

Summary and Recommendations: Managing Government-owned Real Property

In July 2016, Bass Pro Shops opened a store in East Ridge, Tennessee, anchoring a 50-acre development. A portion of the development was on excess right-of-way (ROW) property that the Tennessee Department of Transportation (TDOT) had owned for years after completing a welcome center along Interstate 75. The City of East Ridge had previously bought some of the excess ROW for a fire station and worked with the developer and TDOT over several years to relocate the fire station and acquire additional property for the Bass Pro development. Representative Carter and Senator Watson, who introduced the legislation that ultimately became Public Chapter 693, Acts of 2018 were familiar with the Bass Pro development in East Ridge and wanted to know how much unused, tax-exempt land is owned by the state and local governments, and how could more surplus property be used for development that generates tax revenue. The bill as enacted asked the Commission to determine how much tax-exempt land is owned by the state and local governments and to research the highest and best use for government-owned properties (see appendix A).

In an attempt to determine the amount of government-owned property in Tennessee, staff collected data from the Tennessee Comptroller of the Treasury, both through its Division of Property Assessments and its Office of Local Government, as well as from several individual county governments. Because these data were originally collected by the Comptroller's office for property assessment purposes, they were not intended to serve as a property management inventory and do not always include detailed information about a property's use or whether it has been—or could potentially be—declared surplus. The total land area in Tennessee is about 26.4 million acres, of which more than 2.7 million acres (10.4%) is owned by either the federal government, the state, or local governments (see table 1). In most counties, less than 7% of the total county land area is government-owned, but there are a handful where government-owned land makes up a third or more of the county (see appendix B).

Table 1. Government Property in Tennessee

Federal acres	State acres	County acres	City acres	Total Government acres	Total Land acres
1,300,316	1,174,028	163,386	114,570	2,752,300	26,390,386
4.9%	4.4%	0.6%	0.4%	10.4%	

Sources: U.S. Census Bureau Geography Division, Tennessee Comptroller of the Treasury Office of Local Government, State of Tennessee Real Estate Asset Management Division of the Department of General Services, and several individual county governments. State-owned acreage includes an estimate of ROW land from the Tennessee Department of Transportation. Data for Shelby County, shared with permission by the OLG, was unable to be processed at the time of this draft, and Williamson County did not respond to requests for permission to use their data before this draft was published.

Improving the Management of State-owned Real Property

Over the past several years, the federal government and some states have recognized a need to evaluate and manage government property holdings more effectively. In 2011, Tennessee Governor Bill Haslam signed Executive Order 7, transferring the management and operation of the Division of Real Property Administration from the Department of Finance and Administration to the Department of General Services. The merger of the Division of Real Property Administration with the Department of General Services' Property Services Management Division resulted in the creation of the State of Tennessee Real Estate Management Division (STREAM). An Office of Strategic Planning was created within the division in 2015. Though it appears that the state has made progress since then towards more strategic real estate management, better collection and reporting of state property information by state agencies is needed if the state is to improve its ability to evaluate potential surplus property and determine where property might be put to more productive uses.

The STREAM division is responsible for managing an inventory of the state's real estate assets and disposing of unneeded surplus as determined by individual agency needs. Its mission is to "create and maintain a real estate portfolio that effectively provides for the program requirements of state agencies while minimizing the total cost of the portfolio." In accordance with its guiding principle that program requirements and government initiatives should drive real estate strategies, STREAM has worked to partner with 23 state agencies to develop strategic real estate plans but has completed plans with just 12. Current law requires state agencies to report their real property assets to STREAM, but agencies are not required to report property use information or develop strategic real estate plans with STREAM. STREAM staff says the state has made significant progress toward more effective property management; however,

additional information from other state agencies on their future real estate needs and current property uses would help STREAM ensure that state-owned properties are used most efficiently and determine which properties may be surplus and be considered for a better use—whether public or private.

At the federal level, agencies are already required to submit real estate plans annually to the US General Services Administration (GSA) that include

- projections of their future real estate needs,
- inventories of their existing real property, and
- what they are currently using those existing properties for.

Several states, including California, Connecticut, Georgia, North Carolina, South Carolina, and Texas, have implemented similar planning and reporting requirements for their own state agencies in coordination with their equivalent of STREAM. But many of these states report that even with the legislative requirement to submit real estate plans and property usage, some of their agencies do not fully comply because there is no consequence for non-participation. For this reason, Georgia is moving to require agencies to submit their plans as a prerequisite for departmental budget approval. **To continue encouraging improvements in the management of state property in Tennessee, the state could require all state agencies to submit annual real property plans and property use information to STREAM, as is done in several other states and at the federal level, and it could consider making real estate plans and property use reports part of each agency’s budget process, as Georgia is currently planning to do, as a prerequisite for departmental budget approval.**

In addition to real estate plans and use reports, the GSA and some states have established real property advisory groups that bring land-holding agencies together to collaborate on the highest and best use for their real estate assets. The federal government established an interagency Real Property Council in 2004 to “promote the efficient and economical use of America’s real property assets,” and federal law requires agencies to report annual assessments and property use information to the GSA.

Excess transportation right of way (ROW)—like that which was developed in East Ridge—is not included in STREAM’s inventory and has not historically been quantified or actively managed by TDOT, which estimates that at the end of state fiscal year 2016-17 it owned approximately 217,962 acres of ROW, valued at approximately \$1.8 billion—most of which is in use or needed for highway purposes. Although TDOT is working to identify any excess ROW through the implementation of its Integrated ROW Information System (IRIS), the department says it lacks the dedicated staff resources it

would take to prioritize the completion of a comprehensive inventory. **To assist STREAM in developing a complete record of all state-owned real property in Tennessee, the state could require TDOT to report its ROW property to STREAM; this would require TDOT to first complete an inventory of all its ROW property and determine which properties are needed and which are excess.**

Tennessee is similar to most other states in that its state department of transportation is the agency responsible for administering its disposal process for excess state ROW. Currently TDOT is not actively marketing excess property; instead it responds to requests when contacted, as is done in many other states. In contrast, the departments of transportation in at least 26 states actively market surplus ROW, and in Connecticut, surplus ROW is marketed by the state's equivalent of STREAM. **To facilitate identification and disposal of unneeded ROW property in Tennessee, TDOT could both actively market its surplus ROW property for sale—as is done in many other states—and work with STREAM to integrate surplus TDOT properties with the overall surplus property strategy for the state.**

To further ensure the most efficient management of the state's real property assets, stakeholders from STREAM, TDOT, and other state agencies have stressed the importance of expanding Geographic Information Systems (GIS) technology. The US General Services Administration relies on GIS to ensure the highest and best use of real property, and other states, including Georgia and Texas, report that GIS provides useful information to make decisions related to the highest and best use for real estate assets, describing it as "a hugely important tool for property management," and "invaluable . . . a critical tool, relied upon by internal agency staff, as well as external companies and individuals." Benefits could be gained across many different government functions in Tennessee, from property assessment, to facility management, public safety, risk management, and economic development. **To help achieve these benefits, the state could require that GIS tools be integrated with the STREAM inventory of state-owned property to provide for more robust analysis and help promote the highest and best use of the state's real estate assets.**

Improving Intergovernmental Communication and Helping Local Governments Dispose of Surplus Property

In addition to improving property management at the state level, TACIR staff sent an online survey to all counties and cities in Tennessee, asking what types and how much property local governments own and how they approach disposal of surplus. Through the survey responses, follow-up telephone interviews, and in testimony before the Commission, local governments reported that most of their surplus property was

acquired as tax-delinquent property, which can be difficult to sell because of the time and money needed to establish clear title for potential buyers and developers.

Land banks are one tool that can make the process of selling tax-delinquent property easier for local governments. Land banks are a special type of quasi-governmental entity created to help communities cope with vacant, abandoned and tax-delinquent properties. They have statutory authority to establish “quiet title” (i.e., clear title) for properties that they hold and land banks have been used in some states for more than twenty years. A pilot Tennessee Local Land Bank Program was created in 2012, limited only to Oak Ridge. The General Assembly has since passed legislation that extended the authority to establish a land bank to a few other cities and counties, but the ability to establish land banks could be expanded. **The state could assist local governments with the management of real property—as suggested in the Commission’s 2012 report, *Dealing with Blight: Strategies for Tennessee’s Communities*—by providing legal authority allowing any city or county to establish a land bank.**

Aside from the challenges local governments have with returning unwanted property acquired after-tax sales, interviews also revealed that some local governments may have a limited audience to whom they can market all types of surplus property. State laws require governments to advertise available property in local newspapers, whether for sale by sealed bid or public auction, and allow disposal by online auction as well. But not all local governments have websites where they could advertise the surplus property. **The state could help local governments reach a wider audience of potential buyers by allowing local governments to post links to their surplus properties—including hard to sell tax-delinquent properties—on the state’s website where the state advertises its surplus property.**

Further, surveys of local government staff indicated that a few would like for their government to acquire state-owned surplus property, but feel they may not be fully informed about what potential surplus property the state has in their area. STREAM staff said they routinely go beyond the legal requirement to notify legislators about the surplus property by also notifying local government officials. **But, the state could ensure a more comprehensive approach to property management—as is done in states like California, Connecticut, Georgia, Virginia, and Washington—by always notifying local government officials of state-owned surplus property that is available in their jurisdiction before offering the property to the public for sale.**

Finally, many local government staff interviewed—small towns, larger cities, and diverse counties—reported that they do not have any formal planning or management process for real property. At the federal level, the GSA offers training for federal employees on topics including real estate laws, asset management strategies, reporting

requirements, disposal process, and regulations related to environmental and historic preservation compliance to ensure these officials have the knowledge necessary to effectively manage federal real property assets. In Tennessee, the University of Tennessee's County Technical Assistance Service (CTAS) and Municipal Technical Advisory Service (MTAS) have conducted research on government best practices and provided training programs for local government officials in many subject areas for decades. Through these two organizations, **the state could offer training on best practices for real property management for county and city officials to promote the highest and best use of the local government-owned surplus property.**

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Background

In July 2016, the city of East Ridge, Tennessee celebrated the grand opening of a Bass Pro Shops store, anchoring a 50-acre retail development that promised to bring jobs and tax revenue to the community.¹ Most of the development sits on property previously owned by the state, under the jurisdiction of the Tennessee Department of Transportation (TDOT). TDOT had owned the property for many years after building a welcome center along Interstate 75, but had no plans to use the excess land that remained once the project was completed. In 1999, the City of East Ridge acquired several acres of this unused excess property for a fire station.² After it was approached by developers, the city relocated the site for the fire station and worked with TDOT to acquire the additional property needed for the Bass Pro Shop development. This development took advantage of previously unused government-owned, non-tax-producing property that developers and local officials saw could be put to more productive use. The development now generates revenue from local sales taxes and property taxes for the City of East Ridge, along with more than \$4 million the state has returned to the city from a portion of the state sales tax as a result of the 2011 Border Region Retail Tourism Development District Act, passed by the General Assembly to incentivize retail competition near the state's borders.³⁴ It is worth noting that the development followed the standard process for requesting land from TDOT and did not require exceptions to any existing rules related to the sale of government-owned properties.

Representative Mike Carter and Senator Bo Watson, who introduced the legislation that ultimately became Public Chapter 693, Acts of 2018 and which requested this study, were familiar with the Bass Pro development in East Ridge and wanted to know if there

¹ Pham, Tim, "Huge crowd shows up for Bass Pro Shops grand opening," *WRCBtv.com*, July 13, 2016, <http://www.wrcbtv.com/story/32316812/update-huge-crowd-shows-up-for-bass-pro-shops-grand-opening>.

² "East Ridge Council Approves Deal With Developer For Land By Camp Jordan," *Chattanooga.com*, October 14, 2010, <http://www.chattanooga.com/2010/10/14/186324/East-Ridge-Council-Approves-Deal-With.aspx>; also "UPDATE: Bass Pro Shops parcel appraised at \$603,000," *WRCBtv.com*, May 25, 2015, <http://www.wrcbtv.com/story/29067888/checking-in-on-bass-pro-shops-construction>.

³ Green, Alex, "Border tax breaks reel in Bass Pro in Bristol, East Ridge," *Chattanooga Times Free Press*, February 7, 2016, <http://www.timesfreepress.com/news/business/aroundregion/story/2016/feb/07/border-tax-breaks-reel-bass-pro-bristol-east/348549/>; also Peterson, Zack, "East Ridge residents question relationships in Border Region development," June 3, 2018, <https://www.timesfreepress.com/news/local/story/2018/jun/03/east-ridge-residents-questirelationships-bord/472307/>

⁴ Public Chapter 420, Acts of 2011. <https://publications.tnsosfiles.com/acts/107/pub/pc0420.pdf>

were other such opportunities to better use publicly held land not serving a current use nor held for a future purpose. Public Chapter 693, Acts of 2018 specifically asked the Commission to determine how much tax-exempt land is owned by the state and local governments and to research the highest and best use for government-owned properties (see appendix A).

Determining the Amount and Types of Government-owned Property

In an attempt to determine the amount of government-owned property in Tennessee, staff collected data from the Tennessee Comptroller of the Treasury, both through its Division of Property Assessments and its Office of Local Government, as well as from several individual county governments. The Comptroller collects property data from 84 of Tennessee's 95 counties and maintains an integrated database used by several state government entities and by county Assessors of Property to assess the value of real estate for property tax purposes.⁵ Because these data were originally collected by the Comptroller's office for property assessment purposes, they were not intended to serve as a property management inventory and do not always include detailed information about a property's use or whether it has been—or could potentially be—declared surplus. The total land area in Tennessee is about 26.4 million acres, of which more than 2.7 million acres (10.4%) is owned by either the federal government, the state, or local governments (see table 1, reposted). In most counties, less than 7% of the total county land area is government-owned, but there are a handful where government-owned land makes up a third or more of the county (see appendix B).

⁵ Office of the Comptroller of the Treasury, IMPACT Project.

<http://www.comptroller.tn.gov/impact/Index.asp> Counties not included are: Bradley, Chester, Davidson, Hamilton, Hickman, Knox, Montgomery, Rutherford, Shelby, Sumner and Williamson.

Table 1. Government-owned Property in Tennessee, 2018.

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While true that property owned by government entities, including public schools, is exempt from property taxes,⁶ the state does make some payments in lieu of taxes (PILOTs) to local governments to compensate them for the loss in revenue when the Tennessee Wildlife Resources Agency (TWRA) or Tennessee Department of Environment and Conservation (TDEC) acquires land for wetland preservation, historic sites, or other natural areas.⁷ In fiscal year 2017, TWRA paid \$443,202 to 60 local governments from the wetland acquisition fund, and TDEC paid \$166,526 to 64 local governments from the state lands acquisition fund.⁸

Other types of property that could be considered quasi-governmental, perhaps mistaken by the general public as government-owned, do, in fact, generate tax revenue. The Comptroller’s Office of State Assessed Properties (OSAP) is responsible for assessing, appraising, and auditing real and personal property of public utility and transportation companies that have property in the State of Tennessee. OSAP assesses 18 types of public utility and transportation companies with a presence in the State of Tennessee, such as airlines, motor carrier, railroads, wireless management, gas, water, and sewer companies.⁹

⁶ Tennessee Code Annotated, Section 67-5-203: “All property of the United States, the state of Tennessee, any county, or any incorporated town, city or taxing district in the state that is used exclusively for public, county or municipal purposes shall be exempt from taxation...”

⁷ The U.A. Moore Wetlands Acquisition Act of 1986, Tennessee Code Annotated Title 11, Chapter 14, Part 4 and Section 67-4-109.

⁸ Emails from Roger Jackson, TWRA (9/26/2018) and Michael Adams, TDEC (10/4/2018).

⁹ Title 67, Chapter 5, Part 13, Tennessee Code Annotated. See also <http://www.comptroller.tn.gov/sap/Index.asp>

Governments have a responsibility to be good stewards of public resources.

As good stewards of government-controlled resources, including real estate assets, it is important to make maximum use of these resources for the public good. If the government-owned property is not needed for public use, then it could potentially be used for an alternate public purpose or returned to the private sector to generate local tax revenue for public services.

A 2013 Harvard University study on government property management, found that because of budget constraints on governments that real property assets must be utilized to the maximum extent to fulfill their responsibilities. The study recommended that to the greatest extent possible, excess land and buildings should be returned to the private sector to generate economic, social and other benefits.¹⁰

The goal of managing government-owned property is to create the greatest value for the citizens of Tennessee. This may mean selling the unneeded property for a private development that will result in tax revenue or it could be using government-owned property for green space or another public purpose.

Highest and best use is a real estate appraisal concept that states the value of a property is directly related to the possible uses for that property, where the best use is the one that results in the highest property value. Determining the highest and best use for a property is derived by evaluating what uses are legally permissible for the property, what uses are possible based on site characteristics, what uses are financially feasible, and finally what use produces the highest value.¹¹

Real property management challenges are not unique to Tennessee.

The potential for having underutilized government-owned property is not unique to Tennessee. Other states, like California and New York, see the importance of the maximizing the utilization of their real property assets. In 2011, the California Director of the Department of General Services stated, "Selling surplus state properties will help pay down Economic Recovery Bonds, possibly return these properties to local tax rolls, and relieve the state of future liabilities and the expense of maintaining the property."¹²

¹⁰ Garmendia, C. & Kapur, A. "Enhancing Government Property Management with Data and Technology." JFK School of Government, Harvard University. 2013.

¹¹ 2009 How do you apply the highest and best use principle? Institute of Municipal Assessors 53rd Annual Conference.

¹² California Department of General Services. "Department of General Services to Reduce State Government's Property Footprint." 2011.

The Office of Right of Way at the New York State Department of Transportation explains that, "Some benefits [from] disposing [of] excess properties include getting the property into the hands of people that can use it, to eliminate liabilities, eliminate maintenance responsibilities, recoup some of the original investment and put the property back on the local tax rolls."¹³

During Congressional testimony regarding the Federal Building and Property Disposal Act of 2011, Representative Jason Chaffetz (UT) said, "Our government is \$15 trillion in debt. We can no longer foot the bill for vacant buildings and non-federal uses, and we should limit giveaways to non-federal entities. This bill is bipartisan, generates revenue, and reduces operation and maintenance budgets. The legislation also addresses the concerns of third parties, such as the homeless."¹⁴

Complete and accurate data is vital for effective real estate management.

Interviews with officials from other states and from the federal government revealed the importance of having a complete inventory of all real property owned by the state, knowing how these real property assets are being used, and what future real estate needs are anticipated based on programmatic requirements for each state agency.

Several states, including California, Connecticut, Georgia, North Carolina, South Carolina, and Texas, have implemented similar planning and reporting requirements for their own state agencies in coordination with their equivalent of STREAM.

California requires all state agencies to submit an annual real property report, including uses, to the Department of General Services (DGS) per California state law (11011.15). The DGS Real Estate Services Division, Asset Management Branch (AMB) is the single point of contact for state-owned property management. AMB is also responsible for maximizing the performance of state real estate assets by identifying and implementing value enhancement solutions for unused and underutilized state-owned properties. Jim Martone, California's Chief of Asset Management said, "It is essential to have the legal requirement for all agencies to submit annual reports and utilization information to DGS. This requirement has been in place since the 1980s, and we still do not have 100% participation because there is no penalty for nonparticipation. Even with the legal requirement, we have about 90% of the agencies information. To have full compliance, we need stronger enforcement. Having utilization information is critical for us to make effective decisions about highest and best use of our real property assets."

¹³ <https://www.dot.ny.gov/divisions/engineering/real-estate/propertyforsale>

¹⁴ Hadlock, John. "Federal Building and Property Act Passes Oversight and Government Reform Committee with Bipartisan Support." *Congressional Documents and Publications*, November 17, 2011.

Connecticut (Sec 4-67g) requires all state agencies to provide inventory information on the real property to the Office of Policy and Management, which has the authority to approve the use of the property. Paul F. Hinsch, Connecticut's Office of Policy and Management Bureau of Assets Management stated, "C.G.S. 4-67g does provide us with the tools to obtain the necessary information to ensure that our property is used efficiently properly and in the best interests of the state."

Georgia's Director of State Property Commission said, "Georgia law (50-16-121) requires all state entities to maintain a real property inventory, and 50-16-124 requires agencies to send the information to the State Properties Commission. But, even with the statutory requirements, several agencies are slow and fairly unresponsive. A voluntary system would not work well here. So Georgia is now pursuing a policy to combine the requirement real property information as part of the agencies' budget requests to ensure it gets done." Texas General Land Office uses property utilization and real estate planning reports to make recommendations for best use or disposal as surplus also.

Louisiana, 39:332.1 established the State Buildings and Lands Highest and Best Use Advisory Group in 2010. The Advisory Group advises the commissioner of administration on all matters relating to state-owned property and development opportunities for the state to enter into public-private development partnerships with private, nonprofit or public partners, chosen by competitive bid, in order to develop and manage state-owned real estate in a manner that achieves the highest and best use of the property. Jonathan Robillard, Public Lands Administrator (11/8/18) - "The Advisory Group has never had an official meeting with all members. Some members do meet to discuss specific real estate transactions. Property decisions are made collaboratively between State Land Office (SLO) staff, our legal counsel, and the Commissioner of Administration. Further, many property related issues (i.e. land sales and approvals to accept donations) must be heard by the House and Senate Committees on Natural Resources."

Ohio - Section 125.901 Ohio geographically referenced information program council.

There is hereby established the Ohio geographically referenced information program council within the department of administrative services to coordinate the property owned by the state. The department of administrative services shall provide administrative support for the council. [Has fifteen statutory members.]

Texas (Section 437.151) established the Real Property Advisory Council. This requirement only applies to the Texas National Guard.

Washington (43.63A.510) requires the Department of Community, Trade, and Economic Development to work with the designated agencies to identify, catalog, and recommend best use of under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The designated agencies must provide an inventory of real property that is owned or administered by each agency and is vacant or available for lease or sale.

The US Government Accountability Office (GAO) has determined that effective real property management is a "high-risk" priority. The federal government has established a real property management program with a focus on

- 1) using excess property effectively and disposing of surplus real property,
- 2) reducing the use of leased space,
- 3) collecting reliable real property data to support decision making, and
- 4) protecting the security federal facilities.¹⁵

In a September 18, 2018, interview US General Services Administration (GSA) program manager, Chris Coneeney, stated, "Federal laws require the GSA to perform an annual assessment of all federal real property assets and report how these assets are utilized. Each executive branch agency determines the best use for their property, but coordination between agencies helps us utilize our assets more effectively."

At the federal level, agencies are already required to submit real estate plans annually to the US General Services Administration (GSA) that include

- 1) projections of their future real estate needs,
- 2) inventories of their existing real property, and
- 3) what they are currently using those existing properties for.

In addition to real estate plans and use reports, the GSA has established real property advisory groups that bring land-holding agencies together to collaborate on the highest and best use for their real estate assets. The federal government established an interagency Real Property Council in 2004 to "promote the efficient and economical use of America's real property assets," and federal law requires agencies to report annual assessments and property use information to the GSA.

¹⁵ US Government Accountability Office, High-Risk List, https://www.gao.gov/highrisk/managing_federal_property/why_did_study

Executive Order 13327—Federal Real Property Asset Management (2004) established the Federal Real Property Council, an interagency council that includes Senior Real Property Officers from each of Chief Financial Officer Act agencies, the Controller of the Office of Management and Budget (OMB), the Administrator of General Services (GSA), and other officials permitted by OMB’s Deputy Director of Management, to promote efficient and economical use of Federal real property.

Governments have established processes for real property disposal.

The Federal Government Maintains a Comprehensive Inventory of its Real Property Assets and Evaluates Future Needs

Federal laws require regular and more detailed reporting from federal agencies than what Tennessee laws dictate from state agencies, resulting in a more robust inventory of federal assets. In 2004, in response to concerns about homeland security issues, data reliability, and an over-reliance on leasing space,¹⁶ President George W. Bush issued an executive order¹⁷ to promote the efficient and economical use of the Federal Government’s real property assets. The order created the Federal Real Property Council (FRPC), directed executive branch departments and agencies subject to the Chief Financial Officers (CFO) Act of 1990¹⁸ to each designate a Senior Real Property Officer (SRPO) and ordered the creation of a centralized real property database—the Federal Real Property Profile Management System (FRPP MS)—“to be the Federal government’s database of all real property under the custody and control of all executive branch agencies.”¹⁹ Each agency SRPO must submit “descriptive information on the nature, extent, and use of their real property assets” to the FRPP MS on an annual basis.²⁰ The Property Council includes SRPOs, the Controller of the Office of Management and Budget (OMB), the Administrator of General Services (GSA),²¹ and

¹⁶ US Government Accountability Office, High-Risk List, https://www.gao.gov/highrisk/managing_federal_property/why_did_study

¹⁷ 69 FR 5895. Executive Order 13327 of 2004. <https://www.federalregister.gov/executive-order/13327>

¹⁸ 31 U.S. Code, Section 901. Establishment of agency Chief Financial Officers.

¹⁹ <https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-profile-management-system-frpp-ms>

²⁰ <https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-profile-frpp/federal-real-property-public-data-set>

²¹ The GSA was founded in 1949 by the Federal Property and Administration Services Act (Property Act)

any other officials or employees permitted by OMB's Deputy Director for Management, who chairs the Council.²²

In 2016, Congress enacted the Federal Property Management Reform Act of 2016 (FPMRA)²³ and the Federal Assets Sale and Transfer Act of 2016 (FASTA).²⁴ These laws require all executive branch federal agencies, with certain exceptions,²⁵ to submit current data and recommendations on federal civilian real properties owned, leased, or controlled by a federal agency, and to assess and determine how to dispose of excess and underutilized property.

The OMB provides funding and administrative support to the FRPC. The council, with the support of the Real Property Policy Division of GSA's Office of Government-wide Policy, guides LHAs on how to report information about their properties. The LHAs are required to submit Real Property Efficiency Plans²⁶ to the OMB and report how their buildings are being utilized and if any buildings, land, or structures are considered excess, surplus, or meet current agency missions to the GSA, which in turn are published online.²⁷ There are more than 40 data elements to be reported for each item inventoried.²⁸

The 2016 FASTA act requires the OMB and GSA to identify opportunities to reduce its inventory of federal real property. FASTA also created the Public Buildings Reform Board, which is tasked with consolidating the footprint of federal buildings and facilities, maximizing the utilization rate of federal real properties, and reducing the reliance on leased space. Anyone can submit a property for consideration through

²² US General Services Administration, <https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-council-frpc>

²³ Public Law 114-318. <https://www.congress.gov/114/plaws/publ318/PLAW-114publ318.pdf>

²⁴ Public Law 114-287. <https://www.congress.gov/114/plaws/publ287/PLAW-114publ287.pdf>

²⁵ Exclusions include real properties on military installations, Coast Guard installations, properties excluded because of national security, Indian and Native American properties, Tennessee Valley Authority properties, U.S. Postal Service properties, and other Federal properties defined under Public Law 114-287

²⁶ Real Property Efficiency Plan FY19-23, U.S. Dept. of Energy, <https://www.energy.gov/management/downloads/real-property-efficiency-plan>

²⁷ Federal Real Property Public Dataset, <https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-profile-frpp/federal-real-property-public-dataset?bypassAkamaiCache=1511550008>

²⁸ 2018 Guidance for Real Property Inventory Reporting. https://www.gsa.gov/cdnstatic/FY2018_FRPP_DATA_DICTIONARY_v2.pdf

GSA's website²⁹ under FASTA. These properties are evaluated by GSA's FASTA Project Team for consideration as a submission to the Public Buildings Reform Board.

To ensure that personnel have the tools and knowledge needed to effectively manage federal real property, the federal government implemented a training program on best practices for real estate management. The GSA developed a disposal training program for federal agencies to help them understand how to manage their underutilized properties better and dispose of unneeded real property assets. The federal training was a three-day program that covered real estate laws, asset management strategies, reporting requirements, disposal process, and regulations related to environmental and historic preservation compliance. Testimonials from training participants indicated that the training was effective in providing them with the information needed to manage federal properties effectively.³⁰

How Excess Federal Property Becomes Surplus and its Disposal

Like the State of Tennessee and its local governments, the US government has a process for the disposal of government-owned real property (see figure 1). Similarly, there are laws that govern how this process works. The GSA Office of Real Property Utilization and Disposal (RPUD) manages the federal property disposal process,³¹ and the Department of Housing and Urban Development (HUD) gathers information from this data to determine if properties are suitable for serving the homeless as outlined in Title V of the McKinney-Vento Homeless Assistance Act of 1987.³² The RPUD also offers assistance with targeted asset reviews and utilization reviews to CFO agencies. The RPUD often knows ahead of time when a building will be classified as excess or if an agency desires another agency's asset.

Although many LHAs have their own disposal authorities, many still choose RPUD to assist with developing strategies to address real property disposition.³³ However, most of the LHAs are required to report the status of their property to the OMB and the GSA because of FASTA.

²⁹ US General Services Administration, <https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-assets-sale-transfer-act-fasta>

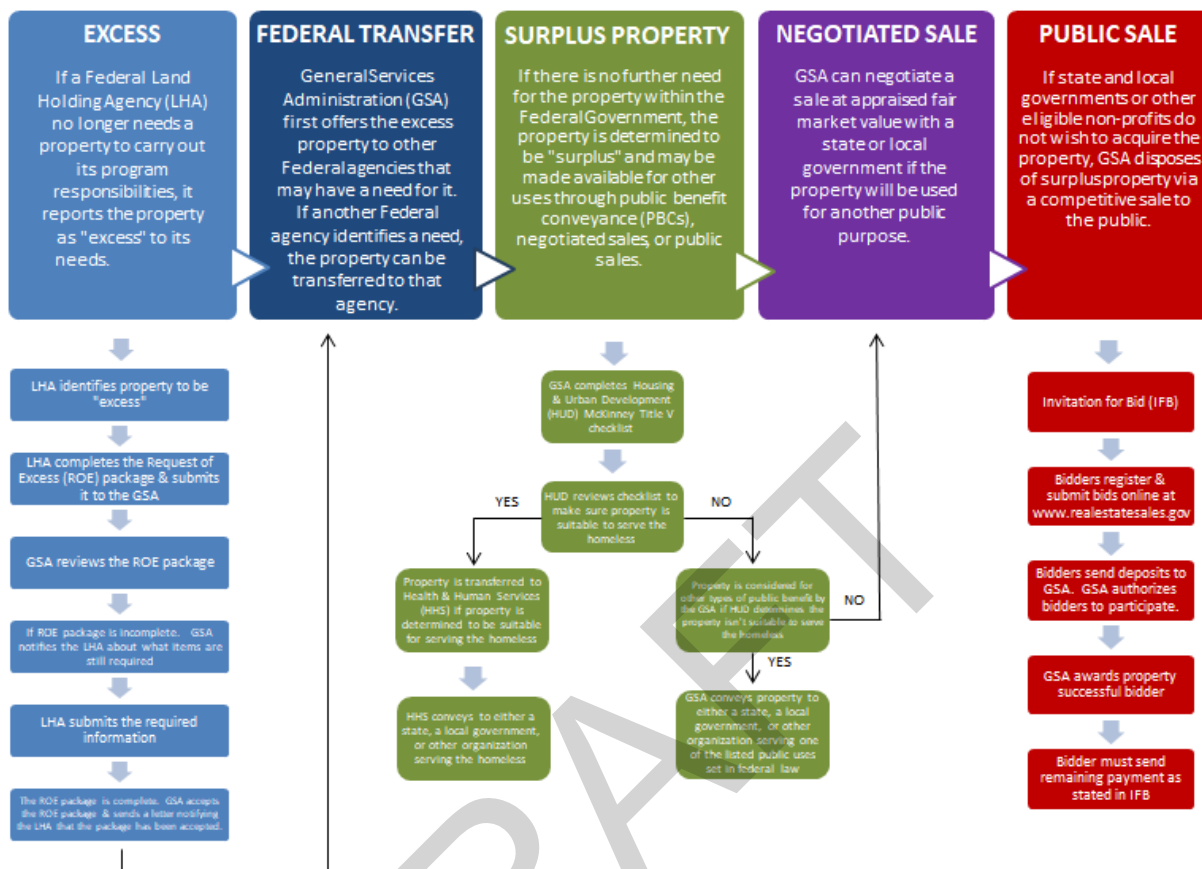
³⁰ FY 2017 Performance Overview. Office of Real Property Utilization & Disposal, US General Services Administration.

³¹ See <https://propertydisposal.gsa.gov/>

³² United States Code, Title 42, Section 11411

³³ [US General Services Administration. Real Property Solutions Brochure.](#)

Figure 1: Federal Real Property Management Process



Once a federal landholding agency (LHA) determines that one of their buildings, structures, or pieces of land no longer carries out their mission, the LHA reports the property to the GSA’s RPUD office that it is now “excess” as defined by US law.³⁴ The RPUD office reviews the Request of Excess (ROE) report for completeness and will return the application to the LHA for more information and time to complete the required remedies. Real property must be clear of contamination and other hazards and have a clean title before the RPUD office clears the real property for the next step in the disposal process.

Once the building, structure, or piece of land has been classified as excess, the RPUD office offers the real property to other federal agencies that may need it. If another federal agency identifies a need, the property is then transferred to that agency.

³⁴ United States Code, Title 40, Section 102(3)

If there is no further need for the property within the Federal government, the real property is determined to be “surplus” as defined by US law. The property is then made available via Public Benefit Conveyances (PBCs) to state and local governments as well as eligible non-profits serving the public. As a PBC, the property can be substantially discounted in price (up to 100% reduction in fair market value) if it is used for a qualified public use.

Homeless services are considered first. Title V of the McKinney-Vento Homeless Assistance Act of 1987 grants non-profit groups, state agencies, and local governments a right of first refusal to land and real property no longer needed by the Federal government. The process starts when the RPUD office completes the HUD McKinney Title V Property Survey – Federal Property Information Checklist to determine if the real property is suitable to serve the homeless.

The building, structure, or piece of land is then transferred to Health & Human Services (HHS) if the property is found to be suitable and, in turn, works with state and local governments as well as other organizations to find a partner to receive the real property through the Homeless Conveyance PBC. HUD publishes suitable properties online on a weekly basis.

Other uses are considered if HUD determines the real property unsuitable to serve the homeless. These uses include negotiated sales, education, public health, parks and recreation, self-help housing, historical monuments, correctional facilities, law enforcement, emergency management response, port facilities, homeless, wildlife conservation, public airports, highways, widening of public roads, and power transmission lines.

Notifying Other Governments and the General Public about Surplus Federal Property

Based on the property's location, the appropriate regional office writes to the Governor of the State or territory, clerk of the county, Mayor of the city or town, and any regional and metropolitan comprehensive planning agencies that may be concerned with the property's ultimate use. Announcements may also be placed in Post Offices and other prominent places like the state capitol building, county building, courthouse, town hall, or city hall.

A public agency or institution has 30 days from the date on the notice to advise the regional office of interest in the property. The response should cite the applicable legislation and indicate how much time is needed to prepare and submit a formal application. Various sponsoring agencies review the formal application for

acceptability. If the application is approved, the property may be conveyed for the approved public use.³⁵

The RPUD can negotiate a sale at appraised fair market value with a state or local government if the property will be used for another public purpose but didn't meet any of the public benefit conveyance requirements in the prior step.

The RPUD disposes of surplus real property via a competitive sale to the public if no state or local governments, as well as eligible non-profits, apply for the real property. An Invitation for Bid (IFB) is created, and bidders register and submit bids online. The RPUD authorizes which bidders can participate and awards the property to the successful bidder.

How Tennessee Manages State-owned Real Property

State leaders have already recognized the importance of taking a proactive approach to real property management. In 2011, Governor Haslam's Executive Order 7 consolidated real property management under the Tennessee Department of General Services (DGS), which then established the State of Tennessee Real Estate Asset Management (STREAM) to manage the state's real estate portfolio.³⁶ In 2015, an Office of Strategic Planning was created to develop an annual strategic real estate plan for the general government portfolio.³⁷ The division's mission is to "create and maintain a real estate portfolio that effectively provides for the program requirements of state agencies while minimizing the total cost of the portfolio."

STREAM's three guiding principles to accomplish that mission are:

- program requirements and government initiatives drive real estate strategies,
- financial metrics are used in decision-making, and
- the size of the state's real estate portfolio will be reduced (wherever practicable).

In 2017, STREAM developed the following strategies to supplement the guiding principles:

³⁵ US [General Services Administration. Real Property Utilization and Disposal.](https://disposal.gsa.gov/WhatWeDo)
<https://disposal.gsa.gov/WhatWeDo>

³⁶ Governor Haslam, with the statutory authority to transfer functions between departments (TCA 4-4-102), issued Executive Order 7—which transferred the Real Property Administration (RPA) from Finance and Administration (F&A) to the Department of General Services (DGS), effective October 1, 2011.

³⁷ <https://www.tn.gov/generalservices/real-estate-/redirect-stream/strategic-real-estate-planning.html>

- to reduce overhead costs by eliminating unneeded buildings and properties,
- to implement real estate industry best practices in the management of the state’s real estate portfolio,
- to protect the state’s real estate investments through appropriate building maintenance, and
- to partner with state agencies to develop strategic real estate plans.³⁸

Currently, state agencies must report all real property to STREAM for the state’s real property inventory.³⁹ This requirement includes TDOT’s property, except for rights-of-way (ROW) because ROW does not have a parcel identification which is the primary key for the DGS-STREAM inventory. State agencies are not required by law to report anything about their property utilization to STREAM, and completing real estate management plans is a voluntary process. Twelve of 23 agencies have developed real estate management plans.

Other states including California, Connecticut, Georgia, North Carolina, and Texas have the legal requirement for all state agencies to complete real estate plans and report how properties are being utilized. Officials from these states say having complete information is vital to effective management of real property assets. Paul F. Hinsch, Connecticut Office of Policy and Management Bureau of Assets Management stated, "The CGS 4-67g requirement for all agencies to work with us on asset management does provide us with the tools to obtain the necessary information to ensure that our property is used efficiently properly and in the best interests of the state."⁴⁰ Shaun Seale, Asset Manager in the Texas General Land Office, reported "Having this requirement for agencies to participate in real estate planning and reporting utilization is very important. If we see that a property is underutilized, then we can take action."⁴¹

But even with the legal requirement for agencies to plan and report, some agencies will not comply unless there is a consequence for non-compliance. For example, California’s Chief of Asset Management, Jim Martone, stated "It is essential to have this requirement. This requirement has been in place since the 1980s, and we still do not have 100% participation because there is no penalty for nonparticipation. We have

³⁸ State of Tennessee Real Estate Asset Management, 2018.

³⁹ Tennessee Code Annotated, Section 12-2-104, states, “it is the duty of each state official who acquires real property to transmit [deed, lease, etc.] to the commissioner of General Services.”

⁴⁰ Hinsch, Paul. (Connecticut Office of Policy and Management Bureau of Assets Management). Interview with TACIR staff. 11/6/2018.

⁴¹ Seale, Shaun. (Texas General Land Office, Asset Manager). Interview with TACIR staff. 11/13/2018.

about 90% of the agencies information, but we need stronger enforcement of the requirement to get 100%. Having utilization information is critical for us to make effective decisions about highest and best use of our real property assets."⁴²

Frank Smith, Georgia Director of State Property Commission told TACIR staff "Georgia law (50-16-121) requires all state entities to maintain a real property inventory, and 50-16-124 requires agencies to send the information to the State Properties Commission. But, even with the statutory requirements, several agencies are slow and fairly unresponsive. A voluntary system would not work well here. We are now going to combine this reporting requirement as part of the agencies' budget requests to ensure it gets done."⁴³

DGS-STREAM actively manages properties that are included in the Facilities Revolving Fund (FRF)⁴⁴ but works in partnership with other agencies to manage the state's other real property with optional real estate planning support from STREAM.⁴⁵

Higher Education institutions prepare their real estate plans in coordination with the Tennessee Higher Education Commission (THEC). But, all other property transactions go through the standard state property disposition process described in the next section.

The State Building Commission and Department of General Services Dispose of Surplus State Property

STREAM staff says the state has made significant progress toward more effective property management; however, additional information from other state agencies on their future real estate needs and current property uses would help STREAM ensure that state-owned properties are used most efficiently and determine which properties may be surplus and be considered for a better use—whether public or private.

The state's process for property disposal is illustrated in figure 2. DGS-STREAM guides the process, but the State Building Commission (SBC) has ultimate approval authority over real estate transactions.

⁴² Martone, Jim. (California Chief of Asset Management). Interview with TACIR staff. 11/13/2018.

⁴³ Smith, Frank. (Georgia Executive Director of the State Property Commission). Interview with TACIR staff. 11/13/2018.

⁴⁴ FRF was established in 1989 TCA § 9-4-901 to provide efficient management of the state office and warehousing facilities.

⁴⁵ TCA 4-3-1105 (12) gives the Department of General Services the power and duty to exercise general custodial care of all real property of the state.

Originally, SBC was established to oversee construction of all state buildings. However, the SBC's responsibilities were later expanded to include approval authority over most acquisition, disposal, improvement or demolition of real property owned by the state, with the exclusion of roads, highways, and bridges. The SBC also approves lease transactions for the state.⁴⁶

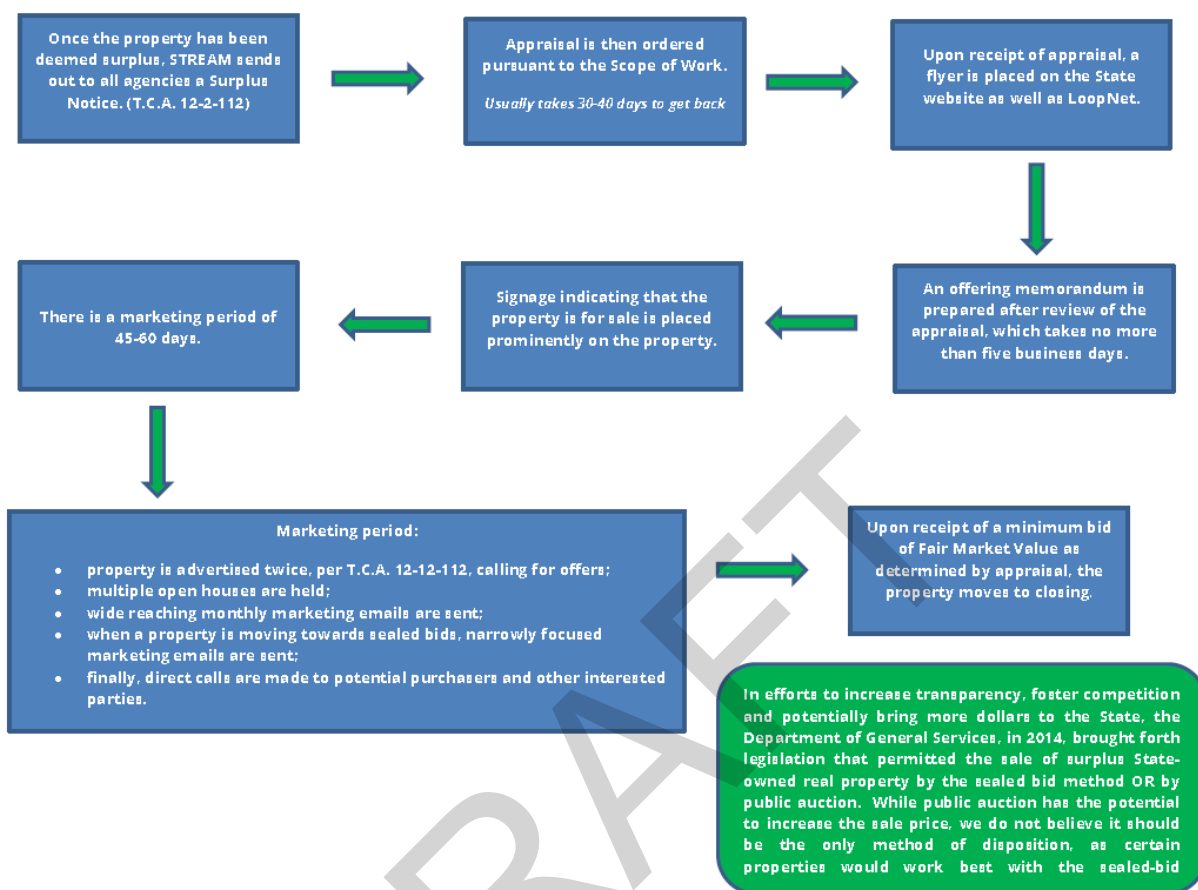
There are seven members of the SBC Commission, including the Governor, Secretary of State, State Comptroller, State Treasurer, the Commissioner of Finance and Administration, Speaker of the Senate, and the Speaker of the House of Representatives. However, the SBC delegates much of its authority to its four-member Executive Subcommittee (ESC) that includes the Secretary of State, State Comptroller, State Treasurer, and the Commissioner of Finance and Administration.⁴⁷

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⁴⁶ TCA 4-15-101 et seq. established the State Building Commission, exercises approval authority over all state property acquisitions (except TDOT rights-of-way) and disposal of surplus real property described in TCA 12-2-112.

⁴⁷ State Building Commission bylaws, article 5.

Figure 2: State Real Property Management Process



The SBC requires quarterly status updates from DGS and higher-education institutions regarding capital projects, leases, and land transactions it has approved.⁴⁸ But, some approval authority is further delegated jointly to the State Architect and the Commissioner of Finance and Administration.⁴⁹

State law (TCA 12-2-112) authorizes the Commissioner of General Services to facilitate the disposal of surplus interests in real property and energy resources, in accordance with specific stipulations. The commission is prohibited from selling state property if there is any feasible use for the property by any state agency. Sales in fee and conveyance of resource interests require two independent appraisals, as determined by the SBC. Property valued over \$25,000 must be advertised for sale in one local newspaper and one newspaper in the nearest large city (Nashville, Memphis, Chattanooga or Knoxville). Sales are by sealed-bid or public auction, per SBC policy,

⁴⁸ State Building Commission policy 2.03.

⁴⁹ State Building Commission policy 2.04.

with sealed-bid being the preferred method because it costs less. Transactions may be advertised online, and the state has the right to refuse all bids.

Appraisals can be waived by the SBC and Commissioner of General Services when “in the best interest of the state.” The state is not liable for any later title issues. Proceeds, unless otherwise specified, go to the general fund.

STREAM Does Not Have Authority to Dictate Agency Property Needs or Surplus

The pathway to designating state real property as surplus and disposing of the property begins with a state agency determining that it does not need a real estate asset. When an agency decides that the property is not need (i.e., excess property) it will notify DGS-STREAM by submitting the RPM-1 Form via email. STREAM notifies other state agencies of the excess property to see if these agencies need the property.

If no agency expresses an interest in the excess property then STREAM notifies the legislative delegation for the jurisdiction where the property is located that the state has identified potential surplus property. Although not required, STREAM staff typically notifies local government officials of the potential surplus property also.

STREAM then notifies the Historical Commission that of the potential surplus property, if there are improvements that are more than 50 years old on the property. STREAM will also get archaeological clearance for the property.

If no marketing is required then the DGS Land Transaction Office will complete the disposal process. The transaction begins by completing two appraisals.⁵⁰ A quitclaim deed is prepared and executed. The buyer signs the settlement statement. The state receives the payment and turns over the property.

If marketing is required then STEAM continues to manage the disposal process, which requires two appraisals unless the requirement is waived by the SBC. A STREAM agent prepares a marketing flyer for online advertisement for sealed bids. If there is one or more bids at or above fair market value then the property is sold to the highest bidder. If no bid is at fair market value then the bids are rejected.

Transportation Rights-of-Way are Managed and Disposed of Separately from Other State Property

TDOT does not actively market excess ROW. But, if another party expresses the desire to purchase ROW, TDOT may agree to sell the property if the land will not be needed

⁵⁰ TCA 12-2-112.

for highway purposes in the foreseeable future and the remaining ROW is adequate for the present day standards of the facility involved. Before disposal of ROW, TDOT ensures that the release of the lands will not adversely affect the highway facility or the traffic. TDOT will not dispose of ROW if the property is needed to preserve or improve the scenic beauty or environmental quality adjacent to the facility. Before the ROW is disposed of TDOT ensures that no other agency wants the property and there is no suitable public use.⁵¹

When the fair market value is less than \$75,000, TDOT may sell the property to the former owner or an adjoining owner for fair market value. Former owner's right of first refusal expires after ten years and is not transferable.

TDOT may convey property by negotiated sale or disposal to any legal, governmental body for a public use purpose, subject to reversion to TDOT for failure to continue public ownership and use.

In the circumstance where the surplus ROW does not meet these criteria, then it may be disposed of through the surplus real property disposal procedure described above, which is subject to approval by the SBC.

If ROW was acquired using some federal funds and then sold, the revenue from the sale will reimburse the federal government. But, rather than transferring funds back to US Department of Transportation, Federal Highway Administration (FHWA), the next federal distribution of transportation funds to Tennessee is reduced by the amount of the revenue from the sale that was due to the federal government.

An uneconomic remnant is a “parcel of the real property in which the owner is left with an interest after the partial acquisition of the owner’s property, and which the acquiring agency has determined has little or no value or utility to the owner” (CFR 49-24-A-2-27). If the acquisition of only a portion of property would leave the owner with an uneconomic remnant, the acquiring agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. While the acquiring agency is required to make an offer for the remnant, the property owner is under no obligation to sell the remnant to the acquiring agency.

Notification Process

If a state agency identifies real property that is no longer needed, then the agency notifies DGS-STREAM of excess property via the RPM-1 Form. DGS-STREAM notifies

⁵¹ Tennessee Code Annotated, Section 12-2-112(a)(8).

other state agencies via email about the excess property to determine if any other state agency can use the property. If no state agency expresses a need for the property, then STREAM notifies legislative members from the district in which the property to be sold or conveyed is located at least twenty days before the agreement of sale or conveyance. Often STREAM staff takes the initiative also to contact local government officials to see if they have an interest in the property.

If no one expresses an interest in the excess property, then it is presented to the Executive Subcommittee of the State Building Commission and then to the SBC to be declared surplus property. The state advertises the property on the DGS website and receives sealed bids to sell the property in the manner described in the surplus real property disposal procedure above.

Other states have recognized the importance of formalizing intergovernmental communication between the state and local levels of government. Paul Hinsch of Connecticut said, "We are statutorily mandated to notify local municipalities when surplus property, in said town, is available."⁵² Jim Martone, California Chief of Asset Management, "Local governments in California do get priority on state surplus properties. We are required to notify them if we have property in their jurisdiction, but they must use it for a public purpose, and they must pay market value."⁵³ Virginia allows 30 days for the county and municipality where the property is located to purchase it at its fair market value for public use. Washington requires a 60-day notice to all local governments of a proposed sale.

Right-of-way management presents unique challenges and opportunities.

The Tennessee Department of Transportation (TDOT) has taken steps to improve right-of-way (ROW) management. For example, in 2004 TDOT retained Barge Waggoner Sumner and Cannon, Inc. (BWSC) to examine and assess excess ROW that could be used by local governments for public purposes.⁵⁴

The report found that although there is no official definition of public use, local governments have needs for excess ROW. BWSC concluded that transferring ROW to local governments would require similar steps (e.g., surveying, recording deeds, etc.) as transferring would be required if the property were to be transferred to private sector buyers. Additionally, BWSC determined that in some circumstances low value ROW

⁵² Hinsch, Paul. (Connecticut Office of Policy and Management Bureau of Assets Management). Interview with TACIR staff. 11/6/2018.

⁵³ Martone, Jim. (California Chief of Asset Management). Interview with TACIR staff. 11/13/2018.

⁵⁴ BWSC (2004). Public Use of Excess Right of Way by Local Governments. Nashville.

(uneconomic remnants) could be combined with other excess property to create surplus real property that has better market value. Finally, the report recommended that TDOT continue to improve its computerized inventory system and integrate geographic information system capabilities to improve ROW management.⁵⁵

However, a 2011 performance audit by the Tennessee Comptroller of the Treasury found that TDOT still lacked a fully functional and readily accessible ROW inventory.⁵⁶ In 2012, TDOT conducted an internal review of ROW management and concluded that staffing turnover and staffing shortages resulted in ineffective control and management of ROW in accordance with TDOT's Right of Way Manual.⁵⁷

A follow-up internal audit of TDOT's property acquisition process was conducted by TDOT's Office of Internal Audit in 2017 and it found that internal controls were in place and working as intended. The internal audit noted that in 2015 TDOT Right of Way Division had implemented a custom, web-based application—integrated ROW Information System (IRIS)—to better manage TDOT's ROW.⁵⁸

During an interview between TACIR staff and TDOT staff on July 19, 2018, Jeff Hoge, Director of TDOT Right of Way Division provided an inventory of ROW from IRIS that showed acres and value of ROW by county. However, these data were based on ROW design standards, not on actual surveys. TDOT's inventory of ROW is an estimate.⁵⁹

At the end of state fiscal year 2016-17 TDOT estimated that it owned approximately 217,962 acres of ROW, valued at approximately \$1.8 billion—most of which is in use or needed for highway purposes. Although TDOT is working to identify any excess ROW through the implementation of its IRIS database, the department says it lacks the dedicated staff resources it would take to prioritize the completion of a comprehensive inventory.

TDOT staff indicated that most of the excess ROW that is potential surplus is primarily from older roadway projects. According to TDOT, this was the case with the East Ridge Bass Pro project in Hamilton County. TDOT staff stated that they are currently reviewing the ROW from older projects to determine if any of this may be sold, but the process is slow because of limited staff resources. TDOT did acknowledge that they

⁵⁵ Ibid

⁵⁶ Tennessee Comptroller of the Treasury (2014). Tennessee Department of Transportation Performance Audit.

⁵⁷ TDOT Office of Internal Audit (2012). Audit of the acquisition and property management process.

⁵⁸ TDOT Office of Internal Audit (2017). Follow-up audit of the Right of Way Division's Property Acquisition Process.

⁵⁹ Hoge, J. (TDOT Right of Way Division). Interview with TACIR staff. 7/19/2018.

currently work with STREAM when identifying properties that might be sold as surplus to determine marketability.⁶⁰

Bruce Nelson, DGS-STREAM Director of Special Projects advocated for improving the management of TDOT right-of-way stating, " TDOT ROW is the low hanging fruit—i.e., a large amount of state owned property, located in good locations. But, TDOT does not have a process to proactively dispose of surplus ROW. They only take action if someone requests information about purchasing a section (i.e., remnant) of ROW. This means someone must research and locate a remnant of ROW, then ask if it is for sale."⁶¹

Tennessee Code Annotated 12-2-1-3 requires that DGS maintain a complete inventory of all state-owned real property. However, according to STREAM staff TDOT does not report ROW as part of its property inventory. The main reason cited is that the ROW does not have a parcel identification like most other property and the parcel identification is the primary key (unique value) used to identify records in STREAM's database.⁶²

Other states also face challenges when managing their transportation ROW. Twenty six states—Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New York, Ohio, Oregon, North Carolina, South Carolina, South Dakota, Texas, Utah, Virginia, Washington and Wisconsin—have departments of transportation that actively inventory their ROW. And in Connecticut, surplus ROW is marketed by the state's equivalent of STREAM.

Many state DOTs do not actively identify and market surplus property. Those DOTs that do actively identify and market surplus property normally manage this process separate from general government surplus property. For example, the South Carolina Department of Transportation (SCDOT) Property Management section of the Right of Way Office is responsible for the sale and disposition of SCDOT's surplus real property. This includes maintaining an inventory of surplus property and records of surplus property dispositions. SCDOT listings include "Economic Parcels"—parcels large enough to be developed, are free standing, have access, have monetary value, and comply with local zoning ordinances.

⁶⁰ Ibid.

⁶¹ Carr, J., Murphy, P. & Nelson, B. (Department of General Services STREAM). Interview with TACIR staff. 4/23/2018.

⁶² Ibid.

Jim Marton, California's Chief of Asset Management said, "CALTRANS markets surplus ROW separately. This is the best approach because only the DOT has the transportation knowledge that is needed to effectively manage these properties."⁶³

GIS software is an effective tool for real property management.

The DGS-STREAM website for surplus links to outside Geographic Information Systems (GIS) systems whenever these resources are available for particular properties (e.g., Shelby County GIS platform or Hamilton County GIS system). But, GIS is not integrated with the surplus property for sale or the inventory of all state-owned property.

To further ensure the most efficient management of the state's real property assets, stakeholders from STREAM, TDOT, and other state agencies have stressed the importance of expanding GIS technology. The US General Services Administration relies on GIS to ensure the highest and best use of real property, and other states, including Georgia and Texas, report that GIS provides useful information to make decisions related to the highest and best use for real estate assets, describing it as "a hugely important tool for property management," and "invaluable . . . a critical tool, relied upon by internal agency staff, as well as external companies and individuals." Benefits could be gained across many different government functions in Tennessee, from property assessment, to facility management, public safety, risk management, and economic development.

Tennessee could integrate GIS capability with the inventory of state-owned properties to allow for more functional analysis of properties, which would promote the highest and best use. Other states that rely on GIS include Georgia, Idaho, Indiana, Louisiana, Massachusetts, Ohio, South Carolina, and Texas.

California is currently working to integrate GIS functionality in our property inventory now. California officials assert that GIS is a cost effective tool that will be very beneficial. It will be particularly helpful in risk management and emergency response because we will know where all of our assets and people are located, according to California officials.⁶⁴

Georgia's Director of State Property Commission, Frank Smith said, GIS is well worth the investment. The visual aspect of GIS allows us to see if we have a state property near leased property and allows us to see the level of use at the state property so we can

⁶³ Martone, J. (California Department of General Services). Interview with TACIR staff. 11/13/2018.

⁶⁴ Martone, J. (California Department of General Services). Interview with TACIR staff. 11/13/2018.

look at consolidating to get out of a lease. We can also see the lease rates and if we have multiple leases in the same area, we can compare the costs to find the best value."⁶⁵

Ohio state law (125.902) instructs the Geographical Referenced Information Council to develop a real property management plan for each agency including location and use of the property, and each agency must provide information to the council. And South Carolina's Department of Administration, Division of Facilities Management and Property Services began maintaining a GIS-based inventory of state property in 1997. The GIS inventory includes property utilization information, property value, and future use plans, which can be displayed in a graphic interface for easy analysis.

Local governments have different real property challenges from the state.

Local governments face challenges when trying to sell tax-delinquent properties.

TACIR staff conducted an online survey among all the local governments to analyze their current surplus property holdings and to understand their property management process. The analysis of the survey showed that some local governments (e.g., Shelby, Henry) identified the tax-delinquent property as their biggest source of surplus property. Tax sales require a cash transaction, but subsequent buyers have problems getting lenders to provide financing because of the difficulty of getting title insurance. The Shelby County Land Bank says land banks know how to get quiet titles from the courts and market tax-delinquent properties more effectively than most local governments.

Title insurance companies shared with TACIR that land banks are part of the solution to selling tax-delinquent properties. Title companies do not want to risk insuring the title on tax-sale properties because of the risk that the sale could be challenged in court. Tennessee's land bank statutes⁶⁶ provide a clear legal process for land banks to notify interested parties and quiet potential challenges to the title and for land banks to combine many properties in a single suit to quiet title. Land banks have been used in some states for more than twenty years.

United States Department of Housing and Urban development defines land banks as public or community-owned entities created for a single purpose: to acquire, manage, maintain, and repurpose vacant, abandoned, and foreclosed properties –the worst abandoned houses, forgotten buildings, and empty lots. The University of Memphis Law Review⁶⁷ (2016), highlighted the importance of clear titles, “This ability to clear any

⁶⁵ Smith, F. (Georgia State Property Commission). Interview with TACIR staff. 11/13/2018.

⁶⁶ Tennessee Code Annotated, Section 13-30-117

⁶⁷2016, Vol. 46, p.964 , <https://www.memphis.edu/law/documents/shah46.pdf>

cloud on the title is essential to making the property an attractive target once placed back onto the open market and ensuring its future vitality.”

According to Frank S. Alexander⁶⁸ (2015), “One of the primary reasons that normal market forces do not reach vacant, abandoned, and tax-delinquent properties is that there are numerous defects or clouds on the title to the properties. If title to the property is not marketable, it usually is not insurable, and if not insurable, it has little if any value to prospective owners.

Other states, like Georgia, rely on land banks to manage tax-delinquent and other unwanted properties. According to Georgia’s Land Bank Act⁶⁹, “Land banks are one of the tools that can be utilized by communities to facilitate the return of dilapidated, abandoned, and tax-delinquent properties to productive use.” The act⁷⁰ also states, “Any county, municipal corporation, or consolidated government may elect to create a land bank.” Frank Smith, Director State Property Commission recognize that the land bank program works well in Georgia.

The General Assembly has already recognized the value of land banks as a tool for managing tax-delinquent and abandoned properties—expanding the Tennessee Local Land Bank Program to authorize land banks in any home rule municipality⁷¹, three consolidated metropolitan counties⁷², and by population brackets for some counties⁷³ and cities⁷⁴.

⁶⁸Land Banks and Land Banking 2ND EDITION | 2015 <https://community-wealth.org/sites/clone.community-wealth.org/files/downloads/report-alexander15.pdf>

⁶⁹ OCGA 48-4-101

⁷⁰ OCGA 48-4-103

⁷¹ Chattanooga, Clinton, East Ridge, Etowah, Johnson City, Knoxville, Lenoir City, Memphis, Mt. Juliet, Oak Ridge, Red Bank, Sevierville, Sweetwater, and Whitwell

⁷² Hartsville in Trousdale County, Lynchburg in Moore County, and Nashville in Davidson County

⁷³ Blount County, Sevier County, Hardeman County

⁷⁴ Kingsport and Cleveland

Local governments have a limited ability to market their surplus properties.

Aside from the challenges local governments have with returning unwanted property acquired after-tax sales, interviews also revealed that some local governments may have a limited audience to whom they can market all types of surplus property. State laws require governments to advertise available property in local newspapers, whether for sale by sealed bid or public auction, and allow disposal by online auction as well. But not all local governments have websites where they could advertise the surplus property.

Chris Dorsey, Sparta City Administrator, told TACIR staff that local governments could use assistance from the state when selling properties. Officials from McKenzie also said they would find it useful if the state helped them with marketing. And as STREAM staff shared in testimony before the Commission, there is no prohibition or legal barrier that would prevent the state from allowing local governments to advertise surplus properties through the state's website.

Intergovernmental communication promotes a more comprehensive approach to the management government-owned properties.

California has a formal notification process between the state and local jurisdictions. According to Jim Martone, California's Chief of Asset Management, "Local governments get priority on state surplus properties in California. The state notifies local officials if there is state surplus real property in their jurisdiction; however, the local government must agree to use this property for a public purpose and they must pay market value. Similarly, in Connecticut the state has a statutory mandate to notify local municipalities when surplus real property is available.

Likewise, the Georgia State Properties Commission (SPC) sends e-mail notifications to local officials offering state surplus properties. But in Georgia this is an opt-in system where local government may choose to subscribe to the notification service about surplus properties for sale if they wish.

Virginia allows 30 days for the county and municipality where the property is located to purchase it at its fair market value for public use. And Washington state law (43.17.400) requires that the state provide a 60-day notice to local governments if surplus state property is available in their jurisdiction.

Having the information and tools makes any problem more manageable.

Interviews with private real estate developers revealed that many local governments are not prepared to effectively market real estate in a competitive market. Most

developers expect to have a short time line (less than six months between site selection and groundbreaking) when investing in a new real estate project and most local governments cannot meet the developers' expectations. According to a global location manager with KPMG Developers, "The government must make the properties ready for the market. Evaluate the property before putting it out on the market and not start the process when a party approaches them or shows interest in the property."⁷⁵

Representatives of the Tennessee Economic Development Council (TEDC) echoed the belief that local governments must be prepared to compete in the marketplace, if they want to sell surplus properties. TEDC emphasized that for surplus property to be marketable, the sites need to be "shovel ready" with access and utilities and no mitigation or permitting issues.⁷⁶

Site selectors, developers, and others involved in real estate development expressed a consensus that local governments do not have the knowledge of real estate needed to effectively market properties, in most cases. However, the University of Tennessee's County Technical Assistance Service (CTAS) and Municipal Technical Advisory Service (MTAS) have conducted research on government best practices and provided training programs for local government officials in many subject areas for decades including some aspects of real property management. Therefore, the state has the ability to provide the tools and knowledge that local officials need to be effective in disposing of surplus real property.

Local Government Property Management Process

Counties

There are three kinds of frameworks that counties can have: consolidated government, home rule charters, and basic constitutional mayor/commission framework. Tennessee has 95 counties; three (Davidson, Moore, and Trousdale) have consolidated government, two (Knox and Shelby) have home rule charters, and the remaining 90 operate under the basic constitutional mayor/commission framework.⁷⁷

⁷⁵ Brad Maul (KPMG, Global Location Manager). Interview with TACIR staff on 8/2/2018.

⁷⁶ Jamie Stitt (TEDC). Interview with TACIR staff on 5/21/2018.

⁷⁷https://tncounties.org/TCCA/Resources/Understanding_County_Government_In_Tennessee/TCCA/Resources/Understanding_County_Government_In_TN.aspx?hkey=458c2d6c-e747-4a60-b683-bd7bae0fcec7

State law⁷⁸ allows counties to buy and sell real property. All county government agencies have the authority to transfer or convey their real property to other government agencies contingent the receiving agency use it only for a public purpose.⁷⁹

Tennessee counties either have a centralized or a decentralized purchasing process depending on their governing purchasing laws.⁸⁰ Counties that operate under private acts have the discretion to choose whether to have or not to have a centralized purchasing process. Counties that opt to adopt either the County Purchasing Law of 1957 or the County Financial Management System of 1981 have centralized purchasing process.⁸¹ And if the county has not adopted any of the two above mentioned purchasing laws, does not have a private act and is not governed by either a county or metropolitan government charter, then County Purchasing Law of 1983 will govern its purchasing process which is non-centralized.⁸²

As per the Governmental Accounting Standards Board (GASB) statement 34, counties are required to capitalize their assets and report this information in their financial statement annually.⁸³ That is how they maintain an inventory of fixed assets. However, these financial statements are only for accounting purpose that reports capital assets and infrastructure at their historical cost and not a detailed property inventory reported at the current market/appraised value. CTAS developed a model Capital Asset Policy for all counties to meet GASB-34 requirements.⁸⁴

As per Tennessee law, county mayor and county staff may determine when the property is no longer needed,⁸⁵ but the county legislative body has the final approval.⁸⁶

Once a property is determined as surplus the responsibility of disposal of the properties varies in counties with their governing purchasing law. In the counties that have adopted County Financial Management System of 1981, it is the finance director's

⁷⁸ Tennessee Code Annotated, Section 5-7-101

⁷⁹ Tennessee Code Annotated, Section 12-9-110

⁸⁰ <http://eli.ctas.tennessee.edu/reference/centralized-purchasing-counties>

⁸¹ <http://eli.ctas.tennessee.edu/reference/centralized-purchasing-counties>

⁸² <http://eli.ctas.tennessee.edu/reference/centralized-purchasing-counties>

⁸³ <http://eli.ctas.tennessee.edu/reference/gasb-34>

⁸⁴ Sample County, Tennessee, Capital Assets Policies and Procedures:

<http://ctas-eli.ctas.tennessee.edu/sites/default/files/CapAssPol.pdf>

⁸⁵ Tennessee Code Annotated, Section 5-6-108

⁸⁶ Tennessee Code Annotated, Section 5-5-121

responsibility to hold a public sale of the county property. But for the counties that operate under the County Purchasing Law of 1957, the mayor appointed purchasing agent has the responsibility to sell surplus property.⁸⁷

Cities

Cities governed by Mayor-Aldermanic Charter and City Manager-Commission Charter are authorized by law⁸⁸ to purchase, hold, manage and sell its real property. Municipal Technical Advisory Service (MTAS) describes the purchasing process for cities varies depending on the type of city charter⁸⁹

Tax-Delinquent properties

After the taxes become delinquent the government in charge of the property tax collection by law⁹⁰ has to follow an exhaustive process to attempt for the collection of taxes from the original property owner. However, if the original property owner despite the warning from the government fails to pay the taxes, then the government has the authority to transfer the property in question to the third party after diligent notification to the original owner through tax-sale upon completion of the redemption period.

The ownership of unsold tax-delinquent properties after tax sales default to Counties⁹¹. Cities have an option to either to conduct their tax-sales by the process defined in law⁹² or use county trustee or tax delinquent attorney to manage their delinquent tax properties. In both cases, the ownership of unsold city tax delinquent properties at tax sale default to the county government and county government is liable to pay cities⁹³.

Land banks

Aside from the challenges local governments have with returning unwanted property acquired after-tax sales, interviews also revealed that some local governments may have a limited audience to whom they can market all types of surplus property. State laws

⁸⁷ <http://eli.ctas.tennessee.edu/printpdf/book/export/html/896>

⁸⁸ Tennessee Code Annotated, Section 6-2-201(11) and Section 6-19-101(a)(8)

⁸⁹ <https://www.mtas.tennessee.edu/reference/purchasing-procedures>

⁹⁰ Tennessee Code Annotated, Sections from 67-5-2001to 67-5-2004

⁹¹ Tennessee Code Annotated, Section 67-5-2501

⁹² Tennessee Code Annotated, Sections from 6-55-201to 6-55-206

⁹³Tennessee Code Annotated, Section 6-55-201

require governments to advertise available property in local newspapers, whether for sale by sealed bid or public auction, and allow disposal by online auction as well. But not all local governments have websites where they could advertise the surplus property.

A pilot Tennessee Local Land Bank Program was created in 2012, limited only to Oak Ridge. The General Assembly has since passed legislation that extended the authority to establish a land bank to a few other cities and counties, but the ability to establish land banks could be expanded. Originally the program was created with the intent to facilitate local jurisdictions struggling with management of unwanted properties like tax-delinquent, vacant, and abandoned.⁹⁴ Currently, the law enables only the following local jurisdictions to create a land bank:⁹⁵

Any home rule municipality; i.e., Chattanooga, Clinton, East Ridge, Etowah, Johnson City, Knoxville, Lenoir City, Memphis, Mt. Juliet, Oak Ridge, Red Bank, Sevierville, Sweetwater, and Whitwell

The three consolidated metropolitan counties, Hartsville—Trousdale County, Lynchburg—Moore County, and Nashville—Davidson County

By population brackets: Blount County, Sevier County, Hardeman County and the cities of Kingsport and Cleveland

A land bank is a quasi-governmental corporation created to manage the unwanted non-tax producing properties such that finding a creative solution to make them useful.⁹⁶ The land bank program guide as per law establishes the following hierarchy for land use in the context of land banks:

- (1) *Use for purely public spaces and places;*
- (2) *Use for affordable housing;*
- (3) *Use for retail, commercial and industrial activities; or*
- (4) *Use as wildlife conservation areas, and such other uses and in such hierarchical order as determined.*⁹⁷

Land banks have a clear statutorily prescribed process of filing for quiet title.⁹⁸ Despite the aforementioned enabling statues for Landbanks, the law protects the property

⁹⁴ Tennessee Code Annotated, Section 13-30-102

⁹⁵ Tennessee Code Annotated, Section 13-30-103

⁹⁶Tennessee Code Annotated, Section 13-30-102

⁹⁷Tennessee Code Annotated, Section 13-30-111(d)

holder by forbidding land banks from any involvement with real property acquired through eminent domain.⁹⁹

State Assistance for Local Governments

Many local governments (Tipton, Trousdale, Cannon, Jackson counties and cities like Huntsville, Knoxville, White House, and Watertown) reported that they do not have any formal planning or management process for real property. Training empowers government officials with the knowledge and tools they need to manage real property effectively, and the GSA offers training for their employees on topics including real estate laws, asset management strategies, reporting requirements, disposal process, and regulations related to environmental and historic preservation compliance to ensure these officials have the knowledge necessary to effectively manage federal real property assets.

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⁹⁸ Tennessee Code Annotated, Section 13-30-117

⁹⁹ Tennessee Code Annotated, Section 13-30-120

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Persons Interviewed

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Holladay Properties Nashville

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Bill Avant, GIS & Land Acquisition
Manager Tennessee Department of
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W.T. Bailey, Budget Director
Tipton County

Teb Batey, County Trustee
Rutherford County

Dan Bauchiero, Principal
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Steve Berry, Director of Public Property
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Mike Berry, Real Property Agent
Tennessee Department of General
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Ohio Geographically Referenced
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Doug Bodary, Consultant
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Ernes Burgess, Mayor
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Brooxie Carlton, Deputy Assistant
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Tennessee Department of Economic &
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John Carr, Assistant Commissioner
Tennessee Department of General
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Mike Carter, Representative
Tennessee General Assembly

Jimmy Clary, Jr., Chief Deputy Assessor
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Will Denami, Executive Director
Tennessee Association of Assessing
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Jeff Huffman, Mayor
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Ryan Duggin, State Valuation Manager
Comptroller of the Treasury

Bradley Jackson, President
Tennessee Chamber of Commerce

Kim Foster, City Manager
Paris, Tennessee

Dawn Kinard, Administrator
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Scot Friedman, Director
Texas Geographic Information Systems

Stephanie Klodzen, Realtor, Real
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Brent Greer, Mayor
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Matthew Marshall, City Manager
Norris, Tennessee

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Tony Wilkerson, Water Superintendent
Norris, Tennessee

Appendix A: Public Chapter 693, Acts of 2018



State of Tennessee

PUBLIC CHAPTER NO. 693

HOUSE BILL NO. 1735

By Representatives Carter, Hardaway

Substituted for: Senate Bill No. 2650

By Senator Watson

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 5, to direct the Tennessee advisory commission on intergovernmental relations to conduct a study on governmental property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study of, and determine the amounts of, nontax-producing properties held by state and local governments. This study must be conducted from TACIR's existing resources. On or before March 1, 2019, TACIR shall report its findings and recommendations to the finance, ways and means committees of the senate and the house of representatives, the fiscal review committee of the general assembly, and the office of legislative budget analysis. The report shall include recommendations as to the highest and best uses of the properties and ways for making the properties productive.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

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Appendix B. Government-owned Property by County and Level of Government

County	Total Land Acres in the County (1)	Acres Owned by the Federal Government	Percent of Total, Federal	Acres Owned by the State Government (2)	Percent of Total, State	Acres Owned by the County Government	Percent of Total, County	Acres Owned by City Governments	Percent of Total, Cities	Source Notes
Anderson	215,810	17,868	8.3%	24,023	11.1%	1,189	0.6%	6,246	2.9%	a
Bedford	303,129	651	0.2%	2,626	0.9%	710	0.2%	1,497	0.5%	a
Benton	252,356	58	0.0%	6,700	2.7%	1,512	0.6%	668	0.3%	a
Bledsoe	260,112	14	0.0%	15,778	6.1%	146	0.1%	307	0.1%	a
Blount	357,638	98,025	27.4%	12,668	3.5%	2,435	0.7%	1,534	0.4%	a
Bradley	210,407	237	0.1%	3,483	1.7%	2,054	1.0%	1,672	0.8%	b
Campbell	307,304	7,447	2.4%	101,751	33.1%	1,529	0.5%	1,873	0.6%	a
Cannon	170,006	0	0.0%	2,438	1.4%	84	0.0%	150	0.1%	a
Carroll	382,500	12,175	3.2%	19,933	5.2%	1,886	0.5%	1,469	0.4%	a
Carter	218,405	9,468	4.3%	3,412	1.6%	766	0.4%	1,112	0.5%	a
Cheatham	193,580	45	0.0%	21,656	11.2%	977	0.5%	396	0.2%	a
Chester	182,871	19	0.0%	9,760	5.3%	393	0.2%	389	0.2%	c
Claiborne	278,144	3,275	1.2%	4,963	1.8%	685	0.2%	208	0.1%	a
Clay	151,383	134	0.1%	1,329	0.9%	236	0.2%	19	0.0%	a
Cocke	278,092	70,363	25.3%	5,507	2.0%	1,540	0.6%	248	0.1%	a
Coffee	274,537	30,144	11.0%	10,177	3.7%	1,292	0.5%	1,863	0.7%	a
Crockett	169,951	724	0.4%	2,878	1.7%	298	0.2%	280	0.2%	a
Cumberland	435,856	1,468	0.3%	64,037	14.7%	3,842	0.9%	3,925	0.9%	a
Davidson	322,236	17,514	5.4%	15,751	4.9%	24,495	7.6%	81	0.0%	d
Decatur	213,681	1,442	0.7%	2,266	1.1%	750	0.4%	286	0.1%	a
DeKalb	194,806	20,007	10.3%	3,074	1.6%	585	0.3%	254	0.1%	a
Dickson	313,533	79	0.0%	5,894	1.9%	1,494	0.5%	824	0.3%	a
Dyer	327,894	863	0.3%	26,167	8.0%	1,537	0.5%	2,226	0.7%	a
Fayette	451,055	19	0.0%	15,316	3.4%	963	0.2%	563	0.1%	a
Fentress	319,111	24,115	7.6%	18,090	5.7%	1,052	0.3%	341	0.1%	a
Franklin	354,870	15,328	4.3%	34,521	9.7%	1,907	0.5%	967	0.3%	a
Gibson	385,757	12,650	3.3%	7,494	1.9%	1,215	0.3%	2,554	0.7%	a
Giles	390,995	51	0.0%	3,243	0.8%	1,376	0.4%	868	0.2%	a
Grainger	179,575	176	0.1%	1,576	0.9%	722	0.4%	171	0.1%	a
Greene	398,187	41,955	10.5%	7,273	1.8%	990	0.2%	1,065	0.3%	a
Grundy	230,684	33	0.0%	20,917	9.1%	1,072	0.5%	1,791	0.8%	a
Hamblen	103,151	2,180	2.1%	2,719	2.6%	706	0.7%	1,875	1.8%	a
Hamilton	347,129	9,015	2.6%	27,406	7.9%	5,422	1.6%	5,968	1.7%	e

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County	Total Land Acres in the County (1)	Acres Owned by the Federal Government	Percent of Total, Federal	Acres Owned by the State Government (2)	Percent of Total, State	Acres Owned by the County Government	Percent of Total, County	Acres Owned by City Governments	Percent of Total, Cities	Source Notes
Hancock	142,287	0	0.0%	1,373	1.0%	287	0.2%	54	0.0%	a
Hardeman	427,355	4,163	1.0%	12,652	3.0%	1,158	0.3%	970	0.2%	a
Hardin	369,487	7,313	2.0%	10,715	2.9%	571	0.2%	818	0.2%	a
Hawkins	311,714	14,214	4.6%	2,364	0.8%	903	0.3%	2,187	0.7%	a
Haywood	341,188	11,669	3.4%	7,809	2.3%	717	0.2%	1,068	0.3%	a
Henderson	332,805	187	0.1%	28,833	8.7%	1,021	0.3%	1,476	0.4%	a
Henry	359,577	31,251	8.7%	7,787	2.2%	880	0.2%	985	0.3%	a
Hickman	391,989	59	0.0%	6,007	1.5%	525	0.1%	551	0.1%	f
Houston	128,188	34	0.0%	492	0.4%	561	0.4%	85	0.1%	a
Humphreys	339,688	16,825	5.0%	4,559	1.3%	1,015	0.3%	277	0.1%	a
Jackson	197,528	38	0.0%	2,059	1.0%	417	0.2%	18	0.0%	a
Jefferson	175,952	1,433	0.8%	3,037	1.7%	820	0.5%	714	0.4%	a
Johnson	191,001	53,067	27.8%	11,503	6.0%	610	0.3%	127	0.1%	a
Knox	325,332	916	0.3%	12,279	3.8%	5,856	1.8%	3,763	1.2%	g
Lake	106,102	1,445	1.4%	23,544	22.2%	497	0.5%	549	0.5%	a
Lauderdale	302,058	29,073	9.6%	31,160	10.3%	577	0.2%	1,214	0.4%	a
Lawrence	394,960	1	0.0%	19,225	4.9%	811	0.2%	1,190	0.3%	a
Lewis	180,537	862	0.5%	5,242	2.9%	2,218	1.2%	1,620	0.9%	a
Lincoln	365,018	41	0.0%	3,177	0.9%	737	0.2%	1,407	0.4%	a
Loudon	146,721	8,819	6.0%	3,282	2.2%	1,121	0.8%	1,028	0.7%	a
McMinn	275,277	3,744	1.4%	3,344	1.2%	2,041	0.7%	1,102	0.4%	a
McNairy	360,218	19	0.0%	6,688	1.9%	1,413	0.4%	706	0.2%	a
Macon	196,572	37	0.0%	1,015	0.5%	163	0.1%	758	0.4%	a
Madison	356,548	558	0.2%	9,241	2.6%	1,619	0.5%	4,644	1.3%	a
Marion	318,819	15,130	4.7%	39,461	12.4%	1,018	0.3%	668	0.2%	a
Marshall	240,295	33	0.0%	4,159	1.7%	563	0.2%	1,260	0.5%	a
Maury	392,408	143	0.0%	19,788	5.0%	5,332	1.4%	1,846	0.5%	a
Meigs	124,886	5,043	4.0%	2,172	1.7%	255	0.2%	37	0.0%	a
Monroe	406,825	8,951	2.2%	3,919	1.0%	1,528	0.4%	1,505	0.4%	a
Montgomery	345,065	43,276	12.5%	6,783	2.0%	7,174	2.1%	1,505	0.4%	h
Moore	82,702	1,250	1.5%	532	0.6%	162	0.2%	77	0.1%	a
Morgan	334,195	4,702	1.4%	61,498	18.4%	6,774	2.0%	295	0.1%	a
Obion	348,705	441	0.1%	34,051	9.8%	1,705	0.5%	1,466	0.4%	a

Appendix B. Government-owned Property by County and Level of Government

County	Total Land Acres in the County (1)	Acres Owned by the Federal Government	Percent of Total, Federal	Acres Owned by the State Government (2)	Percent of Total, State	Acres Owned by the County Government	Percent of Total, County	Acres Owned by City Governments	Percent of Total, Cities	Source Notes
Overton	277,430	1,586	0.6%	11,058	4.0%	336	0.1%	377	0.1%	a
Perry	265,437	490	0.2%	2,765	1.0%	8,234	3.1%	56	0.0%	a
Pickett	104,306	10,935	10.5%	14,777	14.2%	216	0.2%	19	0.0%	a
Polk	278,146	152,771	54.9%	2,000	0.7%	2,656	1.0%	403	0.1%	a
Putnam	256,708	1,489	0.6%	4,942	1.9%	1,599	0.6%	1,798	0.7%	a
Rhea	201,845	6,980	3.5%	13,138	6.5%	743	0.4%	1,301	0.6%	a
Roane	230,866	27,839	12.1%	8,348	3.6%	1,625	0.7%	1,599	0.7%	a
Robertson	304,841	23	0.0%	7,033	2.3%	1,345	0.4%	1,706	0.6%	a
Rutherford	396,398	16,748	4.2%	8,312	2.1%	4,768	1.2%	4,150	1.0%	i
Scott	340,673	52,451	15.4%	42,195	12.4%	934	0.3%	752	0.2%	a
Sequatchie	170,144	24	0.0%	3,466	2.0%	139	0.1%	145	0.1%	a
Sevier	379,192	120,250	31.7%	2,304	0.6%	3,952	1.0%	3,079	0.8%	a
Shelby	488,709	#N/A	#N/A	23,349	4.8%	#N/A	#N/A	#N/A	#N/A	j
Smith	201,149	5,479	2.7%	2,375	1.2%	4,706	2.3%	70	0.0%	a
Stewart	293,978	107,419	36.5%	5,435	1.8%	331	0.1%	56	0.0%	a
Sullivan	264,583	38,469	14.5%	6,004	2.3%	2,557	1.0%	6,935	2.6%	a
Sumner	338,798	1,338	0.4%	4,588	1.4%	2,128	0.6%	2,788	0.8%	k
Tipton	293,380	4,449	1.5%	2,519	0.9%	1,271	0.4%	1,726	0.6%	a
Trousdale	73,179	778	1.1%	691	0.9%	160	0.2%	470	0.6%	a
Unicoi	119,081	61,313	51.5%	6,213	5.2%	19	0.0%	786	0.7%	a
Union	143,087	6,508	4.5%	25,209	17.6%	437	0.3%	64	0.0%	a
Van Buren	174,986	14	0.0%	26,186	15.0%	394	0.2%	80	0.0%	a
Warren	276,911	367	0.1%	2,789	1.0%	2,073	0.7%	417	0.2%	a
Washington	208,953	17,836	8.5%	4,670	2.2%	1,302	0.6%	3,336	1.6%	a
Wayne	469,829	271	0.1%	2,580	0.5%	419	0.1%	466	0.1%	a
Weakley	371,425	307	0.1%	11,592	3.1%	484	0.1%	1,168	0.3%	a
White	241,074	1,659	0.7%	17,414	7.2%	1,224	0.5%	166	0.1%	a
Williamson	373,033	#N/A	#N/A	4,625	1.2%	#N/A	#N/A	#N/A	#N/A	l
Wilson	365,498	247	0.1%	12,874	3.5%	2,426	0.7%	1,002	0.3%	a
TOTAL	26,390,386	1,300,316	4.9%	1,174,028	4.4%	163,386	0.6%	114,570	0.4%	10.4%

Percentage of Statewide

Note: #N/A means data was not available; see source notes for explanations.

Land Owned by

All Governments

Appendix B. Government-owned Property by County and Level of Government

- (1) Source: U.S. Census Bureau, Geography Division. *State of Tennessee Counties - Current/BAS18 - Data as of January 1, 2017. Last Revised: December 1, 2017.*
https://tigerweb.geo.census.gov/tigerwebmain/Files/bas18/tigerweb_bas18_county_tn.html
- (2) *State-owned acreage includes TDOT-estimated ROW as of 6/30/2017, in addition to GIS and other sources listed for each county.*
- (a) Source: Tennessee Comptroller of the Treasury, Office of Local Government.
Staff analysis of 2018 statewide GIS parcel layer (TNMAP_DATA_LIBRARY.DBO.LIBRARY_Statewide_Parcels) maintained by OLG and hosted by STS-GIS Services.
- (b) Source: Federal-, County-, and City-owned acreage derived from staff analysis of Year 2014 GIS data;
2018 GIS data provided by this county to OLG (shared with permission) does not contain property ownership classifications.
State-owned acreage reflects inventory maintained by STREAM, data provided to TACIR 9/26/2018.
- (c) Source: Federal-, County-, and City-owned acreage derived from staff analysis of Year 2016 GIS data;
2018 GIS data provided by this county to OLG (shared with permission) does not contain property ownership classifications.
State-owned acreage reflects inventory maintained by STREAM, data provided to TACIR 9/26/2018.
- (d) Source: State-, City-, and Metro-owned acreage provided by the Metropolitan Nashville & Davidson County Property Assessor, 6/20/2018.
Federal acreage as reported by the US Department of the Interior for land subject to payments in lieu of taxes in 2018. See <https://www.doi.gov/pilt>
2018 GIS data provided by this county to OLG (shared with permission) does not contain property ownership classifications.
- (e) Source: Tennessee Comptroller of the Treasury, Office of Local Government, and Hamilton County.
Staff analysis of 2018 GIS parcel layer submitted by Hamilton County to OLG; shared with permission.
- (f) Source: Federal-, County-, and City-owned acreage derived from staff analysis of Year 2015 GIS data;
2018 GIS data provided by this county to OLG (shared with permission) does not contain property ownership classifications.
State-owned acreage reflects inventory maintained by STREAM, data provided to TACIR 9/26/2018.
- (g) Source: Tennessee Comptroller of the Treasury, Office of Local Government, and Knox County.
Staff analysis of 2018 GIS parcel layer submitted by Knox County to OLG; shared with permission.
- (h) Source: Tennessee Comptroller of the Treasury, Office of Local Government, and Montgomery County.
Staff analysis of 2018 GIS parcel layer submitted by Montgomery County to OLG; shared with permission.
- (i) Source: Tennessee Comptroller of the Treasury, Office of Local Government, and Rutherford County.
Staff analysis of 2018 GIS parcel layer submitted by Rutherford County to OLG; shared with permission.
- (j) Source: Tennessee Comptroller of the Treasury, Office of Local Government, and Shelby County.
Data errors did not allow staff to analyze 2018 GIS parcel layer submitted by Shelby County to OLG (shared with permission).
State-owned acreage reflects inventory maintained by STREAM, data provided to TACIR 9/26/2018.
- (k) Source: Tennessee Comptroller of the Treasury, Office of Local Government, and Sumner County.
Staff analysis of 2018 GIS parcel layer submitted by Sumner County to OLG; shared with permission.
- (l) TACIR has not received permission from Williamson County to use the parcel data sent to OLG.
State-owned acreage reflects inventory maintained by STREAM, data provided to TACIR 9/26/2018.

Appendix C: Survey Questions

TACIR staff prepared an online survey to ask city and county governments about their real property ownership and management practices. The survey was distributed by email from August 16 to October 1, 2018, in partnership with the Tennessee Municipal League (TML) and University of Tennessee County Technical Assistance Service (CTAS). Officials from 15 cities and six counties completed the survey. To supplement the low number of online responses, additional jurisdictions were selected based on population and geographic location and interviewed via telephone to provide a more representative sample of cities and counties across the state.

Question 1:

How much total real property does your government own? Provide as much information as possible.

- Total number of parcels
- Total number of acres
- Total value: \$

Question 2:

Of the total real property, your government owns, how much of this real property is potential surplus property? Provide as much information as possible.

- Total number of parcels:
- Total number of acres:
- Total value (\$):

Please describe the potential surplus property.

Question 3:

Is your local government increasing, decreasing, or maintaining the size of your real estate holdings?

- Increasing (acquiring real property)
- Decreasing (disposing of real property)
- Maintaining (no net change in the amount of real property)

Please explain your choice.

Question 4:

Has your government adopted a formal, written surplus property policy that applies to the sale and disposal of real property?

- Yes
- No
- Other (please specify)

Question 5:

Does your government have an interest in acquiring any real property that is currently owned by the State of Tennessee (or the federal government)?

- Yes
- No

Please explain.

Question 6:

Has your government received real property from the State of Tennessee—by purchase or any other conveyance of title—in the last 10 years (2008 - 2018)?

- Yes
- No
- Unsure

If your government did acquire real property from the State of Tennessee in the last 10 years, please provide as much information about this property as possible.

- Total number of parcels
- Total number of acres
- Total value (\$)
- Property description
- Purpose

Question 7:

Do you have suggestions regarding the actions that state government should take to improve the overall management of surplus real property held by state and local governments in Tennessee?

Additional Questions asked during Phone Survey

Four additional questions were asked to the local jurisdictions contacted by staff for telephone interviews.

Question 8:

Please describe your process for determining the best use of local government real estate (purchase, management/utilization, and disposal).

Question 9:

Does your government have a written real estate or capital asset management policy (if yes can we get a copy)?

Question 10:

Does your government have challenges dealing with tax-delinquent, abandoned, or condemned properties?

Question 11:

Is there anything that the state or the legislature could do to help your government manage real estate more effectively (e.g., website to advertise, requirements for tax sales, etc.)?

DRAFT

Appendix D: Survey Results and Analysis

Table 1: Responses by Survey Type.

Method of Survey	Number of Respondent Cities	Number of Respondent Counties
Phone Survey	17	14
Online Survey	15	6
Total	32	20

Table 1 shows that a total of 32 cities and 20 counties responded to the survey, of which 15 cities and six counties responded to the online survey and 17 cities and 14 counties were contacted by telephone.

Table 2: Responses by Region.

	Number of Respondent Cities	% of Total Respondent Cities	Number of Respondent Counties	% of Total Respondent Counties
East	10	31%	1	5%
Middle	14	44%	14	70%
West	8	25%	5	25%
Total	32	100%	20	100%

Table 2 shows that, of the 32 cities that responded to the survey, 10 cities are from East Tennessee, 14 cities are from Middle Tennessee, and eight cities are from West Tennessee. As for the 20 counties that responded to the survey, one county is from East Tennessee, 14 counties are from Middle Tennessee, and five counties are from West Tennessee. Figure 1 is a stackable bar chart presents the number of counties and cities responses by region.

Figure I: Geographic Distribution of Responses from Cities and Counties.

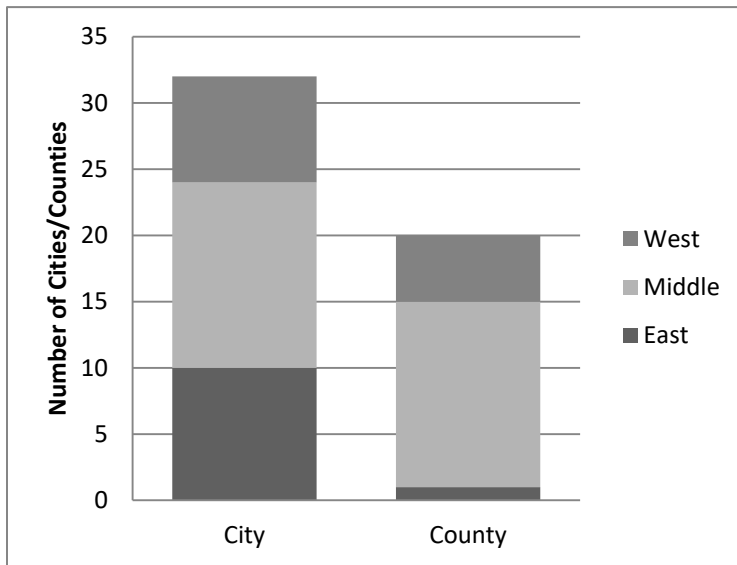


Table 3: Surplus Parcels as a Percentage of Total Government-owned Parcels.

Surplus parcels as % of the Total number of Parcel = X	Number of Respondent Cities	Number of Respondent Counties
No Surplus Property	15	8
$0 < X \leq 10\%$	8	4
$10\% < X \leq 30\%$	2	2
$30\% < X \leq 50\%$	3	3
$50\% > X$	1	-
No Response to Q no.2a	3	3
Total	32	20

Based on responses to questions 1 and 2, Table 3 shows the surplus property as a percentage of total real estate holdings, for the cities and counties that responded to the survey. The results show that 15 cities and 8 counties reported zero surplus properties. Eight cities and four counties reported less than 10 percent of their total real estate holding to be surplus. Two cities and two counties reported 10% to 30% of their total real estate holding to be surplus. Three cities and three counties reported 30% to 50% of their total real estate holding to be surplus. Jackson city reported its surplus real estate to be more than 50% of its total real estate holding and described it mostly as tax delinquent properties. Three cities and three counties did not respond to this question.

Table 4: Types of Surplus Properties Owned by Local Jurisdictions.

Types of Surplus Properties	Number of Respondent Cities	% of Total Respondent Cities	Number of Respondent Counties	% of Total Respondent Counties
Tax-Delinquent	8	25%	8	40%
Others	6	18.75%	2	10%
No Surplus Property	6	18.75%	4	20%
No Response Q no.2d	12	37.5%	6	30%
Grand Total	32	100%	20	100%

Based on responses to question 2, Table 4 shows that of the respondent local governments, eight cities, and eight counties reported that most of their surplus properties are tax delinquent, six cities and two counties reported other various types of surplus properties. Cities described their other surplus properties as an abandoned cemetery, flat parcels in residential areas, ROW purchases, community development block improvement areas, and FEMA properties. Counties reported that their other surplus properties were formerly used for law enforcement purposes (e.g., jail site and former sheriff headquarters) or are FEMA properties. Six cities and four counties reported no surplus property. Twelve cities and six counties did not respond to this question and some of them had reported in the previous question that they do not have surplus properties.

Table 5: Change in the Amount of Real Estate Owned by Local Jurisdictions.

Size of Real Estate Over time	Number of Respondent Cities	% of Total Respondent Cities	Number of Respondent Counties	% of Total Respondent Counties
Increasing	7	22%	5	25%
Stable	22	69%	13	65%
Decreasing	3	9%	2	10%
Grand Total	32	100%	20	100%

Based on responses to question 3, Table 5 and Figure 2 show how the respondent local jurisdictions categorized the change in their real estate holdings over time. The results show that of the 32 respondent cities, 7 cities reported their real estate size to be increasing, 22 cities reported their real estate size to be stable, and 3 cities reported their real estate size to be decreasing. The City of Kingsport is one of the cities that reported it is decreasing its real estate holdings by actively finding ways to turn its non-tax producing properties into tax-producing and by also developing a land bank for future management of surplus properties. As for the 20 respondent counties, the results show

5 counties reported their real estate size to be increasing, 13 counties reported their real estate size to be stable, and 2 counties reported their real estate size to be decreasing. Williamson County is one of the counties whose real estate holding is increasing, mostly because of its growing population, acquiring property for its emergency management, parks, and recreation departments.

Figure 2: Change in the Amount of Real Estate Owned by Local Jurisdictions.

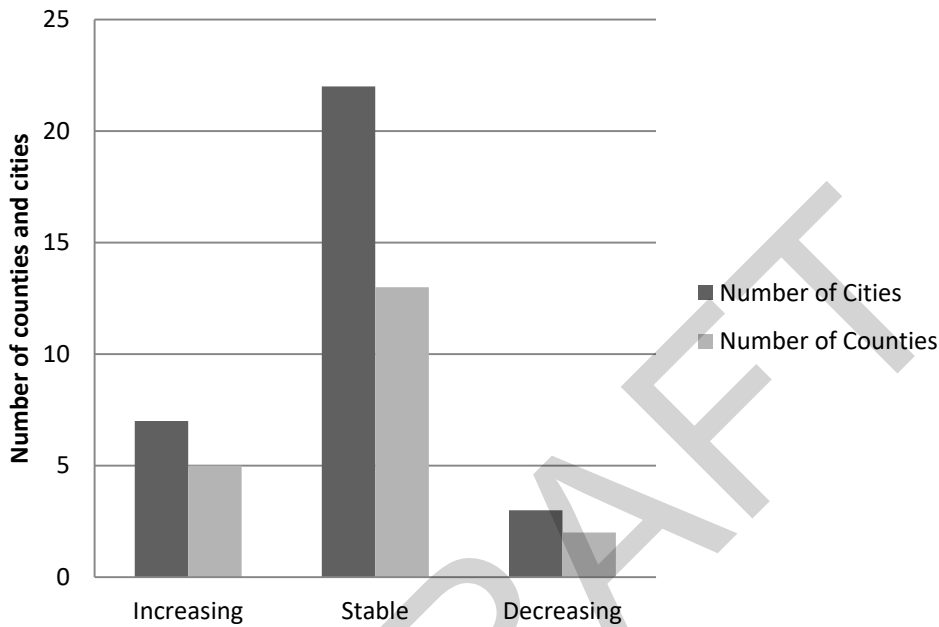


Table 6: Local Jurisdictions and Real Estate Management Policy

Real Estate Management Policy	Number of Respondent Cities	% of Total Respondent Cities	Number of Respondent Counties	% Of Total Respondent Counties
Yes	8	25%	13	65%
No	23	72%	5	25%
Unsure	1	3%	2	10%
Grand Total	32	100%	20	100%

Combining responses to question 4 of the online survey and question 9 from telephone interviews, Table 6 shows how many local jurisdictions have a formal policy related to real estate and capital assets management. Eight respondent cities and 13 respondent counties reported they have a real estate management policy. The City of Clarksville, Dyer County, Marshall County, and Rutherford County shared their capital asset management policies, which provided information about the guidelines and regulations local governments have in place to account for their fixed assets. Twenty-three respondent cities and five respondent counties reported they do not have any real estate

management policy. One respondent city and two respondent counties were unsure if they have any real estate management policy.

Table 7: Local Jurisdictions’ Interest in Acquiring State-Owned Property.

Does your government have an interest in acquiring any real property that is currently owned by the State of Tennessee (or the federal government)?	Number of Respondent Cities	% of Total Respondent Cities	Number of Respondent Counties	% of Total Respondent Counties
Yes	4	13%	2	10%
No	26	81%	15	75%
Unsure	2	6%	2	10%
No Response Q no.5	-	-	1	5%
Grand Total	32	100%	20	100%

Based on responses to question 5, Table 7 shows how many local governments have and how many do not have an interest in acquiring any real property that is currently owned by the State of Tennessee or the federal government. The results show that 26 respondent cities and 15 respondent counties do not want to acquire any property from the state. The City of Winchester and Lincoln County each reported that although they currently do not have an interest in the state-owned property, they might be interested in future depending on their jurisdictional needs. Four respondent cities and two respondent counties are interested in acquiring state-owned property. Two respondent cities and two respondent counties are unsure if they want to acquire any real estate from state government and one respondent city did not respond to this question. Figure 3 is a bar chart that presents the results in Table 7.

Figure 3: Local Jurisdictions’ Interest in Acquiring State-Owned Property.

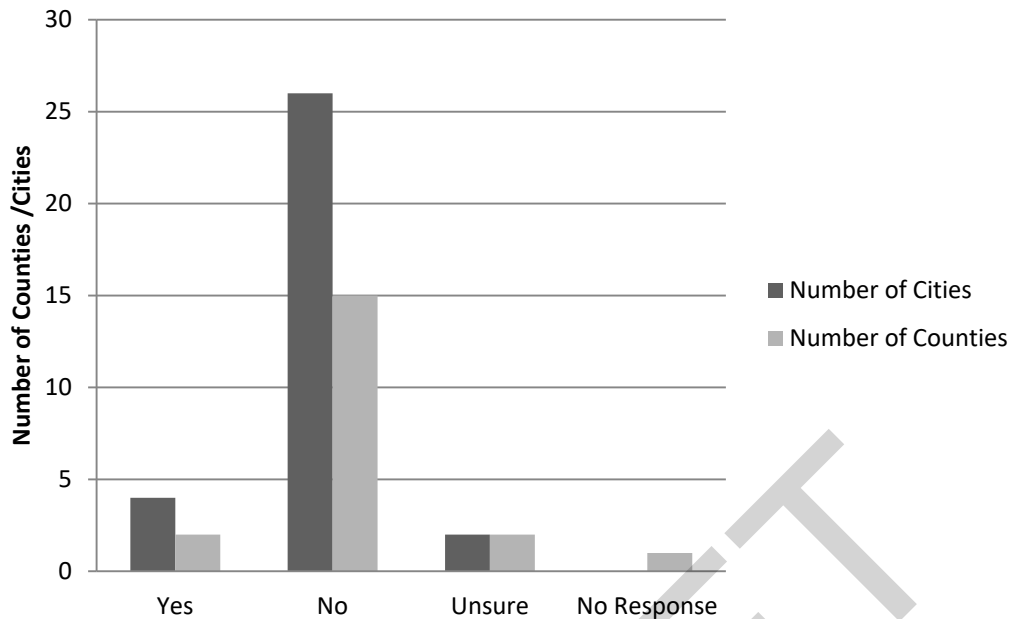


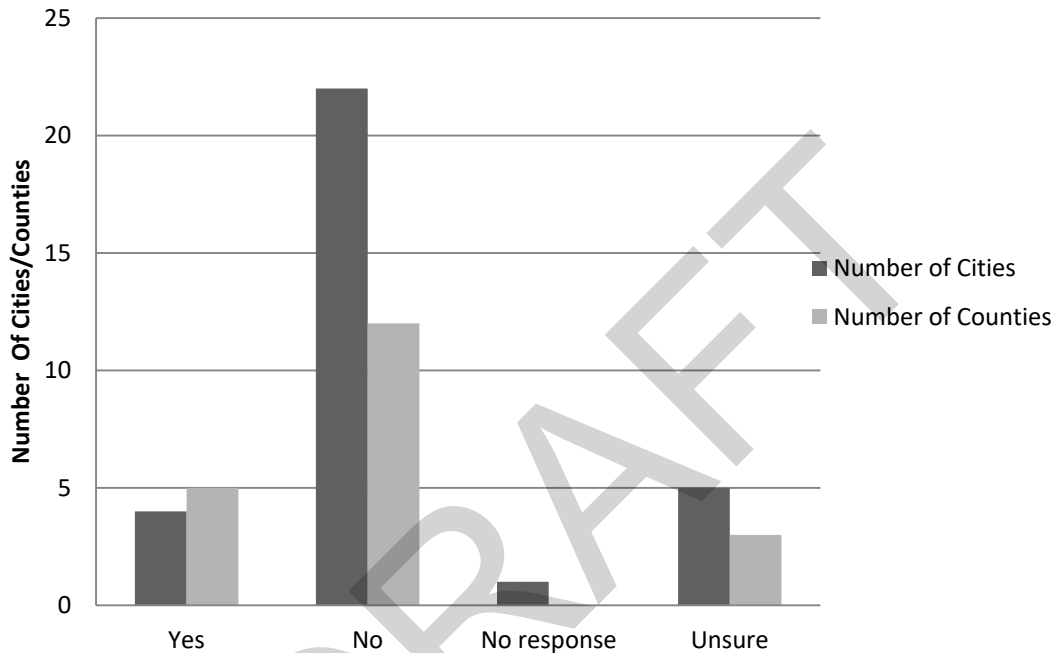
Table 8: Received Real Property from the State of Tennessee.

Has your government received real property from the State of Tennessee—by purchase or any other conveyance of title—in the last 10 years (2008 - 2018)?	Number of Respondent Cities	% of Total Respondent Cities	Number of Respondent Counties	% of Total Respondent Counties
Yes	4	13%	5	25%
No	22	69%	12	60%
No response for Q no.6	1	3%	-	-
Unsure	5	16%	3	15%
Grand Total	32	100%	20	100%

Based on responses to question 6, Table 8 shows whether local governments received real property from the State of Tennessee in the last 10 years. Figure 4 is a bar chart that presents the results in Table 8. The results show that four respondent cities and five respondent counties have received real property from the State government. The City of Jackson, Bedford County, and Shelby County reported they received right of way (ROW) from the State government. Davidson County shared that it bought a state-owned parking lot to use for the Nashville Sounds baseball stadium, and also bought the Tennessee Preparatory School and turned it into a public charter school. Twenty

two respondent cities and 12 respondent counties have not received real property from the State government. Five respondent cities and three respondent counties were unsure if they received any property from the state government. One respondent city did not respond to this question.

Figure 4: Received Real Property from the State of Tennessee.



Responding to question 7, officials from some cities and counties shared suggestions on what role the state government can play in helping the respective cities and counties to manage their surplus real properties effectively. They recommend that the state government must closely coordinate with them, notify them of state-owned surplus properties in their jurisdiction and give them the first right of refusal. They also recommend that the disposal of surplus property should be made an easy and speedy process, legislation should allow clear titles to properties defaulted to a governmental entity via tax sales, and the state government should streamline the way to sell properties, provide a website, best practice guideline, marketing assistance and remove administrative barriers.

Responding to question 8, most of the local governments interviewed said that they do not buy a new property until and unless they have a specific need for it. Examples of specific needs are new schools, utilities, fire stations, etc. Some respondent local jurisdictions also shared that they try to maximize their use of real estate. For example,

Wilson County has partnered with its city governments to use real property effectively by using a fire station in Mt. Juliet to house county ambulances.

Table 9: Local Jurisdictions’ Challenges Dealing with Unwanted Properties

Does your government have challenges dealing with tax-delinquent, abandoned, or condemned properties?	Number of Respondent Cities	% Of Total Respondent Cities	Number of Respondent Counties	% of Total Respondent Counties
Yes	6	35%	5	36%
No	11	65%	8	57%
No Response to Q no.10	-	-	1	7%
Grand Total	17	100%	14	100%

Based on responses to question 10, Table 9 shows if the respondent local jurisdictions have challenges dealing with tax-delinquent, abandoned, or condemned properties. Six respondent cities and five respondent counties reported specifically that tax-delinquent properties are a problem for their government. Eleven respondent cities and eight respondent counties say they do not face challenges with such properties, and one respondent county did not respond to this question.

Responses to question 11 suggested that the state government should give them more autonomy and interfere less with their real estate management. They also want consultations before any new law is passed.