

Moving from Hoover

The Competition for the FBI's New Headquarters

The Federal Bureau of Investigation is moving from its downtown Washington, D.C., headquarters. Three dozen sites in Maryland, Virginia, and D.C. are competing to host the bureau's new home, a project that could cost nearly \$3 billion to build and will bring 11,000 jobs to the new location.

The FBI has occupied the famous J. Edgar Hoover Building for nearly 40 years, but it has outgrown the facility after experiencing a 25 percent growth in personnel since 9/11. Now only half the staff is stationed there, with the rest scattered across 20 buildings in D.C., Quantico, Va., and Clarksburg, W.Va. According to the General Services Administration (GSA), the government's procurement arm, the building is aging, expensive, and inadequately secured. The split locations also impede operations. Rather than spend

\$850 million to renovate the headquarters, the GSA decided to canvas the greater capital region for possible new homes.

The administration received submissions from 35 potential sites by the March 2013 deadline. The FBI requires 2.1 million square feet of office space on at least 40 acres of land, as well as access to the Beltway and the Metro subway system. D.C. Mayor Vincent Gray proposed building the headquarters on Poplar Point, a 110-acre piece of land owned by the National Park Service, but 70 of its acres are required by federal law to remain parkland, which doesn't leave much space for the FBI and private developments that would provide needed tax revenue. Another contender is the Greenbelt Metro station site in Prince George's County, Md. The Washington Metropolitan Area Transit Authority, which operates the Metro, set up a development deal back in 2011 in anticipation of the FBI's search.

A 70-acre warehouse site in Fairfax County, Va., boasts proximity to FBI training facilities on the Quantico Marine Corps base as well as to other intelligence agencies. It's on federally owned land that would save taxpayers on rent. There's just one problem: The Fairfax site is rumored to house a classified Central Intelligence Agency facility that would have to be evicted to make room for the FBI.

The next step is for the GSA to request formal bids, but the timing depends on additional studies and the input of stakeholders, says GSA spokesman Dan Cruz. There's no word yet on what will become of the downtown building, known for its striking Brutalist architecture. The GSA has said that it might give the building to a private developer in exchange for a new development to house the FBI.

—RENEE HALTOM



The J. Edgar Hoover Building, known for its striking appearance, in downtown Washington, D.C., may soon be up for grabs.

Virtual Mugging

Cyberattacks Have Lasting Effects

Online banking and other services have been a boon for consumers and generate vast amounts of data that can yield useful insights into users' behavior — data that can help further improve offerings from financial services firms. But this aggregated information also has created attractive targets for criminals looking

to make money and “hacktivists” looking to make a political statement.

Case in point: The cyberattack on the South Carolina Department of Revenue in September 2012, which resulted in the theft of electronic information from nearly 4 million individual tax returns and about 700,000

business returns. It cost South Carolina about \$12 million to offer the victims a year's worth of credit monitoring. But the repercussions haven't ended there.

Catherine Mann, an economist at Brandeis University who has studied the effect of information technology on the economy, has calculated the costs of data breaches in various ways. First, there is the effort and expense devoted to discovering a breach and plugging it. South Carolina spent \$500,000 to hire Alexandria, Va.-based Mandiant to block hackers' access to its computer network and \$800,000 on additional security measures. The state's 2013-2014 budget sets aside another \$10 million for cyber security, including an extension of the credit-monitoring program.

For private firms, there is also the revenue loss associated

with changes in consumer behavior and the possibility of punishment by the stock market. In both cases, the effects are relatively small and short-lived, according to Mann.

As a result, it is consumers who usually bear the brunt of a data breach. For example, victims of data breaches are disproportionately victims of identity theft, according to a June 2013 report from Javelin Strategy & Research. Javelin estimates that South Carolina taxpayers could face \$5.2 billion in losses resulting from identity theft, or \$776 in out-of-pocket expenses per affected consumer.

To mitigate these expenses, the state is offering \$1 million of identity theft insurance for those who sign up for the credit-monitoring program. The insurance will cover certain costs for a year, including lost wages and unauthorized electronic fund transfers.

— CHARLES GERENA

Fuel Finances

MD and VA Change Their Gas Taxes for the First Time in Decades

If there's one thing drivers can count on, it's changing gas prices. Prices fluctuate for a number of reasons — from shifts in oil supply and demand to natural disasters that interfere with production and delivery. But one component of the price at the pump has long remained constant in many states: the gas tax. About half of the states haven't increased their gas tax in a decade or more. Falling revenue and a growing need for transportation funding, however, have prompted two Fifth District states to make a change.

Prior to this year, Virginia last revised its gas tax in 1986 when it fixed its rate at 17.5 cents per gallon, while Maryland established its 23.5-cents-per-gallon rate in 1992. Since then, inflation has reduced the effective value of the taxes in constant dollars to about 8 cents and 14 cents, respectively. Additionally, higher fuel efficiency standards are reducing how often drivers fill their tanks, another hit to gas-tax revenue.

In response, Govs. Bob McDonnell of Virginia and Martin O'Malley of Maryland proposed revisions to their states' gas taxes that were approved by their legislatures in April. Virginia's plan replaces the fixed cents-per-gallon tax in part with a 0.3 percentage point increase in the general sales tax, the proceeds of which will go to transportation projects. (The sales tax will increase by 0.7 percentage point

in Northern Virginia and Hampton Roads, which have much higher traffic congestion than the rest of the state.) The plan also includes a 3.5 percent tax on wholesale gasoline and a \$64 annual titling tax on hybrid cars, which use less gasoline.

"While gasoline prices may be very volatile, the price level in general has a ratchet. It doesn't go down," says George Hoffer, a transportation economist at the University of Richmond. "By relying on the general sales tax, you avoid the problem of volatility in the transportation trust fund."

Although using proceeds from the general sales tax to fund transportation is not entirely new — Virginia previously earmarked 0.5 percent of the tax revenue for that purpose — it does raise a concern for some. The gas tax represents a kind of user fee: People who drive the most generally buy the most gas, and therefore pay the most to maintain the roads. Increasing the funding that comes from the general sales tax reduces the tie to roadway usage. In addition, the tax on hybrids penalizes a technology aimed at reducing the negative externalities of air pollution, something that lawmakers in Virginia have previously encouraged via tax credit. Hoffer also notes that the fixed nature of the fee means that it applies equally to all models of hybrids regardless of how fuel efficient they are, and so

punishes buyers of hybrids that are not much different from their gas equivalents.

Maryland's plan keeps its fixed per-gallon tax, but indexes it to inflation. It also imposes a 3 percent sales tax on gasoline that will be phased in over the next three years. As a result, Maryland drivers could pay up to an extra 21.1 cents per gallon by 2018. Critics are concerned this will hurt the state's competitiveness with Virginia, where Hoffer estimates prices will fall by a few cents, and with Washington, D.C., which replaced its 23.5-cents-per-gallon tax with an 8.3 percent wholesale tax in May. If half of the Marylanders

who commute to D.C. and Virginia choose to fill up across the border because of price differences, the state could lose out on as much as \$22 million annually, according to Wendell Cox and Ronald Utt of the Maryland Public Policy Institute.

All told, the Virginia plan is forecast to raise \$406 million in tax revenue for 2014, and the Maryland plan is expected to raise \$116 million. But the changes might be short-term fixes at best. As cars become more fuel efficient, Hoffer says, it will become increasingly difficult to draw adequate transportation funding from the pump. —TIM SABLİK

Medicaid Malpractice

U.S. Supreme Court Strikes Down NC Medicaid Rule

Thirteen-year-old Emily Armstrong is blind, deaf, and mentally disabled. Her condition is the result of injuries she sustained during birth, via a Caesarian section at a hospital in Hickory, N.C. The doctor who delivered her had a history of drug abuse; her parents sued him, the hospital, and several other medical staff, and received a settlement of \$2.8 million. As the result of a U.S. Supreme Court ruling earlier this year, Emily and her family won't have to give nearly \$1 million of that settlement to the state of North Carolina.

Emily is a Medicaid recipient, and North Carolina has paid about \$1.9 million toward her medical expenses. Under the federal Medicaid statute, states are required to recover some portion of these expenses from Medicaid recipients who win tort settlements. In North Carolina's case, it has done so by fixing its share at one-third of a plaintiff's settlement. But the Medicaid statute also prohibits states from placing a lien on any portion of a settlement that is *not* related to medical expenses. The Armstrongs' settlement did not specify how the money was allocated, and they and their lawyers argued that much less than one-third of the total settlement was actually earmarked for medical expenses.

"Given the nature of the plaintiff's injuries and the long-term care required, and the amount of pain and suffering [damages] likely awarded, it was hard for the state to say 'One-third is fair,'" says Richard Saver,

a professor in the University of North Carolina School of Law and the School of Medicine.

North Carolina argued that trying to divide every settlement between medical and nonmedical expenses would be "wasteful, time-consuming, and costly." But writing for a 6-3 majority, Justice Anthony Kennedy noted that "even if that were true, it would not relieve the State of its obligation to comply with the terms of the Medicaid anti-lien provision."

While the Court ruled that North Carolina could not establish an "unrebuttable" uniform percentage, it stopped short of specifying the precise process states must follow. Currently, 16 states and Washington, D.C., hold administrative hearings for each case to determine the state's recovery amount. Another possibility, Saver says, is that North Carolina could establish a uniform percentage but give plaintiffs the opportunity to contest it. "What won't fly is fixing one number across the board with no justification and no opportunity for plaintiffs to rebut why it doesn't make sense in that case," he says.

In addition to the administrative burden, states also are concerned that Medicaid recipients might try to shield their settlements by claiming that the full amount was for pain and suffering. Given many states' fiscal difficulties and the future expansion of Medicaid via the Affordable Care Act, states are under pressure to recover every dollar they can.

—JESSIE ROMERO