



**U.S. OFFICE OF PERSONNEL MANAGEMENT
OFFICE OF THE INSPECTOR GENERAL**

Management Advisory Report

**Delegation of Authority to Operate and Maintain the
Theodore Roosevelt Federal Building and the
Federal Executive Institute**

**Report Number 4A-DO-00-20-041
August 5, 2020**

EXECUTIVE SUMMARY

Delegation of Authority to Operate and Maintain the Theodore Roosevelt Federal Building and the Federal Executive Institute

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What is the Management Advisory?

The primary purpose of this Management Advisory Report (MAR) is to inform the U.S. Office of Personnel Management (OPM) of concerns that the Office of the Inspector General (OIG) has regarding the delegation of authority for the operation and maintenance of the Theodore Roosevelt Federal Building (TRB) and the Federal Executive Institute (FEI).

Why Issue the Management Advisory?

It is vital that OPM pursue the return of the delegation to operate and maintain the TRB from the General Services Administration (GSA). A preliminary analysis completed by OPM shows that allowing GSA to resume operation and maintenance of the TRB would increase OPM's rent costs by approximately \$4.2 million annually. In addition, since existing operation and maintenance contracts would no longer be needed, OPM could potentially incur approximately \$10.2 million in contract termination fees.

NORBERT VINT

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Norbert E. Vint
*Deputy Inspector General Performing
the Duties of the Inspector General*

What Is Our Concern?

GSA revoked OPM's delegation of authority to operate the TRB, as well as the FEI, in July 2019, when the understanding was that OPM would merge with GSA. However, the proposal to merge OPM into GSA is currently on hold pending the outcome of a required study by the National Academy of Public Administration (NAPA), an OPM report assessing the NAPA study, and Congressional action.

OPM and GSA have not completed a comprehensive analysis of the costs associated with the revocation of the delegation, including the costs associated with and any potential savings from a decrease in space utilization. Despite this lack of analysis and understanding of the true cost, and despite the preliminary analysis completed by OPM showing a significant increase in costs for the TRB, OPM and GSA initiated the process to transfer the operation and maintenance of both the TRB and the FEI to GSA, including solicitations for consolidated operation and management services.

OPM and GSA have expended a considerable amount of resources, both in time and personnel costs, to continue working toward a goal that may not be feasible given the current NAPA study. The delegation to operate and maintain the FEI was returned by GSA to OPM in July 2020. However, this was after GSA attempted to effectuate the transfer of the operation and maintenance and eventually asked OPM if it would like the delegation returned. A year's worth of time and effort was expended only to return the FEI to the same status. Further, continuing to pursue the return of operation and maintenance of the TRB to GSA, without a complete understanding of the costs associated with such a move, is fiscally irresponsible and places an additional burden on a financially strapped agency as well as the American taxpayer.

ABBREVIATIONS

DoD	Department of Defense
FEI	Federal Executive Institute
FY	Fiscal Year
GSA	General Services Administration
MAR	Management Advisory Report
NAPA	National Academy of Public Administration
NBIB	National Background Investigations Bureau
NDAA	National Defense Authorization Act
OIG	Office of the Inspector General
OPM	U.S. Office of Personnel Management
PWS	Performance Work Statement
TRB	Theodore Roosevelt Federal Building

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I. BACKGROUND

In 1883, Congress passed and the President signed the Pendleton Act, creating the Civil Service Commission. The Civil Service Reform Act of 1978 further defined the role and scope of the Civil Service Commission, creating the Merit Systems Protection Board, the Federal Labor Relations Authority, and the Office of Personnel Management (OPM) in its place.

Prior to 1963, the various components of the Civil Service Commission were scattered throughout multiple buildings in Washington, DC. Federal Office Building Number 9, now known as the Theodore Roosevelt Federal Building (TRB), was built specifically to create a headquarters for the Civil Service Commission and consolidate the various components in one location.

OPM founded the Federal Executive Institute (FEI) in 1968 to provide learning and ongoing leadership development for senior leaders within the Federal Government. The FEI is a residential facility, providing lodging, meals, and fully equipped on-site classrooms in a campus-like setting in Charlottesville, Virginia. OPM initially leased the facility. However, in the early 1980s, the General Services Administration (GSA) purchased the FEI campus, and in 1987, delegated the authority to operate and maintain the FEI to OPM.

Until recently, OPM operated the TRB and FEI under a delegation from GSA, which has the authority to manage the Federal Government's real property and to delegate that authority to other Federal agencies. In determining whether or not to delegate the authority to operate and manage a building, GSA must consider if the delegation is cost effective and in the best interest of the Government. Some other factors GSA must consider are if the requesting agency occupies at least 90 percent of the building or has agreement from 100 percent of the building tenants to operate and manage the building, and whether or not the requesting agency demonstrates that it can perform the delegated operation and management functions. Under the delegation agreement, either the GSA Administrator or the OPM Director may terminate the delegation. Further, the delegation agreement provides "the recession...will be effective as soon as the parties are able to arrange for the orderly transition of service providers under contract at the Facility and GSA is able to staff the Facility appropriately."

In June 2018, the Administration issued *Delivering Government Solutions in the 21st Century: Reform Plan and Reorganization Recommendations*. This proposal envisioned moving OPM's policy function to the Executive Office of the President and merging the remaining OPM functions, except the National Background Investigations Bureau (NBIB), into GSA. The 2018 National Defense Authorization Act (NDAA) required the return of the background investigation function to the Department of Defense (DoD). Effective October 1, 2019, NBIB transferred to DoD and is now part of the Defense Counterintelligence and Security Agency.

As a result of concerns with the Administration's proposal, Congress, in the fiscal year (FY) 2020 NDAA, required that OPM contract with the National Academy of Public Administration (NAPA) to complete a study of OPM and provide recommendations to the agency and Congress

regarding possible solutions to address identified weaknesses or impediments to OPM's successful completion of its mission. OPM contracted with NAPA in March 2020 and the study is currently ongoing, with a final study due in March 2021. OPM is then required to review and comment on the study and provide Congress with a report detailing the agency's views on the NAPA study, including any recommendations for changes in the structure, functions, responsibilities, and authorities of OPM. Congress also created a statutory impediment¹ to the proposed merger by including language in the FY 2020 NDAA which prevents those OPM functions assigned in law from being transferred to either GSA, OMB, or the Executive Office of the President until or after Congress receives this final report from OPM.

¹ National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, § 1112 (2019).

II. OIG REVIEW AND ASSESSMENT

Pursuant to the authority granted by the Inspector General Act of 1978, as amended, (5 U.S.C. App. 3 § 6(a)(1)-(2)) and as requested by Congress, the OIG is actively monitoring OPM's activities related to the potential transfer of OPM programs and/or functions to GSA. This includes the revocation of OPM's authority to operate both the TRB and FEI.

Under the delegation agreement, either party can revoke the delegation at any time. GSA revoked OPM's authority to operate and maintain both the TRB and the FEI at the request of OPM's former Acting Director. This decision was based in part on the belief that OPM would soon become a "third service" under GSA. Since GSA is the Federal Government's real property manager, it would not be feasible for OPM, as a GSA component, to continue to manage the TRB or FEI. Further, under the former Acting Director's Case for Change, facility management was not OPM's core mission. On July 26, 2019, GSA formally notified OPM of its intent to revoke OPM's delegation to manage the TRB and FEI.² However, things have changed since GSA notified OPM that it was revoking the delegation to operate and manage the buildings and the proposed merger was largely put on hold.

A. Theodore Roosevelt Federal Building

In April 2019, majority members of the House Committee on Oversight and Reform expressed "grave concerns" about the Administration's proposed merger of OPM and GSA. In a letter to the House Appropriations Committee, majority members of the House Oversight Committee requested that Congress prohibit the appropriation of funds to carry out any activities related to the Administration's proposal "until the Administration has provided Congress with adequate policy and legal justification for reorganizing OPM." The House version of the FY 2020 NDAA, which passed the House in July 2019, included a provision that prohibited the President or his designee from taking any action to transfer, transition, merge, or consolidate any functions, responsibilities, programs, authorities, information technology systems, staff, resources, or records of OPM to or with GSA, the Office of Management and Budget, or the Executive Office of the President.

While the Senate version of the FY 2020 NDAA contained no similar provision, the Senate receded and included Section 1112, which established a limitation on the transfer of OPM.³ The limitation on transfer provision directed OPM to contract with NAPA to complete an independent study of OPM's statutorily mandated functions, as well as the non-statutory functions and responsibilities OPM performs. The purpose of this study is to assess challenges to OPM's execution of its mission and propose recommended courses of action to address those barriers, including a cost-benefit analysis, feasibility of the options, and a

² While the July 26, 2019, letters from GSA to OPM refer to the *intent* to revoke the delegation, we learned that these letters in fact actually revoked the delegation.

³ U.S. House, National Defense Authorization Act for Fiscal Year 2020, Conference Report (to Accompany S. 1790) (H. Rept. 116-333).

time table for implementation. This study began in April 2020 and the required report is due in March 2021.

After NAPA submits the independent study to OPM and Congress, the law requires OPM to submit a report to Congress, within 180 days, on the agency's views on the findings and recommendations set forth in the study as well as recommendations for changes in the structure, functions, responsibilities, and authorities of OPM. Recommendations submitted in the OPM report must also be accompanied by a business case analysis setting forth operational efficiencies and cost savings (short-term and long-term) associated with the change.

The results of the independent study and the corresponding agency report have the potential to completely change the way in which OPM operates or is structured. Despite this change in context, GSA continued to move forward with the plan to assume responsibility for operating and maintaining the TRB. In early February 2020, GSA provided OPM with a copy of a Performance Work Statement (PWS), with the initial intention of issuing it on February 21, 2020. OPM asked for and was granted an extension to the planned issuance date in order to assess the level of service provided under the draft PWS, as well as any potential financial and work place impacts. OPM's initial review identified significant concerns with the PWS and its impact, if issued, on OPM.

First, assuming OPM continues to occupy the same square footage it currently does, OPM's base rent will increase by approximately \$1.3 million per year. Second, GSA's standard level of service is less than the level of service OPM currently provides. If OPM wants to continue offering the same level of service it does today, it will need to pay an additional \$2.9 million each year. Finally, OPM has current, ongoing operation and maintenance contracts. Early termination of those contracts could result in approximately \$10.2 million in contract termination fees. This results in an additional cost to the Government and the American taxpayer of approximately \$14.4 million, with \$4.2 million representing an ongoing, annual payment increase.⁴

When faced with the approaching loss of NBIB and the associated \$70 million budgetary shortfall, the agency sought to minimize costs and reducing rent costs at OPM was considered as a potential area for savings. However, the original decision to revoke the delegation for TRB was not supported by a thorough analysis of OPM's current or future space needs. Moreover, the agency failed to complete a thorough cost analysis to determine the timing and extent of any potential savings. We understand that OPM and GSA are moving forward with a study to determine OPM's future space needs within the TRB. Such a study could be beneficial, helping OPM to potentially shrink its footprint within the TRB, thereby reducing rent costs. However, the study appears to be a continuation of one initially started in July 2019, when it was believed that OPM would

⁴ All financial impacts identified in this paragraph are based on the preliminary analysis completed in March 2020 by OPM's acting director of Facilities, Security, and Emergency Management.

merge with GSA. Since the FY 2020 NDAA put the merger on hold, and the NAPA study is ongoing, with the ultimate outcome unknown, an analysis of OPM's space needs seems to be premature. In addition, any potential reduction of space and the associated rent savings would be initially offset by the costs to reconfigure the space within TRB. A thorough analysis of these costs, as well as the timeline for completion, is an additional step that should be completed. Spending time and money to conduct a study of space needs and to reconfigure that space based on OPM's current structure, when that structure could significantly change within the next two years, is a waste of resources.

While we acknowledge that GSA has the authority to revoke OPM's delegation, the agency must also consider whether such a move is cost effective and in the best interest of the Government. Further, even with the transfer of NBIB to DoD, OPM still occupies over 90 percent of the space within TRB and has demonstrated that it has the ability to operate and maintain the building.⁵ In fact, OPM has operated and maintained the TRB for over 30 years.

Moving forward with a plan that was initiated based on a proposal that is currently on hold and that could incur millions of dollars in additional costs is not in the best interest of the Government. In fact, it is a waste of the American taxpayer's dollars and puts an additional burden on an already financially strapped agency.

B. Federal Executive Institute

As with the TRB, GSA revoked OPM's delegation to operate and maintain the FEI on July 26, 2019, even though GSA does not have experience operating and maintaining a residential facility. The FEI is operational 24/7, 340 days a year, with senior Federal leaders residing on campus for weeks at a time. Despite these facts, GSA worked throughout the later part of 2019 to contract for operation and maintenance services based on its standard level of services, which is based on a building being open only 10 hours each day 5 days a week. Further, GSA purported that the total cost, including the cost to provide services above GSA's standard level, would not exceed OPM's current operational expense. However, a sufficient comprehensive analysis of the costs to operate and maintain the FEI was not provided to support GSA's claim that the cost would not increase. In fact, OPM estimated that the cost would increase approximately \$400,000 per year for the level of operation and maintenance service equivalent to what is currently provided.

Further, GSA stated that based on the way it was structuring the procurement, OPM should expect service disruptions if a major operational or maintenance issue arose. The cost to

⁵ Under [41 C.F.R. §102-72.55](#), GSA may delegate the authority to operate and manage real property to other agencies if two conditions are met. The agency must (a) occupy at least 90 percent of the space in the facility, or have the concurrence of 100 percent of the rent-paying occupants and (b) demonstrate that it can perform operation and management responsibilities.

repair any issues would also be at OPM's expense. Finally, the Department of Homeland Security's Federal Protective Services revoked OPM's authority to procure security services for the FEI. As a result, OPM is now paying \$300,000 more per year for a decreased level of security services at the FEI campus.

After many months of review, discussions, and a GSA-issued sources sought announcement for new operation, maintenance, and conference services, GSA asked OPM if it would like to request the return of the delegation to operate and maintain the FEI in January 2020. On January 28, 2020, OPM officially notified GSA that it intended to request the delegation to operate and maintain the FEI and began working with GSA to develop and submit the formal delegation request package, including the formal request letter, a facilities management plan, and the financial analysis necessary to support the request.

We note that the delegation to operate and maintain the FEI was returned to OPM in July 2020. OPM continues to work on procuring consolidated operation, maintenance, program support, and hospitality services. However, nearly a year's worth of time and resources were spent, by both OPM and GSA, and a realized increase in cost for diminished security services occurred because a proper analysis of the costs and the impact of the changes was not completed. While this again represents a waste of taxpayer dollars and was clearly not in the best interest of the Government, OPM and GSA eventually took action to reverse the decision to revoke the delegation.

III. CONCLUSION

While seemingly in-line with the Administration's proposal to merge OPM into GSA, the full impact on costs and services was not determined to show whether or not the revocations were in the best interest of the Government. Further, once questions arose and the proposed merger was put on hold pending the outcome of the NAPA study, the revocations continued, taking on a life of their own, without regard to the impact on OPM.

While OPM finally received the delegation to operate and maintain the FEI again, this occurred only after OPM expended significant resources and incurred additional, unnecessary costs. As stated above, OPM incurred a realized cost increase of \$300,000 while receiving decreased security services at the FEI. This is in addition to the untold amount of time and resources spent to analyze proposals, discuss options, and document financial and service delivery impacts.

However, GSA continues to work toward the end goal of resuming responsibility for the TRB, despite the evidence supporting that it would not be in the Government's or taxpayer's best interest as it would increase annual costs by potentially \$4.2 million and could result in one-time contract termination fees of approximately \$10.2 million. We contend that continuing with the transfer of the operation and maintenance of the TRB to GSA is a waste of taxpayer dollars and is fiscally irresponsible, placing unnecessary cost increases on an already financially strapped agency.

IV. RECOMMENDATIONS

Recommendation 1

We recommend that OPM work with GSA to formally request and complete the documentation necessary to effectuate the return of the delegation to operate and maintain the TRB to OPM.

OPM Response

OPM does not concur with this recommendation. OPM states that it wants to review the results of the on-going feasibility study so that it can determine the best course of action for OPM's mission while being good stewards of taxpayer dollars. On March 11, 2020, OPM sent a letter requesting that GSA issue a delegation of authority to allow OPM to continue to operate and maintain the TRB. On July 6, 2020, GSA agreed to extend the delegation rescission timeline for an additional year. Thus the current delegation of authority will remain in place until September 30, 2021. OPM intends to use this time to work with GSA to gather the information necessary to maximize the cost effectiveness of OPM's space allocation.

OIG Comments

We acknowledge that GSA extended the deadline to complete the transition of operating and maintaining the TRB from OPM to GSA until September 31, 2021. However, this extension continues to present problems for OPM. The NAPA study is still ongoing, with a final report due in March 2021. OPM then has six months, until September 2021, to review and provide its assessment to Congress. Even then a determination of the path forward is not completely known as Congress needs to review and make its decision on any potential legislation. The timelines of the NAPA study, OPM's review and report, and the transition of the operation and maintenance of the TRB back to GSA all collide in the latter half of FY 2021. This will pull OPM's limited resources in many directions and leaves little time to adequately assess the costs and impact on OPM. The delegation to operate and maintain the TRB should remain with OPM until the path forward and the needs of OPM are clear and the costs and impact of changes can be adequately determined.

Recommendation 2

We recommend that OPM delay any feasibility study related to its space needs until after completion of the NAPA study and any resulting decision by Congress.

OPM Response

OPM does not concur with this recommendation. OPM states that the data gathered from the feasibility study, in conjunction with the NAPA study, will help support a space needs decision that is in the best interest of OPM and the taxpayers.

OIG Comments

While the OIG is not opposed to a feasibility study and understanding OPM's space needs is a prudent business practice, as stated in their response, doing so now is premature. Further, the current feasibility study appears to be a continuation of the study started in July 2019. The statement of work for that feasibility study was developed at a time when the goal was to reduce and consolidate space in the OPM building as well as have some OPM activities and staff merge into GSA. The premise that activities and staff would be consolidated into GSA is in direct conflict with the limitations to the proposed merger set forth in the FY 2020 NDAA. It is also unclear whether the objectives of the feasibility study have been updated to reflect the current environment, including what adaptations to office space will need to be made in light of COVID-19.

Attempting to reduce OPM's space utilization in order to save money is a worthy goal; however, the reduction of space comes at a price, the cost to reconfigure the TRB or move into different office space as well as the time involved to effectuate the changes. This cost would be on top of the increased cost to OPM once the transfer of the responsibility to operate and maintain the TRB back to GSA occurs, which is ongoing, albeit extended for a year. Hopefully OPM would eventually see a cost reduction; however, OPM will need to recoup its investment before any realized savings can be achieved.

Further, the NAPA study is in its beginning stages with a final report approximately eight months away. The OIG agrees that space needs will need to be part of NAPA's assessment. The current feasibility study includes an Existing Space Situation Report, which will document the existing organizational structure as well as analyze the current space and utilization. However, this limits the results of the feasibility study to a "current 'snapshot'" of the agency. Feasibility study results based on space needs assessments that do not take into consideration the NAPA recommendations for the future of OPM could result in a waste of resources and require a duplication of effort. A better understanding of the potential recommendations would be beneficial to assessing OPM's space needs and helping ensure that decisions and any actions, such as contracting for space reconstruction, are based on a clearer understanding of what OPM will need.

Recommendation 3

We recommend that OPM continue to work with GSA and monitor the process to ensure that the return of the delegation to operate and maintain the FEI remains on-track.

OPM Response

OPM concurs with this recommendation.

OIG Comments

The delegation to operate and maintain the FEI was returned to OPM effective July 21, 2020. This recommendation can be closed.

Recommendation 4

We recommend that once the delegation to operate and maintain the FEI is returned, OPM explore its options regarding security services for the campus, including the potential return of the delegation from the Department of Homeland Security's Federal Protective Services, to determine if cost savings can be regained.

OPM Response

OPM concurs with this recommendation.

APPENDIX

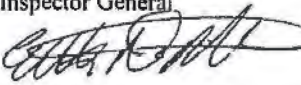


Facilities, Security
and Emergency
Management

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

July 16, 2020

MEMORANDUM FOR: NORBERT E. VINT
Deputy Inspector General
Performing the Duties of the Inspector General

FROM: EVERETTE R. HILLIARD 
Director
Facilities, Security and Emergency Management

Subject: Response to the Draft Management Advisory Report on the
Building Delegations, Report Number 4A-DO-00-20-041

The Facilities, Security, and Emergency Management (FSEM) office within the U.S. Office of Personnel Management (OPM) appreciates the opportunity to respond to the Office of the Inspector General (OIG) Draft Management Advisory Report (MAR) on the Delegation of Authority to Operate and Maintain the Theodore Roosevelt Federal Building (TRB) and the Federal Executive Institute (FEI) campus. Among other duties, FSEM is responsible for administering the agency's personal and real property program, building operations, space design and layout, realty, safety and occupational health programs, as well as support services programs that promote a safe, healthy, and high-quality work environment for OPM employees. FSEM is committed to evaluating the agency's space utilization needs and applicable General Services Administration (GSA) standards that enable the agency to operate its programs while remaining a good steward of taxpayer funds.

Responses to your recommendations are provided below.

OIG Recommendation #1: We recommend that OPM work with GSA to formally request and complete the documentation necessary to effectuate the return of the delegation to operate and maintain the TRB to OPM.

Management Response: We do not concur with your recommendation to request and complete the necessary documentation to return the delegation. OPM will want to review the results of the feasibility and space utilization study. This will reveal what is in the best interest of the OPM mission while being a good steward of the taxpayer dollar. OPM sent a letter to the GSA Regional Commissioner, Public Buildings Services on March 11, 2020, to request GSA issue a delegation of authority to enable OPM to continue to manage the operation and maintenance of the TRB. By letter dated, July 6, 2020, GSA informed OPM that it will extend the delegation rescission time frame. The current Operation and Maintenance Delegation of Authority, dated March 14, 2014, along with the Standard Operating Procedures for Operation and Maintenance of Delegated Real Property, dated December 2013, will remain in place until

September 30, 2021. During this extension, OPM will work with GSA to gather information necessary to inform agency leadership on how to maximize the cost-effectiveness of the agency's space allocation.

Recommendation #2: We recommend that OPM delay any feasibility study related to its space needs until after completion of the NAPA study and any resulting decision by Congress.

Management Response: We do not concur with your recommendation to delay the feasibility study. We feel the data gathered from the feasibility study in parallel with the National Academy of Public Administration's (NAPA) study will support a space needs decision that is in the best interest of the OPM mission and the taxpayers funds.

Recommendation #3: We recommend that OPM continue to work with GSA and monitor the process to ensure that the return of the delegation to operate and maintain the FEI remains on-track and meets the July 1, 2020 target date.

Management Response: We concur with your recommendation. OPM will continue to work with GSA to facilitate the reissuance of the delegation to operate and maintain the FEI campus. While the delegation request is still pending final approval, a final decision is expected soon. FSEM is working with the appropriate offices to accommodate the additional time needed to effectuate the reissuance of the delegation.

Recommendation #4: We recommend that once the delegation to operate and maintain the FEI is returned, OPM explore its options regarding security services for the campus, including the potential return of the delegation from the Department of Homeland Security's Federal Protective Services, to determine if cost savings can be regained.

Management Response: We concur with your recommendation to explore other options for the Security Services for the campus so that the FEI program receives the necessary security services while remaining prudent stewards of taxpayers' funds.

We appreciate the opportunity to respond to this draft report. If you have any questions regarding our response, please contact me, Everett Hilliard, Director, Facilities, Security and Emergency Management, directly at 202-606-3130 or via email using, Everette.Hilliard@opm.gov.



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