



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**

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July 13, 2009

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**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Transportation and Infrastructure Committee

**FROM:** Subcommittee on Economic Development, Public Buildings, and Emergency Management Subcommittee Staff

**SUBJECT:** Hearing on “Evaluating GSA’s First Experience with National Broker Contracts”

**PURPOSE OF THE HEARING**

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Wednesday, July 15, 2009, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to examine the General Services Administration’s (GSA) National Broker Contract (NBC) and whether it provides GSA a legitimate tool to meet its statutory obligation to procure commercial office space for Federal agencies. This hearing is being conducted as one of several hearings that meet the oversight requirements under clauses 2(n), (o), and (p) of Rule XI of the Rules of the House of Representatives.

**BACKGROUND**

The Subcommittee on Economic Development, Public Buildings, and Emergency Management has continuously pushed GSA to think innovatively on how to minimize costs to the Federal Government when procuring leases and construction projects for Federal agencies.

**I. General Services Administration Leasing Program**

The Government Accountability Office (GAO) added “Managing Federal Real Property” to its high risk list in 2003 for several reasons, including overreliance on costly leasing. While GAO acknowledges some improvements in management of Federal property assets, GAO reports that:

[S]ome of the core problems that led to the designation of this area as high risk persist. For example, in January 2008, GAO reported that agencies' reliance on leasing instead of ownership was increasing. In fact, the General Services Administration (GSA), which acts as the government's leasing agent, predicted that in 2008 it would, for the first time, lease more property than it owned.<sup>1</sup>

GSA owns more than 1,500 Federal buildings totaling 176.5 million rentable square feet of space. GSA leases 177.5 million rentable square feet of space in almost 7,100 leased properties. In recent years, the construction program has been reduced essentially to land ports of entry and courthouses, while GSA has increasingly relied on private commercial office space to meet the needs of housing the Federal Government. The GSA Public Building Service (PBS) provides capital asset management and real estate services.

When GSA is unable to satisfy Federal space needs with Federally-owned space, it addresses Federal space needs through the commercial office space market. During the late 1980's and early 1990's, many veteran employees of GSA leasing retired. Although there is no empirical data to support contracting out leasing as a lower cost alternative to in-house leasing, GSA now found itself caught between a requirement to contract out a certain leasing services and having fewer in-house personnel to conduct leasing activities. Thus, in 1997, GSA signed a series of regional broker contracts to provide limited leasing services. These contracts were meant to assist the in-house leasing specialists, not replace them.

## **II. National Broker Contract**

### **A. Origins of the NBC**

Before GSA signed the NBC, the agency used regional broker contracts to supplement leasing services provided by regional GSA offices, and to address the lack of leasing specialists within the PBS. These contracts were problematic, because the contracts by region were inconsistent with respect to several material terms and proved difficult for GSA to administer and conduct proper oversight.<sup>2</sup>

### **B. Current NBC**

Faced with criticism from the GSA Office of Inspector General<sup>3</sup> regarding the regional broker approach, the PBS moved to a national approach to supplement lease contracting. The NBC was awarded on October 4, 2004, by the GSA PBS<sup>4</sup> and is administered by it. The NBC is a competitively bid contract that augments services provided by PBS and allows PBS to outsource brokers services for leases for Federal agencies. The NBC for broker services was awarded to four companies: Julien J. Studley, Inc.; the Staubach Company; Jones Lang LaSalle Americas, Inc.; and the Trammell Crow. Because of consolidations and mergers, there are now three companies

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<sup>1</sup> GAO, *High-Risk: An Update* 45 (2009).

<sup>2</sup> GAO, *GSA Leasing: Initial Implementation of the National Broker Services Contracts Demonstrates Need for Improvements* 1-2 (2007).

<sup>3</sup> GSA Inspector General, *Review of PBS's Use of Brokerage Contracts For Lease Acquisition Services* (2002).

<sup>4</sup>GSA, *National Broker Contract Fact Sheet*, [http://www.gsa.gov/gsa/cm\\_attachments/GSA\\_DOCUMENT/National\\_Broker\\_Contract\\_General\\_Fact\\_Sheet\\_R2-oK1Y\\_0Z5RDZ-i34K-pR.doc](http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/National_Broker_Contract_General_Fact_Sheet_R2-oK1Y_0Z5RDZ-i34K-pR.doc) (last visited July 8, 2009).

participating in NBC: Studley, Inc.; Jones Lang LaSalle Americas, Inc.; and CB Richard Ellis.<sup>5</sup> The contracts were awarded as one year base contracts and with option of annual renewal for up to five years. The current contracts will expire on March 31, 2010.

GSA executed the NBC with a view towards augmenting the PBS workforce. In addition, the contract allowed brokers to be paid the usual broker fee, instead of being paid by appropriations. The GSA Office of General Counsel further determined that is permissible for GSA to accept a rebate from the tenant brokers and credit that amount to the lease. GSA requested an opinion from GAO on the issue of “entering into contract with real estate brokers to represent GSA’s interests in lease acquisition and related services for which GSA would not pay the brokers.” GAO was not asked to address the conflict of interest issue.

GAO issued its opinion on August 25, 2003, and concluded that “GSA may enter into proposed contacts with real estate brokers without augmenting its appropriation....” GAO did acknowledge, “GSA’s submission indicates a possible issue of conflict of interest between the government getting best value and the brokers’ interest in getting the highest commission.”<sup>6</sup>

As of April 2009, the four brokers (CB Richard Ellis, Jones Lang LaSalle, Staubach, and Studley) had received \$78.7 million in broker fees for handling 942 leases representing about 15.5m square feet of space.

### **III. Evaluating the NBC**

The original NBC that was signed on October 1, 2004 will expire in October 2009. The GSA PBS is contemplating issuing a new solicitation for the NBC. The Subcommittee on Economic Development, Public Buildings, and Emergency Management plans to conduct oversight of several outstanding issues related to the NBC:

- Whether the taxpayer has received a benefit from this contract;
- Whether there is an undue reliance on the contracts for this essential service;
- Whether GSA has been able to systematically address the issue of conflicts of interest in contracting real estate services to private contractors;
- Whether GSA has in fact received a benefit from the services provided by the NBC;
- Whether GSA has the in-house real estate expertise to conduct proper oversight over the real estate services provided by the National Broker Contract; and
- Whether government leasing is a core function of GSA, and therefore should not be contracted out to the private sector.

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<sup>5</sup>GSA, *Frequently Asked Questions about the National Broker Contract*, [http://www.gsa.gov/Portal/gsa/ep/contentView.do?faq=yes&pageTypeId=17109&contentId=8318&contentType=GSA\\_OVERVIEW](http://www.gsa.gov/Portal/gsa/ep/contentView.do?faq=yes&pageTypeId=17109&contentId=8318&contentType=GSA_OVERVIEW) (last visited July 8, 2009).

<sup>6</sup> GAO, *GAO Decision: General Services Administration: Real Estate Brokers’ Commission* (2003).

**WITNESSES**

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