United States General Accounting Office

GAO

Report to the Honorable Stephen Horn
Committee on Government Reform
House of Representatives

February 1999

PUBLIC-PRIVATE PARTNERSHIPS

Key Elements of Federal Building and Facility Partnerships

GAO/GGD-99-23

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-278675

February 3, 1999

The Honorable Stephen Horn
Committee on Government Reform
House of Representatives

Dear Mr. Horn:

The U.S. government is one of the world's largest property owners, with a real estate portfolio of almost 435,000 buildings and over half a billion acres of land. Most of the government's real property holdings are national parks, forests, other public lands, and military facilities. Overall, government-owned real estate is under the custody and control of at least 30 federal agencies, although most is under the jurisdiction of 8 organizations. These organizations are the Departments of Agriculture, Defense, Energy, the Interior, and Veterans Affairs; the General Services Administration; the Tennessee Valley Authority; and the U.S. Postal Service.

As federal agencies find themselves under budgetary constraints with increasing demands to improve service, the importance of making the most effective use of capital assets grows.[1] To do this, federally owned buildings and land should be strategically acquired, managed, and disposed of so that the taxpayers' return on the investment is maximized.[2] To maximize returns on buildings and facilities, federal agencies are increasingly interested in managing them in a more businesslike manner, including exploring the formation of partnerships through contracts or agreements between the federal government and the private sector.[3]

These arrangements, which sometimes are called "public-private ventures," typically involve a government agency contracting with a private partner to renovate, construct, operate, maintain, and/or manage a facility or system, in part or in whole, that provides a public service.

You asked us to identify the key elements of partnerships between the federal government and the private sector that were formed to help the

[1] See Budget Issues: Budgeting for Capital (GAO/T-AIMD-98-99, March 6, 1998).

[2] Federal Real Property: Key Acquisition and Management Obstacles (GAO/T-GGD-93-42, July 27, 1993).

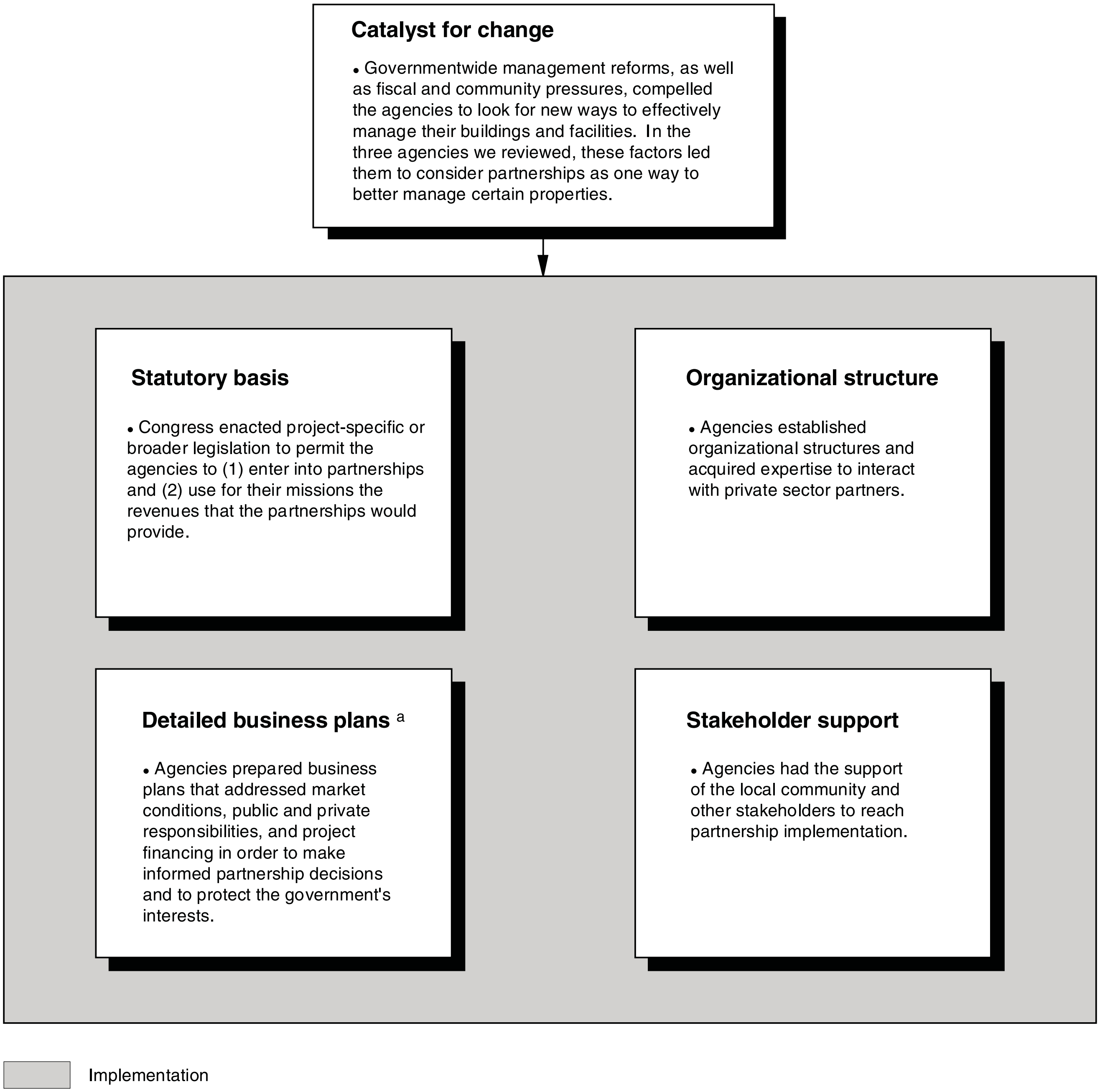
[3] See, for example, Executive Order 12893, Principles for Federal Infrastructure Investments, January 26, 1994; and Executive Order 12803, Infrastructure Privatization, April 30, 1992.

government acquire and operate federal real estate and facilities more efficiently and effectively. This report responds to your request by describing key elements and related experiences from six federal partnerships. The six were projects of three agencies: the National Park Service (Park Service) within the Department of the Interior, the Department of Veterans Affairs (VA), and the U.S. Postal Service (Postal Service). (See apps. II through IV for more information about each of the projects.)

Results in Brief

Although each of the six projects we reviewed tailored its efforts to address its specific needs and environments, there also were elements that were common among the projects that appeared to be key to their implementation. These elements are shown in figure 1.

Figure 1: Key Elements of Public-Private Partnerships



Note: The sequence in which these key elements occurred during implementation varied by project.

[a] Business plans may identify issues that require legislative action.

Source: GAO analysis of selected federal building and facility public-private partnerships.

First of all, there was a catalyst for change that led each of the three agencies to form a partnership with the private sector. For example, community pressure and fiscal constraints were the catalyst in the two Park Service projects we reviewed, in which the Park Service decided to enter into public-private partnerships mainly to obtain partners that could finance needed preservation efforts.

Second, for all six projects we reviewed, Congress enacted legislation that provided a statutory basis for the agency to enter into the partnership and keep the revenues it received from that partnership. The legislation was either project-specific, as it was for one of the Park Service projects, or broader in scope, as was the 1991 law that authorized VA to lease its properties and retain the resulting revenues. According to building and facility managers in all of the projects we reviewed, a primary reason for an agency to enter into these partnerships was the incentive to keep for its own use the revenue that it would receive from the partnership.

Third, the agencies we reviewed also told us that they established organizational structures and acquired the necessary expertise to interact with private sector partners to ensure effective partnership implementation. For example, VA established an Office of Asset and Enterprise Development to promote the partnership concept within VA, design and implement public-private partnership projects, and be a single point of contact with VA's private sector partners. The office was staffed, VA officials said, with professionals experienced in portfolio management, architecture, civil engineering, and contracting.

Fourth, in all six projects we reviewed, asset management officials used business plans or similar documents to make informed decisions and protect the government's interests. According to Postal Service officials, the development and execution of a business plan, which included information about the division of risks and responsibilities between the Postal Service and its private sector partner, was critical to its success in implementing its large-scale real estate development projects. For each of the projects we reviewed, business plans were drafted jointly between the public and private sector parties to help ensure close involvement of both parties in the design and implementation of the project.

Finally, support from project stakeholders was an important factor in developing and implementing the public-private partnerships. In all of the projects we reviewed, agencies had the support of the local community and other stakeholders to create the partnership. For example, in the two Park Service projects, community leaders who were worried about preserving historic structures without over-commercialization became sponsors of the projects.

Background

Generally, federal partnerships entail contractual arrangements between a federal agency and one or more private sector partners. Under these arrangements, the agency may retain ownership of the public facility or system, but the private party generally invests its own capital to design and develop the properties. The private partner may be a nonprofit organization or a for-profit business. Some federal agencies also enter into such partnerships with a state or local government.

According to the federal building and facility managers whom we spoke with, most partnerships fall into one of three general categories: lease/develop/operate, lease/purchase, and contract services. There are different public and private sector responsibilities and benefits associated with each of these types of partnerships. For example, under a lease/develop/operate partnership, the private party leases a facility from a public agency; invests its own capital to renovate, modernize, and/or expand the facility; and then operates it under a contract with the public agency.[4] In a lease/purchase partnership, which is typically used for new construction, the private sector finances and builds a facility that it then leases to a public agency. At the end of the lease term, the public agency owns the facility or purchases it at the cost of any remaining unpaid balance in the lease.

The third category of partnership, contract services, consists of two subtypes: (1) operations and maintenance; and (2) operations, maintenance, and management. Under both of these categories, the public partner retains ownership of the public facility. Under the first category the public partner contracts with a private partner to provide and/or maintain a specific public service or system. In the second, a public agency contracts with a private partner to operate, maintain, and manage a facility or system providing a public service and may invest its own capital in the facility or system.

One project in our review made use of another type of partnership—design/build/operate. In this type of partnership, a single contract is awarded for the design, construction, and operation of a capital

[4] In addition to lease/develop/operate arrangements, the Park Service has used develop/operate arrangements as part of cooperative agreements. The only difference in these arrangements is that in a cooperative agreement the Park Service charges no rent. Instead, the private sector partner agrees to renovate, maintain, and operate the facility. This was the case with the Fort Mason project discussed in this report.

improvement. Title to the facility remains with the public sector. A glossary that provides additional information on various types of partnerships appears at the end of this report. Table 1 identifies the projects that we reviewed and their related agencies.

Table 1: Public-Private Partnership Projects We Reviewed

Projects and related agencies	Type	Brief description of projects
Department of the Interior, National Park Service		
1. Fort Mason Foundation, San Francisco, CA, 1976, extended in 1984.	Cooperative agreement to develop/ operate (20 years)	These two urban parks were once military bases and contain many historic but deteriorating structures. In each instance, the Park Service contracted with a private sector partner to obtain funding to restore historic structures while keeping the park in public use. The partners rent the restored structures to nonprofit tenants.
2. Thoreau Center at the Presidio, San Francisco, CA, 1995.	Lease/develop/ operate (55 years)	
Department of Veterans Affairs		VA used statutory authority to enter into revenue-generating leases for both projects. In Texas, a private developer constructed a VA regional office building on VA's medical campus. VA then leased land to the developer on the medical campus. The developer constructed buildings on the land and rents space in them to commercial businesses. VA must approve the buildings' tenants. In Indiana, the state leased underutilized land and facilities from VA to use as a psychiatric care facility. The leasing revenue that VA receives from both sites is to be used to fund veterans programs.
3. VA Regional Office, Houston, TX, 1993.[a]	Design/build/ operate (35 years)	
4. Cold Spring Medical Facility, Indianapolis, IN, 1995.[a]	Lease/develop/ operate (35 years)	
U.S. Postal Service		In both cities, the Postal Service owned an outdated, historic building in a highly desirable downtown location. It leased each property to private developers who built a commercial building adjacent to and/or on top of the historic structure. The Postal Service earns revenue from its lease with the developer, and the developer earns revenue from renting out commercial space in the new and historic buildings.
5. Grand Central Station Post Office, New York, NY, 1987.	Lease/develop/ operate (99 years)	
6. Rincon Center Post Office, San Francisco, CA, 1985.	Lease/develop/ operate (65 years)	

[a]Both of these projects fall under the authority granted under VA's Enhanced-Use Lease (EUL) legislation.

Use of public-private partnerships by the federal government is not new. Although there is no inventory of public-private partnerships involving federal entities, several properties owned by the federal government (e.g., post offices, former military bases) have been renovated through such partnerships. The federal asset managers we spoke with said that the federal government's use of partnerships has grown in recent years, although the number is probably still small.

Scope and Methodology

To identify the key elements and related experiences of federal agencies in creating and implementing innovative partnerships, we used a multistep process to identify and select projects to review. To identify projects to review, we surveyed 51 public and private sector individuals who were knowledgeable about privatization matters and asked them to nominate projects using certain criteria, including projects (1) identified in privatization literature as being innovative or models; (2) that were ongoing or completed; (3) that they believed provided significant public benefit (e.g., dollars saved, revenue generated, efficiency gained); and (4) that would represent a variety of federal departments.

Fifty-two individual projects or programs were nominated, and we asked the appropriate agencies to provide data on their projects. Using the resulting information and with further research and consultation with several building and facility management experts that were included in our survey, we selected six projects to discuss in this report. We selected these projects because they were among those nominated the most frequently, and they were actually operating as partnerships at the time of our review. Those projects were two National Park Service projects (San Francisco), two VA projects (Indianapolis and Houston), and two Postal Service projects (New York City and San Francisco). We contacted officials from the six projects to obtain information about their experiences. To obtain information about the projects, we developed and used a structured data collection guide to interview 42 individuals from the projects, including top agency officials, project managers, property and facility managers, financing officials, and attorneys who played key roles in the partnership efforts. These 42 individuals worked for the agencies, state and local governments, public nonprofit organizations, and private entities involved with the 6 projects.

We reviewed these officials' answers to our interview questions and other project information we gathered from them, looking for common elements that respondents believed contributed to the success of the partnerships. We developed from that analysis a list of five key elements that appeared to be important to the implementation of the projects. Finally, we verified with the public and private officials from each project in our study that these elements were critical to the implementation of their partnerships.

Because our objective was to identify key elements experienced by the six projects, we did not evaluate the results that the partnerships said the projects achieved or independently verify the accuracy of the information the partnerships provided. The elements are not generalizable to partnerships in other federal agencies. Appendix I contains a more detailed discussion of our objective, scope, and methodology.

We did our work at the project locations (Houston, Indianapolis, New York City, and San Francisco) and in Washington, D.C., from August 1997 through October 1998 in accordance with generally accepted government auditing standards. In November 1998, we provided the Secretaries of the Interior and Veterans Affairs as well as the Postmaster General with a draft of this report for review and comment. Their comments are discussed near the end of this letter.

Catalyst for Change

Officials from each of the three agencies said they were confronted with the need to look for new ways to effectively manage their buildings and facilities. Governmentwide management reforms as well as fiscal and community pressures were among the factors that led agencies to seek ways to better manage their properties—including the formation of partnerships with the private sector. These partnerships were designed to permit the agencies to effectively support their core agency missions and/or increase revenues while minimizing the cost of maintaining certain properties.

At the Department of the Interior, for example, when Congress created the Golden Gate National Recreation Area (GGNRA) in 1972, two former army bases located in San Francisco near the Golden Gate Bridge—Fort Mason and the Presidio—were to be transformed into urban parks and made part of GGNRA.

The Presidio and Fort Mason contain about 1,250 historic structures protected by the National Historic Preservation Act of 1966.[5] However, the structures required restoration. Park Service officials said the agency

[5] The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., established a national preservation program and a system of procedural protection to encourage both the identification and protection of historic and cultural resources at the federal, state, and local levels through the use of a federal-state-local partnership and State Historic Preservation Officers. Section 106 of the act directs federal agencies to consider the effects of their activities on properties that are listed, or are eligible for listing, in the National Register.

lacked sufficient capital funds and technical expertise to restore them all to a reasonable standard consistent with the act. But they also said that the Park Service did not want the structures to continue to degrade and become even more costly to restore. The Park Service therefore considered two options for obtaining restoration funds: issuing concessions contracts for some or all of the facilities at the two sites or using a partnership approach to draw in the private sector.

Although the decisions were made separately nearly 20 years apart, the Park Service decided to use a partnership approach for certain installations in both parks. In each case, according to leasing documents, the Park Service partnered with an entity that agreed to continue its public-use philosophy for the park and to restore the historic structures. To restore the piers and warehouses located in lower Fort Mason, the Park Service partnered with a nonprofit foundation; and to restore an old military hospital located in the Presidio, it partnered with a for-profit entity. Funding for capital improvements of the historic structures has come essentially from private sector financing and philanthropic sources obtained by the private partners. These partners repay their loans from rents they charge their park tenants. However, the Park Service funded some infrastructure costs and is responsible for overseeing all restoration.

Park Service officials said that through lobbying efforts, the local community helped to influence the Park Service's decision to use partnerships rather than over-commercializing the parks' facilities. They said that the local community, which had a history of being actively involved with the operations of and decisionmaking for the two parks, did not want the two parks to become overly commercialized.

The two Postal Service projects that we reviewed illustrate situations where the considerable revenue-generating potential of the partnership projects served as the catalyst for the Postal Service to partner with the private sector. The two properties were located in New York City (midtown Manhattan) and downtown San Francisco and, because of their locations, had high commercial value. Each property included a large building that housed mail processing operations and post office services. According to planning documents obtained from the Postal Service, the Rincon Annex Post Office building in San Francisco was an underutilized and outdated structure that the Postal Service planned to sell. These documents also show that Grand Central Station Post Office in New York City, though still used, was in need of significant renovation. Both buildings were historic structures, subject to preservation laws, and the Postal Service could not demolish them.

According to planning documents, in the case of both properties the Postal Service decided to enter into partnerships with private sector developers in order to (1) obtain long-term revenue sources and (2) uphold the historic preservation of the buildings. The Postal Service leased one property for 99 years and the other property for 65 years. The developers built over the existing building (New York) or adjacent to and over the existing building (San Francisco). The San Francisco property included a large parking lot on which the developer constructed a new building. In both New York and San Francisco, the Postal Service maintained a portion of the property for postal purposes. The Postal Service operates in a businesslike manner in attempting to maximize the revenue potential from its properties. Postal Service officials said that the Postal Service, like federal agencies and private businesses, must be concerned with the views of local communities toward its projects. For example, these officials told us that historic preservationists in San Francisco were particularly vocal about preserving the building there.

Statutory Basis

In all of the projects we reviewed, Congress had enacted legislation that enabled (1) the partnership to take place and (2) the agency to use for its mission any revenue it would receive from the partnership. According to building and facility managers in all of the partnerships we reviewed, obtaining legislative approval for a public-private partnership can take several years because of the time it can take to obtain consensus among an often diverse set of stakeholders.

The building and facility managers we spoke with said that a primary reason for an agency to enter into partnerships is the incentive to keep for its own use the revenue it would receive from the partnership. The federal real property disposal rules prohibit most agencies from using revenues from the lease or sale of excess properties. Thus, in each case, a statute was needed in order to allow the organizations we reviewed to enter into a partnership to lease its facilities and keep the revenues generated. As one federal asset manager explained, “true asset management requires you to examine all of your properties, including the lease or disposal of properties to generate revenue in order to further enhance the agency’s core mission.”[6]

[6] Currently, the general rule for most federal agencies is that all proceeds from the sale of federal land and buildings go either to the general treasury or the Land and Water Conservation Fund. Under the Federal Property and Administrative Services Act of 1949, when an agency declares a piece of property excess, GSA generally tries to find another use for it at another agency or at the state or local government level. If GSA cannot find another taker, it is to declare the property surplus and sell it on the private market. Some federal agencies are exempt from this general property disposal rule.

For all six projects, the legislation enabling the partnership was either project specific (i.e., for a single, identified project) or was broader in scope without identifying any one project. The Park Service project at the Presidio is an example of legislation that was project or site specific. In 1993, Congress authorized the Secretary of the Interior through Public Law 103-175 to lease the former Letterman hospital complex, including what is known now as the Thoreau Center at the Presidio, and to retain the proceeds from such a lease for the preservation, restoration, operation, maintenance, and other related expenses incurred with Presidio properties.

A 1991 law that enabled VA to engage in partnerships[7] is an example of authorization that is broader in scope. The two VA projects we reviewed were undertaken using this authority. In 1991, Congress enacted legislation authorizing the Secretary of VA to enter into long-term agreements called "Enhanced-Use Leases" (EUL). The enhanced-use leasing concept is a revenue-generating approach to asset management. Some of the basic elements of the EUL authority follow.

- The lease allows for non-VA uses or activities on VA property in the form of services, activities, or facility development provided that such uses or activities are not inconsistent with VA's mission.
- The lease's overall objective must enhance VA's mission or program.
- In return for the lease, VA may obtain any combination of monetary consideration, services, facilities, or other benefits from the operation of the non-VA uses so long as the benefit is determined by the VA Secretary to be "fair consideration."

In the two VA projects we reviewed, the revenue that VA receives from the two property leases is to go into funds that serve veterans. Also, as part of the partnership agreement in one of the projects, VA's private sector partner built an office building that it sold to VA. VA purchased the building, according to VA officials, at a price that was about one-third less than the amount appropriated for the building's construction.

The legislation that opened the way for the Postal Service to enter into partnerships was broader still than the legislation behind the partnership projects of the other three agencies. Under the Postal Reorganization Act of 1970, the Postal Service is to operate in a businesslike manner and is

[7] P.L. 102-86 (38 U.S.C. Sections 8161-8169).

authorized to manage its properties using businesslike arrangements.[8] In addition, the 1970 act generally phased out appropriated funds for the Postal Service, and it no longer receives appropriated funds for its basic operations.[9]

Organizational Structure

Officials in the three agencies told us that they established organizational structures and acquired the necessary expertise to interact with private sector partners to ensure effective partnership implementation. The officials said these organizational structures were each built with a team of employees experienced in building and facilities management. They said if a team lacked needed expertise, the agencies acquired that expertise through contract with the private sector.

According to officials in these three agencies that had established such structures, new organizational units were often needed because an agency's cultural resistance to change can hamper partnership implementation. These officials said that they generally had to create units to overcome or bypass a strong federal culture that discouraged the use of federally owned assets for generating revenue. Moreover, agency officials told us that they created a team that provided a single point of contact to facilitate interaction with the private sector partner. Officials from these agencies said that private sector partners prefer to work with a single point of contact within the partner agency. Establishing that single point of contact, they said, is crucial to the success of partnerships.

The organizational structures established by the agencies to conduct day-to-day partnership activities ranged from full-time permanent offices to task force teams. For example, VA established an Office of Asset and Enterprise Development within its Facilities Management Office to promote the partnership concept within VA and develop policies and procedures to carry out the day-to-day tasks of designing and implementing partnership projects. Moreover, according to VA officials, this office provided a single point of contact for the partnership and was staffed with professionals experienced in portfolio management, architecture, civil engineering, and contracting. This office also drew on the expertise available in VA's Facility Management Office and General

[8] The Postal Reorganization Act of 1970 (P.L. 91-375, 84 stat. 719 (1970)) reorganized the U.S. Post Office Department into the U.S. Postal Service.

[9] The Postal Service does not depend on appropriations for its basic operations, but it receives some funds to subsidize free and reduced-rate mail. In fiscal year 1998, the Postal Service reported about $60 billion in operating revenues and about $67 million in appropriated funds for free and reduced-rate mail.

Counsel's Office to provide single-point service to its VA clients and the private sector.

Detailed Business Plans

According to experienced former federal asset managers with whom we consulted, the amount and type of planning that takes place between the governmental partner and the private organization involved in a public-private partnership project differ greatly from the planning ordinarily found when an agency simply contracts out to a private developer. These managers said that when the government contracts out to the private sector, an agency typically plans the project, obtains authorization and funding, and contracts for implementation generally without involving the private contractor. They said, as a result of this, the views, analysis, and experience of the private sector contractor that will actually implement the project are usually not taken into account before the design is set and the contract is finalized.

By their very nature, public-private partnerships typically require an agency to work closely with its private partners and create very detailed plans along the way. Federal asset managers in our review told us that partnership projects are different in that the agency prepares its business plan in close conjunction with its private sector partner. This plan forms the basis for the final project contract. The business plans we reviewed generally addressed such detailed topics as the responsibilities and risks that are to be undertaken by both the federal agency and the private partners, existing and projected marketplace conditions affecting the project, and project financing. Some plans we examined also identified issues, such as required legislative authority. Asset managers we spoke with said that these types of issues were often absent from the business plans submitted by agencies that simply contract with the private sector to implement predetermined plans.

A detailed business plan (or a set of similar documents acting in this capacity) was prepared for each of the partnerships we reviewed. We found that usually the agency's building and facilities management staff created these plans in close coordination with the project's private sector partner and before formal partnership contracts were executed. Officials of the three agencies told us that the use of business plans helped them to make informed partnership decisions, made these decisions easier to justify to potential critics and to implement, and helped protect the government's interests.

For example, in connection with the partnership project at the Presidio, the Park Service and its private sector partner negotiated a letter of intent;

a preliminary lease agreement; and the detailed leasing agreement, a 55-year ground lease. According to Park Service officials, the letter of intent and preliminary lease agreement served as the business plan. These documents spelled out mutual performance criteria and milestones that had to be accomplished before the ground lease was signed. To implement these agreements, the Park Service appointed a staff project manager to provide full-time coordination during the lease development phase and a historic architect to coordinate the Park Service's responsibilities for historic preservation, construction oversight, and review of building alteration plans proposed by tenants. The private partner was responsible for obtaining approved construction documents, appropriate insurance, and evidence of in-place project financing before the Park Service would sign the final ground lease.

Detailed planning documents were also a key element of the Postal Service's partnerships in both New York City and San Francisco. According to the former Postal Service Asset Manager responsible for both sites, selection of a private partner by the Postal Service was followed by a series of negotiations between the Postal Service asset managers and attorneys and private sector teams. These groups produced several planning documents that functioned collectively as a business plan for each of these projects. These plans detailed topics such as project financing, time frames, the various risks for the Postal Service and the private sector, and how those risks were to be divided between the two parties. This Postal Service official told us that much of this analysis, as well as the subsequent agreements stemming from this process, was ultimately incorporated into the final leases drawn up between the Postal Service and its private sector partners.

By policy, VA's EUL projects must have business plans and the Secretary of VA must approve them. In both VA cases that we reviewed, the Department followed this policy.

Stakeholders' Support

In projects we reviewed, agencies had to have the support of the local community and other stakeholders to create the partnership. As noted, sometimes the local community acted as a catalyst for change, predating the partnership. For example, in the two Park Service projects we reviewed, local community groups wanted the historic properties preserved. According to Park Service officials, over a several-year span these community groups were able to effectively lobby political leaders to help change the Department of the Interior's property management policies. They said these changes enabled local organizations to provide the parks with day-to-day management and assist in making needed repairs to the historic structures.

Sometimes ascertaining stakeholders' views was required by law. VA's EUL authority requires that public hearings be held on proposed partnerships to determine their possible impact on veteran services, employees, local commerce, and the community. According to VA officials and our review of the VA projects, public hearings were advertised in local newspapers, and written notices were given to individuals or groups who had an interest in the projects or their potential impacts.

Agency Comments and Our Evaluation

In November 1998 we sent a draft of this report to the Secretaries of the Interior and Veterans Affairs and the Postmaster General for their review and comment. On December 8, 1998, VA officials provided minor technical suggestions, which we incorporated in the report where appropriate. Also, on December 8, 1998, we received clarifying and technical suggestions from the Office of Facilities and the Office of General Counsel, United States Postal Service, that are reflected in the report where appropriate. Officials from these offices also told us that the Postal Service is in the process of selling the bulk of the Rincon Project to the private sector developer. They said that this transaction is likely to close in the first quarter of 1999. We added this information to appendix IV. On December 10, 1998, we received written comments from the Assistant Secretary for Fish and Wildlife and Parks, Office of the Secretary of the Interior, indicating agreement with the report and offering some clarifying and technical suggestions that we incorporated in the report where appropriate.

As agreed, unless you announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will send copies of this report to the Chairman and Ranking Minority Member of the Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member of the House Committee on Government Reform; the Chairman and Ranking Minority Member of the Senate Committee on Environment and Public Works; the Chairman and Ranking Minority Member of the Public Buildings, Economic Development, and Special Transportation Subcommittee; the

Secretaries of the Interior and Veterans Affairs; the Postmaster General; and other interested parties. Copies will be made available to others upon request.

The major contributors to this report are listed in appendix V. Please contact me on (202) 512-8676 if you have any questions.

Sincerely yours,

J. Christopher Mihm
Associate Director, Federal Management
and Workforce Issues

Contents

Abbreviations

API	Amelang Partners, Inc.
EUL	enhanced-use lease
GGNRA	Golden Gate National Recreation Area
GSA	General Services Administration
NYCRR	New York Central Railroad
RCA	Rincon Center Associates
RFP	request for proposal
RFQ	request for qualifications
TCP	Thoreau Center Partners
VA	Department of Veterans Affairs
VAMC	VA Medical Center

Objective, Scope, and Methodology

Our objective was to identify the key elements and related experiences of federal agencies in creating and implementing innovative public-private partnerships that were formed to make use of federal real estate and facilities. To meet this objective, we went through a multistep process to identify projects to survey and conducted background research on selected projects. We then contacted officials from those projects to obtain additional information and insights on their partnership experiences.

To develop a list of potential federal partnership projects to review, we surveyed 51 public and private sector individuals whom we identified as knowledgeable about privatization matters from congressional testimony, studies, and other published literature. These individuals included federal building and facility managers and individuals with partnership knowledge and experience from research organizations, major accounting firms, and asset management companies. We identified the 51 individuals from our past work on privatization, our review of partnership literature, our review of documents associated with legislation on federal partnership activities, and our early discussions with public and private sector real property asset managers.

We sent a survey form to the 51 individuals asking them to nominate projects that they believed would be “good candidates” to review. In making nominations, we asked them to use the following criteria:

- Consider projects identified in privatization literature and by public-private partnership experts as being innovative and projects that would be recognized as models.
- Consider projects that were ongoing or completed.
- Consider projects that they believed provided significant public benefit (e.g., dollars saved, revenue generated, efficiency gained).
- Consider projects that would represent a variety of federal departments.

Fifty-two individual projects or partnership programs were nominated. Twenty-two individuals nominated projects; the other 29 individuals did not, citing a lack of knowledge on federal partnerships. Approximately half of the 29 individuals who declined to nominate projects said they knew of partnership activities at the state or local government level.

Our next step was to pare down the 52 nominations to a more manageable number for further review. We did so by focusing our further efforts on projects that were identified more frequently than others. We took the view that the more times a project or program was independently nominated, the greater its potential for identifying the key elements in creating and implementing a public-private partnership. Projects and programs in six agencies were identified by four or more survey respondents who nominated projects: the National Institutes of Health; U.S. Postal Service; General Services Administration; and the Departments of Defense, Veterans Affairs, and the Interior.

We further reviewed and collected data on the nominated projects and programs from the six agencies. For the nominated programs, we asked the agencies to provide data on their projects. We then compared their specific project data against the criteria we had asked our survey recipients to use. Next, after consultation with several public and private sector real property asset management experts, most of whom were drawn from among the 22 respondents to our survey who nominated projects, we selected 6 completed projects in 3 agencies to review further and report on. These partnership projects were completed in the sense that a contract or partnership agreement had been executed. The six projects were the

- Department of the Interior Fort Mason Foundation project, San Francisco, California;
- Department of the Interior Thoreau Center at the Presidio, San Francisco, California;
- Department of Veterans Affairs, Houston Benefits Center project, Houston, Texas;
- Department of Veterans Affairs Cold Spring Medical Facility, Indianapolis, Indiana;[1]
- U.S. Postal Service, Grand Central Station project, New York City, New York; and
- U.S. Postal Service, Rincon Center project, San Francisco, California.

We used a structured data collection guide to obtain additional information and documents from 33 public and private sector officials whom we interviewed during our visits to the 6 partnership projects. We designed the data collection guide to collect information—to the extent it was available—on the experiences of project officials in creating and implementing the projects. The guide included the topics that the requester asked us to cover in reviewing these projects. These topics included

- project background (year initiated/completed, type of partnership, partners, and location);

[1] This partnership arrangement was a public-public partnership in which VA entered into a long-term leasing arrangement with the State of Indiana instead of a private sector entity. We chose this large-scale project because it was often mentioned by experts we surveyed, and it met all of our other project selection criteria.

- participants' reason/rationale for partnering (e.g., to satisfy unmet federal needs or gain access to private sector innovations);
- contractual arrangements (e.g., responsibilities of the private sector partner, procurement issues, innovative practices used, and financing arrangements);
- challenges that may have arisen and strategies employed to overcome them (e.g., legislation, funding);
- events, conditions, or individuals that facilitated the project's progress (e.g., legislative authorities or special conditions that allowed the projects to succeed); and
- project-reported results (e.g., cost savings, tax revenue, and unmet needs served).

The officials we interviewed at the six projects included top management officials, public and private sector project managers, facility and property managers, financing officials, and attorneys who played key roles in the partnership effort. We reviewed documents, such as pertinent legislation, business plans, requests for proposals and qualifications, policy and procedural guidance, budget documents, legislative analyses, audit reports, and site photographs. We also contacted the Office of the Inspector General at each project's parent agency to obtain any audit and oversight data it had on the project.

To determine the key elements involved in the creation and implementation of the six projects, we reviewed the responses of project officials to our structured data collection guide and interview questions. We also reviewed documents officials provided that described their projects. On the basis of our analysis of this information, we derived a list of major elements that the projects shared in common. We confirmed from public and private experts in the use of partnerships for buildings and facilities that these elements were generally key to the successful implementation of the partnership projects we reviewed.

Because our objective was to identify key elements of the partnership projects we visited, we did not evaluate the results that the partnerships said the projects achieved or independently verify the accuracy of the information they provided. The elements are not generalizable to partnerships in other federal agencies because they were derived from our review of a select and limited number of partnerships. We also prepared a glossary so that the various types of partnership we refer to in this report can be understood in the context of the range of public-private efforts that can occur. The glossary appears at the end of the report.

We did our work at the project locations (Houston, Indianapolis, New York City, San Francisco) and in Washington, D.C., from August 1997 through October 1998 in accordance with generally accepted government auditing standards. In November 1998, we provided the Secretaries of the Interior and Veterans Affairs as well as the Postmaster General with a draft of this report for review and comment. We have incorporated their comments where appropriate.

Department of the Interior, National Park Service

Overview of National Park Service Projects

The U.S. National Park Service was founded in 1916 to promote, regulate, and protect the 40 national parks and monuments that existed at the time so that they would be "unimpaired for the enjoyment of future generations."[1] Over the more than 80 years that have passed since its founding, the Park Service has grown to encompass 378 national sites, including parks, recreational areas, battlefields, and scenic trails and other units that occupy over 80 million acres.

Accompanying this growth in the size of the park system has been a large increase in the number of visitors to national parks. According to the Park Service, the annual number of visitors has grown from 198 million in 1980 to over 275 million in 1997, an increase of almost 40 percent. Financial constraints and increasing service demands have led the Park Service to search for new and creative approaches to improve the upkeep of the lands and buildings in its charge as well as improve the programs and services it provides to the increasing numbers of visitors. One such approach is the Park Service's expanded use of partnerships with such organizations as state and local governments, nonprofit entities, and some private sector organizations. The Park Service has worked with nonprofit cooperating associations to operate visitor centers and gift shops since 1920.

Since the 1970s, the role and scope of the Park Service partnerships with outside entities have expanded beyond concession contracts. A 1976 cooperative agreement between the Park Service and the community-based Fort Mason Foundation in San Francisco was one of the first examples of an arrangement between the Park Service and an outside partner to develop and manage facilities that did not primarily support an existing park function. More recently, the Park Service leased buildings on the property of the Presidio, a historic Army installation on San Francisco Bay, to a private, for-profit enterprise, Thoreau Center Partners, that financed the rehabilitation of the buildings. This enterprise subleases space in the buildings to other organizations while being required to pay for the ongoing operations and maintenance of the buildings.

[1] National Park Service Organic Act, 16 U.S.C. 1.

The Fort Mason Project

Participants

Public: The Golden Gate National Recreation Area (GGNRA) in California,[2] which the Department of the Interior's National Park Service manages.

Private: The Fort Mason Foundation, a private, nonprofit organization that is governed by a Board of Directors consisting of cultural, civic, and business leaders from the San Francisco Bay area.

The Form of Public-Private Cooperation

The partnership between GGNRA and the Fort Mason Foundation was a develop/operate arrangement as part of a cooperative agreement.[3] Under the agreement, the Park Service provides the buildings rent free. In return, the Foundation is required to renovate, maintain, and operate the lower Fort Mason area, located in San Francisco and consisting of three historic piers, five warehouses, and several smaller buildings. It is also required to develop and administer the Fort Mason Center[4] to provide programs that allow public participation at minimum or no cost in a variety of cultural, recreational, and educational programs. It accomplishes this by leasing low-cost to nonprofit groups and to other outside parties for events, meetings, and exhibits, at rates approved by the Park Service. In addition, the Foundation is required to maintain the facilities and to pay all utility costs. The Park Service is to replace particular facility elements (e.g., foundations and roofs). GGNRA has a veto right over the nature and type of merchandise, services, and activities that may be sold or furnished by the Foundation.

The original 1976 agreement expired in 1984 and was replaced by another agreement, which expires on March 28, 2004. According to Park Service officials, a longer term agreement was needed to enable the Foundation to expand operations to attract private financing and philanthropic support.

[2] Congress established GGNRA in 1972 to preserve for public use and enjoyment certain areas in Marin and San Francisco counties in California, including the Presidio.

[3] This is similar to a lease/develop/operate arrangement. However, instead of a lease, the Park Service used a cooperative agreement, and no rent was charged to the Fort Mason Foundation.

[4] The Fort Mason Center encompasses nine buildings and two of the three piers within the lower Fort Mason area. According to Park Service officials, negotiations are currently under way to incorporate the third pier into the Fort Mason Center and develop it into a marine learning center.

Background

The lower Fort Mason area, located in San Francisco, was one of a number of U.S. Army installations transferred to GGNRA upon its creation. The area is historically significant as the major point of embarkation for American troops bound for the Pacific Theater during World War II. In 1973, GGNRA assumed responsibility for the maintenance, restoration, and use of the lower Fort Mason area.

In 1975, a Park Service study found that the unoccupied structures of the lower Fort Mason area had been subject to vandalism and general deterioration. According to Park Service officials, the lower Fort Mason area was a difficult property for the Park Service to manage because the area was one of the largest, most capital-intensive installations in its purview, and it had a large number of buildings that could not be torn down because of their historic significance. These officials said that they realized that GGNRA lacked sufficient funds and expertise to restore and develop the lower Fort Mason facilities to the standard required by the Historic Preservation Act of l966.

Also in 1975, a number of nonprofit groups in San Francisco expressed interest in locating to the area, which is located near the heart of central San Francisco, and the Park Service held a series of meetings with those groups. In 1976, business and civic leaders created the Fort Mason Foundation for the purpose of negotiating with the Park Service on behalf of the nonprofit community to renovate the installation, serve as its administrator, and manage rental agreements with resident nonprofit organizations.

In 1977, the Foundation provided a plan that met the objectives of GGNRA and the Park Service—to administer warehouses and piers located in the lower Fort Mason area as low-cost public use space and to assist nonprofit organizations in their efforts to provide cultural, educational, and recreational activities to the public at little or no cost to the public and the federal government. The creation of the Foundation allowed the Park Service to deal with just one entity, rather than the multitude of entities that would ultimately repair and occupy space and operate programs in the lower Fort Mason area.

Major Facilitating or Constraining Factors

Several factors facilitated the formation of a partnership between the Park Service and the Fort Mason Foundation. First, according to Park Service documents, GGNRA was financially unable to provide the necessary restoration or rehabilitation work for the many historic buildings within the park that needed to be restored and maintained. The public-private partnership at the Fort Mason complex provided a way for the Park

Service to address the problem of decaying buildings without requiring a substantial increase in funding or staff at GGNRA. Second, according to Park Service officials, there was strong support in the San Francisco community, especially among local nonprofit organizations, for the creation of a nonprofit center in order to avoid over-commercialization of the site. The extent of this support can be seen in the founding of the Fort Mason Foundation in 1976. This organization brought together numerous small and fragmented groups into one body so that they could more effectively negotiate with the Park Service. Park Service officials said that dealing with one nonprofit with a strong, unified organization was key to implementing the partnership approach. Third, both Park Service and Fort Mason Foundation officials told us that the General Superintendent of GGNRA at the time was a young, dynamic, and creative force who was willing to innovate and take some risks including those posed by a public-private partnership.

In creating their partnership, both the Park Service and the Fort Mason Foundation also encountered constraints. Among these was the fact that the newly formed Fort Mason Foundation had no track record in the business it was about to undertake. However, this constraint was mitigated somewhat by the relevant experience, expertise, and resources of the individuals chosen to serve on the Foundation's board of directors.

Reported Results

According to Park Service officials, this partnership appears to be meeting the chief objective of the Park Service—the preservation of the historic character of the lower Fort Mason area. The nine buildings and two piers that make up the Fort Mason Complex have been fully renovated and maintained over the last 22 years at minimal cost to the Park Service. According to Foundation and Park Service officials, the cumulative cost to renovate and improve the Fort Mason area has been approximately $16.5 million. The Park Service estimates the government's portion of this expense to have been about $3.5 million and the Foundation portion to have been about $13 million. According to the Park Service officials, the agency's annual operating expenses for the project have been approximately $250,000. These officials stated that they believe that this amount is far less than what one would expect for such an enterprise. According to Park Service officials, the partnership arrangement also meets the Park Service objective to assist nonprofit organizations in their efforts to provide a broad range of cultural, educational, and recreational activities at little or no cost to the public.

The partnership also appears to be meeting one of the principal aims of the Fort Mason Foundation—to solicit the participation of diverse nonprofit groups with the ability to provide low cost or free recreational and educational programs of both wide and specialized appeal to the public. The Foundation leases space to a wide variety of social, cultural, and arts organizations at the Fort Mason Center, including the San Francisco African American Historical & Cultural Society, Museo ItaloAmericano, the Mexican Museum, the Young Performers Theater, and the Friends of the River. The Center also provides galleries, classrooms, meeting rooms, pavilions for performances and other events, as well as a 440-seat theater for the public. In 1996, resident and nonresident groups hosted approximately 15,000 activities at the Fort Mason Center. Yearly attendance at the Center has risen from 125,000 in 1977 to 1.8 million in l996. According to Park Service officials, the Foundation also serves the public by providing leased space at relatively low cost, about $8 per square foot, for its 50 resident nonprofit organizations. These officials told us that this rate is about 60-70 percent less than the current rental market price. The Foundation reported that its current annual operating expenses are about $2.3 million. Officials at the Fort Mason Foundation told us that the Foundation reinvests any net income generated back into its operations and into capital improvements for the site.

Figures II.1A and II.1C show conditions before and after the renovation of the Fort Mason site. Figure II.1B provides an aerial view of the Fort Mason area, which is located near downtown San Francisco.

Figure II.1: The Fort Mason Project

(A) The interior of one of the piers at Fort Mason prior to renovation.

(B) The Fort Mason area consists of three historic piers and was a major point of embarkation for American troops bound for the Pacific during World War II.

(C) Fort Mason, after renovation, houses many organizations and activities, including those shown here.

Sources: GAO **(A)**, Robert Cambell, Greater Bay Aerials **(B)**, and Janice Tong, Fort Mason Center **(C)**.

Thoreau Center Project at the Presidio

Participants

Public: The Golden Gate National Recreation Area (GGNRA) in California, which the Department of the Interior's National Park Service manages.

Private: Thoreau Center Partners (TCP), a for-profit California real estate limited partnership that is made up of Highwater, Inc., a for-profit subsidiary of the nonprofit Tides Foundation, and Equity Community Builders, a San Francisco-based real estate developer of housing and mixed-use projects.

The Form of Public-Private Cooperation

The partnership between GGNRA and TCP was a lease/develop/operate arrangement. The Park Service entered into a 55-year ground lease[5] with the for-profit TCP, which arranged conventional real estate financing in the form of loans and equity. TCP is responsible for the design, construction, and ongoing management of the rehabilitated buildings under the terms of the lease with the Park Service. Under the terms of the lease, the Park Service is to provide fire and police services and maintain the surrounding open space, roads, and utility systems, as it is to do for the entire Presidio.

Background

In 1989, the Department of Defense announced the closure of the Presidio under the provisions of the Base Realignment and Closure Act of 1988.[6] The Presidio covers about 1,480 acres, approximately 800 of which are open space, and includes 870 structures, 510 of which are designated as historic. Following the closure decision, the Departments of the Army and the Interior signed an agreement transferring the Presidio to GGNRA on October 1, l994. In 1998, the Presidio Trust, a wholly owned trust established by statute, assumed administrative responsibility over the Presidio from GGNRA.[7]

According to Park Service officials, the Park Service was concerned that it would not have the funds, ability, or expertise to finance large-scale

[5] A ground lease is a lease for the use and occupancy of land only, usually for a long period of time. It is also called a land lease.

[6] P.L. 100-526.

[7] P.L. 104-333.

building rehabilitation, maintenance, and operation of the Presidio buildings. In 1993, legislation was enacted authorizing the Secretary of the Interior to lease the Letterman Complex,[8] a 55-acre former hospital and research complex, within the Presidio, with over 1.2 million gross square feet of built space in 47 historic and nonhistoric buildings.

From 1990 to 1994, the Park Service developed a publicly approved management plan for the entire Presidio. Under this management plan and the legislation authorizing the leasing of the Letterman Complex, the goal for the site included the creation of a national and international center for scientific, research, or educational activities, particularly those relating to health and the environment.

In December 1993, the Park Service's Presidio Project Office assembled a real estate team, including Park Service staff and private sector real estate consultants, to assist the Park Service in issuing a request for qualifications (RFQ) for leasing buildings in the Complex.[9] Park Service officials told us that they distributed the RFQ to more than 500 individuals, organizations, and companies and received 16 responses.

In June 1994, the Park Service selected a proposal submitted by TCP to serve as the lessee under a 55-year ground lease with the Park Service for four buildings in the Letterman Complex, totaling over 75,000 square feet. Consistent with the Presidio's management plan, TCP proposed to lease and rehabilitate the buildings and then sublease the improved office space to a variety of subtenant organizations. The four buildings were to be known as the Thoreau Center for Sustainability. According to Park Service officials, the Park Service selected TCP's proposal because it best met the programmatic, rehabilitation, and occupancy goals expressed by the Park Service in the RFQ, including the need to use private sector funds to finance the rehabilitation of the buildings.

In September 1995, the Park Service and TCP signed the lease for Phase I of the project, which was completed and occupied by March 1996. Exercising an option as part of the Phase I lease, the Park Service and TCP signed in July 1997 a Phase II lease, which was similar in its terms and conditions. This lease covered an additional eight buildings encompassing about 85,000 square feet, making TCP responsible for the restoration,

[8] P.L. 103-175.

[9] The Park Service stated that it used an RFQ rather than a request for proposal (which would have specified the details of the project) because that format allowed respondents to propose a wide variety of development schemes for different combinations of buildings.

preservation, and operation of a total of 12 buildings. Construction and occupancy of Phase II were completed in the spring of 1998. According to Park Service officials, each lease was preceded by a development agreement that spelled out specific project design and financing requirements and milestones that TCP had to achieve before the Park Service would sign the ground leases.

Major Facilitating or Constraining Factors

According to Park Service officials, the major factor that motivated the Park Service to enter into a public-private partnership in this project was the agency's need to preserve buildings that were in a deteriorated condition while avoiding the considerable cost of making the repairs itself. Since the buildings at the Letterman site were designed to serve as part of a hospital complex, a considerable amount of modification was necessary before they could be adapted for office use. Park Service officials also told us that these buildings required extensive and costly electrical, plumbing, and structural improvements as well as asbestos removal to bring them up to code. GGNRA managers viewed a public-private partnership as a means of achieving their goal of restoring and maintaining a portion of the Letterman site without having to pay for it out of their limited funds.

Park Service officials mentioned several other factors that facilitated the formation of a partnership in this case. According to Park Service officials, one of these factors concerned the legal ability of the Park Service to enter into a long-term lease with the private sector partner. Because the legislation authorizing the lease of the Letterman Complex permitted the government to enter into a long-term lease with a private sector partner, TCP was able to take advantage of important tax benefits. For example, according to a document published by the National Trust for Historic Preservation, to qualify for historic rehabilitation tax credits on leased properties, the term of the lease must be for at least as long a term as the depreciation schedule for the building (approximately 40+ years).[10] This played an important role in the Park Service's ability to lease the Letterman buildings and fund their restoration.

Another major facilitating factor mentioned by Park Service officials was the fact that GGNRA could retain the revenues from the lease of the Letterman buildings. This provided the Park Service with the incentive to commit the time and staff needed to develop and participate in such a complex transaction. Finally, the "compelling vision" of the Presidio

[10] "The Thoreau Center for Sustainability: A Model Public-Private Partnership." Preservation Information, National Trust for Historic Preservation, May 1997.

master plan and the attractiveness of the site were also identified by Park Service staff as significant factors in facilitating the partnership.

Interviews conducted with Park Service officials revealed some constraining factors that affected the formation of this public-private partnership. Park Service staff told us that without an ownership interest, potential private sector partners are often reluctant to enter into an agreement with the public sector that entails substantial financial commitment and other responsibilities. These officials also pointed out that there are requirements for public disclosure when a government agency is involved in a public-private partnership deal that are significantly beyond those that are typically expected in a private sector transaction. This would include concerns about potential public disclosure of financial and business information that is typically considered proprietary. These requirements can inhibit the private sector, which does not normally encounter such conditions. Finally, private sector concerns about the ability of the government to be a reliable partner and lessor over the life of a long-term lease were factors that Park Service officials found may discourage potential lessees and lenders from entering into these types of transactions.

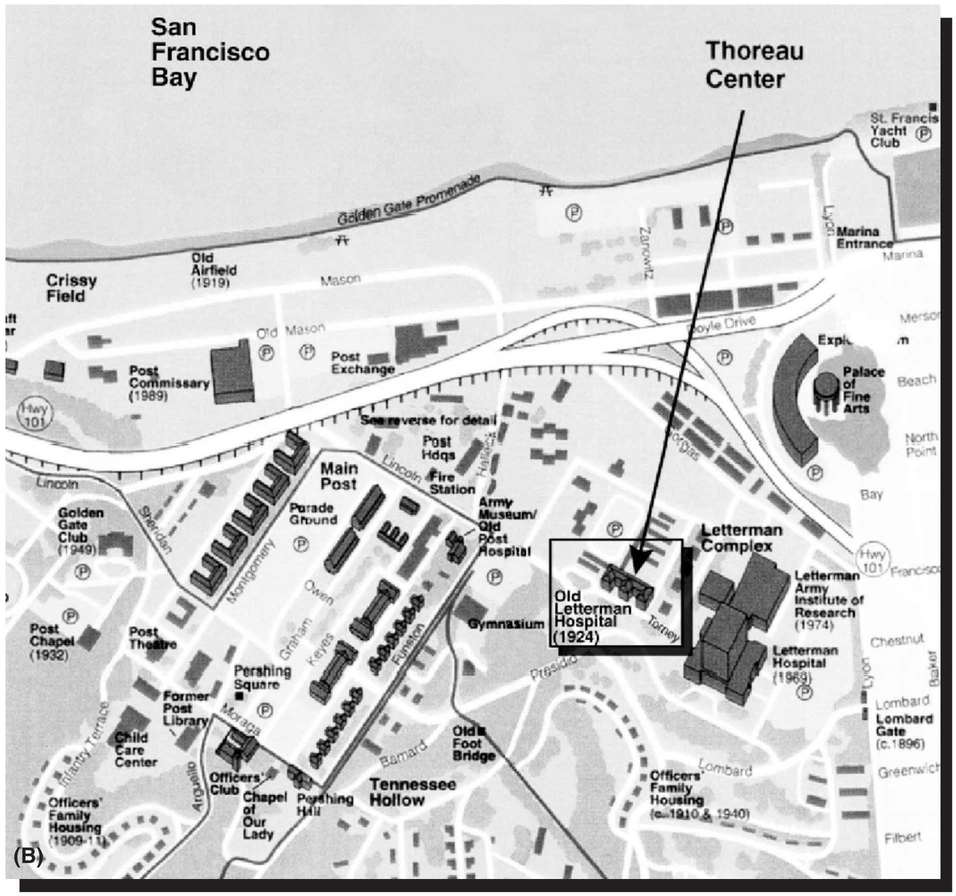
Reported Results

By entering a public-private partnership, the Park Service passed on the cost of rehabilitating and maintaining the properties to the private sector while simultaneously creating a source of revenue that can be used for other needs within GGNRA. The privately managed and funded rehabilitation, which combined historic preservation and sustainable design principles, has received national acclaim, including a prestigious award from the National Trust for Historic Preservation. Additionally, the ground lease for the site currently generates more than $170,000 annually in rent and fees for the Park Service. Under the terms of the lease, this amount is to increase over the course of the lease based on both a fixed schedule and market-based real estate reappraisals. Park Service officials said they view the Thoreau Center project as a successful, replicable partnership and a model for the entire park system. Other Park Service staff members, along with real estate and design experts as well as U.S. and foreign government officials, have toured the project in an effort to learn from the Presidio's example.

TCP also appears to have benefited from its partnership thus far. As of September 1998, Park Service documents show that the Thoreau Center had approximately 45 subtenants, including nonprofit organizations such as the Energy Foundation and the Wilderness Society. Both Phase I and Phase II of the project are fully leased. These documents also indicate that the bank and private loans are being repaid according to schedule (approximately $1,040,000 annually), and the project's first stabilized year of occupancy and operations—1998—is expected to meet TCP's projections. According to Park Service officials, subtenant rents generate sufficient money for TCP to repay the debt and equity that funded the rehabilitation, provide for ongoing operations and maintenance of the complex, and provide rental payments to the Park Service.

Figures II.2A and II.2C show conditions before and after the renovation of the Thoreau Center in the Letterman Complex at the Presidio. Figure II.2B is a map of the Presidio area identifying the location of the Thoreau Center.

Figure II.2: Thoreau Center Project at the Presidio



(A) Thoreau Center, before renovation.

(B) Map of the Presidio area showing the location of the Thoreau Center.

(C) Thoreau Center, after renovation.

Sources: GAO **(A)** and **(C);** National Park Service **(B).**

Department of Veterans Affairs

Overview of Department of Veterans Affairs Projects

The primary responsibility of the Department of Veterans Affairs (VA) is to provide care and services—e.g., medical, housing, insurance, education, income, and burial—to eligible U.S. veterans. Its mission includes the use of its facilities to educate and train a large portion of the nation's medical practitioners through affiliations with medical schools and supporting research that benefits veterans' health care and quality of life. In addition, VA is responsible for providing medical services in a war or national emergency.

To accomplish its mission, VA owns and operates 173 hospitals, over 450 ambulatory-care clinics, 133 nursing homes, 40 domiciliaries, 206 counseling centers, and various other facilities. Many of VA's buildings are aged, deteriorating, and in need of significant maintenance and modernization.[1] According to VA officials, in the 1980s, funding pressures became a catalyst for the agency to investigate ways to reduce expenses and increase revenues. In August 1991, Congress passed legislation that allowed VA to engage in public-private partnerships through an Enhanced-Use Lease (EUL).[2] This legislation allows VA to manage underutilized property through leasing arrangements with state or local governments or private sector organizations and generate income. According to VA asset managers, VA's EUL program gives VA more discretion to manage its properties than it would otherwise have under federal regulations—which require that agencies acquire or dispose of all property through the General Services Administration (GSA).

As of June 1998, VA had implemented 10 EULs with an estimated asset value in excess of $50 million. According to VA officials, these EULs have provided an estimated $25 million in savings for VA in terms of lower construction, operation, and maintenance costs. We reviewed two VA EUL projects--the Houston regional office center project and the Cold Spring Medical Facility in Indianapolis.

[1] See Independent Review of the Department of Veterans Affairs' Office of Facilities Management, Final Report, Price Waterhouse, June 17, 1998.

[2] Enhanced-use leasing is a VA asset management program that can include a variety of different leasing arrangements (e.g., lease/develop/operate or build/develop/operate). See the glossary at the end of this report for additional information on EULs and the type of leasing arrangements mentioned above.

The Houston Regional Office Center Project

Participants

Public: Department of Veterans Affairs.

Private: Amelang Partners, Inc. (API), a private sector real estate developer headquartered in Houston, Texas.

The Form of Public-Private Cooperation

Under the terms of a 35-year EUL, API agreed to design, build, and maintain the Houston VA regional office building, add 500 parking spaces, and develop and maintain the remainder of the 20-acre VA-owned site with commercial buildings. Following expiration of a lease/purchase agreement with the developer, VA purchased the regional office building. VA does not assume any risk or make any guarantees to finance API's commercial developments, and API assumes all financial obligations and risks associated with private development. VA and the city of Houston are first to approve all private development proposed for the site. In return for providing API with commercial development rights on the VA property, VA obtained long-term operation and maintenance services at reduced costs. At the end of the 35-year lease, VA will own the commercial properties that API developed and now leases.

Background

The Houston VA regional office had been housed in a GSA-leased, privately owned building in the southern part of Houston, approximately 10 miles from the VA Medical Center (VAMC) campus. In 1992, VA's 20-year lease with GSA for this property was about to expire. According to VA officials, the building was in serious disrepair, and VA officials felt that by relocating the regional office to the grounds of the VAMC campus, which had approximately 20 acres of available land, VA could reduce costs and enhance services to veterans by placing the office in close geographical proximity to other services on the campus. This proximity would enable veterans to schedule visits to and receive services from both facilities during a single visit.

In 1992, Congress provided VA with $17 million to build a new Houston Regional Office on the VAMC campus. VA officials chose to use an EUL instead of designing and building the facility themselves. After a public hearing in September 1991 and congressional notification, as required by the EUL legislation, VA sponsored a national competition to develop the 20-acre site on the VAMC campus for a regional office building, plus some VA-approved commercial developments (e.g., dialysis center and a dental office). Eight developers submitted proposals to develop the site. In January 1993, VA selected Amelang Partners, Inc. (API), a 32-year-old Houston-based developer, to design, build, and operate the VA office building as well as to develop the remainder of the property.

API owns and operates 29,000 square feet of commercial property, consisting of retail and medically oriented offices that it leases to private tenants and provides VA with a percentage of the rents. In addition, VA agreed to lease-purchase the office building within a 1-year period after its construction at savings of more than 30 percent of the amount that Congress appropriated to build a new regional office.

Major Facilitating or Constraining Factors

The 1991 legislation authorizing EULs was the major facilitating factor for this project because it provided a legal basis for VA to keep lease payments from EUL projects and use them to fund appropriate VA activities. VA's EUL program eliminated or streamlined many processes that are typically required in government acquisitions. For example, VA officials told us that the use of an EUL provided VA with the flexibility to quickly select the best qualified development team on the basis of past experience, building and site design concepts, and proposed cost savings rather than using the traditional and often very slow federal contracting procedures. According to VA asset managers involved in the project, Houston's local zoning laws also functioned as a facilitating factor because they permitted a degree of freedom and flexibility that made the project more attractive to the parties involved.

Interviews with senior VA officials at the Houston regional office and senior executives at API made no mention of major constraining factors in this project. Perhaps there were no constraining factors because of the combination of API's considerable experience and familiarity with federal contracts and the fact that VA had already received sufficient funding from Congress to build the regional office.

Reported Results

The Houston VA Regional Office building and parking facility was completed in March 1995. According to VA officials, this building was constructed in 11 months. As of September 1998, all of the commercial development was completed, and all businesses were open.

According to VA officials, the Houston project is one of VA's newest, state-of-the-art regional office centers and represents VA's efforts to co-locate benefits and medical service in the Houston area. In addition, VA contends that some of the commercial development in the project should further benefit its clients. For example, two of the businesses in the commercial development are a kidney dialysis facility and a dental office. Through an arrangement with VAMC, the dialysis center provides services to VA clients as well as the surrounding community and the neighboring University of Texas Medical School.

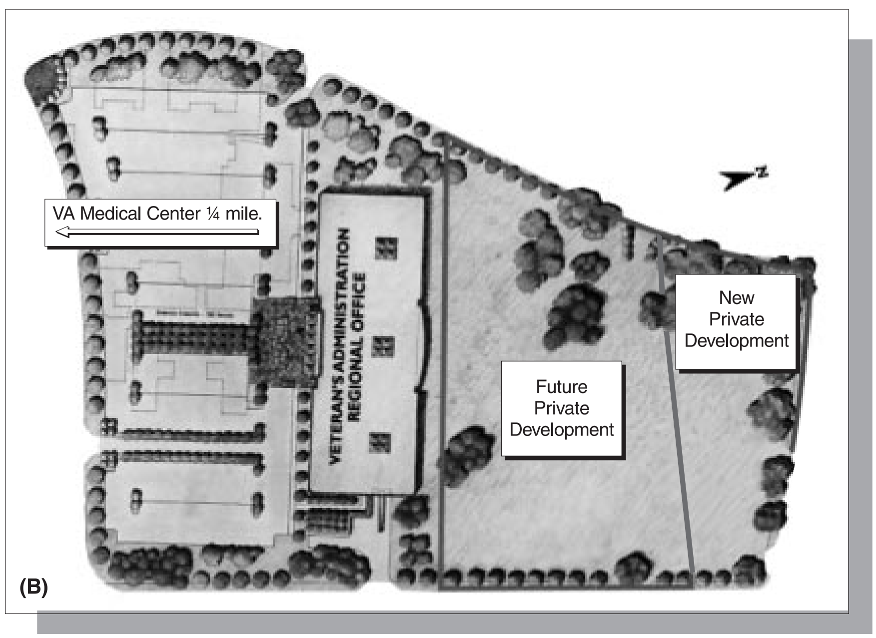
Overall, VA officials reported that the use of an EUL reduced the time needed to structure and execute this development and resulted in significant cost savings over VA's design and development of the property by itself. According to VA officials, VA purchased the office building for approximately $11 million ($6 million less than the $17 million appropriated by Congress for a new regional office). In addition, a VA report presented to Congress stated that VA should save an additional $10 million in operation and maintenance costs over the 35-year term of the EUL. According to the EUL, API currently pays VA about $75,000 annually from revenues of the commercial development. This amount is in addition to a one-time $75,000 rental payment made by the developer at the execution of the lease.[3]

In May 1995, this project earned a "Hammer" award from Vice President Gore's National Performance Review for its contributions to VA's efforts to improve business practices and provide better services to veterans. The Hammer award is given to a person or team whose efforts dramatically improve the way government does business.

Figure III.1A shows the new Houston VA Regional Office building against the backdrop of the city's skyline. Figure III.1B provides an aerial view of a portion of the VAMC campus, illustrating areas of new and future development.

[3] API and VA are currently negotiating a proposal to develop a biomedical research and development facility and a hotel on remaining enhanced-use property.

Figure III.1: The Houston Regional Office Project



(A) The new Houston VA Regional Office with the skyline of the city visible in the distance.

(B) An aerial view of a portion of the Houston VA Medical Campus. The diagram shows the placement of the VA Regional Office in relation to the sites of current and future development.

Sources: Department of Veterans Affairs **(A)**, and Amelang Partners, Inc. **(B)**.

The Cold Spring Medical Facility Project

Participants

Public: Department of Veterans Affairs.

Private: State of Indiana.[4]

The Form of Public-Public Cooperation

Officials from VA and the state of Indiana signed an EUL that provided for a 35-year lease of the Cold Spring Medical Facility to the state in return for a one-time direct payment of $200,000 to VA as well as a payment of $9.8 million that was placed in a VA EUL trust. Under the trust agreement, VA is to use these funds to provide benefits for veterans residing in Indiana. However, the Secretary of Veterans Affairs, at his discretion, may designate the provision of veterans' benefits without regard to residency.

Background

In 1932, the federal government built the Cold Spring VA Medical Center in the northwest section of Indianapolis. This facility is located on 30 acres, the majority of which contain hospital facilities. In 1950, VA built a new hospital facility approximately 1.5 miles from Cold Spring and converted the old medical center into a veterans' psychiatric facility. In 1995, VA decided to close Cold Spring, given that the number of patients it served was declining because of a trend toward outpatient rather than inpatient care. Outpatients and any patients requiring hospitalization could be accommodated at the new facility. An Indianapolis VAMC business plan strongly supported consolidating the operations of both facilities. This decision was made on the basis that consolidation on the site of the new facility would eliminate surplus space and inpatient costs, resulting in impressive cost savings from improved program/plant management. However, according to VA asset management officials, under traditional federal property management and disposal procedures, VA faced the prospect of either maintaining the facilities at Cold Spring for limited VA uses at costs that would adversely affect patient care or undertaking a lengthy disposal process through the General Services Administration (GSA), which they said could take 3 to 4 years to complete.

[4] This partnership arrangement was a public-public partnership where VA entered into a long-term lease with the state of Indiana instead of a private sector entity. As discussed in appendix I, we chose this large-scale project because it was often mentioned by experts we surveyed, and it met all of our other selection criteria.

Through discussions with officials from the state of Indiana, VAMC was able to market the potential re-use of Cold Spring by the state as a replacement facility for a state psychiatric hospital that was located adjacent to VAMC's new facility. Using EUL authority, VA entered into negotiations with Indiana officials in January 1996. On September 12, 1996, these negotiations were concluded, and VA executed an EUL with the state of Indiana, which leased 22.29 acres of the 30-acre Cold Spring facility. The leased property includes the core hospital facilities, related facilities, parking and associated fixtures, and equipment within such facilities.

Major Facilitating or Constraining Factors

VA's ability to use an EUL, which allows the agency to keep lease revenues for appropriate VA uses, was a critical factor facilitating the creation of a federal-state partnership in this project. Local VA officials told us that they believed that the decision to create a partnership was also facilitated by the fact that VA's organizational culture strongly favors keeping, rather than selling, existing properties. They said that this cultural bias against the sale of VA properties was reinforced by the strong position of veterans service organizations against selling VA properties. Finally, the partnership between VA and Indiana was facilitated by the economic and physical condition of Indiana's existing mental hospital. According to the superintendent of the Indiana facility, the state badly needed an updated facility but did not have sufficient money to refurbish the old hospital or build a new one. The partnership presented a cost-effective alternative for the state of Indiana and thus an eager partner.

VA medical center managers told us that they encountered resistance toward the partnership from several places. These officials told us that they initially met with concerns from their own regional and headquarters officials, mainly because partnerships differ from the traditional way in which the federal government manages and disposes of excess property. Additional constraints to the partnership came from the fears and apprehensions of personnel working at the medical center. Both the Director and the Facility Planner of the regional office told us that they faced strong opposition from employees who did not want to move out of the underutilized Cold Spring facility.

Another, less serious constraint mentioned by senior managers in VA's regional office concerned the timetable for congressional review. Under EUL legislation, no final action can be taken on a proposed partnership for a period of 60 days, during which Congress must be in session. This notification is intended to allow Congress sufficient time to review and comment on the proposal. According to VA staff, EUL private sector partners sometimes grow impatient with this requirement because it can slow down the approval process. Depending on the congressional calendar, this 60 day time period can actually stretch into several months.

Reported Results

As fair consideration for the EUL of the Cold Spring Medical Facility, Indiana provided VA with both monetary and "in-kind" consideration with an estimated total value of $15.64 million. Of this amount, VA received an up-front rental payment of $200,000. An additional $9.8 million was placed by the state into a trust to fund the acquisition of construction, facilities, space, and other services for veterans in the state of Indiana as determined by VA. The remainder represented services the state would provide to VAMC, including parking, maintenance of grounds, use of facilities, and utility payments.
VA officials said they also expected to realize substantial operational savings from reduced overhead and maintenance costs. For example, according to business planning documents developed by Indianapolis' VAMC facility planner, VA expects to realize annual savings of $5 million by avoiding recurring maintenance and operating costs. VA also anticipates saving more than $11.7 million in unspent capital funds. Under the terms of the EUL, VA is no longer responsible for construction at Cold Spring that it would otherwise have had to undertake if the property had not been leased to the state.

Indiana reported it received the benefit of the facility and saved between $10 and $15 million in either significant renovation or construction of a new addition to the facility where the psychiatric patients would have been otherwise located. This project also received a Hammer Award from the Vice President's National Performance Review.

Figure III.2 provides an aerial view of the 30-acre Cold Spring Medical Facility in Indianapolis.

Figure III.2: The Cold Spring Medical Facility Project

A view of the 30-acre Cold Spring Medical Facility.

Source: Department of Veterans Affairs.

United States Postal Service

Overview of United States Postal Service Projects

Before the mid-1970s, large postal mail processing facilities were often built as close as possible to the center of urban areas and on rail lines that were used to transport much of the mail. As mail transportation shifted to airplanes and trucks, distribution centers were gradually transferred to suburban areas, leaving the urban facilities underutilized. Beginning in the late 1970s, the United States Postal Service began to consider how to handle its excess and often obsolete real property assets, including these distribution centers. Its first efforts were aimed at lowering real estate operating expenses through the sale of excess properties.

In 1982, the Postal Service began to seriously explore the degree to which its excess property could be made to generate income and formed a real property asset development division, which was responsible for disposing of surplus real estate in the best interest of the Postal Service. Postal Service officials came to believe that partnering with the private sector was essential to develop and manage projects that would generate income from excess Postal Service property. Postal Service facility officials said their knowledge of real estate development and management was limited to satisfying Postal Service requirements. They also said that they lacked the expertise to plan for buildings that would house private sector occupants, raise private funds for development, and manage space to private sector standards and requirements.

We looked at two public-private partnerships entered into by the Postal Service involving the Grand Central Station Post Office in New York City and Rincon Center in San Francisco. The former Postal Service Asset Manager responsible for these projects told us that although the Postal Service used requests for proposals (RFP) to identify a private sector partner, it soon became obvious that the most important factor in the developers’ submissions was not the original proposal. Instead, during the selection process the Postal Service asset managers placed a large amount of emphasis on the qualifications of the developer—his or her track record for making sound, low-risk, business deals. Consequently, the Postal Service’s solicitation process evolved; and, according to this asset manager, the Postal Service generally issues a request for qualifications (RFQ) rather than a RFP for public-private partnerships. In the RFQ, the Postal Service describes the properties and the needs of the Postal Service and invites interested parties to submit information on their prior experience and qualifications for developing such a property.

According to the Postal Service, most of its partnership projects have used ground leases as the contracting arrangement (where the Postal Service is the lessor and the developer is the ground lessee). The leases are structured so that the private partner benefits only if the deal benefits the Postal Service. The Postal Service's contribution is the underutilized land and buildings, and the private sector's contribution is financing and business know-how.

The Grand Central Station Project

Participants

Public: The United States Postal Service, an independent establishment of the executive branch of the United States government.

Private: The 450 Lexington Venture (Hines), a joint venture consisting of Hines Interests, Sterling Equities, Royal Dutch Shell Pension Fund, and Prudential Insurance Company that built, financed, and operates the project.

The Form of Public-Private Cooperation

The partnership between the Postal Service and Hines was a lease/develop/operate arrangement. According to Postal Service officials, the property was developed under a lease of the air rights from the Postal Service that enabled Hines to build a 32-story tower above the existing 5- or 6-story post office. Under the terms of the lease, Hines agreed to obtain final zoning approvals and build and operate the tower. The lease holds Hines responsible for maintaining both the tower and the exterior of the original post office building. The lease also requires that Hines ensure the compatibility of the new building with its neighbors in terms of form, bulk, use, design, facade, treatment, and fenestration. At the end of the 99-year lease term, the building reverts to Postal Service control.

According to Postal Service officials, the ground lease supersedes any other debt, so there is little risk to the Postal Service associated with the financing. If all the tenants move out and the loan is defaulted, the lender could foreclose but would be obligated to pay the ground rent. They said if the lender did not pay the ground rent, the Postal Service would take the building and either re-lease it or use it.

Background

The Grand Central Station Postal Facility, originally built and owned by the New York Central Railroad (NYCRR), was constructed in 1906 over NYCRR tracks. In 1936, NYCRR sold the structure to the U.S. government, and the government later transferred it to the Postal Service. The location of this property, 450 Lexington Avenue, is in the heart of New York City's midtown "high-rent" commercial district. According to Postal Service officials, the facility was once the largest post office in the country in terms of revenue and deliveries. However, by the 1980s, it had become functionally obsolete and was significantly larger than necessary for a modern mechanized postal operation.

In considering how to dispose of this facility, the Postal Service considered several options. These options included renovating the existing space and renting a portion of it, conducting an outright sale, or renovating the existing space and entering into a long-term lease of the air rights above the building. According to the former Postal Service asset manager for this project, the Postal Service needed less than 170,000 square feet of the approximately 370,000-square-foot facility. Ultimately, Postal Service officials concluded that the most profitable course of action was to partner with a private sector asset management company to redevelop the Postal Service property to maximize its revenue potential.

In 1984, the Postal Service issued an RFP and received nine responses from qualified developers. The Postal Service selected Hines from this field and subsequently entered into a 99-year ground lease with Hines for the redevelopment of the property. Following 2 years of planning, design, and the temporary relocation of postal operations from the building, Hines demolished and rebuilt the core of the original building and added an 880,000-square-foot, 32-story office tower. Hines has sole responsibility for financing the project and for leasing the office space to a variety of commercial tenants.

Major Facilitating or Constraining Factors

Several factors facilitated the formation of a public-private partnership in this case. Perhaps the most fundamental of these is the Postal Reorganization Act of 1970. This act generally directs the Postal Service to operate in a businesslike manner and authorizes the Postal Service to manage its properties using businesslike arrangements. By vastly reducing the amount received by the Postal Service in the annual federal appropriations process, the act made the Postal Service's ability to generate its own revenues critical to its survival.

Another factor cited by Postal Service officials as significant in bringing about the partnership concerned the arrival of new leadership in the Postal Service's asset management office. This change of leadership facilitated the exploration of partnerships and other innovative approaches to the organization's asset management. A third facilitating factor mentioned by Postal Service officials was the use of extremely detailed business plans and leasing arrangements by the Postal Service and Hines. Finally, the fact that Hines was able to adapt private sector practices to accommodate federal contracts and procedures was also mentioned by Postal Service and Hines officials as playing a facilitating role in the formation of their partnership with the Postal Service.

In our interviews with senior Postal Service asset management officials and representatives of Hines, there was no mention of significant constraining factors that hindered the formation of a public-private partnership in this case.

Reported Results

According to the lease, for the first 13 years (until June 2002), the ground rent is about $6 million per year for the Postal Service. In June 2002 ground rent for the building jumps to $10.4 million for the next 5 years, with additional increases built into the lease over the remaining life of the lease. In addition to receiving rent for the air rights above the Grand Central Post Office, the Postal Service receives approximately $6 million a year from Hines in what is known as Tax Equivalency Rent. This charge reflects the amount that Hines would have had to pay to the City of New York if the site did not have a federal exemption from taxation. The Postal Service has the potential of realizing even larger rents from the site because the lease contains a “percentage rent” provision. Under this provision, additional rent is due to the Postal Service if the net operating income generated by the site reaches a certain threshold. In addition, the Postal Service remains in possession of a 170,000-square-foot facility on the site; and, according to Postal Service officials, the historical characteristics of the building have been preserved.

For its part, Hines reports that the building is currently 100-percent occupied. Hines leases office space in the building to about 25 tenants, including law firms, financial service companies, and international trading corporations. According to a senior Hines official, although the business leasing market in New York City has been in flux over the last 8 years, it has been particularly strong over the last 2 years.

Figure IV.1 shows the Grand Central Post Office building and tower in New York City as it looks today. The lower right bracket identifies the original 1906 building, and the upper bracket identifies the 32-story addition built in 1992.

Figure IV.1: The Grand Central Station Post Office Project

(A) The modern 32-story, 880,000 sq. ft. tower built above New York City's Grand Central Post Office, which was completed in 1992.

(B) New York City's Grand Central Post Office, the original 1906 building.

Source: Hines.

The Rincon Center Project

Participants

Public: The United States Postal Service, an independent establishment of the executive branch of the United States government.

Private: Rincon Center Associates (RCA), a general partnership between Pacific Gateway Properties (about 22 percent interest) and Perini Corporation (about 78 percent interest), which is the managing general partner.

The Form of Public-Private Partnership

The partnership between the Postal Service and RCA was a lease/develop/operate arrangement. According to Postal Service officials, the property was developed by RCA subject to a ground lease of the air rights from the Postal Service for a period of 65 years. Under the terms of the lease, RCA agreed to build a variety of structures above and around the original Rincon Annex building. These included 240,000 square feet of commercial space on the parking lot adjacent to the Rincon Annex building and two towers containing 260,000 square feet of residential space constructed over this commercial base. In addition, RCA agreed to renovate the existing Rincon Annex building into office and retail space and build a 72,000-square-foot rooftop addition to the annex.

Under the terms of the agreement, RCA was required to preserve both the exterior of the original Rincon Annex as well as the historic murals found within. RCA was also responsible for operating and maintaining all the properties on the site as well as setting aside a portion of the housing units for use by low- to moderate-income families. At the end of the 65-year lease term the building reverts to Postal Service ownership.

Background

In 1940, the federal government completed a postal facility, the Rincon Annex, in the “South of Market” area of San Francisco. Market Street has long been the boundary in downtown San Francisco between premium developments and medium to lower level real estate. Occupying almost half of a city block, this large facility was built on 3,800 wooden pilings sunk in the mud of San Francisco Bay and is situated on a 3.5-acre site.

In 1979, the Postal Service announced that it planned to vacate and sell most of the facility, as the operation had become inefficient. In 1979, the National Park Service placed the building and the murals located in its lobby on the National Register of Historic Places, thereby protecting the building from destruction. After this happened, the Postal Service changed its plan and considered developing the site instead. In 1985, the Postal Service issued an RFP for renovation of the existing building plus construction of new space, which was to be leased out to commercial and residential tenants. The Postal Service required that all competitors submit bids that included the following core elements: a central atrium or shopping core, the division of the new construction into two buildings or towers, compliance with historic preservation requirements, and provision of affordable housing. The Postal Service received seven proposals and selected RCA as the developer in 1985.

Major Facilitating or Constraining Factors

The Postal Reorganization Act of 1970 was one of the major factors leading to the public-private partnership between the Postal Service and RCA. Because the act allows the Postal Service to operate in a businesslike manner and authorizes the Postal Service to manage its properties using businesslike arrangements, a partnership was possible.

In formulating their partnership, officials from both RCA and the Postal Service had to overcome several constraints, including local requirements to provide low- and moderate-income housing, and the need to fulfill the city's architectural requirements while preserving its historic character. These requirements constrained the construction options open to both RCA and the Postal Service and complicated the process of agreeing on the partnership.

Reported Results

The rental of the Rincon property has proven to be lucrative for the Postal Service. According to Postal Service officials, the ground rent is currently about $4.5 million per year, an amount that has increased about 60 percent since the start of the lease in 1985. As part of the partnership arrangement, the Postal Service also retains a 14,000-square-foot facility on the site for a post office. Despite the considerable amount of development that has taken place, the historical characteristics of both the original Rincon Annex post office and the murals have been preserved.

According to the general manager responsible for the leasing and management of Rincon Center, the property was 100-percent leased in September 1998. In addition to its 320 residential apartments and 38 retail and service businesses, Rincon Center has 8 corporate tenants, which include an international insurance company, a large utility company, and law firms. According to this manager, the leasing market in San Francisco has been the best it has been in 15 years. However, due to cost overruns incurred during the construction of the project and a soft real estate leasing market during Rincon Center's first several years of operation, RCA officials said the property has been only moderately successful.

In December 1998, Postal Service officials from the Office of Facilities and the Office of the General Counsel told us that the Postal Service is in the process of selling the bulk of the Rincon Project to the private sector developer. These officials said that this transaction is likely to close in the first quarter of 1999.

Figure IV.2A provides a view of downtown San Francisco with the redeveloped Rincon Center set off by white brackets. Figure IV.2B shows the interior of the Rincon Center.

Figure IV.2: The Rincon Center Project

(A) A view of downtown San Francisco with the redeveloped Rincon Center set off by white brackets.

(B) The interior of the redeveloped Rincon Center.

Sources: U.S. Postal Service **(A)**, and Grubb & Ellis Management Services, Inc. **(B)**.

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Staff Acknowledgements

Anthony Assia, Ruth Kassinger, and Kiki Theodoropoulos, GGD, provided assistance in reviewing report drafts and in communicating this report's message. Kim Wheeler, GGD, provided graphics support. Alan Belkin, Office of General Counsel, reviewed and provided assistance on the glossary terms used in this report.

Glossary

Types of Public-Private Partnerships Discussed in This Report

Contract Services

Operations and Maintenance

A public partner (federal, state, or local government agency or authority) contracts with a private partner to provide and/or maintain a specific service. Examples of the type of service provided include lab testing, auditing, and the collecting of fines and penalties. Under the private operation and maintenance option, the public partner retains ownership and overall management of the public facility or system.

Operations, Maintenance, and Management

A public partner (federal, state, or local government agency or authority) contracts with a private partner to operate, maintain, and manage a facility or system providing a service. Under this contract option, the public partner retains ownership of the public facility or system, but the private party may invest its own capital in the facility or system. Any private investment is carefully calculated in relation to its contributions to operational efficiencies and savings over the term of the contract. Generally, the longer the contract term, the greater the opportunity for increased private investment because there is more time available in which to recoup any investment and earn a reasonable return. Many local governments use this contractual partnership to provide wastewater treatment services.

Design/Build/Operate (DBO)

In a DBO project, a single contract is awarded for the design, construction, and operation of a capital improvement. Title to the facility remains with the public sector unless the project is a design/build/operate/transfer or design/build/own/operate project. The DBO method of contracting is contrary to the separated and sequential approach ordinarily used in the United States by both the public and private sectors. This approach involves one contract for design with an architect or engineer, followed by a different contract with a builder for project construction, followed by the owner's taking over the project and operating it. A simple design-build approach creates a single point of responsibility for design and construction and can speed project completion by facilitating the overlap of the design and construction phases of the project. On a public project, the operations phase is normally handled by the public sector or awarded to the private sector under a separate operations and maintenance agreement. Combining all three phases into a DBO approach maintains the continuity of private sector involvement and can facilitate private sector financing of public projects supported by user fees generated during the operations phase.

Enhanced-Use Leasing (EUL)	An EUL is an "asset management" program in the Department of Veterans Affairs (VA) that can include a variety of different leasing arrangements (e.g., lease/develop/operate, build/develop/operate). EULs enable VA to long-term lease VA-controlled property to the private sector or other public entities for non-VA uses in return for receiving fair consideration (monetary or in-kind) that enhances VA's mission or programs. (See 38 U.S.C. § 8161, et seq.)
Lease/Develop/Operate (LDO) or Build/Develop/Operate (BDO)	Under these partnership arrangements, the private party leases or buys an existing facility from a public agency; invests its own capital to renovate, modernize, and/or expand the facility; and then operates it under a contract with the public agency. A number of different types of municipal transit facilities have been leased and developed under LDO and BDO arrangements.
Lease/Purchase	A lease/purchase is an installment-purchase contract. Under this model, the private sector finances and builds a new facility, which it then leases to a public agency. The public agency makes scheduled lease payments to the private party. The public agency accrues equity in the facility with each payment. At the end of the lease term, the public agency owns the facility or purchases it at the cost of any remaining unpaid balance in the lease. Under this arrangement, the facility may be operated by either the public agency or the private developer during the term of the lease. Lease/purchase arrangements have been used by the General Services Administration for building federal office buildings and by a number of states to build prisons and other correctional facilities.

Other Terms Related to Public-Private Partnerships

Air Rights	Air rights provide the right to use, control, or occupy the space above a designated property. Air rights can be leased, sold, or donated to another party.
Anchor Tenant	An anchor tenant is the major tenant that attracts or generates traffic within a commercial operation. Anchor tenants are strategically placed to

maximize business for all tenants. The type of anchor tenant depends on the type of commercial activity.

Asset Sale	An asset sale is the transfer of ownership of government assets to the private sector. Usually legislation or an Executive Order defines the transfer price distribution and recoupment priorities needed to meet the disposition requirements of federal administrative grant requirements. In general, the government has no role in the financial support, management, or oversight of the asset after it is sold. However, if the asset is sold to a company in an industry with monopolistic characteristics, the government may regulate certain aspects of the business, such as utility rates.
Cooperative Agreements	A cooperative agreement as set forth in 31 U.S.C. 6305 is the legal instrument an executive agency uses to reflect a relationship between the United States Government and a state, a local government, or other recipient when (1) the principal purpose of the relationship is to transfer a thing of value to the state, local government, or other recipient to carry out a public purpose of support or stimulation authorized by law of the United States and (2) substantial involvement is expected between the executive agency and the state, local government, or other recipient in carrying out the activity contemplated in the agreement.
Equity	Equity is the difference between the fair market value of the property and the amount still owed on its mortgage.
Fee Simple	A fee simple is an absolute and unqualified estate providing the owner with all incidence of ownership, including the unconditional power of disposition.
Franchising	Under the franchising of external services, the government grants a concession or privilege to a private sector entity to conduct business in a particular market or geographical area—for example, operating concession stands, hotels, and other services provided in certain national parks. The government may regulate the service level or price, but users of the service pay the provider directly.
Ground Lease	A ground lease is a lease for the use and occupancy of land only, usually for a long period of time. It is also called a land lease.
Lease	A lease is a written agreement between the property owner and a tenant that stipulates the conditions under which the tenant may possess the real estate for a specified period of time and rent.

Operating Lease	An operating lease is a type of lease, normally involving equipment, whereby the contract is written for considerably less than the life of the equipment and the lessor handles all maintenance and servicing. Also called service leases, operating leases are the opposite of capital leases, whereby the lessee acquires essentially all the economic benefits and risks of ownership.
Partnership	A partnership is a legal relationship existing between two or more entities contractually associated as joint principals in a business.
Public-Private Partnership	Under a public-private partnership, sometimes referred to as a public-private venture, a contractual arrangement is formed between public and private sector partners. These arrangements typically involve a government agency contracting with a private partner to renovate, construct, operate, maintain, and/or manage a facility or system in part, or in whole, that provides a public service. Under these arrangements, the agency may retain ownership of the public facility or system, but the private party generally invests its own capital to design and develop the properties. Typically, each partner shares in income resulting from the partnership. Such a venture, although a contractual arrangement, differs from typical service contracting in that the private sector partner usually makes a substantial cash, at-risk, equity investment in the project, and the public sector gains access to new revenue or service delivery capacity without having to pay the private sector partner.
Request for Proposals (RFP)	An RFP is an announcement, often by a government agency, of a willingness to consider proposals for the performance of a specified project or program component. A request for proposals is often issued when proposals for a specific research project are being sought.
Request for Qualifications (RFQ)	An RFQ is a procurement tool routinely used by state and local governments and the private sector to select partners in major systems acquisitions, mainly those involving real estate development transactions. This approach differs from the traditional request for proposals approach in that it places a lot of emphasis on the actual qualifications of the potential contractor—his or her track record—rather than how well the potential contractor responds to detailed project specifications and requirements.
Sublease	A sublease is an arrangement whereby a lessee leases the property to a different end user while the lessor maintains ownership. Under such an agreement the lessee retains all of its obligations under the lease.

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