquisition be considered before performing this activity in-house with Mint procurement personnel.

Mint Response: While we strongly disagree with the Office of Inspector General's characterization of the management controls over past lease activities as explained in general above and in detail in the attachment to this response, we do agree that improvements were needed. In fact, the Mint has taken aggressive action to improve documentation of procurement actions, which will leave a better audit trail to demonstrate the competition in source selections and other analysis. We also agree with the Office of Inspector General's recommendation that staff should either be trained in the specialized area of space acquisition or that we use the services of experienced consultants, such as GSA, other Federal agencies, and private sector real estate consultants, in future space acquisitions.

We appreciate the opportunity to comment on the draft report. If you have any questions regarding our response, please contact Jay M. Weinstein, Associate Director and Chief Financial Officer, at (202) 354-7800.

Attachment

cc: Thomas E. Byrnes
Director, Manufacturing and Procurement Audits
Office of the Inspector General

Detailed Response to OIG Audit of Mint Leases March 22, 2002

Page 3.

1 The OIG issued the draft report for comment on March 15, 2002, approximately 13 months after the entrance conference held on February 13, 2001. Because of the OIG's apparent desire to include this report in their semi-annual report to Congress, the Mint was given 1 week to comment – a departure from the 30 days normally given for an audit of any magnitude.

OIG Comment 1

2 While generally correct, we believe this paragraph unfairly discredits the Mint. The Mint and the Department fully discussed this issue, and entered into the 801 lease with the understanding that if there were excess space the Mint would have to sublease it. The Mint was later directed by the Department to lease the excess space to the IRS. This fact was provided to the OIG auditors on a number of occasions; however, it is not reflected in the report. The reader is left to conclude that the Mint intentionally leased excess space and then had to decide what to do with it. This is clearly not the case.

Page 4.

3 The space in question is about 4,800 sf. on the first floor of the 801 9th Street building ("801"). The potential tenant is the Treasury Executive Institute (TEI), a group that approached the Mint for assistance.

4 The "excessive space" identified in the report is approximately equal to the size of the vacant first floor at 801. As previously mentioned, 4800 sf. of this space has been earmarked for the TEI. The remainder is still planned for a Mint museum, or is devoted to support space (e.g., the mailroom, the loading dock, garage entrance, etc.) not available for office use. A copy of the business case for the museum, approved by the Treasury Capital Investment Review Board in March 2001, was provided to the OIG.

OIG Comment 2

In addition, the Mint is fully aware that it has subleased space to the IRS and Customs, and that these agreements will expire at points in the future. Currently, the Mint has no reason to believe the IRS or Customs will not choose to execute the options available to them to extend their tenancy. Based on experience, we do not anticipate any difficulty in finding tenants for this space in the future.

Page 5

OIG Comment 3

5. The OIG assertion that "formal procurement policies and procedures were not in place" at the time the 801 lease was signed is incorrect. The auditors were provided copies of later versions of our procurement guidelines, and were told that a hard copy of the version in place when the lease was signed was not available. We have recently located a copy of these guidelines, dated May 31, 1996, which is attached.

OIG Comment 4

6 This statement is partially correct, but misstates the situation. The Mint had contracts with companies (Frederick Ross Corporation and later Liberty-Greenfield) for real estate services, not with individual brokers. **All commissions paid on Mint real estate transactions were paid to individual brokers licensed to do business in the District of Columbia.** On the 801 and One Mass transactions, the commissions were paid to a D.C. licensed independent contractor affiliated with Frederick Ross, who was an active member of the Mint project. On the 799 and 10 G transactions, the commissions were paid to Scheer Partners and Axis Realty, respectively, who then paid "referral fees" to the Liberty Greenfield representative. This process was in material compliance with D.C. law, and was discussed extensively with the OIG. Copies of canceled checks for commissions were also provided.

OIG Comment 5

7 We fully agree that purchasing the 801 building would have been in the best interests of the Government. The Mint attempted to do just that, but received guidance by OMB to lease the property instead. Contact names at OMB were provided to the OIG for verification of this position.

The Mint's assertion that it received an exceptional deal on 801 was provided conversationally by Mint executives on a number of occasions. Based on the attached listing of comparable Class A transactions, it seems clear that the Mint received a deal that was between $2 and $11 per square foot below market.

Page 6

OIG Comment 6

8 Documentation in this area existed in support of Mint and Treasury decisions. In fact, documentation ***was*** provided to support the fair market value of the 801 building. In our opinion, the OIG auditors requested an inordinate amount of detail on this and a number of related points. In fact, one of the auditors actually admitted that their lack of experience in lease transactions was contributing to the numerous requests for information and the length of time the audit was taking.

OIG Comment 7

9 The assertions in this section have been either overtaken by events or are incorrect. The audit covered activities that occurred in 1997 – 1999. The Treasury Department's Acquisition Management Assistance Review (AMAR) covered primarily 2000 and 2001 transactions. In addition, Mint Director Henrietta Holsman Fore instituted a number of task forces to look at critical

business processes when she first came on board in August 2001, long before the completion of the audit field work. One of these task forces dealt with procurement issues, and the conclusions of this group were similar in nature to those found in the AMAR.

The AMAR report identified file documentation deficiencies as a significant issue. The Mint accepts this finding and has taken steps to improve file documentation. The Mint also plans to hire a Cost and Price Analyst that will be dedicated to review and analysis of Mint procurements. Cost and Price Analysis Reports will be included in procurement files of all complex acquisitions over $100,000. The Mint also has developed a new Quality Assurance Plan and a new Business Clearance Form, which took effect on February 11, 2002. This plan now requires the chiefs of the operations offices to review all procurement actions taken by their staffs. The Policy and Oversight group within Procurement will also review a random sampling of actions during that time period. These reviews will ensure that procurements are being executed in accordance with all applicable policies and procedures. The Business Clearance form will help to ensure that Contracting Officers and Contract Specialists properly document their decisions and the analyses performed during the pre- and post-award phases of the procurement.

These points were made in the Mint response to the AMAR report, dated February 7, 2002. Based on the above, the Department's Procurement Executive's office determined that eight major findings/recommendations in the AMAR Report are now considered to be closed.

In addition to the above, the Mint will take and has taken other actions to improve documentation and respond to the AMAR report issues. The Mint has changed many of its internal Standard Operating Procedures in order to ensure better file documentation. The Mint also meets with the Treasury Procurement office in order to obtain their guidance in these changes.

Based on these actions, and on the Department's acceptance of them, the Mint cannot agree with the OIG suggestion that procurement operations be reported as a material weakness in management controls during the fiscal year 2002 reporting cycle.

10 The Mint agrees with the need to analyze its space requirements, and does so as a continuing part of its management process. The subleasing of two floors at 799 9th Street ("799") was a direct result of the Mint reviewing its cost of operations in response to a decrease in demand for Mint products and the corresponding impact on revenues. These two floors had originally been leased in a period of expansion of the Mint's business, particularly in the information technology and e-Commerce areas. To indicate that leasing these floors was a "mistake" is incorrect. When the economy turned, the Mint responded swiftly to downsize.

Furthermore, the report's lack of a balanced perspective is evidenced by its failure to report on the issue of whether the 801 lease was a capital or operating lease. Considerable amount of OIG and Mint resources were expended addressing this issue, but nowhere in the report is the positive finding of the Mint's properly categorizing the lease – a fact that was confirmed by the OIG's financial audit group earlier this month.

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11 The discussion of how much space the Mint leased needs to be put into the proper context of the Mint's business environment. The 1997 – 1999 period was one of major expansion for the Mint. The 50 State Quarters program, the development of the Golden Dollar, the Y2K effort culminating with the implementation of an ERP system, and the expansion of the Mint's web presence all contributed to growth in Mint employment and support contractors. These resources were effectively used to help generate $5.1 billion in profits during FY 1999, 2000, and 2001 – the three most profitable years in the history of the Mint.

Page 9

12 The time sequence of this discussion appears to be misstated. Of the original 232,000 sf. rented at 801, over 90,000 sf. was never available for Mint office use (60,000+ sf. earmarked for IRS and 30,000+ sf. of space on the first floor). The growth experienced by the Mint led to the acquisition of the One Mass and 10 G facilities. Operations at these facilities were later included in the 799 acquisition.

OIG Comment 8

In addition, this section makes it appear as if the Mint Museum is a recent attempt by the Mint to utilize "excessive space," which is clearly not the case. The Mint was planning a museum at the time the 801 lease was signed in 1997, as stated to the auditors throughout the course of their review.

OIG Comment 9

13 The Mint is aware that it will need to sublease space currently occupied by the IRS and Customs once their subleases expire. However, we cannot agree that the OIG should take credit for identifying $25.1 million in funds to be put to better use based on the value of the subleases. Subleasing space is already a Mint procedure, as evidenced by our subleases with IRS and Customs. It is our understanding that the OIG declares monetary savings when an agency takes actions in response to an OIG recommendation; this is clearly not the case in this particular situation. The Mint already had procedures -- taken independently of the OIG's recommendations -- to sublease space excess to its needs.

14 The Mint did not fully consolidate. As previously stated, this was primarily due to the requirement to house IRS and the unforeseen expansion in Mint IT programs.

Page 10

OIG Comment 10

OIG Comment 11

15 See Comment 11 above.

Page 12

16 We believe we have provided adequate information as to why the Mint subleased space to IRS and Customs and are disappointed that the report does not adequately reflect our rationale. As stated, we were directed by the Department to sublease two floors of 801 to the IRS, and we – on our own initiative – subleased two floors of 799 in response to the downturn in economic conditions.

17 In preparing the table shown in Appendix 2, the Mint attempted to provide the best possible information to the OIG. By requesting employee data by building back to 1996 at the close of each calendar year, the auditors made it difficult to utilize normal Mint FTE reporting systems. Knowing that detailed floor plans were available, and that buildings were generally at capacity in the past, "desk counts" were seen as a valid measure of occupancy.

In addition, the reference to "estimated" employee counts does not fairly represent the Mint's management of its space utilization. In fact, the estimates were of ***IRS*** employees in 801. In order to respond to the OIG's request for IRS occupancy data, the Mint had to use "as built" floor plans from the construction of the IRS space on the 3rd and 4th floors of 801. The Mint did not have access to exact IRS employee or contractor counts. This was clearly communicated to the auditors.

The negative reference to "constantly fluctuating contractor personnel" is actually a reflection of sound business practice in the systems development environment. As major implementations are planned and executed, contractor support will increase and decrease along with the workload. We believe this is far better than having a constant level of IT support regardless of the workload requirements. The Mint attempted to provide the most accurate information available for the "snapshot" in time requested by the OIG.

The Mint does agree that the information flow on this audit was not as good as it could have been, and that communications on the part of both the OIG and the Mint could have been improved. Key Mint personnel required to provide information in response to OIG requests were also involved in the planning and move to the 799 building, as well as with a major workforce restructuring and the Mintwide budget reductions necessitated by the downturn in Mint revenues. Data requests from the auditors – especially repeated or follow up questions over the thirteen months the audit took to complete – often had to be balanced with other workload requirements placed on these individuals.

Mint management understood this concern, and in October 2001, Mint Director Fore held a meeting with the OIG audit team and key Mint management officials. At that meeting, Ms. Fore told the auditors that if they had any problems receiving data, they should come directly to her or the Deputy Director. No such requests for assistance were ever received.

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18 The reference to One Mass and 10 G as "apparently as swing space" minimizes the business rationale behind these acquisitions. In fact, space at One Mass was originally obtained to house the COINS implementation team. This ERP effort was critical to the Mint's Y2K planning, and entailed multiple teams of employees from Headquarters and the field offices, as well as necessary support contractors. The 10 G space was leased in order to house the Mint's burgeoning e-commerce function, which has been named to numerous "best" lists in Government and private sector publications.

OIG Comment 12

19 The Mint would have had no reason not to provide this information, and, indeed thought it had been provided. The rental rates for the JSB and Ullico Buildings in 1996 were $34.60 and $28.50 respectively. It should be noted that neither of these buildings were considered Class A, nor were they located in as desirable a location as the 801 building.

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20 See Comment 18 above.

OIG Comment 13

21 The timing of the ULLICO move is incorrect. The remaining employees in the ULLICO building were moved to One Mass or JSB in September 1998.

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22 The timing of this is incorrect. The Mint actually began working with IRS as early as the summer of 1999 to prepare for their occupancy, and had an executed interagency agreement with IRS in September 1999. It is unclear why the report states that the Mint "began negotiations to sublease" space in December 1999.

Likewise, the footnote accompanying this statement relays conversations with Larry Rogers, former Special Assistant to the ASM/CFO, who stated that it was "well known at the time" that the Mint would not need all of 801. By not placing this statement in time context, the report is misleading. In fact, Mr. Rogers was almost certainly referring to the 1996 – 1997 planning period, when everyone *would* have believed that there would be excess space in the 801 building. As written, however, the report leads to the conclusion that the Mint carelessly overleased space at 801, then decided something had to be done with it and began to talk to IRS. This was clearly not the case.

The space was, in fact, leased by the Mint in order to provide for future expansion in the Mint Headquarters staff. The Department understood this, and agreed that the space would be subleased until that point in time that the Mint needed it.

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OIG Comment 11

23 This footnote is misleading. In August 2001, the Mint provided the auditors a paper explaining the increase in space from the combined 10 G and One Mass buildings to the new 799 building. In this paper, the Mint states its intention to occupy 149,336 sf at 799, not the 105,500 referred to in the audit report.

Due to the downturn in the economy, the Mint adjusted the size of its workforce downward later in the fall of 2001. Accordingly, by December the Mint had subleased two floors at 799 to Customs. We believe the "information received in December 2001" showing 105,500 sf at 799 was a reference to a ***space utilization*** chart prepared in response to the OIG's request. This chart never purported to reflect total square footage master leased by the Mint. This fact should have been clear to the auditors, as the chart showed the total square footage ***utilized*** by the Mint in 801 to be 142,852 sf. when it was clear that the remaining space in the 801 building was subleased to the IRS or was the first floor retail space.

Page 17

24 The OIG states that the Mint had "leased and taken occupancy" by December 2001 of a total of 381,600 sf. of space. This statement clearly implies that the Mint intended to house Mint operations in all of this space, which is clearly not the case, as described below.

OIG Comment 14

In addition, by developing a "utilization" rate of 535 sf/person and claiming this to be "clearly in excess of its original plan" the report makes a grossly unfair comparison – one that ***ignores the data the auditors specifically requested and included in Appendix 2.*** Specifically, the OIG requested information on IRS occupancy of the 801 building. This information (213 persons in 61,446 sf.) was provided by the Mint and appears in Table 1 of Appendix 2. The auditors did not utilize this information in computing an overall rate based on the total amount of space master leased by the Mint, but occupied in part by IRS. Nor did they request information on the planned number of Customs employees who would eventually occupy the two subleased floors of 799. They instead chose to relate Mint employees and contractors to all space master leased by the Mint.

A more valid utilization rate can be derived by considering the total occupancy of Mint-leased space by ***U.S. Government*** employees and contractors (exclusive of the retail space on the first floor of 801). In December 2001, there were 714 Mint employees/contractors and 213 IRS employees and contractors to be housed in the two buildings. Dividing this figure into the 309,758 square feet of "office floors" occupied by the Mint and IRS, yields an overall utilization rate of approximately

OIG Comment 15

334 sf/person, significantly less than the 535 figure cited in the report, and a more realistic representation. All this information is contained in Table 1, Appendix 2 and was available to the auditors.

25 The report compares the Mint's "excessive" utilization rate (535 sf/person) with the planning guideline for a "GS-17 position" appearing in 31 CFR. (350 sf.) This is an "apples to oranges" comparison, as it relates an unfairly inflated utilization rate (calculated on ***gross rentable square footage***) with a space allocation guideline (calculated on the basis of ***net occupiable square footage***.)

The report also overlooks the fact that on an allocated basis the Mint is consistent with or well below the GSA guidelines. The Mint provided the audit team with this information, by grade level, as shown below:

Grade	Mint	GSA
SES	350 – 400	350 - 400
GS-15	225	225
GS-14	150	225
GS-13	80	100

26 The Mint agrees with the report's basic premise that unused space should be put to good use. As acknowledged, the first floor retail space in 801 is vacant; however, the Mint has planned to establish a Mint museum in this space from the inception of the lease. The Mint continues to work with Congress to gain approval for this project.

Additional office space has been made vacant by a number of recent events. Specifically, the Mint had been serving as the pilot for a Departmental effort to replace the current payroll and personnel system. This effort, known as "PayMint" was terminated on January 30, 2002. A significant number of contractor employees were released as a result of this decision. The Mint will continue to review its options for utilizing excess space, including the possibility of additional subleasing.

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27 Again, to clarify, the Mint was approached by TEI for space. The report incorrectly characterizes this transaction as representing "half the first floor." In reality, it only represents approximately 4,800 rentable square feet out of a total of over 30,000 rentable square feet on the first floor of 801. In an attempt to provide benefit to the Department senior executives who utilize TEI's services, the Mint has reached agreement to house the TEI. The long-standing plans for the museum have been noted previously.

OIG Comment 9

28 The report's calculation of savings in this footnote is questionable. We do not believe the OIG should take credit for monetary benefits when the benefits are attributable to the Mint's existing business practice of subleasing space excess to its current needs. We believe the OIG should declare monetary savings only when the Mint, in response to an audit recommendation, adopts practices it was not otherwise using.

OIG Comment 16

29 We agree with the report language cited in this footnote. However, when the Mint was planning for the 801 space, this provision did not exist. Neither did the OIG include in its report the continuing efforts from 1997 forward to obtain Departmental and Congressional approval for the museum.

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30 The Mint agrees with this statement and believes actions taken throughout our occupancy of the two Headquarters buildings reflect our commitment to prudent space usage. These include continuously assessing our needs and subleasing excess space to other Treasury components such as IRS, Customs and TEI at favorable terms, and working with key Congressional staff to gain approval of a Mint museum on the first floor of 801.

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OIG Comment 5

31 The Mint still believes that the 801 lease was an exceptional deal for the Government. The report states that the Mint did not produce appraisals to back up this assertion. Unfortunately, an appraisal may have been a good indicator had the Mint purchased the building. However, as directed, the Mint entered into a lease instead. The best comparison points are comparable leases negotiated on comparable properties at the same point in time. These are shown in the attached chart and show that the Mint's rate per square foot was between $2 and $11 less than the rates for comparable properties. The report does not give any examples of the properties the auditors used in making their comparison, nor does it indicate what class the properties were or whether they were new construction.

OIG Comment 5

32 We provided the auditors information on the OMB officials who gave guidance on our lease rather than purchase of 801. This issue was discussed at the October 2001 meeting with the OIG staff. At this meeting, the auditors were specifically informed that the conversations with OMB took place at the Mint's October 1997 OMB budget hearing. We do not know what the auditors did with this information.

33 See Comment 6 above.

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34 The Mint disagrees with this assertion. Throughout the audit, the auditors appeared unable to articulate what they were looking for and what it would take to satisfy their requirements.

OIG Comment 3

35 See Comment 41 below.

OIG Comment 6

36 We believe the reference to a subpoena is an attempt to make it appear as if access to information was denied. This was not the case. The auditors were, on several occasions during the summer of 2001, offered the opportunity to come to Liberty-Greenfield's offices in Denver to review the multiple file drawers of material on the Mint transactions.

OIG Comment 17

The subpoena was delivered by an OIG investigator in December 2001, who was sent to talk with the broker and physically look at the files. The investigator, in fact, did take some material back with him, but could not possibly have carried all of the files. After being informed later that the cost of copying all of the files on the Mint transactions would be approximately $5,000, the OIG apparently decided to send the auditors to Denver. The auditors spent three days at Liberty-Greenfield's attorney's offices in January 2002, combing through files on the Mint transactions. Copies of relevant documents were made and shipped to the OIG.

We believe that both the Mint and its representatives were extremely cooperative with the auditors.

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37 The Mint cannot respond to this specific issue as the contracting officer responsible for the memorandum to the file is now deceased. It is likewise difficult to assess this section without knowing the specific questions the OIG asked the competitive brokers. The statement "The principal from another company stated he talked to the contracting officer in reference to renting floors in another building, but no conversation took place about any other Mint lease deals" could simply mean that at the point in time the Mint contracting officer asked about the 801 lease, no other "Mint deals" were being considered. Thus, this discussion all becomes a matter of perspective.

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OIG Comment 5

38 The report makes several references to the issue of lease vs. purchase of the 801 building as illustrated in this section. The Mint advised the audit team that purchasing this property was the Mint's preference. However, OMB direction at the time was to lease and that is what was done. Contact officials at OMB were provided to the OIG.

OIG Comment 5

OIG Comment 5

39 Information on comparable deals in the area at the time the lease was signed was provided.

40 Two points in this section are inaccurately portrayed. First, from the inception of the Mint's business case for consolidating its Headquarters' operations, through the signing of the 20-year lease with DRI in December 1997, the Mint only conducted lease negotiations with the finalist competitors among 9 developers and 10 properties. This was done in compliance with OMB's specific direction to not purchase property, as noted earlier. Second, in June 1998 OMB subsequently directed the Mint to negotiate a purchase with DRI of the same property for which a 20-year lease contract had been signed in December 1997. The Mint did so that month, and while the offer from DRI was attractive, the previously negotiated lease remained the best deal for the Mint and the government. All of this information was coordinated with and analyzed by the Department and OMB, and lead OMB to ultimately approve the 20-year lease.

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OIG Comment 3

41 The OIG assertion that the Mint "did not have policies and procedures in place when critical decision were being made" is incorrect. The auditors were provided copies of later versions of our procurement guidelines, and were told that a hard copy of the version in place when the lease was signed was not available. We have recently located a copy of these guidelines, dated May 31, 1996, which is attached.

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OIG Comment 17

42 The Mint will agree that it often took longer than usual to provide information to the OIG. There were a number of reasons for this. One in particular is that the group responsible for space management was in the middle of the move of OCIO to 799 throughout the last quarter of CY 2001, and in one case were actually moving themselves. This was explained to the auditors.

A bigger concern was the manner in which the information was requested. The audit team was – by the admission of one of the team members – inexperienced in this form of audit. They often appeared uncertain as to what was needed, or asked unfocused or unclear questions. When information was provided, it often caused the auditors to rethink their request and resubmit an additional request. The lease payment/tax and operating expense example given was typical of this problem.

Again, we must refer to Director Fore's instructions to the audit team to bring any difficulties obtaining data to her attention, and the fact that this was never done by the auditors.

43 This has been addressed several times before. The combination of Departmental direction, changing business conditions, and space never intended for office use all can be combined to make it appear as if the Mint was out of control on leasing. This was not the case.

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44 It is not the Mint's position that the PEF exempts us from maintaining proper documentation. We agree that better documentation should have been maintained and we have already taken steps to improve Procurement operations. It is the Mint's contention that the PEF provides certain flexibilities that allow us to respond to changing market conditions in an effective manner. The Mint is never exempt from maintaining proper documentation, as the new Mint procurement guidelines once again attest.

OIG Comment 18

45 We agree that real estate transactions of this magnitude are infrequent and do not support the development of in-house expertise. We do not agree that GSA or another Federal agency would always be the correct choice for these types of transactions, and that the use of private sector real estate consultants should not necessarily be excluded, as the audit recommendation implies.

46 See Comment 45 above.

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OIG Comment 19

47 While the footnote is factually correct, it is clearly not relevant to the scope of this audit and should be eliminated.

UNITED STATES MINT
PROCUREMENT GUIDELINES
(5/31/96)

I. BACKGROUND

Section 522 of the Mint Reauthorization Act (Public Law 104-52) grants a general waiver of procurement regulations. The waiver states that provisions of law governing procurement or public contracts shall not be applicable to the procurement of goods or services necessary for carrying out Mint programs and operations.

Similar waivers have also been granted under public laws that call for the issuance of numismatic coins, dating back to 1984.

The intent and effect of the waiver is to enable the Mint to effectively operate as a profit-making, manufacturing, direct marketing, and retail business.

II. PURPOSE

The purpose of these guidelines is to broadly delineate Mint policy for carrying out procurements with a waiver from established procurement laws and regulations including the Federal Acquisition Regulation (FAR) and Treasury Acquisition/Procurement Regulation (TAPR). Any supporting internal acquisition procedures that may be subsequently developed to carry out the programs covered by the procurement waiver shall be based on the foundation principles contained herein.

III. SCOPE

These guidelines establish policy for procurement transactions necessary to carry out Mint programs and operations.

The Treasury policies and procedures regarding "Conflicts of Interest" shall apply, as stated in "Standards of Ethical Conduct for Employees of the Executive Branch". See 5 CFR Part 2635.

No right of action in any Federal court or in any administrative body is created by these guidelines. Procurements made pursuant to Section 522 of PL 104-52 are not subject to judicial review as it is the clear intent of the legislative language that such review is precluded. (See Design Pak v. James Baker, III, et al., 639 F.Supp 301 (D.Ms.. 1985).

IV. GENERAL PROCUREMENT OPERATIONAL POLICIES

A. Maximum System Efficiency. The Office of Procurement's critical role is to help its customers obtain products and services which will provide the best value to the Mint in a timely manner that most effectively meets program needs. The waiver of provisions of law governing procurement or public contracts allows the Mint to satisfy this objective free of the normal constraints of federal procurement. The acquisition process shall, accordingly, encourage flexibility, innovation, responsiveness and the use of sound business judgement, consistent with the general principles set forth herein. In order to ensure that maximum efficiency is obtained, internal rules, regulations and policies shall only be promulgated when their benefits clearly exceed the costs of their development, implementation, administration and enforcement. Where uniform[illegible] contributes to efficiency and effective business relationships, the acquisition process should provide it.

B. Team Approach and Planning. The Office of Procurement's customer base encompasses all elements of the organization. Effective purchasing management requires customer and procurement personnel to play complementary team roles throughout the acquisition process. At the earliest planning stages of a program Procurement's involvement is crucial to ensuring that sourcing and scheduling decisions are made in time to meet program requirements. During market research team personnel need to share valuable information such as technical expertise and prior experience as well as provide useful information regarding potential sources or estimated costs. Early communication with the commercial sector also helps determine capabilities available in the marketplace. Successfully meeting program objectives can only result from collaborative, informed efforts on the part of all involved in an atmosphere of open communication and unity of purpose. At all working levels these decisions need to be made based upon the needs defined by the customer and the business and policy considerations that Procurement can help present. Major decisions regarding source selection or contract administration issues should be a collaborative effort between the Assistant Director for Procurement and the senior management responsible for the requirement or their designees.

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C. Integrity. The acquisition team shall be held to Departmental standards of conduct in performing their duties and shall conduct themselves so as to avoid even the appearance of any impropriety. An essential consideration in every aspect of the acquisition process must be maintaining the public trust. Members of the acquisition team shall not take part in any action that may result in or create the appearance of a loss of complete independence or impartiality or adversely affect the public's confidence in the integrity of the Mint.

D. Contracting Officer Authority. Duly appointed contracting officers of the Mint are responsible for entering into, administering, and terminating contracts, and for making related determinations and decisions with respect to procurement matters. Contractual commitments and changes to contracts may be made only by duly appointed contracting officers acting within the limits of their authority. The only exceptions are: 1) small dollar purchases that fall within the monetary limitations established for imprest fund, third party draft, purchase card, and blanket purchase agreement transactions; and 2) other delegations as determined by the Assistant Director for Procurement.

Field office purchasing authority shall be the simplified purchasing threshold of $100.000 (except Fort Knox which is $10,000), as determined by the Assistant Director for Procurement.

An unauthorized commitment, that is, a contractual action that is not binding solely because the Mint representative who made it lacked the authority to enter into that agreement, shall be subject to approval by the Assistant Director for Procurement. Ratification shall be made only after proper expenditure authority has been obtained. The Mint should take positive action to preclude, to the maximum extent possible, the need for ratification of contracting actions.

E. Negotiation. Sealed bid techniques should not be used. Negotiations should be conducted where it is practical and efficient to do so. The goal is to negotiate the most current, effective purchase terms possible within the time constraints of the program being served. This should be dictated by total cost and market conditions. In the case of low value purchases conducted under simplified procedures the buyer's approach should be the

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same as any prudent shopper's: Comparison shop and ask questions.

Discussions may encompass price, terms, conditions and all other elements relating to performance under the contract. The factors that will be considered in source selection and the relative importance of those factors are completely within the broad discretion of the Mint. Award decisions will be based on that offer which, after evaluation in accordance with selection criteria, is determined to be in the best interest of the Mint; lowest price or lowest total estimated cost will not necessarily be the deciding factor in the award decision.

Source selection is an extremely critical part of the procurement process which may generate protests, delays, and confusion if not handled properly. Accordingly, technical evaluations performed on competitive procurements shall be documented to support the conclusions reached by the evaluating team. A written selection decision document shall be prepared which shows the relative differences between proposals and the sound comparative judgments made that led to the selection decision.

F. Competition. Competition can result in significant cost savings, better quality products and more responsive services. Competition can enhance design innovations because of the diversity of ideas and approaches available in a competitive environment. Competition reduces the risk of having to rely on only one source for critical goods or services. The Mint shall balance these considerations with the program benefits that can be gained from a reduced supplier base and building strategic alliances with its suppliers. The degree of competition sought will be influenced by knowledge of the marketplace and successful past performance records, with competition in most cases limited to a reasonable number of capable sources.

Competitive quotations will not generally be sought for purchases under $5,000. Single source procurements between $5,000 and $100,000 shall be documented in a memorandum approved by the Contracting Officer. Single source procurements above $100,000 will be approved by the Assistant Director for Procurement. Notices in the Commerce Business Daily or other publications shall only be placed when determined to be in the Mint's best interest.

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G. Simplified Purchasing. For purchases up to $100,000, contracting officers may use a simplified small purchase procedure that is the most suitable, efficient, and economical for the circumstances of each acquisition. Simplified purchase procedures may include the use of imprest funds, third party drafts, purchase cards, purchase orders, and blanket purchase agreements. Simplified purchase procedures are designed to reduce administrative costs and expedite delivery of the needed items or services. Oral quotations may be obtained when practicable or economical.

Written quotations should be used when the specification or statement of work is lengthy or complicated. Purchase orders may be issued at any dollar amount for the acquisition of commercial items.

H. Reviews. Procurement internal quality reviews shall be conducted in accordance with established office policies, utilizing a two-tier review system and additional Analyst review as necessary for large dollar/complex actions. Legal review may be requested at any dollar value for actions involving unusually complex issues or other criteria as may be mutually agreed upon. Actions subject to review, prior to execution, include solicitations, contracts, modifications, decisions on claims, and proposed terminations. All reviews will be conducted on an expedited basis. Review(s) may be waived as determined appropriate by the Assistant Director for Procurement.

I. Reporting. The Treasury Procurement Data System (TPDS) is the single Treasury-wide data collection system for individual contract actions and purchases awarded by Treasury bureaus. The TPDS is the Department of the Treasury link to the Federal Procurement Data System (FPDS). TPDS is used for a variety of purposes requiring the consolidation of Department-wide procurement data, either for external reporting or internal management needs. The Contracting Officer shall report all procurement actions to the FPDS through TPDS. Purchases under $25,000, conducted using simplified purchasing methods, shall be reported through the quarterly Summary Contract Action Report. Procurements shall be considered as competed and reported accordingly if more than one offer was solicited. Single source procurements shall be reported under the category "unavailable for competition."

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J. Contract File Documentation. The contract file shall contain documentation necessary to record the basis for key decisions made and actions taken during the solicitation, evaluation, award, and administration phases of the procurement.

K. Contract Terms and Conditions/Forms. To the maximum extent practicable, terms and conditions shall resemble those customarily used in the commercial marketplace. Use of FAR forms and clauses shall be avoided.

L. Small Business Program. The Mint is committed to the Small Business Program and recognizes the importance of small businesses to the national economy. The Mint shall ensure that small, minority and women-owned business firms are given the opportunity to participate in Mint contracting activities to the maximum extent practicable consistent with the Mint mission.

M. Contract Disputes. Any claim for relief filed by a contractor shall be subject to decision by the Contracting Officer. If the parties cannot reach an agreement mutually satisfactory after diligently pursuing a solution through discussions and negotiations, the Contracting Officer shall make a final decision. The Contracting Officer's decision shall prevail unless the contractor submits an appeal to the Associate Director for Policy & Management/CFO within ten calendar days of receipt of the Contracting Officer's final decision. The decision of the Associate Director for Policy & Management/CFO shall be final and binding on the parties.

Joan S Tuenge
for Joseph N. Hoback
Assistant Director for Procurement

Jay M. Weinstein
Jay Weinstein
Associate Director for Policy & Management/CFO

Philip N. Diehl
Philip N. Diehl
Director of the Mint

ESTIMATE FAIR MARKET VALUE
COMPARABLE BUILDINGS

	BUILDING	TENANT	NET RENTAL RATE ($/RSF, Net)	SPACE (RSF)	MARKET(*) CAPITALIZATON RATE	FAIR MARKET VALUE / RSF
MINT						
	801 9th, NW	U.S. Mint	21.57	232,000	6.25%	$345
GSA						
	810 7th, NW	Dept of Justice	24.93	201,000	6.75%	$369
	888 1st, NE	FERC	23.85	477,000	6.75%	$353
PRIVATE SECTOR						
	555 12th, NW	Arnold & Porter	33.00	480,000	8.50%	$388
	1111 Pennsylvania, NW	Morgan, Lewis, Bacius	30.00	333,000	8.50%	$353
	600 13th, NW	McDermott, Will & Emery	30.00	104,000	8.50%	$353
	1001 Pennsylvania, NW	Powell Goldstein	30.00	75,000	8.50%	$353
RECENT SALE		SELLER / BUYER				
Oct. 1995	1350 Eye Street, NW	Manulife / Universal	27.00	342,000	7.80%	$346

Note: The Market Capitalization Rate is estimated based on recent purchase and sale transactions and the appropriate investment underwriting criteria, the federal treasury bond yields and the current capital markets interest in purchasing real estate assets in downtown Washington, DC. The capitalization rate for each building has been adjusted to take into consideration the building's location, age and quality; the credit of the building's tenants and the security of the buildings cash flow; the length of the building's leases; and whether the building is a single or multiple tenant asset. The Fair Market Value estimate was determined by applying the appropriate capitalization rate to the net rental rate of the building's lease(s).

OIG Comment 1. The response indicates that the Mint was directed by the Department to lease space in the 801 9th Street building, as if the Mint did not have a choice in the matter. As discussed in Footnote 5 on page 15, we were unable to substantiate that this was the case. While the Mint may not have intentionally leased more space than it needed, we were not provided documentation as to the decision-making processes that ultimately led to this situation.

OIG Comment 2. As discussed in our report, the Mint should nonetheless be prepared to move quickly to find other tenants as appropriate should IRS and Customs not renew the subleases.

OIG Comment 3. We dropped this statement in our final report based on the procurement guidelines provided with the Mint's response. Although we repeatedly requested the procurement guidelines throughout the course of the audit, the Mint did not provide them to us until they responded to the draft audit report on March 22, 2002. These procedures were included as an attachment. The guidelines are general and do not discuss specific leasing policies and procedures.

OIG Comment 4. In a document to our auditors dated August 23, 2001, the District of Columbia Department of Regulatory Affairs advised that 2 of the 3-brokerage companies were not licensed. A principal of one licensed brokerage company told us that his company performed no work with regard to the Mint's lease transactions for the 801 and 799 buildings; the individual who acted as the Mint's broker on all four-lease transactions handled this work. We obtained evidence that the brokerage fees paid to this brokerage company were forwarded to an unlicensed company. As stated in our report, we have referred this matter to the District of Columbia for their review of compliance with District of Columbia requirements.

OIG Comment 5. During our audit, we interviewed the Office of Management and Budget (OMB) contacts. They did not recollect giving guidance that the Mint should lease the 801 9th Street building and they stated that, in their opinion, the Mint should have purchased the building. However, documentation, such as correspondence or meeting minutes, was not available regarding OMB's involvement in the decision-making process to lease this building.

The documentation provided to us during the audit, which was also included with the Mint's response, did not show the source, points of contact, or the timeframes for the data. Consequently, we polled principals of three brokerage firms to try to verify the data received from the Mint and to obtain rental cost data for properties in the area. These firms stated that the rental rates were average, which was the basis for our conclusion. It should be noted that the schedule included in the Mint's response excluded certain data on a similar schedule provided by the Mint during the audit. The document that the Mint attached in its response to us was incomplete (see page 57). Specifically, the table provided during the audit by the Mint listed one Class A and one recent sales property where the fair market value per rentable square foot was below that for the 801 9^{th} Street building. The complete list of properties obtained during the audit follow.

US MIN. HEADQUARTERS RELOCATION
RECENT MARKET COMPARABLES

		BUILDING	TENANT	NET RENTAL RATE ($/RSF)	SPACE (RSF)	MARKET (*) CAPITALIZATION RATE	FAIR MARKET VALUE / RSF
MINT RELOCATION	Class A	801 9th, NW		21.57	232,000	6.25%	$345
GSA RELOCATION	Class A	810 7th, NW	Dept of Justice	24.93	201,000	6.75%	$369
		888 1st, NE	FERC	23.85	477,000	6.75%	$353
	Class B	515 22nd, NW	State Dept	22.00	102,000	6.50%	$338
		111 20th, NW	Peace Corps	21.00	156,000	6.25%	$336
						Average	$349
RENEWAL	Class A	1401 H, NW	Dept of Justice	24.00		7.00%	$343
		901 E, NW	Dept of Justice	22.80	92,000	7.00%	$326
		1801 L, NW	EEOC	23.10	180,000	7.00%	$330
	Class B	2121 Virginia, NW	State Dept	24.50	140,000	7.00%	$350
		1400 New York, NW	Dept of Justice	23.00		7.00%	$329
						Average	$335
PRIVATE SECTOR RELOCATION	Class A	555 12th, NW	Arnold & Porter	33.00	480,000	8.50%	$388
		1111 Pennsylvania, NW	Morgan, Lewis, Bacius	30.00	333,000	8.50%	$353
		600 13th, NW	McDermott, Will & Emery	30.00	104,000	8.50%	$353
		1001 Pennsylvania, NW	Powell Goldstein	30.00	75,000	8.50%	$353
		1909 K, NW	Mayer, Brown, Platt	27.80	80,000	8.50%	$327
		600 14th, NW	Pepper, Hamilton, Sheets	25.00	50,000	8.25%	$303
						Average	$346
RECENT SALES			SELLER / BUYER				
	Oct-95	1350 Eye, NW	ManuLife / Unversal	27.00	342,000	7.80%	$346
	Apr-96	1301 K Street, NW	Prentiss / Hines-GM Pension	27.00	596,000	8.90%	$303
						Average	$325

Notes: The Market Capitalization Rate is estimated based on recent purchase and sale transactions and the appropriate investment underwriting criteria, the federal treasury bond yields and the current capital markets interest in purchasing real estate assets in downtown Washington, DC. The capitalization rate for each building has been adjusted to take nto consideration the building's location, age and quality; the credit of the building's tenants and the security of the buildings cash flow; the length of the building's leases; and whether the building is a single or multiple tenant asset. The Fair Market Value estimate was determined by applying the appropriate capitalization rate to the net rental rate of the building's lease(s).

OIG Comment 6. We believe that a lot of time spent requesting information from the Mint and attempting to get information from third parties and outside sources could have been avoided had the Mint's documentation been adequate (See comment 3). We had to execute a subpoena because the broker had not provided us some of the pertinent data we requested. We still assert, however, that the Mint should have maintained pertinent data in its own files.

In our opinion, the Mint's documentation and that provided by the broker was inadequate to support the $80 million fair market value of the 801 9th Street building. For example, the documentation did not show the timeframes in which the amount was determined to be the fair market value. When we asked for the details to support this number, we were provided the definition of "fair market value".

OIG Comment 7. As stated in its response to our recommendations and in this comment, the Mint has taken or planned a number of actions, that if properly implemented, should address the file documentation deficiencies noted by the Department and our audit. We would encourage the Mint to continually evaluate the effectiveness of these actions as part of its Federal Managers' Financial Integrity Act process. In this regard, we plan to perform additional audits of the Mint's procurement activities, as reflected in the *Office of Inspector General Fiscal Year 2002 Annual Plan.*

OIG Comment 8. We acknowledge that the museum was planned for in 1997 and it should also be noted that the requirement for Congressional approval for the museum was shown in the Fiscal Year 2002 Appropriation Act. As stated in our report and in the comment above, we were unable to substantiate the circumstances surrounding the decision to sublease space to the IRS.

OIG Comment 9. We acknowledge that the Mint is minimizing its cost associated with the space subleased to IRS and Customs. However, had the Mint not leased excess space, it would not have had to find tenants to occupy and assist with the cost associated with the excessive space leased. We believe that the potential $25.1 million monetary benefit identified by our audit is appropriate, because just as the Mint did not anticipate a downturn in the economy, which affected the space it needed, it would only be speculative at this point as to whether or not the IRS and Customs will renew the subleases.

OIG Comment 10. We addressed this matter in Footnote 5 of the report and comments 1 and 2 above.

OIG Comment 11. We received several different amounts of space to be leased in the 799 building. According to data the Mint provided on November 13, 2001, the amount of space was a total of 147,644 square feet. On December 26, 2001, the Mint provided us data that said the amount of space was approximately 105,460 square feet. On February 6, 2002, the square footage amount provided was 149,647 square feet. Throughout the audit, the space data provided by the Mint changed. We adjusted our analyses accordingly.

The meeting with the Director that the Mint refers to took place August 2001, not October 2001. Various email messages between the Mint's audit liaison officer and our auditors clearly indicate that the Deputy Director was aware of the status of documentation request, subsequent to the August 2001 meeting.

OIG Comment 12. This data was provided by the Mint on March 22, 2002, and is reflected in the final report.

OIG Comment 13. Change was made to final report.

OIG Comment 14. As stated in our report, we believe that in the end, the Mint clearly leased more space than was appropriate to its staffing levels, including contractor personnel, thus resulting in the need to sublease a significant amount of this space.

OIG Comment 15. The Mint did not provide us actual staffing data by grade level in support of its space needs during the audit, which is why we used our own calculation on the space per person in the report.

OIG Comment 16. We recognize that the museum was part of the original plan, however, that Congress has yet to approve it. Also see comment 8.

OIG Comment 17. We believe that a lot of time spent requesting information from the Mint and attempting to get information from third parties and outside sources could have been avoided had the Mint's documentation been adequate. Although the broker provided some of the documentation, we had to execute a subpoena because pertinent data we still needed had not been provided despite requests for the data to be provided. We still assert, however, that the Mint should have maintained pertinent data in its own files.

OIG Comment 18. As stated in our recommendation, the use of GSA or other Federal agencies more experienced in real estate transactions should be considered in the future, as appropriate, to ensure, among other things, the adequate technical oversight of private sector real estate consultants.

<u>OIG Comment 19.</u> The Mint's objection to the footnote is apparently related to the information about the material weaknesses and reportable conditions in internal control disclosed by the audit of its Fiscal Year 2001 financial statements. Our purpose for including this footnote in our draft report was to reflect that the Mint had properly accounted for the lease transactions as evidenced by the unqualified opinion rendered by the auditors. It is only appropriate, however, to discuss an auditor's opinion on a set of financial statements in the context of the entity's overall control environment.

Thomas Byrnes, Director, Manufacturing and Procurement Audits
Iris Hudson, Audit Manager
Cynthia McKelvin, Auditor
Andras Schneider, Referencer

The Department of the Treasury

Office of Strategic Planning and Evaluations
Office of Accounting and Internal Control

United States Mint

Director
Audit Liaison Officer

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OIG Budget Examiner