



# Review of the FBI's Planning for a Future FBI Headquarters Facility



OVERSIGHT AND REVIEW DIVISION

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# EXECUTIVE SUMMARY

## Review of the FBI's Planning for a Future FBI Headquarters Facility

### Introduction and Background

The Federal Bureau of Investigation (FBI) concluded almost 20 years ago that the FBI's Headquarters facility, the J. Edgar Hoover Building (JEH), did not adequately support the FBI's mission, workforce, and security requirements. In December 2014, the U.S. General Services Administration (GSA) began a multiyear procurement process to build a new FBI Headquarters campus facility in a suburban location outside of Washington, D.C. that would consolidate over 10,000 FBI personnel. The proposed new facility would be funded through the transfer of the JEH site's ownership to a developer that would agree to build the new suburban campus facility (the exchange procurement). However, after GSA determined that the value of the JEH site alone would not cover the cost of the new facility, the Office of Management and Budget (OMB) sought a congressional appropriation in Fiscal Year (FY) 2017 to cover the difference. In March 2017, GSA publicly stated that FBI Headquarters project decisions would not be announced until the resolution of the FY 2017 appropriations request.

In July 2017, GSA announced that it had canceled the exchange procurement because in May 2017, GSA and the FBI did not receive in the FY 2017 appropriations all of the

funding requested for the project. The following month, the U.S. Senate Committee on Environment and Public Works (EPW) directed GSA and the FBI to develop a new plan for the project, which GSA and the FBI submitted to EPW on February 12, 2018 (the revised plan). The revised plan no longer proposed building a suburban campus, but rather recommended demolishing JEH and constructing a new FBI Headquarters facility on the JEH site.

In May 2019, congressional committees expressed concern to the U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) that the change in GSA's and the FBI's plans from a suburban campus facility to a new facility on the JEH site was the result of then President Donald Trump's opposition to a suburban location because the JEH site would have been sold to a developer that could have built a hotel to compete with what was then the nearby Trump International Hotel, in which Trump had a financial interest. The OIG initiated this review in June 2019 to assess DOJ and the FBI's planning for a future FBI Headquarters facility.

This report assesses whether the FBI's decision to seek to remain at the JEH site was based on improper considerations or motives, and whether an FBI official provided false or misleading information about White

House involvement in this decision during a February 28, 2018 EPW hearing. During our review, we discovered facility security issues related to the revised plan that we address in the report and in a classified appendix based on a limited review of the topic.

### **Change in the FBI Headquarters Project**

As we describe in the report, several FBI witnesses told us, and other evidence indicated, that GSA canceled the exchange procurement in July 2017 because GSA and the FBI did not have sufficient funds to proceed with the procurement, and the timing of future funding was uncertain. Several FBI witnesses also told us that they had no knowledge of any involvement by Trump or the White House in the cancellation decision.

Discussions regarding the funding shortfall in 2017, and the exchange procurement's cancellation, occurred at and around the time that President Trump fired then FBI Director James Comey and shortly before current FBI Director Christopher Wray was sworn in on August 2, 2017. Wray told us that, during an interview for the FBI Director position that occurred between May 9 and June 7, 2017, President Trump indicated to him that Trump had "tapped the brakes" on the project because the plan to move the FBI Headquarters to the suburbs did not make sense to him. Wray also told us that he was unsure what Trump was referring to, but understood the plan was not proceeding.

The exchange procurement's cancellation and the start of Wray's tenure as FBI Director prompted a reset in the FBI Headquarters project. Then FBI Finance and Facilities Division Assistant Director Richard Haley and

the Program Management Office (PMO) were responsible for working with GSA on the FBI Headquarters project and the revised plan. The PMO reexamined the Headquarters requirements in an effort to reduce the project's costs, including through reducing personnel at the Headquarters facility.

In September 2017, President Trump called Wray and asked him what he wanted to do about the FBI Headquarters. Wray responded that he had not had a chance to look at the issue yet, and Trump advised Wray to work on it with GSA and tell Trump what Wray thought. In late 2017, then White House Chief of Staff John Kelly told Wray that it did not make sense to the President why the FBI would want to leave the JEH site.

Wray was briefed by Haley and a PMO Unit Chief in November 2017 about various Headquarters project options. In connection with this briefing and in other instances, Wray and then Associate Deputy Director David Bowdich expressed interest to Haley and the PMO in the FBI Headquarters remaining at the current site through a full JEH renovation.

In December 2017, Wray informed GSA that the FBI wanted its Headquarters to remain in its current location. Following a January 4, 2018 meeting in which the FBI presented JEH renovation plans to GSA, GSA recommended demolishing JEH, instead of renovating it, and building a new facility on the site.

GSA and the FBI considered a public-private partnership (P3) financing strategy for the project instead of federal construction appropriations. GSA and the FBI agreed that White House support for this type of funding

would be necessary because of anticipated difficulties with OMB's interpretation of its budget scorekeeping rules.

### **White House Meeting About the FBI Headquarters Project**

On January 24, 2018, before a meeting with President Trump, Kelly met in his White House office with Wray, then Deputy Attorney General Rod Rosenstein, then White House Counsel Donald McGahn, then OMB Director Mick Mulvaney, and then GSA Administrator Emily Murphy. During this pre-meeting, consensus was reached on demolishing JEH and building a new facility on the site, and Wray learned that Mulvaney would support the P3 financing strategy. The same participants then met in the Oval Office with Trump, who asked Wray and Murphy what they were thinking. Wray and Murphy told Trump that they thought the best idea was for the FBI to build a new facility in the current location, and Trump expressed support for this plan. Wray told us that he did not feel pressured or bullied by Trump in the meeting. Although most of the conversation focused on Trump's construction questions about the new facility, Wray also recalled impressing on Trump that Mulvaney's P3 support was critical for the project, but Wray did not remember what Trump said about the project funding.

Following the White House meeting, GSA informed Haley that JEH would be demolished, a new facility would be built on the site, and Trump supported a P3 funding option. However, days later, OMB told GSA and the FBI that the Administration would seek funding for the project through the appropriations process and not through the P3 funding option.

### **GSA and the FBI Submit the Revised Plan to EPW**

On February 12, 2018, GSA and the FBI transmitted the revised plan to EPW, which provided for the consolidation of 8,300 Headquarters personnel in a new facility on the JEH site and the transfer of approximately 2,300 Headquarters personnel to other FBI locations. As compared to the proposed suburban campus facility, the plan stated that there would be no changes to specified mission elements, which were critical components of the new Headquarters facility regardless of location. This included no changes to a facility security-related mission element even though the FBI intended to accept greater risk regarding this mission element at the new JEH site facility. The plan also stated that a new JEH site facility would have full compliance with "security" as compared to a renovated JEH, which would have a facility security concern, but the intended meaning of this statement could not be determined. Additionally, the revised plan did not include facility security information known by the FBI that was a change from the prior suburban campus plan. Then Assistant Attorney General for Administration Lee Loftus learned about the revised plan just days before it was submitted to EPW, which was consistent with DOJ's lack of involvement in the project.

Wray told us that his decision to recommend staying in the current location was not based on anything that Trump said or wanted. According to Wray, he evaluated the following factors in making his recommendation: (1) the ability to consolidate personnel; (2) proximity to the FBI's partners, including DOJ; (3) access to public transportation; (4) the facility's

security; (5) cost; and (6) a location that was “accessible and transparent to the American public.” Wray told us that Trump was “not involved” in Wray’s recommendation, and he did not feel that Trump was trying to “steer [him] to a particular outcome.” Several FBI officials also told the OIG that Wray told them that the decision to seek to remain at the JEH site was his decision.

### **GSA and FBI Officials Testify About Revised Plan Before EPW**

As part of Haley’s preparation for a February 28, 2018 EPW hearing on the FBI Headquarters project and a related EPW staff briefing, the PMO provided Haley with documents containing inaccurate information about the proposed new facility’s security under a relevant security standard. We found evidence suggesting that Wray also received this inaccurate information, but we were unable to determine what Haley told EPW staff about facility security during their briefing. Haley retired from the FBI and thereafter declined our request for an interview.<sup>1</sup>

On the day before the hearing, a GSA attorney called an FBI Associate General Counsel and told the Associate General Counsel that the White House had instructed GSA to not reveal the January 24 White House meeting, and that GSA’s then Acting General Counsel Jack St. John would be calling the FBI’s then General Counsel Dana Boente. The Associate General Counsel separately

informed both Boente and Haley about her conversation with the GSA attorney.

Based on Boente’s notes from his call that day with St. John, Boente understood that executive privilege was being asserted regarding White House conversations and the FBI should assert the privilege. However, Boente did not recall talking to Haley or the Associate General Counsel after this call, and we found no evidence that Boente provided Haley with guidance about the White House directive not to discuss the January 24 meeting during the EPW hearing.

In a meeting that day attended by Wray and Haley, Wray was asked for guidance on how Haley should respond at the EPW hearing to the question of who made the decision for the FBI to stay in the current location. In response, Wray expressed that he made the decision without influence or pressure from anyone. The White House directive was not discussed at this meeting, but Haley’s staff later advised him to state at the hearing that he was not present at any White House meeting if asked about the January 24 meeting.

During the February 28 EPW hearing, Haley was asked about who made the decision to recommend that the FBI Headquarters remain in its current location and whether there was outside influence in the decision. Haley testified that “it [was] an FBI decision,” and there was no White House input in the decision. When asked whether he was aware of any conversations with President Trump about the project, Haley testified that he had

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<sup>1</sup> The OIG does not have the authority to compel or subpoena testimony from former Department employees, including those who retire or resign during the course of an OIG investigation, or third parties.

“not been a part of any of those conversations” and he did not believe that he was “in a position to answer that question.” Haley did not testify regarding the inaccurate facility security information he received during his preparation.

### **Status of the FBI Headquarters Project**

After the revised plan’s submission to EPW, Congress did not appropriate additional funds for the project. Further, OMB did not authorize GSA to seek necessary congressional authorizations related to the revised plan. Pursuant to the Consolidated Appropriations Act for FY 2022, GSA is currently required to select one of the three suburban sites considered in the previously canceled exchange procurement for the construction of a new FBI Headquarters. According to President Joseph Biden’s FY 2024 proposed budget, GSA and the FBI will select one of those sites to build a facility for at least 7,500 personnel, but they also intend to identify a Washington, D.C. location for 750-1,000 personnel.

### **Results of the OIG’s Review**

We found no evidence that the FBI’s decision to seek to have its Headquarters remain in its current location was based on improper considerations or motives. We found that Wray testified credibly to the OIG about how he reached the decision independently and not as the result of any external pressure or influence.

We did not find sufficient evidence to conclude that Haley knowingly provided untruthful or misleading testimony at the EPW hearing about the White House’s involvement in the FBI’s decision. Wray told

Haley that Wray made the decision without influence or pressure. We also did not identify any legal guidance that Haley received from the FBI regarding the White House directive not to discuss the January 24 meeting at the EPW hearing.

Lastly, we found that at the time of the revised plan’s submission to EPW, Haley and the PMO were not sufficiently consulting the FBI Security Division about facility security issues and, as a result, Wray, Haley, EPW members, and EPW staff may have received inaccurate facility security information. Further, the revised plan contained ambiguous facility security information and did not include certain other facility security information known by the FBI, which created an inadequate and unclear summary of the security posture of the proposed new facility.

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## CHAPTER 1: INTRODUCTION

### I. Background

The U.S. Department of Justice (Department or DOJ) Office of the Inspector General (OIG) undertook this review to assess DOJ's and the Federal Bureau of Investigation's (FBI) planning for a future FBI Headquarters facility. The FBI identified the need for a new Headquarters in its 2005 Asset Management Plan. The FBI and the Department have concluded that the current FBI Headquarters, the J. Edgar Hoover Building (JEH), no longer adequately supports the FBI's mission, workforce, and security requirements. Indeed, in regard to a 2011 U.S. Government Accountability Office report about JEH's condition and a 2011 FBI security assessment of JEH, then FBI Associate Deputy Director Kevin Perkins said in a 2013 statement before the U.S. House of Representatives Committee on Transportation and Infrastructure's Subcommittee on Economic Development, Public Buildings, and Emergency Management, "A new consolidated FBI Headquarters facility is urgently needed, and we view this as one of our highest priorities for the foreseeable future."

In December 2014, the U.S. General Services Administration (GSA) initiated a multiyear, multi-phased procurement process by issuing a request for proposals (RFP) in order to identify a developer to design and construct a new FBI Headquarters campus facility in a suburban location in Maryland or Virginia. In the final phase of the procurement process, under the procurement's terms, the developer would receive title to JEH in exchange for completing the suburban campus facility. This plan was known as the "exchange procurement."

The Office of Management and Budget (OMB) determined that, given its estimate of the JEH property value and the \$390 million available in prior year appropriations, GSA and the FBI needed an additional \$1.405 billion appropriation from Congress in Fiscal Year (FY) 2017 to fund the project. President Barack Obama's budget proposal for FY 2017, which was sent to Congress in February 2016, included the \$1.405 billion request. Although GSA could have awarded the exchange procurement contract without the full amount of the requested funding, GSA maintained that making the award without the upfront funding would put the project at risk of several costly changes that we describe further below. In January 2017, GSA received developer proposals that fell far short of the JEH value assumptions used when drafting the FY 2017 budget request.

In May 2017, Congress appropriated \$523 million of the \$1.405 billion requested for the project. In July 2017, with the FBI's concurrence, GSA officially canceled the exchange procurement stating that "full funding [was] crucial for the government to make a contract award" because the "funding gap" put "the government at risk for cost escalations and the potential reduction in value of the [JEH] property that developers were to receive as part of

this procurement.” Also in May 2017, then FBI Director James Comey was fired by then President Donald Trump and subsequently replaced by Christopher Wray. Director Wray was sworn in as FBI Director on August 2, 2017.

In an August 2017 hearing before the U.S. Senate Committee on Environment and Public Works (EPW)—the Committee with oversight responsibility for federal public buildings—EPW directed GSA and the FBI to submit a new FBI Headquarters plan to EPW by November 30, 2017. EPW later granted GSA and the FBI an extension until January 29, 2018.

After the cancelation of the exchange procurement and at the direction of the FBI’s leadership, the FBI Finance and Facilities Division’s Program Management Office (PMO), which was responsible for working on the FBI Headquarters project with GSA, started the project anew and began identifying and evaluating potential National Capital Region (NCR) locations and funding options for a new Headquarters facility.<sup>1</sup> Director Wray and then Associate Deputy Director David Bowdich were both interested in the FBI reconsidering the option of having FBI Headquarters remain in Washington, D.C., if financially feasible, because of the need for proximity to DOJ leadership, FBI law enforcement partners, and Congress, and due to the importance of the FBI having a public presence.

On February 12, 2018, GSA and the FBI submitted to EPW the FBI Headquarters Revised Nationally-Focused Consolidation Plan (revised plan). The revised plan departed from GSA’s and the FBI’s longstanding strategy of building in a suburban location and recommended demolishing JEH and constructing a new FBI facility on the federally-owned site at a reduced size by transferring approximately 2,300 Headquarters personnel to other FBI locations, such as Huntsville, Alabama, where the FBI had already been transferring other Headquarters personnel for a number of years. News articles reported on this development, questioned the decision, and called it a “dramatic about-face.”<sup>2</sup> On February 28, 2018, EPW held a hearing on the FBI Headquarters project with then GSA Public Buildings Service (PBS) Commissioner Daniel Mathews and then FBI Assistant Director Richard Haley, and, among other things, questioned them as to whether then President Trump was involved in the decision to keep FBI Headquarters at its current location rather than relocating to a suburban location.

In May 2019, the House Committee on Oversight and Reform, and Committee on Transportation and Infrastructure, asked the OIG to “review the process leading up to the decision to abandon the long-planned project” to move FBI Headquarters to a suburban

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<sup>1</sup> The NCR encompasses Washington, D.C.; Montgomery and Prince George’s Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and the incorporated cities of Alexandria, Falls Church, Fairfax, and Manassas in Virginia.

<sup>2</sup> See, e.g., Jonathan O’Connell, “[In abrupt shift federal government proposes keeping FBI downtown](https://www.washingtonpost.com/news/business/wp/2018/02/12/in-abrupt-shift-federal-government-proposes-keeping-fbi-downtown/),” *The Washington Post*, February 12, 2018, [www.washingtonpost.com/news/business/wp/2018/02/12/in-abrupt-shift-federal-government-proposes-keeping-fbi-downtown/](https://www.washingtonpost.com/news/business/wp/2018/02/12/in-abrupt-shift-federal-government-proposes-keeping-fbi-downtown/) (accessed October 2, 2023).

location. The committees expressed concern about whether then President Trump opposed the FBI moving to the suburbs because the JEH site would have been sold to a developer that could have potentially built a hotel to compete with a nearby hotel in which Trump had a financial interest at the time, the then-named Trump International Hotel.<sup>3</sup>

The OIG initiated this review on June 28, 2019, and announced that the review would assess DOJ's and the FBI's planning for a future FBI Headquarters facility, including the progress in their planning, their assessment and consideration of the previously proposed plan to move FBI Headquarters to a suburban location, and their assessment and consideration of the plan to demolish JEH and construct a new facility on that site.<sup>4</sup> During our review, we also assessed whether Haley provided any false or misleading information in his February 2018 EPW testimony regarding White House involvement in this decision.

We concluded that Wray testified credibly to the OIG about the reasons why the FBI recommended JEH's demolition and the construction of a new Headquarters facility on the site in the revised plan submitted to EPW, and we found no evidence that this decision was the result of improper considerations or motives. We further determined, based upon a limited review of security issues related to the revised plan, that the plan contained ambiguous facility security information, the plan did not include certain other facility security information known to the FBI, and Wray, Haley, EPW members, and EPW staff may have received inaccurate information about the capacity of a new facility to meet a relevant facility security standard at the JEH site. Lastly, we did not find sufficient evidence to conclude that Haley knowingly provided untruthful or misleading testimony at the EPW hearing about the White House's involvement in the FBI's decision to seek to keep the Headquarters at the JEH site.

## **II. Methodology and Analytical Construct**

During the course of this review, the OIG conducted over 50 interviews involving 31 witnesses. These interviews included FBI Director Christopher Wray, FBI Deputy Director Paul Abbate, former FBI Deputy Director David Bowdich, former Principal Associate Deputy Attorney General Robert Hur, former Assistant Attorney General Lee Lofthus, former FBI General Counsel Dana Boente, former Chiefs of Staff to Director Wray and former Director

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<sup>3</sup> In 2012, GSA awarded the Trump Organization Inc. a 60-year lease to the Old Post Office Building, located at Pennsylvania Avenue and 12th Street, NW. The Trump Organization is a real estate development company that was founded by former President Trump. The property was converted into a luxury hotel and operated as the Trump International Hotel until May 11, 2022. In March 2022, GSA approved the Trump Organization's sale of the lease to another company, which converted the Trump International Hotel into a different hotel.

<sup>4</sup> As a result of the coronavirus disease 2019 (COVID-19) pandemic, the OIG shifted resources to conduct COVID-19 related oversight work, which delayed our completion and issuance of this report.

James Comey, FBI Finance and Facilities Division staff, FBI Security Division staff, FBI Office of the General Counsel attorneys, and FBI Office of Congressional Affairs staff.

The FBI official with the most involvement in the project was Richard Haley, who at the time was the Assistant Director of the Finance and Facilities Division. Haley retired from the FBI and thereafter declined our request for an interview. The House Committee on Oversight and Reform, and Committee on Transportation and Infrastructure, provided the OIG a transcript of their July 24, 2019 interview of Haley about the FBI Headquarters project. Former Deputy Attorney General Rod Rosenstein and former GSA PBS Commissioner Daniel Mathews, who was Haley's counterpart at GSA, also declined our requests for interviews. The OIG does not have the authority to compel or subpoena testimony from former Department employees, including those who retire or resign during the course of an OIG investigation, or third parties.

We also received and reviewed over 115,000 documents that were in DOJ's and the FBI's possession, including reports, presentation materials, meeting notes, emails, and text messages.

We note that on March 12, 2018, in response to a request from the Ranking Member of the House Committee on Oversight and Government Reform's Subcommittee on Government Operations, the GSA OIG initiated a review of GSA's decision-making process for the revised FBI Headquarters plan, including an analysis of whether the revised plan properly accounted for the full costs and security requirements of the project. GSA OIG also reviewed the accuracy of GSA Administrator Emily Murphy's April 17, 2018 congressional testimony regarding White House involvement in the FBI Headquarters project. GSA OIG issued a report on August 27, 2018, as discussed further in Chapter Four (GSA OIG Report).<sup>5</sup> In some instances in this report, for purposes of completeness and clarity, we cite to information from the GSA OIG Report.

As noted above, the OIG undertook this review to assess DOJ's and the FBI's planning for a future FBI Headquarters facility. Since it would not have been possible to analyze every decision made during the FBI Headquarters project, which began over 10 years ago, the OIG focused on the 7-month time period leading up to the February 2018 submission of the revised plan to EPW. We analyzed the justifications offered in support of the decision to recommend staying at the JEH site, and we examined whether and how certain statements made by then President Trump and/or White House officials directly affected the decision-making process. Consistent with the OIG's jurisdiction, our review

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<sup>5</sup> See GSA OIG, [Review of GSA's Revised Plan for the Federal Bureau of Investigation Headquarters Consolidation Project](https://www.gsaig.gov/sites/default/files/audit-reports/Review%20of%20GSA%27s%20Revised%20Plan%20for%20the%20FBI%20HQ%20Consolidation%20Project%20REDACTED%20-%2020508%20compliant.pdf) (August 27, 2018), [www.gsaig.gov/sites/default/files/audit-reports/Review%20of%20GSA%27s%20Revised%20Plan%20for%20the%20FBI%20HQ%20Consolidation%20Project%20REDACTED%20-%2020508%20compliant.pdf](https://www.gsaig.gov/sites/default/files/audit-reports/Review%20of%20GSA%27s%20Revised%20Plan%20for%20the%20FBI%20HQ%20Consolidation%20Project%20REDACTED%20-%2020508%20compliant.pdf) (accessed October 2, 2023). In addition, we received and reviewed over 100 documents that were in the GSA OIG's possession in connection with its review of the FBI Headquarters project.

was limited to assessing DOJ's and the FBI's actions with respect to the FBI Headquarters project, and we did not assess the propriety of any statements or actions taken by then President Trump and/or White House officials regarding the project.

Moreover, our role in this review was not to determine whether the FBI's decision to seek to remain at the JEH site was perfect or ideal. Rather, the question we considered was whether the decision was based on improper considerations or motives. If the explanation that we were given for the decision was consistent with a rational and deliberative approach, we did not conclude that the decision was based on improper considerations or motives in the absence of evidence to the contrary. We took this approach because our role as an OIG is not to second-guess valid discretionary judgments made by agency officials, and this approach is consistent with the OIG's handling of such questions in past reviews.

The OIG's review of facility security issues related to the revised plan was limited. However, since the ongoing FBI Headquarters project may benefit from the information we learned, we included in this report the facility security-related concerns that we identified. We also further address facility security issues in a classified appendix to this report.

## CHAPTER 2: EXCHANGE PROCUREMENT AND PLANS FOR NEW FBI HEADQUARTERS OUTSIDE WASHINGTON, D.C.

The J. Edgar Hoover Building (JEH), located at 935 Pennsylvania Avenue, NW, in Washington, D.C., has served as the FBI Headquarters since construction was completed in 1974. GSA owns JEH and its underlying land, which is 6.7 acres and consists of a full city block. According to the FBI, the Department, and members of Congress, the FBI needs a new Headquarters facility because JEH no longer adequately supports the FBI's mission, workforce, and security requirements. In particular, following the attacks of September 11, 2001, the FBI's mission expanded to include greater national security responsibilities involving counterterrorism, counterintelligence, and cybersecurity. As part of these increasing responsibilities, in its 2005 Asset Management Plan, the FBI identified the need for a new Headquarters facility. Additionally, JEH's deteriorating building utility systems and physical infrastructure are significant concerns, and because of JEH's space limitations, for over a decade thousands of Headquarters personnel have been located at several privately-leased locations in or near the NCR, which is costly and hinders communication, collaboration, and operations. Headquarters personnel are also currently located in FBI-owned facilities at Redstone Arsenal in Huntsville, Alabama, and in Pocatello, Idaho, Clarksburg, West Virginia, and Quantico, Virginia.

Under the November 2016 second edition of "The Risk Management Process for Federal Facilities: An Interagency Security Committee Standard" (ISC Standard), the FBI, as JEH's sole tenant, is responsible for determining JEH's facility security level (FSL).<sup>6</sup> The FSL, which can range from Level I to Level V, is in part determined based on the criticality of the federal agency's mission; the facility's "symbolism," including its attractiveness as a target; the threat faced by the agency; and the facility's square footage and population size. The FBI has concluded that JEH is a Level V facility, which is the FSL reserved for those federal facilities with the highest level of risk. Under the ISC Standard, each FSL has security countermeasures that must be implemented at the facility in order to provide a baseline

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<sup>6</sup> The Interagency Security Committee (ISC), which is chaired by the U.S. Department of Homeland Security, establishes standards, policies, and best practices for non-military facilities owned or leased by the federal government. The OIG's understanding of the ISC Standard is based on a review of the standard and its appendices, and interviews with FBI Security Division witnesses who are knowledgeable regarding the standard. The OIG relied on the second edition of the ISC Standard, which was issued in November 2016, because it was in effect at the time of the events addressed in this report and the classified appendix. See [The Risk Management Process for Federal Facilities: An Interagency Security Committee Standard](#), U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency, November 2016, [www.cisa.gov/sites/default/files/publications/isc-risk-management-process-2016-508.pdf](http://www.cisa.gov/sites/default/files/publications/isc-risk-management-process-2016-508.pdf) (accessed October 2, 2023). The current edition of the ISC Standard was issued in December 2021. See [The Risk Management Process An Interagency Security Committee Standard](#), U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency, December 2021, [www.cisa.gov/sites/default/files/2022-11/The%20Risk%20Management%20Process%20-%202021%20Edition\\_2.pdf](http://www.cisa.gov/sites/default/files/2022-11/The%20Risk%20Management%20Process%20-%202021%20Edition_2.pdf) (accessed October 2, 2023).

level of protection for different security criteria. The FBI must identify and assess the risks to its facility to determine whether the countermeasures referenced in its FSL's baseline level of protection adequately address the risks. If the baseline level of protection is too low or too high based on the risk assessment, the level of protection may be customized, which results in a determination of the necessary level of protection (i.e., the level of protection needed to mitigate the assessed risks). JEH does not currently have the necessary level of protection for certain security criteria. In these circumstances, the ISC Standard's risk management process requires the FBI to either: (1) implement security countermeasures at JEH to achieve the necessary level of protection; (2) accept the risk of remaining at JEH if such countermeasures are not feasible; or (3) consider moving to an alternate facility if the risk is not acceptable.

On December 8, 2011, EPW adopted a resolution authorizing GSA to enter into a "private sector lease transaction, on Federally owned land," for a consolidated FBI Headquarters facility. The EPW resolution stated that the transaction should result in federal ownership of a facility that "provide[s]...Interagency Security Committee Level V security." In January 2013, GSA began planning for a new FBI Headquarters by issuing a request for information from developers, state and local jurisdictions, and others that were interested in providing a new FBI Headquarters facility, including their reactions to GSA's willingness to consider the exchange of the JEH site as part of a potential transaction.

Then Assistant Attorney General for Administration and Chief Financial Officer Lee Lofthus told the OIG that the project was led by a "three-party planning group" comprised of the FBI, OMB, and GSA; DOJ was not involved except for budget request purposes.<sup>7</sup> Beginning in approximately July 2014, within the FBI's Finance and Facilities Division, then Assistant Director Haley formally created a Program Management Office (PMO) of FBI employees and contractors to oversee the new Headquarters project, develop a program of requirements for the new facility, and coordinate with GSA. We were told that Haley, who reported to the Associate Deputy Director, made the FBI's day-to-day project decisions.

In November 2013, GSA issued a request for expressions of interest to identify potential sites that were approximately 50 acres in size for a new, consolidated FBI Headquarters facility and after responses were received, a site evaluation process began. According to Haley's interview by congressional staff, both before and during the site evaluation process, the FBI preferred that its Headquarters facility remain in Washington, D.C. Former FBI Chief of Staff James Rybicki told us that then FBI Director James Comey wanted the FBI to stay at JEH, but that option was not presented to Comey as a realistic option due to cost and security concerns.<sup>8</sup> In July 2014, following the completion of the site

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<sup>7</sup> Several witnesses told us that DOJ received updates on the FBI Headquarters project but did not have much involvement.

<sup>8</sup> The OIG did not seek to interview James Comey as part of this review.

evaluation process, GSA publicly announced three potential facility sites in the following locations: Greenbelt, Maryland; Landover, Maryland; and Springfield, Virginia.

David Bowdich, who assumed responsibility for the project when he became the Associate Deputy Director and Haley's supervisor in April 2016, told the OIG that the final site selections were not optimal given the frequency of meetings in Washington, D.C. and "from the beginning," he "didn't like any of the three sites."<sup>9</sup> He added, "But you kind of inherit what has been discussed and agreed upon." Bowdich also thought that Comey "wasn't thrilled" with the plan to move FBI Headquarters out of the city. According to several witnesses and other evidence, FBI leadership and employees did not like the selected sites because of operational concerns, including the sites' distance from the FBI's partners and the frequency of meetings with these partners.

## **I. The Exchange Procurement Process—December 2014 to March 2017**

GSA's federal procurement process for the FBI Headquarters project sought to identify developers that could deliver a new FBI Headquarters campus facility on one of the three identified sites (Greenbelt, Maryland; Landover, Maryland; and Springfield, Virginia) in exchange for the JEH site (the exchange procurement). According to congressional testimony by GSA officials, an exchange of the JEH site to finance the project was not GSA's preferred funding option, but GSA determined that it was the most viable funding mechanism.

In December 2014, GSA initiated Phase I of the process by issuing a request for proposals (RFP). In 2015, the FBI completed its program of requirements for the new Headquarters campus facility, which included the consolidation of 11,055 personnel in one facility, a number that was later reduced to 10,606 personnel. Between February and October 2015, GSA evaluated the Phase I proposals that it received and selected a limited number of qualified developer "offerors" to compete in Phase II of the exchange procurement. The Phase II RFP, which was issued in January 2016, permitted the offerors to submit proposals regarding each of the three potential sites and stated that the selected offeror would receive the JEH site "with other consideration" (i.e., federal construction funding) in exchange for a new Headquarters facility.

According to Haley's congressional interview and other evidence, GSA realized in or about 2015 that the value of the JEH site alone would not pay for a new FBI Headquarters facility and additional funding was needed. Accordingly, in or about September 2015, OMB decided to seek a congressional appropriation to provide the additional necessary funding for the project (i.e., federal construction funding). The FBI, however, was concerned that OMB's project funding strategy was unrealistic and that the amount of appropriations OMB intended to seek would not achieve a fully consolidated facility. At the time, OMB was

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<sup>9</sup> Bowdich became the FBI Deputy Director in April 2018 and he retired from that position in 2021.

valuing the JEH site at \$750 million. The FBI and, to some extent, GSA believed that OMB was overvaluing the JEH site, which would result in an insufficient appropriations funding request.<sup>10</sup> The FBI nevertheless agreed with proceeding with Phase II of the exchange procurement.

In December 2015, Congress passed the Consolidated Appropriations Act for FY 2016, which provided \$75 million to GSA for the FBI Headquarters project and approximately \$309 million to the FBI for general construction expenses. The House explanatory statement accompanying the legislation noted that the FBI's appropriation included \$180 million for construction of the new FBI Headquarters in the NCR, and authorized the FBI to use up to \$135 million of its prior year balances for the project starting in FY 2016 subject to reprogramming procedures. The explanatory statement also noted that the FBI planned to allocate a total of \$315 million of its resources for needed design and preconstruction activities for the new FBI Headquarters building, including land acquisition and site preparation. The explanatory statement further noted that, "In providing this funding, it is understood that the President's budget request for fiscal year 2017 will include adequate resources for the partners to complete the new headquarters expeditiously."

On February 9, 2016, then President Barack Obama's FY 2017 budget proposal was released, which included an FBI Headquarters project request of \$646 million for the FBI and \$759 million for GSA, for a total of \$1.405 billion. By OMB's calculations, which included OMB's \$750 million valuation of the JEH site and \$390 million from prior year appropriations, GSA and the FBI would have a total of \$2.545 billion available to fund the project once Congress appropriated the requested FY 2017 funds. GSA and the FBI communicated to Congress that the advancement of the project depended on receiving the full amount of the requested appropriated funds in a timely manner and anything less would place the project at risk. Both GSA and the FBI advocated for building a new FBI Headquarters facility in a suburban location to consolidate FBI personnel and improve security. In GSA's February 8, 2016 prospectus for the FBI Headquarters project,<sup>11</sup> the following was stated regarding the FBI Headquarters' security needs:

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<sup>10</sup> OMB's valuation of the JEH site far exceeded each of the values determined through GSA's various appraisals. We have not included the specific appraisal amounts in this report because it is procurement sensitive information.

<sup>11</sup> For proposed capital and leasing projects over a certain cost threshold, GSA obtains specific authorization from both EPW and the House Committee on Transportation and Infrastructure before obligating appropriated funds for a project. To obtain such authorization, through the committees' adoption of resolutions, GSA prepares and submits a prospectus to the committees that includes a description of the building to be constructed or the space to be leased, the location of the building or space, and a cost estimate. OMB reviews and approves every prospectus before submission. Following GSA's submission of the prospectus on February 8, 2016, both EPW and the House Committee on Transportation and Infrastructure passed resolutions in 2016 authorizing the project.

JEH and virtually all of the 13 offsite leased facilities do not meet the applicable Interagency Security Committee (ISC) Standards.... As the central facility for the management of intelligence and national security programs, the FBI Headquarters facility must have high reliability and survivability of utilities and infrastructure.

The House Appropriations Committee expressed the following concerns about GSA's ability to complete the project in a June 2016 committee report:

GSA's insistence on using its exchange authorities to fund the design and construction of a new headquarters through the sale of the J. Edgar Hoover Building is another example of weak property disposal. GSA's request for \$1.4 billion for the FBI in fiscal year 2017 is evidence of its inexperience and inability to execute an exchange of this scale. This Committee has consistently questioned whether an exchange was financially and practically advisable and whether GSA's decision to forgo the normal disposal process would obtain the best deal for the taxpayer. To date, GSA has not provided the Committee with the total project cost, estimated costs of site acquisition, or its current valuation of the J. Edgar Hoover Building. Furthermore, GSA has failed to explain the massive miscalculation of construction and acquisition costs compared to its original projection that the value of the Hoover building would more than pay for a new FBI Headquarters.

In January 2017, while the FY 2017 budget request was pending in Congress and 1 year after initiating Phase II of the procurement process, GSA received final Phase II proposals in response to a request for best and final offers. The offerors' valuations of the JEH site were all substantially lower than OMB's expectations.<sup>12</sup> Despite this seeming funding shortfall, GSA communicated to Congress that if the requested funding was appropriated, GSA would select an offeror and award the contract.

On March 10, 2017, GSA publicly stated that FBI Headquarters project decisions would not be announced until resolution of the FY 2017 funding request.<sup>13</sup> The procurement process entered a holding pattern and, according to several witnesses, the FBI was doubtful regarding the likelihood of receiving the requested appropriations.

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<sup>12</sup> We have not included the offerors' JEH valuations in this report because it is procurement sensitive information.

<sup>13</sup> Between September 28, 2016, and May 5, 2017, three continuing resolutions funded the federal government's operations, but none addressed the FY 2017 budget request for the FBI Headquarters project.

## **II. Cancellation of Exchange Procurement—May 2017 to July 2017**

### **A. GSA and the FBI Do Not Receive the Entirety of Requested Appropriations for the FBI Headquarters Project**

On May 5, 2017, through the FY 2017 Consolidated Appropriations Act, GSA and the FBI received a total of \$523 million in FBI Headquarters project funding, which was \$882 million less than the \$1.405 billion included in the Obama Administration’s FY 2017 budget proposal.<sup>14</sup> Although GSA and the FBI legally could have proceeded with the procurement without the requested funding, the former PMO Section Chief (PMO Section Chief) told the OIG that he did not recall anyone from the FBI or GSA expressing the view that the procurement should go forward.<sup>15</sup> According to Bowdich, who became the Acting Deputy Director on May 9 and continued to oversee the project, the FBI was “all unified” in not wanting to start the project “with not even close to the amount of funding necessary to do it.”<sup>16</sup>

### **B. President Trump Discusses the FBI Headquarters Project with Christopher Wray and Others During FBI Director Interviews**

Following the firing of James Comey as FBI Director, then President Trump interviewed several candidates for the FBI Director position, including Christopher Wray. Director Wray told the OIG that during a lunch interview with Trump, then Deputy Attorney General Rosenstein, and others, prior to Trump’s June 7, 2017 announcement of his intent to nominate Wray to be FBI Director, Wray had an “extremely short exchange” with Trump regarding the plan to build a Headquarters facility in the suburbs.<sup>17</sup> According to Wray, Trump said something about how the proposal to move FBI Headquarters to the suburbs “didn’t make sense” to him. Wray recalled Trump questioning whether Trump was wrong about this and asking Wray and Rosenstein something like: “Don’t you want to be right near each other? Aren’t you guys constantly dealing with each other...?” According to Wray, he and Rosenstein both expressed to Trump that it was convenient and useful for the FBI and DOJ to be close to each other.

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<sup>14</sup> The FBI was appropriated \$323 million and GSA was appropriated \$200 million for the project.

<sup>15</sup> The PMO Section Chief retired from the FBI in March 2019, and later rejoined the FBI as a Management and Program Analyst.

<sup>16</sup> On May 9, 2017, President Trump fired FBI Director Comey, and then Deputy Director Andrew McCabe became the FBI’s Acting Director and then Associate Deputy Director Bowdich became Acting Deputy Director.

<sup>17</sup> We were unable to determine the date of this lunch meeting. Wray told the OIG that he met with Trump on two occasions during the interview process and that this meeting in which the FBI Headquarters project came up was the second meeting. Wray told the OIG that the first meeting included then Vice President Mike Pence and then Attorney General Jeff Sessions, and the subject of FBI Headquarters did not come up. As noted above, Trump announced publicly on June 7, 2017, that he was going to nominate Wray as the Director.

According to Wray, he then shared with Trump an anecdote from September 11, 2001, when Wray was the Principal Associate Deputy Attorney General. Larry Thompson, who was Deputy Attorney General at that time, and others had departed Washington, D.C. for a designated alternative location because continuity of government plans were being implemented. Then FBI Director Robert Mueller, however, had decided that he was not leaving FBI Headquarters and remained in the Strategic Information and Operations Center (SIOC) there. Then Attorney General John Ashcroft decided to go to the FBI's SIOC upon learning of Mueller's location, and Thompson later joined him at SIOC. However, Wray said that Thompson "spent probably three hours on September 11th, basically fighting his way through traffic to get out...and then fighting his way back in." Wray told the OIG that he shared the anecdote because it was "a real-world manifestation of the reaction that [Trump] was having" and "illustrate[d] a very colorful scenario under which [DOJ] and FBI personnel] were all back and forth with each other across the street." According to Wray, Trump expressed that it was a "great story."

Wray told the OIG that Trump did not ask him or Rosenstein where the FBI Headquarters should be, and Wray did not believe that Trump was trying to determine Wray's position on the Headquarters project. Wray also told the OIG that Trump indicated that he had "tapped the brakes" on the FBI Headquarters project because the plan did not make sense to him. Wray said that he was unsure what the President was referring to, but Wray understood that the plan "wasn't going forward."

The OIG reviewed a memorandum prepared in 2018 by then FBI General Counsel Dana Boente summarizing this 2017 lunch interview discussion between Trump, Wray, and others.<sup>18</sup> The memorandum's description of this conversation is consistent with Wray's testimony to the OIG.

Trump also asked Paul Abbate, then FBI Executive Assistant Director (EAD) for the Criminal, Cyber, Response, and Services Branch, and the then Special Agent in Charge of the FBI's Richmond Division (Richmond SAC) about their views on the FBI Headquarters during their interviews for the Director position. Both Abbate and the Richmond SAC told the OIG that Trump expressed support for the FBI Headquarters remaining in its current location, with which Abbate and the Richmond SAC agreed, but Abbate said he viewed Trump's questions on the project as "neutral." According to Abbate, Trump's questions on the project "didn't come across to [Abbate] as if [they were] designed to influence or test [him]." The Richmond SAC told the OIG that Trump's questions on the project were

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<sup>18</sup> Boente prepared the memorandum in or about December 2018 to summarize meetings that Wray had in 2017 and 2018 regarding the FBI Headquarters project with then President Trump, then White House Chief of Staff John Kelly, then GSA Administrator Emily Murphy, and others. Wray told the OIG that he wanted to share his recollection with Boente because with each passing month, his conversations with Trump were becoming harder to remember and Wray anticipated seeking legal advice from Boente if questions were raised by Congress regarding the Headquarters project. Boente testified similarly and told us that he took notes of Wray's recollection of these meetings and then wrote a memorandum based on his notes.

“part...of banter about FBI stuff at a very, kind of, superficial level” and the Richmond SAC “did not attach any significance to it.” Before becoming the FBI’s Acting Associate Deputy Director on or about February 17, 2018, Abbate was not involved in the FBI Headquarters project and provided no input into the project’s decision-making.<sup>19</sup> The Richmond SAC was neither involved in the project nor provided input into the project’s decision-making, and he retired from the FBI in November 2018.

### **C. GSA Cancels Exchange Procurement—July 2017**

In June 2017, GSA and the FBI discussed the exchange procurement, and both GSA and the FBI recommended the cancellation of the exchange procurement to OMB. Following a June 23, 2017 meeting with OMB, GSA, and the then FBI Acting Associate Deputy Director, Haley emailed then Acting Deputy Director Bowdich that consensus had been reached: “We did collectively agree today (GSA, OMB and FBI) that the Exchange contract vehicle is not a viable way forward since the full funding amount was not provided in FY17, and there is not any scenario going into FY18 or FY19 where the remaining funding will be provided.” According to an FBI Appropriations Liaison (Appropriations Liaison I) and other evidence, then Acting FBI Director Andrew McCabe was briefed, and he agreed that the procurement should be canceled.<sup>20</sup> According to an FBI document, then Assistant Attorney General Lofthus was notified in advance of the cancellation.

On July 11, 2017, GSA canceled the exchange procurement. The FBI has publicly described the cancellation as a joint decision with GSA, and several individuals we interviewed confirmed that this decision was made jointly between the FBI and GSA. However, despite this characterization, GSA had exclusive authority to make decisions regarding this procurement.

According to several witnesses and other evidence, there were two principal reasons for the exchange procurement’s cancellation: (1) GSA and the FBI did not have sufficient funds in hand to award a contract; and (2) the timing of future funding was uncertain. Documents we reviewed reflect that the FBI and GSA did not request project funding in connection with then President Trump’s FY 2018 budget, which was released on May 23, 2017, after the May 5 passage of the FY 2017 Consolidated Appropriations Act, because the FBI and GSA had requested full funding through the FY 2017 budget request. FBI documents also indicate that the FBI understood from its appropriators that additional funding only could be provided over the course of several years. Additionally, because the offerors’ valuations of the JEH site were all much lower than OMB’s expectations, the project’s funding shortfall exceeded \$882 million. Further, the FY 2017 funding request had

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<sup>19</sup> Abbate became the FBI Associate Deputy Director in March 2018 and the Deputy Director in February 2021.

<sup>20</sup> The OIG did not seek to interview Andrew McCabe as part of this review.

not included substantial facility outfitting and transition costs, which meant additional appropriations were necessary.

GSA and the FBI stated publicly, and several witnesses confirmed, that they would have proceeded with the exchange procurement and awarded a contract to one of the offerors if Congress had appropriated the entirety of the requested FY 2017 funds. For example, despite the fact that even the highest JEH valuation that GSA received from offerors was far below the \$750 million OMB valuation, Haley told congressional interviewers that one of the offeror's JEH valuations fell within GSA's requirements and therefore a contract could have been awarded if the funds had been appropriated. However, GSA and FBI documents reflect, and witnesses told us, that the lack of full FY 2017 funding and the uncertain timing of future funding created too many risks for the exchange procurement to proceed, including project delays, stale proposals that would need to be refreshed, renegotiations of land purchase option agreements, a further devaluation of JEH, and unpredictable cost increases. According to Haley's congressional interview, when GSA approached the FBI wanting to cancel the exchange procurement, "We did not disagree."

Although OMB was involved in the cancelation of the exchange procurement, Bowdich, the PMO Section Chief, and several others told us that they had no knowledge of any involvement by then President Trump or the White House in the decision to cancel. According to Haley's August 2, 2017 testimony before EPW, where he testified with GSA's Acting PBS Commissioner Michael Gelber, the FBI discussed the cancelation decision with OMB, but Haley was not aware of the involvement of anyone in the Trump Administration above OMB. Gelber testified that GSA did not engage with the White House on the cancelation decision and that the Acting GSA Administrator signed off on the decision.

On July 27, 2017, after the exchange procurement was canceled by GSA, the Senate Appropriations Committee released its report regarding FY 2018 funding legislation. The report stated with regard to the FBI Headquarters project:

The Committee is disappointed with the Administration's July 11, 2017, decision to cancel the procurement for the new FBI headquarters consolidation project. The Administration cited financial concerns as the underlying reason for the cancelation despite the fact that in fiscal year 2017 Congress committed to moving forward with additional appropriations for the new facility in fiscal year 2018. Congress endorsed the project and was willing to work with the FBI and the General Services Administration to explore financial solutions to make the project a success, whereas the Administration failed to adapt to the reality that securing \$1,405,000,000 in a single fiscal year in this financial environment was simply unattainable. Rather than adjust, the Administration abandoned a 10-year planning process, and now the FBI is left with no plan for a new procurement and no

path forward on how to make its currently deteriorating headquarters facility structurally sustainable.

## CHAPTER 3: GSA AND THE FBI SUBMIT PROPOSAL FOR NEW FBI HEADQUARTERS FACILITY IN WASHINGTON, D.C.

This chapter describes how the cancelation of the exchange procurement, FBI Headquarters project funding challenges, and new leadership at the FBI changed the direction of the project. We address Director Wray's January 24, 2018 meeting with then President Trump and other communications with the White House about the project. We also describe how Wray reached the decision to recommend the demolition of JEH and the construction of a new FBI Headquarters facility on the site. Finally, we discuss the revised FBI Headquarters plan, which was submitted to EPW by GSA and the FBI on February 12, 2018.

### I. FBI's Acting Leadership Considers All Options for FBI Headquarters, Including JEH Renovation—June 2017 to July 2017

Beginning in June 2017 and throughout the summer, then Assistant Director Haley had discussions with then Acting Director McCabe, then Acting Deputy Director Bowdich, and the PMO about what the FBI learned in the exchange procurement process, and whether there was a better way to achieve a consolidated Headquarters facility, including possibly renovating JEH or building a new facility in a different location than one of the three previously identified sites. In order to lower the project's costs, the PMO began to reexamine its Headquarters program requirements, including the number of staff to be accommodated in the new facility, and the potential transfer of additional Headquarters staff to Huntsville, Alabama, and elsewhere.

On July 13, 2017, days after the procurement's cancelation, Haley, Appropriations Liaison I, and the PMO met with then Acting Deputy Director Bowdich, who, in his permanent role as Associate Deputy Director, had responsibility for overseeing the FBI Headquarters project. Bowdich's guidance on the project's next steps were described in Appropriations Liaison I's meeting notes as, "Look at all locations," which Appropriations Liaison I said she understood to mean Maryland, Virginia, and Washington, D.C., and "Put equal time into new building and JEH reno[vation]." Haley later briefed then FBI General Counsel Boente and others about the events following the cancelation and, according to Boente's notes of this briefing with Haley, Haley said that in a July 2017 meeting, he and Bowdich discussed setting up meetings with D.C., Maryland, and Virginia officials, and that "Bowdich was strong on staying here."<sup>21</sup> Bowdich told the OIG that he was "always in favor" of the FBI staying at the JEH site if it was "financially feasible." Multiple witnesses confirmed that Bowdich always exhibited a preference for the JEH site. Bowdich told us that he

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<sup>21</sup> On June 18 and 25, 2019, Haley, Haley's counsel, Boente, and others participated in meetings that were held to prepare Haley for his forthcoming July 24, 2019 interview by staff of the House Committee on Oversight and Reform, and Committee on Transportation and Infrastructure.

wanted the FBI to be “really thoughtful about this and not just get pushed into something...that’s not a good solution for the organization and for the country.” He wanted the FBI to work with GSA to see what the options were and “try to come up with a better solution.” According to the former Special Assistant to Associate Deputy Director Bowdich, Bowdich told him that the original strategy of building a campus facility in the suburbs could not simply be restarted, and a new strategy for the Headquarters project needed to be developed with the new FBI Director’s input and opinion on all options.

Although Bowdich wanted the PMO to consider all potential locations, he highlighted the importance of the FBI remaining accessible and visible to the public as a reason for his interest in the FBI staying at the JEH site. Bowdich told us that following the cancelation, he asked Haley to look at JEH renovation and swing space costs, and whether “adequate security” could be implemented “to keep our employees safe from harm that is caused, man-made.”<sup>22</sup> According to Bowdich, he was not completely set on the FBI Headquarters remaining at the JEH site—despite his personal preference—because he recognized the complications and that costs were going to drive the decision.

According to Appropriations Liaison I and other evidence, due to the likely cancelation of the procurement, in May 2017 the FBI began focusing on what infrastructure improvements would be necessary to remain at JEH for the next several years. We were told that given the amount of work needed at JEH, the high cost of piecemeal fixes, and Bowdich’s interest in staying at JEH, the FBI began seriously considering a full-scale JEH renovation after the procurement’s cancelation. The PMO Section Chief told the OIG that although he could not pinpoint an exact date, following the cancelation, “We started looking at all the options,” which included Haley’s question to the PMO of “how do we go in and renovate [JEH].”

According to Haley’s congressional interview and other witnesses, renovating JEH was FBI leadership’s focus following the cancelation, and there were some cost benefits to remaining at the JEH site, which was already owned by the government. A former PMO member, who was a Unit Chief at the time and became responsible for the project’s day-to-day activities following the exchange procurement’s cancelation (PMO Unit Chief), told us that the PMO “never received guidance telling [it] not to pursue” a particular site, but the PMO “never really had any interest [from FBI leadership] on pursuing anything other than the DC location.” Beginning in June 2017, Haley and others from the PMO sought guidance from the Office of the Director of National Intelligence’s (ODNI) facility director, who was overseeing the renovation of other intelligence community facilities, and the ODNI facility director believed that JEH could be renovated.

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<sup>22</sup> “Swing space” is a reference to the office space the FBI would need to temporarily house employees while JEH was being renovated.

## **II. Installation of Director Wray Results in FBI Officials Reconsidering the Priorities and Requirements of the FBI Headquarters Project**

On August 2, 2017, Christopher Wray was sworn in as the new Director of the FBI.<sup>23</sup> According to several witnesses, Director Wray brought new leadership to and a fresh perspective on the Headquarters project. We were told by FBI officials that his start, combined with the recent cancelation of the exchange procurement, effected a Headquarters project reset and allowed the FBI to reconsider the project's priorities and requirements, which had been established years earlier by different leadership.

Wray told the OIG: "I came into [the job], knowing that we were basically having to start over and figure out what is best. And my perspective on that was, I've got an open mind." As Wray testified on April 4, 2019, before the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, he had "a blank slate" on the Headquarters project when he started and the FBI began "a very long, careful, thorough look" at what was the "best balance of equities for the men and women of the FBI."

On the same day that Wray was sworn in (August 2, 2017), GSA and the FBI, during an EPW hearing about the cancelation of the exchange procurement, committed to providing Congress with a "workable solution to the FBI's headquarter needs within 120 days." Wray told the OIG that he understood that the FBI would be making a recommendation, which needed the Trump Administration's support, and Congress would then decide whether to appropriate funds. The deadline for GSA's and the FBI's submission was November 30, 2017.

### **A. PMO Evaluates Potential Sites for FBI Headquarters in the NCR; Haley and PMO Not in Favor of Headquarters Staying at JEH Site**

Much of the PMO's initial work in August and September 2017 was identifying and evaluating available NCR sites with the understanding that the FBI wanted to prioritize operational considerations in assessing location options, such as the frequent meetings that FBI officials had with the White House, Congress, DOJ, and FBI partners located in and near Washington, D.C. According to Haley's congressional interview, operational concerns were now fundamental factors in the site location analysis. Haley further stated in the congressional interview that the location of the Trump International Hotel never factored into his consideration of the site options. FBI witnesses told the OIG that the PMO considered all potential NCR options, including the three suburban sites previously identified for the exchange procurement, sites that were evaluated but not selected during the prior process, and the JEH site.

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<sup>23</sup> Wray was nominated on June 26, 2017, and confirmed by the Senate on August 1, 2017. When Wray became Director, McCabe and Bowdich returned to their permanent positions, which were, respectively, Deputy Director and Associate Deputy Director.

The three exchange procurement sites, which were located in Landover, Maryland, Greenbelt, Maryland, and Springfield, Virginia, all had “significant warts” according to Haley, and the purchase option agreements on the Landover and Greenbelt sites were expiring on September 30, 2017. According to Appropriations Liaison I and several FBI documents, these sites were still “on the table, but...we had already done the homework.” Of these three sites, the PMO strongly preferred the Landover site for engineering, construction, and cost reasons. However, of the three sites, Landover had the worst mass transit access. The Greenbelt site was located near a Metrorail station, but the FBI was concerned about the site because it was half wetlands and the amount of buildable space was far less than what was anticipated when the site was selected in 2014. Additionally, before work could begin on the Greenbelt site, the Washington Metropolitan Area Transit Authority needed to build a parking garage to replace a parking lot that was on the site, which was a scheduling concern. The Springfield site, which was government-owned, had multiple government agencies at the location that needed to be relocated, which the FBI believed would be costly, time-consuming, and logistically complicated. The Springfield site also needed the demolition of the existing facilities and many transportation improvements.

Further, according to FBI witnesses, there were major, fixed infrastructure costs associated with building a facility on any of these three sites, and Landover and Greenbelt had land acquisition costs because they were not government-owned. Given these concerns, as well as the apprehension about the sites’ lack of proximity to the FBI’s partners in downtown Washington, D.C., Haley and the PMO did not believe these three sites were viable candidates with FBI leadership, but their continued availability kept them in consideration.<sup>24</sup>

The PMO evaluated other possible locations in Washington, D.C., including Reservation 13, Poplar Point, Old Soldier’s Home, and St. Elizabeths East Campus. According to the PMO Unit Chief, of the other options available, the PMO was initially most interested in two sites in Fort Belvoir, which is a U.S. Army installation in Fairfax County, Virginia, that also houses the National Geospatial-Intelligence Agency facility. These federally-owned sites already had the necessary classified IT infrastructure, which would be a significant cost if not already in place. However, in early September, the FBI learned that U.S. Army leadership was firmly opposed to providing Fort Belvoir land to the FBI because the Army wanted to retain it for the Army’s own future requirements. The Fort Belvoir sites continued to be considered despite the Army’s opposition because the U.S. Department of Defense leadership could possibly overrule the Army and agree to provide land.

According to Haley’s congressional interview, by the summer’s end in 2017, FBI leadership was “leaning” towards renovating JEH even though “meetings” with Wray did not

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<sup>24</sup> Even after the purchase option agreements for the Landover and Greenbelt sites expired in September 2017, the sites were still considered by the FBI to be potentially available for purchase and development.

“start” until “that fall.” As discussed below in Section III.G., evidence shows that Wray was not briefed on the FBI Headquarters project until November 20, 2017.

According to the PMO Unit Chief and other witnesses, Haley and the PMO were not in favor of the FBI staying at the JEH site. According to the PMO Unit Chief, Haley did not believe that staying was politically achievable because the FBI had actively “messed” the need for and advantages of a suburban campus to Congress for years and the FBI was “going to do an about-face.”

Bowdich said that early on, Haley believed that a campus facility was necessary and was dismissive of the JEH renovation idea due to security and cost concerns. Bowdich was concerned that a “good option for the organization” was not being considered because it was “hard,” so he asked Haley and his team to “go back to the drawing board” and take a look at the issues. Bowdich emphasized that with respect to facility security, he did not want to “throw[] caution to the wind.” Rather, he noted that the campus facility plan was “inherited,” and he wanted to push on the issue to determine if “someone” had gotten “carried away” with security concerns.

Haley told congressional staff that, at that point, he and the PMO did not consider demolishing JEH and rebuilding on the site to be a feasible option because they thought a renovation would be “more cost effective and time effective.” In September 2017, the FBI formally tasked one of the PMO contractors, which was experienced in working on intelligence community facilities, with examining the feasibility of renovating JEH. The contractor produced the renovation feasibility study to the FBI in late December 2017. The FBI did not request the contractor to assess the demolish and rebuild option. As discussed further below, it was not until January 16, 2018, that the FBI began to focus on the demolish and rebuild option.

## **B. Public-Private Funding Option Considered by GSA and the FBI**

GSA and the FBI considered several funding options given the federal construction funding shortfall for the exchange procurement. Rather than seeking a large amount of federal construction appropriations again, GSA and the FBI were interested in exploring alternative financing mechanisms to support the Headquarters project.

In an August 24, 2017 meeting between GSA and the FBI, recently sworn-in PBS Commissioner Mathews proposed directly seeking the support of OMB Director Mick Mulvaney and the White House for public-private partnership (P3) financing of the project, given the reluctance of OMB career staff to support that option. A P3 allows the government to leverage the private sector’s financial resources and reduce the need for appropriations. According to Haley’s congressional interview, he believed that a ground

lease-leaseback (GLLB) was the best P3 financing option.<sup>25</sup> According to the PMO Unit Chief, the FBI always maintained an open mind about how the project should be funded and all options were considered and explored given anticipated difficulties with OMB's budget scorekeeping instructions for leases (i.e., OMB Circular No. A-11, Appendix B) (OMB scoring rules).<sup>26</sup> Under OMB's interpretation of its scoring rules, GSA and the FBI did not believe that a GLLB or other alternative financing options being considered would be scored by OMB as operating leases, which was necessary to avoid another large appropriations request. GSA's interpretation of OMB's scoring rules would allow a GLLB and other options under consideration to be scored as operating leases, but in order for OMB to accept this interpretation, Mathews and Haley believed, according to witnesses and other evidence, that GSA and the FBI needed to directly obtain support from Mulvaney or the White House.

According to Wray and other evidence, by January 2018 Haley had convinced Wray of the necessity of obtaining such support, as discussed further in Section III.J. below.

### **C. President Trump Calls Director Wray and Asks What Wray Wants to Do About FBI Headquarters—September 2017**

On September 28, 2017, then President Trump called Wray before Wray's formal FBI installation ceremony that day at FBI Headquarters and raised the issue of the Headquarters project. Wray told the OIG that he spoke to Trump for about 2 minutes. According to Wray, Trump expressed his regrets for not being at the ceremony and said that he wanted to visit the FBI. Wray told the OIG that Trump said that he knew the FBI wanted a new Headquarters and asked what Wray wanted to do about that. Wray told the OIG he recalled telling Trump that JEH was in "terrible shape" and a new building was needed, but Wray said that he also believed that he was "noncommittal" and said something to the effect of, "I really haven't had a chance to look at this yet." According to Wray, in response, Trump advised Wray to get "your best people together with GSA's best people" and tell him what Wray thought.

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<sup>25</sup> Under a GLLB, a private developer uses its own resources to construct a facility on a government-owned site, which is leased to the developer (i.e., the ground lease). During the ground lease's term, the government pays annual rent to the developer to occupy the new, leased facility for a period not longer than 30 years (i.e., the leaseback). At the end of the ground lease, ownership of the facility and any other improvements on the site revert to the government.

<sup>26</sup> OMB scoring rules, which were developed in conjunction with the Congressional Budget Office, determine the appropriations needed by an agency to lease space. OMB must review and approve the "scoring" analysis of certain lease transactions before an agency enters a lease. OMB scoring rules determine if a lease is a capital lease, which effectively purchases the asset, or an operating lease, which uses the asset for a short period. Capital leases require that all funding needed during the lease (i.e., the full cost of the project) plus interest be appropriated upfront. Operating leases require appropriations each budget year for the annual lease payment plus interest.

Boente's December 2018 memorandum summarizing this September 2017 telephone call between Wray and Trump is consistent with Wray's testimony to the OIG with one exception. Boente's memorandum states, "The President said to get the Bureau's best people together with his best people and decide what is the best recommendation." Wray told the OIG that he did not recall Trump saying anything about "his people" and instead recalled the reference being to the FBI getting together with GSA's best people.

### **III. FBI Reduces the Proposed Size of the Headquarters Plan and Wray Expresses Preference for JEH Renovation—October 2017 to December 2017**

This section describes how throughout the Fall of 2017, the FBI continued to explore all location options and examined reducing the cost of the project by approximately \$1 billion through a combination of "privatized parking" and "scope reduction," including reducing the number of employees. We also discuss Wray's preference for remaining at the JEH site if feasible.

#### **A. Haley and Wray Discuss the FBI Headquarters Project for the First Time on October 12, 2017**

On October 12, 2017, Wray, Haley, and the Acting GSA Administrator attended a ribbon cutting ceremony at the FBI's new Atlanta Field Office. While at the event, according to witness interviews, Haley informally discussed the Headquarters project with Wray for the first time, and Wray may have expressed an interest in FBI Headquarters remaining in Washington, D.C., as discussed more fully below. We found no evidence that Wray discussed the Headquarters project with anyone in the Finance and Facilities Division, including the PMO, prior to this date.

Haley told congressional staff that during this October 12, 2017 conversation, Wray said he was familiar with the exchange procurement cancelation and "mentioned to [Haley] that he personally wanted to be involved in any decision." When asked by congressional staff whether Wray discussed a desire to remain in Washington, D.C. during that October 12 conversation, Haley stated, "Not at that discussion in Atlanta." Notes taken by Boente during two June 2019 meetings with Haley, to prepare him for his interview by congressional staff, reference this conversation between Haley and Wray and indicate that Haley recalled Wray instructing Haley not to make any decisions without Wray's input, and that Haley described additional potential sites for the FBI Headquarters because Wray was "very new."

Wray told the OIG that he recalled briefly discussing FBI Headquarters with Haley at the FBI's Atlanta Field Office. Wray said the discussion was limited to the potential financing options for the Headquarters project. When asked whether there was any discussion of location, Wray said that he "fe[lt] like [he] would remember that," but he was "not sure."

According to the PMO Unit Chief, after Haley returned from Atlanta, Haley told him that “the [D]irector...seems to really like DC.” The PMO Unit Chief told the OIG that even though Wray may have expressed an interest in FBI Headquarters remaining in Washington, D.C., the PMO was “looking at every option aggressively at that time and [the PMO] didn’t stop with...other options because of that one conversation.” A then Management and Program Analyst assigned to the PMO (PMO MAPA) also told the OIG that Haley told the PMO upon his return from Atlanta that Wray “express[ed] interest in staying in D.C.”

**B. GSA and the FBI Meet with D.C., Maryland, and Virginia Officials; GSA Executives Recommend the FBI Reduce the Project’s Cost—October 2017**

On October 18, 2017, GSA and FBI officials met with the D.C. Mayor’s Office about “alternative sites” for the FBI Headquarters project. According to the PMO Unit Chief, the purpose of the meeting with D.C. officials was to “informally engage about what options exist in the future.” The next week, the FBI and GSA met with the Maryland Governor’s Office to explore whether there were additional Maryland sites for the project. Finally, on October 26, 2017, Haley, the PMO Unit Chief, Appropriations Liaison I, and another FBI Appropriations Liaison (Appropriations Liaison II) met with Virginia officials regarding the project. The PMO Unit Chief told the OIG that Virginia officials pitched other potential Headquarters sites and clarified that the Fort Belvoir location was no longer available. In each of these meetings with state and local officials, GSA and the FBI also explained why the exchange procurement had been canceled.

On October 25, 2017, 17 GSA executives, including then GSA Administrator nominee Emily Murphy and then PBS Commissioner Mathews, attended a tour of JEH. Haley, the PMO Unit Chief, and other FBI personnel attended this tour. According to the PMO Unit Chief, the purpose of the tour was “to make people aware of the urgency of moving the project forward in some way.”

After the tour, Mathews and the GSA Project Executive met with Haley and the PMO Unit Chief and urged the FBI to reduce the project’s “cost per square foot” because the FBI’s current projection was too high for a GLLB and the other alternative financing options under consideration. According to the PMO Unit Chief, Mathews told the FBI, “You can’t go to the Hill with a funding proposal on...a price that’s over \$72 per square foot.” According to the PMO Unit Chief and other witnesses, the PMO began to focus on further reducing the number of FBI Headquarters personnel to lower the project’s cost per square foot and increase the viability of a GLLB.

**C. Bowdich Expresses Support for JEH Renovation During PMO Briefing and Presentation to Associate Deputy Director Advisory Committee—October 2017**

On October 26, 2017, Haley and the PMO Unit Chief briefed Bowdich about the FBI Headquarters project in preparation for what would be Wray's first briefing on the project, which took place on November 20, 2017, and is discussed further below. The PMO Unit Chief and others in the PMO had put together a slide presentation, which included a slide about renovating JEH. According to the PMO Unit Chief, Bowdich expressed a preference for JEH to be renovated. The PMO Unit Chief said that Bowdich did not provide any information concerning the basis for his preference for the renovation option during this meeting, but on another occasion that fall, Bowdich expressed his interest in staying at the JEH site because of its visibility to the public.

According to the PMO Unit Chief, the PMO's internal reaction after the meeting—as it had been previously—was, “No, [we] don't like that one.” As discussed below, the PMO Unit Chief and others in the PMO were concerned that if Wray decided to keep FBI Headquarters at the JEH site, the FBI would face significant political challenges.

The day after the PMO briefing, on October 27, 2017, Bowdich and the PMO Unit Chief briefed the FBI's Associate Deputy Director Advisory Committee, a group of former Associate Deputy Directors who advise the FBI on various issues, about the FBI Headquarters project's planning efforts, including potential locations, program size, estimated costs, and funding strategies. Former Associate Deputy Directors Timothy Murphy, Thomas J. Harrington, Kevin Perkins, and Joseph Ford attended the meeting. According to the PMO Unit Chief, as he was providing an overview of the Headquarters location options, Harrington “jump[ed] in” and talked about how his corporate employer was renovating its building in New York City. Bowdich told the OIG that he recalled Harrington saying, “They do this in New York all the time” and “we're doing it at [my company] right now.” Bowdich said that upon hearing Harrington's story, Bowdich thought to himself, “If they can do it, why can't we?”

On October 30, 2017, PMO employees briefed Haley and others on Bowdich's exchange with Harrington concerning the renovation option. According to Appropriations Liaison I, the group agreed that the PMO needed to “put[] a proposal in front of [executive management] on how a [JEH] renovation could take place.” In addition, the group discussed the need to consider an “annex location” in the NCR to house approximately 1,000 employees if JEH was going to remain the Headquarters site because any renovated building would not be large enough to house all of the employees.

**D. EPW Extends Time for GSA and the FBI to Submit Revised FBI Headquarters Plan to January 29, 2018**

In a November 14, 2017 call with EPW staff and a staff member from Maryland Senator Benjamin Cardin's office, GSA and the FBI requested an extension of the November 30 deadline to submit the new FBI Headquarters plan to EPW because they had not discussed the Headquarters options with their respective leadership. In addition, the FBI informed the staff members that the FBI planned to move Headquarters personnel out of the NCR to Alabama, Idaho, and West Virginia in an effort to reduce costs associated with the FBI Headquarters project.

Two weeks later, EPW granted a 60-day extension, and the new deadline was January 29, 2018.

**E. Bowdich Discusses JEH Renovation Option With GSA PBS Commissioner Mathews—November 2017**

On November 17, 2017, Haley and the PMO arranged for Bowdich to meet with Mathews in order to discuss the challenge of obtaining congressional support for the FBI to renovate JEH given the FBI's years-long messaging to Congress that it could not remain in its current location. The PMO Unit Chief explained that he and Haley wanted Bowdich to understand "the realities of the politics." The PMO Unit Chief told the OIG that he believed that GSA was not in favor of the FBI remaining at JEH.

The PMO Unit Chief also told the OIG that he recalled Bowdich making a comment at the meeting that clearly articulated his preference was renovating JEH, although the PMO Unit Chief also described Bowdich as "thinking out loud." In addition, Boente's notes from a meeting to prepare Haley for his July 2019 congressional interview stated, "[Bowdich] told Mathews [sic] the top choice was to stay in DC & we wanted to focus on."

Bowdich, in contrast, told the OIG that he did not recall taking such a "firm position" at this meeting. Bowdich thought he may have told Mathews something akin to, "I'd love to stay," but he did not recall telling Mathews that JEH was "definitively the top choice." Bowdich also told the OIG that both he and Wray were "of the same mind that if feasible financially, [JEH] was a very good option for us," although he could not say definitively when he became aware that his and Wray's positions were aligned.

Bowdich recalled that Mathews clearly conveyed concerns about the viability of renovating JEH given that Congress had previously been considering a new FBI Headquarters facility being built in the suburbs of Virginia or Maryland. Bowdich told the OIG that, based on what Mathews said at the meeting, Bowdich believed that renovating JEH would not happen. Bowdich told the OIG that he did not recall whether he discussed Mathews's concerns with Wray, McCabe, or Haley.

GSA's comments to the draft GSA OIG Report stated that in a November 17, 2017 meeting between Mathews and an FBI "Assistant Deputy Director," "It became clear to GSA that the FBI was seriously considering the Pennsylvania Avenue site, at the direction of FBI's senior leadership."

**F. White House Chief of Staff Kelly Discusses the FBI Headquarters Project with Wray, and Haley Tells Finance and Facilities Division Employees that President Trump Questioned the FBI Moving to the Suburbs**

On November 17, 2017, according to documents we obtained, Wray and Deputy Attorney General Rosenstein had a scheduled meeting at the White House to discuss domestic terrorism issues with President Trump. Documents also show that prior to this meeting with Trump, Wray and Rosenstein had a scheduled 15-minute meeting with White House Chief of Staff John Kelly to discuss a personnel matter. Boente's December 2018 memorandum describes an undated meeting that Wray had with Kelly and Rosenstein in which the topic of the FBI Headquarters project arose. According to Boente's memorandum, Kelly stated, "The President is really interested in where you are on the headquarters project," and Wray told Kelly "that the public/private financing was the best way to go, but OMB did not like this method of financing. The Director told Kelly that he would need to pressure OMB, but he was not there yet." Boente's memorandum further stated that Kelly said, "The President really wants what you want, but it does not make sense to the President why you would want to leave the current location." The memorandum then stated that Wray's "sense was that the President was not agnostic about the location." While the Boente memorandum does not provide a date for this meeting, based on other information in the memorandum and other evidence, we believe this meeting with Kelly occurred in the latter part of 2017.<sup>27</sup>

Wray told the OIG that he recalled a meeting in which Kelly stated that it did not make sense to the President that the FBI would leave its current location, but Wray could not recall when this conversation occurred. Wray said he believed the conversation took place after he spoke to GSA Administrator Murphy, which we determined first occurred on December 22, 2017, and that Murphy was also present for the meeting.<sup>28</sup> Wray told the OIG that he believed that by the point of this conversation with Kelly, Wray had "already

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<sup>27</sup> Documents we reviewed show that Wray also attended meetings with Rosenstein and Kelly on December 8 and December 12, 2017.

<sup>28</sup> Boente's memorandum documenting his conversation with Wray about Wray's conversations with the White House and others about the FBI Headquarters project includes two meetings with Kelly before the revised plan was submitted to Congress. For the first meeting, described above, the memorandum lists Kelly, Wray, and Rosenstein as the participants. No date is specified. The second meeting is described as taking place "[a]fter Christmas" and included Kelly, White House Counsel Donald McGahn, OMB Director Mulvaney, Rosenstein, and Murphy. We describe this second meeting further below. In his interview with the OIG, Wray was unable to distinctly recall these two meetings with Kelly in which the FBI Headquarters project was discussed.

kind of come to the view that [Wray's] preference and [the FBI's] preference was the current location, so I may have been saying, this is where I think we're going to want to be." Wray further told the OIG, "It's possible that Kelly was actually reacting to me...saying, well, you know, maybe that's good, because it doesn't make sense to the President." Wray told the OIG, "I definitely do not recall feeling that I was being pushed by Kelly in any way."

At a social gathering on Saturday, November 18, 2017, held at the home of an FBI employee, Haley informed three Finance and Facilities Division employees—Nicholas Dimos, a then Deputy Assistant Director in the Finance and Facilities Division, the PMO Unit Chief, and Appropriations Liaison I—that he had learned that Trump and/or the White House had expressed an opinion about the FBI Headquarters project.

Dimos told the OIG that, at this gathering, Haley told him that "it maybe didn't make sense to the White House that [the FBI is] going out into the suburbs." According to Dimos, Haley said that the White House questioned whether the FBI really wanted to "mov[e] off...such a historic street." Dimos also told the OIG that he did not know how Haley learned this information. Dimos said that this November 18 conversation with Haley was "the first time that [Dimos] heard of [the] 'White House' even having an opinion on the topic." Dimos said he understood Haley's statements to mean that the White House was engaged in the FBI Headquarters project, and Dimos saw this development as a positive one because the FBI would need the Administration's support in order to move forward on the project. Dimos told the OIG that his understanding after this conversation was that the FBI was still considering all of the options and no decision had been reached regarding location.

The PMO Unit Chief told the OIG that he recalled Haley stating, "The President said he's committed to keeping us in the building." According to the PMO Unit Chief, Haley said he was surprised by Trump's statements and indicated that it would now be hard for the FBI to choose another option because it looked like the FBI was "all in" on renovating JEH. Asked about Haley's source of knowledge, the PMO Unit Chief said that Haley "either talked to the Director or he talked to Mr. Bowdich." According to the PMO Unit Chief, he understood from this conversation with Haley that Wray had spoken to Trump on the telephone the prior evening (November 17, 2017).

According to Appropriations Liaison I, the PMO Unit Chief told her at the social gathering that the White House had called Wray and that "a decision had been made [to keep FBI Headquarters at JEH]." Appropriations Liaison I told us that she then asked Haley, "Is this real," and Haley replied, "As far as I know, it's real." Appropriations Liaison I said

that she and others “assumed” from these conversations that the White House had made a decision that the FBI was going to move forward with the JEH renovation option.<sup>29</sup>

We found no evidence that Wray spoke by telephone with President Trump on or around November 17, and Wray told the OIG that he had only one phone conversation with Trump about the Headquarters project which, as previously discussed, was on September 28, 2017. Further, Wray only recalled two in-person meetings with Trump in which the FBI Headquarters project was discussed—his summer 2017 lunch interview, which we summarized above, and a meeting on January 24, 2018, discussed further below. Wray also stated that while he did not recall telling Haley about his conversations with Trump about the FBI Headquarters project, Wray could not imagine that he would not have.

We were unable to determine the source of Haley’s information about the President and/or the White House that he shared with FBI employees at the social gathering. We also were unable to determine when Haley first learned that Trump or the White House had an opinion about the location of the FBI Headquarters.

#### **G. Haley and the PMO Unit Chief Brief Director Wray on the FBI Headquarters Project for First Time—November 2017**

On November 20, 2017, Haley and the PMO Unit Chief briefed Wray for the first time on the FBI Headquarters project. Bowdich, the PMO Section Chief, and Appropriations Liaison I also attended this briefing. Haley and the PMO Unit Chief presented several poster boards about the project to Wray in his conference room. According to the PMO Unit Chief and FBI documents, this presentation included three options: (1) a JEH renovation; (2) an urban Washington, D.C. campus; and (3) a suburban campus.<sup>30</sup> Neither campus option identified a specific geographic location. The estimated total cost of each option, as well as a breakdown of the costs for the components, such as a fitness center, a truck inspection facility, and a helicopter pad, were included. One of the poster boards included the following statements: “Obtain Commitment from White House to Support the Execution of a Public-Private Partnership (P3)” and “Engage OMB Director on a Solution to

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<sup>29</sup> The OIG obtained from the FBI several versions of a PMO timeline of key events in the FBI Headquarters project. The PMO Unit Chief told the OIG that he was a “coordinator” of this timeline, but several colleagues also contributed to the timeline, including Appropriations Liaison I, Appropriations Liaison II, and a contractor. One version of the PMO timeline, dated March 2018, contained the following entry for November 18, 2017: “[Assistant Director] updates PMO [-] (Saturday) Notification of support *if* decision is to pursue DC centric option.” (Emphasis in original). The PMO Unit Chief told the OIG that he did not know who added this entry to the PMO timeline. Appropriations Liaison I told us that she did not recall providing this information to the PMO Unit Chief to include in the PMO timeline.

<sup>30</sup> The presentation did not include demolishing JEH and rebuilding a new facility on the site as an option or reference it in any way. According to the PMO Unit Chief, that idea may have been discussed with Wray at this briefing, but the idea was “not baked” and renovating JEH was the “logical first choice.”

'Scoring Rules.'" Another poster board contained facility security-related information regarding a JEH renovation, which is discussed further in a classified appendix.

Wray told the OIG that he recalled a meeting with Haley and others in which there were poster boards, but he did not recall what was discussed. According to the PMO Unit Chief, he informed Wray that the FBI had a deadline coming up for reporting to Congress about the FBI's recommendation for the FBI Headquarters project. The PMO Unit Chief also told the OIG that he was "hopeful" that Wray would make a decision regarding location at the conclusion of the meeting. As discussed further below, however, no decision regarding location was made at this meeting.

According to Haley's congressional interview, Haley said that this briefing was the first time that he raised the JEH renovation option with Wray. Haley told congressional staff that he recalled Wray expressing concern that not having FBI Headquarters in the city would make it difficult for FBI employees to do their jobs because of the need to attend meetings with other government officials who were in the city. Haley stated that Wray was the first person he had a conversation with "formally" who questioned how the FBI was going to be able to make "the employees' operational mission come to fruition" by not being where the FBI was located or "not being in the city."

As previously discussed, in late October the PMO had internally discussed building an annex in the NCR, but there is also evidence that at this November 20 briefing, Wray separately thought of the annex idea and raised it as a possibility. Appropriations Liaison I recalled the group discussing how more people could work in JEH if it was renovated than as currently configured, and that Wray considered whether the "overflow" could go to FBI facilities in Huntsville and "an annex in Maryland," which could result in additional congressional support. The group also discussed which FBI Headquarters components could potentially be moved to Huntsville.

Bowdich and the PMO Unit Chief also told the OIG that the group discussed the possibility of having a large suburban location along with a D.C. location that would house approximately 600 executives, an option referred to as "the touchdown." Both Bowdich and the PMO Unit Chief recalled that Wray rejected this idea. According to the PMO Unit Chief, Wray did not think it was a good idea "for leadership to be separated from the people."

The PMO Unit Chief told the OIG that no decisions were made at this meeting. According to Appropriations Liaison I, Wray told the group that "he'd obviously like to stay at JEH" but that he was "open to everything." Likewise, Bowdich described the PMO's

marching orders coming out of this meeting as, “Try[] to put together the best option, options, with an S, and let’s do what we can do.”<sup>31</sup>

#### **H. PMO Informs GSA that the FBI Plans to Reduce Number of Headquarters Personnel by 2,000—December 2017**

In early December 2017, the FBI communicated to GSA that it planned to depart from the exchange procurement’s original goal of “full consolidation” of FBI Headquarters staff in an NCR location. As discussed above, during the earlier exchange procurement planning, the FBI had proposed the “full consolidation” of approximately 10,000 employees in a new FBI Headquarters facility. By early December 2017, to reduce the project’s cost per square foot per GSA’s recommendation, the FBI decided to reduce the number of people working at FBI Headquarters to approximately 8,300 and move approximately 2,000 employees to Alabama, Idaho, and West Virginia.

According to an email the PMO Unit Chief sent to a GSA official in late November 2017, the PMO Unit Chief estimated that the cost of the project could be reduced by approximately \$1 billion through a combination of “privatized parking” and “scope reduction,” including reducing the number of employees. As the PMO Unit Chief explained to the OIG, “it was about how do you get the cost per square foot down to a number that GSA thought was reasonable to go back to the Hill with a prospectus.” On December 7, 2017, in a meeting with Mathews and other GSA officials, Haley communicated this “strategic consolidation” decision to reduce the number of FBI employees at FBI Headquarters. According to the PMO Unit Chief, an unintended consequence of the FBI’s decision to consolidate fewer personnel in the NCR was that the JEH site became a more feasible option.

#### **I. GSA and White House Officials Discuss the FBI Headquarters Project on December 12, 2017, and December 20, 2017**

Documents we reviewed indicated that GSA officials discussed the FBI Headquarters project at the White House on December 12, 2017, the day Murphy was sworn in as GSA Administrator, and in a meeting with Chief of Staff Kelly and OMB Director Mulvaney on December 20, 2017.

The PMO Section Chief provided the OIG with notes he took during a December 12 conversation with the PMO Unit Chief about GSA’s December 12 discussion at the White House. The PMO Section Chief said that he did not know how the PMO Unit Chief obtained this information, but the PMO Section Chief assumed it was from “somebody at GSA.” The

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<sup>31</sup> The following month, in a December 7, 2017 FBI oversight hearing before the House Judiciary Committee, Wray was asked about his “ideas about how to reduce [the] costs” associated with the FBI Headquarters project, and he stated that he was “considering all options” and “not ruling out any particular approach....”

PMO Section Chief's notes reflect that the PMO Unit Chief told him that Kelly, Mulvaney, Murphy, and GSA PBS Commissioner Mathews met that day and that the "Pres[ident] thinks we should stay [at] JEH," which the PMO Section Chief emphasized was his "third hand" interpretation of what the PMO Unit Chief told him about this White House conversation. We asked the PMO Section Chief what the FBI did with this information, and he responded, "I don't know that we did anything...[b]ecause of the approach we continue[d] to take...with GSA and OMB," which included continuing to consider many options. The PMO Unit Chief told the OIG that he did not recall hearing anything about a discussion that Murphy may have had that day with the White House regarding the Headquarters project.

According to the GSA OIG Report, on December 20, 2017, Murphy and Mathews met with Kelly and Mulvaney to discuss the FBI Headquarters project. FBI records reflect that, in part to prepare for this meeting, on December 14, 2017, Mathews and other GSA officials met with Haley, the PMO Unit Chief, and the PMO MAPA. The PMO Unit Chief recalled participating in this meeting, but he told the OIG that he had no recollection of what was discussed. The OIG obtained the PMO MAPA's notes from this meeting, which stated: "Talking points for G. Kelly Meeting," "obstacle w/ funding: this is a funding problem," and "private money available."

Haley's emails also showed that he had discussions with Mathews in anticipation of GSA's December 20 meeting with the White House. On December 18, Haley emailed Bowdich and informed him that Murphy was scheduled to brief Kelly on the Headquarters project. Haley wrote in his email that he and Mathews recommended that GSA and the FBI use any meetings with the White House to obtain support for GSA and the FBI's proposed P3 funding option because they believed that "[White House] pressure on OMB" was the only way to keep OMB from rejecting the P3 funding option. The PMO Unit Chief, who was copied on the email, told the OIG that over the course of several months, GSA and the FBI "collectively coalesced" around the strategy of seeking White House support for the project's P3 funding strategy because they believed that OMB might not support GSA's interpretation of the OMB scoring rules. He told the OIG, "It wasn't about the White House, it was about OMB."

In Haley's email to Bowdich, he noted that GSA had floated the idea of Wray attending the White House meeting with Murphy. As discussed further below, Wray did not attend this meeting, but he had a phone call with Murphy a few days later.

According to the GSA OIG Report, at the December 20 White House meeting, when Murphy and Mathews began to discuss the suburban campus option, Kelly and Mulvaney informed them that "the FBI may no longer be seeking a consolidated campus." According to Murphy, Kelly and Mulvaney mentioned that the FBI was concerned about the location of the Headquarters and may have also mentioned that the FBI was looking to stay in D.C. Kelly and Mulvaney indicated to Murphy and Mathews that the goal was to make the FBI happy and that the FBI should be driving the requirement. Kelly suggested that GSA touch

base with the FBI to get everyone on the same page. According to the GSA OIG Report, Kelly or Mulvaney may have mentioned during this meeting that Trump wanted an update on the Headquarters project.

Following the December 20 White House meeting, Mathews emailed Haley and stated, “Meeting took an unexpected turn as soon as we got there” and “we will need to set a phone call between our Administrator and your Director very soon.” Congressional staff asked Haley during his interview if he knew what the “unexpected turn” reference meant, but Haley said he did not recall.<sup>32</sup>

**J. Director Wray Communicates to GSA Administrator that He Wants FBI Headquarters to Remain in its Current Location If Feasible—December 2017 to January 2018**

In late December, Wray communicated internally and to GSA that he wanted FBI Headquarters to remain in its current location. We discuss these communications below.

On December 20, the same day that GSA officials met with Chief of Staff Kelly and OMB Director Mulvaney at the White House, then Deputy Assistant Director Dimos and the PMO Unit Chief met with Wray to inform him that Murphy wanted to talk with him soon and the FBI needed to make a decision about a location for the FBI Headquarters. The PMO Unit Chief recalled talking with Wray about “all the options on the table,” which, according to other evidence, included a new campus facility and renovating JEH. According to Dimos, during this meeting, Wray stated that his “preference [was] to stay at JEH.” Dimos’s notes from the meeting state “all else being equal...,” and Dimos explained to the OIG that this meant, “All else being equal, [Director Wray] would like to stay.” Dimos said that the group briefly discussed the “pros [and] cons” of a renovation as compared to a full demolition and rebuild, but the larger part of the discussion was about the location and Wray’s desire to stay at the JEH location. Dimos told the OIG that Wray communicated to them that the decision concerning the location of FBI Headquarters was his decision to make.

According to the GSA OIG Report, Wray called Murphy on December 22, 2017, and told her that the FBI was interested in staying at the existing site. Murphy told GSA OIG that Wray told her that the decision to move the FBI Headquarters to Maryland or Virginia was the wrong decision, and he indicated that the FBI wished to remain in Washington, D.C., at the current location on Pennsylvania Avenue.

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<sup>32</sup> Although the PMO Unit Chief was copied on Mathews’s December 20 email to Haley, he told us that he did not recall anything related to the email or any conversations with Haley about it. As stated earlier, both Haley and Mathews declined our interview requests and therefore we were unable to ask them about the email.

Wray had a vague recollection of his “short” conversation with Murphy. When we asked whether he conveyed his preference to remain at the JEH site to Murphy, Wray said he did not have a specific recollection and thought he may have told Murphy “words to that effect.” According to Boente’s December 2018 memorandum, Wray recalled having a conversation with Murphy on an unstated date in which the following occurred:

The Director spoke with the GSA Administrator who was pushing the public/private financing. He told her it would be great to stay in the current location if we could get the needed upgrades and security. The GSA Administrator said the White House would have to get the OMB on board.

On January 4, 2018, Wray, Bowdich, and the PMO Unit Chief met with Murphy, Mathews, and GSA Acting Chief of Staff P. Brennan Hart III to formally discuss the Headquarters project for the first time.<sup>33</sup> According to the GSA OIG Report, Murphy told GSA OIG that the FBI presented JEH renovation plans, which had been prepared by a contractor hired by the FBI. According to Murphy, the plans accounted for reduced Headquarters personnel and recommended renovating JEH one quarter at a time while personnel remained operating in the sections that were not undergoing renovation. Consistent with Murphy’s memory, the FBI’s contractor had recently completed a preliminary study of a 10-year renovation of JEH that would be conducted in four phases and allowed personnel to remain in portions of the building.

Mathews told GSA OIG that Wray told the group that if the costs of a suburban campus site and the existing site were similar, he would prefer to stay at the JEH site. In addition, Murphy told GSA OIG that Wray identified proximity to DOJ as an important factor in his decision-making process. Hart told GSA OIG that he recalled Wray telling the attendees, “I just don’t want to be the Director that moves the FBI out of the city.”

According to Bowdich, Murphy “was really looking for a steer from us, as far as what do you want?” Bowdich told the OIG that he believed that either he or Wray “may have said to [GSA] that we would like to explore the option of staying.” Bowdich recalled that an alternative financing mechanism was not possible without OMB supporting GSA’s interpretation of the scoring rules, and Mathews stated that White House support was needed in order to ensure that OMB would agree. Bowdich did not recall conversations about President Trump’s views on the Headquarters project at this meeting, but he recalled thinking that “Mulvaney would be the key, as the head of OMB.”

Wray told the OIG that he did not recall this January 4 meeting. According to Boente’s December 2018 memorandum, Wray told him about a meeting in Wray’s conference room involving GSA officials that Wray recalled occurring shortly before Christmas and that was close in proximity to an upcoming meeting at the White House,

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<sup>33</sup> Haley was not present due to personal reasons.

which is described below and took place on January 24, 2018. According to the Boente memorandum, with respect to the GSA meeting, Wray recalled that Mathews was “fixated on the public/private [funding] approach,” and Mathews told Wray that this type of funding was not dependent on the location of the FBI Headquarters building. The Boente memorandum also states that Wray recalled that “it was clear from everyone in the room” that the “public/private financing option” would require the White House “pushing it.”

Wray told the OIG that based on other discussions with Haley, Wray understood that P3 financing “was more realistic” than appropriations and “made better sense for the taxpayer,” but OMB “at the working level” preferred appropriations. Wray said he understood that Haley was focused on “get[ting] OMB to support [a P3] at the senior levels.”

The PMO Unit Chief sent an email to Haley after the meeting summarizing what occurred. In this email, the PMO Unit Chief described Wray as having “addressed the challenge of garnering support from the [White House] to engage OMB if what [Wray] believes is the [White House]’s preferred site isn’t the proposed solution.” Wray told the OIG that he did not recall making a statement about not getting White House support if the FBI chose a location other than the location preferred by the White House. However, Wray said that he was aware at the time that the FBI was “going to have a hard time getting an enthusiastic support for the financing and engagement with the Hill...if we go in and advocate for something that [Trump] has already said doesn’t make sense to him.” At the same time, Wray stated the FBI had already decided that the suburbs was “not...the best thing for the organization.” According to Wray, Haley preferred that the FBI first focus on getting funding for the project and identify a site location later. Haley told congressional staff that this strategy had fewer political implications. When we asked Wray about his reaction to this idea, he stated, “I didn’t think that [plan] was going to make a lot of sense.” “I think that’s like asking people to write you...a check before you even know what you’re buying,” Wray explained.

#### **K. Finance and Facilities Division Employees’ Concerns About Potential Political Backlash if the FBI Recommended Keeping FBI Headquarters at JEH Site**

Several Finance and Facilities Division employees told the OIG they were concerned that if Wray decided to recommend keeping FBI Headquarters at the JEH site, the FBI would face significant political challenges. The PMO Unit Chief told us that the political implications of remaining at the JEH site were twofold: (1) “the FBI reversing what is almost a decade of communication with the Hill on what its preferred outcome would be”; and (2) “D.C. has no representation on the committee and that getting funding would be extremely difficult for the plan.” The PMO MAPA told the OIG that she and other PMO members were always concerned about how a D.C.-specific project would get funded because “there’s no voting member in Congress for D.C.” and for tax reasons, the D.C. government wanted the JEH site to be developed. Likewise, Appropriations Liaison I expressed concern about the lack of political support for the JEH option. Appropriations Liaison II told the OIG he was

concerned that the selection of the JEH site would invite “question marks about the Administration[’s] involvement [in the project].”

In early January 2018, Appropriations Liaison II expressed his concerns by drafting a mock news article entitled, “FBI Staying Put? Trump’s Infrastructure Request Includes Shocking Change to FBI Relocation Plan—Leaves Congressional Oversight with More Questions than Answers.” The mock article was intended to capture the anticipated reactions of Congress and the media to learning that the FBI wanted to stay at JEH. The mock article stated that sources suggested that the plan to keep FBI Headquarters at JEH was orchestrated by Trump in order to prevent a hotel from being built on the site. Appropriations Liaison II told the OIG that he wrote the mock article because he was concerned about the political backlash. According to Appropriations Liaison II, he had no evidence that the decision to seek to remain at the JEH site was based on improper considerations or motives. Appropriations Liaison II provided a copy of his mock article to the PMO Unit Chief and, according to the PMO Unit Chief, it was just discussed by them and nothing further was done with it.

**L. GSA Advises Haley and PMO that Renovation Is Not an Option and that GSA Recommends Demolishing JEH and Rebuilding a Facility—January 2018**

On January 16, 2018, Haley and PMO members spoke via telephone with their GSA counterparts, including Mathews, PBS Deputy Commissioner Michael Gelber, and the Director of Design and Construction. According to the PMO Section Chief, the Director of Design and Construction “immediately raised a concern that he had with [a] phase[d] renovation” of JEH and told the FBI that it was “better to tear it down and build up, from the ground up.” When asked about the crux of GSA’s concerns, the PMO Section Chief explained that GSA did not think a JEH renovation was “feasible” because of construction, security, and scheduling concerns. According to the PMO Section Chief, the FBI participants “were all taken aback” by GSA’s position that renovation was not feasible.

The PMO Section Chief, Appropriations Liaison I, and Appropriations Liaison II all told the OIG that, following the call with GSA, the JEH renovation option was abandoned. Although Haley told congressional staff that GSA was “adamant that you could not renovate the building,” he also told them that the FBI did “not 100 percent abandon[] the renovation piece on [January] 16th.”

Wray told the OIG that he was not sure when the FBI abandoned the renovation idea, but he believed it was before January 16, 2018. According to Wray, when GSA and the FBI coalesced around the idea of demolishing JEH and building a new facility, he considered it a “significant breakthrough” and thought, “Why the heck did people not consider this option before?” Wray said that he was told the option was cheaper and faster, would allow the necessary security without “having to make a trade-off,” and would allow for more personnel, which made “complete sense” to him. As discussed below, the PMO continued to discuss renovation as an option until the January 24, 2018 White House meeting.

#### **IV. Director Wray, the GSA Administrator, and President Trump Meet on January 24 about the FBI Headquarters Project**

Documents show that on January 17, 2018, the White House confirmed a January 24 meeting for Trump and other Administration officials with Wray. Based on emails between then DOJ Principal Associate Deputy Attorney General (PADAG) Robert Hur and then FBI Chief of Staff James Rybicki, the agenda for the meeting was the FBI Headquarters project and background investigations. Hur and Rybicki both told the OIG that they did not recall how the agenda was set nor did they recall discussions about the agenda. Wray told the OIG that he did not recall how this meeting with the White House came to be scheduled.

##### **A. Preparation for Meeting with President Trump**

Based on emails and other documents we reviewed, we determined that on January 23, to prepare for the upcoming White House meeting, Haley and Mathews had a phone conversation; Wray met with Bowdich and others; and Wray and Murphy had a phone conversation. We describe the available evidence below.

We reviewed an email from Mathews to Murphy documenting a 1:30 p.m. phone conversation on January 23 between Mathews and Haley about the upcoming White House meeting. In the email, Mathews told Murphy, “[Wray] is wedded to the [Pennsylvania Avenue] location,” and “[Haley] didn’t rule out a demolish rebuild or a full move out and renovation.” Mathews further stated: “The Director thinks the finance mechanism is not their role, so I wouldn’t expect much active support there. Location and a [program of requirements] are areas where they have equities.” Mathews noted that the “[FBI will] say a renovation is feasible although slightly more expensive than a new campus.” Finally, Mathews stated that OMB expected GSA to provide the briefing about the renovation options.

After Haley and Mathews’s call, Haley, Bowdich, and several Finance and Facilities Division employees met with Wray about the next day’s White House meeting. According to Appropriations Liaison I, Wray told the group at the outset, “I’m going to the White House tomorrow [and] [w]hat do I need to know about this new Headquarters project that I’m going to be asked about?” Haley told congressional staff that he recalled informing Wray that GSA preferred the demolish and rebuild option, and in response, Wray stated that he expected Murphy to convey this fact to Trump. According to several FBI employees who were present for this meeting, Wray made clear that he was going to state at the White House meeting that the FBI wanted to stay at the current location. According to Appropriations Liaison I, the Finance and Facilities Division believed that OMB would be “the naysayer” and Wray would need to be prepared “to justify staying at JEH.” Dimos told the OIG that Wray indicated he was “looking to OMB and GSA to make a decision” on the funding mechanism. Haley told congressional staff, “We believed the ground lease-leaseback was the best option, but we were being blocked by 30, 40 years of OMB policy in terms of using public-private partnerships.” Haley also recalled telling Wray that both he

and GSA believed that a GLLB was the preferred funding option. According to witnesses, Wray did not express a preference about how the project was funded.

Appropriations Liaison II told the OIG that he did not think he participated in the January 23 meeting with Wray, but he recalled a discussion with Haley following the Wray meeting. Appropriations Liaison II told the OIG that, based on his conversation with Haley, Appropriations Liaison II's "interpret[ation]" of what Wray had conveyed was:

We've got a great site. Status quo is not an option but if we could potentially stay at this site and meet the FBI's mission and also move forward with our workforce strategy and address the security concerns and the President of the United States wants this, that's a lot going for you.

Appropriations Liaison II's January 23 notes also stated, "Huge [Headquarters] update[:] [executive management] wants to stay in JEH b[e]c[ause] partly the Pres[ident] has indicated 'Why would you want to leave?'" When asked about his reference to the President in his notes, Appropriations Liaison II told the OIG that what he wrote was his interpretation of what Haley told him and "not information that came directly from the Director's mouth."

FBI documents we reviewed show that, later in the evening after Wray's meeting with Bowdich and Finance and Facilities Division employees, Wray had a telephone call with Murphy. According to the GSA OIG Report, Murphy recalled a phone conversation in which Wray stated that he "'liked the [demolish-rebuild] plan,' but had some reservations." More specifically, Murphy recalled that Wray was concerned that if the FBI left JEH, it would not be able to return after the rebuild was completed. During his congressional interview, Haley said that Wray was concerned about the possibility of the FBI never returning to the JEH site because "politically it gets all tangled up" and ending up in "multiple locations," which would be "worse than the current situation."

According to Boente's December 2018 memorandum, Wray recalled an undated telephone call with Murphy before the January 2018 White House meeting. The Boente memorandum stated that Wray recalled that Murphy told him, "We will need the maximum White House enthusiasm."

## **B. Meeting with President Trump and Pre-Meeting Discussion Regarding the FBI Headquarters Project**

On January 24, 2018, before the meeting with President Trump in the Oval Office, Chief of Staff Kelly met in his White House office with Wray, Rosenstein, Murphy, White House Counsel Donald McGahn, and OMB Director Mulvaney. Murphy told GSA OIG that Wray agreed in this pre-meeting to demolish JEH and rebuild a new facility on the site after receiving assurances from Murphy and Mulvaney that the FBI would be able to return after vacating the JEH site because the new facility would be built specifically for the FBI. Although Wray told the OIG that he believed the decision to build a new facility, rather than

renovate JEH, occurred earlier, Boente's December 2018 memorandum stated that, during the pre-meeting, Wray recalled: "The GSA Administrator said there is a way for the FBI to stay in the same location.... It would not involve a renovation, but a teardown and a rebuild. To the Director it seemed like a win/win." The Boente memorandum further noted that, "All of the participants [in the pre-meeting] were aligned."

According to the GSA OIG Report, Murphy recalled that "all involved" in this pre-meeting "acknowledged the challenges to a demolish-rebuild plan," which included "obtaining authorization for the funding level and scope of the project, and securing appropriations for the project." In addition, according to the report, Murphy told the group that "White House assistance with the funding issues would be appreciated." Wray told the OIG that he had a "vague recollection" of previously saying to Kelly, "For this to work, OMB is going to have to be on board" with the P3 financing. Wray further stated that in this pre-meeting, he recalled receiving "confirmation that Mulvaney would be on board."

After the pre-meeting, the same participants went into the Oval Office for the meeting with Trump. Wray told the OIG that Trump started the meeting by asking Wray and Murphy, "So what are you thinking?" Wray recalled that he and Murphy told Trump, "We think the best idea is for us to stay at 935 [Pennsylvania Avenue]." Wray also recalled that Trump asked him directly, "Are you envisioning...a really modern building [or] more of a traditional building?" Wray told the OIG that he responded, "I think I would want it to be a building that would stand the test of time" and one that would "represent the FBI of the future." According to Wray, most of the conversation centered on Trump "enthusiastically" asking Murphy questions about construction particulars, such as whether GSA and the FBI planned to go underground and add columns.

Wray told the OIG that he recalled being focused on Mulvaney during this meeting because he knew that OMB would have to approve the FBI and GSA's recommended funding option. Wray recalled impressing on Trump that Mulvaney's support of a P3 for the project was critical.<sup>34</sup> Wray told the OIG that he did not remember what Trump said about the project's funding plan but by the meeting's conclusion, Wray believed that Mulvaney supported the P3 funding option and, as Wray explained, "That's what I had been told [by Haley] my goal should be."

According to Wray, the nature of the conversation was Trump asking questions along the lines of, "What are you thinking?" and "What is your vision?" Wray told the OIG: "I did not feel pressured. I did not feel bullied."

Boente's December 2018 memorandum summarizing this meeting with Trump stated that, "The President asked what are you thinking," and Wray responded by telling

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<sup>34</sup> As noted previously, a GLLB is a P3 financing option. Wray told the OIG that he understood the project would not "go anywhere" without Mulvaney's support for a "ground-lease," but Wray expressed that he did not recall all the terminology.

Trump that he “wanted to do what is best for the mission of the FBI, the workforce, and the taxpayer.” Wray further told Trump, according to the memorandum, “If we can stay in the same location that would be great,” although he cautioned, “We cannot do it without the public/private partnership.” According to the memorandum, Trump said, “If that is your position, I am totally on board.” The memorandum also described Trump’s questioning of Murphy about building details and asking Wray if he wanted a contemporary or traditional building. Boente’s memorandum described Wray’s characterization of Trump’s comments during the January 24 meeting:

There was no pressure to go in a particular direction. There was no requirement to stay in the current location. The Director concluded that the President had a topic that was in his element, he knows building. He was excited and engaged about the topic. There was nothing inappropriate or improper. The President said go forth and make plans.

According to the PMO Unit Chief and Haley, GSA officials informed them after the White House meeting that the FBI Headquarters would be demolished and rebuilt, and Trump supported the GLLB funding option. The PMO Unit Chief told the OIG that he and Haley were surprised that the GLLB option had received support, and noted that the GSA official he spoke to did not report anything about what Wray or Trump said during the meeting. In an email exchange between Haley and an OMB Senior Policy and Budget Analyst the next day, the analyst asked Haley whether he was able to “get with [his] Director’s office” to confirm whether the “[p]rincipals” had agreed to the GLLB option and a “complete demo” at the White House meeting. In his response, Haley indicated that he had confirmed with the Director’s office what occurred at the White House meeting.

Appropriations Liaison I told the OIG that Haley told her that at the White House meeting, “Wray expressed his preference to stay at JEH to President Trump,” and Trump said, “That’s a good site [and] I don’t know why you would ever move [from] that site.” Appropriations Liaison I told the OIG that her understanding was that “the major decision point [at the White House meeting] was about the funding” and that “the President...agreed that this should be funded through a P3.” Appropriations Liaison II also told the OIG that he learned about the White House meeting from Haley, and based on what Haley said, Appropriations Liaison II understood that “the President suggested he wants the project to stay on Pennsylvania Avenue...via a ground lease leaseback which contradicted the OMB direction that they had been providing.”

#### **V. Director Wray and Other Witnesses’ Testimony Regarding the Basis for the FBI’s Recommendation to Keep FBI Headquarters at the JEH Site**

We asked Wray to describe the basis for the FBI’s decision to recommend that FBI Headquarters remain in its current location, including whether he was pressured by then President Trump in making that decision. Below we describe Wray’s statements on this

issue as well as other witnesses' recollections of Wray's contemporaneous statements about the FBI's decision to recommend that FBI Headquarters remain in its current location.

As discussed above, Wray told the OIG that when he became the FBI Director, the previous plan for FBI Headquarters had recently been canceled, and he had an "open mind." He said that based on his prior experience working in JEH in the early 2000s, he was aware that the "status quo" was not "a realistic option." Due to the "significant support" that the FBI had received for the shift of FBI Headquarters functions to other locations, including Huntsville, Wray said he was "in a different situation...in terms of what's available" as compared to his predecessors because "the number of people that would have to be in the [Headquarters] building [was] significantly less." Wray told the OIG that over the course of the fall, as he learned about the different options, he started "leaning more and more towards a desire to stay [at JEH]" and the "input that [he] was getting from [Bowdich] and from others was all consistent with that view." Wray told the OIG that he believed it became "more of a concrete recommendation" in his mind at some point in the late fall, although he also said that there was not a "magic moment" and it "coalesce[d]" over time. Wray told the OIG that he tried to "maximize getting the most pros and the fewest cons."

Wray told the OIG that the FBI came to believe that "the best balance of the equities" for the FBI workforce and the public was for the FBI Headquarters to remain in its current location in a new building. Wray said that the FBI evaluated the following factors in making the recommendation to remain at the JEH site: first, the ability to fit a sufficient number of employees into the new facility in order to facilitate some consolidation of FBI Headquarters personnel; second, "proximity to our partners, especially DOJ [and Congress]"; third, access to public transportation because "from a metro perspective...[the JEH site] is an extremely convenient location"; fourth, whether the building could be "secure enough," and stating that the FBI "could have a Level V security building" at the JEH site without having "to move out to the suburbs"; fifth, cost, including the ability to have a "state-of-the-art facility"; and sixth, a location that was "accessible and transparent to the American people."

Although Wray told the OIG that he believed that he and Trump had the "same preference[]" for the JEH site, Wray said the "merits of the decision" were "not driven by or based on...anything the President said or wanted." Wray said that he did not feel "pressured or bullied or browbeaten" or "pushed" by Trump in making the decision to recommend that FBI Headquarters remain at the JEH site.<sup>35</sup> According to Wray, Trump

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<sup>35</sup> During testimony before the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies on April 4, 2019, Wray was asked to "bring a little clarity" about the FBI Headquarters location decision. Wray provided testimony that was consistent with his testimony to the OIG about his reasons for recommending that FBI Headquarters remain in its current location. He was then asked whether the decision was "based on what is best for the Bureau, the security of our country, and not because of political pressure," and he responded, "Correct."

never stated, "You need to put [FBI Headquarters] here...or anything like that." When asked to characterize Trump's involvement in the FBI's recommendation, Wray stated, "I would say he was not involved in my recommendation, at least the way I think of it." Wray explained that in comparison to his interactions with Trump on other matters, he was "struck by the fact that [Trump] kept saying...I want to know what you think" and "I need you to take a look at it and decide what you want." Wray told the OIG that he believed Trump was asking him to work with GSA to figure out what Wray wanted, and he did not feel like Trump was trying to "steer [him] to a particular outcome." Boente's December 2018 memorandum also stated, "The Director's decision had nothing to do with the President."

Several FBI officials told the OIG that Wray stated to them that the decision to seek to remain at the JEH site was his decision. Deputy Director Abbate stated that Wray had been "very clear" that it was his decision. Dimos described a conversation that he had with Wray in late 2017 or early 2018, in which Wray told him, "Basically the President said to [me]...this is [my] decision...." According to former FBI Chief of Staff Zachary Harmon, Wray stated that Trump indicated to him, "You should decide where you think the FBI should be located in whatever way is sort of in the best interest of the FBI."

Bowdich told the OIG that the decision to seek to stay at the JEH site was made by the FBI and not by Trump. Bowdich told the OIG that he was not aware of Trump applying any pressure on the FBI to stay at the JEH site. Haley was asked by congressional staff whether there was any improper influence by the White House on the project, and Haley stated, "I can't think of any point where I'm aware of any influence from the White House to change what was...the Director's decision or intent to stay at 935 [Pennsylvania Avenue]."

Former FBI Chief of Staff James Rybicki, whose last day at the FBI was February 6, 2018, told the OIG that after Wray returned from a "hastily-arranged" meeting with Trump at the end of Rybicki's FBI tenure, Wray told him about "the President's desire that the FBI stay at [JEH]." Although Rybicki could not recall Wray's precise words, Rybicki said, "I remember having a feeling that Director Wray...[was] questioning why that would be of such interest to the President." According to Rybicki, Wray never told Rybicki that he felt pressured by Trump to keep FBI Headquarters at JEH. However, Rybicki had some appearance concerns because he believed that Trump's position might have been based on something inappropriate, or viewed as such, and therefore Rybicki wanted the FBI to "be careful" with "anything that could be perceived as improper."<sup>36</sup> Rybicki told the OIG that he did not know if he expressed the reasons for his concerns to Wray. Rybicki stated, "I do recall just sort of making the point to the Director of...should we be on guard against or for

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<sup>36</sup> Rybicki had two separate appearance concerns about Trump's position: (1) it could appear that Trump was influencing pending FBI investigations connected to him; and (2) JEH's "proximity to the President's private properties."

anything that might look improper.” Rybicki did not recall whether Wray said anything to him in response.

Wray told the OIG that he did not recall this conversation with Rybicki. Wray told the OIG that he also did not recall having a concern that Trump had an interest in the location of the FBI Headquarters and that this interest was related to the Trump International Hotel. Wray also said that during the January 24 meeting with Trump, based on the myriad questions Trump was asking about the construction possibilities, he recalled thinking: “This is what [Trump] loves.... He loves buildings...and then thinking, well, maybe that’s not that weird, because that’s what he spent his whole career doing.”

#### **VI. OMB Changes Funding Recommendation from GLLB to Federal Construction Appropriations; GSA and the FBI Submit Revised Plan to EPW Seeking \$2.175 Billion Appropriation to Demolish JEH and Rebuild—February 2018**

Although the FBI Headquarters plan was due to EPW on January 29, 2018, GSA and the FBI did not transmit it until February 12. Despite apparent agreement at the January 24 White House meeting that the Headquarters project would be funded through a GLLB, OMB raised objections shortly after the January 24 meeting.

On January 30, Haley and the PMO Unit Chief met with GSA and OMB officials to discuss the draft FBI Headquarters plan. According to FBI documents, at this meeting, OMB directed the removal of the GLLB recommendation from the plan. On January 31, Mathews emailed Haley handwritten edits to the plan and in the “Recommendation,” Mathews had crossed out “Ground Lease-Leaseback.”

In a February 7 email to Haley, an OMB Senior Policy and Budget Analyst remarked on a pending budget deal’s effect on the Headquarters project: “Looks like a deal on raising the caps is imminent. Cha Ching! Let’s get this party started!” The pending deal would increase the limits on defense and nondefense discretionary spending for FY 2018 and FY 2019 and was included in the Bipartisan Budget Act of 2018, which President Trump signed into law on February 9. On February 8, with awareness of this “imminent” deal, OMB officials communicated to GSA and the FBI that federal construction appropriations would be the funding plan for the Headquarters project. Haley noted in his congressional interview that Wray did not oppose this change. As Haley put it, “[Wray was] not going to go to the mat on the funding option.”

On February 12, 2018, GSA and the FBI transmitted their revised plan to EPW, which provided for the consolidation of 8,300 FBI Headquarters personnel in a new facility on the JEH site and the transfer of approximately 2,300 Headquarters personnel to Alabama, West Virginia, and Idaho. The plan stated that a new facility on the JEH site would have “[f]ull [c]ompliance” with “SECURITY” as compared to a renovated JEH, which would have a facility security concern that is identified in the classified appendix. The plan’s preliminary estimate of the project’s total cost was \$3.3 billion. The plan stated that the “budget cap

deal” provided a “unique opportunity to secure appropriations for the FBI Headquarters” and requested \$2.175 billion in appropriations to “fully fund federal construction to demolish and rebuild JEH.” In his prepared statement for a February 28, 2018 EPW hearing about the project, which is discussed below, Haley stated, “In light of the recent budget agreements...Federal appropriations would be the optimal funding solution [for the project].” On the same date that this revised plan was transmitted to EPW, in connection with ongoing FY 2018 budget negotiations, the Trump Administration provided Congress with a list of additional items for possible funding in the FY 2018 budget, which included \$2.175 billion for the FBI Headquarters project. Additionally, Trump released his FY 2019 budget proposal, which included an infrastructure initiative that proposed funding the new FBI Headquarters and other real property projects through a new “Federal Capital Revolving Fund.”

## **VII. The Revised Plan Contains Ambiguous Facility Security Information, Omits Known Facility Security Information, and Does Not Address the ISC Standard**

The revised plan, which was prepared by GSA, the FBI, and an FBI contractor with input from OMB, contained limited information about the security of the proposed new facility on the JEH site. According to the PMO Unit Chief, the new facility’s security was not a “selling point” and would not advance the project with Congress, so in the revised plan, the FBI tried to focus the narrative on its “highest priority,” which was the FBI Headquarters remaining at the JEH site.<sup>37</sup> The limited facility security information that was included in the revised plan was ambiguous so that its meaning was unclear. Additionally, the revised plan did not include relevant facility security information known to the FBI and did not address the ISC Standard. We discuss these issues below and in a classified appendix to this report.

The PMO Unit Chief and the PMO MAPA both had roles in preparing the revised plan, as well as in briefing Wray and in preparing Haley for an EPW staff briefing and his February 28, 2018 EPW testimony. The PMO Unit Chief told the OIG that in the revised plan, GSA and the FBI tried to “simplify a complex project” in a “very high-level summary” in the short timeframe created by the EPW deadline, and that significant, additional work in the project still needed to be done at the time the revised plan was submitted to EPW. The PMO MAPA told the OIG that the PMO worked hard to make the revised plan as accurate as possible, but they had limited personnel resources and a “really tight deadline.” According to the PMO Unit Chief and the PMO MAPA, PMO members were not responsible for facility security issues in the project, but they proactively worked to validate and provide facility security information to FBI leadership. The PMO Unit Chief told the OIG that with support from FBI contractors, the FBI Security Division, which has expertise in facility security and the ISC Standard, was responsible for facility security issues in the project. However, we found no evidence that the revised plan was shared with the FBI Security Division for its

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<sup>37</sup> The PMO Unit Chief told the OIG that he did not receive any direction or guidance from FBI leadership to minimize the focus on facility security in the revised plan.

review before the plan was submitted to EPW. According to the PMO Unit Chief and the PMO MAPA, the FBI Security Division may not have been consulted about the revised plan because it did not address facility security in any detail and, in the weeks before the EPW submission, the FBI was focused on recent, significant changes in the plan, including the proposed funding. The PMO MAPA also told the OIG that Haley or higher FBI leadership, rather than the PMO, would have made the decision about whether to share the revised plan with the FBI Security Division for review because the revised plan was a document that would be provided to Congress.

The revised plan submitted to EPW ambiguously indicated that as compared to the suburban campus facility planned during the exchange procurement, the proposed new facility at the JEH site would have “NO CHANGES” to specified mission elements, including a facility security-related mission element that is discussed in the classified appendix. According to FBI witnesses and documents, there would be changes to this mission element because the FBI intended to accept greater facility security risk related to this mission element at the new JEH site facility as compared to the suburban campus facility. We were unable to determine who drafted this “NO CHANGES” portion of the revised plan, which the PMO Unit Chief initially told the OIG was “poorly worded” and “misleading” with respect to the facility security-related mission element, and that its inclusion was an oversight. However, after reviewing a draft of this report and the classified appendix, the FBI stated that the PMO Unit Chief now recalled that this portion of the revised plan was “not intended to address the comparative details of those [mission] elements between the suburban and urban plans,” but rather was meant to express that the specified suburban campus facility mission elements would also be mission elements of the new facility at the JEH site.<sup>38</sup> In interviews with the OIG, the PMO MAPA provided the same interpretation, but she told us that this portion of the revised plan was “a little confusing” and “not...complete,” and that clarifying information related to the facility security-related mission element could have been included. In the classified appendix, we further address this ambiguous portion of the revised plan, which may have created a misimpression about this mission element, as well as intended changes to that mission element that were known to the FBI at the time the revised plan was submitted to EPW but not included in the document.<sup>39</sup>

The revised plan also ambiguously stated that in contrast to a JEH renovation, which would have a facility security concern that is identified in the classified appendix, a new facility at the JEH site would have “[f]ull [c]ompliance” with “SECURITY.” According to the

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<sup>38</sup> Consistent with our usual practice, the OIG provided the FBI and certain witnesses an opportunity to review a draft of this report and the classified appendix, or portions thereof, and to provide comments. The comments the FBI submitted to the OIG incorporated comments from certain witnesses, including from the PMO Unit Chief and the PMO MAPA.

<sup>39</sup> Although there were limitations regarding what information could be included in an unclassified document regarding the intended changes to this facility security-related mission element, there were means by which classified information could have been shared with EPW.

PMO MAPA, everyone in the PMO was involved in drafting this portion of the revised plan; however, she and the PMO Unit Chief provided different interpretations of this statement during their OIG interviews. The PMO Unit Chief told the OIG that he was not sure about the intended meaning of this statement, but he believed it was a reference to compliance with the ISC Standard, which was not mentioned in the revised plan. The PMO MAPA understood the meaning of this statement differently and told the OIG that it related to the facility security level (FSL) under the ISC Standard and, specifically, that a new facility at the JEH site would “meet[] Level V.” The PMO MAPA’s OIG testimony about the ISC Standard reflected a misunderstanding of an aspect of the standard, and her interpretation of the “full compliance” statement in the revised plan was consistent with that misunderstanding. Specifically, the PMO MAPA incorrectly believed that meeting Level V requirements under the ISC Standard referred to the factors that are considered when determining the FSL and not to the Level V baseline level of protection security countermeasures, which, as discussed below, the FBI determined to be necessary for certain security criteria. After reviewing a draft of this report and the classified appendix, the FBI stated that the PMO MAPA’s misunderstanding “reflect[ed] the understanding of the broader [Finance and Facilities Division]/PMO at that time,” and the PMO MAPA “shared the same interpretation [of the ‘full compliance’ statement] as the rest of the [Finance and Facilities Division]/PMO.” However, the FBI’s explanation about the PMO’s shared interpretation does not account for the statement’s reference to the facility security concern. We were unable to determine the intended meaning of the ambiguous “full compliance” statement in the revised plan, which is also addressed in the classified appendix, and therefore, we could not evaluate the statement’s accuracy.

We also were unable to determine why the revised plan did not include information about the ISC Standard, though based upon witness testimony we received, it appears that it may have been due in part to the considerable confusion in some parts of the FBI about how the standard operates. As set forth above in Chapter Two, the ISC Standard includes a set of security countermeasures for each FSL, Levels I through V, that is necessary to achieve a baseline level of protection for different security criteria. Based on the FBI’s assessment of the ISC Standard’s factors for determining a facility’s FSL, including mission criticality, the facility’s symbolism, and other factors, the FBI determined that the FSL of a new facility at the JEH site would be Level V, the same as the current JEH building. The ISC Standard requires a risk assessment to determine whether the baseline level of protection for the relevant FSL sufficiently addresses the risks to a facility, which results in a determination of the necessary level of protection. According to FBI witnesses and documents, for certain security criteria, the FBI determined that the necessary level of protection for the new FBI Headquarters was the baseline level of protection for a Level V facility. Having made that determination, in accordance with the ISC Standard, the FBI would have been required to either implement those Level V baseline level of protection security countermeasures at the new facility or, if such countermeasures were deemed not feasible, including for cost or mission reasons, the FBI would have had to accept risk under the standard. Regardless of whether the FBI planned to implement those Level V

countermeasures or decided to accept the risk of not doing so, the new facility's FSL would remain at Level V and could accurately be referred to as a Level V facility. However, according to FBI Security Division witnesses who are knowledgeable regarding the ISC Standard, if the FBI planned to not implement those Level V countermeasures and intended to accept the associated risks under the standard, it would not have been accurate to say that the new facility would meet the requirements of a Level V facility.

Due to confusion about the ISC Standard by some in the FBI, and the FBI Security Division's apparent lack of involvement in the revised plan,<sup>40</sup> we were unable to determine what the FBI understood at the time the revised plan was submitted to EPW regarding the ability of a new facility at the JEH site to have the necessary level of protection under the ISC Standard, which included the implementation of some Level V countermeasures. However, at a minimum, the FBI was aware that as compared to the suburban campus plan, the revised plan had more facility security risk. Based on an email sent by the PMO MAPA between the submission of the revised plan and Haley's EPW testimony, the PMO and an FBI Security Division manager knew that it would be "cost prohibitive" to construct a new facility at the JEH site with countermeasures that the FBI had determined to be necessary for a particular security criterion, which is discussed in the classified appendix. FBI Security Division witnesses also expressed doubt to the OIG that a new facility implementing the required Level V countermeasures for the same security criterion could be built at the JEH site because such a facility would be extremely expensive to construct and very impractical when completed. Similarly, a document drafted in part by the PMO after the revised plan was submitted to EPW—a document that was given to Haley in preparation to brief EPW staff and testify about the revised plan—acknowledged that ISC Standard countermeasure requirements for the same security criterion would not be fully met and that risk would have to be accepted at the new facility.<sup>41</sup> Additionally, in an email to Haley and Dimos after the revised plan's submission, an OMB Senior Policy and Budget Analyst stated that "[t]he new proposal will meet Level IV facility requirements," instead of Level V requirements, in a proposed response that she had drafted to an anticipated facility security question regarding the plan. The proposed response suggested that the

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<sup>40</sup> After reviewing a draft of this report, the FBI stated that Finance and Facilities Division and Security Division staff engaged on a regular basis about the Headquarters project, but there was an insufficient level of engagement among executive management in the respective divisions. As outlined in more detail in this section of the report and in the classified appendix, we found evidence of some interactions between the Finance and Facilities Division and the Security Division at the staff level, but no evidence of any coordination at that level or the executive management level before the revised plan was submitted to EPW, and only limited coordination thereafter.

<sup>41</sup> When the PMO Unit Chief was asked about this acknowledgement in Haley's preparation document, he told the OIG that it was "not...well worded," and he believed "ISC requirements" would be met. The PMO Unit Chief's OIG testimony about the ISC Standard also reflected a misunderstanding of an aspect of the standard, which is addressed in the classified appendix.

referenced Level IV requirements pertained to the same security criterion discussed above.<sup>42</sup>

Therefore, based on the ISC Standard, FBI documents, and the testimony of FBI witnesses, compliance with the ISC Standard would have required the FBI's acceptance of risk under the standard because Level V baseline level of protection countermeasures for a particular security criterion would not be implemented at a new facility at the JEH site. However, the revised plan did not mention the ISC Standard, that the new JEH site facility would not meet the Level V countermeasure requirements for a particular security criterion, or that risk would have to be accepted under the standard.

In addition to not addressing the ISC Standard in the revised plan, there is evidence that inaccurate information about the standard may have been provided to Wray and Haley. According to the PMO Unit Chief, based on discussions with Wray about the FBI Headquarters project in which the PMO Unit Chief participated, Wray was never told that the new FBI Headquarters would have anything less than Level V security under the ISC Standard.<sup>43</sup> Wray told the OIG that by building a new facility, he understood the FBI "could have a Level V security building" at the JEH site without any security "trade-off[s]." We also found no evidence that the FBI Security Division briefed Wray on the FBI Headquarters project before the revised plan was submitted to EPW.

Documents that the PMO provided Haley to prepare for an EPW staff briefing and the February 28, 2018 EPW hearing asserted that a new facility at the JEH site would meet "ISC Level 5 Security standards" and "ISC requirements" for a particular security criterion even though the Level V countermeasures for that criterion that had been deemed necessary would not be implemented and risk would have to be accepted under the ISC Standard. Although an FBI Security Division manager drafted some facility security language that was included in one of these preparation documents, we did not find evidence that this manager drafted the language regarding meeting "ISC Level 5 Security standards" and "ISC requirements." We also found no evidence that the FBI Security

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<sup>42</sup> The proposed response acknowledged that the FBI is a member of the U.S. intelligence community, which uses "the highest security standards," but pointed to the FBI's other responsibilities to explain why the proposed new facility at the JEH site did not need to meet Level V requirements:

The security requirements underpinning the earlier [exchange] procurement action failed to acknowledge that half of the FBI's mission is focused on traditional law enforcement and does not require the security protection necessary to meet Level V...security requirements.

Although this language may suggest that the FBI had changed its position and determined that the necessary level of protection for the relevant security criterion was no longer the Level V baseline level of protection, this proposed response ultimately was not included in the FBI's final version of the response. Further, according to FBI witnesses and documents, the FBI had determined that the Level V baseline level of protection for this security criterion was necessary.

<sup>43</sup> The PMO Unit Chief and Haley briefed Wray on the FBI Headquarters project on November 20, 2017, and the PMO Unit Chief participated in other project meetings with Wray in December 2017 and January 2018.

Division reviewed the preparation documents before they were provided to Haley, or that the FBI Security Division was otherwise involved in preparing Haley. In Haley's February 28, 2018 EPW testimony, which is addressed below in Chapter 4, Haley did not reference the ISC Standard, but the OIG was unable to determine what he told EPW staff during their briefing.

In a classified appendix to this report, we further address facility security issues related to the revised plan, the preparation of Haley for his EPW staff briefing and EPW testimony, and the information provided by Haley and the PMO to Wray, including during the November 20, 2017 briefing.

#### **VIII. DOJ Officials Learn About the FBI's Decision to Recommend Demolishing JEH and Building a New Facility**

According to then Assistant Attorney General Lofthus, he did not become aware that the FBI had decided to recommend that JEH be demolished and rebuilt, instead of building an FBI Headquarters facility in the suburbs, until February 9, 2018. According to Lofthus, OMB invited him to participate in a February 8 phone call with the FBI during which OMB officials informed the FBI that the FBI Headquarters plan due to EPW should include a request for appropriated funds for the project. According to Lofthus, the next day the FBI or OMB provided Lofthus with a paper copy of the draft plan. According to Lofthus, before reviewing the draft plan, he had "no prior knowledge" that the FBI had decided to remain at its current location. Lofthus told the OIG that after receiving the February 9 draft plan, he did not recall any discussions with Haley or anyone at the FBI about the new plan. He stated, "I can't believe we never spoke because it was a significant shift in the project."

Lofthus was very clear that he was "not [a] party to" the plan to demolish JEH and build a new facility on the site. Lofthus stated that the plan "had already been fully baked and we were just being brought in after the fact." Lofthus told the OIG that prior to receiving the draft plan on February 9, 2018, his only memory of the Headquarters project was as a "minor mention" in DOJ's winter 2017 budget that "there's still an interest in building the Headquarters and we need money."

Hur, who was the PADAG at the time, told the OIG that he was not involved in the FBI Headquarters project, but he assumed there was DOJ involvement through the Justice Management Division. Hur did not recall participating in any discussions about the project with then Attorney General Jeff Sessions, Rosenstein, or Wray. Hur did not know whether Sessions or Rosenstein had any role in the FBI's decision to seek to stay at the JEH site.

According to Bowdich, Sessions and Rosenstein did not weigh in on the FBI's decision to seek to stay at the JEH site, and Bowdich did not recall them expressing any views on the decision. Bowdich said he recalled conversations about the FBI Headquarters project with Rosenstein in which Rosenstein asked about the FBI's location preference and the cost to renovate JEH as compared to rebuilding it.

## CHAPTER 4: EVENTS FOLLOWING SUBMISSION OF REVISED FBI HEADQUARTERS PLAN TO CONGRESS

On February 12, 2018, the day that GSA and the FBI provided EPW with the revised plan, EPW formally invited then Assistant Director Haley and then GSA PBS Commissioner Mathews to testify about the revised plan at a hearing on February 28, 2018. Also following the release of the revised plan, the press reported widely on the FBI's change in location recommendation, and the FBI conducted briefings with Congress in advance of the hearing. Three days after the revised plan was provided to EPW, GSA Administrator Murphy and Mathews testified before Congress about the plan. We discuss these events below and thereafter summarize Haley's preparation to testify, the February 28 hearing, and the current status of the FBI Headquarters project.

### I. Press Reports about Revised FBI Headquarters Plan

Two weeks before the submission of the revised Headquarters plan to EPW, a news article first reported on the revised plan and described it as a "stunning turn of events."<sup>44</sup> The article stated, "The General Services Administration appears to be leaning toward keeping the agency at the site of the J. Edgar Hoover Building on Pennsylvania Avenue." On February 12, 2018, within hours of the submission of the revised plan to EPW, several media outlets reported on the revised plan describing the FBI's change in location recommendation as an "abrupt shift," an "about-face," "a sharp reversal," "a surprise move," and "a major departure from the decade-long process of selecting a new FBI headquarters site," and raised questions about the Trump Administration's involvement in the decision.

### II. GSA Administrator Murphy and PBS Commissioner Mathews Testify Before House Subcommittee About the Revised Plan; the FBI Briefs Congress About the Revised Plan and Receives Criticism

On February 15, 2018, 3 days after the revised plan was provided to EPW, Murphy and Mathews testified before the House Oversight and Government Reform Committee's Government Operations Subcommittee about the plan. At the hearing, committee members sought information regarding the reasons for the change from the campus plan to the JEH plan. Murphy stated in her testimony that "all decisions that [GSA] made were made at the direction of [the] FBI." Both Murphy and Mathews explained to the committee that the FBI had changed its program requirements by reducing the number of personnel at Headquarters from 10,600 to 8,300 people. Mathews cited some of the advantages of

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<sup>44</sup> See Daniel J. Sernovitz, "[Exclusive: GSA may keep FBI headquarters at current site](http://www.bizjournals.com/washington/news/2018/01/29/ghsa-may-keep-fbi-headquarters-at-current-site.html)" *Washington Business Journal*, January 29, 2018, [www.bizjournals.com/washington/news/2018/01/29/ghsa-may-keep-fbi-headquarters-at-current-site.html](http://www.bizjournals.com/washington/news/2018/01/29/ghsa-may-keep-fbi-headquarters-at-current-site.html) (accessed October 2, 2023).

keeping the FBI Headquarters in its current location, including existing infrastructure, but noted that the FBI would be in a better position to address how distributing over 2,000 Headquarters personnel to other FBI locations would affect the FBI's mission. Later that day, Haley emailed Appropriations Liaison I and the PMO Unit Chief and stated: "I just finished watching [the hearing]. I think we can sharpen many of their responses concerning the mission and our part."

According to Appropriations Liaison I, after the revised plan was submitted to EPW, she and others, including Haley, conducted several "roll out briefings" about the revised plan with EPW, the House Committee on Transportation and Infrastructure, and the Appropriations Committee in order to understand what questions Haley would be asked at the upcoming February 28 hearing. Appropriations Liaison I told the OIG that the FBI received "a lot of criticism" about the revised plan, and staff members questioned who made the decision to remain at JEH and then President Trump's involvement in the decision.

### **III. FBI Prepares for Haley's Testimony at February 28 EPW Hearing; White House Direction to Not Discuss the January 24 Meeting with President Trump**

Haley and Mathews were scheduled to testify at an EPW hearing on February 28, 2018, regarding the revised FBI Headquarters plan. Based on the feedback that the Appropriations Liaisons and Haley received during the congressional briefings described above, the FBI was aware that Haley would be asked at the February 28 hearing to justify the FBI's decision to recommend remaining at the JEH site, and whether the White House was involved in the decision. Documents reflect that in initial preparation meetings between Haley, the Appropriations Liaisons, and others, Haley was advised to focus on the fact that the recommendation was a joint decision between GSA, the FBI, and the Administration. For example, a February 20 document with potential questions and answers used to prepare Haley for his testimony contained the following:

Question: Was President Trump involved in the decision to reuse the JEH site to build a new FBI [Headquarters]?

Answer: Principals of all stake-holders from the administration met and jointly decided to re-use the existing site to build the new FBI [Headquarters].

The day before the hearing, the FBI learned from GSA attorneys that the White House had communicated to GSA not to disclose the fact that a January 24 meeting took place at the White House about the FBI Headquarters project. We describe the effect this communication had on Haley's preparation for his testimony below.

**A. GSA Attorney Calls FBI Attorney Regarding White House Direction About January 24 White House Meeting**

On February 27, 2018, around mid-day, a then FBI Associate General Counsel, who advised the Finance and Facilities Division (Associate General Counsel), received a call from a GSA Office of General Counsel (OGC) attorney about the EPW hearing scheduled for the next morning. The Associate General Counsel told the OIG that the GSA OGC attorney told her that “the White House had called over to GSA and had instructed GSA not to reveal that there had been a January 24th meeting [at the White House]” and that GSA’s then Acting General Counsel, Jack St. John, would be calling then FBI General Counsel Boente. The Associate General Counsel also told the OIG that based on what the GSA OGC attorney relayed to her about the White House communication, including that GSA’s General Counsel would be calling the FBI’s General Counsel, she understood that the White House had communicated a directive not to discuss the January 24 White House meeting at the next day’s congressional hearing and that this directive applied to both GSA and the FBI. The Associate General Counsel told the OIG that she did not know who called GSA from the White House.

When asked about her understanding of why the White House did not want the January 24 meeting to be disclosed, the Associate General Counsel said she believed it was because the White House was concerned that any disclosure of a meeting at the White House about the FBI Headquarters project would fuel speculation about Trump’s involvement in the FBI’s recommendation to remain at the JEH site. The Associate General Counsel told the OIG that she was concerned about this directive because the White House meeting “was not a secret.”

Following her discussion with the GSA OGC attorney, the Associate General Counsel said she told Boente about her conversation and that GSA’s General Counsel planned to call him. According to the Associate General Counsel, Boente told her that he would be “ready for the call if it came,” but he did not provide her with any instructions or say anything indicating what his response would be.

Shortly thereafter, the Associate General Counsel emailed Haley to let him know that she needed to talk to him as soon as possible because she had gotten a call from GSA related to the hearing. In response, Haley wrote: “I heard. About potus meeting.”<sup>45</sup> The Associate General Counsel believed that Haley’s reference to “potus meeting” was the January 24, 2018 White House meeting with Trump. The Associate General Counsel recalled having either one or two conversations with Haley later that day, which we discuss below.

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<sup>45</sup> “POTUS” is an acronym that stands for President of the United States.

## B. Director Wray Meets With Haley and Others Regarding EPW Hearing

Later that same day, at the end of a meeting with Director Wray concerning an upcoming appropriations hearing, Haley, Appropriations Liaison I, Appropriations Liaison II, then Deputy Assistant Director Dimos, and new FBI Chief of Staff Harmon discussed with Wray the hearing that was scheduled for the next morning where Haley would be testifying about the FBI Headquarters planning. According to Appropriations Liaison I, based on the criticism and feedback the FBI had received in several congressional briefings about the Headquarters plan, Haley wanted to meet with Wray before the hearing to discuss anticipated questions from Congress. According to Appropriations Liaison II, Haley and others anticipated that Haley would be asked about White House involvement in the FBI's recommendation to keep FBI Headquarters in its current location, and since Haley was not involved in any meeting with Trump or the White House, Haley wanted to make sure he had an accurate account of what had occurred.

Appropriations Liaison I told the OIG that Haley asked Wray for "guidance with respect to how to answer the question...of who made the decision to stay" and "how did the decision come about." According to Appropriations Liaison II, someone told Wray something to the effect of, "This is not a surprise to you, but we're going to be questioned on whether there was any influence here." Appropriations Liaison I told the OIG, "The Director was pretty clear with us that this was his decision." She recalled that Wray stated, "I wasn't influenced, this is...my preference to stay at the current site...as long as the cost[s] were comparable, and...it was a good deal for the taxpayers...." According to Appropriations Liaison I, Wray emphasized that "he wasn't pressured by anyone." According to Appropriations Liaison II, as well as his notes from this meeting, Wray stated that Trump asked him what he wanted and did not pressure Wray. Dimos told the OIG that Wray was "clear" that the decision to keep FBI Headquarters at its current location was his decision. "Whether the words were said or not," according to Dimos, "there was this general sense, statement that the White House was not pressuring him into making this decision."

Appropriations Liaison I recalled that Wray specifically discussed three factors that he considered when making his recommendation: the JEH site would result in "better conditions," achieve "better security than what we have now," and be "cost-effective." According to Appropriations Liaison II and his notes of the meeting, Wray cited a new facility's capacity to house more personnel, better security, cost-effectiveness, and the location's convenience.

Neither Appropriations Liaison I nor Appropriations Liaison II recalled any discussion at this meeting with Wray about a White House communication not to disclose the January 24 White House meeting regarding the FBI Headquarters project. Appropriations Liaison I told the OIG that she believed the call from GSA about the White House's communication came after the meeting with Wray and was discussed in a later meeting with the Associate General Counsel, which we discuss below. Appropriations

Liaison II told the OIG that he did not recall being aware of a White House communication until after this meeting with Wray.

Wray told the OIG that he did not recall this meeting. Wray also told the OIG that he did not recall advising Haley about his upcoming congressional testimony or being aware of any issue concerning executive privilege.<sup>46</sup> We asked Wray whether he placed any limitations on Haley's testimony and he said, "That doesn't sound like me." Harmon also told the OIG that he did not recall this meeting and said that he was not aware of any communication from the White House to not disclose any White House meetings concerning the FBI Headquarters project.

### **C. After Director Wray Meeting, Haley Consults With Other FBI Officials About White House Directive Regarding January 24 Meeting**

After Haley and others met with Wray, the Associate General Counsel spoke to Haley about her conversation with the GSA OGC attorney. The Associate General Counsel told the OIG that she had assumed that the point of the earlier meeting with Wray was to discuss what she understood was a White House directive. According to the Associate General Counsel, she told Haley, "We were going to be asked not to disclose the [January 24 White House] meeting." In response, Haley told the Associate General Counsel that "Wray was very clear...that this was his decision, [and] it shouldn't be portrayed as anyone else's decision." Based on this discussion with Haley, the Associate General Counsel said she understood that "the FBI was not going to acknowledge that the White House weighed in with its viewpoint," and she believed that Haley understood this to be a "direction from Director Wray," but she emphasized that this was her interpretation. At the same time, the Associate General Counsel said that she did not recall Haley stating directly that he was not going to acknowledge that a meeting at the White House took place, and she recalled having "a level of discomfort" about whether he was going to do so.

Although the Associate General Counsel told the OIG that she did not specifically recall what she advised Haley to do, she believed that she advised Haley that her view was that "it was important to be forthcoming about the meetings that had gone on" or in some way conveyed "[w]e should be concerned" about this request. She said that she had "a lot of unease" about the White House's request. The Associate General Counsel told the OIG that she did not know if she advised Haley on how to answer any question about White House "input" into the FBI's recommendation, but she recalled being concerned about any question related to interactions with the White House. In the evening on February 27, the Associate General Counsel emailed Haley about her concerns regarding the White House directive to not speak about the January 24 meeting. The Associate General Counsel wrote:

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<sup>46</sup> Courts have found that, when properly invoked, executive privilege, which includes the presidential communications privilege, protects the confidentiality of Executive Branch decision-making and permits the Executive Branch to withhold protected information and/or documents from a judicial or congressional proceeding. *See, e.g., In re Sealed Case*, 121 F.3d 729, 743-746, 751-752 (D.C. Cir. 1987).

"The whole thing doesn't feel right on multiple levels. I really don't like to see you put in this position.... [T]he way it has unfolded, to me seems atypical and problematic." The Associate General Counsel told the OIG that she was trying to convey to Haley that the FBI was in an "awkward situation" going into the hearing. The Associate General Counsel said that Haley neither responded to her email nor discussed it with her.

Appropriations Liaison I told the OIG that she recalled at least one meeting with Haley, in which the Associate General Counsel and others were present, during which the group discussed how to respond to potential questions from EPW. Appropriations Liaison I said that she recalled the group discussing how Haley should answer a question about whether there was "input" from the White House. Appropriations Liaison I said that she, as well as the PMO Unit Chief, were comfortable with Haley stating that there was no input from the White House on the location decision because it was their understanding that the FBI made the location decision. According to Appropriations Liaison I, the Associate General Counsel expressed concerns and said that in her view, the word "input" could be interpreted different ways. Appropriations Liaison I said that the group eventually agreed that Haley's answer might need to vary depending on whether the question was about White House direction versus "input," but she said that in her view any question concerning "input" was "squishy."

Appropriations Liaison I also recalled that after the meeting with Wray, the Associate General Counsel came to talk to Haley, and before she spoke to Haley, the Associate General Counsel informed Appropriations Liaison I that she had gotten a call from a GSA OGC attorney who informed her that GSA had received "guidance from the White House" to "stay away from acknowledging the [January 24 White House] meeting." Appropriations Liaison I told the OIG that the Associate General Counsel thereafter talked separately with Haley. According to Appropriations Liaison I, after Haley met with the Associate General Counsel, Haley wanted to have a "strategy session," and he, Appropriations Liaison I, and perhaps Appropriations Liaison II and the Associate General Counsel discussed how to handle the White House communication.

According to Appropriations Liaison I, she understood that Boente was going to follow up with GSA about this communication and that the group discussed what Haley should do if the final guidance was that the White House was directing the FBI not to disclose the January 24 White House meeting. Appropriations Liaison I said that she advised Haley to answer questions about the White House meeting by stating that he was not present for any White House meetings. Appropriations Liaison I told the OIG that the "decided-upon strategy" was that Haley would say that he "was not present at any meeting at the White House and he could only speak to what he had firsthand knowledge of." She said that this advice was consistent with advice she always gave if a person is asked about a meeting that he or she did not attend. Appropriations Liaison I told the OIG that the collective sense among the group was that the White House directive did not make sense given that the White House meeting was about getting a major project funded.

Appropriations Liaison II told the OIG that he could not recall much about the various preparation sessions with Haley, but he recalled that the day before Haley testified, the Associate General Counsel came to their office area and stated that she got a call from the White House or GSA, and based on what the Associate General Counsel said, Appropriations Liaison II believed that “we were not to cite any meetings that occurred at the White House and any White House involvement [with the FBI Headquarters project].” In addition, Appropriations Liaison II recalled advising Haley that when answering questions about whether there was “any influence,” the answer should be, “This was an FBI decision.”<sup>47</sup>

Appropriations Liaison I told the OIG that by the end of the day on February 27, Haley was unsure about what he was supposed to say at the hearing the next day in response to any questions about the White House, and he told her that he “need[ed] to go upstairs,” which she understood to mean that he wanted to talk to a senior executive such as Boente or then Acting Deputy Director Bowdich to “figure out...what the guidance actually was.” Appropriations Liaison I recalled that sometime after 5:00 p.m., Haley went upstairs, but she did not hear back from him that evening.

**D. Boente Speaks to GSA General Counsel Regarding White House Directive on January 24 Meeting; DOJ Office of Legal Counsel’s Previous Advice to GSA Regarding Testimony about White House Conversations Concerning the FBI Headquarters Project**

Boente, who had been the FBI General Counsel for approximately 4 weeks at the time of these events, told the OIG that he recalled having a conversation with then GSA General Counsel St. John in connection with Haley’s testimony and that the matter was “urgent,” but he did not recall many details of the conversation. Boente said his recollection was that he had learned from someone on his staff that GSA wanted to “sync up” the GSA and FBI witnesses’ testimony, the staff member had communicated concern about this approach to Boente, and the issue had been elevated to St. John to raise with Boente. Boente said that he “gently told [St. John] that our witnesses would have to testify to what they recollected happened.”

After reviewing his notes from the call, Boente did not recall any more about the conversation. Boente told the OIG that his interpretation of his notes was that St. John conveyed to Boente that, prior to Murphy’s February 15, 2018 congressional testimony, GSA had spoken with a Special Counsel in DOJ’s Office of Legal Counsel (OLC) (OLC Special Counsel) about the White House’s assertion of executive privilege regarding conversations with the White House. Boente’s notes stated, “would not discuss meeting at the [White

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<sup>47</sup> The PMO Unit Chief told the OIG that he remembered standing next to Haley on February 27 or the morning of February 28 when “somebody said that White House counsel called” and said “don’t play up” and “stay away” from any White House involvement in the project. The PMO Unit Chief told the OIG that he did not know who relayed this information to them.

House] or any discussion at [White House],” which Boente said he understood to mean that GSA had received “advice” from the OLC Special Counsel and that according to GSA, “the White House would assert with OLC’s concurrence executive privileges on conversations...at the White House.” Boente’s notes further stated, “GSA a few weeks ago at House Gov’t Oversight prepared for question—but [did not] come up.” According to Boente, based on his interpretation of his notes, GSA was “essentially saying, [the FBI] should assert the privilege.” Boente stated, “I presume that if the White House was asserting the privilege through GSA...it certainly wouldn’t be up to the FBI to waive the privilege because it’s not our privilege.”

Emails that we reviewed showed that the OLC Special Counsel, who handles executive privilege and congressional oversight issues, had a 15-minute conversation with St. John on February 13, 2 days before Murphy and Mathews were scheduled to testify before the House Committee on Oversight and Government Reform, Government Operations Subcommittee. These emails reflect that a then White House Counsel’s Office attorney (White House Counsel’s Office Attorney) had provided St. John with the OLC Special Counsel’s contact information and that St. John called the OLC Special Counsel to ask advice about how Murphy should answer potential questions about her conversations with Trump and his involvement in the decision to recommend that FBI Headquarters remain at its current location.

The OLC Special Counsel—who told the OIG that he did not recall his February 13 conversation with St. John—summarized the conversation in an email later that same day to the then Assistant Attorney General of OLC and the then Principal Deputy Assistant Attorney General of OLC. The OLC Special Counsel wrote that he told St. John about “the legal background on executive privilege as well as the policy and practice of agency heads generally not talking about their conversations with the President when they testify before Congress.” In addition, the OLC Special Counsel’s email indicated that he provided St. John with a suggested answer to any congressional questions about White House involvement in the FBI Headquarters project: “Consistent with what I understand is a longstanding Executive Branch policy, I will not talk about my conversations with the President.” When we asked the OLC Special Counsel what he meant by “longstanding Executive Branch policy,” he said that “nonpublic conversations with the President...are presumed to be confidential.” In the email, the OLC Special Counsel said he also “stressed that [St. John] should continue to consult with [the White House Counsel’s Office Attorney] about what the W[hite] H[ouse]’s preference is on what should be said about presidential involvement.” According to the OLC Special Counsel, his suggestion to St. John that St. John consult with the White House Counsel’s Office was “standard practice.”

The OLC Special Counsel told the OIG that in his view, the presumption of confidentiality extends to the fact that a meeting with the President took place. According to the OLC Special Counsel, he was not aware of executive privilege being asserted with

respect to the January 24 White House meeting regarding the FBI Headquarters project.<sup>48</sup> The OLC Special Counsel stated that he had no communication about this White House meeting with Boente (or anyone else at the FBI) or the White House prior to the February 28 EPW hearing. When advised of St. John's call to Boente about the February 28 EPW hearing, the OLC Special Counsel told the OIG that "at a minimum," he would have expected Boente to have contacted the Office of the Deputy Attorney General because it was "unusual" for the FBI to receive White House guidance through GSA.

Boente told the OIG that at the time he was not aware if Haley had any knowledge of discussions with the White House; he did not recall talking to the OLC Special Counsel about Haley's testimony; and he was "fairly certain" that he did not speak to anyone at the White House about Haley's testimony prior to the February 28 hearing. Boente told the OIG that he also did not recall talking to either the Associate General Counsel or Haley after his discussion with St. John, although Boente said he believed that he would have talked to the Associate General Counsel and asked her to follow up with Haley. Boente did not recall whether the Associate General Counsel followed up with him (Boente).

According to the Associate General Counsel, Boente later informed her that he had spoken to St. John, but he provided no details. The Associate General Counsel told the OIG that she received no guidance from Boente about whether Haley should or should not disclose the January 24 White House meeting and did not express her concerns to Boente about the White House directive.

#### **IV. Haley and Mathews Testify at EPW Hearing on February 28, 2018, and are Questioned About White House Meetings and Security Issues**

On February 28, 2018, EPW held a hearing specifically about the FBI Headquarters project in which Haley and Mathews testified. Appropriations Liaison I told the OIG that prior to the hearing, she and Haley were at JEH that morning and she asked Haley whether he had gotten further advice the night before. According to Appropriations Liaison I, Haley told her, "I've got to go back upstairs," and she saw him leave the office space. Records reflect that Haley accessed the executive management suite at 9:25 a.m. and left JEH at 9:32 a.m. Appropriations Liaison I told the OIG that before Haley left JEH for the EPW hearing, he returned to his office area and she asked him whether he knew what he was going to say. According to Appropriations Liaison I, Haley responded: "Yes kind of what we discussed yesterday. I'm just going to say I did not attend any White House meetings, and kind of leave it at that." Appropriations Liaison I said that it appeared that Haley had "got[ten] confirmation" about what to say, but Haley did not state whether he had spoken to anyone in executive management. Boente, Bowdich, and Paul Abbate, who was Acting

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<sup>48</sup> According to the OLC Special Counsel, when referring to the presumption of confidentiality in communications with the President, executive agencies should not use the term "executive privilege" because it is the President's privilege and rarely asserted.

Associate Deputy Director and Haley's new supervisor as of February 17, 2018, told the OIG that they did not recall speaking to Haley on the morning of February 28 about his congressional testimony.<sup>49</sup>

According to Appropriations Liaison I, Haley told her that he spoke with Mathews either the evening of February 27 or the morning of February 28 about how Haley was going to answer the question of whether or not to acknowledge a White House meeting regarding the FBI Headquarters project. Appropriations Liaison I told the OIG that Haley conveyed to her that Mathews "received the same guidance that [Haley] had received...[t]o not acknowledge the [White House] meeting."

During the hearing, Senators criticized the agencies for leaking the FBI Headquarters plan to the press before giving it to Congress, abandoning security requirements that Congress understood were critical, providing a plan that was not detailed, and wasting taxpayer money by taking several years to move forward with the project. Mathews explained in his opening remarks that the FBI's decision to reduce the number of employees at FBI Headquarters to 8,300 made the JEH site "a viable option" and would reduce costs. He stated that the JEH site had advantages "from a real estate perspective" because it was already federally-owned, demolition costs were "considerably less" than site acquisition and related costs, infrastructure associated with classified communications was already in place, and the public transportation that served the JEH location would result in fewer transportation infrastructure costs.

Haley emphasized in his opening statement that the FBI had a "unique relationship" with DOJ; "hundreds of meetings" occur each day with the FBI's partners; and the previous plan had not adequately considered how "the middle and lower parts of the organization...get back and forth in an effective way and get their job done." He explained that an important part of the FBI's law enforcement mission, unlike that of intelligence community agencies that are in suburban campus locations, is to be "public-facing" and that the FBI's presence on Pennsylvania Avenue was an important component of that mission.

Haley also stated that the FBI did not believe that it was "wavering on...aggressive security requirement improvements" by remaining at the JEH site. Haley stated that "an appropriate security posture" would be maintained and explained, "What we give up in space [at the suburban sites] obviously needs to be made up for in thickness of concrete and other security ways of getting to those same type of assurances that we are meeting that requirement." When asked whether the suburban sites would provide more security than the JEH site, Haley stated that there were "other ways" to match "some" of the "security outputs" of the suburban sites. When asked whether GSA had changed its position on the ability of the JEH site to meet the "FBI's requirements for level 5 security

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<sup>49</sup> Wray was traveling that day and was not at JEH.

under the Interagency Security Committee standards," Mathews stated that the current JEH building could not meet those requirements, but he did not address whether a new facility at the JEH site could meet the requirements. Haley did not reference the ISC Standard in his testimony.

Haley was also asked about who made the decision to recommend that FBI Headquarters remain at its current location, whether there was outside influence in the decision to remain at the JEH site, and whether he was aware of any conversations with Trump about the decision to remain at the JEH site. For example, Haley had the following exchange with Senator Benjamin Cardin of Maryland:

Cardin: "So the last question I have...is who was in the room when this decision was made? I assume GSA was in the room; I assume the FBI was in the room. Who else was in the room that decided that we were going to rebuild the Hoover Building and not go to a campus facility?"

Haley: "Sir, this is an FBI decision that we have done in partnership with—"

Cardin: "So this is your recommendation, your agency's recommendation? This is what you want, no outside influence at all, is that what you are telling me?"

Haley: "Based on the status quo—"

Cardin: "I am asking you a simple question."

Haley: "Yes, sir, it is an FBI decision."

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Cardin: "No input at all from the White House?"

Haley: "This decision is not—"

Cardin: "No input from the White House?"

Haley: "This decision—"

Cardin: "No input from the White House? Yes or no?"

Haley: "Not on this decision, no."

Senator Chris Van Hollen of Maryland also asked Haley and Mathews about White House involvement in the project:

Van Hollen: "Are either of you familiar with any conversations that any members of your agency have had with the President of the United States about this decision with respect to the FBI building? And I mean the decision to not move forward with the original alternatives and the decision to remain at the current location."

Mathews: "Again, this was a joint decision—"

Van Hollen: "That is just yes or no. Are you aware of any conversations had by any member of the Administration with the President of the United States about this project?"

Haley started to answer the question and again Van Hollen asked for a yes or no answer, and asked the question again. In attempting to answer the question, Haley described coordination with GSA and OMB and described the decision to remain at the JEH site as "an FBI driven decision, in coordination with GSA." In addition, he stated, "Any entities outside of the FBI and GSA, whether they have been informed about it, whether it has come up in conversations, it hasn't been a factor in the decision of that project." Van Hollen then asked his question again.

Van Hollen: "That was not my question. My question was not whether any conversations had with other people outside the FBI were a factor. My question is very simple: Are you aware of any conversations or communications that any member of the Administration has had with the President of the United States about the project?"

Haley: "I can't speak for the Building Commissioner. I have not been a part of any of those conversations."

Van Hollen continued to press Haley about whether he was aware of any conversations with Trump. Haley answered, "I don't believe I am in a position to answer that question because I was not privy to those conversations. I have not been part of those conversations." Van Hollen asked again whether Haley was "aware of any conversations having been had." Haley responded, "I don't believe I am in a position to answer that question."

#### **V. Director Wray Speaks with President Trump Regarding Funding for the FBI Headquarters Project, and GSA Submits Draft Prospectus for Project to OMB— March 2018 to July 2018**

As noted above, on February 12, 2018, the same day that the revised Headquarters plan was sent to EPW, the Trump Administration included \$2.175 billion in funding for the Headquarters project among the list of additional items it was seeking to fund in FY 2018. However, on March 23, 2018, in passing the Consolidated Appropriations Act of 2018, Congress did not include any of the requested funding for the FBI Headquarters project. The congressional explanatory statement accompanying the bill noted that it:

...does not include funding for the revised Headquarters consolidation plan released on February 12, 2018, because many questions regarding the new plan remain unanswered, including the revision of longstanding security requirements and changes to headquarters capacity in the national capital

region. Until these concerns are addressed and the appropriate authorizing Committees approve a prospectus, the Committees are reluctant to appropriate additional funds for this activity.

On June 12, 2018, the Trump Administration submitted a legislative proposal to Congress that would create a Federal Capital Revolving Fund, an infrastructure initiative first referenced in President Trump's FY 2019 budget as the proposed means to fund the FBI Headquarters project.

On June 15, 2018, Wray met with Trump to discuss, among other things, an appropriation strategy for the FBI Headquarters project. Also in attendance at the meeting was Chief of Staff Kelly, Deputy Attorney General Rosenstein, GSA Administrator Murphy, Deputy Director of OMB Russell Vought, White House Counsel Donald McGahn, and White House Director of Legislative Affairs Marc Short. According to Boente's December 2018 memorandum, "The meeting focused on how we can get this in the budget and an appropriation strategy." The memorandum noted that Trump asked: "Where are we with the proposal? Where are we with Congress?" The memorandum also stated that Trump "went out of his way to ask" Wray what he wanted to do and stated to Wray, "You decide what is best for the organization and I will maintain the status quo until you decide."

On July 10, 2018, GSA submitted to OMB for review a draft prospectus proposing the demolition of JEH and the construction of a new FBI Headquarters facility on the site. The draft prospectus noted that \$1.726 billion in additional appropriations was needed to "fully support the construction cost." According to the PMO Unit Chief and Appropriations Liaison I, the prospectus was never approved by OMB for GSA's submission to EPW and the House Transportation and Infrastructure Committee for the committees' authorization.

## **VI. GSA OIG Issues Report**

On August 27, 2018, in response to a request from the Ranking Member of the House Committee on Oversight and Government Reform's Government Operations Subcommittee, the GSA OIG released its report on GSA's decision-making process for the revised FBI Headquarters plan, including an analysis of whether the plan properly accounted for the full costs and security requirements of the project. The report concluded that the revised plan submitted to EPW by GSA to demolish and rebuild at the JEH site, which GSA stated would be less costly than the canceled exchange procurement plan, did not include all of the relevant costs and actually would be more costly. Further, the report found that although the FBI determined that its new Headquarters facility was Level V under the ISC Standard, "the security level and the countermeasures cannot be definitively determined until the program of requirements is complete and additional risk assessments are completed."

GSA OIG also included in its review an assessment of Murphy's April 17, 2018 testimony about GSA's FY 2019 budget request before the Financial Services and General

Government Subcommittee of the House Appropriations Committee. During this hearing, Representative Mike Quigley asked Murphy about the White House’s involvement in the FBI Headquarters project:

Quigley: “Was anyone else—at the White House involved with briefing you or to your knowledge did the President or any of the other officials at the White House consult with any of these other agencies in the decision-making process?”

Murphy: “Well, sir, the FBI was the one who came to me and said that there’s—their requirements had changed, they no longer required a campus for 11,000 individuals, they were looking at a campus—they only had a requirement for about 8,300 individuals and based on that they wanted to put the J. Edgar Hoover site back into play....”

Quigley: “But again, to your knowledge was the President or anyone at the White House involved in those discussions either with your predecessors or people you’re working with now or yourself?”

Murphy: “Sir, to my knowledge—the instruction that we got came from the FBI. They—it was the FBI that directly [sic] GSA as to what [its] requirement would be. We obviously did coordinate within the GSA substantial budget request, we coordinated that request with OMB to make sure that—to provide for funding but the requirements were generated by the FBI.”

Although Murphy told GSA OIG that she had been prepared to testify that “it would be inappropriate to comment on any discussions [she] had or did not have with the President,” according to the GSA OIG Report she did not defend her testimony on the basis that her communications with Trump were confidential or that Trump had asserted executive privilege. Murphy told the GSA OIG that she did not testify as prepared because she did not want to “derail” the hearing.

The report concluded that Murphy’s testimony was “incomplete and may have left the misleading impression that she had no discussions with the President or senior White House officials in the decision-making process about the project.” The report criticized Murphy for “cho[osing] not to disclose the three meetings she had had with White House officials in advance of GSA’s submission of the revised plan for the project.”

## **VII. Current Status of the FBI Headquarters Project**

The Federal Capital Revolving Fund first proposed in President Trump’s FY 2019 budget request as the funding mechanism for the FBI Headquarters project was not enacted by Congress, but the Trump Administration continued to support the creation of the fund in the FY 2020 and FY 2021 budget requests. President Trump’s FY 2020 and FY 2021 budget requests did not include additional funding for the Headquarters project. However, on July 27, 2020, Alabama Senator Richard C. Shelby, then Chairman of the

Senate Appropriations Committee, introduced a bill titled Coronavirus Response Additional Supplemental Appropriations Act, 2020, which included \$1.75 billion in funding for “the design and construction of a Washington, DC headquarters facility for the Federal Bureau of Investigation.” According to news reports, then Senate Majority Leader Mitch McConnell stated that the White House had insisted upon including this FBI Headquarters funding provision in the bill. The bill did not advance.

There also was no funding for the Headquarters project included in President Joseph Biden’s FY 2022 budget request to Congress. On March 15, 2022, the Consolidated Appropriations Act for FY 2022 was enacted. The Act did not include funding for the JEH project but required GSA to select “in as expeditious manner as possible” one of the three suburban sites that were the subject of the canceled exchange procurement “for a new fully consolidated Federal Bureau of Investigations (FBI) headquarters.” Within 180 days of this site selection, the Act required GSA to transmit “a report on the construction of a new headquarters for the FBI in the National Capital Region” to certain congressional committees, including EPW. The Act separately required Wray to work with the GSA Administrator to provide such a report within 180 days of the Act’s enactment.

Two weeks later, on March 28, 2022, the White House released President Biden’s FY 2023 proposed budget. The proposed budget did not include funding for the JEH project but stated:

FBI and GSA will work to identify a location to construct a Federally owned, modern and secure facility for at least 7,500 personnel in the suburbs. Over the next year, FBI and GSA will finalize an updated program of requirements for a secure suburban campus, including the final number of personnel, to inform a 2024 Budget request for funding for the new facility.... FBI and GSA will work to identify a Federally-owned location in the District of Columbia to support a presence of approximately 750–1,000 FBI personnel that would support day-to-day FBI engagement with DOJ headquarters, the White House, and Congress.

The next day, the FBI issued a statement saying that “the development of a new consolidated FBI cyber campus in the suburbs...would support [the FBI’s] workforce and advance [the FBI’s] mission.” The statement also noted that “[the FBI’s] mission to protect the American people and uphold the Constitution requires that [the FBI] be centered in downtown D.C.” “Accessib[ility] to the public” and being “tied closely with the Justice Department’s leadership...and [the FBI’s] other partners” were two factors mentioned in support of the downtown D.C. location. However, according to the PMO MAPA, after this statement’s release, the FBI’s plans for the suburban campus changed and, currently, the FBI intends to include Headquarters components in both the downtown D.C. location and at the suburban campus.

On September 23, 2022, GSA and the FBI announced a site selection process for the suburban FBI Headquarters campus. Additionally, GSA and the FBI stated that efforts were being made to identify a downtown Washington, D.C. facility to “allow for continued FBI accessibility to the Department of Justice and other key partners.” On March 9, 2023, the White House released President Biden’s FY 2024 proposed budget. According to the proposed budget, GSA and the FBI are working to select one of the three suburban sites to construct a Headquarters facility for at least 7,500 FBI personnel. The proposed budget stated that this project should be funded through a \$3.5 billion allocation from the Biden Administration’s proposed Federal Capital Revolving Fund, and \$645 million from GSA’s prior year appropriations. The proposed budget also stated that GSA and the FBI are working to identify a federally-owned, downtown location in Washington, D.C. for 750-1,000 FBI personnel, but work on this location would be funded through prior appropriations to the FBI for the Headquarters project.

## CHAPTER 5: ANALYSIS

The OIG undertook this review to assess DOJ's and the FBI's planning for a future FBI Headquarters facility. Given the FBI's long-standing need for a new Headquarters facility, and JEH's deteriorating conditions, we were concerned to find that, despite starting this process more than a decade ago, DOJ and the FBI have achieved little progress in their goal of obtaining a new Headquarters facility, which the FBI has said is "urgently needed" and one of its highest priorities. Although we recognize that considerable work toward determining the FBI's requirements for a new Headquarters facility has been accomplished, GSA, DOJ, and the FBI must make significant decisions, obtain necessary congressional support, and complete substantial work over the next several years before the FBI's essential mission can be supported by a new Headquarters.

We also found during our limited review of facility security issues related to the revised plan that the FBI and GSA submitted to EPW in 2018 that the plan contained ambiguous information about facility security, which may have created a misimpression regarding a mission element that is discussed in the classified appendix. As discussed further in the classified appendix, the revised plan also did not include certain other facility security information known by the FBI that was a change from the suburban campus plan under the exchange procurement. We found that the omission of this information, combined with the inclusion of ambiguous information, created an inadequate and unclear summary of the security posture of the proposed new facility. We determined that these issues likely would have been identified and addressed if the FBI Security Division, which had project responsibility for and expertise in facility security, had been consulted at the appropriate level on the revised plan before it was submitted.

We also determined that at the time of the revised plan's submission, then Assistant Director Haley and the PMO were not sufficiently consulting the FBI Security Division about the ISC Standard, which may not have been addressed in the plan because of confusion about it. Based on the testimony of several FBI witnesses and our review of FBI documents, we are concerned that the FBI's consideration of a new JEH site facility's capacity to meet certain Level V requirements under the ISC Standard, which the FBI had determined to be necessary, may have been based on an inaccurate understanding of those requirements. As a result, Director Wray, Haley, EPW members, and EPW staff may have received inaccurate ISC Standard information. For example, the documents used to prepare Haley for an EPW staff briefing and the February 28, 2018 EPW hearing inaccurately asserted that a new facility at the JEH site would meet "ISC Level 5 Security standards" and "ISC requirements" for a particular security criterion even though required countermeasures would not be implemented and risk would be accepted under the ISC Standard. According to FBI Security Division witnesses, who have expertise in the ISC Standard, it is not accurate to say that the new facility would meet the requirements of a Level V facility in these circumstances. Although Haley did not reference the ISC Standard

in his EPW testimony, we were unable to determine what EPW staff was told by Haley during a briefing. Additionally, Wray told the OIG that he considered the security of the new FBI Headquarters when making the decision to seek to remain at the JEH site and he understood the FBI “could have a Level V security building” at the JEH site without any security “trade-off[s].”

These issues are addressed further in a classified appendix to this report. The OIG believes that any confusion or misunderstandings by the FBI regarding the ISC Standard’s requirements can be remedied by the inclusion of an ISC Standard expert and other relevant facility security experts in future decision-making related to the FBI Headquarters project.

With regard to possible influence by then President Trump or the White House, we found no evidence that the FBI’s decisions were based on improper considerations or motives. Specifically, we found no evidence that, in making the decision to seek to have the new FBI headquarters remain at its current JEH site, Director Wray or others at the FBI considered the location of the then named Trump International Hotel or how then President Trump’s financial interests could be impacted by the decision. During his OIG interview, Wray told us the reasons why the FBI decided to recommend to EPW the demolition of JEH and the construction of a new facility on the site. Wray enumerated several factors that he and others at the FBI considered, including proximity to the FBI’s partners and cost. Wray also explained how the expansion of the FBI’s Huntsville presence allowed the FBI to depart from the long-standing plan to move the Headquarters to a suburban campus facility. Other FBI witnesses’ testimony confirm that the reasons provided by Wray to the OIG were considered by Wray and others at the FBI when making this decision. While Wray acknowledged to us that he became aware of President Trump’s preference for the JEH site, we found that Wray testified credibly about how he reached the decision independently and not as the result of any external pressure or influence. Other FBI witnesses also told the OIG that Wray stated to them that the decision to seek to remain at the JEH site was his decision.

Lastly, we did not find sufficient evidence to conclude that then Assistant Director Haley knowingly provided untruthful or misleading testimony at the EPW hearing about the White House’s involvement in the FBI’s decision to seek to keep the Headquarters at the JEH site. Haley had no direct knowledge of the White House’s involvement in the decision. According to FBI witnesses, Haley specifically sought guidance from Wray, the only FBI official with direct knowledge of the White House’s involvement, regarding how to answer questions about who made the decision and Wray told Haley that Wray made the decision without influence or pressure, and that it was not anyone else’s decision. This is corroborated by Wray, who told the OIG that President Trump was not involved in his decision, as well as then General Counsel Boente’s memorandum, which stated that the decision had nothing to do with the President.

We also did not identify any legal guidance that Haley received from the FBI regarding the White House's directive to not discuss the January 24, 2018 White House meeting at the EPW hearing. Boente told the OIG that he did not remember speaking to Haley after Boente's phone call with then GSA Acting General Counsel St. John. We also found no evidence that Boente communicated with the White House, the OLC Special Counsel, or the Associate General Counsel about the White House directive following the call with St. John. This apparent absence of clarifying guidance to Haley regarding the White House directive further supports our conclusion that there is insufficient evidence to find that Haley knowingly provided untruthful or misleading testimony at the EPW hearing.