

# CRS Report for Congress

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## General Services Administration Prospectus Thresholds for Owned and Leased Federal Facilities

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### Summary

The General Services Administration (GSA) is the federal government's primary federal real property and asset management agency, with 11 regional offices that oversee GSA owned and leased federal buildings and courthouses. As part of the funding authorization process for new construction or leasing proposals valued at more than \$2.41 million (in FY2006), GSA is required to submit a prospectus containing project and cost specifications to the Office of Management and Budget (OMB), the Senate Committee on Environment and Public Works, and the House Committee on Transportation and Infrastructure, for approval. Hurricane Katrina struck the Gulf Coast on August 29, 2005, causing significant property and infrastructure damage to 83 GSA owned and leased federal buildings and courthouses in Louisiana, Alabama, and Mississippi. Under current law, the GSA Administrator is authorized to obtain emergency 180-day leases without prior congressional approval of a lease prospectus. S. 1708, the Emergency Lease Requirements Act of 2005, would authorize the GSA Administrator to enter into emergency lease agreements for up to five years during a major disaster, without prior congressional approval of a lease prospectus. In the House, H.R. 4125 would authorize GSA to repair hurricane-damaged federal buildings, and to enter into emergency lease agreements without prior prospectus approval. This report will be updated as additional information becomes available.

### Statutory Intent and Background

Prior to the enactment of the Public Buildings Act in 1926, construction authority for each federal building was approved and funded in separate pieces of legislation.<sup>1</sup> The 1926 act provided the basic authority for the construction of federal buildings through the congressional authorization and appropriation process. Congress later enacted the Public Buildings Act of 1949 to authorize the acquisition of sites and design plans for federal

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<sup>1</sup> 44 Stat. 630.

buildings located outside of Washington, DC, and for improvements to existing federal buildings.<sup>2</sup> Congress also enacted the Federal Property and Administrative Services Act of 1949, which established the General Services Administration (GSA), and gave the GSA Administrator responsibility for administering federal real property.<sup>3</sup> In 1954, Congress amended the Public Buildings Act of 1949 to authorize the GSA Administrator to acquire titles to real property and to construct federal buildings through lease-purchase contracts.<sup>4</sup> Under this procedure, a building was financed by private capital, and the federal government made installment payments on the purchase price in lieu of rent payments. Title to the property was vested in the federal government at the end of the contract period, generally at least 10, and not more than 30, years. When authority for lease-purchase contracts expired in 1957, Congress approved a successor statute, the Public Buildings Act of 1959.<sup>5</sup> The 1959 act re-established earlier requirements to provide for direct federal construction of public buildings through the congressional authorization and appropriation process. This act, as amended and re-codified over the years, remains the basic statute authorizing the GSA Administrator to lease, construct, and renovate federal civilian facilities.

GSA, through its Public Buildings Service (PBS), is the primary federal real property and asset management agency. As of September 30, 2004, GSA's real property portfolio consisted of 208.5 million square feet of owned office space and 162.9 million square feet of leased office space, together accounting for 45.9% of the federal government's total space requirements.<sup>6</sup>

GSA is responsible for the design and construction of its buildings and courthouses, and for repairs and alterations to existing facilities. As part of the President's annual budget submission to Congress, GSA requests funding for new construction projects, as well as for renovation and leasing projects. Under the Public Buildings Act, as amended, GSA is required to submit a formal document, or prospectus, to the Office of Management and Budget (OMB), the Senate Committee on Environment and Public Works, and the House Committee on Transportation and Infrastructure, as part of the funding authorization process.<sup>7</sup> Each prospectus includes project specifications, cost estimates, and an anticipated completion schedule for the proposed project. For FY2006, a prospectus is required for each new construction, repairs, or leasing proposal valued at \$2,470,000 or more. A prospectus is also required for proposed alterations in GSA-leased

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<sup>2</sup> 63 Stat. 176.

<sup>3</sup> 63 Stat. 377; 41 U.S.C. § 251 et seq.

<sup>4</sup> 68 Stat. 518.

<sup>5</sup> 73 Stat. 478; 40 U.S.C. § 3301-3315.

<sup>6</sup> U.S. General Services Administration, Office of Governmentwide Policy, *Overview of the United States Government's Owned and Leased Real Property: Federal Real Property Profile, as of Sept. 30, 2004*, p. 11. For additional information on GSA owned and leased office space, see CRS Report RL32368, *The General Services Administration and Federal Real Property Management: Overview and Current Legislation*, by Stephanie Smith.

<sup>7</sup> 40 U.S.C. § 3307.

space valued at \$1,235,000 or more.<sup>8</sup> Project authorization must be received from OMB, and from both the House and Senate committees before Congress can approve and fund GSA's proposed construction and leasing projects each fiscal year through the Transportation, Treasury, Housing and Urban Development, Judiciary, and Independent Agencies appropriations bill. Once the proposed construction and repairs projects receive congressional funding, GSA's Public Buildings Service contracts with private sector firms for design and construction work through the appropriate formal bidding process.

## Congressional Initiatives in the 109<sup>th</sup> Congress

Hurricane Katrina struck the Gulf Coast on August 29, 2005, causing significant property and infrastructure damage to 83 GSA owned and leased federal buildings and courthouses in Louisiana, Alabama, and Mississippi, necessitating the eventual relocation of 2,600 federal employees from 28 federal agencies.<sup>9</sup> Although not all GSA facilities suffered major structural damage in the affected areas, there was no supporting critical infrastructure, such as water, electricity, sewage systems, or even accessible roads to reach the federal facilities. There were also related environmental concerns that might affect the health and safety of federal employees in the affected areas. A related problem with long-term implications was that many federal employees were forced to evacuate to areas located away from federal facilities when their homes were destroyed by Hurricane Katrina. In order to accommodate displaced federal tenants from all major agencies, GSA leased available office space in Baton Rouge, LA, Lafayette, LA, Shreveport, LA, and Jackson, MS. As of April 6, 2006, one GSA-owned facility and 10 leased facilities remained closed in New Orleans, LA, Metairie, LA, and Gulfport, MS. Current law<sup>10</sup> authorizes the GSA Administrator to enter into an emergency lease agreement during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without congressional approval of a lease prospectus.

**S. 1708.** In the Senate, S. 1708, the Emergency Lease Requirements Act of 2005, was introduced by Senator James Inhofe and 11 bipartisan co-sponsors on September 15, 2005. The proposed legislation would amend current law to authorize the GSA Administrator to enter into emergency lease agreements during a major disaster or other emergency declared by the President or the head of a federal agency under applicable federal law. The term of an emergency lease could not exceed five years without congressional approval of a lease prospectus. The GSA Administrator would be required to submit an annual report describing any emergency lease to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works by April 1 of each year. On September 15, 2005, S. 1708 was referred to the

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<sup>8</sup> The Public Buildings Act Amendments of 1988 (102 Stat. 4049) increased the prospectus threshold to \$1.5 million, with the amount to be adjusted annually as determined by the Department of Commerce's composite index of construction costs.

<sup>9</sup> U.S. Congress, Senate Committee on Environment and Public Works, *Emergency Lease Requirements Act of 2005*, report to accompany S. 1708, 109<sup>th</sup> Congress, 2<sup>nd</sup> sess., S.Rept. 109-214 (Washington: GPO, 2006), p. 1. For a detailed discussion, see CRS Report RS22281, *General Services Administration Federal Facilities Affected by Hurricane Katrina*, by Stephanie Smith.

<sup>10</sup> 40 U.S.C. § 3307(e).

Senate Committee on Environment and Public Works. The bill was reported without amendment on January 26, 2006, and placed on the Senate Legislative Calendar.<sup>11</sup>

**H.R. 4125.** On October 25, 2005, H.R. 4125 was introduced in the House by Representative Bill Shuster and two bipartisan co-sponsors. House bill H.R. 4125 would authorize the GSA Administrator to make repairs on federal buildings that were damaged by Gulf Coast hurricanes without prior congressional approval of a prospectus. The proposed legislation would also authorize the GSA Administrator to enter into emergency lease agreements for up to five years. The GSA Administrator's emergency authorities would be valid for one year following enactment of H.R. 4125. At least five days before making any building repairs, the GSA Administrator would be required to submit reports to the House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee detailing costs and completion estimates. No later than 15 days after completion, the GSA Administrator would be required to submit a final report stating total repair costs. The proposed legislation would also require the GSA Administrator to submit a detailed report to the House and Senate Committees no later than 10 days after entering into an emergency lease agreement. H.R. 4125 was reported favorably by the House Committee on Transportation and Infrastructure on October 26, 2005, by voice vote.

**Table 1** provides a history of prospectus thresholds for GSA's construction, repairs, and leasing projects.

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<sup>11</sup> U.S. Congress, Senate Committee on Environment and Public Works, *Emergency Lease Requirements Act of 2005*, report to accompany S. 1708, 109<sup>th</sup> Congress, 2<sup>nd</sup> sess., S.Rept. 109-214.

**Table 1. History of Prospectus Thresholds for Federal Buildings**

<b>Fiscal Year(s)</b>	<b>Construction, Repairs and Alterations, and Leases</b>	<b>Alterations in Leased Space</b>
1959-1971 <sup>a</sup>	\$200,000	—
1972-1988 <sup>b</sup>	\$500,000	—
1989-1991 <sup>c</sup>	\$1,500,000	\$750,000
1992	\$1,525,000	\$762,500
1993	\$1,600,000	\$800,000
1994	\$1,650,000	\$825,000
1995	\$1,670,000	\$835,000
1996	\$1,680,000	\$840,000
1997	\$1,740,000	\$870,000
1998	\$1,810,000	\$905,000
1999	\$1,890,000	\$945,000
2000	\$1,930,000	\$965,000
2001	\$1,990,000	\$995,000
2002	\$2,130,000	\$1,065,000
2003	\$2,213,000	\$1,106,500
2004	\$2,290,000	\$1,145,000
2005	\$2,360,000	\$1,180,000
2006	\$2,410,000	\$1,235,000

**Source:** General Services Administration, Office of Budget, March 20, 2006.

- a. 73 Stat. 478.
- b. 86 Stat. 216.
- c. 102 Stat. 4049.