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The Hon. Mike Crapo, Chair
Senate Committee on Finance

The Hon. Ron Wyden, Ranking Member
Senate Committee on Finance

The Hon. Ron Estes, Chair
House Committee on Ways and Means
Social Security Subcommittee

The Hon. John Larson, Ranking Member
House Committee on Ways and Means
Social Security Subcommittee

Dear Chairs Crapo and Estes and Ranking Members Wyden and Larson,

In light of efforts to reduce the federal real property footprint,¹ the Social Security Advisory Board (Board) writes to highlight a unique issue for the Social Security Administration (SSA) regarding property acquired with money from the Social Security trust funds.

The Board believes that any proceeds from the sale of trust fund acquired property should go to the trust funds. Trust fund dollars are for Social Security program purposes only and have been intentionally set apart from general revenues by Congress. The Board therefore encourages Congress to direct all revenue from the disposition of trust fund properties to the trust funds.

While proceeds from the sale of federal property are generally deposited in the Treasury Department's Land and Water Conservation Fund, SSA and the General Services Administration (GSA) agree that federal law creates an exception to this policy for trust fund acquired property. SSA believes that Section 574 of the Property Act, which is for "property acquired with amounts not appropriated from the general fund of the Treasury," applies to trust fund-acquired property and requires all proceeds to go to SSA or its trust

¹ Examples of current and previous administrations' efforts to reduce the federal real property footprint include <https://obamaadministration.archives.performance.gov/content/reduce-federal-footprint.html>, <https://obamawhitehouse.archives.gov/sites/default/files/omb/financial/national-strategy-efficient-use-real-property.pdf>, <https://trumpadministration.archives.performance.gov/real-property-metrics/>, <https://www.govexec.com/management/2024/07/biden-administration-pledges-help-agencies-offload-more-federal-buildings/397921/>, and <https://thehill.com/homenews/administration/5176143-gsa-federal-buildings-non-core-properties/>

funds.² GSA relies on section 412 of the Consolidated Appropriations Act of 2005, which says “[n]otwithstanding any other provision of law, [GSA may dispose of property] and retain the net proceeds of such dispositions in an account within the Federal Buildings Fund to be used for [GSA’s] real property capital needs.”³ In December 2010, the Department of Justice (DOJ) issued a memorandum agreeing with GSA.⁴

Congress should clarify that proceeds from the disposition of trust fund acquired property belong to the trust funds. This clarification should apply both prospectively and to proceeds from trust fund buildings that were already sold,⁵ as SSA’s Office of the Inspector General recommended to Congress in 2012.⁶ The Board further recommends that the trust funds receive interest on the proceeds from buildings that have already been sold.

The Board also recommends that Congress direct the Government Accountability Office to determine which properties should be considered trust fund acquired, given disagreements between SSA and GSA on that topic.⁷

The Board recommends that Congress take prompt action on this issue. If you have any questions or would like to discuss this topic further with the Board, please contact the Board at ssab@ssab.gov.

Sincerely,

Bob Joondeph
Bob Joondeph

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Cc: The Hon. Frank Bisignano, Commissioner, Social Security Administration

² 40 USC § 574.

³ PL 108–447, 118 Stat. 2809.

⁴ <https://www.justice.gov/olc/file/2010-12-17-bldgs-ssa-trust-funds>

⁵ Appendix H of https://oig-files.ssa.gov/audits/full/A-15-13-23043_0.pdf lists the buildings that SSA’s Inspector General determined were trust fund acquired and still in SSA’s possession as of 2012, while Appendix I lists those that were disposed of before 2012.

⁶ https://oig-files.ssa.gov/audits/full/A-15-13-23043_0.pdf p. ii

⁷ The DOJ memo suggests discrepancies between SSA and GSA on which property is trust fund acquired. See <https://www.justice.gov/olc/file/2010-12-17-bldgs-ssa-trust-funds> fn 8. DOJ did not resolve the issue but concluded “that, at the least, SSA occupies some buildings acquired with [trust] funds” including a facility in Woodlawn, Maryland.