officers of GE and its subsidiaries. The Trustees are appointed by the GE Benefit Plans Investment Committee, an oversight committee that determines the investment policies of the Trust. The Trustees maintain overall responsibility for investment of the Trust's assets. The Trustees have delegated specific responsibility for investment management of most of the Trust's assets to the General Electric Investment Corporation (GEIC).

GEIC, a Delaware corporation and a wholly-owned subsidiary of GE, is a registered investment adviser under the Investment Advisers Act of 1940. GEIC provides investment management services to a variety of GE-affiliated entities. As of January 1, 1994, GEIC managed approximately \$40.4 billion in assets.

2. GE Aviation, a Delaware corporation formerly known as the Polaris Corporation, is a wholly-owned subsidiary of General Electric Capital Corporation. The primary business of GE Aviation is airplane equipment leasing. GE Aviation's employees are participants in the GE Pension Plan.

3. The transaction for which an exemption is requested involves the leasing of office space between the Trust, as landlord, and GE Aviation, as tenant, in the office building located at 201 Mission Street in San Francisco, California (the Property).

The Property is a 30-story office building located in the southern financial district of San Francisco. The Property is part of a series of high-rise buildings developed during the 1980s on the fringes of the city's traditional financial district. The ground floor is leased to retail businesses and the other floors are leased as office space. The rentable area of the Property is approximately 475,675 square feet. The current value of the Property is approximately \$40 million.

Construction of the Property was completed in 1981. The Trust financed the acquisition of the Property by an unrelated party that subsequently went into receivership. The Trust acquired the Property by deed in lieu of foreclosure in April 1993. The Trust currently owns the Property through a real estate title holding company, Pacific Gateway Realty Corporation.

Most of the office space in the Property was originally rented by Bank of America. Bank of America subsequently decided to relocate and consolidate its offices, and vacated onehalf of the office space it occupied in the Property in 1991. At that time, the vacated area was leased on a short-term basis to Pacific Gas & Electric (PG&E), which was making repairs to its existing offices as a consequence of earthquake damage. While there were negotiations in 1993 for PG&E to extend its existing lease and to lease additional space, PG&E's board of directors ultimately decided against remaining in the Property. PG&E intends to vacate the Property in January 1996, when the repairs to its original offices are expected to be completed.

Bank of America vacated the other half of the office space it occupied in the Property in late 1993 upon completing its relocation. As a result, about 34 percent (i.e. 160,014 square feet) of the rentable area in the Property was vacant as of early 1994, compared to a general vacancy rate in San Francisco-area office buildings of around 12 percent at that time.

In the months after Bank of America vacated, the managers of the Property actively searched for tenants, in an effort to lease the vacant space as quickly as possible before PG&E leaves. As of June 1994, tenants had been found for approximately 77,000 square feet of space, or about 16 percent of rentable area, leaving around 18 percent of the Property vacant. One of the tenants was GE Aviation.

4. The applicant represents that in early 1994 GE Aviation had its offices at Four Embarcadero Center in San Francisco's main business district. However, GE Aviation was in the process of downsizing its operations and was looking for smaller space in a less expensive part of San Francisco. In the course of its search for office space, **GE Aviation contacted Sentre Partners** (Sentre), the independent property manager retained by the Trust to manage the Property. GE Aviation decided that it was interested in leasing space in the Property and entered into negotiations with Sentre.

The Lease was executed by GE Aviation in July 1994, after which the documents were sent to Sentre. The Lease was executed by Pacific Gateway Realty Corporation as landlord on August 3, 1994, following receipt of the report by Mr. Rhoades, the independent fiduciary acting for the Trust in connection with the subject transaction. The applicant states that once the Lease was signed by all of the parties, the landlord began making extensive improvements to the space in order to accommodate a planned occupancy date for GE Aviation of September 1, 1994.

5. Under the Lease, GE Aviation has leased approximately 9,376 square feet of space located on the eastern and southern portions of the 27th floor of the Property. This space constitutes approximately two percent of the rentable square footage in the Property.

The term of the Lease is five years, which commenced on September 16, 1994, the date that work on the premises was substantially completed. The annual rent is \$20 per square foot of rentable area, or \$187,520, for the first three years of the Lease, and \$21 per square foot of rentable area, or \$196,896, for the fourth and fifth years, payable monthly. The Lease requires that GE Aviation pay its proportionate share of the Trust's real estate taxes and expenses relating to the Property for years after 1995, to the extent these taxes and expenses exceed those for 1995 (the "base" year) or to the extent any additional taxes or expenses are properly chargeable solely to GE Aviation in connection with its activities with the leased space.

Late payments are subject to a 5% late payment charge after written notice is given. If the late payment becomes an event of default, or in the event of any failure by GE Aviation to perform its obligations under the Lease, GE Aviation will be obligated for interest charges and other amounts necessary to compensate the Trust for damages caused by GE Aviations' failure to perform.

GE Aviation does not have any options or rights to expand or extend the Lease, nor has it received any period of free rent. Any assignments or subleases by GE Aviation are void unless the Trust has provided prior written consent and, if consented to, are subject to additional charges.

6. The Trust has provided agreedupon improvements to the space which, prior to the Lease, contained only nominal improvements. The total cost of the improvements shall not exceed \$42.50 per rentable square foot (\$398,480), with any additional costs to be paid by GE Aviation. 14 The Trust is responsible to repair any defects in this work of which it is notified by GE Aviation within one year, other than defects resulting from compliance with the specifications provided by GE Aviation's architect or engineer. GE Aviation is responsible at its expense for any additional work it needs or desires that is not part of the agreed-upon

¹⁴The Department expresses no opinion in this proposed exemption as to whether the expenses incurred by the Trust relating to the tenant improvements provided for GE Aviation would violate any provision of Part 4 of Title I of the Act. In this regard, the Department notes that section 404(a) of the Act requires, among other things, that plan fiduciaries act prudently and solely in the interest of the plan's participants and beneficiaries when making investment decisions on behalf of a plan. In addition, section 404(a) of the Act requires that plan fiduciaries act for the exclusive purpose of providing benefits to participants and beneficiaries and to defray reasonable expenses of administering the plan.