Property

As you know, there are various efforts within OMB to reform the Property Act. The Office of Management and Budget (OMB), the Department of Veterans Affairs (VA), the Department of Housing and Urban Development (HUD), the Department of Defense (DoD), the General Services Administration (GSA), and the Domestic Policy Council (DPC) have met a few times to discuss these various proposals. The main outstanding issue is trying to balance the concerns of the homeless and the needs of the agencies in being able to retain cash proceeds from sales or leases. There are at least three simultaneous proposals being considered with respect to Property Act reform, which are discussed more fully below -- a VA demonstration project related to sales; a broader GSA proposal which would concern both selling "excess" property and leasing "underutlized" property; and a DoD proposal which relates to leasing which totally bypasses considering the homeless. Both the DoD and VA proposals are in hold at OMB because of recent concerns raised by the Hill and HUD. There has been testimony related to the VA proposal last week, and the VA demonstration language is contained in the Senate, but not the House bill. The DoD authorization bill is scheduled for markup in the Senate this week; however, currently, the bill does not contain DoD's leasing proposal. There is concern that the DoD proposal will end up in the bill even if the Administration does not officially send it to Congress. The Administration should make a decision whether we should hold off on the VA and DoD proposals and try to come up with an Administration-wide proposal or let either the VA and/or DoD proposals move separately while we work on a broader proposal.

The following discusses generally the way the process works now with respect to the McKinney Act and the homeless; the specifics of the pending proposals; and some of the revisions to the current system that have been discussed.

The Current McKinney Act Scheme

Currently, both respect to leasing "underutilized" property and disposing of "excess" property, the homeless have a priority under the McKinney Act to receive the actual property in the surplus cases or to lease it for no cost in the underutilized cases. Both the homeless groups and the agencies would agree, however, that the current process is not as streamlined as it could be. The agencies would like to be able to keep the proceeds of sales of excess property (an authority that don't currently have) and to give a portion of the proceeds to the homeless. The homeless, however, still want the option of receiving the property, not just receiving the cash. There is some feeling that agencies currently do not have any incentive to identify excess or underutilized properties because they get nothing in return. GSA, VA, and OMB feel that there probably are more properties that can be disposed of, and if agencies were able to keep some of the proceeds, the agencies would identify more properties.

We are trying to work on an alternative approach that would both provide incentives to the agencies by allowing them to receive cash but also taking the concerns of the homeless into account.

Current Proposals

Below is a summary of the ongoing proposals:

1. **VA Demonstration Project**. This proposal would allow the VA to sell 30 properties

over 5 years and to keep 90 percent of the proceeds and give 10 percent to the homeless. There have been mixed reactions on the Hill to this proposal (with the Senate VA committee generally supportive and the House Democrats opposed). The homeless groups are generally opposed to this, and HUD has voiced its concerns about the proposal. The main issue is that the homeless groups want the option of receiving property, not just the cash from the sale. The VA would like to proceed with this proposal because they say that they provide actual properties to homeless veterans groups before they even consider putting a property in the McKinney process, and, accordingly, they believe that they have met the needs of the homeless adequately. The VA is also concerned that if they always have to give the homeless the option of actually receiving the property, they will never be able to sell the property because they believe that the type of property they have will always be attractive to the homeless (hospitals, etc.).

2. **VA Enhanced Use Leasing.** This authority bypasses consideration of the McKinney Act. Since 1992, the VA has had this authority to lease without taking into account the requirements of the McKinney Act. Bills to extend this enhanced leasing authority for three years are currently pending in both the House and Senate. We testified in both the House and Senate that we are considering a number of issues with regard to this authority and did not comment specifically on the three-year extension. The homeless groups and HUD were not aware until recently that VA had this authority.

3. **DoD Leasing Authority.** DoD would like to have the ability to lease without regard to considering the McKinney, and they cite VA's Enhanced Use Leasing as one of the main reasons that they should be able to get this authority. However, because DoD probably manages the most property of all the agencies, any proposal has the potential to radically change how many properties become available to the homeless. DoD not only wants to avoid giving the homeless groups the option of leasing the property, but they also do not want to give the homeless groups any portion of the proceeds. The DoD authorization bill is set to come up this week, and there is a concern that this language will unofficially get sent to the Hill.

4. **GSA General Property Act Proposal.** The GSA proposal is moving on a slower track than the above three piecemeal proposals. This proposal would take a universal approach to all of the above issues. OMB, HUD, VA, DoD, GSA, and DPC are trying to work out an approach that takes into account both the agency's concerns and the concerns of the homeless.

Options to Improve the Current McKinney Process

The following options are generally agreed upon by the various agencies and the homeless groups:

1. **Eliminate the requirement for repeated republishing of property listings.** Currently, HUD must publish properties which have been put up by the agencies as either "excess" or "underutilized." If no homeless group takes the property or the agency is not able to dispose of it before the next reporting period, agencies are required to report the

properties again if they are still in their inventory at the beginning of the next reporting period. This system bars agencies from being able to dispose of property because these properties keep cycling through the system and are always up for grabs for homeless groups. This proposal would allow the properties to be reported only once, and if the homeless do not express an interest, the agency will be free to dispose of the properties, either by sale or lease. The homeless groups are generally fine with this proposal, but would like extended outreach so that they will actually receive notice of the available property.

2. **Provide a clearer definition of "unsuitable" in the statute.** Currently, after an agency identifies either an "excess" or "underutilized" property, HUD determines whether the property is "suitable" for homeless use. Many properties have to cycle through this "suitability" determination. This proposal would set clearer definitions of "unsuitable" property in the statute so that they would never have to cycle through the McKinney process (e.g. landlocked properties, properties in secured areas).

3. **Allow agencies to dispose of properties that have been reported at least two or three times already.** This proposal would allow agencies to free up properties that have cycled through the system two or three times already, and would eliminate the backlog. There are currently about 9,000 properties on the list.

The following option has not been agreed upon by the agencies:

1. **Create a process that would allow a one-time opportunity for homeless groups to receive the actual property rather than providing cash to the homeless groups in all cases.** There is some disagreement whether we can come up with a proposal that would allow agencies to offer the homeless the actual property in an expedited time frame (the process currently takes 6 months or so) so that a potential buyer or lessee will have certainty that the property will actually be available for them. DoD and VA say that there are some properties for which potential buyers or lessees express interest, but then back away from the deal if they feel the property will be locked up in the McKinney process for awhile.