United States Government Accountability Office

Report to Congressional Requesters

September 2021

CAPITAL FUND PROPOSAL

Upfront Funding Could Benefit Some Projects, but Other Potential Effects Not Clearly Identified

Accessible Version

A Century of Non-Partisan Fact-Based Work

GAO-21-215

GAO Highlights

Highlights of GAO-21-215, a report to congressional requesters

August 2021

CAPITAL FUND PROPOSAL

Upfront Funding Could Benefit Some Projects, but Other Potential Effects Not Clearly Identified

Why GAO Did This Study

Since 2003, federal real property management has been on GAO's High-Risk List, in part due to upfront-funding challenges. If enacted, the Capital Fund could provide upfront funding to agencies for certain projects to acquire, construct, or renovate buildings and other federal real property. The existing Buildings Fund funds such projects and the operations and maintenance needs of GSA's portfolio.

GAO was asked to review the Capital Fund proposal. This report: (1) describes how federal agencies might have used expanded access to full, upfront funding had it been available, for three selected projects and (2) assesses stakeholder views on the proposed Capital Fund and whether it would affect the Buildings Fund.

To assess how agencies might have used full, upfront funding, GAO reviewed three recent capital projects of $250 million or more, selected for the differences in type of project (i.e., acquisition, new construction, and renovation). GAO also analyzed the Capital Fund proposal, GSA's budget, and other documents. Additionally, GAO interviewed GSA and OMB officials.

What GAO Recommends

GAO is recommending that GSA identify the potential effects of the proposed Capital Fund on the Buildings Fund and communicate the analysis to OMB and Congress.

View GAO-21-215. For more information, contact Jill Naamane at (202) 512-2834 or naamanej@gao.gov.

What GAO Found

Federal agencies have long struggled to obtain full, upfront funding for capital investments to acquire and maintain federal buildings. GAO's review of three selected federal capital projects suggests that such funding might have benefitted those projects and their agencies. For example, GAO estimated that full, upfront funding for the Department of Transportation's headquarters building might have saved up to $1.2 billion by allowing construction of a new headquarters versus what did occur—the General Services Administration (GSA) leased space for years and eventually purchased the building that it had leased.

U. S. Department of Transportation (DOT) Headquarters Washington D. C.

Source: GAO analysis of GSA data; DOT (photo). | GAO-21-215

Text for U. S. Department of Transportation (DOT) Headquarters Washington D. C.

- **Need:** Headquarters building for 5,000 employees in Washington, D.C.
- **Proposal:** Construct government-owned building for $294 million in 1998
- **Status:** The General Services Administration (GSA) started leasing the building in 2006 and purchased it in 2020
- **Costs:** $1,521 million, of which: (Rent: $753 million + Purchase: $768 million)

GAO Analysis of GSA data; DOT (photo). | GAO-21-215

In a 2018 effort to improve federal agencies' access to full, upfront funding for capital investments, the Office of Management and Budget (OMB) proposed the $10 billion Federal Capital Revolving Fund Act (Capital Fund). The Capital Fund, which would be managed by GSA, could provide upfront funding for certain capital projects of $250 million or more, with agencies repaying the Capital Fund over a 15-year period. While the 2018 Capital Fund proposal has not been enacted, a Capital Fund was referenced in each President's budget since 2019 and in a bill that was introduced in the Senate in May 2021.

During the course of GAO's review, officials from GSA and OMB expressed different perspectives on the proposed Capital Fund, and how it might affect the existing Federal Buildings Fund (Buildings Fund) is unclear. GSA officials said that the proposed Capital Fund could divert revenue away from the existing Buildings Fund, which receives rent from GSA tenant agencies and from which GSA pays maintenance and repair costs. OMB officials told us that the Capital Fund could benefit the Buildings Fund by promoting federal ownership over leasing and possibly adding assets to GSA's inventory. GAO identified additional circumstances in which the Capital Fund could affect the Buildings Fund. For example, while the tenant agency would pay operating costs during the first 25-years, the proposal does not directly address what would occur if GSA incurred significant repair costs during this period. As GSA would be responsible for operating both funds, it is in the best position to analyze when these circumstances might occur and their potential scope as well as how the two funds might interact. Identifying and communicating the possible effects would help OMB and Congress more fully consider legislative proposals.

Contents

Figures

Abbreviations

Buildings Fund	Federal Buildings Fund
Capital Fund proposal	(proposed) Federal Capital Revolving Fund Act of 2018
DHS	Department of Homeland Security
DOT	Department of Transportation
FRPC	Federal Real Property Council
GSA	General Services Administration
NIST	National Institute of Standards and Technology
OMB	Office of Management and Budget

GAO@100 U.S. GOVERNMENT ACCOUNTABILITY OFFICE
A Century of Non-Partisan Fact-Based Work

441 G St. N.W.
Washington, DC 20548

September 10, 2021

Congressional Requesters

The federal government has faced a long-standing challenge of accessing funding to invest in its buildings, leading to an overreliance on leasing and aging buildings in need of capital reinvestment. Since 2003, we have included federal real property management on the High Risk List in part due to the challenges in securing sufficient upfront funding for capital investment.[1]

In an effort to improve access to funding, the Office of Management and Budget (OMB) proposed the Federal Capital Revolving Fund Act of 2018 (Capital Fund proposal) in June 2018. While not enacted as of the time of this review, the Capital Fund proposal was referenced in the President's budgets in fiscal years 2019, 2020, 2021, and 2022.[2] Our work is based upon our analysis of the Capital Fund proposal. On May 27, 2021, a bill to establish a Federal Capital Revolving Fund was introduced in the Senate.[3]

If the Capital Fund as originally proposed in 2018 is enacted and funded, it could provide upfront funding for the General Services Administration (GSA) and 22 additional federal agencies to construct, purchase, or renovate federal facilities that have a total project cost of $250 million or more.[4] The Capital Fund would be in addition to the existing Federal Buildings Fund (Buildings Fund), which is generally the source of funding

---

[1]GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, GAO-21-119SP (Washington, D.C.: Mar. 2, 2021). We added federal real property management to our high-risk list in 2003. See: GAO, *High-Risk Series: Federal Real Property*, GAO-03-122 (Washington, D.C.: Jan. 1, 2003).

[2]*See*, *e.g.*, OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2022, Appendix, 1179–81 (2021) (providing that the President's Budget reflects funding in support of the Administration's proposal to support a new Federal Capital Revolving Fund to finance federally-owned civilian real property projects).

[3]S. 1926, 117th Cong. (2021).

[4]Under the Capital Fund proposal, a project includes a federal facility acquired by an agency for its use–such as by the construction, purchase, or renovation–with a combined total cost of $250,000,000 or more, where the cost does not include things such as normal maintenance and repair. We refer to these as "federal acquisition projects."

for these types of federal acquisition projects as well as for the operations and maintenance needs of GSA's portfolio.[5]

You asked us to review federal agencies' access to capital and the Capital Fund proposal. This report:

- describes how federal agencies might have used upfront funding if it had been available for selected federal acquisition projects; and
- assesses stakeholder views on the proposed Capital Fund and whether it would affect the Buildings Fund.

To determine how federal agencies might have used upfront funding, if it had been available, we reviewed federal acquisition projects for fiscal year 2019 through fiscal year 2021, as well as GSA's list of capital projects for construction, acquisition, and renovation. We also analyzed GSA budget justification documents[6] for fiscal year 2010 through fiscal year 2022 and appropriations for the Buildings Fund for fiscal year 2010 through fiscal year 2021. We assessed the reliability of the balances in the Buildings Fund reported in GSA's budget requests by identifying the appropriations for the Buildings Fund and balances reported in GSA's audited financial reports for years 2013 through 2020. We added these data to the balances we identified in our previous work for fiscal years 2010 through 2012,[7] which GSA then validated. We found the data sufficiently reliable for our purposes. Additionally, we reviewed GSA guidance about property management. We selected three federal acquisition projects as case studies that each had an estimated cost of $250 million or more. We selected one purchase, one new construction, and one renovation project. Of these three selected projects, two were GSA projects—the purchase of the Department of Transportation's (DOT) Headquarters in Washington, D. C. and the construction of the Department of Homeland Security's (DHS) Calexico Land Port of Entry in California. The third project we selected was the Department of

[5]The Public Buildings Act Amendments of 1972 established the Federal Buildings Fund (Buildings Fund). Pub. L. No. 92-312, § 3, 86 Stat. 216, 218 (1972), codified as amended at 40 U.S.C. § 592.

[6]An agency submits budget justification documents to the appropriations committees in support of its budget request. The Office of Management and Budget (OMB) prescribes justification materials, which typically explain changes between the current appropriation and the amounts requested for the next fiscal year.

[7]GAO, *Federal Buildings Fund: Improved Transparency and Long-term Plan Needed to Clarify Capital Funding Priorities*, GAO-12-646 (Washington, D. C.: July 12, 2012).

Commerce's National Institute of Standards and Technology's (NIST) building renovation in Boulder, CO, which was identified as a candidate for the Capital Fund proposal in the President's Budget for fiscal years 2020 and 2021. We reviewed NIST documents and interviewed NIST officials concerning the project's funding. While the selected projects are not generalizable to all federal acquisition projects, they provide examples of how agencies might have used expanded access to upfront funding.

To assess stakeholder views on the proposed Capital Fund and whether it would affect the Buildings Fund, we analyzed the Capital Fund proposal and interviewed OMB and GSA officials.[8] We also spoke to officials from DOT, DHS, and NIST—the agencies involved in our three selected projects—about the Capital Fund proposal. Further, we interviewed current and former OMB officials familiar with OMB's development of the Capital Fund proposal. We determined that the risk assessment and information and communication components of internal control were significant to the objective.[9] In this review, we relied specifically on internal control Principle 7, which states, "Management should identify, analyze, and respond to risks related to achieving the defined objectives"; and Principle 15, which states, "Management should externally communicate the necessary quality information to achieve the entity's objectives." We assessed agency actions against these principles.

We conducted this performance audit from November 2019 to September 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[8]GAO does not take a position on whether the proposal is consistent with other laws or requirements. In particular, the Congressional Budget Office, the Office of Management and Budget, and the House and Senate Budget Committees are responsible for the scorekeeping process, which is the process of estimating the budgetary effects of pending legislation and comparing them to a baseline.

[9]Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 2014).

Background

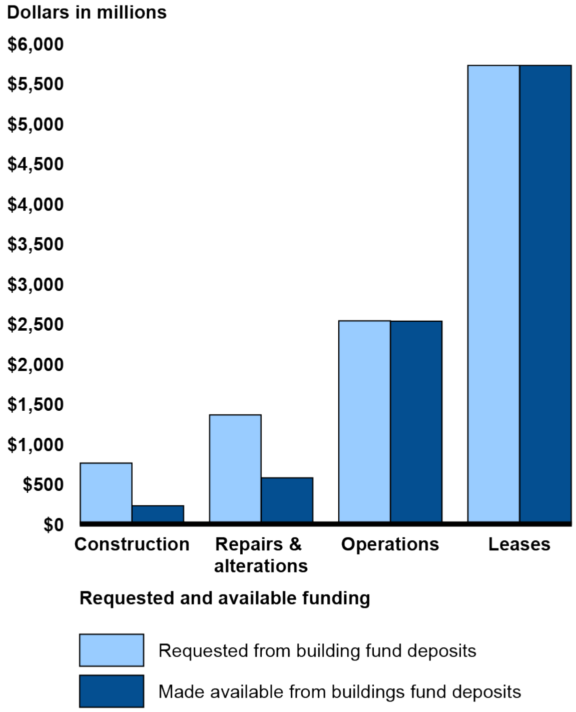
The federal real property portfolio is vast with diverse management and funding sources. For example, in fiscal year 2019, federal civilian agencies reported about 299,000 owned buildings and structures. Some agencies have the authority to own facilities, and those agencies, such as the Department of Commerce, also manage their own facilities, and they receive appropriations to fund their portfolios.

However, many agencies rely on GSA to procure and manage facilities for them. Federal agencies that occupy property controlled by GSA pay rent into the Buildings Fund, which is GSA's sole source of funds to manage those buildings.[10] Congress exercises control over the Buildings Fund through the appropriations process by setting an annual limit on how much of the fund GSA can spend for property-related activities, such as construction and acquisition of facilities and maintenance and repair projects.[11] In recent fiscal years, Congress has authorized GSA to spend less from the Buildings Fund than the rent it has received from tenant agencies. As such, the balance of the Buildings Fund has increased. Figure 1 shows the differences between the Building Fund requests for 2021 and the amount provided through appropriation and shows the spending authority for construction projects and repairs and alterations was less than requested. Appendix I provides details for fiscal years 2010 through 2021.

[10]GSA charges federal tenants rent based on the appraised value of similar private sector rental properties. GSA also charges federal tenants operating costs, representing the direct costs of operating its facilities including utilities, janitorial services, and routine maintenance. All GSA spending on its portfolio comes from the Buildings Fund.

[11]Appropriation acts have provided GSA with authority to incur obligations and make expenditures from the Buildings Fund in four categories of activities: (1) rental of space, (2) repairs and alterations, (3) construction and acquisition, and (4) building operations. *See, e.g.*, Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, div. C, tit. V, 133 Stat. 2317, 2464-65 (2019). The President's Budget and GSA refer to the amounts made available from the Buildings Fund through the appropriations process as "obligational authority."

Figure 1: General Services Administration Fiscal Year 2021 Federal Buildings Fund Requests and Funds Made Available by Appropriation



Source: GAO analysis of GSA and appropriation act data. | GAO-21-215

Data table for Figure 1: General Services Administration Fiscal Year 2021 Federal Buildings Fund Requests and Funds Made Available by Appropriation

Requested and available funding	Requested from buildings fund deposits (Dollars in millions)	Made available from buildings fund deposits (Dollars in millions)
Construction	$762	$230
Repairs & alterations	$1,363	$577
Operations	$2,537	$2,533
Leases	$5,725	$5,725

Source: GAO analysis of GSA and appropriation act data. | GAO-21-215

A lack of access to full, upfront funding for federal acquisition projects has caused a variety of difficulties for federal agencies over the years. Since 2003, we have reported that obtaining upfront funding for large projects–such as constructing, purchasing, or renovating federal buildings–has continued to be a challenge for federal agencies.[12] This challenge has led agencies to continue to rely on leasing, which can be more expensive than ownership. Since 2004, OMB, as chair of the Federal Real Property Council, has taken a leadership role in reforming real property management.[13] OMB officials told us that it is difficult to secure funding through the appropriations process for large projects within annual discretionary spending limits, which were in effect for fiscal years 2012 through 2021.[14] They said that because the funding for large capital projects is required upfront, such projects—that can require hundreds of millions of dollars—are "crowded out" by other types of spending such as operating costs during the annual budget process. In a March 2014

[12]GAO-03-122; GAO, *Capital Financing: Potential Benefits of Capital Acquisition Funds Can Be Achieved through Simpler Means,* GAO-05-249 (Washington, D. C.: Apr. 8, 2005); GAO, *Federal Real Property: Strategy Needed to Address Agencies' Long-standing Reliance on Costly Leasing,* GAO-08-197 (Washington, D. C.: Jan. 24. 2008); and GAO-12-646.

[13]In 2004, Executive Order No. 13327, "Federal Real Property Asset Management", established the Federal Real Property Council (FRPC) within the Office of Management and Budget (OMB) to, among other activities, develop guidance for, and facilitate the success of, each agency's real property asset management program. The FRPC is chaired by the Deputy Director for Management at OMB and is composed of Senior Real Property Officers from each of the 24 civilian agencies, the Controller of OMB, the Administrator of GSA, and any other fulltime or permanent part-time Federal officials or employees as deemed necessary by the Chairman of the Council. *See* 69 Fed. Reg. 5897 (Feb. 6, 2004) and Pub. L. No. 114-318, § 3(a), Dec. 16, 2016, 130 Stat. 1609 (codified as amended at 40 U.S.C. § 623).

[14]The Budget Control Act of 2011 established statutory limits on discretionary spending for fiscal years 2012-2021. Pub. L. No. 112-25, §.101, 125 Stat. 240, 241-45 (codified as amended at 2 U.S.C. § 901). Under current law, these limits are not in effect for fiscal year 2022 and beyond. In addition, the Congressional Budget Act of 1974 requires the House and Senate Budget Committee to adopt a concurrent resolution on the budget, which sets total discretionary and mandatory (direct) spending ceilings for the House and Senate Appropriations Committees. 2 U.S.C. §§ 632, 633(a). The House and Senate Appropriations Committees are further required to subdivide their spending allocations among their subcommittees. 2 U.S.C. § 633(b). These spending allocations are enforced through points of order in both the House and Senate. *See, e.g.,* 2 U.S.C. §§ 302(f), 311(a).

report, we identified alternatives to full, upfront appropriations.[15] These alternatives were intended to help the federal government meet its real property needs while making more cost-effective decisions.

Analysis of Three Selected Projects Suggests Upfront Funding Could Have Saved Money and Time

Our review of three large federal acquisition projects suggests that upfront funding could have helped the agencies involved with the projects better control cost increases and schedule delays. The selected projects are not generalizable to all federal acquisition projects but provide examples of possible effects of access to upfront funding. Specifically, access to upfront funding might have allowed for:

- GSA to construct a headquarters building for DOT, saving around $1.2 billion spent (in nominal dollars) on a lease and eventual purchase;
- an earlier projected completion of GSA's ongoing Calexico Land Port of Entry project for DHS; and
- an earlier projected completion of NIST's ongoing laboratory renovation project.

Department of Transportation Headquarters Building. If GSA had access to full, upfront funding, GSA may have been able to construct the DOT headquarters building for the original estimated cost of $294 million. Although actual costs may have differed, this approach could have saved

[15]GAO, *Capital Financing: Alternative Approaches to Budgeting for Federal Real Property*, GAO-14-239 (Washington, D. C.: Mar. 12, 2014). We reported that alternatives to full, upfront appropriations should balance tradeoffs across two key GAO-identified budgeting and capital planning principles: (1) promoting transparency and fiscal control with regard to the funding of federal real property; and (2) providing agencies the flexibility to facilitate the acquisition, repair and alteration, and disposal of federal real property in support of federal missions. We provided alternative budgetary structure options for Congress to consider. For example, in one option Congress would make the full balance of the Federal Buildings Fund available for funding real property projects, a process that could create room for additional agency flexibility but might reduce fiscal control. Another option would establish a government-wide capital acquisition fund with authority to borrow from the Federal Financing Bank for approved projects, an approach that could improve transparency of both costs and benefits upfront and over time while business-case analyses could provide a means of assuring fiscal control.

the federal government around an estimated $1.2 billion (in nominal dollars) versus the lease-purchase approach that was used.[16] In 1998, GSA proposed consolidating several DOT leases with the construction of a headquarters building for $294 million. Congress directed GSA to lease a headquarters building for DOT, and from 2006 to 2020, GSA spent $753 million leasing the DOT headquarters building. Then, in March 2020, GSA purchased the DOT headquarters building for an additional $768 million (see fig. 2).

Figure 2: U. S. Department of Transportation's (DOT) Headquarters, Washington D. C.

- **Need:** DOT Headquarters housing about 5,000 employees in Washington, D.C.
- **What:** General Services Administration (GSA) project.
- **Proposal:** Construct government-owned building for $294 million in 1998.
- **Status:** GSA started leasing an existing building in 2006 and purchased it in 2020.
- **Costs:** $1,521 million (**Rent:** $753 million + **Purchase:** $768 million)
- **Outcome:** DOT continues to pay rent into the Buildings Fund to occupy the GSA-managed space.

Source: GAO analysis of GSA data; DOT (photo). | GAO-21-215

Text of Figure 2: U. S. Department of Transportation's (DOT) Headquarters, Washington D. C.

- **Need:** DOT Headquarters housing about 5,000 employees in Washington, D.C.
- **What:** General Services Administration (GSA) project.
- **Proposal:** Construct government-owned building for $294 million in 1998.
- **Status:** GSA started leasing an existing building in 2006 and purchased it in 2020.

[16]This is a savings estimated by taking the difference of the total lease and purchase ($1,521 million) minus the original proposed construction costs of $294 million. The actual savings might have differed because the actual construction costs might have differed from the proposed. In addition, the lease cost is the cumulative rent GSA paid and does not include operating costs. The original proposal, lease, and purchase costs are historical costs and are not inflated or discounted to the same year.

- **Costs:** $1,521 million (Rent: $753 million + Purchase: $768 million)
- **Outcome:** DOT continues to pay rent into the Buildings Fund to occupy the GSA-managed space.

GAO Analysis of GSA data; DOT (photo). | GAO-21-215

Department of Homeland Security Calexico Land Port of Entry. Access to upfront funding might have allowed GSA to complete the DHS's Calexico Land Port of Entry project 12 years earlier than currently proposed and for less cost. Since 2007, GSA has been planning to reconfigure and expand the Calexico project to increase vehicle and pedestrian capacity (see fig. 3). In July 2009, GSA estimated the project to cost $275 million with completion in fiscal year 2014. OMB officials told us that due to the challenges of obtaining sufficient upfront funding, GSA chose to break the project into phases so that it could receive the full funding over a number of different funding years. GSA reported in its fiscal year 2010 budget justification documents that it originally planned the construction in one phase but changed this approach to two phases to allow for site acquisition and minimize effects to the operations of the facility.

Congress did not always provide full-spending authority from the Buildings Fund in the amounts or years that GSA planned and requested. In fiscal year 2011, GSA requested $84 million for Phase I and received no funding. In fiscal year 2015, GSA requested and received $98 million for Phase I. Similarly, we examined GSA congressional requests and found that Phase 2 has experienced years with no funding, resulting in construction delays. As overall costs of the project grew, GSA requested $248 million for Phase 2 for fiscal year 2017 and received no funding. GSA requested $276 million for fiscal year 2019 for Phase 2 and received $191 million. GSA requested $100 million for fiscal year 2021 to complete the Calexico project in fiscal year 2026, for a total cost of $413 million[17] and received no funding. During the project, GSA increased the scope of the project by adding structured parking spaces and increasing the building area, which make direct cost comparisons difficult. However, the delays in receiving funding have contributed to the delay in completion of the project (see fig. 3).

[17]This total cost includes about $24 million received for funding the site's acquisition and design in fiscal years 2007 and 2010.

Figure 3. Department of Homeland Security's (DHS) Calexico, CA, Land Port of Entry Project

- **Need:** Expanded DHS Land Border Port of Entry at Calexico, California.
- **What:** General Services Administration (GSA) project.
- **Proposal:** Phased construction using multi-year appropriations for $275 million, from 2007 to 2014.
- **Status:** Due to funding delays, GSA now expects to complete the project in 2026.
- **Costs:** $313 million funded, GSA estimates total project costs of $413 million.
- **Outcome:** Project ongoing. Once completed, the Department of Homeland Security will pay rent into the Buildings Fund to occupy GSA-managed space.

Source: GAO analysis of GSA data; GSA (photo). | GAO-21-215

Text of Figure 3. Department of Homeland Security's (DHS) Calexico, CA, Land Port of Entry Project

- **Need:** Expanded DHS Land Border Port of Entry at Calexico, California.
- **What:** General Services Administration (GSA) project.
- **Proposal:** Phased construction using multi-year appropriations for $275 million, from 2007 to 2014.
- **Status:** Due to funding delays, GSA now expects to complete the project in 2026.
- **Costs:** $313 million funded, GSA estimates total project costs of $413 million.
- **Outcome:** Project ongoing. Once completed, the Department of Homeland Security will pay rent into the Buildings Fund to occupy GSA-managed space

Source: GAO analysis of GSA data; GSA (photo). | GAO-21-215

National Institute of Standards and Technology Laboratory Renovation. NIST officials told us that access to upfront funding may have allowed NIST to renovate its laboratory complex sooner. The complex, initially built in the 1950s, includes laboratories and support spaces. In 2006, NIST determined the entire complex required substantial renovation and modernization.[18] NIST has the authority to acquire and manage its real property and chose to use its authority instead of going through GSA.[19]

NIST chose to approach the project in phases. In fiscal year 2010, NIST estimated that it could complete renovations of the first phase of the renovation project by 2016, with a cost of $76 million. Once all phases were included in the estimate, the total project estimate increased to over $450 million. NIST officials said that phasing the project over multiple years of funding made the most sense, as that approach allowed occupants to rotate in and out of temporary space within the laboratory complex while contractors renovated their original space. NIST officials said that they preferred phased funding because they could not move the entire laboratory staff and ongoing operations elsewhere during renovations.[20]

Budget documents show that NIST received funding for the project, starting with $12 million of the $26 million requested in fiscal year 2010, but did not always receive the amounts it requested to support its planned phased approach, a factor that may have contributed to schedule increases.[21] Additionally, an increase in the number of buildings renovated as part of the project also contributed to schedule increases. NIST officials told us that by fiscal year 2016, NIST had received $91.5 million and estimated completing renovating four of the building complex's wings for an additional $104 million by 2023 for an estimated cost of $195.5 million. By fiscal year 2019, NIST had received $182.5 million. In fiscal year 2020, NIST requested $288 million from the Capital Fund to complete all of the renovations, but received $43 million in direct appropriations. In fiscal year 2021, NIST requested $294 million to complete all of the renovations but did not receive appropriations. To

[18]*National Institute of Standards and Technology, National Technical Information Service Fiscal Year 2010 Budget Submission to Congres*s, This document identifies a study by the NIST, Boulder Facilities Review Team, *Report on NIST Boulder Laboratory Facilities: Findings and Recommendations on Possible Renovation of Existing Facilities and Possible Construction of New Laboratory Facilities* (Jan. 31, 2006).

[19]*See* 15 U.S.C. § 278d.

[20]We have previously found that agencies can successfully renovate a portion of the building while keeping the remaining sections of the building operational if necessary. GAO, *Architect of the Capitol: Plans for Renovating the Cannon House Office Building and Garages*, GAO-09-673T (Washington, D.C.: May 6, 2009).

[21]We focus on the schedule increases because the lack of an initial estimate for the total renovation project and increased scope of work makes cost comparisons difficult.

date, the project is over a decade into phased renovations and has cost about $225.5 million. As of January 2021, NIST officials told us that completing all phases of the project would cost $226.3 million more, for a total estimated project cost of $451.8 million (see fig. 4).

Figure 4. National Institute of Standards and Technology (NIST) Laboratory, Boulder Colorado.

- **Need:** Renovation of 3 of 6 building wings of NIST's laboratory complex in Boulder, Colorado.
- **What:** NIST project.
- **Proposal:** Phased renovation starting in 2010, estimated completion in fiscal year 2016 and cost $76 million.
- **Status:** Estimated completion for 4 of the 6 wings in the complex is now 2026.
- **Costs:** $225.5 million funded, total project including all renovation costs estimated at $451.8 million.
- **Outcome:** Project ongoing, once completed, NIST will fund the operation and maintenance of the lab through direct appropriations.

Source: GAO analysis of NIST data; NIST (photo). | GAO-21-215

Text of Figure 4. National Institute of Standards and Technology (NIST) Laboratory, Boulder Colorado.

- **Need:** Renovation of 3 of 6 building wings of NIST's laboratory complex in Boulder, Colorado.
- **What:** NIST project.
- **Proposal:** Phased renovation starting in 2010, estimated completion in fiscal year 2016 and cost $76 million.
- **Status:** Estimated completion for 4 of the 6 wings in the complex is now 2026.
- **Costs:** $225.5 million funded, total project including all renovation costs estimated at $451.8 million.
- **Outcome:** Project ongoing, once completed, NIST will fund the operation and maintenance of the lab through direct appropriations.

Source: GAO analysis of NIST data; NIST (photo). | GAO-21-215

OMB Proposed a Capital Fund, but without Further Analysis, the Potential Effects on GSA's Existing Buildings Fund Are Unclear

OMB Proposed a Capital Fund to Improve Access to Upfront Capital for Large Acquisitions

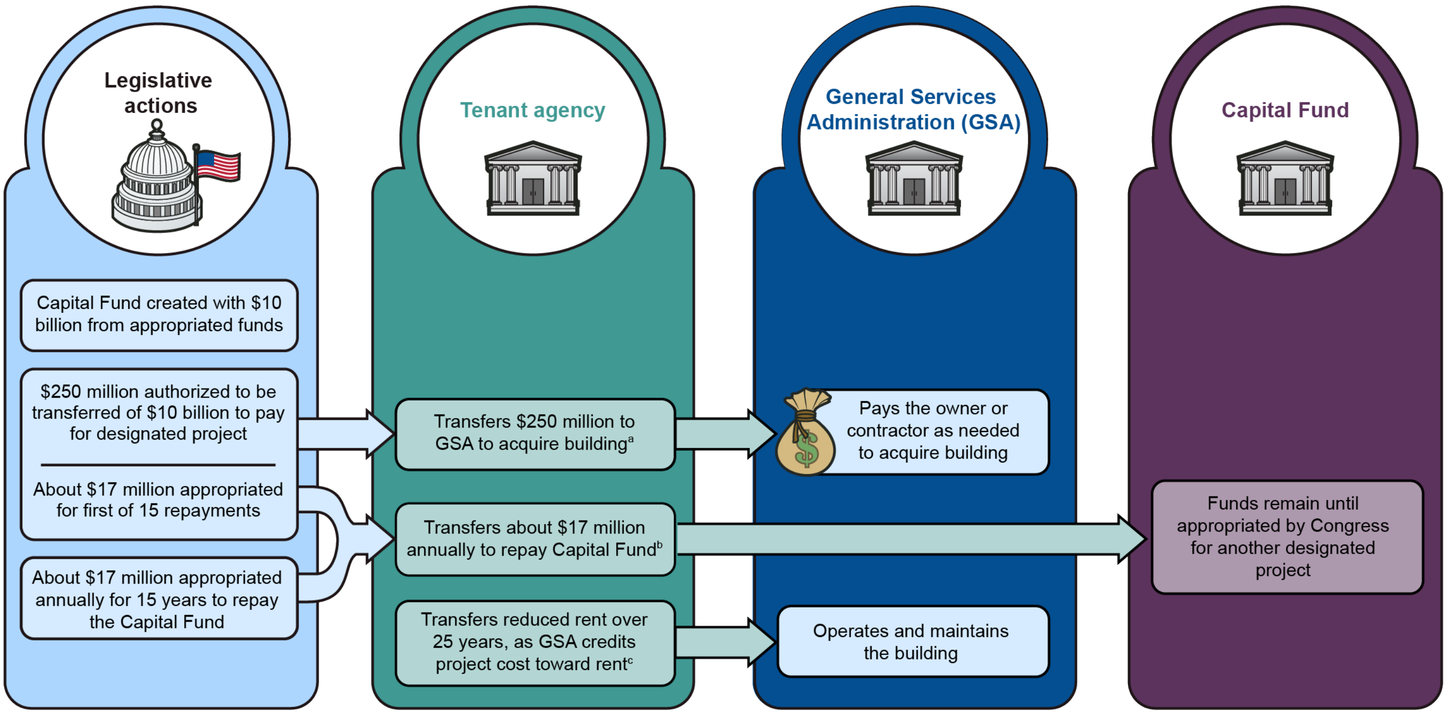
In June 2018, OMB proposed the Capital Fund, which would be a $10 billion source of upfront funding—with a repayment requirement—for federal agencies to use for projects to construct, purchase, or renovate facilities that cost $250 million or more. While not enacted as of June 2021, as noted above, the Capital Fund proposal is referenced in the most recent and prior President's budgets.[22]

If OMB's proposal is enacted, an agency could access the funds once an appropriations transfer was authorized from the Capital Fund for an approved project and the agency made the first of 15 annual repayments.[23] The agency must repay the proposed Capital Fund the entire amount appropriated for the project over a period up to 15 years after the project is approved. For example, a $250 million project would require annual repayments of about $17 million for 15 years (see fig.5). GSA would administer authorized transfers from the proposed Capital Fund and administer, and manage its existing Buildings Fund.

[22]The President's budget has proposed appropriations for the fund and specific acquisition projects for purchase transfers. The President's budget does not include legislative text for mandatory legislative proposals.

[23]Other conditions must also be met, including designation of the project in statute and subsequent designation by the President.

Figure 5. Example of $250 Million Federal Acquisition Project under the Proposed Federal Capital Revolving Fund Act of 2018 (Capital Fund)



Source: GAO analysis of proposed Capital Fund. | GAO-21-215

Note: This approach is the process whereby the agency without landholding or landmanaging authority would request and transfer the funding to GSA to manage the acquisition and operations of the building. The proposed Capital Fund would be available to 23 federal agencies, including GSA. Of these 23, agencies with landholding or landmanaging authority could apply for Capital Fund projects on their own, thereby removing GSA from the process.

[a]The agency must enter into an agreement with GSA to repay the Capital Fund.

[b]The agency transfers a nominal fee to GSA to administer the Capital Fund.

[c]Agencies pay operating costs for the building and receive a rent credit from GSA for the cost of the acquisition spread over 25 years. The precise amount of the rent credit varies by building.

OMB stated that the proposed Capital Fund would allocate the upfront cost of federal acquisition projects in the budget, but projects would not have to compete with operating expenses in the annual appropriations process because the up-front costs for an acquisition project would not be subject to discretionary spending caps.[24] This is because the proposal directs that appropriations transferred from the fund be considered

[24]Discretionary and mandatory spending are subject to a different a set of budget enforcement rules and processes. The discretionary spending caps at issue when the Capital Fund was first proposed in 2018 are no longer in effect as of fiscal year 2022.

mandatory spending, as opposed to discretionary spending.[25] Under the proposal, an agency that relies on GSA for construction and renovation projects would transfer the funding the agency receives from the proposed Capital Fund to GSA for a project that will be held in GSA's inventory.[26] The agency would then use its annual appropriations to pay back the fund over a period of up to 15 years. The agency would also receive a rent credit spread over a 25-year period that was equal to the amount of the acquisition funded through the proposed Capital Fund; this process means the agency would not pay full rent to GSA at the same time it was paying back the Capital Fund. After the 25-year rent credit, the agencies would begin paying full rent to GSA into the Buildings Fund. OMB officials said, however, that tenant agencies would only receive a rent credit for Building Fund acquisitions if the tenant received the money from the Capital Fund before transferring it to GSA.

Without Further Analysis, Possible Effects of the Proposed Capital Fund on the Buildings Fund Are Unclear

As GSA has not formally analyzed how the proposed Capital Fund could affect the Buildings Fund, the possible effects are unclear. During the course of our review, GSA and OMB expressed different perspectives on the effects that the Capital Fund proposal, if enacted and funded, may have on the existing Buildings Fund. OMB officials said that they intended the proposed Capital Fund to operate independently from the Buildings Fund and that access to the Capital Fund's upfront funding could have benefits, such as encouraging agencies to choose ownership, when it would be more cost-effective, over leasing commercial space. They also said agencies moving from leasing to ownership could benefit the Buildings Fund by adding another asset to GSA's portfolio that would

[25]At times, legislation has directed that budget authority be treated differently than it otherwise would under the scorekeeping rules. This approach is referred to as "directed scoring."

[26]The 2018 proposed Capital Fund neither provides new real property landholding nor land-managing authority to an agency nor otherwise affect any agency's existing real property landholding or land-managing authority.

eventually bring rent into the Buildings Fund after the proposed Capital Fund is repaid.[27]

GSA officials said that the proposed Capital Fund could divert needed revenue away from the Buildings Fund. More specifically, GSA officials said that because of the rent credit, agencies repaying the proposed Capital Fund instead of paying rent into the Buildings Fund could erode the balances, cash flow, and operations of the Buildings Fund, funds that GSA must use to fund its portfolio needs.[28] According to OMB, the proposed Capital Fund's feature of providing a rent credit to an agency that has purchased the building managed by GSA would be consistent with GSA's current practice, reflecting the purchasing agency's investment in the facility. However, GSA officials suggested that the Capital Fund proposal's rent credit would exceed the rent credit GSA has previously provided under its current policy and said that there are no current examples of rent credit on the scale that the Capital Fund proposes.[29]

Additionally, while we identified additional circumstances in which the Capital Fund proposal could affect the Buildings Fund, the potential effects are complex and remain unclear. For example, effects could vary depending on:

- the particular agency involved in the acquisition,
- whether the agency moves out of a building controlled by GSA, and
- the condition and status of that building.

In addition, the number of agencies receiving a rent credit at any given time could vary the potential effects. Also, the effect of situations causing

[27]Rent paid by agencies to GSA for commercially leased space does not increase Buildings Fund balances since GSA passes these payments onto private sector owners or expends them directly.

[28]As previously discussed, the Buildings Fund relies on tenants of GSA-managed, federally-owned buildings to pay rent to the Buildings Fund based on the appraised value of similar private sector rental properties.

[29]GSA officials said that the agency's standard practice is to provide 100 percent rent credit for repair and alteration work that addresses fire, life safety, or accessibility compliance issues and that the agency's practice is to provide 60 percent credit for any other repair and alteration work not directly related to fire, life safety, or accessibility. GSA, *Public Buildings Service Pricing Desk Guide*, 5th Edition (Washington, D. C.: Nov. 16, 2019). See the note in Chapter 3.6.10 (C), which states that GSA determines any appropriate rent consideration for tenant agency funding of building shell elements and provides it after substantial completion.

unexpected capital expenses for GSA during the repayment period is unclear. For example, while the tenant agency would pay operating costs during the 25-year rent credit period, the proposal does not directly address what would occur if GSA incurred significant repair costs, which could be substantial if there were an unexpected need, such as caused by a flood, earthquake, or other natural disaster.

GSA officials told us during our audit work that they had not planned to formally analyze or comment on the Capital Fund proposal's effects on the Buildings Fund because a bill was not introduced in Congress. However, in budget justification documents for fiscal years 2019 and 2022, GSA requested funding for repayment to the proposed Capital Fund for projects without analyzing the risks to the Buildings Fund. The *Standards of Internal Control in the Federal Government* include, among others, the underlying principles that management should define objectives clearly to identify risks, and use and communicate the necessary quality information to achieve objectives.[30] Analysis from GSA could identify potential risks that implementing the Capital Fund proposal could have on the Buildings Fund. Communicating the results of this analysis could aid OMB and Congress in assessing, preventing, or mitigating any adverse effects GSA might identify, which is important as the federal government explores new ways to provide upfront funding for its large capital projects.[31]

As described above, federal agencies might have saved time and money with expanded access to upfront capital funding if it had been available for three federal acquisition projects. As GSA would be responsible for administering transfers from the Capital Fund and administer, and manage the Buildings Fund, it is in the best position to analyze how the two funds might interact and provide suggested revisions to the Capital Fund proposal, as appropriate. This information could inform OMB and Congress as they consider the President's 2022 budget and the bill

[30]GAO-14-704G.

[31]OMB guidance outlines how agencies can provide feedback on proposed legislation. OMB Circular No. A-19 guidance states that in "views letters" to OMB, an agency should indicate whether it supports, opposes, or has no objection to all or part of a pending bill or of another agency's proposed legislation, report, or testimony and should state the reasons for its position. If an agency proposes changes to a pending bill or to another agency's submission, its views letter should recommend, insofar as practicable, specific substitute language. The guidance also states that agencies are encouraged to consult with each other in order that all relevant interests and points of view may be considered and accommodated, where appropriate, in the formulation of their positions.

implementing a version of the Capital Fund that was introduced in the Senate on May 27, 2021.

Conclusions

Access to full, upfront funding for large federal capital projects—whether acquisition, construction, or renovation—could save time and money. OMB proposed a $10 billion Capital Fund in 2018 to provide this access and such a fund was referenced in each President's Budget since 2019 and, as previously noted in a bill that has been introduced in the Senate. For fiscal years 2019 and 2022, GSA requested funding for repayment to the proposed Capital Fund for projects without analyzing the risks to the Buildings Fund.

GSA could identify the potential effects of the proposed Capital Fund on the existing Buildings Fund and communicate the results to OMB and Congress. GSA's analysis could both help OMB determine how to mitigate any potential adverse effects identified and help Congress weigh choices when considering the proposed legislation and making decisions on the use of limited federal resources.

Recommendation for Executive Action

We are making the following recommendation to GSA:

The Administrator of GSA should identify the potential effects of the proposed Capital Fund on the Buildings Fund—including when such effects might occur and their potential scope and consequences—and communicate the analysis to OMB and Congress. (Recommendation 1)

Agency Comments

We provided a draft of this report to the General Services Administration (GSA), the Office of Management and Budget (OMB), the Department of Commerce's National Institute of Standards and Technology (NIST), the Departments of Homeland Security (DHS) and Transportation (DOT). In its comments, reproduced in appendix II, the General Services Administration concurred with our recommendation and noted the agency is working on a plan to address it. In providing oral comments, OMB offered a number of technical suggestions that we incorporated as appropriate. Specifically, OMB officials said that tenant agencies would only receive a rent credit for Building Fund acquisitions if the tenant received the money from the Capital Fund before transferring it to GSA. We added this statement to the draft report for added context. DHS and NIST also provided technical comments, which we incorporated as appropriate. DOT had no comments on the draft report.

We are sending copies of this report to the appropriate congressional committees; the Acting Director of the Office of Management and Budget; the Administrator of the General Services Administration; the Secretaries of the Departments of Commerce; Homeland Security and Transportation; and other interested parties. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report please contact Jill Naamane at (202) 512-2834 or naamanej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Jill Naamane
Acting Director
Physical Infrastructure

List of Requesters

The Honorable Gary C. Peters
Chairman
The Honorable Rob Portman
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Ron Johnson
Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable James Lankford
Ranking Member
Subcommittee on Government Operations and Border Management
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Carper
United States Senate

Appendix I: Federal Buildings Fund Changes, Fiscal Years 2010 through 2021

Table 1 shows that GSA has collected more rent than Congress has authorized it to use in recent years, leading to an increase in the balance of the Buildings Fund.

Table 1: Changes to the Federal Buildings Fund, Fiscal Years 2010 through 2021 (Dollars in millions)

Fiscal year	Beginning fund balance[a]	Fund deposits[b]	Total available resources	President's Budget Request	Appropriated obligational authority[c]	Change from the beginning fund balance
2010 [d]	604	8,956	**9,560**	8,531	8,527	428
2011[d]	1,032	8,840	**9,873**	9,154	7,659	1,181
2012[d]	2,239	9,239	**11,478**	9,509	8,198	1,041
2013[d]	3,280	9,550	**12,830**	8,619	8,102	1,448
2014[d]	4,727	7,754	**12,481**	9,951	9,541	-1,787
2015[d]	2,941	9,946	**12,887**	9,918	9,320	626
2016[d]	3,567	9,864	**13,431**	10,372	10,241	-377
2017[d]	3,190	10,299	**13,489**	10,178	8,845	1,469
2018[d]	4,658	10,139	**14,797**	9,951	9,214	925
2019[d]	5,582	10,175	**15,757**	10,132	9,496	679
2020[d]	6,261	10,204	**16,465**	10,204	8,857	1,347
2021[d,e]	7,608	10,388	**17,996**	10,388	9,065	1,323

Source: GAO analysis of financial data from General Services Administration (GSA) | GAO-21-215

Note: Analysis excludes revenue and obligational authority resulting from GSA's use of its various indefinite authorities (*e.g.*, Historical Properties, 54 U.S.C. § 306121 (formerly 16 U.S.C. § 470h-3(b)); Energy and Recycling Rebates, 40 U.S.C. § 592; and Rental of Space, 40 U.S.C. § 586(d)).

[a]The total balance of the Buildings Fund as of the beginning of the fiscal year.

[b]Fund deposits include revenue and rent from operations, appropriations, reprogrammings, redemption of debt, transfers, prior year recoveries, transfers, and rescissions.

[c]The President's budget and GSA refer to the amounts made available from the Buildings Fund through the appropriations process as "obligational authority." This column includes reprogrammings.

[d]GSA provided.

[e]Fund balance pending full year rent collection at the end of fiscal year 2021.

Appendix II: Comments from the General Services Administration

DocuSign Envelope ID: 0024E6B5-B9FD-4262-BEAD-976490259411

The Administrator

July 30, 2021

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the U.S. Government Accountability Office (GAO) draft report, *CAPITAL FUND PROPOSAL: Upfront Funding Could Benefit Some Projects, But Other Potential Effects Not Clearly Identified* (GAO-21-215).

GAO made the following recommendation to GSA:

> The Administrator of GSA should identify the potential effects of the proposed Capital Fund on the Buildings Fund—including when such effects might occur and their potential scope and consequences—and communicate the analysis to OMB and Congress.

GSA agrees with the recommendation and is working on a plan to address it.

If you have any questions or concerns, please contact me or Gianelle Rivera, Associate Administrator, Office of Congressional and Intergovernmental Affairs, at (202) 501-0563.

Sincerely,

Robin Carnahan
Administrator

cc: Ms. Jill Naamane, Acting Director, Physical Infrastructure Issues, GAO

U.S. General Services Administration
1800 F Street NW
Washington DC 20405-0002
www.gsa.gov

Text of Appendix II: Comments from the General Services Administration

July 30, 2021

The Honorable Gene L. Dodaro Comptroller General of the United States

U.S. Government Accountability Office 441 G Street NW

Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the U.S. Government Accountability Office (GAO) draft report, CAPITAL FUND PROPOSAL: Upfront Funding Could Benefit Some Projects, But Other Potential Effects Not Clearly Identified (GAO-21-215).

GAO made the following recommendation to GSA:

The Administrator of GSA should identify the potential effects of the proposed Capital Fund on the Buildings Fund—including when such effects might occur and their potential scope and consequences—and communicate the analysis to OMB and Congress.

GSA agrees with the recommendation and is working on a plan to address it.

If you have any questions or concerns, please contact me or Gianelle Rivera, Associate Administrator, Office of Congressional and Intergovernmental Affairs, at (202) 501- 0563.

Sincerely,

Robin Carnahan Administrator

cc: Ms. Jill Naamane, Acting Director, Physical Infrastructure Issues, GAO

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Jill Naamane at (202) 512-2834 or Naamanej@gao.gov.

Staff Acknowledgments

In addition to the contacts named above, Keith Cunningham (Assistant Director); George Depaoli (Analyst in Charge); Melissa Bodeau; Susan Irving; Paul Kinney; Terence Lam; Andrea Levine; Thomas McCabe; Lori Rectanus; Malika Rice; Kelly Rubin; Sandra Sokol; Janet Temko-Blinder; and David Trimble made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through our website. Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. You can also subscribe to GAO's email updates to receive notification of newly posted products.

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, https://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or
TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on Facebook, Flickr, Twitter, and YouTube.
Subscribe to our RSS Feeds or Email Updates. Listen to our Podcasts.
Visit GAO on the web at https://www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: https://www.gao.gov/about/what-gao-does/fraudnet

Automated answering system: (800) 424-5454 or (202) 512-7700

Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548