

## FBI Questions on GSA Site Selection Process

1. Given that the site selection plan notes that subcriteria are of equal importance within a criterion, please describe further how the SSA came to the conclusion that for criterion #2 (Transportation Access) Greenbelt should receive a Blue rating and Springfield should receive a Green rating even though both sites have the same proportion of subcriteria ratings (2 Blue and 2 Green), as reflected on page 15 in the August 22, 2023 version of the Site Selection Decision.

	Springfield	Greenbelt	Landover
<b>Overall Rating</b>	Green	Blue	Yellow
Subcriteria 2.a	Green	Blue	Yellow
Subcriteria 2.b	Green	Blue	Yellow
Subcriteria 2.c	Blue	Green	Yellow
Subcriteria 2.d	Blue	Green	Green

2. Please clarify how the SSA deemed subcriteria #3a (Site Area and Site Geometry) and #3b (Schedule Risk) of equal importance when determining the overall criteria rating for #3.

3. Please explain how the SSA made the decisions to break a tie when determining criteria rating versus maintaining a tied criteria rating, and explain how that process is consistent with GSA best practices. Instances of tie breaking or allowing a tie to remain are present in the rating decisions for criteria #2, #3, and #4.

4. For the evaluation of criterion #4 (Promoting Sustainable Siting and Advancing Equity), please explain why GSA chose to evaluate sites using data primarily at the county level, rather than further differentiating based on more specific locality information.

5. Please explain how the SSA determined when to bring in outside information to inform a rating decision (as allowed in the site selection plan) versus relying solely on information considered by the panel, particularly in terms of when and how outside information was used when breaking ties.

The Site Selection Decision provides detailed explanations for how the Site Selection Authority (SSA) evaluated criteria, what factors she considered, and what data she drew upon when rating individual sites. She did this under the authority granted by the Site Selection Plan (SSP),

which vests with her the “discretion to fully evaluate all attributes of the sites and select the site which is truly most advantageous to the Government, regardless of the recommendation provided by the panel.” It appears that the underlying premise behind questions 1-5 is that this was outside of the process contemplated by the SSP; that is not the case.

As a reminder, under the SSP, the SSA is not charged with performing an analysis of subcriteria, as the Site Selection Panel (“Panel”) was. While the SSP does not require the SSA to adhere to the same structured subcriteria analysis as the Panel, the SSA chose to conduct her own evaluation of each site largely using the same framework that the Panel was directed to use. This included evaluating the five top-level criteria and various subcriteria, to ensure consistency with the process as conveyed to stakeholders. The SSA analyzed the same subcriteria as the Panel was instructed to use, and engaged with the Panel’s methodology, but also used the discretion given to her by Section IX of the SSP to inform her own color ratings for the five criteria. This meant bringing in additional information that the Panel did not consider where, in the SSA’s judgment, it was relevant to the determination of which site was advantageous to the Government.

**6. Given that fairness and transparency are critical to the site selection process and GSA will be asked to justify decisions, please describe the rationale for and process by which the SSA was changed prior to releasing the final site selection plan in July.**

The authority to select a site is given to the Administrator, and anyone other than the Administrator that makes a site selection determination does so under a delegation of authority from the head of the agency. GSA typically ensures that the SSA is someone with real estate expertise, customer understanding, and an awareness of the local community’s interests and concerns. Additionally, GSA ensures that the accountable official’s seniority is commensurate with the significance of the siting decision and the level of scrutiny that official will receive.

Often, the agency’s relevant Regional Commissioner for the Public Buildings Service (typically a member of the senior executive service) serves as a site selection authority on those occasions when a site must be selected. However, the history of this project makes clear that – depending on the significance of the particular site selection decision, and the public scrutiny that the decision is likely to bring about – a more senior official serving as SSA is appropriate. For example, in 2014, the more senior Deputy Commissioner of the Public Buildings Service was the SSA for the determination of which sites ended up on the short list, rather than the Regional Commissioner.

In this case, after releasing the SSP in September 2022, there was a significant amount of Congressional action and discussion (see, for instance: <https://rollcall.com/2022/12/19/omnibus-text-delayed-over-fbi-headquarters-issue/>) that led to the Congressionally directed consultations earlier this year. This reinforced the level of scrutiny that any official would receive, whatever decision was made. Given that, and consistent with past history on the project, GSA chose to elevate the SSA to the Commissioner level (the highest ranking position within the Public Buildings Service) as it made other updates as part of Amendment 2. Beyond the significance of

the project and the level of scrutiny any official would receive, it is also important to stress that Ms. Albert was selected to be PBS Commissioner specifically because of her real estate expertise – particularly in the National Capital Region.

**7. Please describe what process GSA undertook to mitigate any perceived conflict of interest or bias related to the SSA’s previous employment with one of the offerors in this site selection.**

On July 6, 2021, the Administrator granted PBS Commissioner Nina Albert a limited authorization pursuant to 5 C.F.R. § 2635.502(d) to participate in GSA matters related to the FBI Headquarters project and WMATA. That authorization states, in pertinent part, that “the public interest will be substantially served by ensuring that a high-level political appointee is accountable to Congress and the public for the direction of the FBI Project.” It further states that the Administrator “fully expect[s] that any decisions you advise or make will be guided by what is best for the FBI, GSA, the Federal Government, and taxpayers.”

While this authorization was only required for any activity covered from one year after Ms. Albert’s last day at WMATA (July 2, 2021), and is therefore no longer holding, it does demonstrate GSA’s early and intentional action to ensure that Ms. Albert’s expertise could be leveraged on this critical project. A lightly redacted copy of the referenced authorization is enclosed.

**Additional Clarification on GSA’s Site Selection Best Practices and Process**

Site Selection Authority’s Decision Being Different from a Panel Evaluation

The September 22nd FBI Memorandum indicated that “past history indicates that in the overwhelming majority of instances, a panel’s unanimous recommendation and the final SSA decision are aligned.” While not necessarily common, GSA’s typical site selection process is designed so that an SSA can make a decision – informed by a Panel’s evaluation – of which site(s) is most advantageous to the Government. The most relevant precedent for a similar situation is in a previous phase of this project, in the down-select in 2014 for the three sites currently under consideration. The Panel recommended excluding the Springfield, VA location from the short list of sites, and the Site Selection Authority (the PBS Deputy Commissioner) ultimately chose to include the Springfield, VA location, against the recommendation of the Panel. In that assessment, the SSA found, in pertinent part:

*“The Site Panel’s report recommended exclusion of this site [Springfield, VA] largely based on uncertainties related to cost and timing to relocate the existing tenants and uses of the site. While I agree that those issues present uncertainties regarding development of the site, I am not persuaded that such uncertainties merit exclusion of the site. Rather, including this site in the Developer Competition is in GSA’s and the Government’s interest because it will provide an opportunity for the development*

*community to address the design and other challenges of relocating the existing occupants of this site in order to complete the project, and present GSA the opportunity to maximize the use of an existing, significant Federal asset.”*

This is not to suggest that either the Panel or the SSA was correct or incorrect to include or exclude the Springfield, VA location – it is an acknowledgment that GSA’s site selection process is designed to vest an accountable official with the authority to make the ultimate determination of what is most beneficial to the Government, while providing them access to other experts who may weigh in with guidance and advice.

#### A “Reversal” of a Panel’s Evaluation

GSA wants to clarify the statement contained in the September 22, 2023, memorandum regarding the SSA’s “reversal of the panel’s recommendation....” The SSP makes clear the roles of each entity. The Panel was tasked with conducting an evaluation of the sites and submitting a report and recommendation to the site selection authority. The SSA is directed to “select the site which is truly most advantageous to the Government, regardless of the recommendation provided by the panel.” In making this determination, the SSA “may consider any and all information in making a decision, including the full record of the site selection panel but also information, data, or other materials not considered or evaluated by the site selection panel.” It is inaccurate to say there was a reversal, as that is an inaccurate way to describe the plan and the process. Furthermore, the process of an SSA convening a Panel to inform their decision is consistent with GSA’s best practices on site selection.