

104TH CONGRESS
1ST SESSION

S. 204

To provide for a reform of the public buildings program, and for other purposes

IN THE SENATE OF THE UNITED STATES

JANUARY 11 (legislative day, JANUARY 10) 1995

Mr. MOYNIHAN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for a reform of the public buildings program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Buildings Re-
5 form Act of 1995”.

6 **SEC. 2. BIENNIAL PUBLIC BUILDINGS PLAN.**

7 The Public Buildings Act of 1959 is amended by in-
8 serting after section 6 (40 U.S.C. 605) the following new
9 section:

1 **“SEC. 6A. BIENNIAL PUBLIC BUILDINGS PLAN.**

2 “(a) SUBMISSION OF PLAN TO CONGRESS.—

3 “(1) IN GENERAL.—Not later than the end of
4 the 15-day period following the date Congress first
5 convenes in 1997, and not later than the end of the
6 15-day period following the date Congress first con-
7 venes in every second year thereafter, the Adminis-
8 trator shall submit to Congress a biennial public
9 buildings plan for the first 2 fiscal years that begin
10 after the date of submission, for such projects and
11 other actions as the Administrator determines are
12 necessary to carry out the duties of the Adminis-
13 trator under this Act.

14 “(2) CONTENTS OF PLAN.—The biennial plan
15 shall include—

16 “(A) a 5-year plan for accommodating the
17 public building needs of the Federal Govern-
18 ment;

19 “(B) a list, in order of priority, of con-
20 struction, alteration, purchase, and acquisition
21 projects for which authorizations of appropria-
22 tions are requested for 1 or both of the 2 fiscal
23 years referred to in paragraph (1), including a
24 description of each project and the number of
25 square feet of space involved with respect to
26 each project;

1 “(C) a list, in order of priority, of lease
2 and lease renewals for which authorizations of
3 appropriations are requested for 1 or both of
4 the 2 fiscal years referred to in paragraph (1);

5 “(D) an explanation of the orders of prior-
6 ity specified under subparagraphs (B) and (C);

7 “(E) a list of all public buildings proposed
8 to be vacated in whole or in part, to be ex-
9 changed for other property, or to be disposed
10 of;

11 “(F) a proposed budget for the repair and
12 maintenance of public buildings in existence on
13 the date of submission of the biennial plan;

14 “(G) the estimated annual and total cost
15 of each project and lease;

16 “(H) the name of the principal owner of
17 each building or other space leased pursuant to
18 this section during the period covered by the bi-
19 ennial plan;

20 “(I) any final environmental impact state-
21 ment prepared for a project included in the bi-
22 ennial plan pursuant to the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et
24 seq.); and

1 “(J) a report that indicates the consider-
2 ation that was given to facts and issues con-
3 cerning each project included in the biennial
4 plan and various alternatives that were raised
5 during the hearing for the project under sub-
6 section (b) or that were otherwise considered.

7 “(b) PUBLIC HEARINGS.—

8 “(1) IN GENERAL.—The Administrator shall—

9 “(A) provide opportunity for a public hear-
10 ing in the locality or proposed locality of each
11 major construction, alteration, purchase, or ac-
12 quisition project included in the biennial plan;
13 and

14 “(B) certify in the biennial plan that the
15 hearing was held or that an opportunity for the
16 hearing was provided.

17 “(2) ELEMENTS OF HEARINGS.—Each hearing
18 shall consider only such facts and issues as can rea-
19 sonably be determined during the planning and pre-
20 liminary design of a project, including—

21 “(A) the economic and social effects of the
22 project;

23 “(B) the impact of the project on the envi-
24 ronment; and

1 “(C) the consistency of the project with
2 urban planning goals and objectives of the com-
3 munity.”.

4 **SEC. 3. CONTRACT INTERPRETATION AND APPROVAL.**

5 Section 10 of the Public Buildings Act of 1959 (40
6 U.S.C. 609) is amended—

7 (1) by striking “SEC. 10. (a) The Adminis-
8 trator,” and inserting the following:

9 **“SEC. 10. SERVICES AND CONTRACTS.**

10 “(a) SERVICES OF ARCHITECTURAL OR ENGINEER-
11 ING FIRMS.—The Administrator,”;

12 (2) by striking “(b) No” and inserting the fol-
13 lowing:

14 “(b) PROHIBITION ON PERMANENT EMPLOYMENT OF
15 SERVICES.—No”; and

16 (3) by striking subsection (c) and inserting the
17 following:

18 “(c) RESPONSIBILITIES OF ADMINISTRATOR.—Not-
19 withstanding any other provision of this section, the Ad-
20 ministrators shall be responsible for all projects carried out
21 under this Act, including—

22 “(1) the interpretation of a contract entered
23 into on behalf of the Federal Government to carry
24 out this Act;

1 “(2) the approval of materials, workmanship,
2 and services supplied pursuant to the contract;

3 “(3) the approval of changes in the contract;

4 “(4) the certification of vouchers for payments
5 due the contractor; and

6 “(5) final settlement of the contract.”.

7 **SEC. 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.**

8 Section 12 of the Public Buildings Act of 1959 (40
9 U.S.C. 611) is amended—

10 (1) by striking “SEC. 12. (a) The Adminis-
11 trator” and inserting the following:

12 **“SEC. 12. FEDERAL GOVERNMENT ASSET MANAGEMENT.**

13 “(a) DUTIES OF ADMINISTRATOR.—

14 “(1) IN GENERAL.—The Administrator”;

15 (2) in subsection (a), by adding at the end the
16 following:

17 “(2) REPOSITORY FOR ASSET MANAGEMENT IN-
18 FORMATION.—The Administrator shall use the re-
19 sults of the continuing investigation and survey re-
20 quired under paragraph (1) to establish a central re-
21 pository for the asset management information of
22 the Federal Government.”;

23 (3) in subsection (b)—

24 (A) by striking “(b) In carrying” and in-
25 serting the following:

1 “(b) COOPERATION AMONG FEDERAL AGENCIES.—

2 “(1) BY THE ADMINISTRATOR.—In carrying”;

3 (B) by striking “Each Federal” and insert-
4 ing the following:

5 “(2) BY THE AGENCIES.—Each Federal”; and

6 (C) by adding at the end the following:

7 “(3) IDENTIFICATION AND DISPOSITION OF
8 UNNEEDED BUILDINGS.—

9 “(A) IDENTIFICATION.—Each Federal
10 agency shall—

11 “(i) identify unneeded, obsolete, and
12 underutilized public buildings; and

13 “(ii) annually report the information
14 on the buildings described in clause (i) to
15 the Administrator.

16 “(B) DISPOSITION.—The Administrator
17 shall find more cost-effective uses for, or sell,
18 the public buildings identified under subpara-
19 graph (A).”;

20 (4) in subsection (c), by striking “(c) When-
21 ever” and inserting the following:

22 “(c) IDENTIFICATION OF BUILDINGS OF HISTORIC,
23 ARCHITECTURAL, AND CULTURAL SIGNIFICANCE.—
24 Whenever”;

1 (5) in subsection (d), by striking “(d) The Ad-
2 ministrator” and inserting the following:

3 “(d) REGARD TO COMPARATIVE URGENCY OF
4 NEED.—The Administrator”; and

5 (6) by adding at the end the following:

6 “(e) RESEARCH AND EVALUATIONS.—The Adminis-
7 trator may conduct research and post-occupancy evalua-
8 tions to determine and improve the effectiveness of exist-
9 ing and planned public buildings.”.

10 **SEC. 5. GENERAL CRITERIA FOR LOCATION.**

11 The Public Buildings Act of 1959 (40 U.S.C. 601
12 et seq.) is amended by adding at the end the following:

13 **“SEC. 22. GENERAL CRITERIA FOR LOCATION.**

14 “(a) IN GENERAL.—

15 “(1) HEADQUARTERS.—The Administrator
16 shall ensure that the headquarters of each depart-
17 ment and major independent establishment of the
18 executive branch are located within the National
19 Capital region in conformance with the comprehen-
20 sive plan prepared and adopted pursuant to the Act
21 entitled ‘An Act providing for a comprehensive devel-
22 opment of the park and playground system of the
23 National Capital’, approved June 6, 1924 (40
24 U.S.C. 71 et seq.), unless otherwise specified by Act
25 of Congress.

1 “(2) OTHER REGIONAL, DISTRICT, AREA, OR
2 LOCAL OFFICES.—The Administrator shall ensure
3 that the regional, district, area, or local offices of
4 Federal agencies are located so as to be centrally lo-
5 cated with respect to, in proximity to, or within easy
6 transportation access of, residential populations
7 served by the agencies or other governmental and
8 private offices with which the agencies must main-
9 tain continuing and frequent physical communica-
10 tion.

11 “(3) OTHER OFFICES.—The Administrator
12 shall ensure that the Federal agency offices other
13 than offices that are located pursuant to paragraph
14 (1) or (2), or that otherwise must be located close
15 to specific governmental or private offices or in spe-
16 cific geographic locations in order effectively to carry
17 out the responsibilities of the agency, are located
18 throughout the United States generally in proportion
19 to the geographic distribution of the population of
20 the United States.

21 “(b) OTHER FACTORS IN LOCATION.—After meeting
22 the requirements of subsection (a), the Administrator, in
23 consultation with local officials, shall take into account in
24 locating Federal agency offices—

1 “(1) the costs, including relocation and operat-
2 ing costs, of proposed locations;

3 “(2) in the case of any office located in a stand-
4 ard metropolitan statistical area, the feasibility and
5 desirability of a location in the central business dis-
6 trict of a city within the area;

7 “(3) the proximity of existing or planned public
8 transportation facilities; and

9 “(4) the proximity of public amenities and com-
10 mercial facilities.”.

11 **SEC. 6. BUILDING DESIGN ADVISORY BOARD.**

12 The Public Buildings Act of 1959 (40 U.S.C. 601
13 et seq.) (as amended by section 5) is further amended by
14 adding at the end the following:

15 **“SEC. 23. BUILDING DESIGN ADVISORY BOARD.**

16 “(a) ESTABLISHMENT.—There is established an advi-
17 sory committee to be known as the ‘Building Design Advi-
18 sory Board’ (referred to in this section as the ‘Board’)
19 for the purpose of conducting design competitions and re-
20 viewing the architectural design of Federal buildings.

21 “(b) MEMBERSHIP.—

22 “(1) IN GENERAL.—The Board shall consist of
23 7 members, appointed by the President, of whom at
24 least—

1 “(A) 3 members shall have expertise in
2 construction or urban development;

3 “(B) 4 members shall be architects; and

4 “(C) 1 member shall be a landscape archi-
5 tect.

6 “(2) TERMS.—The term of a member of the
7 Board shall be 4 years. A member may be
8 reappointed for a consecutive additional term.

9 “(3) CHAIRPERSON.—The President shall ap-
10 point a chairperson of the Board from among the
11 members of the Board.

12 “(4) VACANCIES.—Any vacancy on the commis-
13 sion shall be filled in the same manner in which the
14 original appointment was made.

15 “(c) DUTIES OF BOARD.—The Board shall advise the
16 Administrator with respect to the design and siting of all
17 Federal building projects for which a prospectus is re-
18 quired under section 7.

19 “(d) MEETINGS.—The chairperson of the Board shall
20 call the meetings of the Board, which shall be held in
21 Washington, District of Columbia. Five members shall
22 constitute a quorum for the purpose of holding meetings.

23 “(e) STAFF.—The Administrator shall provide staff
24 for the Board.

1 “(f) COMPENSATION.—Compensation for a member
2 of the Board shall be at a rate established by the Adminis-
3 trator.

4 “(g) TRAVEL EXPENSES.—Each member of the
5 Board shall be allowed travel expenses, including per diem
6 in lieu of subsistence, at rates authorized for employees
7 of agencies under subchapter I of chapter 57 of title 5,
8 United States Code, while away from the home or regular
9 place of business of the member in the performance of
10 services for the Board.

11 “(h) EXPENSES.—The expenses of the Board shall
12 be paid from funds under the control of the Adminis-
13 trator.”.

14 **SEC. 7. COMPETITION IN DESIGN.**

15 (a) IN GENERAL.—Title IX of the Federal Property
16 and Administrative Services Act of 1949 is amended—

17 (1) by redesignating section 905 (40 U.S.C.
18 541 note) as section 906; and

19 (2) by inserting after section 904 (40 U.S.C.
20 544) the following:

21 **“SEC. 905. PUBLIC BUILDING DESIGN COMPETITIONS.**

22 “(a) IN GENERAL.—

23 “(1) DESIGNATION OF PROJECTS.—

24 “(A) SUBMISSION OF LIST.—Not later
25 than March 1, 1996, and each March 1 there-

1 after, the Administrator of General Services
2 (referred to in this section as the ‘Adminis-
3 trator’) shall submit to the Building Design Ad-
4 visory Board established under section 23 of
5 the Public Buildings Act of 1959 (referred to in
6 this section as the ‘Board’) and to Congress a
7 list of all projects for the next fiscal year cov-
8 ered by sections 7 and 11 of the Public Build-
9 ings Act of 1959 (40 U.S.C. 606 and 610) for
10 which architectural and engineering services for
11 building design or site planning shall first be
12 procured during the fiscal year.

13 “(B) DESIGNATION.—In consultation with
14 the Board, the Administrator shall designate a
15 substantial number of the projects as projects
16 for which architectural and engineering services
17 shall be acquired through design competitions
18 conducted under this section. For each project
19 so designated, the Administrator shall designate
20 the appropriate competition format in accord-
21 ance with paragraph (2).

22 “(2) MODEL RULES.—Not later than October
23 1, 1996, the Administrator, in consultation with the
24 Board, shall issue model rules under which competi-
25 tions under this section shall be conducted. The

1 rules shall be in accordance with this title and
2 shall—

3 “(A) establish not fewer than 3 different
4 model competition procedure formats, at least 1
5 of which shall provide for competitions lasting
6 not longer than 60 days and eliciting prelimi-
7 nary design concepts only;

8 “(B) require approval of the competition
9 program for each project by the Board;

10 “(C) provide for appointment of a project
11 competition adviser and appointment of a
12 project competition jury by the Board, in con-
13 sultation with the Administrator;

14 “(D) provide that each jury shall include a
15 representative of the General Services Adminis-
16 tration and a representative of the principal
17 Federal agency that shall occupy the building
18 or site that is the subject of the project; and

19 “(E) require the jury to report the rec-
20 ommendations of the jury in writing with rea-
21 sons for the recommendations.

22 “(3) COMPENSATION.—The Administrator shall
23 conduct each competition provided for under this
24 section and may provide for fair and reasonable
25 compensation for the firms that are required to

1 render extensive design services in the course of par-
2 ticipating in a competition. Compensation for a
3 project competition adviser and for all firms in a
4 competition, including travel costs, shall not exceed
5 1 percent of the estimated cost of the project.

6 “(4) CRITERIA FOR SELECTION OF DESIGNS.—
7 A project competition jury shall make recommenda-
8 tions for selection based on the firms determined
9 best able to produce a design that—

10 “(A) bears visual testimony to the dignity,
11 enterprise, vigor, and stability of the Federal
12 Government;

13 “(B) is appropriate in scale, function, and
14 construction to its mission and its context; and

15 “(C) where appropriate, reflects regional
16 architectural traditions.

17 “(5) RECOMMENDATIONS CONCERNING NEGOTIATIONS.—The jury shall recommend to the Ad-
18 ministrators—
19 administrator—

20 “(A) the firm with which the agency head
21 shall negotiate under section 904(a);

22 “(B) the firm with which the agency head
23 shall negotiate under section 904(b), if nec-
24 essary; and

1 “(C) the order of all firms with which the
2 agency head shall negotiate under section
3 904(c), if necessary.

4 “(6) FINAL SELECTIONS.—The Administrator
5 shall make the final selections under paragraph (5).
6 If the selections differ from the jury recommenda-
7 tions, the Administrator shall document the reasons
8 of the Administrator for the public record.

9 “(7) JURY AND ADVISER PERSONNEL MAT-
10 TERS.—

11 “(A) COMPENSATION.—The services of an
12 individual who is not a Federal employee as a
13 project competition jury member or a project
14 competition adviser may be procured by the Ad-
15 ministrator as temporary and intermittent serv-
16 ices under section 3109(b) of title 5, United
17 States Code, at a rate for an individual that
18 does not exceed the daily equivalent of the an-
19 nual rate of basic pay prescribed for level V of
20 the Executive Schedule under section 5316 of
21 the title.

22 “(B) FINANCIAL DISCLOSURE REPORT.—
23 An individual who serves on a project competi-
24 tion jury or as a project competition adviser
25 under this section shall not be required to file

1 a financial disclosure report under section 101
2 of the Ethics in Government Act of 1978 (5
3 U.S.C. App.) because of the service of the indi-
4 vidual.

5 (b) CONFORMING AMENDMENT.—The table of con-
6 tents in section 1(b) of the Act (40 U.S.C. prec. 471) is
7 amended by striking the item relating to section 905 and
8 inserting the following new items:

“Sec. 905. Public building design competitions.
“Sec. 906. Short title.”.

9 **SEC. 8. CONTRACTOR CERTIFICATIONS.**

10 The Public Buildings Act of 1959 (40 U.S.C. 601
11 et seq.) (as amended by section 6) is further amended by
12 adding at the end the following:

13 **“SEC. 24. CONTRACTOR CERTIFICATIONS.**

14 “(a) IN GENERAL.—As a condition of entering into
15 any lease or other contract that would obligate funds in
16 excess of \$10,000 authorized pursuant to this Act, the Ad-
17 ministrator shall require a certification described in sub-
18 section (b) from the owner of the space to be leased or
19 the contractor. An owner or contractor who fails to com-
20 plete the certification shall not be eligible to receive a lease
21 or contract award.

22 “(b) CONTENTS OF CERTIFICATION.—The certifi-
23 cation shall consist of declarations, made under penalty
24 of law provided under section 1001 of title 18, United

1 States Code, and under other law, that the owner or con-
2 tractor, and any officer or principal employee of the con-
3 tractor—

4 “(1) has no business or employment relation-
5 ship or interest or holding that constitutes a conflict
6 of interest with the capacity of the person as a les-
7 sor or contractor with the Federal Government;

8 “(2) has not offered or promised anything of
9 value to a public official with the intent to—

10 “(A) influence any official act; or

11 “(B) induce the official to perform, or to
12 omit to perform, any act in violation of a lawful
13 duty of the official or to offer to give anything
14 of value to a public official for performing an
15 official act;

16 “(3) has not been debarred or suspended from
17 the award of public contracts;

18 “(4) has not had a public contract terminated
19 for default;

20 “(5) has not been convicted, within 10 years
21 prior to the date of the solicitation for the lease or
22 contract award, of, or is not under indictment as of
23 that date for or otherwise charged with—

24 “(A) a criminal offense—

1 “(i) incident to obtaining or attempt-
2 ing to obtain a Federal, State, or local, or
3 private, contract or subcontract; or

4 “(ii) in the performance of such a
5 contract or subcontract;

6 “(B) a violation of chapter 96 of title 18,
7 United States Code;

8 “(C) a violation of Federal antitrust laws
9 arising out of the submission of bids or propos-
10 als; or

11 “(D) embezzlement, theft, forgery, bribery,
12 falsification or destruction of records, fraud, tax
13 fraud, receiving stolen property, or any equiva-
14 lent crime that is indicative of a lack of busi-
15 ness integrity.”.

16 **SEC. 9. REPORT ON LONG-TERM HOUSING NEEDS.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of enactment of this Act, the head of each Federal
19 agency (as defined in section 13(3) of the Public Buildings
20 Act of 1959 (40 U.S.C. 612(3)) shall review and report
21 to Congress on the long-term housing needs of the agency.
22 The agency shall attempt to provide for the reduction of
23 the housing needs of the agency.

1 (b) ASSISTANCE FROM ACCOUNT MANAGERS.—The
2 Administrator of General Services shall designate 2 ac-
3 count managers for each agency to assist—

4 (1) the agency in carrying out the review re-
5 quired under subsection (a); and

6 (2) the Administrator in preparing uniform
7 standards for housing needs for—

8 (A) executive agencies (as defined in sec-
9 tion 13(4) of the Act (40 U.S.C. 612(4))); and

10 (B) establishments in the judicial branch
11 of the Federal Government.

12 **SEC. 10. REPORT ON ENDING GSA MONOPOLY WITH RE-**
13 **SPECT TO PUBLIC BUILDINGS PROJECTS.**

14 (a) IN GENERAL.—Not later than 1 year after the
15 date of enactment of this Act, the Director of the Office
16 of Management and Budget, in consultation with the Ad-
17 ministrator of General Services, shall report to Congress
18 on the feasibility and desirability of ending the monopoly
19 of the General Services Administration with respect to
20 providing office and storage space for Federal agencies,
21 including whether the ending of the monopoly is necessary
22 and would be cost-effective.

23 (b) PLAN.—If the report required under subsection
24 (a) determines that it is feasible and desirable to end the
25 monopoly, the Director shall submit a plan for ending the

1 monopoly and provide recommendations for the implemen-
2 tation of the plan. The plan shall ensure at least an over-
3 sight role for the General Services Administration in de-
4 termining—

5 (1) the adequacy of the request of an individual
6 agency for office or storage space;

7 (2) whether a proposed project is in the best
8 economic interest of the taxpayers; and

9 (3) whether the design is approved by the
10 Building Design Advisory Board established under
11 section 23 of the Public Buildings Act of 1959 (as
12 added by section 6).

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