



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

October 15, 2003

**H.R. 2573
Public Private Partnership Act of 2003**

*As ordered reported by the House Committee on Transportation and Infrastructure
on June 25, 2003*

SUMMARY

H.R. 2573 would give the General Services Administration (GSA) new authorities for managing and developing real property held by most federal landholding agencies. The bill would allow GSA, acting on its own behalf or for other eligible landholding agencies, to enter into agreements with nonfederal entities for the acquisition, lease, construction, rehabilitation, operation, maintenance, or use of real property. Agreements made under this authority could include an option for the government to lease back a newly constructed or refurbished facility. Under the bill, the authority to enter such agreements would expire in six years, and any proceeds from the agreements would be deposited in the Federal Buildings Fund and available to spend subject to future appropriation acts.

CBO estimates that enacting H.R. 2573 would increase net direct spending by \$5 million in 2004, \$1.4 billion over the 2004-2008 period, and by \$3.1 billion over the 2004-2013 period. CBO expects that agencies would use the authorities in this bill to obtain third-party financing for many federal real property projects. In CBO's view, the federal benefits and level of governmental risk and control inherent in many of these transactions would require that the project financing be recorded on the budget as new government borrowing and spending.

H.R. 2573 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2573 is shown in the following table. The costs of this legislation fall within all budget functions except 570 (Medicare), 650 (Social Security), and 900 (net interest).

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING ^a										
Spending for DoD facilities										
Estimated Budget Authority	0	110	538	580	591	363	0	0	0	0
Estimated Outlays	0	14	111	320	465	501	394	200	88	42
Spending for other federal agency facilities										
Estimated Budget Authority	10	125	150	200	225	225	0	0	0	0
Estimated Outlays	5	42	106	149	195	215	155	45	23	0
Total Changes										
Estimated Budget Authority	10	235	688	780	816	588	0	0	0	0
Estimated Outlays	5	56	217	469	660	716	549	245	111	42

Note: DoD = Department of Defense.

a. The direct spending under the bill would likely reduce the need for future appropriations to acquire, repair, or replace federal facilities, but CBO expects that such savings would probably not occur for several years.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2573 will be enacted in the fall of 2003. We estimate that GSA would need approximately six months to develop the policies and regulations to implement the new contractual arrangements that would be authorized by the bill. In addition, each arrangement or project would be subject to at least a 60-day review process by the Congress. Hence, we estimate that most of the projects likely to be implemented under this bill would not start until 2005.

Most of the approximately 30 federal landholding agencies could benefit from the expanded authorities that would be provided by H.R. 2573. According to GSA, the federal investment in land and facilities totals over \$250 billion. Agencies that administer Indian lands, the

national park system, the national forest system, the national wildlife refuge system, and the Bureau of Land Management would be excluded from the bill's provisions. The legislation would apply to property held by the Departments of Defense (DoD), Energy (DOE) and Veterans Affairs (VA), as well as to GSA, the National Aeronautics and Space Administration (NASA), and other major landholding agencies.

The new real property management authorities that would be provided by H.R. 2573 would affect the budget by increasing direct spending, as explained below. In addition, enacting H.R. 2573 could reduce long-term needs for construction and renovation spending that is subject to appropriation.

Direct Spending

H.R. 2573 would authorize GSA to enter into agreements with nonfederal entities to develop and renovate federal property. While the contractual terms of agreements may vary from project to project, CBO expects that the arrangements authorized in H.R. 2573 would involve significant federal commitments that should be recorded in the budget when such transactions are initially approved. We estimate that the obligations and subsequent expenditures of these agreements to build or enhance federal properties would increase net direct spending by \$3.1 billion over the 2004-2013 period. The budgetary treatment of these entities and some of their likely activities are discussed below.

Background on Financing Arrangements. Under this bill, GSA could enter into partnerships, cooperative ventures, limited-liability companies, trusts, and other business relationships with nonfederal entities. The bill would authorize GSA to lease underutilized federal property to nonfederal entities for up to 50 years (known as an outlease) and to later lease back the property to use any facilities that were built or renovated by the nonfederal entity. Under the bill, however, GSA could not directly guarantee any debts or liabilities incurred by the nonfederal entity or guarantee federal occupancy and use of such a facility.

Several agencies already have authorities similar to those provided by this bill. Examples include DoD's military housing privatization program, VA's enhanced-use leasing authority, and the Tennessee Valley Authority (TVA). These agencies have used (or plan to use) their unique property management authorities to obtain third-party financing for new or renovated facilities and assets valued at several billion dollars.

Most of the projects undertaken by these agencies have involved forms of project financing. Project financing is backed by the cash flows or asset value of a particular economic unit or asset rather than the financial resources of the owner, operator, or sponsor. Project financing

typically involves a series of contracts and agreements that serve two functions: creating an entity that will act on behalf of the sponsors to implement the project (including obtaining financing) and protecting lenders from the credit risk associated with the project's development or operations.

Many of the government projects financed by the private sector have made a federal agency the sole or primary beneficiary of a special-purpose entity (SPE) that is created to implement the project. Agencies usually have retained significant control over the decisions made by the SPE, including the project development and management agreements. The SPEs associated with previous federal projects have taken different legal forms, including trusts and limited-liability companies, some of which involve direct government ownership. Most projects have been rated as investment grade by credit rating firms, largely because of their strong federal support. The types of commitments backing the cash flow of federal projects have varied, ranging from explicit obligations (e.g., lease or purchase agreements) to indirect measures that mitigate the credit risk (e.g., covenants or economic incentives for an agency to voluntarily extend its use of an asset).

Budgetary Treatment of Alternative Financing Arrangements. To determine the budgetary treatment of alternative financing arrangements, CBO considers whether the transactions are sufficiently governmental to be included in the federal budget. Among the factors considered are the extent of governmental control or use of the project, which can result from cash or in-kind investments or contributions, payment obligations, decision-making prerogatives, ownership structures, and other forms of project support. CBO has concluded that many of the projects characterized as public-private ventures involve significant government control and use, and therefore, should be treated in the budget as governmental entities.¹

For example, many of the SPEs that have been created for agency projects are instruments of the government. As a result, the government effectively acquires assets or services (via the trust or limited-liability company) and then leases or buys them from itself. The Air Force's plan to acquire aerial refueling aircraft using an SPE is an example of this type of arrangement.² To accurately reflect the nature of such arrangements, the federal budget should record the transactions between the SPE and private developers as well as transactions between the SPE and project financiers. The budget should not record the intragovernmental transfers between the SPE and the agency. Thus, when the SPE pays a company for an asset or service, those payments should be reflected as federal outlays. Subsequent interest payments on the SPE's borrowing should also be reflected as outlays when those payments

1. Congressional Budget Office, *The Budgetary Treatment of Leases and Public/Private Ventures*, CBO Paper (February 2003).

2. Congressional Budget Office, *Assessment of the Air Force's Plan to Acquire 100 Boeing Tanker Aircraft*, CBO Letter (August 2003).

are made. Proceeds from federal borrowing are not counted as governmental receipts, and the repayment of principal is not counted as an outlay. This budgetary treatment is consistent with the recommendations of the President's 1967 Commission on Budget Concepts that the financial activities of entities controlled by the federal government be recorded on the federal budget. It is also consistent with private-sector accounting policies mandated by the Financial Accounting Standards Board (FASB) for such entities.

In CBO's view, many of the transactions likely to result from this bill would be a form of direct spending. Based on a review of how the executive branch has treated such prior arrangements for the acquisition of real property and equipment (for example, the recent Air Force proposal to acquire aerial refueling tankers), we expect that agencies would use the authorities in H.R. 2573 to have nonfederal entities finance various governmental projects and then obtain appropriations for payments between an agency and an SPE for what is essentially an intragovernmental transfer. Hence, CBO expects that the bill's provisions requiring that projects have appropriations sufficient to cover obligations would have no significant effect on the level of direct spending under the bill.

Estimated Spending Under The Bill. Given the vast range of federal property holdings, CBO anticipates that the authorities in H.R. 2573 would be used in many different ways. Future projects under the bill may be primarily or exclusively governmental, and others could involve making underutilized property available for private use. CBO's estimate of the cost of the bill reflects the level of spending we estimate would be undertaken over the six-year authorization period for projects involving significant federal control and use. Both the level of spending that might occur under the bill and the types of projects that could be financed are uncertain, and GSA spending may be more or less than the amounts CBO has estimated.

Projects for the Department of Defense. DoD currently has authority to enter into public-private ventures to finance and manage the acquisition, construction, renovation, operation, and maintenance of family housing for military personnel through the use of long-term outleases and property conveyances, direct loans, loan guarantees, rental guarantees, and direct government investment (equity investment). This legislation would give GSA the authority to enter into such agreements at the request of DoD for military construction projects other than family housing. Each year, DoD constructs or renovates approximately 100 administrative buildings, headquarters facilities, medical clinics, gyms, and family support facilities at an average cost of \$9 million per facility. CBO expects that DoD could eventually accomplish 10 percent of its construction and renovation of administrative and support facilities through public-private ventures, increasing direct spending by \$90 million annually. Such financing arrangements could eventually reduce the need for discretionary appropriations to fund DoD construction projects. Because the department faces an enormous backlog of projects, however, any such savings might not occur for many years.

In addition, under current law, DoD's authority for its military housing privatization initiative is limited to a total investment of \$850 million dollars.³ DoD has identified additional housing for potential privatization projects beyond this limit. The authority provided in H.R. 2573 is very similar to some of DoD's existing authority. Thus, CBO expects that GSA could use the authority that would be provided by H.R. 2573 to continue a portion of DoD's housing privatization initiatives. Based on the value of completed housing privatization projects, CBO estimates that DoD, working with GSA, could complete about 30 percent of its planned projects under this authority. CBO estimates that work would increase direct spending by slightly more than \$2 billion over the 2004-2013 period.

Projects for Other Federal Agencies. Under H.R. 2573, CBO expects that GSA would enter into agreements to finance a variety of projects, including building renovations, new construction, and related infrastructure improvements. According to General Accounting Office (GAO), the backlog of GSA building projects for repairs and alterations has an estimated cost of almost \$6 billion.⁴

To estimate how GSA would use the authorities under H.R. 2573 with civilian agencies, CBO examined GSA information on buildings that are not fully used or in need of re-investment. We also reviewed previous GAO analysis of GSA buildings that are considered to be candidates for renovation through public-private partnerships. In addition, we considered the experience of similar project financing arrangements used by other federal agencies with enhanced authorities, including VA, DOE, and NASA.

CBO expects that the projects financed under the bill would vary in cost, ranging from multifacility development projects costing hundreds of millions of dollars to smaller projects costing tens of millions of dollars. For example, agencies have completed most of the necessary planning and environmental reviews needed to begin redevelopment of land and facilities at GSA's Denver Federal Center in Lakewood, Colorado, and NASA's Ames Research Center. Based on information from federal and local agencies, CBO estimates that the federal investments at each of those sites could range from \$100 million up to \$500 million. Agencies also have proposed using alternative financing to acquire or upgrade large office buildings, such as the headquarters buildings for the Departments of Labor and Commerce. The average cost of such renovation or replacement projects would likely range between \$70 million and \$120 million per project. Finally, CBO expects that agencies would

3. CBO believes that the Administration's method of accounting for housing privatization initiatives is at odds with governmentwide accounting principles and that the \$850 million-dollar limit in current law equates to \$7 billion in direct spending. For a more in-depth discussion of the scoring of Military Housing Privatization Initiatives, see CBO Cost Estimate for H.R. 1588, the National Defense Authorization Act for 2004, May 16, 2003.

4. General Accounting Office, *Federal Real Property: Executive and Legislative Actions Needed to Address Long-standing and Complex Problems*, GAO-03-839T (June 2003).

use these arrangements to finance less-expensive projects, such as renovating or constructing smaller facilities or upgrading water, sewer, power, and other utility systems for federal facilities.

For this estimate, CBO assumes that at least one of the large-scale development projects planned by federal agencies (including those mentioned above) would be implemented over the next six years, with an investment totaling about \$300 million over the 2004-2008 period. In addition, we estimate that investments in other facility upgrades would total about \$600 million over the six-year period authorized by the bill, which would be equivalent to about 10 percent of the GSA construction-needs backlog identified by GAO. To achieve that level of alternative financing, GSA would need to reach agreements with private-sector partners with a value of around \$200 million a year during the six years that GSA would have such authority under the bill. Other federal agencies—such as the Department of Veterans Affairs and the Tennessee Valley Authority—have project financing authorities similar to those that would be available to GSA under the bill. Over the past five years, CBO is aware of several projects that have been financed using such authorities. Over the past five years, these projects have had an average cost of \$200 million per year. Under the bill, CBO expects GSA could reach this level of alternative project financing during the next six years.

If a federal agency makes an underutilized asset available for use by a nonfederal entity, the agency could be paid in cash or in-kind. GSA has identified several potential sites that could support significant nonfederal use, such as the Denver Federal Center, Federal Center South in Seattle, Washington, and the Internal Reserve Services Center in Andover, Massachusetts. However, given the long time frame for planning, reviewing, and approving major development projects, the six-year authorities granted in H.R. 2573, the long lease terms for payments, and the authority for GSA to recover its expenses from leasing proceeds, CBO estimates that any cash payments for the use of the property would not be significant in the next few years.

Spending Subject to Appropriation

Amounts spent on property improvement and replacements by ventures authorized by H.R. 2573 could lead to a significant reduction in the long-term need for appropriated funds to pay for such costs. Because backlog of repair and renovation work for federal buildings is estimated to cost \$6 billion, CBO estimates that such savings would not be significant over the next several years.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2573 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: Matthew Pickford and Kathleen Gramp, and
David Newman for DoD costs

Impact on State, Local, and Tribal Governments: Theresa Gullo

Impact on the Private Sector: Cecil McPherson

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis