



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

Management Alert:
**PBS Lacks Support for Its Decision to Vacate the
Leased Federal Courthouse in Pensacola, Florida**
Audit Memorandum Number A150132

September 14, 2015

Summary Results

We have identified an issue that warrants immediate attention. In April 2015, the PBS Commissioner decided to relocate tenant agencies from the leased federal courthouse at 1 North Palafox Street in Pensacola, Florida, based on a finding of “widespread” mold throughout the courthouse and complaints from occupants about related health concerns. However, we have been unable to find evidence supporting the finding of widespread mold and the decision that all the tenants needed to be relocated pending remediation. To date, PBS has incurred over \$6 million to vacate the courthouse and relocate tenant agencies into temporary space. It may also incur additional costs to lease temporary courtroom and storage space.

The purpose of this alert is to bring this matter to management’s attention before more significant costs are incurred. PBS has plans to acquire additional lease space and has indicated that it intends to renovate or rebuild the courthouse. Such actions should not be taken without properly supported justifications.

Background

The leased federal courthouse at 1 North Palafox Street in Pensacola, Florida, was built in 1997 for approximately \$10 million by a developer as a lease construction project. For this project, the developer/lessor constructed and leased the building as a courthouse to GSA based on the agency’s requirements. Per the terms of the lease, PBS is responsible for all maintenance and repairs for the courthouse, including mold remediation. The term of the lease is for 20 years expiring on July 31, 2017, with two 5-year lease options. However, according to GSA, it may be able to take ownership of the site and the improvements at the end of the initial lease term. The tenants include the Chief Judge and staff of the U.S. District Court for the Northern District of Florida, the U.S. Marshals Service, the U.S. Attorney’s office, and staff for a U.S. Senator.

Since occupancy in 1997, the building has had various water intrusion issues. Between 2003 and 2008, PBS spent \$1.4 million to address them. In May 2014, a Major Disaster Declaration was issued for Pensacola due to flooding from severe storms and heavy rainfall. The flooding also affected the courthouse and led to water in the building. As a result, in September 2014 PBS contracted with an architecture firm to determine the causes and effects of the water intrusion. The architecture firm subsequently consulted with water intrusion design and indoor air quality (IAQ) specialists for the project. Together, they reviewed the on-site conditions and the history of the building issues and performed destructive testing,¹ infra-red thermography examinations, moisture

¹ Destructive testing included cutting access openings in brick walls, removing a section of existing gutters, and cutting interstitial walls under full containment. The testing was to determine the extent of the water intrusion issues for both the roof and brick veneer wall assemblies impacting the interior building environment.

metering, water testing, monthly air monitoring, and laboratory analyses of material samples. These tests and analyses were performed throughout the building and identified water intrusion points in the gutters, windows, exterior walls, and roof.

The IAQ surveys found that indoor airborne mold samples were at lower levels than outdoors, with the exception of three rooms.² Destructive testing identified significant surface mold in eight rooms. As a result, by February 2015 PBS had contained nine rooms.³ As a safety precaution, PBS added polyethylene over the doorways and installed air scrubbers with HEPA filters. In total, PBS contained 2,150 of the building's 69,015 usable square feet.

The Administrative Office of the United States Courts contracted with Federal Occupational Health (FOH) to perform additional IAQ surveys in January 2015 on the second through fifth floors of the building.⁴ Concurrently, PBS contracted with FOH to survey the first floor. FOH found that the total indoor airborne mold levels in all sampled areas of the building were lower than those of outdoors. FOH did not perform sampling in six of the nine contained rooms. In June 2014, PBS began taking corrective actions to repair the water intrusion sources and remediate the mold. PBS's plan was to repair and remediate the building for a budget of \$800,000 while it was still occupied. These projects were an interim solution while PBS was developing a prospectus submission for a comprehensive repair of the building. The PBS Commissioner put these projects on hold in late March 2015, several days prior to his decision to vacate the building. All tenant agencies were relocated to temporary space by June 30, 2015.

Results

Finding – PBS relocated tenants from the leased federal courthouse at 1 North Palafox Street in Pensacola, Florida, based on unsupported environmental concerns and to date, may have unnecessarily incurred over \$6 million in associated costs.

In June 2015, after the PBS Commissioner's decision to vacate the Courthouse and relocate the tenants, PBS awarded a 5-year lease for temporary space at 25 West Government Street in Pensacola, Florida. According to the Determination and Findings and Justification for Other Than Full and Open Competition, the lease award was based on exceptional circumstances including "widespread" mold throughout the Pensacola Courthouse, "escalating health concerns" from the occupants, and tenant agencies'

² There currently are no federal standards or codes for airborne concentrations of mold. The standard industry practice is to compare indoor airborne mold levels to outdoor levels to determine acceptable levels.

³ Two of the nine rooms had both airborne and surface mold.

⁴ FOH is a non-appropriated agency within the Program Support Center of the U.S. Health and Human Services. FOH works with federal agencies to design and deliver comprehensive health solutions exclusively to federal employees.

demand to be immediately moved and placed into temporary space.⁵ These “exceptional circumstances” are not supported and PBS may have unnecessarily relocated tenants at a significant cost.

We found no support for the assertion that there is widespread mold throughout the building. As a result of visual inspection, destructive testing, and air sampling, PBS contained nine rooms due to mold issues that make up approximately 3 percent of the building (2,150 of the building’s 69,015 usable square feet). Further, the results of ten environmental surveys indicate that the air quality within the rest of the courthouse is acceptable. PBS’s Safety and Environmental Branch agreed with the survey results and concluded that the building is healthy. When we inquired about the basis for the “widespread mold” finding, the PBS Commissioner referred us to a 2012 National Institute for Occupational Safety and Health (NIOSH) alert that questions the overall reliability of air sampling for mold and encourages other mold detection methods.⁶ However, using this as the basis for vacating the building does not take into account that destructive testing was performed.

Further, we saw little evidence supporting the finding that the tenants needed to be vacated from the courthouse for health reasons. In early 2015, GSA received multiple letters from tenant agencies referring to ill health caused by the building, including a letter from the Chief Judge of the Northern District of Florida stating that over 50 percent of the occupants have reported symptoms consistent with mold and bacteria exposure. However, PBS regional personnel and building management had received only a few allergy-related complaints in the last four years. In support of his decision, the PBS Commissioner provided the audit team with a spreadsheet that purported to list symptoms suffered by building occupants. The symptoms included allergies, respiratory conditions, headaches, dizziness, and skin rashes. However, the spreadsheet did not identify the source of the information, the date symptoms were suffered, or any medical confirmation that any symptoms were related to the building’s environment.

The decision to vacate the building also appears to have been made without giving sufficient consideration to the region’s plan to repair and remediate. The decision was based principally on the NIOSH alert, which suggests that management should strongly

⁵ The Determination and Findings was signed by the then-acting GSA Administrator to authorize a multi-year lease. 41 U.S.C. 3304(c)(1)(B) limits a contract awarded under “unusual and compelling urgency” to 1 year unless the head of the agency determines that exceptional circumstances apply. The Justification for Other Than Full and Open Competition authorized PBS to negotiate and award, without full and open competition, a temporary lease for the immediate relocation of building occupants for a term of 5 years.

⁶ *Preventing Occupational Respiratory Disease From Exposures Caused by Dampness in Office Buildings, Schools, and Other Nonindustrial Buildings*, published by the National Institute of Occupational Safety and Health, Centers For Disease Control and Prevention, Department of Health and Human Services. This alert report treated the subject of dampness in buildings generally and did not reflect any study at the 1 North Palafox Street courthouse.

consider relocating occupants who might be exposed to dampness-related contaminants during remediation. However, the alert also states that careful planning can prevent exposures to building occupants during remediation efforts. Further, neither FOH nor the IAQ specialists recommended relocation of building occupants during remediation. Numerous regional PBS officials indicated that the mold could be safely remediated while the building was occupied. In fact, PBS recently completed a similar project in a Fort Lauderdale, Florida, courthouse that was occupied during remediation and repair. Regional officials estimated that an interim solution for the Pensacola courthouse could have cost \$800,000. Various PBS regional personnel were opposed to the decision to relocate the tenants. However, they told us that fear of repercussion for expressing their disagreement prevented them from voicing their concerns to PBS Central Office.

Lastly, the decision to relocate the tenants into newly leased space indicates that the intent is not to remediate and repair the courthouse, but instead to renovate or rebuild. Any decision to renovate or rebuild is complicated by the fact that the project is not authorized or funded. In addition, since the building is leased, a renovation could lead to more difficulties for PBS in trying to assume ownership when the current lease term expires in 2017 as the lessor may be less willing to transfer ownership of a newly-renovated building.

As a result of vacating the building, PBS has incurred significant relocation and temporary lease costs. To date, the agency has incurred over \$6 million in commitments and obligations, as depicted in *Table 1* below. These include the rental cost of the temporary leased space at 25 West Government Street for the administrative functions of the Court and U.S. Marshals, new security systems and modifications for their temporary space, and renovations of the first floor at the nearby Winston E. Arnow U.S. Courthouse to hold criminal proceedings. PBS spent almost \$1.4 million for renovations, furniture, and security upgrades at the Winston E. Arnow U.S. Courthouse and has over \$1.2 million planned for renovations, furniture, and security upgrades at 25 West Government Street. Other expenditures include costs to clean all furniture and materials in 1 North Palafox Street, to perform ongoing environmental monitoring at 1 North Palafox Street, for travel for the various project team members, and to move tenant agencies into their temporary swing spaces. These costs are in addition to the \$4.7 million in rent GSA is obligated to pay for the now-vacant courthouse through July 31, 2017.

Table 1: PBS Commitments and Obligations

New Commitments and Obligations (Note 1)				
	1 North Palafox (Note 2)	Winston E. Arnow	25 West Government (Note 3)	Total
Lease payments	\$0	\$0	\$2,926,000	\$2,926,000
Swing space renovation	0	724,000	0	724,000
New furniture and IT	0	126,000	18,000	144,000
Security	0	547,000	632,000	1,179,000
Environmental monitoring	372,000	0	0	372,000
Furniture cleaning	644,000	0	0	644,000
<i>Subtotal</i>	<i>\$1,016,000</i>	<i>\$1,397,000</i>	<i>\$3,576,000</i>	<i>\$5,989,000</i>
Moving				192,000
Project-related travel (since May 2015)				64,000
Total				\$6,245,000

Notes:

- (1) Commitments and obligations as of August 24, 2015. Figures are rounded.
- (2) Does not include remaining lease payments of \$4.7 million (through July 31, 2017) for the vacated 1 North Palafox Street building.
- (3) Lease term June 12, 2015, to June 29, 2020. The \$2,926,000 lease payments include \$604,000 for new carpet, new fencing and additional security items.

Furthermore, additional costs related to the relocation are expected. PBS posted a solicitation in June 2015 and has an offer from a potential lessor for a second temporary lease for one criminal courtroom and chambers, and space for the U.S. Marshals Service. This space could involve significant rental and build-out costs. PBS also is starting a procurement to store furniture and other items from the 1 North Palafox Street building that have been professionally cleaned. Total costs to relocate tenants, acquire and renovate leased space, renovate owned swing space, clean and monitor existing space, and install security upgrades could add significant expense. The PBS Commissioner stated that a cost analysis in support of the decision to relocate the occupants was not performed before the relocation decision. According to a PBS official, it was not until after the decision that the agency realized that the temporary relocation cost could approach \$20 million.

Conclusion

In sum, we found little support for the decision to relocate all of the tenants from the 1 North Palafox Street courthouse based on a finding of “widespread” mold in the building. As a result of visual inspection, destructive testing, and air sampling, PBS contained nine rooms due to mold issues that make up approximately 3 percent of the building. Further, the results of ten environmental surveys indicate that the air quality

within the rest of the courthouse is acceptable. Additionally, PBS obtained no medical evidence that the occupants' health concerns are directly attributable to building conditions. The decision to relocate tenants to temporary space has resulted in over \$6 million in associated costs to date, with substantial additional costs anticipated. Further, PBS's decision to vacate a building due to mold that is confined to approximately 3 percent of the usable square feet may set an unsustainable precedent on how to address future remediation efforts.

Audit fieldwork into this issue is continuing and a final report with recommendations is anticipated. If there are any questions regarding this alert, please contact members of the audit team at the following:

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