



CHAPTER 2:

New or Replacing Lease

New or Replacing Lease.....i

Overview: The New or Replacing Lease Processii

Part 1: Acquisition Planning/Pre-Solicitation Requirements2.1-1

Part 2: Market Survey Process.....2.2-1

Part 3: Solicitation Process2.3-1

Part 4: Pre-Negotiation/Negotiations Process.....2.4-1

Part 5: Award Determination2.5-1

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed2.6-1

Part 7: Construction Phase2.7-1

Part 8: Lease Commencement and Closeout2.8-1

Overview: The New or Replacing Lease Process

A new or replacing lease utilizes all aspects of the leasing process, from acquisition planning to post-award tenant improvements and occupancy.

It is important to understand the three main categories of leases that PBS executes.

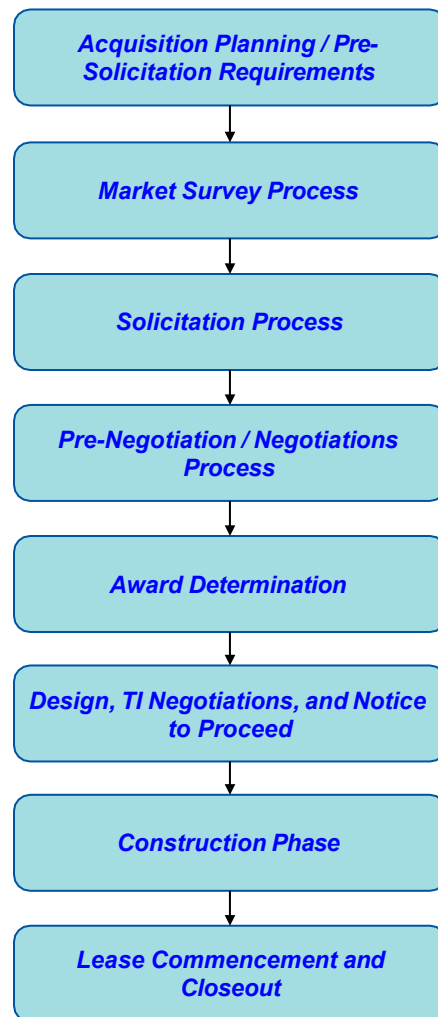
- **New or replacing leases** are defined as leases with new terms and conditions and new lease contract numbers, applicable for either a new requirement or to replace an existing expiring lease.
- **Succeeding leases** are defined as non-competitive (sole-source) lease acquisitions secured to provide for the Government's continued occupancy of the current premises at the end of a lease term without a break in tenancy. They establish new terms and conditions and have new lease contract numbers. Such a lease would generally be used where acceptable new locations are not identified, or where acceptable locations are identified but a cost-benefit analysis indicates that award to an offeror other than the current Lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government cannot expect to recover such costs through competition. Succeeding leases are discussed further in Chapter 5.
- **Superseding leases** are defined as new leases that replace existing leases prior to their expiration. The existing lease is terminated simultaneously, effective with the commencement of the superseding lease. Generally, a superseding lease is used to significantly change the provisions of an existing lease, usually to the point where additional term years are added, the rent is significantly changed, and the amount or configuration of the space is significantly altered. They are procured following non-competitive sole-source procedures and have new lease contract numbers. Superseding leases are discussed further in Chapter 5.

This chapter describes the procedures, techniques, instructions, and guidelines governing the acquisition of new or replacing leased space. It explains when a new or replacing lease is advisable or required, as compared to succeeding or superseding leases, extensions, responses to holdovers, and other lease processes. Note that, whenever possible, leases with contract value at or below the simplified lease acquisition threshold (SLAT) should follow simplified procedures which are highlighted in Chapter 3, Simplified Lease Acquisition.

The space requirements addressed in Chapter 1, Requirements Development, must be completed or refined before starting the leasing process. However, a delineated area may require later revision based on the findings of the market survey.

As the diagram below illustrates, the general process for a new or replacing lease involves eight major stages. This chapter discusses each one. It is important to understand that these stages are simplified labels of convenience for distinct groups of related activities. In actual practice, these steps are not perfectly separate and linear—it is not uncommon for some activities of one stage to extend into one or more subsequent stages and to require concurrent effort on several simultaneous responsibilities.

New or Replacing Lease—Process View



It is also important to understand these processes in context with global Project Management (gPM) and the PBS project management lifecycle. GSA PBS has developed a model for its leasing projects using the Project Management Body Of Knowledge® RACI¹ matrix structure. The ideal state RACI matrix establishes a) the standard for lease project management practices, b) a benchmark for performance, and c) project roles and responsibilities. Together they define

¹ RACI refers to the following: Responsible, Accountable, Consulted, and Informed.



the ideal state for Lease Project Delivery (LPD). These LPD standards are defined in the [Lease Project Delivery gPM Playbook](#), which can be found on the Center for Lease Project Management's page on the Office of Leasing Google site.

The Lease Contracting Officer is primarily responsible for the lease procurement and award but contributes throughout the project lifecycle. Leasing Specialists perform the work under the direction of the Lease Contracting Officer. However, only the Lease Contracting Officer may obligate the Government and enter into lease agreements.

This chapter focuses on the tasks required of the Leasing Specialist as the responsible GSA associate, unless the task is specifically performed by other professionals. For instance, GSA may employ the services of contract brokers/real estate agents to perform lease acquisition services and supplement the role of the Leasing Specialist; while not specifically called out, many of the tasks referenced in this chapter may be performed by the broker contractor. However, broker contractors may not bind the Government or perform any other inherently governmental function and the Leasing Specialist remains the responsible party in all lease transactions. Project teams should refer to the applicable broker administration guide, broker contract and the specific task order to confirm which steps the broker may perform.

While the Lease Contracting Officer is *responsible* for the lease procurement, the project manager is *accountable* for the delivery of the overall project, from planning to closeout. As outlined in the Lease Project Delivery gPM Playbook, the project manager acquires and coordinates all of the necessary resources for the successful execution of the project. Depending upon project parameters, some of the steps outlined in this chapter, especially those related to post-award, may be performed by the project manager instead of the Leasing Specialist. Note, however, that neither the project manager nor any technical advisors assigned to the project may obligate the Government or enter into lease agreements.

Please refer to the Lease Project Delivery gPM Playbook for further details.

Part 1: Acquisition Planning/Pre-Solicitation Requirements

- 1. Overview 2.1-2**
- 2. Lease Acquisition Models and Templates 2.1-3**
 - a. Available Lease Models..... 2.1-3
 - b. Global Templates 2.1-4
- 3. G-REX and Electronic Files 2.1-4**
- 4. Components of Acquisition Planning 2.1-5**
 - a. Acquisition Planning Defined 2.1-5
 - b. Acquisition Plan Development 2.1-10
 - c. Lease Term Strategy 2.1-14
 - d. Funding Considerations 2.1-14
 - e. Prospectus Requirement 2.1-16
 - f. Determining Source Selection Approach 2.1-16
 - g. Schedules 2.1-17
 - h. Approval 2.1-18

1. Overview

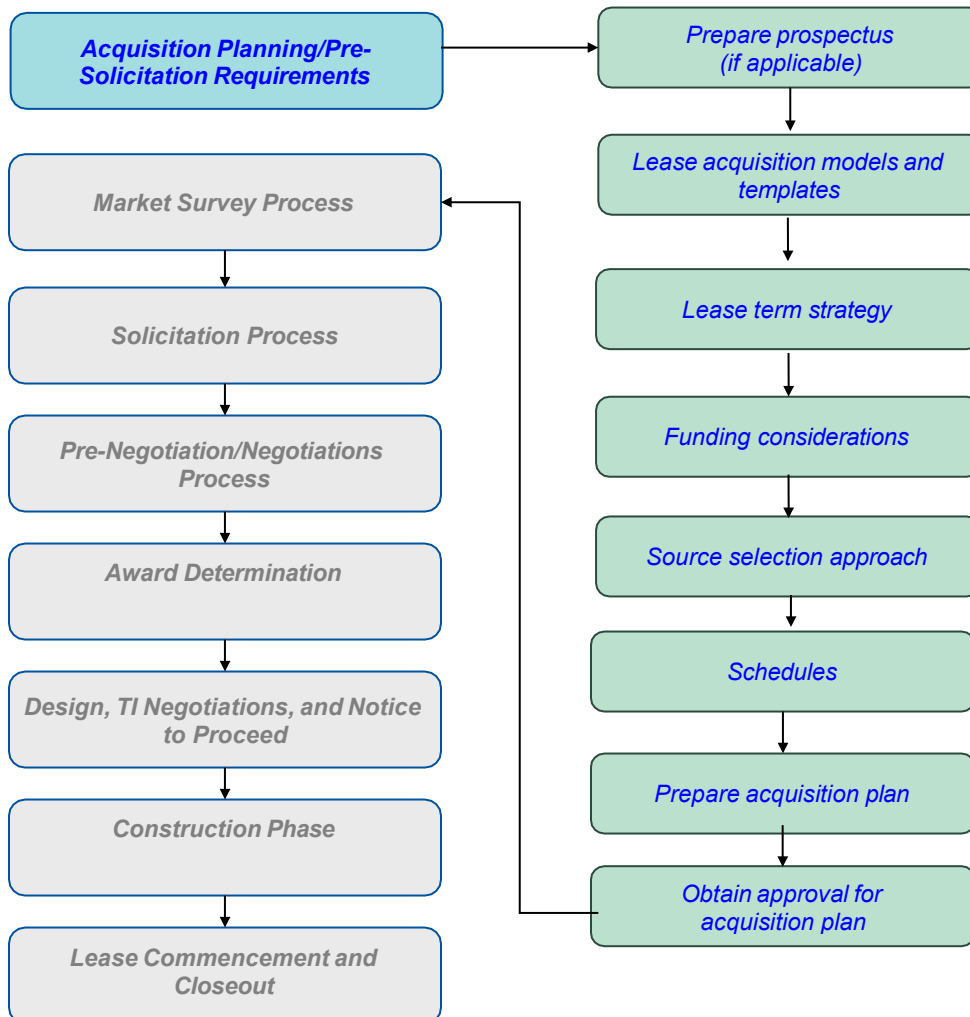
This part describes the elements of acquisition planning that establish the proper groundwork and strategy for a lease. It defines acquisition planning and identifies significant components and steps in the acquisition planning process, including the following:

- Developing the acquisition plan, with consideration for promoting full and open competition, or preparing justifications for other than full and open competition;
- Estimating project costs;
- Identifying funding issues, such as ascertaining customer funding and lease scoring;
- Preparing a lease prospectus as necessary;
- Determining the acquisition approach; and
- Managing the lease action in G-REX and REXUS.

A number of the activities at this stage must proceed concurrently, rather than in a linear sequence. (Note that the lease file checklist is not meant to prescribe the exact order or sequence of activities; in practice the Leasing Specialist may perform multiple tasks concurrently, and must ensure that this work is properly documented in a timely manner within G-REX.)

The following illustration shows the major steps in lease acquisition planning and pre-solicitation process. Each step label is linked to the section that discusses the topic.

Acquisition Planning/Pre-Solicitation Process



2. Lease Acquisition Models and Templates

a. Available Lease Models

There are multiple lease acquisition “models,” each of which uses separate sets of templates tailored to the respective model. Many of these models, which are subject to change, are described in other chapters of this Desk Guide.

The Leasing Specialist selects which templates to use based on various factors, such as the square footage or expected lease contract value, which may qualify the acquisition for a small or simplified lease; or on the general nature or purpose of the space, such as a warehouse or on-airport lease.

b. Global Templates

The Global Request for Lease Proposals (RLP) and Lease templates incorporate the language and logic of the former Standard, Streamlined, and Succeeding/Superseding Lease Reform models into one RLP and one lease form, allowing the Leasing Specialist greater flexibility to choose among paragraphs and sub-paragraphs in addressing such project differences as:

- Tenant Improvement (TI) pricing – Do we have a biddable set of requirements allowing us to obtain turnkey Tenant Improvement (TI) pricing or will a TI Allowance (TIA) be used instead?
- Method of award – Are we communicating this as a competitive or a sole source procurement to the market?
- Stay in place – For non-competitive actions, are we remaining at the current location (i.e., succeeding or superseding lease action)?
- Level of Build Out – For succeeding lease actions, is minimal build out expected, or are extensive alterations required?
- Design Intent Drawings (DID) delivery method – who is providing the DIDs and will we require a DID workshop?

While the Global templates allow for both turnkey and allowance-based TI pricing, this chapter will only address steps based on TI allowance pricing. For more information on TI turnkey pricing, see LDG Chapter 1, “Requirements Development.”

3. G-REX and Electronic Files

G-REX is the System of Record for all procurement and lease contract file documentation, forms, submittals, etc. referenced throughout this Desk Guide. All lease procurement, lease contract and lease contract administration documentation must be uploaded to the G-REX application. Note that signed documents must be stored and maintained in a generally accessible format (such as in a portable document format (PDF) which displays a visible image of all original document signatures and adequately protects the document from alteration. The G-REX electronic file must contain all correspondence records, including letters and emails, as well as documentation of telephone conversations, meetings, etc.

In addition to serving as the official repository for all lease project documentation, G-REX is also mandatory for managing GSA broker contractor projects, project milestone schedules and project contacts.

The use of G-REX is mandatory for managing and documenting all lease procurement projects, including projects resulting in new leases, projects resulting in a modification to an existing lease, and lease administration actions. From time to time, the Office of Leasing may implement new lease processes and documentation before G-REX can be updated to reflect these changes. In such cases, Leasing Specialists must gather and upload any documentation as required by such process changes, even if G-REX does not yet specifically reflect them.

Other G-REX capabilities and leasing technologies are described elsewhere in this chapter.

4. Components of Acquisition Planning

a. Acquisition Planning Defined

In general terms, acquisition planning is the process of coordinating the activities of people involved in acquiring an interest in real estate to make the acquisition timely and cost-effective. It includes developing the overall strategy for managing the acquisition. It may also address how to dispose of an asset when it is no longer needed.

Applicable Laws and Regulations

The core components of acquisition planning are defined in the Federal Acquisition Regulation (FAR). Though the FAR generally does not apply to leasing, GSA has adopted several components of the FAR based on statutory requirements or as a matter of policy identified in the General Services Acquisition Regulation (GSAR) Part 570.

Acquisition Planning for PBS Leasing

In the context of PBS leasing, acquisition planning entails considerations such as what to acquire (the type and amount of space), how to acquire it (lowest cost technically acceptable or best-value tradeoff), the type of acquisition (full and open competition or sole source), the type of lease action to employ, and when the space must be available.

Early planning is critical. At a minimum, GSA's planning manager begins project identification for new/replacing leases 42 months before the lease expires, and at least 60 months for prospectus leases. Acquisition planning activities must begin as soon as a customer agency's space need is identified, in order to determine the most advantageous acquisition approach.

Leasing Tools

GSA leverages several tools to expand resource capacity, increase productivity and reduce acquisition costs. These tools must be considered as part of project planning. The Leasing Tools Decision Matrix demonstrates how lease projects should prioritize the following leasing workforce multipliers:

- Automated Advanced Acquisition Platform (AAAP): Projects should first consider the use of AAAP.
- GSA's broker contractors (currently GSA Leasing Support Services or GLS *Plus*): GSA's broker contractor projects should default to using Requirement Specific Acquisition Platform (RSAP).
- RSAP: If AAAP or the broker contract are not an option for the project, the project should be done In-House and utilize RSAP.

If there is justification for not using leasing's workforce multipliers and/or online tools, then, as a last resort, the Leasing Specialist should use another approved procurement method and document this decision in the acquisition plan.



Leasing Tools Decision Matrix

Leasing Tools Decision Matrix			
Step 1: AAAP or GLS		Step 2: In-House RSAP	Step 3: Other
AAAP	GLS ¹	Use only after considering AAAP or GLS	Use another approved procurement method as a last resort
	<table border="1"> <tr> <td>With RSAP</td> <td>Without RSAP</td> </tr> </table>		
With RSAP	Without RSAP		
<small>RSAP should be the default with GLS</small>			
AAAP Requirements		RSAP Requirements	
Generic office space requirements Multiple award lease procurement tool No negotiation (best and final proposals) Allows for lease terms of: <ul style="list-style-type: none"> • 10 years, 8 years firm; • 15 years, 13 years firm; and • 17 years, 15 years firm • 10 years, 5 firm (Beginning in FY22) Basic criteria: <ul style="list-style-type: none"> • Greater than 500 ABOA SF • No new construction • Office and related type space • Full and Open Competition* 		Specific space requirement Single award lease procurement tool Negotiation and multiple iterations of offers Allows for any lease term Basic criteria: <ul style="list-style-type: none"> • In-house or by GSA brokers • Global or SLAT lease model • LPTA or BVTO Cannot be used for AAAP procurements; Small leases; Warehouse leases; on-airport leases; or, FEMA leases	

Online Tools

GSA’s online leasing tools (AAAP and RSAP) provide the opportunity for building owners and their representatives to offer space to the Government through a public-facing website. The online offer submission process is completely web-enabled, allowing all registered participants to submit and update online offers for lease space to GSA in response to a Request for Lease Proposals (RLP).

AAAP

AAAP is a multiple-award lease procurement process and an online procurement tool that provides building owners with the opportunity to offer space for lease in advance of, as well as in response to, identified specific agency requirements. AAAP contributes to reduced lease cycle time, streamlines portfolio and project planning, promotes competitive pricing, and supports efficient interactions with GSA. AAAP achieves these benefits through the advanced development of RLPs, advanced publicizing, and an online workflow that requires final offer submissions with no negotiation. AAAP cannot be used on GSA broker projects. AAAP follows a different process workflow than outlined under this chapter; refer to Chapter 22 of this Desk Guide, Automated Advanced Acquisition Program, for additional guidance regarding AAAP.

RSAP

RSAP is a single-award lease procurement tool that contributes to reduced cycle time and reduces administrative burdens to GSA. RSAP does this through an optimized online workflow that allows offerors to submit initial, revised, and final lease proposals to GSA. RSAP may be used by GSA brokers.

The benefits of using RSAP:

- Eliminates paper-based submissions, reducing costs and administrative burdens
- Automates the creation of the Lessor's Annual Cost Statement (GSA Form 1217) and the Proposal to Lease Space (GSA Form 1364), resulting in fewer errors
- Optimizes the lease procurement process by allowing offerors to submit initial, revised, or final lease offers online
- Accelerates lease cycle time by sending documents to G-REX automatically and immediately upon offer submission
- Initiates the generation of the Present Value Analysis (PVA) spreadsheet for each offeror, minimizing evaluation errors.

Reminder:

In order to receive offers using RSAP, the Leasing Specialist must enable RSAP within G-REX's Set Lease Acquisition Strategy menu. This should be done before posting the RLP. Please refer to the latest G-REX instructions for guidance on how to access this feature.

GSA's Broker Contractors

As stated previously, project teams may use broker contractors to provide additional leasing capacity and supplement the work of the Leasing Specialist. GSA's broker contracts leverage commercial real estate expertise and achieve cost savings through the use of broker commission rent credits. Broker contractors may not bind the United States or perform any other inherently governmental functions. Project teams should refer to the broker contract and the specific task order to confirm which steps the broker is responsible for performing.

Using the Succeeding/Superseding Lease Analysis Tool for Expiring Leases

In planning the acquisition of a replacement lease, project teams must perform a review of the expiring lease prior to finalizing an acquisition strategy. This includes a review of the existing lease and lease amendments, especially those that impact the lease term, expiration date, termination rights (partial/full), and renewal options. It is important to confirm these elements prior to establishing a project schedule for the follow-on lease procurement. Leasing Specialists should also conduct appropriate research of existing space conditions, including:

- Contacting the regional fire protection engineer to check the Inventory Reporting Information System Facilities Management Assessment (IRIS-FMA) module for open fire and life safety deficiencies
- Contacting the Lease Administration Manager (LAM) for inspection reports, past performance information, etc.

The Succeeding/Superseding Lease Analysis Tool enables planning managers, project managers, Leasing Specialists and Lease Contracting Officers to perform early Rough Order of Magnitude (ROM) based analysis and capture the necessary information about an expiring lease

to help determine whether it is in the best interest of the government to pursue a competitive or a sole source succeeding lease.

Use of the Succeeding/Superseding Lease Analysis Tool is mandatory for all procurements that result in a sole source succeeding or superseding lease, regardless of project size. Sole source procurements based on unique mission justifications, such as those for Transportation Security Administration (TSA) On-Airport or Land Ports of Entry (LPOE), are exempt from this requirement. For competitive new/replacing procurements, use of the “Other Considerations” sheet of the Succeeding/Superseding Lease Analysis Tool is recommended as the best method to document the mandatory expiring lease review described above.

Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (“Section 889”) Consideration

Section 889(a)(1)(A) of the National Defense Authorization Act (NDAA) (“Part A”) prohibits the Federal Government from procuring, or obtaining, or extending or renewing a contract to procure or obtain, covered telecommunications equipment or services, effective as of August 13, 2019². Section 889(a)(1)(B) (“Part B”) of the NDAA for FY2019 prohibits the head of an executive agency from entering into a contract (or extending or renewing a contract) with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, effective as of August 13, 2020.

Leasing Specialists should take appropriate steps to include consideration of Section 889 prohibitions as early as possible in the lease procurement process. For expiring leases, this includes confirming with an incumbent lessor whether or not a potential Section 889 prohibition exists as part of the acquisition planning process (for example, checking the incumbent’s lessor’s FAR 52.204-26 representations in SAM).

Section 889 compliance is discussed in more detail later in this chapter.

Additional Critical Items to Consider

Other important issues to be resolved as part of the acquisition planning process include the following:

Move and Replication Costs

For competitive procurements involving an incumbent location, the Lease Contracting Officer may elect to include estimated cost of relocation of furniture, telecommunications, replication costs, or

² “Covered telecommunications equipment or services” as defined under FAR 52.204-25, means -

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

other move-related costs as part of the Present Value Analysis (PVA) evaluation of offers. Any decision not to include move and replication costs in the evaluation must be documented.

The estimate for these costs must be supported by additional documentation in the lease file outlining the source and legitimacy of these costs. An independent government estimate is the preferred method of documentation. The costs should be broken down into enough detail for the Lease Contracting Officer to confirm the reasonableness of the estimates. Estimates provided by the customer agency should be scrutinized to confirm that:

- It is broken down into line-item components.
- It does not account for items such as furniture, unless the agency can establish that the acquisition of new furniture is required because of the move (e.g., existing furniture cannot be moved) and not a result of the agency wanting to take the opportunity of a move to upgrade.
- It is not based solely on prior RWA expenditures (“sunk cost”), but instead reflects existing improvements that must be replicated at a new location.
- The TI replication costs do not “double count” TI costs already included in the TI Allowance.

Note that there is a move and replication estimate sheet that is used in the planning stage for prospectus-level projects. While this can be used for below-prospectus projects, project teams should not rely upon this in place of an independent government estimate and must update this conceptual-level estimate as the project progresses.

TI Allowance or TI Turnkey Pricing

The process of awarding leases with a TIA figure and determining the actual costs of TIs is the most common method of pricing tenant improvements and should be selected unless the project team has the ability to develop biddable Agency Specific Requirements (ASRs) that are required to use the turnkey method. For competitive leases involving an incumbent’s space where the agency requires a significantly lower level of buildout than what would be required at a new location, the agency may elect to apply a TI amount less than their full entitlement for their current existing leased space. The reduced allowance must be agreed to and confirmed with the agency in an occupancy agreement prior to the issuance of the RLP. If this is the case, the different TI rates to be used must be disclosed to all offerors in the RLP. Once agreed to, the agency cannot ask for the remainder of their original TI entitlement.

It is important to discuss the possibility of using the turnkey process with the customer agency. The GSA project team should be aware of the benefits of both methods and use the one best suited for each project.

Design Intent Drawings (DID) Development Method

GSA project teams should confirm the appropriate DID delivery method with the customer agency. Each method has certain use cases which are described in Part 6 of this chapter.

Net of Utility Leases

As outlined under Leasing Alert LA-FY17-07, Net of Utilities Lease Structure, net of utilities leases are viable and beneficial in selective situations when a combination of the conditions below are in place:

- i. Lease size is greater than or equal to 50,000 rentable square feet (RSF), with being a 100% building occupant, and a high-energy user;
- ii. Tenant agency has the infrastructure and administrative processes in place to effectively manage net of utilities leases;
- iii. Tenant agency pays utilities directly -- versus through GSA;
- iv. Tenant agency has the ability to accurately budget for fluctuations in energy costs and usage;
- v. Strong tenant agency leadership buy-in and commitment to net leases exists;
- vi. Lease is located in a deregulated market where GSA can buy utilities at a bulk discount on behalf of tenant agencies.

In such situations, project teams should weigh the potential benefits of a net of utilities lease, and, as early as possible, reach a decision with the customer agency.

b. Acquisition Plan Development

All leases, regardless of dollar value, require acquisition planning. Leases over SLAT must have a written acquisition plan approved at the appropriate level (see table "Thresholds and Approving Officials"). See Chapter 3 for acquisition planning for SLAT leases. Documents produced during acquisition plan development must be included in the lease file. The acquisition plan must be finalized before issuing the RLP.

The Office of Leasing created acquisition plan templates to be used in lieu of the Acquisition Planning Wizard (APW) prescribed under GSAM Part 507, Acquisition Planning. The templates described below have been designed to include elements of global Project Management and delineated area considerations. Where a particular element is not applicable, it must be stated in the acquisition plan.

After discussions and an appropriate plan of action has been agreed upon, an acquisition plan must be written by the Leasing Specialist and approved at the appropriate level as shown in the "Thresholds and Approving Officials" table under paragraph h of this section.

The acquisition plan is **not** meant to be a progressive document that requires updating for every change in schedule. However, the plan must be revised and re-approved under the following circumstances:

Average or Aggregate Rent?

Note that in the Thresholds and Approving Officials table, the SLAT and prospectus thresholds refer to the *net average annual rent* for the term of the lease (including option periods and excluding the cost of services), while thresholds for leases above the SLAT and less than prospectus-level are the total contract value (including option periods).

- There is a material change in acquisition strategy. Examples include:
 - ▷ Change from a lowest price technically acceptable procurement to a best-value tradeoff
 - ▷ Change from a full and open procurement to other than full and open
 - ▷ Change from other than full and open procurement to full and open
 - ▷ Significant expansion or contraction of delineated area; or
- There is a change that affects total contract value, and therefore adds additional concurrences and a higher level of approval. (This would require new approval, but not necessarily a revision to other parts of the plan.)

Project Management Plan (PMP)

In keeping with the PBS Project Management practices, PBS acquisition planning incorporates elements of a PMP, allowing one document to serve as both the PMP and the acquisition plan. The combined template streamlines the process by eliminating the need to prepare two separate documents. The Combined Project Management/Acquisition Plan template contains the elements identified in FAR Part 7, as cross-referenced in GSAM Part 507, and serves as the PMP when the same realty professional is responsible for preparing both documents. It is not intended to transfer responsibility for preparing the acquisition plan to project managers, nor is it intended to dictate or prescribe format for PMPs in general. For larger, more complex projects, the PMP remains as a separate document, and the project manager has the option of using Kahua (GSA's project management application) or the Leasing PMP template.

Acquisition Plan Template

Leasing Specialists may use the Combined Project Management/Acquisition Plan template posted on the Office of Leasing Google site/G-REX template library or, alternatively, generate the plan using "form filler" robotics ("bot") technology. A link to the form filler bot can be found on the Manage Checklist related action in G-REX for the Project Management & Acquisition Plan line item in Tab 1.

The requirement for a written acquisition plan may be waived in cases of unusual and compelling urgency. Per GSAM 507.105-70, the HCA (Regional Commissioner) may authorize oral acquisition plans in unusual and compelling circumstances. The preparer shall document a summary of the oral acquisition plan and shall also include: the name and signature of the approving official; the date the oral acquisition plan was approved; and the reason for waiving a written acquisition plan. The summary shall be included in the official contract file. In addition, the summary should be a part of, or attached to, any justification for other than full and open competition. The summary may be prepared after award if preparation before award would unreasonably delay the award.

Using "Bot" Technology

The accuracy and completeness of any form created by a bot is directly tied to the quality of information in the source systems (REXUS, G-REX, OA Tool). Note that the bot-generated document may be incomplete and must still be tailored reflect procurement specifics. Users must always review bot-generated documentation prior to submitting to the Lease Contracting Officer for approval.

For leases whose values are at or below the SLAT, a shorter version of the project management/acquisition plan template is available (see the GSA Office of Leasing Google site or the Template Management module in G-REX). Leasing Specialists may also use the bot to generate the plan.

Full and Open Competition

Full and open competition means that all responsible sources are permitted to compete. The Leasing Specialist must promote full and open competition in leasing, except under certain circumstances as outlined under FAR 6.302 in accordance with the Competition in Contracting Act (CICA) (41 U.S.C. § 3304, et seq.) and addressed as applicable elsewhere in the Leasing Desk Guide.

In particular, CICA requirements include:

- Following publicizing practices necessary to promote competition for the location, type, and amount of space, and
- Using restrictive provisions or conditions only to the extent necessary to satisfy the customer agency's needs or as authorized by law.

The critical question for determining whether competitive procedures were used is whether all interested parties were given an opportunity to submit offers—that is, the procurement was known to the public, and RLPs were available to all interested parties. Therefore, be mindful that the requirements of CICA are met and **a procurement may be considered full and open** if **all** of the following are true:

- the Government's intent to procure is made known to the public;
- the public is given sufficient information as to what the Government's needs are;
- a Request for Lease Proposals is posted on SAM.gov; and
- the Government invites all interested parties to compete, regardless of how many acceptable locations are identified or how many offers are received. Note that Chapter 5 on succeeding leases discusses the special scenario when the only acceptable location is the current building.

Therefore, a procurement may be considered full and open if full and open public notice and opportunity to express an interest were given, yet only one offer is received, even if the only offer is from the existing Lessor. CICA does not require a Lease Contracting Officer to justify the actual response of the real estate market.

Other Than Full and Open Competition

In accordance with FAR Part 6, Lease Contracting Officers must not begin negotiations for a sole source contract or award any other contract without first providing for full and open competition. Leasing Specialists may proceed with a Justification for Other Than Full and Open Competition (Justification) if they do all of the following:

Words Matter

As stated under LDG Chapter 5, the wording of your SAM.gov presolicitation notice is crucial in determining whether or not the action can be considered full and open competition under CICA. Do not include succeeding lease language if you intend a full and open procurement.

- Justify the use of such actions in writing in accordance with one of the exceptions listed under FAR 6.302.
- Conduct market research and provide a description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.
- Certify the accuracy and completeness of the Justification.
- Obtain the appropriate approvals. Approval levels increase based upon the total lease contract value, including all renewal options (see FAR 6.304, GSAM 502.1, and GSAM 506.). All Justifications requiring signature by the GSA Senior Procurement Executive (SPE) or those involving a prospectus level action must also be reviewed by the Office of Leasing. Please refer to Chapter 5 of this desk guide for further details on this review and approval process.

Looking Ahead

Since pre-award legal review is required for all lease awards above SLAT which are based on Justifications Other than Full and Open (see Part 5), it is a best practice to obtain legal review of all Justifications over SLAT.

Note that a Justification, while part of the pre-solicitation phase, should not be prepared during acquisition planning. As noted above, Leasing Specialists must provide all interested parties the opportunity to express an interest in the Government's requirements.

Sole Source Justifications at or below SLAT

If the cost does not exceed SLAT, the Lease Contracting Officer may use the simplified procedures in 570.2 and explain the absence of competition in the file. Non-competitive actions which do not exceed the SLAT do not require a formal Justification; instead, the Lease Contracting Officer must document the file, in writing, to explain the lack of competition. Since an OTFO is not required for actions at or below SLAT, additional signatures or approvals beyond the level of the Lease Contracting Officer are not required.

For lease procurements, an action may be at or below SLAT, yet have a total contract value (TCV) that exceeds the threshold under FAR 6.304(2) requiring approval from the regional competition advocate (currently \$750,000). In such instances, the action is still considered to be at or below SLAT; a formal Justification and approval from the regional competition advocate is not required.

For additional information regarding the content of Justifications, see Chapter 5 of this Desk Guide.

Post-Award Publication of Justifications for Other Than Full and Open Competition

Redacted Justifications for Other Than Full and Open Competition (OTFO) must be published in Contract Opportunities domain of SAM.gov, the governmentwide point of entry for publicizing contract actions, within 14 days after lease award. Note that this posting requirement does not apply to actions at or below SLAT, as SLAT leases do not require a formal OTFO. See Part 5.4.f on [Post-Award Notifications](#) later in this chapter for further guidance.

c. Lease Term Strategy

As outlined in the Leasing Alert entitled “Lease Term Strategy,” GSA project teams should consider leveraging the Government’s financial strength and its 20-year lease acquisition authority by entering into longer term leases, with long firm terms, where appropriate. This includes the use of renewal options to control the space beyond the 20 year statutory authority.

For all lease requirements, the Government should consider the benefits of favorable rental pricing associated with longer firm terms against the costs associated with the risk of the inability to backfill vacant Government-controlled space. In many instances, GSA has defaulted to a 10 year, 5 year firm lease strategy to allow the Government flexibility with its housing requirements, and to minimize the amount of vacant Government-controlled space since the Government can terminate the lease if it no longer needs the space. While the Government maintains flexibility with its housing requirements with such lease termination rights, GSA may be foregoing more favorable rental pricing in markets where there is a high potential for backfill of vacant Government-controlled space.

d. Funding Considerations

Although these actions must begin during the Requirements Development phase, confirming funds is a critical part of solid project management during acquisition planning.

BA53 Pre-Certification of Funds

Leasing Specialists must submit a BA-53 pre-certification of funds request through REXUS when first entering a project into REXUS. This will ensure project requirements are included in current and future budget projections; it also ensures that the BA53 Budget Analyst has knowledge of the new action, verifies it is correctly captured in GALAXY2, and determines if the new or amended project has any budgetary impact and, if so, that it is appropriately budgeted.

As lease projects progress through the procurement process, Leasing Specialists must update REXUS with the most current data; if these changes impact budget projections, the Leasing Specialist must submit a revised pre-certification, as necessary.

Customer Funding: Does the Customer Have Money?

Previously, GSA sent the requesting agency an initial draft Occupancy Agreement (OA) before beginning procurement activities. The initial OA, which did not require the customer agency’s signature until lease award, would reflect the best estimates based on the most realistic market data available at the time and would be updated as the project progressed.

OASIS

Starting in FY 23, GSA will transition from “paper/pdf” OAs generated through the OA Tool to OAs created in GSA’s Occupancy Agreement and Space Inventory System (OASIS) and will streamline the use of the OA as an interagency agreement for financial commitment. GSA will create the OA in OASIS just once, prior to lease award, reflecting the final rates proposed by the apparent successful offeror. The customer agency will approve the rates in the system, instead of signing a “paper/pdf” version.

Personal versus Real Property

Lease Contracting Officer warrants are limited to the acquisition of real property only. Therefore, agencies must budget separately for the procurement of personal property items such as refrigerators.

In anticipation of this transition to OASIS, OAs are no longer used as a planning/budgeting document and will instead focus on its original intent as an interagency agreement between GSA and its customer agency, outlining specific rental terms of its occupancy in a particular location. GSA will instead use the Client Project Agreement (CPA) to provide the initial budgetary estimate to the agency and gain concurrence on the project's parameters.

Reimbursable Work Authorization (RWA)

Additional funds may be required in the form of a Reimbursable Work Authorization (RWA) for tenant improvements expected to exceed the agency's allowance. Project teams should advise the customer agency at the onset of the project if RWA funds are required, along with a reminder that these RWA funds must be provided prior to lease award. See Part 5 of this chapter, paragraph 3.e, "Obtaining and Amending RWAs," for additional guidance.

Relocation Expenses

Agencies whose leases are expiring should be prepared to fund relocation expenses, in the event the procurement results in a lease award at a new location (see Move and Replication Costs, discussed previously).

Extended, Multishift or Continuous Repeat Services

Per Leasing Alert LA-18-07, extended, multi-shift, or continuous repeat services that are required in support of an agency's mission for normal operations may be included in the operating cost component of the rent. This includes, but is not limited to, the following types of services:

- Areas requiring 24/7 HVAC, such as Sensitive Compartmented Information Facility (SCIFs)
- Regular/recurring HVAC and/or janitorial services beyond a 10-hour day
- Regular/recurring HVAC and/or janitorial services for multi or weekend shifts
- Maintenance of specialized tenant-installed equipment.

The inclusion of these extended, multi-shift or continuous services cannot cause the fully-serviced rent to exceed the high end of the market. In addition, these additional services may not be included or considered as part of the methodology to develop market rates where rental caps or limitations are required (e.g., prospectus-level projects).

General, periodic, and as-needed overtime HVAC requirements remain a reimbursable service requiring payment separate from the rent.

Scoring: Is This an Operating or Capital Lease?

Every lease action must be evaluated against the budget scoring criteria detailed in Appendix B of OMB Circular A-11, Criteria and Scoring Ramifications for Operating and Capital Leases. This evaluation determines whether a lease should be treated as an operating lease (allows GSA to budget for annual lease payments) or capital lease (requires GSA to budget up front all capital expenditures) for budget scorekeeping purposes. If any one of the criteria is not met, the lease risks being scored as a capital lease. Capital leases are almost always unacceptable because they require the Government to budget the entire expense of the lease contract in the first year

The 20-Year Limit

GSA is authorized to enter into lease agreements for terms of up to 20 years in a building (or improvement) which is in existence or being erected (40 U.S.C. 585(a)). Options do not count against this limit, as long as, at the time of exercising the option, the remaining term left on the lease does not exceed 20 years.

of the lease term. Only in extremely rare circumstances, and only after additional approvals are obtained from the Office of Portfolio Management and Customer Engagement (Portfolio), may GSA enter into a capital lease.

Lease Contracting Officers and designated employees in each regional Portfolio office perform all scoring evaluations and make the determination that a lease is either an operating or a capital lease. See Appendix F, Determination of Operating or Capital Lease Classification for Budget Scoring, for guidance for determining the appropriate budget scorekeeping treatment, either as an operating or capital lease.

Leasing Specialists may use the template provided by Portfolio using the link found on the Office of Leasing Google site/G-REX template library, or, alternatively, generate the scoring worksheet using “form filler” robotics (bot) technology. A link to the form filler bot can be found on the Manage Checklist related action in G-REX for the Scoring Worksheets line item in Tab 1.

Once the scoring workbook is updated, the Leasing Specialist shall upload to G-REX per the Lease File Checklist and submit the initial scoring request to Portfolio using Phase 1 – Requirements Development of the G-REX Lease Due Diligence module. Once the regional Portfolio representative reviews and completes the scoring, he/she will upload the scoring documentation, along with any comments, into the G-REX Lease Due Diligence module, which automatically files the documentation in G-REX. The Leasing Specialist and Lease Contracting Officer listed on the project will receive a notification when the work is returned.

G-REX Lease Due Diligence Module

In addition to scoring, PBS project teams should use the G-REX Lease Due Diligence Module for historic and environmental compliance. See Part 2.7 of this chapter for further discussion of the G-REX Lease Due Diligence Module.

Note: Regions with an established Tab 1 Requirements Team may complete this initial scoring step outside of the G-REX Lease Due Diligence module, however, the documentation must still be uploaded against the Lease File Checklist in G-REX.

e. Prospectus Requirement

A prospectus is a summary of the proposed lease action that must be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives for proposed leases with a net annual rent above a certain dollar threshold. Leasing Specialists must consult with the Regional Portfolio office for the applicable prospectus threshold as the threshold is adjusted annually.

Net Rent: To determine net rent, take the proposed full service rent, including real estate taxes, insurance, amortized tenant improvements, BSAC, and parking, as well as the costs of any GSA lump sum payments made to reduce the rent, and then subtract out only the operating expenses paid directly to the Lessor.

f. Determining Source Selection Approach

The first source selection decision the Lease Contracting Officer must make is whether the award will be based only on price (i.e., lowest price technically acceptable—LPTA), or whether price will be one of several factors that allows the Government to accept proposals other than just the lowest priced one. (i.e., best-value tradeoff). Discussions with client agencies will help determine the most advantageous source selection approach.

Section 880 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232) limits the use of LPTA source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs. As a result, FAR 15.101-2(c) requires the Lease Contracting Officer to document the contract file describing the circumstances that justify the use of the LPTA source selection process. The decision regarding which source selection strategy to use and, if applicable, the circumstances justifying the use of LPTA, is documented in the acquisition plan.

Note that per the Design Excellence in Leasing Program Guidance, issued on December 15, 2021, all lease construction projects (as defined under Chapter 14 of this desk guide), regardless of size, must utilize either Single Phase or Two-Phase Design Build best value tradeoff techniques. For further information, see the Design Excellence in Leasing Program Guidance posted on the Office of Leasing Google site.

If this is a best value tradeoff award, the Lease Contracting Officer should consult with the customer agency to determine what technical award factors will be used and their relative ranking/weights (past performance must be one of the factors, in addition to price). Further, the Lease Contracting Officer must determine the relative importance of the overall technical proposal to price (e.g., substantially greater than, approximately equal to, or substantially less than).

The source selection plan may be a simple, abbreviated plan for a go/no-go (pass/fail) decision to award the lease to the offeror with the LPTA offer; or it may be a more thoroughly documented plan to follow a best-value tradeoff process, if it is in the best interest of the Government to consider awarding the lease to an offeror other than the lowest priced offer or other than the highest technically rated offer.

For best-value tradeoff procurements over SLAT, the Lease Contracting Officer must obtain legal review and approval of all documents related to the source selection process (e.g., Acquisition Plan, Source Selection Plan, solicitation, Source Selection Reports, Source Selection Authority Decision, Price Negotiation Memorandum, etc.) as outlined under GSA Order ADM 5000.4B.

See Chapter 13, Source Selection, as well as FAR 15.101.1 and 15.101.2 under “Subpart 15.1—Source Selection Processes and Techniques.

g. Schedules

The schedule is a critical component of the acquisition plan and should reflect the applicable milestones outlined in Leasing Alert LA-19-01, Mandatory Use of G-REX. Note that this list of milestones is subject to change.

The project team can start to populate the baseline schedule prior to the finalization of the acquisition plan and save it without committing. When the acquisition plan is finalized, the Set Milestone Baseline related action must be completed in G-REX. These dates are the estimated completion dates for each of the tasks associated with acquisition and pre-occupancy. Completing this related action allows the Leasing Specialist to generate the Project Milestone Schedule, to share with the customer agency and project team throughout the project lifecycle.

↳ 4. Components of Acquisition Planning

Baseline project schedule dates are static in order for Leasing Specialists to determine how well they are meeting the anticipated schedule. When developing a baseline project schedule, it is important to consider the current lease terms, particularly the soft-term and termination notice, as well as use project and market knowledge, to provide the most accurate project schedule. At any time during the process, Leasing Specialists may update their estimated dates and view the baseline schedule alongside their revisions.

Setting Realistic Schedules

Procurement schedules must reflect accurate, realistic, and achievable timeframes. Overly optimistic schedules may lead to post-award delay claims.

The Milestone Schedule is important, as it allows PBS to determine the effectiveness of the lease process in meeting estimated timelines, communicating with customers, and planning budgets. The estimated dates must be kept updated, similar to updating REXUS with rate and other information. It is essential that this schedule is accurate, since client agencies rely upon it when planning purchases related to occupancy of the space (e.g., furniture and telephone systems, specialized equipment, and relocation services). The estimated lease award date and the actual lease award date, when entered or updated in G-REX, automatically update in REXUS.

h. Approval

GSAM 507.103 lists the dollar value thresholds and the level of the approving official for approving acquisition plans or waiving written acquisition plans. Note that in PBS regions, the HCA is the Regional Commissioner.

Update G-REX

Don't forget to update the Lease Acquisition Strategy in G-REX, if needed, once the acquisition plan is approved.

In addition, regional counsel/legal review of acquisition plans is required for:

- all actions over SLAT where Best Value Tradeoff Source Selection is anticipated, or
- all actions over \$20 Million aggregate value.

Part 2: Market Survey Process

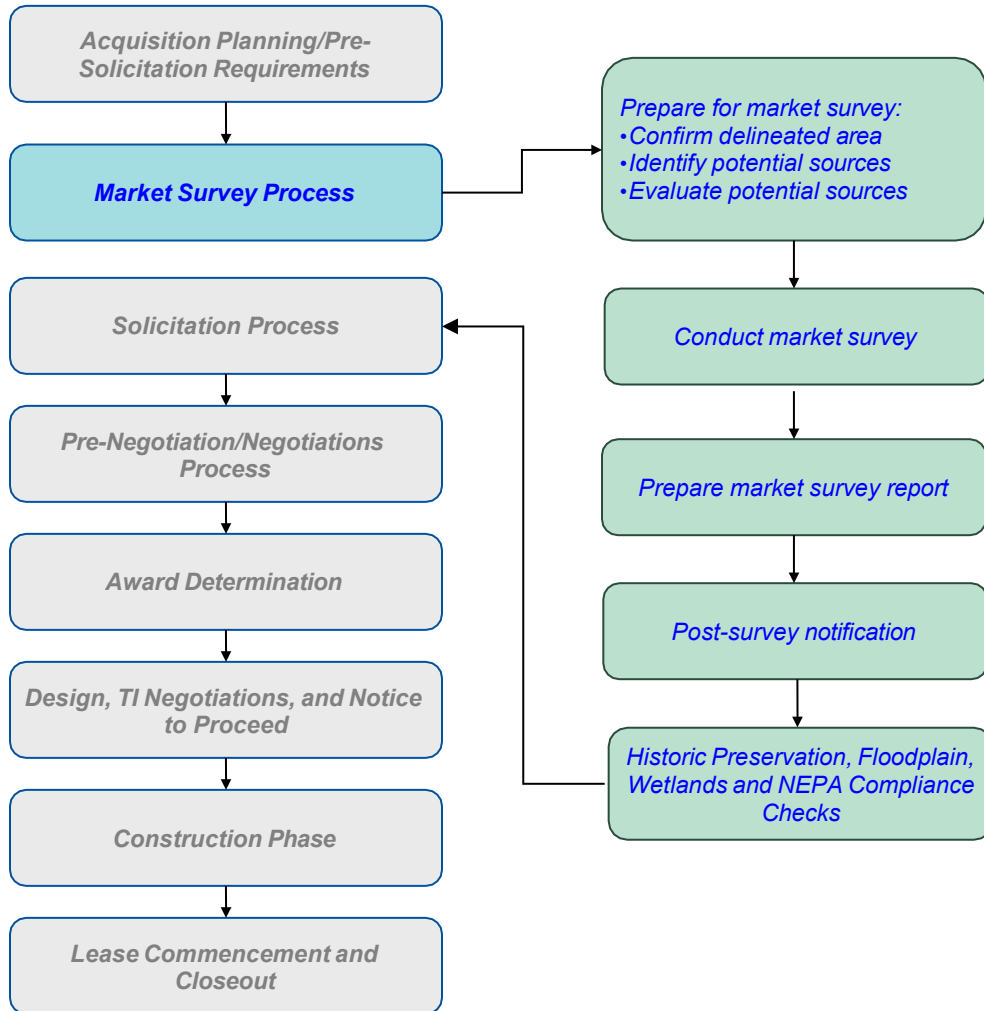
1. Overview	2.2-1
2. Importance of a Market Survey	2.2-3
3. Prepare for Market Survey	2.2-4
a. Preparation	2.2-4
b. Reviewing and Confirming the Delineated Area	2.2-4
c. Publicizing and Identifying Potential Competition Sources	2.2-5
d. Evaluating and Recording Potential Sources	2.2-6
4. Conducting the Market Survey	2.2-7
a. Survey Participants	2.2-8
b. What to Look for and Ask About	2.2-9
5. Market Survey Report Requirements	2.2-10
a. Description of Project	2.2-10
b. Authority	2.2-10
c. Background	2.2-10
d. Market Survey	2.2-11
e. Conclusion/Summary	2.2-11
f. Prepared By and Approved By	2.2-12
6. Post-Survey	2.2-12
a. Response to Those Who May Not Meet the Requirements	2.2-12
b. Review for New Construction Below Prospectus	2.2-12
7. Historic Preservation, Floodplain, Wetlands, and National Environmental Policy Act (NEPA) Compliance Checks	2.2-13

1. Overview

Part 2 reviews the key steps in the market survey process. As the illustration below indicates, this process ultimately identifies properties that meet the basic requirements of the RLP. This entire

process is documented in a Market Survey Report. Each step label is linked to the section that discusses the topic.

Market Survey Process



2. Importance of a Market Survey

Understanding the market involves both general market research and formal market surveys.

Market research, as opposed to market survey, is any methodical effort to gather information about the market or customers, in order to gain insight or improve business decisions. It may involve consulting commercial databases, real estate brokers, local officials, and other sources of expertise. It may or may not involve directly contacting commercial Lessors. Market research generates useful information for setting negotiation objectives by helping to identify ranges of fair and reasonable costs for the type of space desired. See “[Market Knowledge](#)” in the discussion of negotiations.

GSAM 570.301 requires that a market survey be conducted to identify potential locations capable of meeting a space requirement for the Government. The term “market survey” refers to the process of gathering information about and physically touring specific properties in the market, usually accompanied by an agency representative, to determine whether suitable property is competitively available. This is a critical step in the leasing process. Market surveys must be used to identify potential properties to lease and determine how best to satisfy the lease requirement in the most competitive manner. The characteristics of each building inspected for a market survey must be documented on the Lease Market Survey for Existing Building form.

The background information developed in a comprehensive market survey will establish the foundation for a successful procurement. It will help the Leasing Specialist thoroughly understand what kind of space is available in the market area and identify the asking rents for that location. In turn, this information will provide a solid basis for lease negotiations.

Ranges of market rental rates based on information obtained during the survey, from market research or from other available sources, are used to develop the estimated rental range and negotiation objectives.

The recommended practice is to conduct surveys in person; the surveys should reveal rental costs typical of the area as well as cost comparisons for major or similar buildings at various floor levels.

The Leasing Specialist is responsible for directing and overseeing market surveys, though if one of the national broker services contracts are used, the broker will provide these services. The outcome of the market survey process is a list of buildings that meet or have the potential to meet the general requirements of the RLP.

Since this is one of the few times where the Leasing Specialist and the agency meet in person, the market survey presents an excellent opportunity to build a strong working relationship. It is the phase that provides the agency a clear “window” into the procurement. Finally, it is often the only time that GSA and the customer agency will actually see the space prior to award.

For additional guidance on the market survey process, see Leasing Alert LA-21-02, Market Survey Guidance and Templates.

3. Prepare for Market Survey

a. Preparation

Leasing Specialists collect market survey information on the availability of space from multiple sources, such as responses to SAM.gov presolicitation notices, circulars, and commercial on-line listings; consultation with brokers, realtors, building owners, and other Government officials; the local economic development authority; Chamber of Commerce; regional listing files; and independent observation of buildings by Leasing Specialists and representatives of the local customer agency.

The goal of the market survey process is to identify as many acceptable sources as possible. Use of competitive procedures (publicizing in SAM.gov, surveying the market, etc.) will not ensure a viable award; the Lease Contracting Officer has an affirmative duty to question the nature of a requirement that results in few potential locations and to take appropriate action to facilitate future competition. If there are few expressions of interest in response to the SAM.gov presolicitation notice or other publications, Lease Contracting Officers must concentrate on finding space from the sources listed above. In the event that adequate competition is not identified, the Leasing Specialists must work with the customer agency to expand or revise the delineated area where possible (or document the file as to why expanding or revising the delineated area is not possible), or consider revising the requirements, and then proceed to re-survey the market as appropriate.

All locations proposed in response to the presolicitation notice that are within the delineated area and meet the minimum requirements (including those for quality and availability) must be surveyed, including the current location, if applicable.

The Leasing Specialist should schedule appointments for walkthroughs of each of the potential offerors' spaces. Leasing Specialists should allow time for doing further canvassing of the delineated area to determine whether other potential buildings are available that could satisfy the agency needs in addition to those already identified by local brokers or Lessors.

b. Reviewing and Confirming the Delineated Area

The delineated area is defined by the specific boundary within which space will be obtained to satisfy an agency space requirement. Buildings located outside the delineated area are ineligible for consideration. The requiring agency identifies the delineated area based on its mission and program requirements. The Leasing Specialist will review and confirm the delineated area during the requirements development process (see Chapter 1). GSA approves the final delineated area after confirming that it complies with all applicable laws, regulations, and Executive orders, including the Rural Development Act of 1972, as amended, the Competition in Contracting Act, as amended, 41 U.S.C. 252–266, and Executive Order 12072, as amended.

In accordance with the Competition in Contracting Act, GSA may consider whether restricting the delineated area to the CBA will provide for adequate competition when acquiring leased space. Where it is determined that an acquisition should not be restricted to the CBA, GSA may expand the delineated area in consultation with the requesting agency and local officials. The CBA must continue to be included in such an expanded area.

As more fully described in Chapter 1, Requirements Development, avoid vague boundaries, such as a radius expressed in miles or blocks. Buildings with property boundaries on the boundary streets are deemed to be within the delineated area.

Energy Star

Project teams should take into consideration the availability of Energy Star Buildings in the proposed delineated area and how this may affect the level of competition in the procurement.

c. Publicizing and Identifying Potential Competition Sources

Thresholds

If a proposed lease is estimated to exceed \$25,000 total contract value, then the Lease Contracting Officer must publicize the proposed acquisition as a presolicitation notice in SAM.gov, unless the action falls under one of the following exemptions under FAR 5.202, including:

- a. Disclosure would compromise national security
- b. Unusual and compelling urgency
- c. Meets all of the following 3 criteria*:
 - i. Is for an amount not expected to exceed SLAT
 - ii. Will be made through a means that provides access to the notice of proposed contract action through the Governmentwide point of entry (GPE) (i.e., the RLP is posted on SAM.gov); and
 - iii. Permits the public to respond to the solicitation electronically (i.e., offers may be sent as pdf attachments through email or through Lease Offer Platform – Requirement Specific Acquisition Platform (LOP-RSAP)).

What Happened to the Ad?

While previously-issued lease policy included references to “advertising” or “advertisement,” this updated Chapter 2 has eliminated the use of “advertising” and “advertisement” in favor of “presolicitation notice,” as found under FAR.

*In other words, for *competitive* SLAT RLPs that will be posted on SAM.gov, the presolicitation notice is not required.

For leasehold acquisitions where the RLP requires the construction of a new building on a preselected site, the Lease Contracting Officer, in accordance with the timeframes established in FAR 5.203, must publicize the proposed acquisition in SAM.gov regardless of size or value. See Chapter 14 of this desk guide.

Threshold

LA-21-13 removed the 10,000 SF threshold stated under GSAR 570.106(a) in order to improve transparency in lease procurements and to align with the statutory threshold for publicizing as outlined under FAR 5.101.

SAM.gov Template

GSA has created a template that should be used for all SAM.gov presolicitation notices in order to communicate our requirements to the market in a consistent and standardized format. This template, which also serves as the RLP Procurement Summary template described later in this chapter, contains a macro that allows the user to choose whether to use the template as a presolicitation notice or an RLP Procurement Summary. See the Office of Leasing Google site or the Templates Management section of G-REX to access this template. The document can be



completed, and then text can be copied and pasted directly into the text field on the SAM.gov website to summarize the Government's requirements.

Publicizing Timeframes

SAM.gov postings must allow a reasonable time for the market to become aware of, and respond to, the Government's need for space. GSAM 570.106(f) requires a minimum notice of at least 3 calendar days before issuance of the RLP; however, realistically, the posting should occur at the beginning of the market survey process, which takes place well before issuance of the RLP. Note that, as required under GSAM 570.106(g), the Lease Contracting Officer must provide offerors no less than 20 calendar days between issuing the RLP and the deadline for receipt of initial offers (See Part 3 of this chapter).

Notify Existing Lessor

The existing Lessor must be notified about the SAM.gov notice, because Lessors do not often check SAM.gov regarding procurements that may include their properties.

If publicizing a SLAT procurement (see Chapter 3), consider the individual acquisition and establish a reasonable response time.

In cases of unusual and compelling urgency (see Chapter 12 on emergency leasing), provide as much time as reasonably possible under the circumstances and document the urgency of the situation in the contract file.

If the delineated area, square footage, parking, or stated go/no-go requirements significantly change after the initial notice, the Leasing Specialist must update the posting.

Office of Leasing Review of Prospectus-Level Postings

As a matter of policy, Leasing Specialists may publicize for a prospectus-level requirement only after the prospectus has cleared OMB and has been submitted by GSA to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. Broad market surveys not tied to a specific project can be used to establish the overall availability of space or sites. Such surveys might be instrumental in developing a prospectus and may be undertaken during requirements development.

All prospectus level presolicitation notices, including market research, expressions of interest, and amendments to notices, must receive concurrence from the PBS Commissioner's office prior to publication. See Leasing Desk Guide Chapter 11, Prospectus-Level Leases, for additional guidance.

d. Evaluating and Recording Potential Sources

Reviewing Responses

Leasing Specialists must document the responses to the presolicitation notices in the lease file. The responses will provide a general sense of the market. They will help clarify whether the respondents meet the basic requirements, in terms of the delineated area, required square footage, and other requirements. The responses will also help establish whether the market has the capability to support the lease need.

Other Sources

In addition to identifying prospective sites from SAM.gov responses, the Leasing Specialist should check market information available in electronic databases, such as LoopNet and CoStar Realty Information, Inc. Other valuable sources are economic development commissions or other similar community organizations, as well as real estate brokers.

Each expression of interest should be identified by name, contact information, and date of contact.

Once all respondents and prospective locations are identified, the Leasing Specialist or Lease Contracting Officer must determine which buildings will be surveyed based on the delineated area and other minimum requirements of the RLP, such as availability and square footage. Doing this step now will maximize the use of time during the subsequent physical market survey. The Leasing Specialist is encouraged to use the Pre/Post Market Survey Summary Tool, which can be found on the Office of Leasing Google site or in the G-REX template library, to document this evaluation.

Pre/Post-Market Survey Summary Tool

This tool will assist the Leasing Specialist in evaluating the Expressions of Interest (EOI) against the procurement's minimum requirements and in summarizing whether the locations under consideration can meet the Government's minimum requirements. The tool is comprised of two (2) worksheets. Note that the data input into the first worksheet feeds into the second worksheet.

- Pre-Market Survey Analysis Worksheet
- Post-Market Survey Analysis Worksheet

The Leasing Specialist uses the Pre-Market Survey Analysis Worksheet to compare and document all potential locations against the government's minimum requirements. This worksheet serves to document the decision as to whether or not to conduct a physical tour of that location. Using this template prior to the survey will maximize the use of time during the physical market survey. Use of this template to document this step is highly recommended.

4. Conducting the Market Survey

As part of the market survey process, the Leasing Specialist or broker contractor should physically inspect each property as appropriate (building and/or site) to determine whether it meets or is capable of meeting the requirements of the RLP.

The Leasing Specialist or broker contractor must arrange for the physical market survey. This involves, among other things, identifying the actual sites to be toured; establishing schedules and agendas; determining who will participate; and conducting preparatory discussions with client agencies to set expectations for the survey (e.g., size of group, who is conducting the survey, roles and responsibilities, etc.). Note that broker contractors may ride as passengers in a Government Owned Vehicle (GOV), if on official business. GSA personnel should not be riding as passengers in broker's vehicles.

The current Lessor must be notified of the acquisition, even if the current location is incapable of meeting the minimum requirements (for example, the agency has outgrown the space and not enough expansion space exists, or agency mission requirements have changed).

The characteristics of each building inspected for a market survey must be documented on the Lease Market Survey for Existing Building (available on the GSA Office of Leasing Google site or the G-REX template library). If touring sites, bring a land survey form. The land market survey is required for all new lease construction projects and new construction proposed by the market in response to the presolicitation notice.

Sending Out Forms Before Physical Tour

The current version of the market survey form reflects a more streamlined, free-form approach to documentation; therefore, it is not recommended to send the form to property owners for them to fill out ahead of the tour.

a. Survey Participants

Who Should Participate?

The Leasing Specialist, Lease Contracting Officer, or Broker Contractor must physically inspect each property as appropriate (building, site, or both) to note whether it meets or can meet the requirements of the RLP and invite all relevant parties to attend, including the project manager, tenant agency representatives, facilities management and services representative (such as the LAM), and a representative of the Federal Protective Service (FPS). For projects using the broker contractor, Leasing Specialists or Lease Contracting Officers may also choose to attend the market survey, along with the broker contractor.

Other potential invitees include space planners, engineers (including fire protection engineers), and architects. However, the need to include all relevant parties must be weighed with the practicalities of conducting an efficient building tour with a manageable number of attendees. Those attending should be limited to the “decision-makers,” especially for the customer agency, who must be authorized to commit the agency by signing the completed market survey forms.

Prior to the market survey, the Leasing Specialist should confirm that any individual showing property is authorized to do so via written authorization from the building owner.

Preserving Procurement Integrity

Procurement regulations prohibit divulging acquisition information to a potential offeror that is not provided to all potential offerors at the same time. During the market survey, the Leasing Specialist may discuss the characteristics of a specific property and its potential to meet the Government's requirement with that property's broker/owner/developer but may not divulge information about other properties being surveyed or any other aspect of the procurement.

Before conducting the survey, the Leasing Specialist conducting the survey must remind all participants of these requirements for procurement integrity. A non-disclosure form must be signed by everyone who attends the market survey or has access to the procurement documentation. If a form is already on file for someone for a particular procurement, then that person need not sign an additional form each time he or she meets or attends a different market survey. However, if someone new goes on a subsequent market survey, a signed form must be obtained from that person. Note also that the number or identity of offerors participating in the

procurement may not be disclosed at any time before award without consultation with the Office of Regional Counsel.

b. What to Look for and Ask About

The survey must examine the individual locations in terms of their potential to meet general requirements that are common to all lease acquisitions, as well as those that are unique to the customer agency.

In conducting a market survey, the Leasing Specialist must not focus too heavily on the details of the interior finishes, as these can be easily changed. Instead, the Leasing Specialist must focus on and note the permanent features of the building, such as systems, building core, floorplate, fire exits, and accessibility.

Get on the Same Page

Before touring buildings, the market survey attendees should review the agency specific go/no-go criteria to use in evaluating the properties.

The Leasing Specialist must complete the appropriate market survey form in its entirety, capturing information such as:

- Amount of available space and floor location;
- Ceiling height and column spacing;
- Accessibility for the disabled or handicapped (entrances, toilet rooms, drinking fountains, etc.);
- Fire and life safety requirements (sprinklers, means of egress, fire exits, etc.);
- Parking availability;
- Conformance with project specific go/no-go criteria; and
- Asking rental rate information. (Note that while building owners and agents may be reluctant to provide this without seeing the RLP, the Leasing Specialist must probe to obtain as much market rate data as possible, including the cost of services, whether step rents or escalations are standard practice, how much tenant improvement allowance is included, etc. This information is crucial for preparing the negotiation objectives described under Part 4, Pre-Negotiation/Negotiation Process, in this chapter.)

For each property toured, the Leasing Specialist must note whether the building meets (or can be altered to meet) the minimum requirements of the lease and the customer agency. For locations that do not meet the requirements, the Leasing Specialist must also ask whether the owner is willing and able to correct the deficiencies and bring the location into compliance. If the building cannot meet minimum requirements and if the building's owner cannot or is not willing to correct the deficiencies, the Leasing Specialist must adequately document the reasons on the survey form.

Photographs

The Leasing Specialist must take pictures during the tour of each location. Photographs should also include the exterior of the building, common area, the fire exits, and the offered space, as well as any items that do not meet the minimum requirements or may need to be modified in

order to meet the requirements. These photographs may either be embedded in the market survey report (described later) or uploaded separately.

Pre/Post-Market Survey Summary Tool

Once the physical survey/building tour is complete, the Leasing Specialist may use the Post-Market Survey Analysis Worksheet to list all of the toured locations and document each against the Government's minimum requirements. Note that both this and the Pre-Market Survey Worksheet can serve as referenced attachments to the Market Survey report; use of this template to document this decision is highly recommended.

Customer Agency Concurrence

It is crucial that GSA obtain agency concurrence on the market survey. This concurrence can be documented on the survey form itself, on the market survey report, or in separate correspondence. If the customer disagrees with the Lease Contracting Officer's preliminary decisions regarding whether a property meets or is capable of meeting the requirements of the agency, the Lease Contracting Officer and the agency representative must reach agreement regarding the acceptability of the property. Proceeding without agreement puts the procurement at risk, should the agency reject the offer of space at the conclusion of negotiations.

5. Market Survey Report Requirements

The Leasing Specialist is responsible for completing and filing the market survey report for lease procurements. If it is a broker project, the broker is responsible for completing both the Lease Market Survey for Existing Building and the market survey report. The market survey report, including phone survey results, must address the following areas:

a. Description of Project

State details of the project, such as:

- Type of action (new or new/replacing, etc.);
- Agency;
- Square footage and parking requirements; and
- Delineated area (including a map showing the building location).

b. Authority

State GSA's authority to enter into leases on behalf of the Federal Government: 40 U.S.C. 585.

c. Background

- Include current lease information, if applicable.
 - Contract number, square footage, expiration date, etc.

- Identify steps taken to identify sources (when presolicitation notice was posted and/or how many brokers were contacted, etc.).
- State the date that the agency requirement was received.
- Reference unique requirements or go/no-go issues (such as column spacing—minimum or maximum, setbacks, public transportation, specific floor requirement).

d. Market Survey

- Include general information about the survey.
- List the attendees (with appropriate titles), the date, and the number of buildings.
- Name buildings that gave us an expression of interest but were not included on the market survey and discuss the reason.
- For each building/site toured indicate:
 - Agent or owner information.
 - Name, title, company name, address, phone number.
 - Estimated rental rate and operating cost information.
 - Any rental concessions such as free TI, free space, free rent, free parking, or others.
 - Information in the description of each building:
 - Available square footage and floors
 - Building age and condition
 - National Register of Historic Places status, if known
 - Fire safety features (sprinklers, exits)
 - Accessibility compliance
 - Application of special requirements and go/no-go criteria.
- Describe neighborhood characteristics, including any features bearing on the suitability of the property, such as availability of public transportation or neighborhood amenities.
- Indicate whether the land market survey form was used.
- Include photographs of each property (or upload separately to the G-REX project file).

The market survey report should demonstrate that equal consideration was made when reviewing each building. For instance, if you make note of certain requirements for one building on the tour (for example, accessibility), then accessibility must be addressed in the description for all buildings.

e. Conclusion/Summary

- Identify the buildings that generally meet the requirements of the agency and those that do not appear to meet the requirements. A summary table of buildings toured is helpful.



↳ 6. Post-Survey

- Identify full service (gross) asking rents in comparable, surrounding buildings, if known.
- Include other available market data.
- Include a chart if desired.
- Assess the level of expected competition.
- Include construction schedule, if building is under construction.

f. Prepared By and Approved By

Include a line at the end of the market survey for the signature of the Leasing Specialist and/or broker (if applicable) and the Lease Contracting Officer.

6. Post-Survey

a. Response to Those Who May Not Meet the Requirements

The Leasing Specialist or Lease Contracting Officer must send a letter or email to prospective offerors after the market survey to address expressions of interest when the property does not or cannot meet the requirements of the agency. The letter must address, at a minimum, areas where the building owner agrees that they are incapable of meeting RLP minimum requirements, and other areas identified during the market survey that do not appear to meet or be capable of meeting the requirements. However, such notification should avoid references to “not being issued an RLP,” since RLPs are no longer directly issued to pre-screened properties deemed “acceptable” to the Government but are instead posted on SAM.gov (or subsequent GPE platform) and are therefore available to the entire public. See Leasing Alert LA-21-13, Publicizing Request for Lease Proposals (RLPS) and Presolicitation Notices on the System for Award Management (SAM.gov) for a sample notification template. Regardless of the Lease Contracting Officer’s determination, **anyone who requests an RLP, even if not surveyed, is allowed to submit an offer. If an offer is received that does not meet a stated minimum requirement, the Lease Contracting Officer may, after evaluation, determine it to be technically unacceptable and, after providing written notification to that offeror, eliminate it from the competition during the procurement.**

b. Review for New Construction Below Prospectus

Projects where there is a possibility of soliciting offers for new building construction require review and approval prior to issuing an RLP. This review process, which takes place at either the national or at the regional level, depending upon project circumstances, is required to address stakeholder concerns regarding the cost of new building construction. See Chapter 14, Lease Acquisitions Involving New Building Construction, for additional guidance regarding these reviews.

7. Historic Preservation, Floodplain, Wetlands, and National Environmental Policy Act (NEPA) Compliance Checks

Properties responding to presolicitation notices and market survey information must be reviewed for compliance with historic preservation, floodplains and wetlands, and National Environmental Policy Act (NEPA). To the extent practicable, project teams should perform these reviews using the G-REX Lease Due Diligence module, as described throughout this section. This module assists in the communication of documentation already uploaded in G-REX from the Lease File Checklist, building information entered in the Manage Buildings related action, as well as additional information about potential construction or alteration of a building that is required for these compliance checks. See the G-REX Resources page on the Office of Leasing Google site for further details on using the module.

The following is a summary of the referenced guidelines.

Historic Preservation Compliance Check

This step describes the necessary documentation for historic preservation compliance. For further guidance, consult Lease Acquisition Circular (LAC) 2014-06, Lease Requirements for Protection of Environmental, Archaeological, and Historic Resources. Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, requires Federal agencies to consider the effects of their actions, including real estate actions such as leasing, design, and construction, on historic properties before expending any federal funds on the undertaking. Full regulations governing the Section 106 consultation process are available at 36 CFR part 800. Lease Contracting Officers may direct offerors that have questions regarding the consultation process to the Advisory Council on Historic Preservation's *Citizen's Guide to Section 106 Review*, which is available at <https://www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf>.

The Section 106 process consists of four steps; initiation, identification, assessment, and resolution where the Area of Potential Effects (APE) could be affected by the leasing action. GSA's Regional Historic Preservation Officer (RHPO) is responsible for coordinating the consultation process.

In the case of leasing actions, potentially affected historic properties could include resources both above grade (buildings and historic districts) and below grade (archeological sites). Any leasing action that involves ground disturbance, whether new construction, an alteration to an existing leased building for an addition or other ground disturbing activity involving excavation, has the potential to affect below-grade historic properties.

Looking Ahead – RLP Preparation

Leasing Specialists should consult with RHPOs, along with regional NEPA specialists/program managers, when developing the RLP to ensure those paragraphs concerning historic preservation and environmental compliance are included, if required.

The Section 106 consultation must be completed before the due date for final proposal revision so that offerors can consider the associated costs of mitigation, if any, in their proposals. The Section 106 consultation steps of initiation, identification, assessment, and resolution are the sole responsibility of the Government. RHPOs conduct the Section 106 consultation and prepare the



Part 2: Market Survey Process

7. Historic Preservation, Floodplain, Wetlands, and National Environmental Policy Act (NEPA) Compliance Checks

appropriate compliance documentation for the lease contract file. Leasing Specialists and Lease Contracting Officers must be aware of these Section 106 requirements and are ultimately responsible for documenting Section 106 compliance in the lease file. The offeror's pre-award responsibility regarding Section 106 is limited to providing access to the property for GSA staff and contractors, providing information about the property when requested and addressing any design issues or other mitigation measures noted during the consultation process.

The Section 106 consultation process also requires the input of parties other than the Offeror and the Government. These parties are referred to as consulting parties and include the appropriate State Historic Preservation Officer (SHPO), the Tribal Historic Preservation Officer (THPO), if applicable, any local Historic Preservation Commission or Landmarks Commission, and other interested parties, if applicable. Any party that assumes responsibilities under a memorandum of agreement must be a consulting party. Direct correspondence with the consulting parties is the sole responsibility of the Government. Within GSA, the RHPO is the agency official solely responsible for corresponding with the consulting parties.

If the planned leasing action for an offered property results in adverse effects that will require mitigation, as memorialized in an MOA or other official correspondence, implementing the mitigation measures becomes a post-award responsibility of the Lessor. The RHPO, in consultation with the SHPO and other interested parties, is responsible for identifying measures to mitigate adverse effects, **and the Leasing Specialist must incorporate the agreed-upon mitigation measures into the lease**. For example, if construction will unavoidably disturb an archeological site determined to be historic, mitigation typically will include data recovery. In this case, identifying the archeological site and assessing the possible effects on the site from the proposed construction would occur pre-award and would be the responsibility of the Government. Following lease award, an archeologist retained by the Lessor would fully excavate the archeological site, and the Lessor would be responsible for recovering all of the artifacts (data) contained therein. Any archeologist conducting the work will be required to meet or exceed the Secretary of the Interior's Archeology and Historic Preservation Professional Qualifications Standards and the reports produced by the archeologist must be reviewed and accepted by the RHPO before their submission to the SHPO and any other consulting party. Within GSA, the RHPO is solely responsible for corresponding with the SHPO and any other consulting party.

If the Government determines that post-occupancy alterations, either interior or exterior, or new construction could affect historic properties, the Lessor will be required to retain, at its sole cost and expense, the services of a preservation architect who meets or exceeds the Secretary of the Interior's Professional Qualifications Standards for Historic Architecture, as amended and annotated and previously published in the Code of Federal Regulations, 36 CFR part 61, and the GSA Qualifications Standards for Preservation Architects. These standards are available at: <https://www.gsa.gov/real-estate/historic-preservation> > Project Management Tools > Qualification Requirements for Preservation Architects.

The Lessor's preservation architect will be responsible for developing preservation design solutions and project documentation required for review by the Government, the SHPO, the THPO, as applicable, and other consulting parties in accordance with Section 106. For tenant improvements and other tenant-driven alterations within an existing historic building, the Lessor's preservation architect must develop context-sensitive design options consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Where new construction or exterior alterations, or both, are located within a historic district, may be visible from historic properties, or may affect archeological resources, compliance may require tailoring

the design of the improvements to be compatible with the surrounding area. Design review may require multiple revised submissions, depending on the complexity of the project and potential for adverse effects to historic properties, to respond to comments from the Government and the other consulting parties. Within GSA, the RHPO is solely responsible for corresponding with the SHPO and any other consulting party.

Using the G-REX Due Diligence Module for Historic Preservation Compliance Check

Project teams shall utilize the following three phases of the G-REX Lease Due Diligence module to perform the Historic Preservation Compliance check:

- Phase 2 – Market Outreach/Offer Evaluation
 - RHPO advises on potential historic building/districts and ground disturbance and can provide comments per building
 - Documentation filed in Tab 2
- Phase 3 – Apparent Successful Building
 - RHPO documents EO 13006, NHPA Determination, and the 106 Compliance Decision
 - Documentation filed in Tab 2 and copied to Tab 6 (See Part 5.3.a of this chapter)
- Phase 4 – Post Award (if applicable)
 - RHPO documents any changes to the 106 Compliance Decision
 - Documentation is filed in Tab 2 and copied to Tab 6 (See Part 5.3.a of this chapter)

Floodplain Check

This step describes the necessary documentation for the floodplain check. The purpose of this check is to first determine whether any part of the delineated area falls within a floodplain. Later on, GSA will verify that specific properties offered are compliant with GSA's floodplain policy.

Executive Order 11988, "Floodplain Management," establishes the Federal flood insurance program and directs Federal agencies to avoid leasing space in buildings located within floodplains unless it is determined that there is no practicable alternative. The Leasing Specialist must identify potential floodplain impacts for projects, identify alternatives that avoid floodplains, and coordinate compliance with the National Environmental Policy Act (NEPA) process. Executive Order 13690, "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input," originally issued in 2015, revoked in 2017, and later reinstated in 2021, amended Executive Order 11988. GSA is updating its Floodplain Management Desk Guide, in accordance with Executive Order 13690 and associated federal implementing guidelines. GSA's existing floodplain process will remain in effect until the updated Desk Guide is issued.

Floodplains

Floodplains are categorized as being either a 1-percent-annual-chance flood (100-year) or 0.2-percent-annual-chance flood (500-year)³, depending on the risk that they may flood in any given year. For most leasing transactions, the prohibited risk level is the 100-year floodplain. However,

³ While this chapter refers to 100-year and 500-year floodplains, the terminology used by FEMA is "1-percent-annual-chance flood and 0.2-percent-annual-change flood," respectively.

Part 2: Market Survey Process

7. Historic Preservation, Floodplain, Wetlands, and National Environmental Policy Act (NEPA) Compliance Checks

both 100-year and 500-year floodplains are prohibited for “critical actions,” defined under Executive Order 11988, Floodplain Management, as any activity for which even a slight chance of flooding would be too great a risk. Examples of such critical actions include:

- Irreplaceable records storage facilities
- Medical facilities
- Childcare facilities.

The customer agency is responsible for making the determination as to whether its occupancy constitutes a critical action. Since critical actions require a more stringent floodplain standard, it is very important to obtain a critical action determination from the customer agency whenever the delineated area includes properties within the 500-year floodplain.

If space is leased for a “critical” Government function such as records storage, medical facilities, or childcare facilities as referenced above and others listed in the *Floodplain Management Desk Guide*, the Leasing Specialist should consult that guide for instructions.

When new space is offered in an existing building in GSA’s inventory, Leasing Specialists must never assume a floodplain check was completed but should instead request a floodplain check.

Where there is no practicable alternative to a site in a floodplain, a specific four-step process identified in the [PBS Desk Guide for Floodplain Management](#) must be followed to comply with the Executive order. Note that this process applies to all projects in a 100-year floodplain and all critical actions in the 500-year floodplain. It is not necessary for non-critical actions within the 500-year floodplain. The Regional Administrator makes the determination that no practicable alternative exists. Leasing Specialists must work closely with the Regional NEPA Program Manager and Regional Counsel in these situations to justify why there is no practicable alternative to locating the action in or affecting the floodplain (explaining the alternatives explored and dismissed, and the reasons). Refer to [GSA Order 1095.8 PBS Floodplain Management](#).

In addition, the Federal Emergency Management Agency (FEMA) maintains a list of Flood Insurance Rate Maps (FIRMs) that show floodplain locations and hazard insurance data. If no FIRM exists, Leasing Specialists must consult with the Regional NEPA Program Manager or the regional NEPA Specialist to research whether flood hazard studies occurred in the area and to identify the floodplain boundaries. These additional sources can be used to make a floodplain determination:

- FEMA Flood Map Service Center
- Multi Asset Planning (MAP) App: The Multi Asset Planning (MAP) App is an easy-to-use platform that allows users to visualize geographic data and perform basic spatial analyses, combining information about the PBS inventory with third party data such as FEMA flood plains, transit station locations, seismic zones, and location sustainability. GSA users can access the MAP App on Insite, under PBS Office of Design and Construction>Office of the Chief Architect>Urban Development>GIS Map Tools.

Using the G-REX Due Diligence Module for Floodplain Check

Project teams shall utilize the following four phases of the G-REX Lease Due Diligence module to perform the Floodplain check:

- Phase 1 – Requirements Development
 - NEPA specialist/program manager provides floodplain consultation in Tab 1
- Phase 2 – Market Outreach/Offer Evaluation
 - NEPA specialist/program manager advises floodplain status per building and uploads floodplain check per building in Tab 2*
- Phase 3 – Apparent Successful Building
 - NEPA specialist/program manager reconfirms floodplain status, along with any NEPA Compliance document (see below), uploading any revised documents that are filed in Tab 2 and copied to Tab 6
- Phase 4 – Post Award (if applicable)
 - NEPA specialist/program manager reviews and provides comments when requested by the Leasing Specialist

Wetlands

Executive Order 11990, "Protection Of Wetlands," directs GSA and other agencies to minimize the destruction, loss, or degradation of wetlands. Avoid leasing actions that could result in a discharge into a wetland (e.g., placement of dirt or debris from a renovation project in a wetland).

Wetlands are areas that are inundated by surface or groundwater with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river outflows, mud flats, and natural ponds. Wetlands are often associated with floodplains but may also occur in other situations. For instance, a wetland may be formed and maintained by a high water table in areas with shallow depressions in the topography.

Wetlands may be identified from maps in the U.S. Fish & Wildlife Service's National Wetlands Inventory or by contracting for a survey.

When both Executive Orders 11988 and 11990 would apply—for example, if an action overlaps floodplains and wetlands, such as in coastal areas where most wetlands are located in floodplains—both orders should be followed, but the more detailed floodplains order takes precedence if there appears to be any conflict or question about execution of the orders.

Wetlands reviews are typically performed as part of the NEPA compliance discussed below.

NEPA Compliance

NEPA requires an assessment of the environmental impact of every proposed Federal action that could affect the environment. This chapter and Chapter 18, Sustainability and Environmental Considerations, provide guidance on assessing the environmental impacts of potential leases. Leasing Specialists are highly encouraged to consult with the Regional NEPA program manager to determine which regional best practices are most appropriate for meeting NEPA requirements for new leases. Regional NEPA program managers and regional NEPA specialists determine the appropriate level of environmental analysis for a proposed action and prepare the NEPA compliance documentation for the lease contract file. Leasing Specialists and Lease Contracting

Part 2: Market Survey Process

7. Historic Preservation, Floodplain, Wetlands, and National Environmental Policy Act (NEPA) Compliance Checks

Officers must be aware of these NEPA requirements and are ultimately responsible for documenting NEPA compliance in the lease file.

NEPA compliance must be completed before issuing a lease award. Leasing Specialists must initiate conversations with Regional NEPA Managers early in the leasing process before the opportunity to consider alternatives has been overtaken by the urgency of a lease requirement. If the lease involves above- or below-ground historic resources, the RHPO should be contacted as well. Please note, however, that compliance with the Cultural Resources component of NEPA does not constitute compliance with Section 106 of the NHPA (see above). Most GSA leases either acquire space in an existing building which does not change the type or intensity of use, or are lease extensions, renewals, and succeeding leases. These usually require a Categorical Exclusion, which consists of either -

- 1) An “automatic” categorical exclusion (CATEX), meaning a type of action that experience has shown never poses a significant impact on the quality of the human environment; or
- 2) A “checklist” CATEX, meaning a type of action that requires completion of a checklist to ascertain that extraordinary circumstances do not exist.

The Council on Environmental Quality guidelines, at 40 CFR 1508.4, support a categorical exclusion for most leases. The guidelines define a categorical exclusion to encompass actions that “do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency...and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.”

The environmental impact review is addressed in greater detail in Chapter 18 of this Desk Guide. Leasing Specialists should also familiarize themselves with the latest version of the [PBS NEPA Desk Guide](#) and consult their regional NEPA program manager or NEPA specialist for assistance and more complete direction.

The Lease Contracting Officer must document this CATEX step in the lease file in accordance with the checklist items, recognizing that this requirement may not be resolved in some projects until after offers have been received and evaluated. If an automatic CATEX applies, document the file with GSA Form 4002, Automatic Categorical Exclusion, NEPA Memo to File, available on the Office of Leasing Google site or in the G-REX template library.

Note that, in accordance with section 2.16.4.A (Additional Services Outside of PBS Fee, Environmental Studies) of the PBS Pricing Desk Guide (5th edition, revised November 16, 2019), environmental studies related to NEPA, such as an EA or EIS, for projects in leased facilities are funded by the client agency through a reimbursable work authorization (RWA). Moreover, the section regarding National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) in Chapter 14 (Lease Acquisitions Involving New Building Construction) of this Leasing Desk Guide (revised August 30, 2018) reiterates that the client agency pays for NEPA- and NHPA-related studies, including pre-award archeological investigations and other cultural resource surveys, as necessary, with an RWA for actions in leased facilities (see page 14-32).

Using the G-REX Due Diligence Module for NEPA Compliance

Project teams shall utilize the following four phases of the G-REX Lease Due Diligence module to perform NEPA compliance:

7. Historic Preservation, Floodplain, Wetlands, and National Environmental Policy Act (NEPA) Compliance Checks ↗

- Phase 1 – Requirements Development
 - NEPA program manager/NEPA specialist provides initial advice on the appropriate level of NEPA compliance required for the procurement
- Phase 2 – Market Outreach/Offer Evaluation*
 - NEPA program manager/NEPA specialist reconfirms appropriate level of NEPA compliance based on potential buildings under consideration
- Phase 3 – Apparent Successful Building
 - NEPA program manager/NEPA specialist documents the required NEPA action and reviews the submitted NEPA Compliance document, uploading any revised documents that are filed in Tab 2 and copied to Tab 6 (note that while a regional NEPA specialist may approve an AutoCATEX, only a NEPA program manager may approve higher-level NEPA compliance documentation (e.g., CATEX checklist))
- Phase 4 – Post Award (if applicable)
 - NEPA program manager/NEPA specialist reviews and provides comments when requested by the Leasing Specialist

*Note that the module allows the Leasing Specialist to submit properties for evaluation under Phase 2 as many times as necessary. It also allows the Leasing Specialist to note which properties are either in or out of consideration, as the procurement progresses.

Part 3: Solicitation Process

1. Overview	2.3-1
2. How to Build the Request for Lease Proposals (RLP) Package	2.3-3
a. Identify Appropriate RLP and Lease Templates	2.3-3
b. Draft RLP and Lease Boilerplate	2.3-4
c. RLP Procurement Summary	2.3-7
d. Attachments to the RLP	2.3-7
e. RLP Review and Approval by Agency	2.3-8
f. RLP Review and Approval by Legal Counsel	2.3-8
g. Prospectus-Level RLP Review and Approval by the Office of Leasing	2.3-9
3. RLP Distribution	2.3-9
4. Amending the RLP Package	2.3-10
a. RLP Amendments Review and Approval by Legal Counsel	2.3-10
b. RLP Amendments Distribution	2.3-11

1. Overview

As explained in Part 1, it is critical that the acquisition plan is finalized at this stage before the RLP is issued.

The Leasing Specialist develops the RLP package tailored to the requirements of each lease procurement using the appropriate forms and paragraphs required by GSA policy. The RLP package may include (1) the RLP, which describes the criteria that the Government will use to evaluate offers; (2) the lease, which describes the Government’s space requirements; (3) an agency’s special or specific requirements; (4) a proposal to lease space, security, safety, and seismic forms; and (5) other GSA mandatory standard forms and certification requirements.

The RLP package forms the basis of the entire process of lease negotiation. It defines for the market the Government’s minimum requirements, so that the Government gets the correct type, quantity, and quality of space and services. It also includes offer forms and solicitation provisions and clauses that are required for Government contracts.

GSA uses different RLP and lease model templates, each tailored to address specific project criteria, which are sufficiently flexible to meet varying lease requirements and to promote the maximum possible competition in the real estate market. The choice of template is affected by criteria such as the following:



Part 3: Solicitation Process

1. Overview

- Anticipated dollar value of the leasing action. For example, is project at or below the Simplified threshold?
- Type of space required. Is requirement made up of primarily office space, or are we obtaining a warehouse or parking lease?
- Unique sites such as airports.

The Global templates collapse the language and logic from several models into one RLP and one lease template, allowing the Leasing Specialist/Lease Contracting Officer greater flexibility to choose among paragraphs and sub-paragraphs in addressing such project differences as:

- Extent of specificity and detail in the requirements package. Do we have a biddable set of requirements allowing us to obtain turnkey Tenant Improvement (TI) pricing?
- Expectation that we will remain at the current location and whether we want to communicate a competitive or sole source procurement.
- Design Intent Drawings (DID) delivery method
- Level of anticipated buildout.

Once the RLP package is prepared, the Leasing Specialist sends a draft to the customer agency for review and approval. If necessary, the Leasing Specialist updates the RLP package to address agency comments and resubmits it to the Lease Contracting Officer for review and approval.

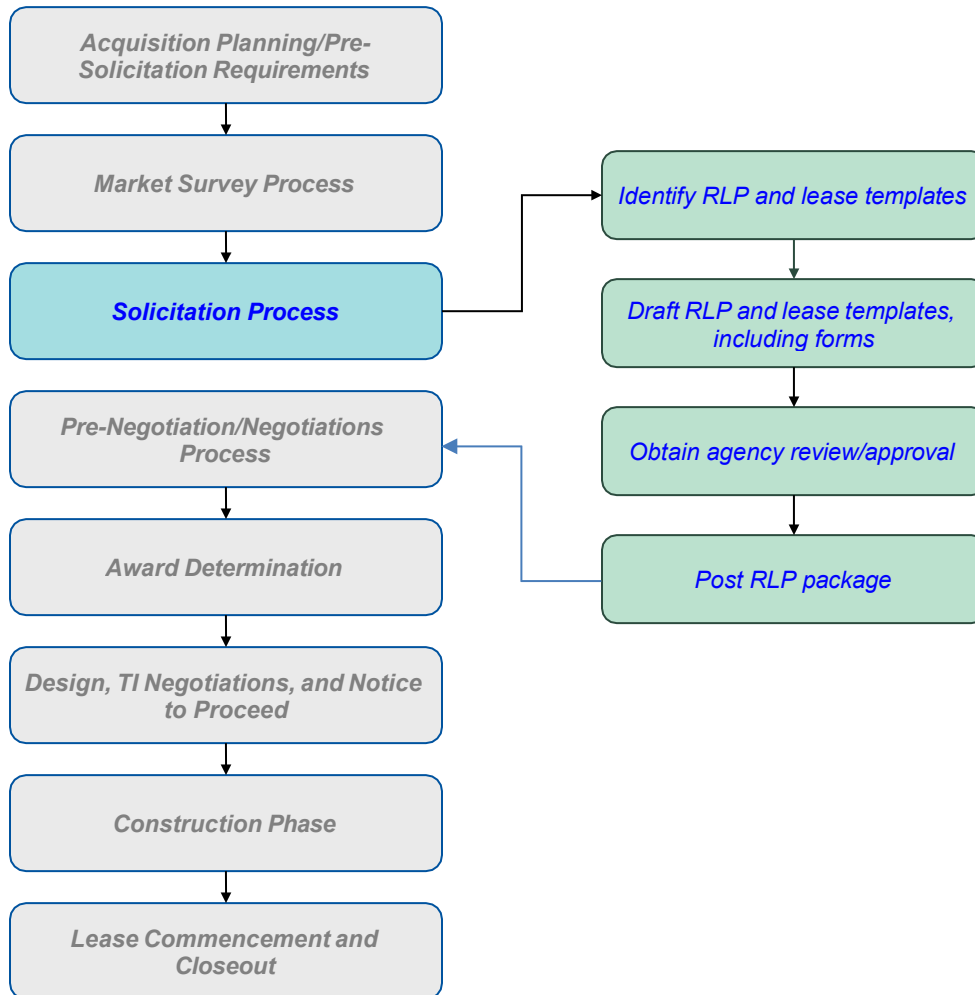
Once the Lease Contracting Officer approves the RLP package, the Leasing Specialist posts the RLP package on the Contract Opportunities domain of SAM.gov. The date for receipt of offers must comply with GSAM Part 570 requirements.

In some circumstances an RLP amendment may need to be prepared, if requirements change.

The following illustration shows the steps in the solicitation process. Each step below is linked to the section that discusses the topic.

Establishing the Offer Due Date

Except in special circumstances such as simplified acquisitions or emergency leases, the Leasing Specialist must provide offerors no less than 20 calendar days between issuing the Request for Lease Proposals and the deadline for receiving initial offers.

Solicitation Process

2. How to Build the Request for Lease Proposals (RLP) Package

The RLP and lease templates on the Office of Leasing Google site are the most current and should be the starting point for developing RLP packages for most transactions. The templates include the draft content (in printing black and/or red text), as well as hidden blue instructional text that guide the Leasing Specialist through modifying the templates for specific lease actions as needed.

a. Identify Appropriate RLP and Lease Templates

As mentioned earlier in this chapter, certain factors help the Leasing Specialist decide which RLP and lease templates to use. RLP and Lease template options include Global, SLAT, Small, On-

Airport and Warehouse. Choose the right one for the action. Depending on which templates are chosen, the Leasing Specialist confirms the requirements with the client to tailor the RLP and lease templates for the procurement. This section addresses the boilerplate RLP and lease templates; the rest of the RLP package and paragraphs are addressed later.

b. Draft RLP and Lease Boilerplate

At the core of the RLP package are two documents: the RLP and lease templates. The RLP outlines the basic space requirement and describes the offering process to interested parties. The RLP communicates when offers are due; specifies the forms, submittals, and other documentation required as part of an offer package; and describes the evaluation methodology the Government will use in making its award decision. The lease, which represents the proposed contract, more fully describes the Government's space requirements. In addition to defining the required square footage, lease term, delivery schedule, and level of services and utilities, the lease outlines minimum technical specifications and codes for the building systems, structure, and interior fit-out. Security requirements, as well as the agency's unique and special requirements are attached separately to the document. While detailed in scope, the technical specifications outlined in the RLP and lease are performance-based, not prescriptive, meaning that offerors must provide the technical solution to meet the minimum specifications. It is important to note that after award of the lease, the RLP is not included in the actual lease contract.

Consult on RLP or Lease Deviations

Consult PBS Office of Leasing prior to issuing an RLP with significant deviations from RLP or lease boilerplate template language.

Selection of Paragraphs

Both the RLP and lease boilerplate templates contain a series of paragraphs, mandatory and non-mandatory, organized by sections. Following the PBS policies in the non-printing blue text instructions contained throughout the template, Leasing Specialists build the RLP and lease boilerplate by choosing the appropriate paragraphs and filling in the blanks to reflect the requirements of the procurement. Most of the information needed to fill out the RLP and lease documents are identified through the requirements development process described under Chapter 1 or as part of the acquisition planning, including:

- Area of consideration/delineated area;
- Agency normal hours of operation; and
- Above-standard or 24/7 utility usage requirements.

The blue hidden instructions in the document templates explain the protocol to follow if deleting or modifying paragraphs. Individual revisions or the addition of paragraphs and region-specific paragraphs should be reviewed by the Office of Regional Counsel for consistency and legal sufficiency before inclusion.

Randolph-Sheppard

The Randolph-Sheppard Act (RSA) provides blind persons with employment and self-support through the operation of vending facilities on federal and other property. The program, enacted into law in 1936, was intended to enhance employment opportunities for trained, licensed blind

persons to operate vending facilities, and to ensure that individuals who are blind are given priority in the operation of vending facilities on federal property, including cafeterias, snack bars, and automatic vending machines.

For leases where there is not already a food facility elsewhere in the building that would be in substantial direct competition with any potential RSA vending facility; and, where the requirement involves either 100 or more occupants and at least 15,000 rentable square feet of space, GSA must offer a minimum of 250 ABOA square feet to the State Licensing Agency(SLA) to be used for such vending/concessions facilities. Leasing Specialists should contact their regional Concessions group for the exact amount of space to be set aside for each lease procurement.

Note that, regardless of the number of Federal employees to be housed in the facility or the amount of space to be acquired, GSA must provide written notice to the SLA, either by certified or registered mail with return receipt, or by email, and must provide this notice as early as practicable during RLP development but no later than 60 calendar days prior to the estimated issuance date of the RLP. The SLA must acknowledge receipt of such written notice in writing promptly to GSA within 30 calendar days and must indicate at that time whether it is interested in establishing a vending facility. If the SLA does not notify GSA within this 30 day period, GSA will assume a lack of interest by the SLA and proceed with its lease project without vending requirements. The consideration of any extension request beyond this 30 day period will be at the sole discretion of the Lease Contracting Officer.

GSA must include the following five key elements in the notice to the SLA:

- Address or delineated area of proposed location
- Tenant agencies and number of Federal employees to be served
- Amount of space to be occupied by tenants
- Office hours
- Estimated occupancy date.

Labor Standards

When a project includes new building construction, whether planned Lease Construction, Market Driven Construction, a Spec Building undergoing construction, or the complete rehabilitation or reconstruction of an existing building, and the Government will be the sole or predominant tenant of the facility such that any other use of the building will be functionally or quantitatively incidental to the Government's use and occupancy, then various FAR clauses implementing the Davis-Bacon Act of 1931 apply. These include, but are not limited to, FAR 52.222-6, "Davis-Bacon Act," and 52.222-13, "Compliance with Davis-Bacon and Related Act Regulations." When the delivery schedule is long enough to permit satisfying the space requirements through construction of a building, Lease Contracting Officers must include the Labor Standards paragraph in the lease.

The Davis-Bacon Act governs "wage determination," defined as wage rates and fringe benefits rates for each classification of laborers and mechanics prevailing in a given area to be paid under Federal contracts. The wage determination list requires contractors or their subcontractors to pay on-site workers no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Department of Labor issues wage determinations that establish these



locally prevailing wages and benefits. The Davis-Bacon requirements apply to both base building and tenant buildout work.

If the lease contains the Labor Standards paragraph, Lease Contracting Officers must obtain a Department of Labor wage determination for the applicable geographical area and attach a copy to the RLP package. Wage determinations are available from the Wage Determinations domain on the SAM.gov web site.

If GSA Receives No Offers Subject to the Davis Bacon Act

In some cases, GSA might not receive any offers for new building construction or complete rehabilitation by the due date for initial offers. If the Lease Contracting Officer used the standard language in GSA Form 3516 from GSAR 552.270-1(c)(2)(i) stating that the Government will not consider offers **received after the due date for initial offers**, the Labor Standards paragraph should be deleted from the lease. In this situation, GSA is not required to update the wage determinations. However, in such situations, if the GSA Form 3516 contains the alternate language from 552.270-1(c)(2)(i) that allows the Government to consider offers received up to the due date for final proposal revisions, GSA must keep the Labor Standards paragraph in the draft lease and continue to update the wage determinations. This should be rare, however, and the Lease Contracting Officer should only use the GSAR alternate language after consultation with regional counsel.

Later Changes to Wage Determination

If a change occurs to the wage determination after the receipt of final proposal revisions but before lease award, GSA is required to reopen negotiations to allow the offeror to revise its price.

With respect to changes to the wage determination after lease award, the Civilian Board of Contract Appeals has held that modifications to the wage rates are not required to be implemented into existing contracts post-award except where a mistake has been made, such as not incorporating one at all, or inserting the wrong determination.

“Labor Standards” in the General Clauses

The paragraph for Labor Standards relating to the Davis-Bacon Act is in addition to, and should not be confused with, the separate “Labor Standards” section in the General Clauses, GSA Form 3517B. That section of the General Clauses incorporates requirements for equal opportunity/affirmative action employment, prohibition of segregated facilities, post-award representations of small business status, equal opportunity for veterans, affirmative action for disabled workers, and veteran employment reporting requirements. The Department of Labor is responsible for enforcing these provisions.

Move and Replication Costs

As discussed previously in this chapter, the Lease Contracting Officer may elect to include move and replication costs as part of the Present Value Analysis (PVA) evaluation of offers. In such an instance, the RLP paragraph “Present Value Price Evaluation” must include the sub-paragraph that discloses this evaluation to potential offerors; however, the RLP should not disclose the actual estimates themselves, as these are considered pre-decisional and procurement sensitive information.

Other Considerations

The Lease Contracting Officer must also include other RLP and lease paragraphs and subparagraphs that are situationally mandated. These may include NEPA compliance, NHPA compliance, and Guiding Principles and other sustainability requirements. As stated earlier, Leasing Specialists and Lease Contracting Officers should follow the hidden blue instructional text contained within the templates for further guidance.

c. RLP Procurement Summary

The RLP Procurement Summary provides the market a clear, concise, and immediate understanding of the requirements of the Government. The summary was developed in response to leasing industry forums and requests that GSA provide a “snapshot” view of what and when the Government was seeking space. The summary provides the critical information to a potential offeror “at a glance” and negates the need for reading multiple pages within the RLP package to determine if they can meet the requirements of the procurement. The summary has all of the key elements listed in an easy-to-read grid, such as square footage, delineated area, parking requirements and term of the lease (firm and non-firm term). The summary also lists the offer due date and the occupancy date, important dates for the market to see and know at this stage.

The RLP Procurement Summary must be included with every RLP package. Leasing Specialists must use the macro contained in the Combined Presolicitation Notice and RLP Summary Template to generate the RLP Procurement Summary (see the Office of Leasing Google site, Lease Forms tab or G-REX template library for the template).

d. Attachments to the RLP

The Leasing Specialist must attach other important documentation to the RLP and lease documents in order to complete the RLP package. These can include additional specifications describing the agency’s special and Interagency Security Committee (ISC) security requirements, and additional clauses, provisions, and offer forms.

Selection of Forms

Leasing Specialists must use the clauses and provisions on the appropriate version of the GSA Forms 3516 and 3517.

- *Solicitation Provisions.* The Solicitation Provisions (GSA Form 3516) outline the basic ground rules for all lease procurement actions. Key definitions and instructional information are found here covering such topics as late proposals, parties authorized to execute leases, protests, and floodplains.
- *General Clauses (Acquisition of Leasehold Interests in Real Property).* The General Clauses (GSA Form 3517B) govern the lease in the post-award and post-occupancy environment. The clauses within this document include the following categories: General, Performance, Inspection, Payment, Standards of Conduct, Adjustments, Audits, Disputes, Labor Standards, and Subcontracting. **It is important to remember that certain clauses are required by law and regulation and cannot be modified or deleted.** For clauses that may be modified, the Lease Contracting Officer should only do so when appropriate and advantageous to the Government; the Lease Contracting Officer must also ascertain whether the proposed deviation imposes unacceptable risk to the Government. Any proposed modification must be reviewed and approved by the Office of Regional Counsel before approval by the Lease



Contracting Officer. All approved modifications must be provided to all offerors in an amendment.

- **Offer forms.** The Leasing Specialist must include all the forms to be filled out and returned by the offerors by the due date outlined in the RLP boilerplate. These forms include:
 - GSA Form 1364, Proposal to Lease Space;
 - GSA Form 1217, Lessor's Annual Cost Statement, with instructions;
 - GSA Form 12000, Prelease Fire Protection and Life Safety Evaluation;
 - Seismic forms A through F, if applicable;
 - Department of Labor Wage Determinations, if applicable;
 - Broker Commission Agreement, if applicable;
 - FAR 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment; and
 - GSAR 55.270-33, Foreign Ownership and Financing Representation for High-Security Leased Space, if applicable.

e. RLP Review and Approval by Agency

Before posting the RLP package, the Leasing Specialist must forward the draft RLP package (including the lease, special, and security requirements) to the requesting agency for approval. The Leasing Specialist should indicate a deadline for agency response, allowing adequate time for a thorough review. The Leasing Specialist will incorporate appropriate changes into the final version of the RLP package. If the Leasing Specialist does not receive timely comments or approval from the agency, the Lease Contracting Officer may decide to post the RLP and address changes by an amendment if necessary.

f. RLP Review and Approval by Legal Counsel

As outlined under GSA Order ADM 5000.4B, the Lease Contracting Officer must obtain pre-issuance legal review of RLP packages where prior legal review of the Acquisition Plan and/or Source Selection Plan is required:

- Actions with an aggregate value of \$20 million or more
- Actions utilizing Best Value Trade-Off source selection above SLAT
- Prospectus-level projects.

See Paragraph 4 below for the requirements for legal review of RLP amendments.

g. Prospectus-Level RLP Review and Approval by the Office of Leasing

For prospectus-level projects, the Lease Contracting Officer must receive advanced concurrence from the Office of Leasing, to ensure compliance with the prospectus and to ensure the RLP does not unduly restrict competition. See Leasing Desk Guide Chapter 11, Prospectus-Level Leases, for additional guidance.

3. RLP Distribution

Once the RLP for a competitive procurement has been finalized and approved by the Lease Contracting Officer, the Leasing Specialist must post the RLP package, including forms, along with the RLP Procurement Summary, on the Contract Opportunities domain of SAM.gov (or subsequent GPE). If a presolicitation notice was posted, create a new opportunity and link it to the prior presolicitation notice. The Lease Contracting Officer has ultimate responsibility to verify and validate the RLP before it is released. The RLP must specify the name of the Lease Contracting Officer. GSAM 570.106 states that “[e]xcept as otherwise provided in paragraph (b) of this section and as set forth in paragraphs (g) and (h) of this section, the contracting officer must provide offerors not less than 20 calendar days between solicitation issuance and the date established for receipt of initial offers.”

Immediately after the RLP is posted, the Leasing Specialist must notify everyone whose building was deemed “acceptable” during the market survey tour. In addition, notification must also be sent to the incumbent lessor, even if the current location is incapable of meeting current requirements. See Leasing Alert LA-21-13, Publicizing Request for Lease Proposals (RLPS) and Presolicitation Notices on the System for Award Management (SAM.gov) for a sample notification template. Upload documentation of the RLP posting and the notifications to G-REX under Tab 3, Solicitation Phase. Also upload copies of correspondence sent to project stakeholders (e.g., agency representative, Lease Administration Manager, Federal Protective Service) forwarding a copy of the RLP or a link to the SAM.gov posting.

Enabling Receipt of RSAP Offers in G-REX

If using RSAP, the Leasing Specialist must check the “Electronic Offers Accepted” button when setting the Lease Acquisition Strategy in G-REX and copy and paste the Solicitation (RLP) number exactly as it was entered into SAM.gov to allow RSAP offers to be received in G-REX.

Controlled, Unclassified Information (CUI) or Other Sensitive Technical Requirements

Federal SAM.gov users must restrict/control access to RLP attachments containing CUI (e.g., technical drawings or blueprints containing CUI) or other sensitive technical requirements (e.g., security specifications for law enforcement agencies) by using the toggle in the attachments section of the application. The Lease Contracting Officer or his/her designee will receive an email notification when an access request from a vendor (prospective offeror) is pending. The Lease Contracting Officer or his/her designee is responsible for authenticating that request and approving access to the CUI/sensitive attachment within the SAM.gov application. Alternatively, in lieu of uploading and locking access to the sensitive attachment in SAM.gov, the Lease



Contracting Officer may instead decide to post a generic attachment notifying prospective offerors to contact the Lease Contracting Officer or his/her designee to obtain the attachment containing the CUI/sensitive information; upon receipt of such request and authenticating the requestor's business need to know, the Lease Contracting Officer or his/her designee would then send the attachment separately. Note that this alternative distribution method applies only to the attachment containing CUI/sensitive information and not the RLP package itself. See Leasing Alert LA-21-13, Publicizing Request for Lease Proposals (RLPS) and Presolicitation Notices on the System for Award Management (SAM.gov) for a sample template. Follow the guidance under GSA Order 3490.3 PBS CHGE 1 Security for Sensitive Building Information Related to Federal Buildings, Grounds, or Property, or subsequent issuances, for protocols related to CUI information.

4. Amending the RLP Package

Any addition, alteration, or deletion of information contained in an RLP package after it is released to the market is accomplished through a written amendment. Leasing Specialists should strive to prepare a careful and thorough RLP package, so that amendments are the exception, rather than the rule.

An amendment must:

- be signed by the Lease Contracting Officer
- reference the RLP number;
- be consecutively numbered;
- list the city and state; and
- bear receipt acknowledgment by the recipient.

When amending the RLP, the Leasing Specialist must take care to ascertain and identify which portion of the RLP package is being changed, since the RLP package includes not only the RLP template, but the proposed lease document and other attachments. For example, an RLP amendment that extends the offer due date changes the terms listed in the RLP portion of the package, since it affects only the solicitation process, which ends upon lease award. On the other hand, an RLP amendment to insert additional janitorial services reflects a change to the lease portion of the package, since this affects the future leasehold obligations of the parties. While an RLP amendment can modify the terms of the proposed lease, it is not a lease amendment, which reflects post-award changes to the executed lease contract.

Please note that a material change in requirements may require more than an amendment. A new presolicitation notice or a cancellation of the solicitation may be required.

a. RLP Amendments Review and Approval by Legal Counsel

Pre-issuance Legal review is required of all RLP amendments under the following circumstances:

- The underlying RLP was not subject to legal review and the content of the proposed amendment, if included in the original RLP, would have resulted in pre-issuance legal review.
- RLP amendments proposing to cancel a procurement above SLAT.
- RLP amendments where the underlying RLP was the subject of pre-issuance legal review and the proposed amendment:
 - Would be issued following the receipt of final proposal revisions (best and final offers);
 - Would make changes to minimum requirements of the RLP, including the addition of scope; or
 - Would make other changes to the RLP having a substantive impact on the competition, including the addition or deletion of, or changes to, evaluation factors or the basis for award.
- RLP amendment resulting from a GAO protest ruling or from corrective action taken by the Agency.

b. RLP Amendments Distribution

Amendments to the RLP made prior to the receipt of proposals must also be posted on SAM.gov, so that all potential offers have the same information. The same is true for clarifications or other materials issued as a result of a preproposal conference (example, written Q&As).

Amendments made after receipt of initial proposals do not have to be posted on SAM.gov and may instead be issued only to those offerors who submitted a proposal, unless it reflects a cardinal change such that an offeror that otherwise did not submit a proposal can now do so. Amendments reflecting a cardinal change must be posted on SAM.gov; it is recommended that the Leasing Specialist notify those who were notified of the original RLP's posting of the posting of a cardinal change amendment. Amendments must include instructions for offerors to sign and acknowledge receipt and return the signed amendment back to the LCO or his/her designee. Once the date for offers has passed, offerors must be notified of any additional amendment postings.

Part 4: Pre-Negotiation/Negotiations Process

- 1. Overview 2.4-1
- 2. Preparations for Negotiations 2.4-3
 - a. Understanding the Goals 2.4-3
 - b. Market Knowledge 2.4-4
 - c. Setting Negotiation Objectives 2.4-5
- 3. Screening Offers Received and Subsequent Negotiations 2.4-6
 - a. Reviewing Offers 2.4-6
 - b. “Discussions” versus “Clarifications” 2.4-14
 - c. Determining Competitive Range 2.4-15
 - d. Conducting Negotiations 2.4-16
- 4. Final Proposal Revision 2.4-18

1. Overview

Offers rarely contain perfect solutions to the RLP. The goal of negotiations is to reach an agreement representing the best value to the Government, in terms of price and other factors, while allowing a reasonable profit for the owner. In most transactions, the Lease Contracting Officer (with assistance from the Leasing Specialist or broker contractor) negotiates with the offeror to establish a fair and reasonable price and agree on all contract terms. **As a reminder, if choosing AAAP platform, negotiations are not allowed.** Negotiations must confirm that GSA and the offeror all agree on the essential elements of the contract, and that each offer either does or does not meet all the requirements of the RLP. However, leases can be awarded based on initial offers if the RLP allows it and includes Alternate 1 to 48 CFR 552.270-1, Instructions to offerors—Acquisition of Leasehold Interests in Real Property. *This decision should normally be made during acquisition planning and must be made before issuing the RLP.*

When to Negotiate?

While GSA has the authority to award without negotiations, Lease Contracting Officers should always assess the potential risks of awarding without negotiations or discussions.

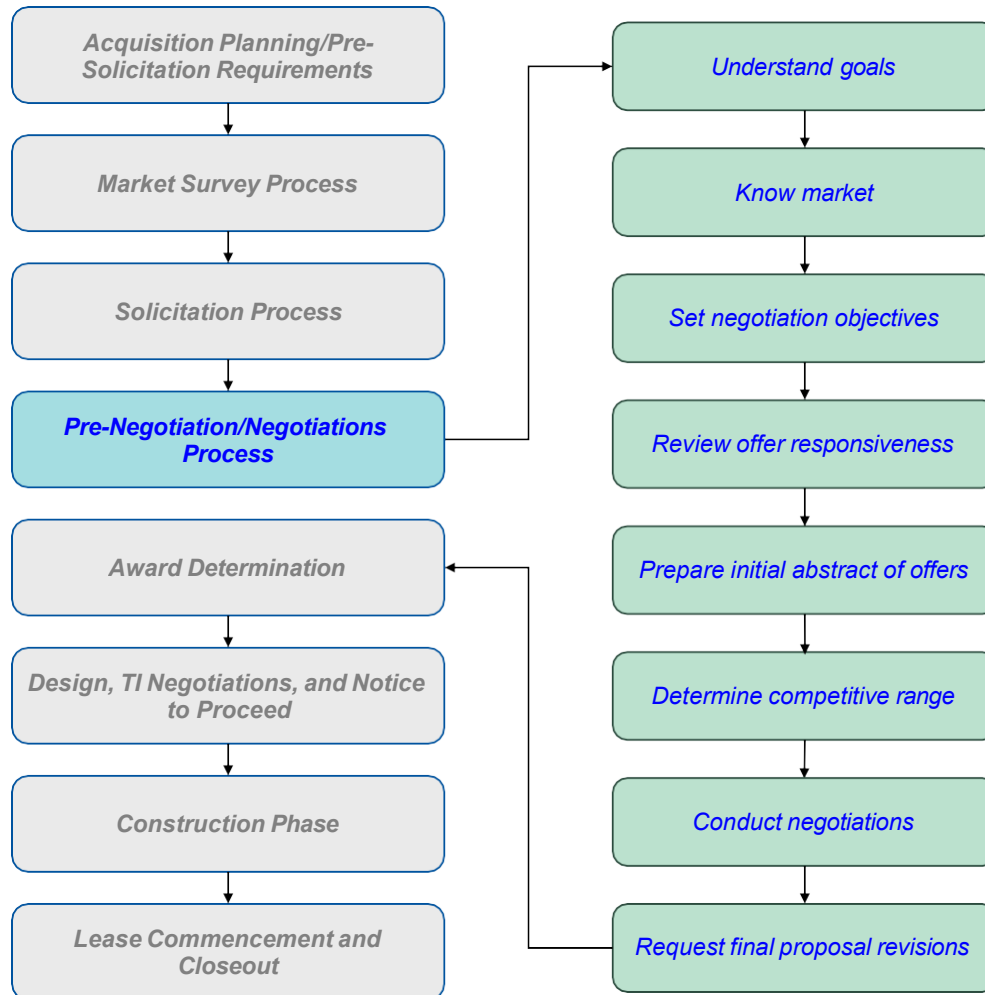
The negotiation process involves evaluating and analyzing proposals to verify that all required parts are included and assessing the offeror’s responsiveness; determining the competitive range; preparing the initial abstract of offers; notifying offerors of deficiencies; conducting direct negotiations with each offeror; compiling required documentation; requesting final proposal revisions; and determining the offeror’s responsibility.



When conducting negotiations, the roles must be clear. The Lease Contracting Officer or his/her designee is the only party authorized to negotiate with an offeror concerning the space to be leased. The competitive range is an initial baseline for judging the reasonableness of cost or price estimates. It is discussed further below in [“Screening Offers Received and Subsequent Negotiations”](#) under “Determining Competitive Range.”

Preparation is essential for successful negotiations. Before engaging offerors in negotiations, GSA must establish its initial negotiation position. Negotiation objectives (see [“Setting Negotiation Objectives”](#)) are usually targets within a price range that the Leasing Specialist expects negotiated rates to fall within, based on market research. Pre-negotiation steps include understanding the solicitation goals, knowing the market, and setting negotiation objectives.

The following illustration shows the steps in pre-negotiations and negotiations. Each step below is linked to the section that discusses the topic.

Pre-Negotiations and Negotiations Process

2. Preparations for Negotiations

a. Understanding the Goals

Depending on the procurement method stated in the RLP, proposals deemed to be technically acceptable may be evaluated on price alone, or a combination of price and technical tradeoffs using award factors, which is referred to as best value tradeoff (see “[Reviewing Final Offers](#)”). If you are conducting a best-value tradeoff procurement, consult the Desk Guide section on award factors in Chapter 13. These specific award factors must be identified in the RLP.

It is especially important to have knowledge of the following areas in preparation for negotiations:

- Market—familiarize yourself with the market survey findings and other background information.

- The requirements—strive to thoroughly understand the needs of the customer agency and other stakeholders.
- The choices—options that arise when you compare the requirements with the market. As recent trends provide increasing frequency of procurements in which Government requirements are beyond market standards (because of security, Energy Star, LEED, accessibility, or other needs) or if new construction is possible, consult with technical experts as necessary to quantify what cost impact, beyond the market range, that requirement is likely to have, and factor that into the negotiation objectives.
- The process—anticipate the upcoming steps you will need to take and be familiar with best practices for conducting negotiations.
- The goals—develop a clear understanding of the specific goals you want to achieve during negotiations. Know what you want and what you are willing to trade off to reach an agreement. Keep in mind the target and maximum prices. Set your position and hold to it. Re-familiarize yourself with the RLP package.
- The other party—know what offerors want, their needs, and what they are willing to trade off to reach an agreement.
- The strengths and weaknesses of the Government’s position—your relative bargaining position is likely to be stronger in competitive solicitations, when you can afford to take a harder line, as opposed to a sole source scenario.

b. Market Knowledge

Market research plays a central role in setting negotiation objectives by helping to identify ranges of fair and reasonable costs for the type of space desired

Leasing Specialists should request a Bullseye report through Sharepoint/Google Drive. Bullseye is an office market report with data sourced from CoStar, REIS, and CBRE. Primary data contained in the report includes full service market rents, tenant concessions (both tenant improvement concessions and free rent concessions), parking costs, and a brief submarket summary. Leasing Specialists should use this report to assist in any negotiations and make informed leasing decisions. For additional details on the Bullseye program, see Leasing Tools on the Leasing Insite Page.

In addition to information gathered during the market survey and the Bullseye Reports, Leasing Specialists can refer to the additional sources below.

- Competing offers received in response to the RLP, and documenting this comparison;
- Research commercial trade publications to become familiar with the market; consult the Building Owners and Managers Association (BOMA) for operating costs, the Means Cost

Manual for construction costs, the Society of Industrial and Office Realtors (SIOR), Reis Inc., and market reports such as those from CoStar and LoopNet;

- Current market information, including rental quotes and cost estimates obtained on the market survey and from real estate market data sources (such as CoStar or CBRE Econometric Advisors (CBRE EA)); and
- Recent GSA and/or private-sector lease contract rental rates.

Is TI in the rate?

Typically, the private sector includes some TI in the stated shell rate, so make sure to ask for the breakdown from any brokers or owners you consult. This is important because we could be leaving money on the table (the shell rate could include a TI amount).

c. Setting Negotiation Objectives

Before engaging offerors in negotiations, GSA or the broker contractor must establish its initial negotiation position. Negotiation objectives typically are rates within a range that the Leasing Specialist expects to achieve through negotiations. The defined range is based on the market research. Negotiation objectives can include other negotiated terms such as termination rights, lease term, etc. The Lease Contracting Officer's determination of a fair and reasonable price should align with these price objectives.

The Leasing Alert entitled "Bullseye Program, Negotiation Objectives, and GLS Commission Management" issued a standardized negotiation objectives template that is required to be used for all projects regardless of size or procurement type (except for AAAP leases, disaster leases, On-Airport, and Small (3626) leases) to ensure national consistency in developing negotiation objectives. Note that AAAP uses a similar template - AAAP Price Objectives and Evaluation Criteria template; the difference being there are no negotiations on AAAP projects since offerors are required to submit their final pricing at the onset. This template is also needed to ensure that GLS Commission Management is administered consistently across all regions for broker projects. The negotiation objectives template has features which should aid in its preparation and completion. First, in REIS major markets, the template automatically imports market information from REIS. Second, it allows for manual inputs intended for secondary, small markets, or for non-office space in any market. And, finally, the template streamlines the amount of time needed to complete it since many of the fields are auto-populated and calculated. Using the template, Leasing Specialists must develop negotiation objectives for the following items:

Negotiation Objectives

Objectives must be established before negotiations.

- Shell rental rate;
- TI amortization and rental rates;
- Building Specific Amortized Capital amortization and rental rates, as appropriate for the project;
- Base cost of services;
- Hourly overtime rate (paid separately via RWA);
- Offeror's TI fee schedule (for A/E services and Lessor's project management);

- Adjustment for vacant premises; and
- Parking (see note below).

On projects tasked to the broker, the broker will prepare the negotiation objectives. On in-house projects, the Leasing Specialist may prepare the negotiation objectives. Both the preparer (Leasing Specialist or broker) and the approver (Lease Contracting Officer) must sign and date the objectives.

Although the above items constitute the minimum mandatory negotiation objectives, there are additional considerations that may be important in the context of various projects, such as potential TI concessions, market escalations, free rent, and the timing and impact of tax assessments on base-year taxes.

Note: When parking is a requirement of the lease, the Leasing Specialist should include parking costs in the negotiation objectives and consider the prevailing rate for parking spaces in the market. In some markets parking spaces are generally free, while in others a cost is associated with them. When the Government is acquiring parking spaces at cost, those rates should become part of the negotiation just like any other cost of the lease. If there is a separate cost associated with the parking spaces, the best practice is to specifically identify this in the lease and associated Occupancy Agreement (OA) as a parking expense. Otherwise, the parking cost may make the shell cost appear unduly high compared with the market.

3. Screening Offers Received and Subsequent Negotiations

Negotiations are conducted on behalf of the Government by the Leasing Specialist or broker contractor. GSA negotiates the rental price for the initial term, any renewal periods, and any other aspect of the offer as deemed necessary. If GSA plans to conduct negotiations with one offeror, it must conduct negotiations with all offerors that are within the competitive range. Negotiations should be conducted prior to calling for final proposal revisions. See section 3.b. below for detailed requirements regarding negotiations.

The Leasing Specialist must keep records on all communications and documents from the initial contact with the offeror through lease award. This includes meeting notes, emails, the abstract of offers, the request for final proposal revisions, and similar documents.

a. Reviewing Offers

The Leasing Specialist must evaluate offers for completeness and technical compliance. A general assessment considers the following:

- Is the offer timely as defined in the Solicitation Provisions, GSA Form 3516?
- Is the offer complete? (Have all forms been completed?)
- Does the offer comply with the RLP package terms and conditions?

- Does the offer meet all of the Government's minimum requirements?
- Are the offerors' mathematical calculations correct?
- Does measured space meet the requirement?
- Is the offered space the same that was shown during the market survey? If not, or if space is offered for a location that was not toured during the market survey, the Leasing Specialist should perform an initial check (similar to the Phase 1 and 2 due diligence reviews used under the AAAP process) to discern whether or not the offered space meets the Government's requirements. If the space passes these reviews, then a physical inspection should take place prior to awarding a lease to that location.

Abstract of Offers

The Abstract of Offers is a requirement of the Lease File as well as a useful tool that captures the capability of each offeror and assesses their ability to meet the requirements in the RLP package. A completed abstract will highlight deficiencies and negotiation opportunities that can be addressed in follow-up communication to offerors.

The RLP *Section 3.0, How to Offer*, describes in detail offer submittal requirements. Below is also a summary of items involved in assessing offer compliance, most of which are documented on the Abstract of Offers.

Scaled Plans for Space Offered

Reviewing the scaled drawings is a critical part of the offer review to verify that space being offered meets the requirements of the RLP. The following are things to consider when reviewing the floor plans:

- The block of space offered is the same space that was toured.
- Plans are to scale and all structural elements (stairs, elevators, columns, load-bearing walls, windows, restrooms, etc.) are shown and meet ABAAS and fire safety standards.
- The space offered provides for an efficient layout and meets customer agency special requirements (layout and configuration specifications such as floor location restrictions, minimum contiguous block sizes, minimum column spacing and/or bay sizes, etc.).
- Measured floor plans confirm that the space is within RLP ABOA square footage requirements.

Conversion Matters—Quick Validation

The rates for rentable square feet (RSF) should be less than the rates for ANSI/BOMA Office Area (ABOA) square feet.

In the event that the current Lessor is offering space for the requirement, it is still important to confirm the space measurement.



GSA Form 1364, Proposal to Lease Space

GSA Form 1364 contains the rental information and other critical offer elements. In addition to verifying that all mathematical calculations and building information—including address, square footage, and parking—are correct, the following should be reviewed and evaluated:

- Rentable (RSF) and ANSI/BOMA Office Area (ABOA)⁴ square feet and common area factor are in alignment.
- Cost components are provided, such as shell, operating, tenant improvements (TI) and Building Specific Amortized Capital (BSAC).
- The TI allowance amount meets RLP requirements, and TI rental rate accurately reflects the TI amortization term and interest rate.
- The BSAC placeholder estimate amount meets RLP requirements, and the BSAC rental rate accurately reflects the BSAC amortization term and interest rate.
- Parking capacity number and cost are in compliance with the RLP.
- Lease term and termination rights are in compliance with the RLP.
- Applicable fees and other costs are provided.
- Deviations are noted and will need to be addressed.
- Compliance with technical requirements such as ABAAS, seismic safety, and Energy Star.
- The form is signed and dated by an individual having authority to bind the offeror.

RSAP

RSAP automates the creation of GSA Forms 1364 and 1217, resulting in fewer errors.

GSA Form 1217, Lessor's Annual Cost Statement

GSA Form 1217 captures an offeror's variable and fixed operating cost expenses for both the building in its entirety and the offered space. The form is primarily for the purpose of determining a fair and reasonable operating cost rate for future CPI escalations.

Lines 5 through 26 of the form identify the components of the operating cost portion of the rental rate. The total amount listed on line 27, column B, when divided by the rentable square footage, represents the Lessor's total cost to provide services and utilities to the Government's space, also reflected on GSA Form 1364. Lines 28 through 32 list ownership charges (taxes, insurance, reserves for replacement, etc.) that are not subject to CPI escalations, but are subsumed in the shell rate. This form should be thoroughly reviewed for full and fair allocation of utilities and services.

⁴ GSA currently measures leased space in accordance with the standard (Z65.1-1996) provided by American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) for Office Area, which means "the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed." GSA may adopt a more up-to-date standard in the future.



System for Award Management (SAM.gov) Registration

SAM.gov is a Federal Government owned and operated free website that consolidates multiple acquisition-related capabilities. Private sector and federal users can access SAM to:

- Register to do business with the U.S. Government
- Update, renew, or check the status of an entity registration
- Search for entity registration and exclusion records
- Search for assistance listings (formerly CFDA.gov), wage determinations (formerly WDOL.gov), contract opportunities (formerly FBO.gov), and contract data reports (formerly part of FPDS.gov).
- View and submit BioPreferred and Service Contract Reports
- Access publicly available award data via data extracts and system accounts

Future phases of SAM will add the capabilities of other systems used in Federal procurement and awards processes.

Any entity wishing to do business with the Federal Government must be registered in SAM.gov. While the FAR provision 52.204-7, System for Award Management, requires offerors to be registered in SAM at the time of offer submission, the Office of Leasing received approval from GSA's Office of Governmentwide policy to use a leasing-specific version, GSAR 552.270-35 System for Award Management-Leasing, which requires offerors to be registered in SAM at the time of award instead of at the time of offer submission. Note that while this provision allows for registration to occur up until the time of lease award, Lease Contracting Officers should encourage offerors to complete their SAM registration as early as possible in the process, especially as the offeror's completion of the SAM.gov online representations and certifications (discussed below) is tied to this registration process.

All offerors registering in SAM.gov must identify their ownership structure (corporation, partnership, etc.) and provide the corresponding Tax Identification Number (TIN). Additionally, all entities registering in SAM on or after April 4, 2022, will be assigned a unique entity identifier (UEI) that is generated automatically as part of the SAM.gov registration process.

Leasing Specialists must include in negotiations a discussion with offerors emphasizing the requirement to register in SAM.gov.

Leasing Specialists must also review the representations and certifications made by offerors in SAM.gov (for example, the small business certification may warrant a need to obtain a subcontracting plan) and document this review in the lease file. Leasing Specialists must include a copy of the SAM.gov-generated representations and certifications in the lease file.

Leasing Specialists must also use SAM.gov to confirm that offerors are not excluded from receiving federal contracts.

Robotics

Consider using the SAM "bot" to collect much of this SAM information.

Acceptable information must be for the owner of record; therefore, the Leasing Specialist must verify the validity and consistency of the information as compared with the owner of record in the offer. The Leasing Specialist must not accept without question information pertaining to a parent

company or umbrella corporation. Leasing Specialists should inform offerors that SAM.gov registration requires annual updating in order to maintain an active status for award eligibility.

SAM.gov Online Representations and Certifications

Except for disaster leases, all offerors must complete the online representations and certifications as part of their System for Award Management (SAM) entity registration process. These self-representations and certifications address socioeconomic and other statutory requirements associated with Government contracts.

Small Business Program Representations (Including HUBZone)

- Offerors represent whether they are classified as a small business concern within the threshold applicable to GSA leases in the North American Industry Classification System (NAICS) code.

Note: The NAICS code applicable to GSA leases is 531120, unless the real property is self-storage (#531130), land (#531190), or residential (#531110). The SBA further defines a small business as one (including its affiliates) organized for profit, independently owned and operated, not dominant in the commercial lease market, and that has average annual gross receipts below current NAICS thresholds for the 3 preceding fiscal years. The current threshold can be found on the SBA website.

- Offerors identified as other than small businesses are required to submit small business subcontracting plans for contracts having a gross value of \$750,000⁵ over the lease term, including renewal options (FAR 19.702). (The small business subcontracting plan requirement is discussed further below in Part 5.3.a.)
- Offerors also represent whether they are a qualified HUBZone small business concern. Unless waived by the offeror, a qualified HUBZone small business concern (SBC) is entitled to a price evaluation preference (see Part 5 of this chapter).

Covered Telecommunications Equipment or Services – SAM Representation

As stated previously, section 889(a)(1)(A) of the NDAA (“Part A”) prohibits the Federal Government from procuring or obtaining, or extending or renewing a contract to procure or obtain, covered telecommunications equipment or services, effective as of August 13, 2019. Section 889(a)(1)(B) (“Part B”) of the NDAA for FY2019 prohibits the head of an executive agency from entering into a contract (or extending or renewing a contract) with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, effective as of August 13, 2020.

Offerors registered in SAM must complete the online representation FAR 52.204-26, Covered Telecommunications Equipment or Services – Representation, as to whether the entity provides (Part A) or uses (Part B) prohibited telecommunications or video surveillance equipment or services at the *entity* level.

⁵ This amount reflects threshold effective October 1, 2020 and is subject to adjustment every five years; check FAR 19.702 for current threshold.

If an offeror responds “does not provide” AND “does not use” to both parts of the SAM online FAR 52.204-26 representation at the *entity* level, the offeror does not need to complete the *contract-level* FAR 52.204-24 representation issued with the RLP (see below for “Representations Completed outside of SAM”). However, if the offeror responds either “does provide” OR “does use” to either of these representations in SAM, then the offeror must complete the paper FAR 52.204-24 representation that was included with the RLP package.

Representations and Certifications Completed Outside of SAM

FAR 52.204-24 - Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment

As discussed above, an offeror’s completion of the “paper” representation, FAR 52.204-24, is dependent upon its entity-level response to the online SAM representation 52.204-26. FAR 52.204-24 only needs to be completed by the offer if he/she responds affirmative to either of the two representations under the SAM online representation FAR 52.204-26.

If the apparent successful offeror responds affirmatively under either of the two representations under FAR 52.204-24, then the Lease Contracting Officer must contact the GSA IT Service Desk to report a Cyber-Supply Chain Event. The GSA IT Service Desk will help route the information to the Supply Chain Risk Management (SCRM) Review Board or to the responsible group, to determine whether awarding to this offeror would result in a violation. If The Lease Contracting Officer determines that award to this offeror would result in a violation, then the Lease Contracting Officer must determine that the offeror is ineligible for award and proceed to the next offeror. Repeat until an eligible offeror is identified. If no eligible offerors remain, then consider steps to increase the competitive pool (e.g., changing requirements, expanding the delineated area, etc.).

Secure Federal LEASEs Act Compliance

On December 31, 2020, Congress enacted the Secure Federal Leases from Espionage And Suspicious Entanglements Act, (Pub. L. 116-276, 134 Stat. 3362), otherwise referred to as the Secure Federal LEASEs Act, to address concerns raised in Government Accountability Office (GAO) Report Number GAO-17-195 entitled, “FEDERAL REAL PROPERTY - GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners.” This report examined GSA’s leasing of high-security space from foreign owners and identified risks posed by this ownership. Based on its finding, GAO recommended that GSA determine whether the beneficial owner of high-security leased space is a foreign entity and, if so, share that information with the tenant agency.

Section 3 requires that, before the Government may enter into a lease agreement or novation with an entity for high-security leased space (defined as FSL III, IV or V), offerors must disclose whether the immediate or highest-level owner of the leased space, including an entity involved in the financing thereof, is a foreign person or entity, including the country associated with the ownership entity. Section 3 also requires annual updates to this disclosure.

As a result, RLPs seeking space that is FSL III or higher must include GSAR representation 552.270-33, Foreign Ownership and Financing Representation for High-Security Leased Space, which requires offerors for high-security leased space to identify whether the immediate owner, highest-level owner, and any entity involved in the financing of the lease is foreign-owned. In the event the offeror is awarded the lease, this clause also requires the successful offeror (now lessor) to re-represent this on an annual basis. The completed representation must be included in the awarded lease contract.

For RLPs seeking high-security leased space, if there is a foreign ownership disclosure, the Leasing Specialists shall inform the appropriate customer agency point of contact, in writing, prior to lease award, of the foreign ownership/financing and coordinate with the agency regarding security concerns and any necessary mitigation measures. This agency notification should identify only the country associated with the ownership/financing entity. Do not identify the entity name, as this is considered procurement sensitive information at this time in the procurement process. Note that this agency notification is for the purposes of advising the agency, so that they can implement internal security mitigation measures. The presence of a foreign ownership/financing, in and of itself, cannot be used as grounds for eliminating an offeror from consideration. An agency may not “reject” a property solely because of foreign ownership, as there is no basis to do so under current law, regulation, or policy. Documentation related to this notification must be included in the lease project file.

Additional implementation guidance for the Secure Federal LEASEs Act can be found under Leasing Alert LA-21-07, Secure Federal LEASEs Act. Note that Section 4 of the Secure Federal LEASEs Act, which will add the requirement for identification of beneficial owners of high-security leased spaces and annual reporting to congressional subcommittees, must be fully implemented by December 31, 2022, and will be addressed in a subsequent Leasing Alert.

GSA Form 12000 Pre-Lease Fire Protection and Life Safety

Unless the space meets certain exceptions, offerors are required to submit information addressing fire and life safety requirements. The submittal requirements and exceptions are further outlined under Appendix D of the Desk Guide.

Energy Independence and Security Act

The Energy Independence and Security Act (EISA) established energy efficiency standards. It prohibited the Federal Government from entering into a contract to lease space in a building that did not earn an Energy Star label in the most recent year (restated in the RLP package as within one year prior to the due date of final proposal revisions). All new construction (buildings specifically built as a result of the Government’s lease) must achieve an Energy Star label within 18 months after occupancy by the Government.

There are statutory exceptions to this requirement:

- No Space is offered in a Building with an ENERGY STAR® Label that meets RLP requirements, including locational needs;
- The agency will remain in a building it currently occupies
- The lease will be in a building of historical, architectural, or cultural significance listed or eligible to be listed on the National Register of Historic Places; or
- The lease is for 10,000 rentable square feet or less.

For leases that fall within these exceptions, offerors are required to make energy efficiency and conservation improvements that are cost-effective over the term of the lease and, if awarded the lease, must measure the space’s energy efficiency against a nationally-recognized benchmark and meet certain energy consumption information disclosure requirements. They are not required to achieve an Energy Star label, although the Energy Star label is encouraged. If the Lessor obtains an Energy Star label no more than 12 months before the due date for final proposal revisions, the requirement for cost-effective energy efficiency and conservation improvements is negated.

Energy Star requirements do not apply to land leases, rooftop antenna leases, on-airport leases, or parking leases. Additional information is available at <http://www.gsa.gov/portal/content/103656> under Green Lease Policies and Procedures, under part 5.3.a of this chapter, and in Chapter 18, Sustainability and Environmental Considerations.

Financial Capability

As part of the required responsibility determination, offerors are also required to demonstrate that they have the financial capability to perform the requirements in the lease, by presenting at least a conditional commitment of funds in an amount necessary to prepare the space or documentation of adequate financial resources to self-finance the improvements. This submittal is a critical factor in the Lease Contracting Officer's determination of offerors' financial responsibility, discussed further in Part 5: Award Determination.

Additional Submittals

In addition to those items identified above; offerors may be required to submit:

- seismic form(s), if required (see Appendix G for more information);
- tax information;
- evidence of compliance with zoning laws for the intended use of the space,
- evidence of ownership or control of the building or site;
- authorization to represent owner, if applicable;
- evidence demonstrating that amenities do or will exist,
- a parking plan, if required (see Appendix H);
- architectural plans for modernization, if the offered building does not meet the requirements of the lease paragraph "Quality and Appearance of Building;"
- historic price preference documentation, if applicable
- asbestos management plan, if space contains asbestos containing material;
- LEED/Green Globes documentation, if applicable;
- building operating plan, for net of utility leases;
- environmental due diligence/Environmental Site Assessment (ESA)

These items are more fully described in the RLP.

The process of examining offers to make sure they are responsive and competitive may involve communications with offerors under the guidelines of FAR 15.306. Be sure to understand the difference between "clarifications," "communications," and "negotiations/discussions" (see below under "[Final Proposal Revision](#)"). While the Leasing Specialist and broker are authorized to

negotiate with offerors, the Lease Contracting Officer has overall responsibility for negotiations. Neither the Leasing Specialist nor the broker may commit the Government to a particular offer or give the appearance of accepting an offer. Only the Lease Contracting Officer is authorized to accept an offer and bind the Government.

Review each offer concerning the handling of services and utilities. Except for warehouse leases or projects where net of utility leases are in the Government's best interest (see Part 1 of this chapter), fully serviced leases are preferred, and Leasing Specialists must encourage them as appropriate. The ramifications of accepting less than fully serviced leases should be given serious consideration before proceeding with negotiations on a less than fully serviced lease. Such offers are considered non-responsive when the RLP does not allow for alternate offers or non-fully-serviced offers.

Debarred or Suspended Bidders

GSA must also determine that each offeror is eligible for participation in Federal contracts. The functionality of the Excluded Parties List System (EPLS), an electronic database of identified vendors excluded from doing business with the Government, has been consolidated into the Exclusions domain of SAM.gov. Users can either search for a specific entity or access the SAM Exclusions Extract which contains a list of all currently active exclusions in SAM and identifies entities that are in some way restricted from doing business with the Federal Government. It is important that the user reviewing SAM records to determine Federal award eligibility closely read the language present on each active exclusion record describing the nature (cause) and effect to determine applicability for their planned award. Leasing Specialists must check SAM at least twice: after receiving offers, and before award.

In addition, Leasing Specialists must verify the offeror's statements appearing in the electronic version of representations and certifications in SAM under paragraph "FAR 52.209-5: Certification Regarding Responsibility Matters." To preclude the possibility of mistaken identity, if an offeror is listed in SAM as a Department of Treasury Specially Designated National (SDN), the Lease Contracting Officer must, through approved regional channels, contact the Office of Leasing, which will coordinate with the Office of General Counsel to determine whether the bidder is the entity actually excluded.

b. "Discussions" versus "Clarifications"

It is important to understand the distinction between "discussions" (or "negotiations") and clarifications—they are not the same.

- *Discussions*—The term "discussions" is synonymous with "negotiations." Negotiations are exchanges, in either a competitive or sole source environment, between the Government and offerors, that are undertaken with the intent of allowing the offeror to revise its proposal. When negotiations are conducted with offerors in a competitive acquisition, they take place after establishment of the competitive range and are called discussions. These discussions may, at the Lease Contracting Officer's discretion, result in the offeror being allowed to revise its proposal. However, the terms "negotiations" and "discussions" are used synonymously in GSA lease documents and may be used interchangeably. As further defined in FAR 15.306(d), such negotiations can include bargaining—which encompasses persuasion, altering assumptions and positions, and give-and-take—and can apply to price, schedule, technical requirements, the type of contract, or other terms of the proposed contract. Discussions occur when the Government communicates with an offeror for the purpose of

obtaining information essential for determining the acceptability of a proposal, or when the Government gives the offeror an opportunity to revise or modify its proposal in some material way. **When GSA conducts discussions with one offeror, it must conduct discussions with all offerors in the competitive range. At minimum, notify each offeror of any significant weaknesses or deficiencies or both in the proposal.**

- *Clarifications*—In contrast, FAR 15.306(a) defines “clarifications” as limited exchanges between the Government and offerors that may occur when it is contemplating award without discussions. Examples could include clarifying the relevance of past performance information or adverse past performance information to which the offeror has not previously had an opportunity to respond (past performance), or resolving minor or clerical errors. Offerors may clarify their proposals verbally or in writing; however, any such clarifications must be reflected in the lease contract. Clarifications may not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, or revise the proposal.

The test is whether an offeror has been given an opportunity to revise or modify its proposal. Communications that do not permit an offeror to revise or modify a proposal, but request that the offeror confirm what the offeror has already committed to do in its proposal, are clarifications and not discussions.

In addition, the term “communications” can refer to exchanges between the Government and offerors, after receipt of proposals, leading to establishment of the competitive range. GSA may conduct the exchange of communication (in lowest price technically acceptable procurements) to clarify ambiguities. Such communications must address adverse past performance information to which an offeror has not had a prior opportunity to respond. Note that offerors are not permitted to amend an offer as a result of such communications.

c. Determining Competitive Range

In accordance with the FAR, all proposals must be evaluated, and, if conducting negotiations, the Lease Contracting Officer must establish a competitive range. The competitive range is a subset of proposals that the Lease Contracting Officer determines to be the most highly-rated. As stated in the mandatory RLP paragraph “Negotiations,”

The competitive range will be established by the LCO based on cost or price and other factors (if any) that are stated in this RLP and will include all of the most highly rated proposals, unless the range is further reduced for purposes of efficiency.

The Lease Contracting Officer may exclude from the competitive range those offers that are not among the most highly rated. There must be a reasonable basis to support this decision and the offerors excluded must be notified, in writing, of their exclusion. A competitive range should be established for all procurements in which GSA wishes to conduct discussions (negotiations). The discussions or negotiations must be conducted with each offeror in the competitive range and must address deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond. The competitive range may encompass all offers received, if appropriate.

GSA must negotiate with all offerors whose offers fall within the competitive range. If the Lease Contracting Officer intends to negotiate with all offerors, then the lease file must document that all offers were found to be within the competitive range.



The Lease Contracting Officer eliminates from consideration offers that do not fall within the competitive range in acquisitions using either the best value trade-off or lowest priced technically acceptable approach. The Lease Contracting Officer must notify in writing offerors whose offers fall outside the competitive range.

Besides identifying competitive offers, the competitive range also establishes an initial baseline for judging the reasonableness of cost or price estimates. Armed with this information, the Lease Contracting Officer can begin to prepare for negotiations.

d. Conducting Negotiations

As offers are evaluated for completeness and accuracy, some issues must be dealt with immediately. If an offeror in the competitive range clearly made an error or omitted important information from the offer, the Leasing Specialist must contact the offeror and request a corrected submission of the forms or data by a set date. The Leasing Specialist must list errors and omissions for each offeror and these must be addressed during discussions. Leasing Specialists or broker contractors must conduct independent negotiations with each offeror in the competitive range and advise offerors orally or in writing of significant weaknesses and deficiencies in their offers.

All offerors found to be in the competitive range must be given a reasonable opportunity to submit any cost or price, technical, or other revisions to their offer that may result from the negotiations. Negotiations will be closed with submission of final proposal revisions.

Negotiations should be based on three general types of analysis:

- **Price analysis**—a comparison of the offeror's prices to something external to the proposal. Example: total rental rate compared to market rates.
- **Offer cost review**—evaluating on an element-by-element basis the costs supporting the proposal. For example: shell rate, parking rates, fees, amortization rates, and concessions offered on GSA Form 1364, the operating costs listed on Form 1217, or land and construction costs provided for lease construction projects.
- **Technical analysis**—comparison of the offeror's technical proposal to the specifications and requirements, in addition to the non-price-related award factors if included in the RLP. See Part 5.3.c, Price Negotiation Memorandum, for additional guidance on documenting technical acceptability. For further information on award factors, see Chapter 13, Source Selection.

Weakness? Or Deficiency?

Weakness—a flaw that increases the risk of unsuccessful contract performance

Significant weakness—a flaw that appreciably increases the risk of unsuccessful contract performance

Deficiency—a material failure to meet a Government requirement or a combination of significant weaknesses that increases the risk of unsuccessful contract performance to an unacceptable level

Quick Tip

Make sure the person filling out and signing the form has authority to do so and can enter into negotiations. This authority can be confirmed from broker agreements, bylaws or articles of incorporation that outline authorities, written statements from owners, and other such sources.

A primary goal of negotiations is to confirm that offers received comply with the requirements stated in the RLP. A great deal of communication with the offeror centers on determining whether submitted proposals comply with the RLP. Alternative proposals may be considered if allowed by the RLP and it is determined that they meet the intent of the RLP and customer's requirements. If an alternative proposal is acceptable, the Leasing Specialist must contact the Office of Regional Counsel to discuss how material the change is and whether an amendment to the RLP is needed to allow all offerors to compete on the alternative basis.

Alternative offers may be received that amend the General Clauses. If such offers are received, the Lease Contracting Officer must determine, in consultation with the Office of Regional Counsel, if the changes are in the Government's best interest and are allowable by law. If it is determined that allowable changes are in the best interest of the Government, the Lease Contracting Officer must amend the RLP to allow all offerors to offer on the same amended General Clauses. If it is determined that the changes are not to be allowed, the Lease Contracting Officer must advise the offeror that failure to conform to the General Clauses without change is unacceptable and that the offer will be deemed ineligible for award for failure to meet the requirements of the RLP. Material changes made in the final proposal revision may be detrimental to the offeror and must be reviewed with the Office of Regional Counsel.

A further important goal is to ascertain that the offered rate and corresponding elements of the proposal are fair and reasonable.

Keep in mind that minor price-related items should not be allowed to hold up the negotiations (see FAR 15.405(b)). Rather than letting a single issue stall the entire process, look at the overall rate the Government will pay, to determine whether the overall offer remains fair and reasonable.

Best Practices in Negotiating

Skillful negotiation is an art that grows with experience. It is essential to know the market, have clearly defined negotiation objectives, and have a planned strategy to achieve the objectives. Several established best practices will guide the Leasing Specialist or Lease Contracting Officer during negotiations. Make use of these techniques:

- The Leasing Specialist must understand the RLP and Lease, the agency requirements, and the offer process and be prepared to explain them to offerors as needed.
- Plan and conduct meetings with offerors professionally and efficiently. Make an appointment with each offeror, allowing at least an hour. Negotiations can be held via phone, in writing, or in person.
- Ask questions and engage in "active listening." Request supporting documentation.
- Confirm that the offeror knows that a proposal that does not meet a minimum requirement will be ineligible for award.
- Make sure all discussions are documented for each offeror, and follow up with each offeror in writing. Obtain clarifications, changes, and concessions in writing.
- For competitive actions, there can be no final agreement until you have requested final proposal revisions from all offerors and negotiations are closed.

Negotiating Practices Prohibited in the FAR

Several approaches or practices must be avoided. Do not engage in any practices prohibited by FAR 15.306(e), which forbids:

- Favoring one offeror over another.
- Revealing an offeror's technical solution, including unique technology, innovative and unique uses of commercial products or commercial services, or any information that would compromise an offeror's intellectual property to another offeror.
- Revealing an offeror's price without that offeror's permission. The Lease Contracting Officer may inform an offeror that its price is considered by the Government to be too high, or too low, and may reveal the results of the analysis supporting that conclusion. It is also permissible, at the Government's discretion, to indicate to all offerors the cost or price that the Government's price analysis, market research, and other reviews have identified as reasonable (41 U.S.C. 2102 and 2107).
- Revealing the names of individuals providing reference information about an offeror's past performance.
- Knowingly furnishing source selection information in violation of FAR 3.104 and 41 U.S.C. 2102 and 2107.

Avoiding Pitfalls

To preserve procurement integrity, Leasing Specialists must never reveal the number of offerors or the other prices being offered in an attempt to "auction" the award. Leasing Specialists have a fiduciary responsibility to our client and the taxpayers to thoroughly negotiate each aspect of an offeror's proposal to provide the best value to the Government.

4. Final Proposal Revision

After conducting negotiations, the Lease Contracting Officer should conduct a pre-award Lease Cost Relative to Market (LCRM) assessment, when applicable, before calling for final proposal revisions. The LCRM is a longstanding PBS measure used to assess office lease transactions against industry market data from sources contained in the Bullseye Report or other sources such as SIOR, REIS, or others that PBS determines valid and acceptable for comparative use. Once this assessment is complete, Lease Contracting Officers will send offerors a request for final proposal revisions. Before sending out the request, the Lease Contracting Officer should have at least one responsive offer.

The final proposal revision is the last opportunity for offerors to revise their proposals before award. After the deadline for final proposal revisions, no further negotiations are allowed with the offerors—only clarifications to achieve an accurate understanding.



Part 5: Award Determination

- 1. Overview 2.5-2**
- 2. Reviewing Final Offers 2.5-3**
 - a. Present Value Analysis 2.5-4
 - b. Historic Preference 2.5-4
 - c. HUBZones 2.5-5
 - d. Revise Scoring Analysis 2.5-6
- 3. Final Steps Before Award..... 2.5-7**
 - a. Pre-award Requirements 2.5-7
 - b. Responsibility Determination 2.5-9
 - c. Price Negotiation Memorandum (PNM) 2.5-11
 - d. Signed OA 2.5-13
 - e. Obtaining and Amending RWAs 2.5-13
 - f. Assembling the Draft Lease..... 2.5-14
 - g. BA53 Funds Certification 2.5-15
 - h. Pre-Award Legal Review 2.5-16
 - i. Office of Leasing Notification for Prospectus-Level Projects 2.5-16
 - j. Lease File Checklist Validation 2.5-16
- 4. Lease Award Process 2.5-17**
 - a. Successful Offer 2.5-17
 - b. Notify Unsuccessful Offerors 2.5-17
 - c. SAM.gov Synopsis of Award..... 2.5-18
 - d. Debriefing/Protests 2.5-18
 - e. Distribution of Lease Copies 2.5-19
 - f. Post-Award Notifications..... 2.5-20
 - g. Deactivating RSAP 2.5-21



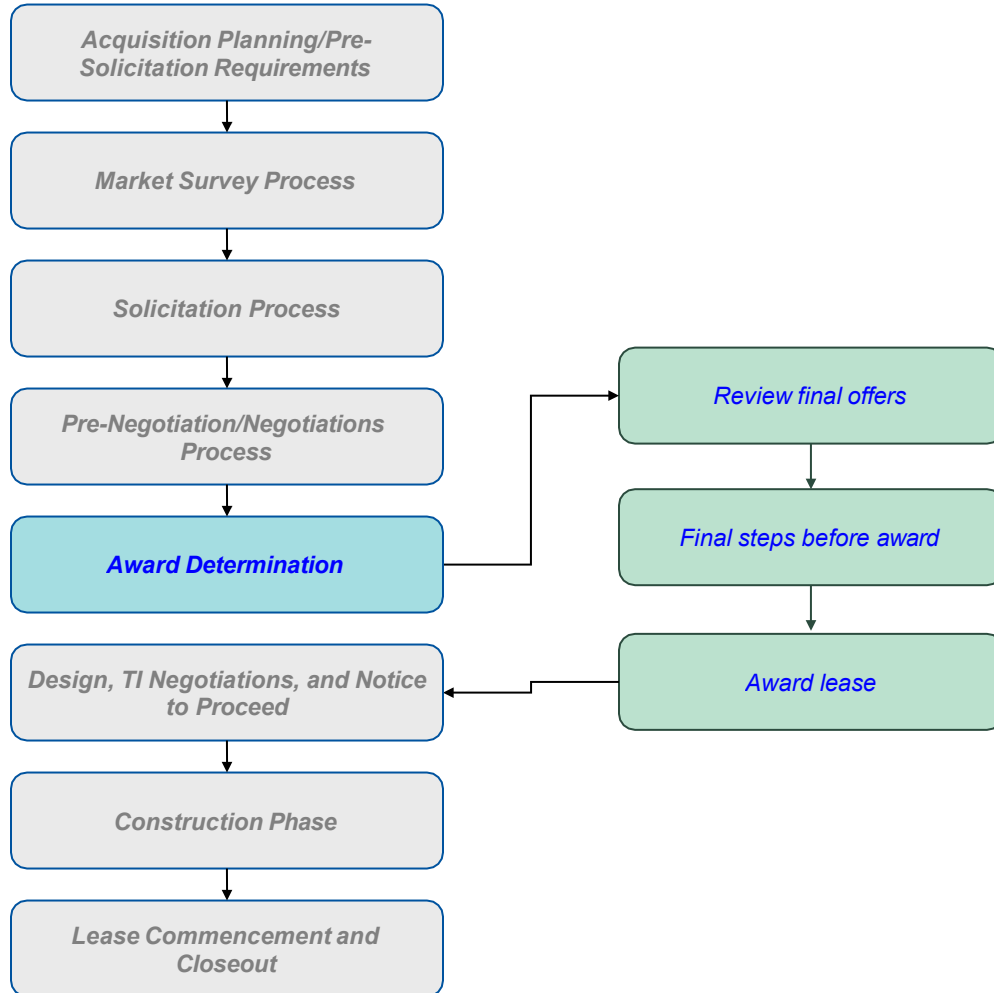
1. Overview

This chapter explains the steps for determining the successful offer and awarding the lease contract.

Upon receipt of final proposal revisions, GSA completes a final analysis and ranks offerors using the criteria specified in the RLP. Several pre-award requirements are reviewed that deal with the small business subcontracting plan (if required), equal employment opportunity compliance, affirmative action plan for the disabled, and the Exclusions domain in SAM. GSA assembles the lease contract. Once the lease is executed by the Lessor and GSA, unsuccessful offerors are notified, and a synopsis of the lease award is published on the Contract Opportunities domain of SAM.gov.

These steps are shown in the flow chart below. Each step label is linked to the section that discusses the topic.

Successful Offer and Award Determination Process



2. Reviewing Final Offers

If using the best-value tradeoff method, the Lease Contracting Officer should follow the guidance in Chapter 13, Source Selection. The Lease Contracting Officer must:

- Evaluate offers solely in accordance with the factors and subfactors stated in the RLP.
- Evaluate prices and document the lease file to demonstrate that the proposed contract price is fair and reasonable.

Note that while the calculations and analysis described below may be performed by the Leasing Specialist, the Lease Contracting Officer is ultimately responsible for confirming the accuracy of the price evaluation.

a. Present Value Analysis

The purpose of the present value analysis (PVA) is to compare unequal rent streams among offers to determine the lowest offer. The present value amount provides a single cost representation of various rent streams, variations in operating costs, lump sum payments, amortizations, and TI overhead costs that allows the Government to understand the true price of all offers in today's (present value) dollars.

Calculating PVA

The PVA calculation compares offers based on an ANSI/BOMA Office Area square foot rate with standard discount and escalation assumptions. Offers submitted via RSAP will generate a partially-completed PVA sheet for each offer in G-REX. Since the generated PVA sheet cannot accommodate certain aspects of the individual procurement (e.g., broker commission credits, renewal options evaluated at lease award, move and replication costs), Leasing Specialists must carefully review the auto-generated PVA sheet and input any applicable missing evaluation variables. For offers received outside of RSAP, the Leasing Specialist should always use the manual PVA calculator posted on the Office of Leasing Google site.

Applying Price Preferences

When the historic and/or HUBZone price preferences described below apply, the Government first computes the PVA of all offered prices based on the annual price per ABOA SF, including all required option periods. Then the Leasing Specialist performs a further evaluation of the offers to apply the pertinent price preference. Different methods are used to apply the historic and HUBZone price preferences. The historic price preference is calculated as a reduction in the PVA for the historic property (either 10 or 2.5 percent, depending upon the circumstances), whereas the HUBZone price preference is calculated as a 10 percent increase in the PVA of the non-small business offerors. It is important to recognize that these price preferences are used for price evaluation purposes only, and the terms of the awarded lease contract are based on the offered price.

In a leasing scenario where both the historic and HUBZone price preferences come into play, GSA must apply the historic preference first before applying a HUBZone price preference.

b. Historic Preference

Price Preference for Historic Properties

The Government will compute historic property price evaluation preferences by reducing the prices of the offerors qualifying for a price evaluation preference by the applicable percentage. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual price proposed by the successful offeror and accepted by the Government. Per FMR part 102-83, the historic price preference does not apply when procuring space in rural areas.

To qualify for a price evaluation preference, offerors must provide satisfactory documentation in their offer that their property qualifies as one of the following:

1. A historic building within a historic district.
2. A non-historic building within a historic district.



3. A historic building outside a historic district.

Evaluating Historic Price Preference

The Government gives a price preference to historic property, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government. This preference is calculated as a reduction in the PVA for the historic property as follows:

1. First to suitable historic properties within historic districts, a 10 percent price preference.
2. If no suitable historic property within a historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government gives a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.
3. If no suitable non-historic developed or undeveloped site within a historic district is offered, or the 2.5 percent preference does not result in such property being the lowest price technically acceptable offer, the Government gives a 10 percent price preference to suitable historic properties outside historic districts.
4. Finally, if no suitable historic property outside historic districts is offered, no historic price preference is given to any property offered.

c. HUBZones

The HUBZone Act of 1997 established the HUBZone program to increase employment opportunities, investment, and economic development in low-income metropolitan and rural areas. In addition, its goal is to encourage small businesses to relocate and employ people in low-income, economically distressed areas by allowing qualified small business concerns (SBCs) to receive a preference in bidding on Federal Government contracts.

The HUBZone price preference is applicable to all competitive lease procurements. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual prices proposed by the successful offeror and accepted by the Government.

HUBZone Price Preference

After determining the present value cost per ABOA square foot of each offer, if award is proposed to a non-small business offeror, and there exists as part of the procurement another technically acceptable proposal submitted by a responsible offeror that is a qualified HUBZone small business concern (SBC) that has not waived its entitlement to a price evaluation preference, the evaluated price of the non-small business offeror's proposal is increased by 10 percent, solely for the purpose of determining whether award should be made to the HUBZone SBC offeror. In such a case, the proposals of the apparently successful non-small business offeror and the HUBZone SBC offeror are considered in light of the applied price preference, and award is made to the lower priced offer. The Lease Contracting Officer must document the application of the price preference and further consideration of the offers as described here.

Waiver of HUBZone Price Evaluation Preference

A HUBZone SBC offeror may elect to waive the price evaluation preference provided in price evaluation sections of the various RLPs. In such a case, no adjustment to the price is made as a result of it being a HUBZone SBC, and the performance of work requirements set forth in Section 1 of the lease are not applicable to a lease awarded to the HUBZone SBC offeror under the solicitation.

Negotiations

Before eliminating an offeror that is a HUBZone SBC and has not waived its entitlement to a price evaluation preference from the competitive range, the Lease Contracting Officer must adjust the evaluated prices of all non-small business offerors proposed for inclusion in the competitive range by increasing the prices by 10 percent, for purposes of determining the competitive range only, and then determine, in writing, whether the HUBZone SBC offeror should be included or excluded from the competitive range. Offerors who are not included in the competitive range must be immediately notified in writing.

HUBZone Certification

If the Lessor is a HUBZone SBC that did not waive the price evaluation preference, the Lessor must provide a certification within 10 days after lease award to the Lease Contracting Officer (or representative designated by the Lease Contracting Officer) that the Lessor was an eligible HUBZone SBC on the date of award. If it is determined within 20 days after award that a HUBZone SBC offeror that has been awarded the lease was not an eligible HUBZone SBC at the time of award, and the HUBZone SBC Lessor failed to provide the Lease Contracting Officer with information regarding a change to its HUBZone eligibility **before** award, then the lease is subject, at the Lease Contracting Officer's discretion, to termination, and the Government is relieved of all obligations to the Lessor in such an event and not be liable to the Lessor for any costs, claims, or damages of any nature whatsoever.

Performance Requirements of Lessors Claiming HUBZone Price Preference

If the Lessor is a HUBZone SBC that did not waive the price evaluation preference, then the HUBZone SBC must spend at least 50 percent of the cost of the contract incurred for personnel on its own employees or employees of other qualified HUBZone SBC's and must additionally meet the performance of the work requirements for subcontracting in 13 CFR 125.6. If the Lessor is a HUBZone joint venture, the aggregate of the qualified HUBZone SBCs to the joint venture, not each concern separately, must perform the applicable percentage of work required by the Small Business Administration regulations.

For further information regarding HUBZone price preference, including leasing scenarios, refer to LAC 2012-01.

d. Revise Scoring Analysis

The Leasing Specialist must initiate and receive the final scoring analysis from the Portfolio group before award. Revisions must be made to the workbook if information has changed since the initial scoring was performed, and the approved worksheet must be uploaded to G-REX. Once uploaded, the Leasing Specialist will navigate to the Lease Due Diligence module, update to Phase 3 – Apparent Successful Building, and submit to Portfolio for review. The request will be submitted to the Portfolio group in the region for assignment and completion. Once the Portfolio



representative reviews and completes the scoring, they will upload and submit back to Leasing, which is automatically filed against the Lease File Checklist in G-REX. The Leasing Specialist and Lease Contracting Officer listed on the project will receive a notification when the work is returned. BA53 funds certifications that are required before award will not be granted unless the final scoring approval has been obtained. See Appendix F of the Leasing Desk Guide for additional scoring guidance.

3. Final Steps Before Award

a. Pre-award Requirements

Once an apparent successful offeror has been identified, the Leasing Specialist must coordinate several pre-award requirements.

Small Business Subcontracting Plan

As stated previously under Part 4, paragraph 3.a. regarding Representations and Certifications, offerors self-certify on the electronic version of the annual representations and certifications completed as part of the SAM registration whether they are a small business.

For leases with a total value, including options, exceeding \$750,000 where the offeror is not a small business, a Small Business Subcontracting Plan must be included as part of their offer. A leasing specific Small Business Subcontracting Plan template, subject to revision, can be found on the Office of Small and Disadvantaged Business Utilization (OSDBU) webpage on GSA Insite (<https://insite.gsa.gov/subcontracting>).

Thresholds

The current threshold for small business subcontracting plans, as stated under FAR 19.702, is \$750,000 aggregate contract value. This threshold, which was effective as of October 1, 2020, is subject to change.

Prior to lease award, the prospective Lessor's plan must be reviewed and negotiated by the Leasing Specialist, and approved by the Lease Contracting Officer, using the latest version of the "Checklist for Review of Subcontracting Plan" posted on the OSDBU webpage on Insite. Once the plan is acceptable to the Lease Contracting Officer, the plan and the checklist must be forwarded to the GSA Regional Small Business Technical Advisor (SBTA) for their review and approval. The SBTA will then forward the plan and checklist to the Small Business Administration (SBA) Procurement Center Representative (PCR) for their review and approval as required by FAR 19.705-5 and GSAM 519.705. Both the GSA SBTA and the SBA PCR are the Lease Contracting Officer's technical advisors when it comes to small business subcontracting plans. Any necessary changes must be discussed with the offeror during negotiations. If the Lease Contracting Officer does not receive comments from SBTA within the timeframes specified by GSAM 519.705, the Lease Contracting Officer shall document the file, and continue with the award process with the offered plan as approved solely by the Lease Contracting Officer.

The approved plan must be included as an exhibit to the lease; upon award, the plan becomes a material part of the lease as required by FAR 19.705-5.



Note that, once the lease is awarded, the Leasing Specialist must notify the SBA Area Director of the award with a copy of the approved subcontracting plan as required by FAR 19.705-5 and GSAM 519.705-6 (currently within 5 workdays of lease award). See Part 5.4.f. In addition, the Lessor must submit compliance documentation, as discussed under Part 7 of this Desk Guide chapter.

For further guidance, see Leasing Alert LA-20-08, Small Business Subcontracting Plan and Reporting and GSAM 519.7.

Pre-Award Historic, Floodplain and Other Environmental Compliance Checks

During the earlier market survey phase, the Leasing Specialist should have confirmed the potential for historic, floodplain, and other environmental impacts for the properties under consideration. Once the apparent successful offer has been identified, the Leasing Specialist must update the information in the G-REX Lease Due Diligence module under Phase 3 – Apparent Successful Building, so that the RHPO and the NEPA program manager/NEPA specialist can complete their respective compliance reviews and upload the documentation into module. The module files these uploaded documents under Tabs 2 and 6 of the Lease File Checklist.

Energy Independence and Security Act Compliance

Pursuant to the Energy Independence and Security Act of 2007 (EISA), not later than the deadline for final proposal revisions, offerors must submit evidence of having earned the Energy Star label in the 12 months prior to Final Proposal Revisions, unless the offered space meets one of several statutory exceptions to the requirement. If the offered space meets one of these exceptions and has not earned an Energy Star label, the offeror must submit a written statement identifying cost-effective energy efficiency and conservation improvements that will be made. The possible specific, recommended cost-effective improvements could include upgrades to lighting, chillers, HVAC systems, plumbing, or windows, among others. If no improvements can be made, the offeror must demonstrate in writing to the Government why no energy efficiency and conservation improvements would be cost-effective. Leasing Specialists must include offered cost effective improvements in the lease contract. In addition, lessors whose buildings without an Energy Star label must measure the space's energy efficiency against a nationally-recognized benchmark and meet certain energy consumption information disclosure requirements. See Leasing Desk Guide Chapter 18, Sustainability and Environmental Considerations, and Leasing Alert titled "EISA Related Revisions to Global, Simplified, Small (3626), and Warehouse RLPs and Leases" for further information on these requirements.

Equal Employment Opportunity Compliance Review

The General Clauses, GSA Forms 3517A and 3517B, contain EEO compliance provisions that pertain to Federal leases. Department of Labor regulations (41 CFR 60) require contractors to develop a written affirmative action program for each of their establishments. They must analyze and document minority group representation in all job categories, hiring practices during the past year, and employee upgrading and promotion during the past year.

If the aggregate value of the contemplated award is less than \$10 million and the offeror has certified compliance with the EEO requirements, the Lease Contracting Officer may consider the offeror responsible as to nondiscrimination. If the award will be greater than \$10 million, GSA must submit the following information to the appropriate Department of Labor regional Office of Federal Contract Compliance Programs (OFCCP), as listed on its webpage.



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- Names, addresses, and telephone number of the offeror and each known subcontractor;
 - Name and telephone number of the person signing the offer;
 - Dollar amount of the offer;
 - Proposed contract and RLP number;
 - Date when the final offer will expire; and
 - Date by which the Lease Contracting Officer must receive advice from the OFCCP in order to award a valid and binding contract. Note, the OFCCP must respond within 15 days from the date of notification or approval can be assumed.

The OFCCP will review the available information on the prospective prime contractor's compliance status and will notify the Lease Contracting Officer or approving officer of any deficiencies.

The Lease Contracting Officer will notify the offeror of any deficiencies found and direct the offeror to coordinate further action with the OFCCP. The contract cannot be awarded unless the OFCCP notifies the Lease Contracting Officer that the offeror has responded or has agreed to respond satisfactorily to the OFCCP requirements.

Secure Federal LEASEs Act Compliance

As described earlier under Part 4.3.a, if there is an affirmative disclosure by the proposed awardee under GSAR representation 552.270-33, the Leasing Specialists shall inform the appropriate customer agency point of contact, in writing, prior to lease award, of the foreign ownership/financing and coordinate with the agency regarding security concerns and any necessary mitigation measures. This agency notification should identify only the country associated with the ownership/financing entity. Do not identify the entity name, as this is considered procurement sensitive information at this time in the procurement process.

Note that this agency notification is for the purposes of advising the agency, so that they can implement internal security mitigation measures. The presence of a foreign ownership/financing, in and of itself, cannot be used as grounds for eliminating an offeror from consideration. An agency may not "reject" a property solely because of foreign ownership, as there is no basis to do so under current law, regulation, or policy. Documentation related to this notification must be included in the lease project file.

b. Responsibility Determination

A lease contract may be awarded only to an offeror found to be "responsible." Before awarding a lease contract, the Lease Contracting Officer must make a determination as to whether offerors have the financial resources, organizational capability, and legal eligibility to perform during the lease.

Responsibility Criteria and Standards—General

The determination of financial responsibility is the first of several components that establish whether an offeror is responsible. General responsibility criteria and standards are stated in GSAM 509.105, 570.108 and FAR 9.104. To be considered responsible, an offeror must:

- have adequate financial resources;
- be able to comply with the delivery or performance schedule;
- have a satisfactory record of past performance;
- have a satisfactory record of integrity and business ethics;
- have the necessary organization, experience, accounting and operational controls, and technical skills;
- have the necessary production, construction, and technical equipment and facilities; and
- be otherwise qualified and eligible to receive an award.

Financial Responsibility

To be determined financially responsible, the offeror must have adequate financial resources to perform the contract, or the ability to obtain them. A signed letter on bank letterhead from a third-party bank official is a common source document and will suffice for establishing financial responsibility. If the offeror intends to self-finance the buildout, the offeror must submit documentation (e.g., income statements, cash flow statements, balance sheets, bank statements showing sufficient on hand stable cash reserves to fund the improvements, letter from the entity's financial officer) to the satisfaction of the Lease Contracting Officer, demonstrating that it has adequate financial resources to self-finance the necessary improvements. For significant procurements, the process may involve reviewing a company's general business information, financial statements (identifying issues or areas for questions), and other financial metrics.

Another potential source of information is the Pre-award Survey of a Prospective Contractor—General (SF-1403), which can be submitted to the GSA Financial Information Control Branch. The form is not tailored to a lease acquisition, and some sections will not apply. The Leasing Specialist should provide estimated annual and total contract value on the form and any other financial information that would be useful to the finance office. The current version of the SF-1403 can be downloaded from the GSA Forms Library.

For major procurements, the Lease Contracting Officer may want to consider obtaining the following information:

- Cash assets;
- Accounts receivable (monies owed the offeror);
- Cash value of all inventories;
- Worth of real property (land and improvements) and equipment owned by the offeror; and



- Current liabilities, including offeror debts, stockholders equity, or amount of stock held by shareholders, and retained earnings to be reinvested back into the company.

If an offeror is found to be non-responsible, that determination must be documented in the lease file and the offeror must be notified of the basis in writing.

It is important to remember that the Lease Contracting Officer's signature on the contract is legally deemed to be an affirmative determination that the offeror has been found financially responsible.

SBA Verification—Certificate of Competency

Another concern is whether a small business is competent to perform the services that the lease requires. For example, a small business firm may be the low offeror in terms of price, but the Lease Contracting Officer may judge that it lacks the capacity, or some other element of responsibility, to fulfill the acquisition, and therefore would not be awarded the contract. If the Lease Contracting Officer finds a small business concern not responsible, the procedures at FAR 19.6 apply and the Lease Contracting Officer must notify the SBA, which would then review the small business's responsibility. If the result is favorable, the SBA issues a certificate of competency that in effect reverses the Lease Contracting Officer's decision regarding the prospective contractor's lack of responsibility.

c. Price Negotiation Memorandum (PNM)

A price negotiation memorandum (PNM) is prepared by the Leasing Specialist for approval by the Lease Contracting Officer. It is required for all lease actions, including post-award TIs. The PNM should reflect an accurate record of all negotiations with each offeror. It summarizes negotiations and explains why an award was or was not made, including agency go/no-go factors and other award considerations (e.g., floodplain, seismic, Energy Star). Anyone reading the document should be able to understand the issues of negotiation and the outcomes, whether the offer was fair and reasonable, and the basis for that determination.

Unless an alternative format is authorized by the Regional Lease Acquisition Officer (LAO), Leasing Specialists must use the PNM template that can be found on the GSA Office of Leasing Google site or in the G-REX template library. Leasing Specialists may also use the form filler bot to generate the PNM. GSA Form 3628, Lease Action Summary, may also be used to document negotiations for leases under SLAT, emergency FEMA leases, and parking leases.

Robotics

Consider using the form filler "bot" to generate the PNM.

The PNM documentation must include the following:

- The purpose of the negotiation.
- A description of the acquisition, including appropriate identifying numbers (e.g., RLP number). The description of the project should be the goal (extension, new/replacing, succeeding, etc.).
- A summary of the contractor's proposal, any pricing assistance recommendations from SMEs, including the reasons for any pertinent variances from them, the Government's negotiation objective, and the negotiated position. When determination of price

reasonableness is based on price analysis, the summary should include the source and type of data used to support the determination. Where the determination of price reasonableness is based on cost analysis, the summary should address each major cost element, the major deficiencies with the original offer and how they were addressed. Additionally, the Leasing Specialist should include rate changes and critical changes for every iteration of the offer.

- Modifications created in accordance with RLP amendments.
- The most significant facts or considerations controlling the establishment of the negotiation objectives and the negotiated agreement, including an explanation of any significant differences between the negotiation objective and the agreement.
- Confirmation of technical acceptability.
- The Lease Contracting Officer's signature and date, even if the PNM is prepared and also signed by the Leasing Specialist or broker contractor.

Documentation of Fair and Reasonable Pricing

The Lease Contracting Officer must document in the PNM whether prices are fair and reasonable by comparing the apparent successful offer against:

- Competing offers received in response to the RLP;
- Negotiation objectives, and
- Any other information not captured during the negotiation objectives process, including Lease comparables (private sector or GSA lease rates).

The PNM must state definitively that there has been a determination of fair and reasonable pricing, which is an inherently governmental responsibility.

Technical Acceptability

The lease file must contain contemporaneous documentation [meaning documentation that is created at the time that the events occurred] supporting the Lease Contracting Officer's evaluation of the proposed awardee's proposal being technically acceptable. This evaluation must be noted in the PNM.

Legal Review of PNM and Source Selection Documents

Pre-execution review of the PNM and documents related to source selection (including Source Selection Evaluation Board reports, Source Selection RLP Authority decisions, and CO Findings and Determinations) is required where the underlying RLP was or becomes subject to legal review:

- Best value source selection above SLAT
- Actions with an aggregate value of \$20 million or more, or



- Prospectus-level projects.

d. Signed OA

The responsible GSA associate sends the tenant agency a revised OA to reflect the final negotiated terms and conditions of the proposed lease and request the customer agency sign the OA so that GSA can award the lease. This procedure verifies that the customer agency understands and agrees with the proposed terms of the lease.

Fair and Reasonable Price

It's a requirement that you as the Lease Contracting Officer affirm that the price is fair and reasonable.

Note: The lease should not be sent to the successful offeror for signature before the return of an agency-approved OA, except under circumstances outlined under LDG Chapter 5, "Succeeding and Superseding Lease," where the Lease Contracting Officer may have to protect the Government's financial interests without the benefit of an approved OA, to avert a holdover tenancy. See Chapter 5 for additional information.

Tenant agency signature/approval on the OA is required before GSA enters into a lease contract. Furthermore, at the point of signing the lease contract, the OA signed by the tenant agency confirms its financial commitment to pay the rent according to the terms and conditions stated in the OA.

OASIS

As stated earlier in this chapter, GSA is updating its process for creation and distribution of OAs in FY23. Please refer to future guidance on the use of OASIS and the OA approval process.

In some instances, GSA must act timely to protect the Government's financial interests without the benefit of an executed OA. These instances must be approved by the regional Portfolio Director and should not result in a new or replacing lease, but rather a succeeding lease (see Chapter 5).

e. Obtaining and Amending RWAs

Per PBS's RWA National Policy Manual⁶, for initial above-standard TI build-out associated with new leases (e.g., new/replacing) or continuing occupancies (e.g., succeeding/superseding leases), the following applies:

- If the lease includes requirements or a scope of work that has been confirmed through an Independent Government Estimate (or similar approved method) to exceed the customer's TIA, then the RWA for the TI must provide currently available funds and be received and accepted by PBS no later than the date of the lease award.
- Customers do not need to wait to provide an RWA for above-standard TI until the fiscal year in which the lease is awarded. Rather, a customer may provide RWA funds for above-standard TI in a year prior to lease award so long as PBS is ready to move forward with the lease procurement, and the customer has decided to replace, renew or have PBS enter into a successive lease (i.e., the customer has a defined bona fide need for leased space containing above-standard TI) and the project is identified, scoped and estimated. A sufficient level of detail must be present to provide a detailed estimate

⁶ Reimbursable Work Authorization National Policy Manual PBS 1200.2B dated August 2020.

- (please see estimation standards in the P-120, Public Buildings Service Cost and Schedule Management Policy Requirements). RWA acceptance timing is both a requirements and business based decision point. A deviation from optimal RWA acceptance timing may create project risk that the customer must be made aware of given they carry the ultimate project funding responsibility. PBS will make the final decision on RWA acceptance timing depending on all the factors specific to the project.
- Although funds can be received in fiscal years prior to lease award, the more disparate the timing between funds acceptance and lease award, the more funds risk is present in the procurement. The potential for recognized but unknown risks including market pricing fluctuations, time limited funds expiration, and mid project schedule risk are increasingly present the farther in advance of lease award funds acceptance occurs. To account for that risk, contingencies in excess of GSA standards should be established to mitigate those risk elements.
 - If the project requires PBS to submit a lease prospectus, PBS will not accept an RWA until after the prospectus has been submitted to Congress. If an RWA is accepted after the submission of a prospectus but prior to the receipt of an appropriation for the project, PBS may need to close the RWA and direct the customer to de-obligate the RWA funds if an appropriation for the project is not received by PBS.
 - If at the time of lease award, an IGE based on the full agency requirements/statement of work proves to be under the TIA, then no RWA will be required to award the lease. However, if the same scope of work (i.e., not new scope) later causes the price to increase above the TIA, the customer will need to provide an RWA for the overage using funds that were available for obligation at the time the lease was awarded. PBS's policy for funding antecedent liabilities does not apply because the customer would not have an existing obligation to upwardly adjust for the scope of work. See 31 U.S.C. § 1553(a).

It is important to note, however, that there are restrictions on RWA acceptance as outlined under current RWA policy. For instance, reimbursable tenant improvements, which are classified as non-severable projects, may not be partially or incrementally funded; the customer agency must fund the complete scope of work at the time of RWA submission. In addition, there are restrictions regarding amendments attributable to the original scope of work (commonly referred to as antecedent liability). As noted above, these challenges are increasingly present the farther in advance project funding is accepted by GSA.

See PBS's RWA National Policy Manual for further guidance.

f. Assembling the Draft Lease

Prior to lease award, the Leasing Specialist drafts the lease agreement for review by the Lease Contracting Officer. Most commercial leases use contract documents provided by the Lessor, but in GSA lease acquisitions the lessee (the Government) supplies its own documents. The Lease Contracting Officer is responsible for confirming that the lease is carefully prepared and properly reflects the understanding of the parties. The documents must carefully reflect all terms and details agreed to, including revisions or modifications of terms arrived at during negotiations.

Lease Placeholders

The lease contains language that is a placeholder for several elements that will be reconciled later, such as:

- ABOA square footage
- Lease term commencement date
- Annual rent based on TI expenditure.

The Leasing Specialist should assemble the lease contract documents, which incorporate the understanding of the parties. The Leasing Specialist



will fill out the lease signature page and section 1 of the lease contract, capturing the agreed-upon lease terms and conditions. Under GSA procedures, a lease must include the following:

- The lease contract and lease-related RLP amendments;
- General Clauses (Acquisition of Leasehold Interests in Real Property) version that was included with the RLP;
- Mutually agreed to Lessor clauses (deviations approved by the Lease Contracting Officer);
- Floor plans and legal description of the space that the offeror submitted in its offer;
- Parking plans, if applicable;
- Seismic forms, if applicable
- DOL Wage Determinations, if applicable;
- Environmental or preservation compliance mitigation required, if applicable;
- GSAR 552.270-33 Foreign Ownership and Financing Representation for High-Security Leased Space, if applicable; and
- Pertinent portions of the offer, such as renderings of the building, site plans, and/or a subcontracting plan if required.

Combine the above into a single pdf document. All pages of the lease must be numbered and stamped for the offeror to initial. Also note that the lease number must follow the following standardized lease contract numbering format, GS-rrP-Lssxxxx:

- GS = General Services Administration
- rr = GSA Region (using 2-digit number format)
- P = PBS, representing the acquisition service awarding the lease contract
- L = Lease contract
- ss = 2-letter state abbreviation to identify the state where the lease is located
- xxxxx = 5-digit number assigned by the acquisition service.

g. BA53 Funds Certification

The Antideficiency Act prohibits obligating the Government to pay money before funds have been appropriated for that purpose. Certification of BA53 funds is the critical internal control in place that prevents Antideficiency Act violations.

The BA53 account is used to pay Lessors for leased space. For leases, the certification of BA53 funds must be approved before awarding a lease or a lease amendment that changes annual rent, rentable square feet, or the effective or expiration dates, or when conditions result in other monetary changes, such as

Final Certification Occurs At Least Twice

Final certification occurs at least twice: once before award, and again before executing the lease commencement Lease Amendment.

operating cost escalations and stepped rent. Also, funds certification is required for lump-sum payments associated with tax reimbursements; claims, condemnations, and buyouts; non-fully serviced leases; and for certain types of Lessor defaults to correct a deficiency. When applicable, the following documentation must be uploaded into G-REX prior to requesting a BA53 fund certification:

- Scoring
- Draft lease

The Leasing Specialist must formally request certification of funds through the “Final Certification” function in REXUS. Certification is performed after receiving final proposal revisions but before awarding the lease. It is important to update REXUS project information with negotiated rental rates and the projected effective date before requesting certification. The Leasing Specialist must also enter payment lines in REXUS before requesting a final certification. The BA53 budget analyst will review the lines for accuracy against the payment schedule in the lease. The lease must not be awarded without an approved funds certification.

h. Pre-Award Legal Review

As stated under GSA Order ADM 500.4B “agency counsel should be included as integral members of PBS project teams such that pre-award review of key documents would normally be accomplished as part of counsel’s routine participation on the project team.” Regardless, legal review is required for proposed lease contract awards as follows:

- Based on Justifications for Other Than Full and Open Competition for contracts (including exercise of contract options) above SLAT;
- Where the underlying RLP was the subject of legal review, specifically including
 - Lease awards above SLAT where best value source selection procedures were used;
 - Lease awards with an estimated aggregate value of \$20 million or more; or
 - Prospectus level projects.

i. Office of Leasing Notification for Prospectus-Level Projects

For prospectus-level lease projects, regional project teams must submit a brief description of the parameters of the potential lease award, compared against the authorized prospectus, to the Assistant Commissioner of Leasing (via the Office of Leasing Zone Manager) at least 5 business days prior to award. This is meant to serve as a notification only. See Leasing Desk Guide Chapter 11, Prospectus-Level Leases, for additional guidance.

j. Lease File Checklist Validation

The Leasing Specialist and project manager are responsible for marking lease file checklist tasks as complete and uploading the required documents associated with those tasks in G-REX for all tasks/documentation they are responsible for delivering up to lease award.

Before awarding the lease, the Lease Contracting Officer must confirm that all required project tasks have been marked as complete within the G-REX application, and that documentation has been appropriately uploaded into G-REX, in accordance with the lease file checklist.

4. Lease Award Process

Awarding a lease means creating a legally binding agreement with terms and conditions that GSA and the Lessor must honor. It obligates the Lessor to provide the stated space and services required by our customer agency and obligates the Government to pay the agreed amount in rent.

a. Successful Offer

Once the lease is ready for award, the Leasing Specialist transmits the lease to the apparent successful offeror for signature and initialing. The lessor's signature must be witnessed. While the lease may be signed manually, GSA encourages digital signatures on lease contracts, provided the parties use an approved digital signature solution platform (currently DocuSign) (see LA-19-07 for further guidance). The acceptance of the offer and award of the lease occurs upon execution (signing and initialing) of the lease by the Lease Contracting Officer and mailing or otherwise furnishing written notification of the executed lease to the successful offeror.

Digital Signatures as a Best Practice

The use of digital signatures is not only faster and more efficient, it also prevents the signatories from making changes to the document.

b. Notify Unsuccessful Offerors

The Lease Contracting Officer must notify unsuccessful offerors in writing when their offers do not fall within the competitive range or are otherwise eliminated from the competition. Within 3 days of award, the Lease Contracting Officer must notify the offerors whose proposals were within the competitive range but were not selected for award. Post-award notices and rejection letters must be sent to each unsuccessful evaluated offeror and must include the following information (other information may be included as necessary and at the discretion of the Lease Contracting Officer):

- The name and address the offeror receiving an award;
- The present value rate offered by the successful offeror, along with the present value rate of the unsuccessful offeror;
- The basis for the award (lowest price technically acceptable, or best-value tradeoff); and
- The reason(s) the offeror's proposal was not accepted, unless the price information described above readily reveals the reason. In no event should you disclose to any other offeror an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information.

If a Protest is Likely

Consult with legal counsel and consider sending out notifications to unsuccessful offerors prior to award. Pre-award debriefs may identify procurement flaws and result in corrective action before lease award.

c. SAM.gov Synopsis of Award

Notification of contract awards is important for keeping the public informed of how the Federal Government is spending tax dollars, and for allowing potential subcontractors to learn about projects and provide the opportunity for them to make bids. Leasing Specialists must synopsise awards as indicated below.

FAR 5.301, “Synopses of Contract Awards,” describes the procedures for releasing award information. The FAR requires GSA to publicly disclose any lease contract awards exceeding \$25,000 (in aggregate rent) that are likely to result in the award of any subcontracts. All awards for leased space are considered likely to result in the award of subcontracts, with the exception of those for parking.

Best Practice

Post the lease contract award on the Contract Opportunities domain of SAM.gov within 1 week of making the award—sooner, if possible.

d. Debriefing/Protests

Conducting Debriefings

Requests for debriefing are handled in accordance with FAR 15.506. In general, GSA must debrief any unsuccessful offeror from which GSA has received a written request within 3 days after the offeror received notification. The debriefing should take place within 5 days after GSA receives the request.

During the process of informing non-selected offerors why they were not selected, the Lease Contracting Officer should be as forthcoming as possible to the offerors and express appreciation for their effort and time. This cultivates a partnering environment between the Government and marketplace fostering an understanding of Government needs and processes that is likely to enhance future procurement competitiveness. It also serves to assuage an offeror who may be disappointed in the outcome and provide an adequate level of transparency to dissuade a potential protest.

Debriefings of offerors may be done orally, in writing, or by any other method acceptable to the Lease Contracting Officer. The Lease Contracting Officer should normally chair any debriefing session held, with individuals who conducted the evaluations providing support. At a minimum, the debriefing information must include:

- The Government’s evaluation of the significant weaknesses or deficiencies in the offeror’s proposal, if applicable;
- The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;
- The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;
- A summary of the rationale for award; and

- Reasonable responses to relevant questions about whether source selection procedures contained in the RLP, applicable regulations, and other applicable authorities were followed.

The debriefing should not make point-by-point comparisons of the debriefed offeror’s proposal with those of other offerors, and must not reveal any information prohibited from disclosure or exempt from release under the Freedom of Information Act. Such information includes:

- Trade secrets;
- Privileged or confidential manufacturing processes and techniques;
- Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and
- The names of individuals providing reference information about an offeror’s past performance.

Accommodating Late Requests

An offeror that fails to submit a timely request is not entitled to a debriefing. The request may still be accommodated. This delay, however, does not automatically extend deadlines for filing a protest.

An official summary of the debriefing must be included in the contract file.

Protests

In the event of an award protest, the Lease Contracting Officer must immediately consult with the Office of Regional Counsel. Award protests are handled in accordance with GSAM 533.1 and FAR 33.1.

Generally, post-award protests must be filed not later than 10 days after the protester knew or should have known the basis of protest, whichever is earlier. Once GSA receives a protest, it is important to begin the formal response process to comply with required response deadlines.

Additional Protest Information

Further information about protests can also be found in GSA Form 3516, Solicitation Provisions.

e. Distribution of Lease Copies

The Leasing Specialist uploads the executed lease into G-REX. The Leasing Specialist should provide copies to local and headquarters representatives of the customer agency; the GSA field office (including the LAM; FPS; and other appropriate team members so that they can take further necessary actions regarding space layout and design, alterations, move coordination, telecommunications planning, space security, and supporting service or utility contracts.



f. Post-Award Notifications

Prepare Contracting Officer's Representative (COR) Designation Letters

In the GSA organization, once a lease is awarded the LAM COR receives responsibility for lease management through a delegation. The LAM COR delegation can be granted to any person with a FAC-COR Level II or higher certification. Unless the Lease Contracting Officer will enforce and administer the lease, a COR must be delegated responsibility to act as the LAM. See Chapter 17, Lease Administration.

Net Leases

Don't forget to notify the Lease Administration Manager that he or she needs to set up a utility contract.

Government-Provided Services

Inform the LAM if the Lease contract excludes any essential services, such as utilities, so the LAM can make the necessary arrangements for those services. Use the "Non-Fully Serviced Lease Information Worksheet" as found in the Lease Management Desk Guide (LMDG).

The LMDG includes a template for sharing this type of information, including the estimated start and termination dates for services and a description of the services required. The template can be found on the Office of Leasing Google site and in the G-REX templates library.

Note: While it was previous practice to use BA53 leasing funds to pay for operating costs until the Building Services budget activity (BA61) had adequate time to budget for these costs, only BA61 funds shall be used to fund non-fully serviced lease operating costs.

If services will be procured by the tenant agency, contact the regional Delegation Program Manager. As outlined under FMR Sections 102-72.40 through 102-72.55, an official delegation of real property management and operation authority must be executed by the GSA Administrator and the Secretary (or equivalent) of the tenant agency prior to the tenant agency procuring the needed services.

Posting of Redacted Justifications for Other Than Full and Open Competitions

As outlined under FAR 6.304(a), redacted justifications for other than full and open competition (justifications) must be published in the Contract Opportunities domain of SAM.gov, within 14 days after lease award. Note that this posting requirement does not apply to SLAT actions, which do not require a formal OTFO (documentation to explain the lack of competition is sufficient).

In the case of lease awards permitted on the basis of unusual and compelling urgency, Lease Contracting Officers must publish these justifications within 30 days after lease award.

Before the publication, Lease Contracting Officers, in consultation with the Regional Counsel's Office, must screen all justifications for contractor proprietary data and remove all such data, references, and citations as are necessary to protect the proprietary data in accordance with the Freedom of Information Act (FOIA). In addition, Lease Contracting Officers must be guided by the exemptions to disclosure of information contained in FOIA (5 U.S.C. 552) and the prohibitions against disclosure in determining whether other data should be removed. See Chapter 5 of this Desk Guide for additional redaction guidance.



Notifying SBA

For leases that include a small business subcontracting plan, the Leasing Specialist must notify the SBA Area Director of the award with a copy of the approved subcontracting plan as required by FAR 19.705-5 and GSAM 519.705-6 (currently within 5 workdays of lease award). See Part 5.4.f. In addition, the Lessor must submit compliance documentation, as discussed under Part 7 of this chapter.

g. Deactivating RSAP

For procurements using RSAP, the Leasing Specialist must “Confirm Awardee” in G-REX once the lease is awarded. This step shuts down the RSAP application from accepting any further offer submittals for the project and files the offer submittals into the appropriate tabs of the Lease File Checklist. The Leasing Specialist must reconfirm that all documents, once selected, are appropriately filed in the G-REX lease file checklist.



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

- 1. Overview 2.6-2**
 - a. Shell Definition 2.6-2
 - b. Tenant Improvements 2.6-2
 - c. Building Specific Amortized Capital (BSAC) 2.6-3
- 2. Setting Up Post Award 2.6-5**
 - a. Financial and Technical Capability 2.6-5
 - b. Move Funding and Coordination 2.6-5
 - c. Technical Support 2.6-6
 - d. Green Leasing and Sustainability Requirements 2.6-6
 - e. Post-Award Section 106 and NEPA Compliance 2.6-6
 - f. Post-Award Kickoff Meeting 2.6-6
- 3. Design Intent Drawings (DIDs) 2.6-7**
 - a. Purpose 2.6-7
 - b. Preparation 2.6-8
 - c. DID Review Process 2.6-9
 - d. Interior Finishes 2.6-9
- 4. Construction Drawings (CDs) 2.6-9**
 - a. Definition and Purpose 2.6-9
 - b. Preparation 2.6-10
 - c. GSA Review Process 2.6-10
- 5. TI and BSAC Negotiation 2.6-10**
 - a. TI and BSAC Bid Process 2.6-10
 - b. GSA Reviews 2.6-13
 - c. Negotiation 2.6-13
- 6. Notice to Proceed 2.6-14**
 - a. NTP Letter 2.6-15
 - b. TI Overage 2.6-15
 - c. BSAC Pricing Considerations 2.6-15

1. Overview

After award of the lease, the post-award process commences to complete the space for occupancy by the customer agency. The primary phases of this process include the Government-approved Design Intent Drawings (DIDs), Lessor-completed Construction Drawings (CDs), TI and BSAC pricing and negotiations, the Notice to Proceed for TIs and BSAC, followed by the Construction phase (described in Part 7). The overall goal is to take space from a shell condition to a finished, usable state that meets the customer agency's functional needs. These finishes and fixtures are the TIs, funded by the TI allowance stated in the lease.

The illustration following this overview shows the space design and build-out process. Each step label is linked to the section that discusses the topic.

Note that the project manager not only secures the appropriate technical resources to support the Lease Contracting Officer during the post-award process, he/she may also perform many of the Leasing Specialist's tasks. Please refer to the Lease Project Delivery gPM Playbook for further details.

a. Shell Definition

The PBS definition of "shell" is found in its entirety in the Pricing Desk Guide 5th edition. Also, Section 3 of the lease itself identifies the specific items that are considered part of the shell. Among the items included in the shell cost are the completed base structure and enclosure components. In general, the lease specifies that unless an item is specifically identified as TI or BSAC, it is considered a shell item.

The "Warm Lit Shell"

The GSA definition of a "warm lit shell" may vary from industry definitions. The lease defines exactly what we mean.

b. Tenant Improvements

TIs encompass the initial improvements to the shell that are performed to deliver the improved space available for occupancy at lease inception as required by the lease. For initial occupancies (new space, new tenant) the tenant agency is provided the full TI allowance. The tenant agency may buy down the customization portion of the TI allowance (subject to the provisions of the Pricing Desk Guide Section 2.5.10, reference prior to lease award). Tenant agency cannot buy down the general portion of the TI allowance in first generation/shell condition space.

The following are the major steps in this part of the process:

- Design layout preparation—DIDs for the TI are generally prepared by the Lessor. Once they are approved, the Lessor finalizes CDs for building out the space.
- TI submittal, review, negotiation, and Notice to Proceed—The Lessor submits proposed competitive pricing of TI costs. Upon review and approval, GSA authorizes the Lessor to proceed with construction.



- Inspection and substantial completion. Any unused portion of the TI allowance must result in a decrease in rent according to the agreed upon amortization rate and term.

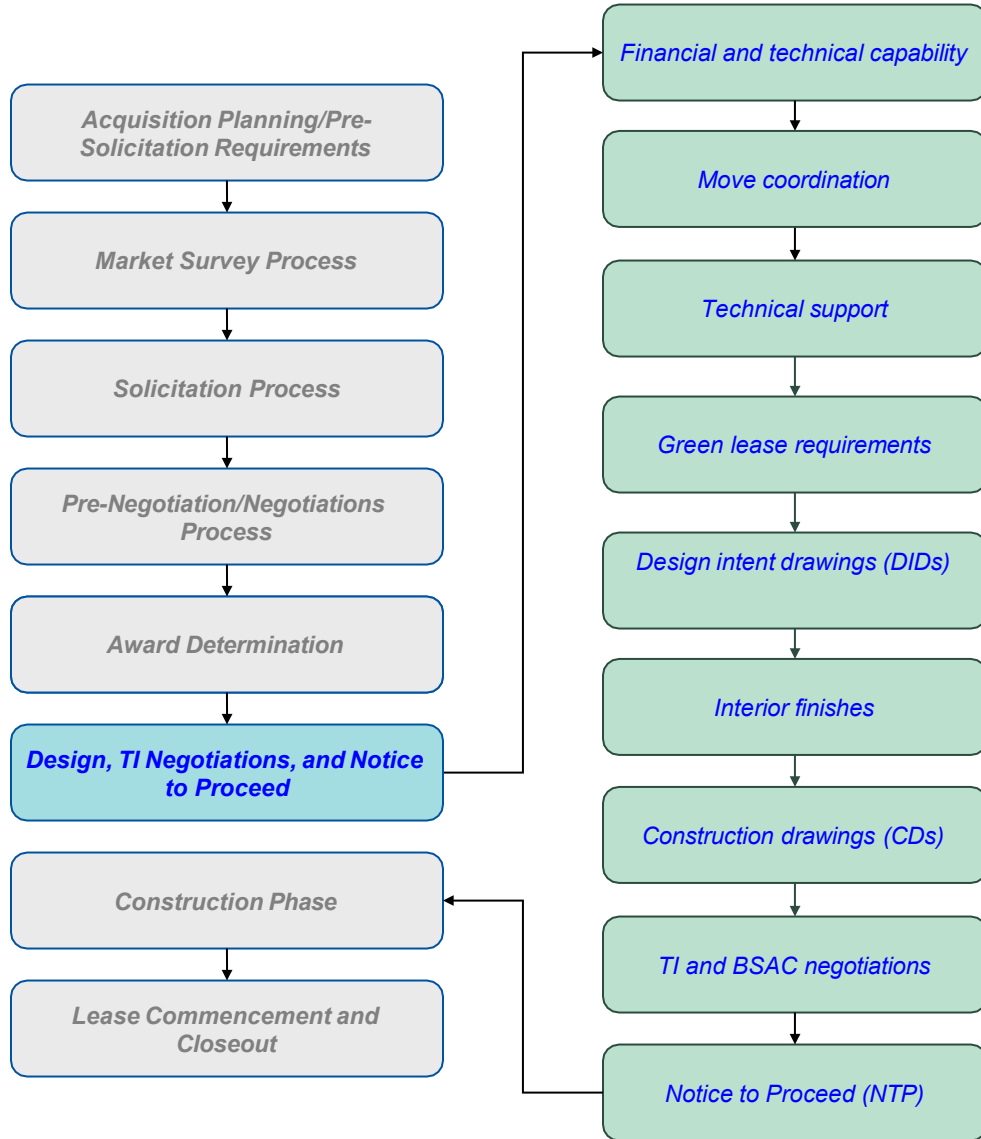
Post-occupancy alterations that occur (after substantial completion and acceptance including punch list items) during the lease term can be either amortized into the rent or funded via RWA (Post-occupancy alterations are discussed in Chapter 8, Alterations).

c. Building Specific Amortized Capital (BSAC)

In leasing, all ISC recommended countermeasures for each FSL are listed in the attachments to the Leasing Desk Guide (LDG) Chapter 19, Security. These countermeasures are priced as shell items or are priced as BSAC. The BSAC charge is for specific security items that are a separate capital investment in the leased property. BSAC charges are separate from the building shell or TIs for rate setting purposes. BSAC is separately priced, is typically amortized in the rent over the lease firm term and is a lease pass through to tenant agencies on their PBS rent bill as one of the line items. These BSAC countermeasures are priced using placeholder BSAC estimates.

FSL I countermeasures are priced as shell items. Currently, the placeholder estimates for FSL II, III, and IV are \$12.00, \$25.00, and \$35.00 per ABOA SF, respectively, for all property types, including warehouses. These placeholder figures are for the purpose of evaluation of offers to award a lease and are subject to change by the Office of Leasing. If the entire placeholder amounts are not used for BSAC purposes, the BSAC charge is lowered, which would be reflected in the OA and through a lease amendment memorializing the actual costs. After lease award, these figures are revised to reflect the actual BSAC costs that are negotiated with the Lessor simultaneously with the TI costs. Unused BSAC cannot be used for any other purpose or allowance. See Leasing Alert, entitled “Clarifications to Building Specific Amortized Capital (BSAC) Security, Pertains to Leased Space Only” and Leasing Alert LA-21-10, Revisions to Interagency Security Committee (ISC) Requirements and BSAC FSL II Pricing.

Post-Award Process





2. Setting Up Post Award

a. Financial and Technical Capability

After award, the winning offeror must submit to the Lease Contracting Officer additional information regarding its capability to perform the lease. As detailed in the lease, this information includes a firm commitment of sufficient funds; names of proposed construction contractors; the state practice license or certification of the provider of architectural and engineering design services; and certification of HUBZone eligibility, if the offeror claimed qualification for that price preference.

HUBZone Certification: If the Lessor is a HUBZone SBC that did not waive the price evaluation preference, the Lessor must certify within 10 days after lease award to the Lease Contracting Officer (or representative designated by the Lease Contracting Officer) that the Lessor was an eligible HUBZone SBC on the date of award. If it is determined within 20 days after award that a HUBZone SBC offeror that has been awarded the lease was not an eligible HUBZone SBC at the time of award, and the HUBZone SBC Lessor failed to provide the Lease Contracting Officer with information regarding a change to its HUBZone eligibility before award, then the lease is subject to termination at the Lease Contracting Officer's discretion, and the Government is relieved of all obligations to the Lessor in such an event and not liable to the Lessor for any costs, claims, or damages of any nature whatsoever.

Failure to meet any of these requirements may be considered grounds for terminating the contract for default. The Office of Regional Counsel will review issues arising during contract administration that affect job progress, and the Lease Contracting Officer should consult Regional Counsel as needed.

b. Move Funding and Coordination

Move Coordination Activities

Client agencies are responsible for funding their own physical moves, telecommunication costs, data processing equipment, furniture, and other related costs of the physical move. Client agencies in both federally owned and leased space can expect to fund all move costs at the end of their OA term.

The Center for Workplace Strategy Furniture and IT (FIT) program target agencies (meeting FIT program criteria) that want to execute a total workplace project but do not have the funds to purchase furniture or IT. Under the FIT program, GSA funds a customer's initial furniture and IT design, purchase and installation through the Acquisition Services Fund, in which a payment schedule and terms and conditions are therefore included in a Supplement to the Occupancy Agreement. The tenant agency's monthly rent bill will add a supplemental furniture, fixtures and equipment (FFE) and IT billing adjustment charge based on the agreed term provisions of the OA Supplement.

Project managers and Leasing Specialists play an important role in helping to coordinate physical moves and cabling installation. They should contact the LAM, who will obtain bids for moving services, as well as their FAS Property Disposal contact if necessary. The customer agency may need trash removal services arranged or altered to accommodate pre-move preparations. If FAS

is expected to assist with data cabling services, it should be contacted before design begins. The actual activities to prepare for the move may or may not begin at this point, but the discussions and planning should.

c. Technical Support

Project managers consider a number of factors when allocating resources to support the construction management phase of lease projects: size, complexity, availability of local GSA associates and/or Indefinite-Delivery, Indefinite-Quantity (IDIQ) contractors, and other such factors.

Among the primary goals is for the project team to have access to personnel with sufficient technical expertise to ensure adequate oversight of the Lessor's construction activities. Most leases require some level of additional technical support during the TI construction phase that should be provided by someone with the pertinent training and skills.

By providing the appropriate level of technical support during construction of tenant improvements, we reduce the risk of customer dissatisfaction regarding deficiencies in construction quality or building performance; we make it easier to bring lessors into compliance with lease requirements; and we can perform lease management responsibilities more effectively.

d. Green Leasing and Sustainability Requirements

The green leasing or sustainability requirements of our leases are important to our customers, our stakeholders, and the general public. Green leasing requirements are incorporated in the RLP and Lease in response to multiple federal statutes, Executive Orders, and policies. Several specific documents related to these requirements must be submitted at the time of DID preparation: product data sheets, a re-use plan, building recycling plan, and a written commissioning plan, among others. These and other requirements related to sustainability are contained in the Green Lease Submittals paragraph of the lease. Post-award activities must include review and enforcement of these requirements.

e. Post-Award Section 106 and NEPA Compliance

For those leases where the Lessor must perform mitigation efforts to minimize negative impacts as a result of either Section 106 or NEPA compliance requirements, post-award activities must include review and enforcement of these requirements. Project teams should use the G-REX Due Diligence module, Phase 4 – Post Award, to document this compliance.

f. Post-Award Kickoff Meeting

Once the lease has been awarded, it is a good practice for the GSA project manager to schedule an initial post-award kickoff meeting between the Government and the Lessor, so that parties can make introductions and review roles and responsibilities. During this meeting, the project manager should review the project schedule as well as the post-award steps and submittal obligations outlined in the lease. This is also a good opportunity to confirm the role of the Lease Contracting Officer as the only person authorized to bind the Government or obligate funds.



3. Design Intent Drawings (DIDs)

a. Purpose

DIDs are drawings that show partitions and doors; schematic demolition; voice, data, and electrical outlet locations; level of finishes; generic furniture layout; and any additional details necessary to communicate the “design intent” to the Lessor’s architect for the purpose of preparing construction documents. See the lease itself and the Pricing Desk Guide for further details on what the DIDs cover.

DIDs are developed using the space layout provided by the Lessor along with agency requirements. They detail the tenant improvements to be constructed by the Lessor within the Government-demised area and become the basis for the final Construction Drawings (CD’s). DIDs do not contain mechanical, electrical, or plumbing specifications or drawings.

Confirm ABOA Square Footage

It’s a best practice to confirm the ABOA SF in the DIDs before preparing the CDs.

Level 1 DIDs, which are priced as part of shell rent, include the following elements:

- Cover Sheet;
- Demolition Plan (if applicable);
- Construction (Partition) Plan;
- Power/Communication (Electrical) Plan;
- Furniture Plan; and
- Finish Plan.

Level 2 DIDs, which are reimbursable by the agency, include the following elements:

- Reflected Ceiling Plan;
- Interior Elevations;
- Interior Sections;
- Partition Type/ Section Plan; and
- Door/Hardware Schedule

DIDs should note any critical dimensions for wall and furniture placement.

It is important to manage customer expectations regarding the design features. All design elements will have consequences for the build-out costs. Preparation of the DIDs is also an opportunity to make sure that the agency optimizes its final use of the space.

b. Preparation

The lease specifies whether the DIDs are prepared by the Lessor or the Government.

- Lessor—Lessors typically prepare Level 1 DIDs as part of shell rent. This approach generally offers an acceptable delivery time and uses the expertise of professional architecture/engineering staff who are familiar with the building. In this approach, however, the Lessor may offer design features or items whose cost will exceed the TI allowance.
- Government
 - GSA—GSA may use in-house space planners or contract services to prepare the DIDs. These services are paid by the customer agency via RWA. The lease included in the RLP package should reflect that the Government will prepare and provide the DIDs to the Lessor so the customer agency has a potentially lower shell rent. This approach may give GSA more control over the schedule. However, planning is required to allocate technical resources and/or funding availability.
 - Customer agency—The customer agency is familiar with its space and design requirements. However, GSA has less control over the schedule and delivery date. If the customer agency prepares the DIDs, the lease included in the RLP package must reflect that the Government will prepare and provide the DIDs to the Lessor so the customer agency has a potentially lower shell rent.
- DID workshop—When feasible, consider having DIDs prepared via a DID workshop, which improves overall efficiencies in the acquisition process and reduces schedule time. This option is one of the three DID methods that can be selected in Section 4 of the lease. During a DID workshop, the customer agency works with the selected Lessor (or with offerors preaward, in the case of turnkey TI pricing) to transform the agency's requirements package into complete and approved DIDs. A DID workshop typically lasts 1 to 3 days and may require GSA and agency representatives to travel to a meeting site to work with the Lessor and the architect. Both GSA and the customer agency are required to have representatives present who have decision-making authority for the project. A GSA representative experienced with the DID process is critical to the success of this project phase. DID workshops and TI pricing options are discussed in greater detail in Chapter 1, Requirements Development.

Start This Discussion Early: Who Prepares the DIDs? What Level is Required?

The issue of who will prepare the DIDs should be broached early in the lease acquisition process, during initial requirements development. The choice will affect design meeting scenarios and schedules and the negotiated shell rate. This discussion should also confirm whether the client requires and will pay for Level 2 DIDs.

The selected approaches must be stated in the RLP.

Remember to consult with your Regional GSA Concessions Specialist during DID preparation for any Randolph Sheppard requirements.



c. DID Review Process

For Security Level III clients in single-tenant buildings and Security Level IV clients, DIDs should be treated as controlled unclassified information (CUI) documents. Ideally, however, GSA and the agency should have determined whether this procurement (or particular drawings) involved CUI information early on, during assessment of the agency's special needs and requirements.

Fire Life/Safety Reviews

DIDs must be submitted to the GSA Fire Protection Engineer for review and approval. This review will examine furniture plans, and other details that show exit paths, emergency lighting, and sprinklers. Any changes to layout or DIDs from fire and life-safety and/or FPS review must be re-submitted to the customer agency for concurrence.

Security Reviews

While a formal security review of DIDs is not required, the agency, or in instances where multiple agencies are involved, the Facility Security Committee (FSC), must ensure that the DIDs address ISC-recommended countermeasures, as appropriate.

Historic Preservation Reviews (Historic Buildings, Districts, New Construction)

DIDs for leases affecting historic property or historic districts listed in the National Register of Historic Places must be submitted to the GSA RHPO for NHPA Section 106 compliance review, including activities involving ground disturbance, which may also trigger NEPA compliance review. The RHPO will coordinate consultation with the State Historic Preservation Officer and consulting parties, which may require development of alternative designs. The Lessor cannot proceed to other steps until Section 106 consultation has been completed.

Final Approval

The customer agency must approve DIDs by signature or email, and the Lessor cannot proceed to other steps until DIDs are approved by the Lease Contracting Officer.

d. Interior Finishes

Coordinated interior finishes must be provided by the Lessor and selected by the agency during design. Sample selections should be documented in the lease file. The project manager should assign someone with technical expertise to confirm that the finish selections chosen comply with the lease standards.

4. Construction Drawings (CDs)

a. Definition and Purpose

CDs, which are sometimes referred to as "working" or "sealed" drawings, provide the specifications, engineering calculations, and construction details necessary to construct the space. They are also the basis for determining code compliance, obtaining building permits, evaluating contractual performance, and determining legal liability for occupants' safety and

welfare. CDs reflect both the lease requirements and specifications in the DIDs. They must also conform to accessibility standards in the lease.

b. Preparation

GSA must transmit approved DIDs to the Lessor and also request that CDs be developed.

c. GSA Review Process

GSA and the customer agency review the CDs. The GSA project manager will engage a design professional either in-house or contract to review these documents for input and comment. In addition to showing the technical solutions for systems such as HVAC and electrical, the CDs may be the first time that hardware schedules and security details are presented, so they require close review by GSA and the customer agency.

Regardless of GSA's review of the construction documents, the Lessor is solely responsible and liable for the technical accuracy of the construction documents in meeting all requirements and provisions of the lease and the Government-approved design intent drawings.

The GSA review is not an "approval." It is limited to evaluating the construction documents' conformance to the specific requirements of the lease and to the approved DIDs, and it must be completed within the time frame specified in the lease. Should the GSA or the customer agency require that modifications be made to the Lessor's CDs, GSA will provide this notification in writing to the Lessor and will request a specific time period to correct all noted defects before a subsequent review. Preparation of the CDs is priced as part of the architecture/engineering fees that are negotiated before lease award and established in the contract. They are considered TI costs.

Upon completion of any required corrections, GSA ascertains conformance of the construction documents to the design intent drawings. The Lessor then obtains the necessary permits and may begin construction of the shell space. The tenant improvement cost negotiation must still take place.

Fix It Now

Carefully reviewing the DIDs and CDs for adherence to the lease will avoid costly mistakes and change orders. It's less expensive to find and correct mistakes on the CDs now than to discover them after construction begins.

CDs Don't Belong in the Lease

It is not appropriate to incorporate construction drawings into a lease. Doing so shifts unnecessary risk to the Government.

5. TI and BSAC Negotiation

a. TI and BSAC Bid Process

FAR 15.406-3 states that the contracting officer must document in the contract file the principal elements of the negotiated agreement as well as provide required elements. Further, it requires documentation for fair and reasonable pricing. The Leasing Specialist can negotiate the final cost of TI (and, if applicable, BSAC) with the Lessor based either on certified cost or pricing data and



an Independent Government Estimate (IGE), or on the results of a competitive proposal process handled by the Lessor.

GSAM 570.110, “Cost or pricing data and information other than cost or pricing data,” states that for price analysis of offered tenant improvement costs, obtain either two offers or cost and pricing data. The sources of information that the Lease Contracting Officer may use to validate such cost and pricing data include the National Cost Management Toolbox (NCMT), an IGE if available, and pricing history. In the absence of competitive bids for TI work, the price analysis should be based on an IGE.

Competitive Process

Evidence of Competitive Bidding Process or Cost or Pricing Data for TI or BSAC Costs. This may be a letter or e-mail from the Lessor attached to the copy of the bids obtained, a copy of the bids obtained (two competitive bids), cost and pricing information if applicable, etc. See FAR 15.400.

In lieu of the Lessor submitting detailed cost or pricing data and GSA negotiations to determine a final cost for the subject work, the Government may negotiate a price based on a competitive proposal process. In this case the following conditions must be met:

- The TI and, if applicable, BSAC scope of work includes the lease and all attachments, the design intent drawings, construction drawings/documents, and written specifications. In cases of discrepancies, the Lessor must immediately notify the Lease Contracting Officer for resolution. The Lease Contracting Officer will resolve differences in accordance with the lease terms and conditions.
- The Lessor must invite at least two qualified general contractors to participate in the competitive proposal process. They must compete independently. In the absence of sufficient competition from general contractors, at least two qualified subcontractors from each applicable trade in the Tenant Improvement Cost Summary (TICS) table must be invited to submit proposals.
- Each proposal must be submitted in the TICS table (explained below) by the proposed general contractors or subcontractors, filling out all sheets and each division tab, as necessary; reviewed by the Lessor before submittal to ensure compliance with the scope of work and the proper allocation of shell and TI costs; and reviewed by the Government. The general contractors must submit the supporting bids from the major subcontractors. The Government reserves the right to determine whether bids meet the scope of work, that the price is reasonable, and that the Lessor’s proposed contractors are qualified to perform the work; and to reject all bids.
- All construction costs other than TI or BSAC are included in the shell rent. The TICS table must clearly identify costs for shell items separately from TI costs.
- The Government reserves the right to attend or be represented at all negotiation sessions between the Lessor and potential contractors.
- The Lessor must demonstrate to the Government that it has made best efforts to obtain the most competitive prices possible and must accept responsibility for all prices through direct contracts with all contractors.

- The Lessor must complete the competition and the cost proposal process in the time frame specified in the lease.
- Once the Government determines that the Lessor's proposal is acceptable, the Lease Contracting Officer issues to the Lessor a Notice to Proceed (NTP) for the work.
- The Lessor must complete the work within the time frame specified in the lease.

The Lessor's project management fees to deliver the TIs are also negotiated during the pre-award phase and established under the lease contract.

Independent Government Estimate

As its name implies, an independent Government estimate is a document that identifies the approximate fair and reasonable cost of contract work that is proposed to be performed. IGEs for TI and, if applicable, BSAC work may be prepared by technical resources, either in-house or contracted, such as engineers, architects, estimators, or construction managers. The Lease Contracting Officer uses the IGE to evaluate bids and negotiate their price, in the absence of competitive bids or reliable comparative cost and pricing data.

The IGE is prepared following procedures defined in the P120 Project Cost and Schedule Management Requirements. The Lessor's bid is submitted via the TICS table format, to ensure a consistent basis for comparison. The Leasing Specialist analyzes the bid against the IGE to identify and reconcile the major differences.

An IGE is required when:

- the value of the proposed work is expected to exceed the simplified acquisition threshold;
and
- the Lessor, at either the request or approval of the Lease Contracting Officer, submits only one general contractor bid and one subcontractor bid for each trade. This approach may be considered only when competition is not available; or seeking competition would unduly slow the process; or seeking competition is otherwise not in the best interests of the Government.

An IGE is not required when the value of the proposed work does not exceed the simplified acquisition threshold; when the Lessor submits two or more bids from general contractors; or when the Lessor identifies only one general contractor but furnishes two or more subcontractor bids for each major trade. However, in any of these cases, it may still be in the Government's best interest to prepare an IGE, if the Lease Contracting Officer deems it necessary, and a proposal review by an estimator may also be conducted.

Tenant Improvements Cost Summary (TICS) Table

The TICS table is a multi-tabbed Excel spreadsheet that produces a summary table useful for evaluating TI bids. The TICS table must be used to calculate and record the Lessor's proposed TI and shell costs. It segregates TI from shell costs per the Pricing Desk Guide to eliminate the inclusion of shell improvements in TI costs. The cost segregation is also helpful for conducting negotiations.



The table is closely modeled after the Construction Specifications Institute's MasterFormat. The table allows for the functional elements of alterations to be clearly separated into shell and TI categories and makes price evaluation more intuitive and standardized.

Completion of the table is self-explanatory. The Lessor inputs the proposed costs for each of the indicated elements, which are broken out into shell and TI categories. The Lessor then submits the completed table using the instructions set out in the lease.

In addition, the table outlines all the respective trades that must be represented for a competitive proposal process among subcontractors for TI work, if there is an absence of sufficient competition from the general contractors. The TICS table provides a practical tool for meeting these requirements.

The TICS table can be found on the Office of Leasing Google site and the G-REX templates library.

b. GSA Reviews

The Leasing Specialist, with appropriate technical support, should review the competitive bids. The following items should be considered in reviewing TI requirements:

- Confirm that the Lessor received bids from two or more general contractors or that the general contractor received bids from two or more sub-contractors for each trade.
- Confirm that TI and shell bids were broken out in a TICS Table.
- Confirm that TICS table feeder sheets for each costs element/division were filled out, including labor and material costs; lump sum pricing should be avoided.
- Confirm that feeder/division sheets reflect line-item pricing, broken out into materials and labor, stating quantities and unit pricing. Division sheets should not just state an aggregate price.
- Confirm that shell items are not included in TI costs.
- Review the TI bid against an IGE if applicable.
- Check that fees align with those stated in the lease.

Once the reviews are complete, the Leasing Specialist should inform the Lessor of any discrepancies. Revised bids may be required, in order to comply with the above parameters. Any revised bids should be reviewed to verify that price adjustments were made, and bids are in compliance. The Leasing Specialist should also note which bidders submitted revised bids.

c. Negotiation

Negotiation can include establishing a fair division of costs that fall among shell, TI and, if applicable, BSAC; working to achieve lower costs that might be bid at the high end of a range; and other related actions. Even if the bids are lower than the TI allowance or BSAC placeholder estimate the Leasing Specialist or broker contractor must negotiate with the Lessor to verify that

the lowest bid is fair and reasonable and complies with the review parameters listed above. The Leasing Specialist may request technical support to assist during negotiations. The Leasing Specialist should negotiate with the Lessor regarding all bids received, not just the lowest one.

TI or TI/BSAC PNM

FAR 15.406-3 states, “The Contracting Officer shall document in the contract file the principal elements of the negotiated agreement,” as well as providing required elements. It also requires documentation on pricing used by the Lease Contracting Officer to determine that pricing is fair and reasonable.

The Leasing Specialist must prepare the TI/BSAC PNM using the template posted on the Office of Leasing Google site/G-REX templates library and the Lease Contracting Officer must sign the PNM before issuing an NTP for tenant improvements. Alternative formats for the TI/BSAC PNM are not permitted. Note that there is an additional template, TI/BSAC PNM – Attachment A, that can be used to support the TI/BSAC PNM by documenting line-item negotiations, based on Lessor’s TICS table submissions. Use of the TI/BSAC PNM - Attachment A is optional for all projects except for GLS projects, where its use is mandatory .

News You Can Use!

There is a robotics (“bot”) solution to help generate the TI/BSAC PNM.

6. Notice to Proceed

The Notice to Proceed can be granted if:

- Competition for the construction contract award is deemed adequate (alternatively, the Lessor must provide certified cost or pricing data).
- The Lessor’s cost proposal is accepted (it is based on the lowest bid by a qualified contractor and determined to be fair and reasonable).
- Final DID’s are approved, and all CD’s are completed, if required under the lease.
- Funds are available.
 - ▷ Agency has signed/approved the OA to cover TI costs up to the TI Allowance stated under the lease and the Leasing Specialist has obtained a BA53 funds certification; and
- Agency has provided an RWA for any TI overage and the Leasing Specialist has obtained a BA80 funds certification.

The notice is given in writing by the Lease Contracting Officer and binds the Government contractually. The content of the notice letter depends on whether the construction contract was awarded competitively or on the basis of cost and pricing, and whether the cost is below or exceeds the TI allowance. If it exceeds the TI allowance, the notice must be accompanied by a lease amendment addressing the TI overage. The notice must state the price that has been agreed upon, not a “not to exceed” figure.



If the TI costs are below the allowance, the TI rent must be adjusted downwards in accordance with the terms of the lease and the lease must be “re-scored” to confirm that the changed rental will not result in a capital lease. A lease amendment is not required at this time, although the lease amendment issued at rent commencement must reflect the adjusted TI rent (see Part 8 of this chapter).

The Lease Contracting Officer must confirm that the Leasing Specialist or project manager has marked all required lease file checklist tasks as complete in G-REX and that the required documentation is uploaded, before issuing a Notice to Proceed.

a. NTP Letter

Most leases contain language requiring a Lease Contracting Officer to issue an NTP upon determination of adequate competition (or per the FAR, cost and pricing data in the absence of competition) and acceptance of the cost proposal.

An NTP template is available on the Office of Leasing Google site that contains non-printing blue instructional text to assist those preparing the NTP for the Lease Contracting Officer’s signature. An alternative document may be used, but it must contain essentially the same information.

Adjusting TI or BSAC Rent

TI or BSAC rent is recalculated by re-amortizing the agreed upon pricing (principal) over the terms (number of months and interest rate) established in the lease. Note that TI or BSAC established as firm fixed (turnkey) pricing is not subject to readjustment.

b. TI Overage

In many cases, the negotiated TI cost exceeds the TI allowance. Leasing Specialists must keep the customer agency apprised of this during negotiations. Before the Lease Contracting Officer may issue the NTP, the Leasing Specialist must confirm that the customer agency has authorized this additional expenditure by providing sufficient RWA funds for the excess TIs and PBS fees. See PBS’s RWA National Policy Manual for guidance regarding the requirements for proper Fiscal Year funding. The Leasing Specialist must obtain a BA80 funds certification from the Budget Office confirming that there are sufficient RWA funds available for the excess TI. The BA80 funds certification will include a Pegasys Document Number (PDN). The Lease Contracting Officer must include a lease amendment ordering the excess TIs along with the NTP. The lease amendment must state the overage amount and Pegasys Document Number (PDN), along with invoicing instructions. Send a copy of the obligating documents to the Budget Office within 10 business days of obligation or, by the end of the month for obligations of \$50,000 or more, when using RWA funds.

c. BSAC Pricing Considerations

If the entire placeholder amounts are not used for BSAC purposes, the BSAC charge is lowered, which would be reflected in the OA and through a lease amendment as to what was spent. After lease award, these figures are revised to reflect the actual BSAC costs that are negotiated with the Lessor simultaneously with the TI costs. **Unused BSAC cannot be used for any other purpose or allowance.** Conversely, as BSAC is not an “allowance” but is a placeholder estimate to cover ISC-recommended countermeasures, the placeholder estimate may be exceeded to cover ISC-recommended countermeasures only. In the event of any change to BSAC rent (increase or decrease), the lease must be “re-scored” to confirm that it remains an operating lease.



Note: Blue text language in the lease documents and lease security attachments cautions that the fully serviced lease rents, including shell, operating cost, TI, and BSAC, cannot exceed the high end of the market rents or the prospectus threshold limit. If the inclusion of the BSAC amount causes the fully serviced lease rent to exceed the high end of the market or prospectus threshold limit, the amount of BSAC being amortized in the rent must be reduced and the difference must then be funded by RWA. Although it is not common practice, the agency may use an RWA to pay for BSAC in lieu of amortizing it in the rent.



Part 7: Construction Phase

- 1. Overview2.7-1**
- 2. Construction Schedule.....2.7-3**
- 3. Pre-Construction Kickoff Meeting2.7-3**
 - a. Attendees2.7-3
 - b. Agenda2.7-4
 - c. Meeting Minutes2.7-5
 - d. Other Items.....2.7-5
- 4. Progress Inspections.....2.7-5**
 - a. Inspection Items2.7-6
 - b. Construction Manager Deliverables.....2.7-6
- 5. Change Orders2.7-7**
 - a. Lessor Changes2.7-7
 - b. Government Changes.....2.7-7
 - c. Legal Review2.7-8
- 6. Acceptance Inspection2.7-9**
 - a. Receive Notice from Lessor2.7-9
 - b. Invite Inspection Participants.....2.7-9
 - c. Inspection and Acceptance.....2.7-10
 - d. Acceptance Determination.....2.7-11
 - e. Re-inspect as Necessary.....2.7-13
 - f. Schedule of Periodic Services2.7-13

1. Overview

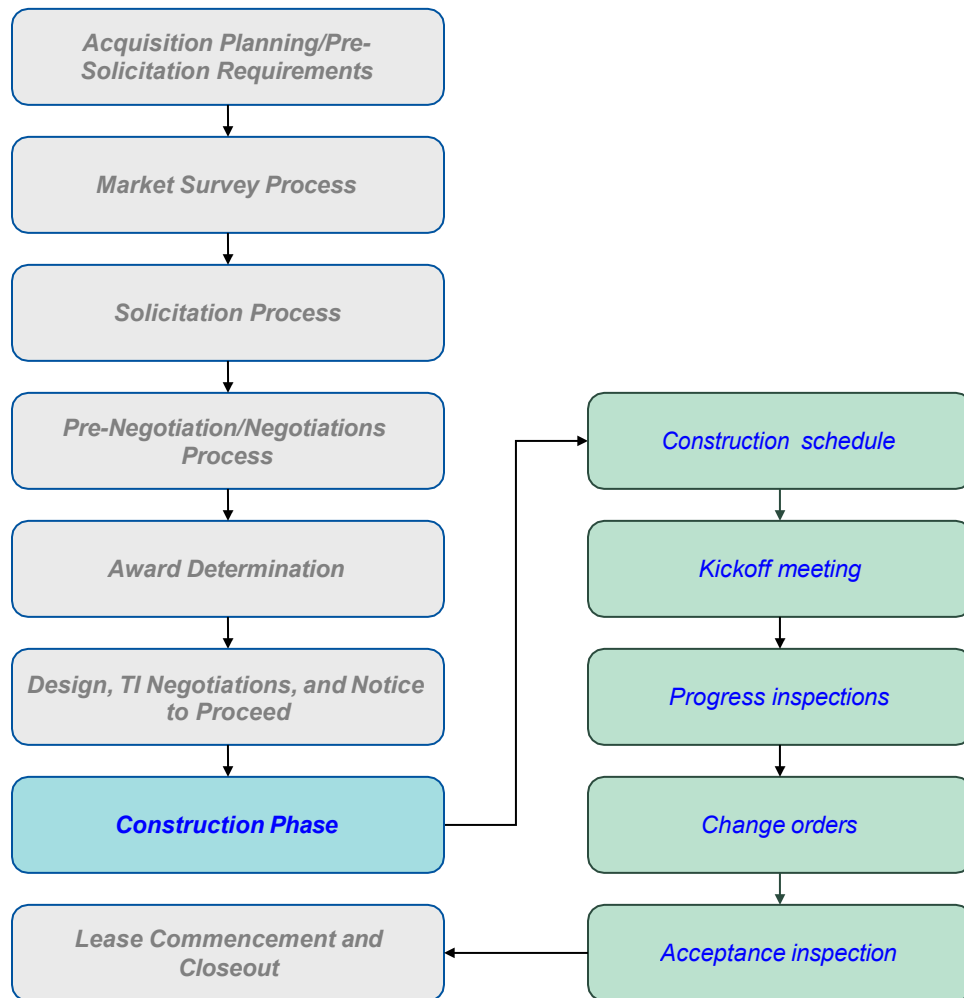
The construction phase of the project—which begins after the Lease Contracting Officer issues a Notice to Proceed for the tenant improvements—involves the build-out of the space by the Lessor. This part will discuss key elements of this phase, which include the construction kickoff meeting, progress inspections, change orders, and the acceptance inspection.



Technical support is integral to the success of this phase of the project. The Leasing Specialist must work cooperatively with team members, field office representatives, engineers, space planners, and others throughout this phase to note construction progress and deficiencies.

The following illustration shows the construction phase. Each step label is linked to the section that discusses the topic.

Construction Phase





2. Construction Schedule

The construction schedule is a key guiding document. The lease instructs Lessors to submit the construction schedule within the specified number of days after issuance of the NTP. It should be evaluated, and sometimes negotiated, ideally before—not during—the kickoff meeting. In-house experts can assist with schedule review.

Leasing Specialists should be familiar with the following schedule elements:

- Whether the schedule includes built-in float for weather events or holidays, and where that float is located in the schedule
- What events and tasks will impact the project schedule critical path
- Construction tasks that require long lead times
- Requirements such as security, furniture, data cabling, and other items that require early and ongoing coordination with outside contractors that may affect the schedule.

3. Pre-Construction Kickoff Meeting

The pre-construction kickoff meeting is an important part of the construction phase, as it establishes the protocol and expectations for all team members for this part of the process. The timing of this meeting is important; it should occur before commencing any TI construction but after the Lease Contracting Officer has issued the Notice to Proceed.

The sections below discuss the proposed attendees and agenda. Project management practices—such as regular team meetings, agendas, and meeting minutes—will continue to apply during the post-award construction phase of all lease projects.

a. Attendees

The complexity of a project may determine the appropriate attendees. The following people typically attend:

- GSA project manager
- GSA Leasing Specialist and/or Lease Contracting Officer;
- GSA Technical Team (engineer, space planner, etc.);
- GSA field office representative (including the LAM);
- Agency representatives;
- FPS inspector;

- National broker (if applicable);
- Construction manager (CM), if applicable;
- Lessor:
 - Lessor's general contractor (GC);
 - Lessor's Architect;
 - Lessor's Project Manager (PM);
 - Lessor's subcontractors.

b. Agenda

The main purpose of the kickoff meeting is to establish roles, responsibilities, procedures, and the construction schedule. The following are typical agenda items for the kickoff meeting:

- Introductions and attendance
- Roles and responsibilities: Establish points of contact (phone numbers, emails, etc.), roles, and decision-making individuals for Lessor and GSA team.
- Defining the tenant agency's role, including the requirement to coordinate with the Leasing Specialist before visiting the site, making changes, or taking other such actions
- Change order procedures: Emphasize that the Lease Contracting Officer is the only person authorized to approve change orders and obligate additional funds.
- Construction schedule review: Identify any critical periods or project stages when a progress inspection should occur (such as before drywall is installed), or important periods of coordination with the customer agency.
- Progress inspections, reports, and construction meetings schedule: These time frames are referenced in the lease.
- Review of finish selections or finish selection and approval process
- Furniture delivery and installation timing in relation to construction schedule
- Phone, data, and security systems installation in relation to construction schedule;
- Unique security concerns (controlled access, clearance of workers, and safeguarding Controlled Unclassified Information)
- The Construction Waste Management plan, which should be submitted before and reviewed during the kickoff meeting, as well as safety data sheet (SDS) submittals (if necessary and applicable)



- Process to be used for determining space acceptance and tracking punch list items.

c. Meeting Minutes

Meeting minutes must be taken at the kickoff meeting and any subsequent construction meetings. In accordance with Section 4 of the lease, the Lessor is responsible for taking and distributing minutes of these meetings. The Leasing Specialist should review the meeting minutes and report any discrepancies to the Lessor.

d. Other Items

If the Labor Standards paragraph is included in Section 3 of the lease and applies to the offered space, the submittal process for Davis-Bacon Interview Forms and Wage Payment should also be discussed.

If an approved subcontracting plan was required as part of the offer, then reporting on subcontracting should be discussed. The Lessor is required to submit an annual Summary Subcontract Report (SSR) electronically in the Electronic Subcontracting Reporting System (eSRS) acquisition tool.

However, since leases are no longer reported in the Federal Procurement Data System (FPDS), the Lessor must submit its Individual Subcontract Report (ISR) in paper form to the GSA Lease Contracting Officer bi-annually using the SF-294 form, Subcontracting Report for Individual Contracts. See Leasing Alert LA-20-08, Small Business Subcontracting Plan and Reporting for additional guidance regarding reporting compliance.

4. Progress Inspections

During construction, the Government may conduct regularly scheduled progress inspections or inspections at critical points. Unscheduled visits to the construction site by unauthorized personnel are discouraged; the tenant agency must always coordinate on-site visits with the Leasing Specialist. Though Leasing Specialists will not always conduct progress inspections, they must stay informed regarding any issues that these inspections uncover in order to address them immediately.

Periodic progress inspections are important for:

- Verifying compliance with the lease construction schedule and lease construction drawings; and
- Observing the quality of construction work and reducing the amount of costly rework.

Right of Access

The lease specifies that the Government may access any space within the building during interior construction to perform inspections or install Government-furnished equipment, with coordination with the Lessor.

The Lessor should record minutes for each meeting with GSA regarding progress inspections. During construction, if the Lessor discovers instances where the Government's directives conflict, the Lessor should immediately notify the Lease Contracting Officer so that the Government can decide to how to proceed beyond the building shell.

a. Inspection Items

Each project may have specific items that are important to observe during a progress inspection. The following items are some examples:

- Wall locations or any critical “hold to” dimensions;
- Wall height (perimeter walls/slab to slab/ceiling height);
- Ceiling type (acoustical/drywall) and height
- Progress of work (in line with construction schedule);
- Ballistic material under the drywall;
- Wire mesh;
- Soundproofing;
- Outlet locations (core drills);
- Cabling;
- HVAC units (such as those dedicated to a server room);
- Restroom ABAAS compliance; and
- Finishes

b. Construction Manager Deliverables

If a CM is involved with the project, the Leasing Specialist may expect certain deliverables associated with progress inspections. The deliverables and their frequency can vary according to the project’s requirements and should be specified when the CM’s services are confirmed before construction. Deliverables from a CM can include the following:

- Field reports for periodic site inspections, including condition reports
- Photographs of construction progress taken during periodic site visits
- Evaluation of construction progress, particularly in relation to construction schedule.

At times the CM reports may raise issues that the Leasing Specialist or Lease Contracting Officer needs to bring to the attention of the Lessor’s team for resolution. All inspection documentation and communications should be retained in the lease project file.



5. Change Orders

As defined by FAR 2.101, a change order means a written order, signed by the contracting officer, directing the contractor to make a change that the Changes clause authorizes the contracting officer to order without the contractor's consent. This section also discusses changes requested by the Lessor. Any costs associated with a change must be determined to be fair and reasonable. A change may also result in a reduction of costs to the Government.

As indicated in the definition above, when GSA orders a change from a Lessor (or agrees to a change initiated by a Lessor), the Lease Contracting Officer must provide a written order to the Lessor identifying the scope of the change, costs, schedule, and any other pertinent provisions. If a change results in neither a cost or schedule modification nor a devaluation of the products and services to which the Government is entitled under the lease, GSA may issue a no-cost change order to the Lessor. In any case, the lease and/or design documents should be updated to reflect the change. For change orders funded by RWA, obtain a BA80 funds certification, send a copy of the obligating documents to the Budget Office within 7 calendar days of obligation or prior to month's end, whichever is earlier, for timely recording. Actions not timely recorded exceeding \$500,000.00 will require a Worksheet Adjustment and additional approvals, including Regional Commissioner's signature. Refer to the PBS RWA National Policy Manual for guidance regarding the requirements for proper Fiscal Year funding.

a. Lessor Changes

Whenever a change is initiated by the Lessor, the Lease Contracting Officer should be notified and apprised of the scope of the change. The Leasing Specialist and/or Lease Contracting Officer can then discuss the implications of the change with the customer agency to confirm that the client's goals can still be accomplished. If not, the Leasing Specialist and/or Lease Contracting Officer should discuss with the Lessor alternatives that will be acceptable to the client and, if possible, mutually beneficial to the Lessor. If it becomes necessary for the Government to compromise any lease requirement to accommodate the Lessor, the Leasing Specialist and/or Lease Contracting Officer should expect and require an equivalent value of compensation from the Lessor, either monetary in the form of reduced rent or other benefit of equal or greater value to the Government. All changes should be memorialized in the lease through a lease amendment and in the design documents.

In some cases, the Lessor may suggest changes that will enhance the Government's use of the space but for which the Lessor derives no direct benefit. In these instances, the concepts under "Government Changes" below should be employed.

b. Government Changes

When a change is initiated by GSA, it is generally on behalf of the customer agency and usually the result of a refinement of the agency's mission, a change in requirements, or of value engineering as defined under FAR Part 48. The scope of the change must be clearly written and provided to the Lessor for pricing. It may be necessary to require the Lessor to provide drawings or other submittals sufficient for GSA to determine that a meeting of the minds has been achieved regarding the change desired. GSA should be prepared to remunerate the Lessor for design costs, even if a change order is not ultimately issued. The Leasing Specialist and/or Lease

Contracting Officer should negotiate the design costs with the Lessor in advance, notify the agency of the costs, and secure funding before issuing a Notice to Proceed with design.

As with design costs, GSA requires that the agency execute an updated OA, RWA, or other funding instrument before issuing the change order to the Lessor. Note that RWA funding must be confirmed by a BA80 funds certification from the Budget office. Additionally, the following considerations apply:

- A change order must be reviewed and approved in writing or, in an emergency, orally, and then confirmed in writing by the Lease Contracting Officer.
- Change order pricing must be discussed and agreed upon by the Government and Lessor in writing before the work is started. The discussion must determine whether the Government will be paying lump sum via an RWA or whether the cost will be amortized through the rent.
- The tenant agency cannot request a change to the scope of the project that will result in additional costs unless approved in writing by the Lease Contracting Officer. If the Lessor makes changes to the scope of the project on the request of the tenant agency, completes the work, and does not get advance approval in writing by the Lease Contracting Officer, then the Government may not be liable for the cost of those changes. This should be conveyed to the Lessor during the first construction meeting.
- The Lessor or its architect/general contractor must maintain a change order log and keep it current throughout the term of the project.
- Change orders must be substantiated by an IGE to determine that pricing is fair and reasonable. The pricing for the change order does not have to be automatically accepted; it can and should be negotiated.
- The change orders and their pricing must be authorized in writing as they occur and memorialized in a lease amendment as they occur.
- Government change orders may not be initiated by anyone other than the Lease Contracting Officer.

An oversight in the Lessor's preparation of TI pricing does not constitute a change in costs to the Government. However, if a Lessor's request for additional payment in a particular instance is fair and reasonable considering the total TI costs, and if funding is available from the customer agency, the Lease Contracting Officer may consider it prudent to compensate the Lessor.

If the agency missed something in its original requirements or DID, it should be advised that this change could result in additional costs and that it will be at the agency's expense.

If unforeseen or unforeseeable costs are incurred during the construction phase, the costs of any potential change orders should be discussed with the agency and agreed upon with the Lessor before issuance.

c. Legal Review

Pre-issuance review of proposed contract modifications is required:

- Where the proposed modification includes any potential settlement of claims/disputes with the contractor;
- Where the proposed modification, if issued as a stand-alone solicitation/contract, would be subject to legal review;
- For below-prospectus level leases, where proposed changes (e.g., increase in rent and/or amount of square footage) would potentially result in the lease exceeding the prospectus threshold;
- For prospectus level leases, increases in rent (excluding operating cost adjustments, tax escalations or other routine payments previously provided for under the lease), the amount of square footage, or lease term;
- All novations or assignments; or
- Where a change to any of the standard General Clauses is proposed.

6. Acceptance Inspection

In the final inspection for space acceptance, the Government verifies that the space meets all the performance requirements of the lease agreement and the design intent drawings. This inspection is a crucial turning point, because it establishes whether the space is “substantially complete,” meaning that the space will serve its intended function and the lease term can commence. Extreme care is required in arriving at this decision, since failure to notice flaws or shortcomings in the construction can have costly ramifications later on after the customer agency has moved into the space. The lease covers acceptance of space and substantial completion in more detail.

Conducting the final acceptance inspection consists of the five steps discussed below.

a. Receive Notice from Lessor

Before completing interior construction, the Lessor must advise the Government in writing to inspect the space. The lease itself will specify the number of days before completion that the Lessor must issue this notice, and the number of days the Government has to inspect and either accept or reject it. During construction GSA should be monitoring the schedule, conducting periodic inspections, and keeping themselves and other stakeholders informed about progress.

b. Invite Inspection Participants

Inspections can be done by the Lease Contracting Officer or designated official, but the Lease Contracting Officer makes the ultimate decision on accepting space. The schedule for the acceptance inspection may accommodate the participation of the following parties:

- Project manager
- Leasing Specialist (who may be represented by the technical representative);
- Engineer/CM/space planner;
- Field office representative (including the LAM);

- Agency representative;
- Lessor, possibly accompanied by a general contractor;
- Federal Protective Service;
- Fire Protection Engineer; and
- Broker (if applicable).

c. Inspection and Acceptance

Conducting the inspection involves walking around the interior space, common areas, and exterior. The Leasing Specialist should discuss all deficiencies with the Lessor's representative and make a note of them to create a "punch list" for further action. Because acceptance of tenant improvements is final and binding, it is crucial to ensure that the inspection is rigorous and the punch list is thorough (it should be specific as to location and deficiency).

Before conducting the inspection, it is a best practice to prepare an inspection checklist tailored to the particular lease, especially to check negotiated improvements, special requirements, and change orders. GSA Form 1204, Condition Survey Report; Form 220, Inspection Report on Work Under Contract; and Form 500, Lease Inspection Form, are available as useful models. DIDs and construction drawings should also be brought to the inspection.

Round 'Em Up

Keep all inspection participants together—everyone's notes should be based on the same observed evidence.

The following are the types of issues to look for during the inspection:

- Measurements—The final measured space must contain the minimum ANSI/BOMA office area square footage required by the lease.
- The overall condition of the space—Should be clean, complete, ready to move in.
- Finishes—Should be fully installed, with the specified materials, in a workmanlike manner.
- Partitions, doors, and hardware—Should be the correct type and fully functional.
- ABAAS compliance—Includes entrances and ramps, restrooms, elevators. An accessibility checklist identifies the most common specific issues that need to be considered. They involve parking, entrances, doors, elevators, drinking fountains, ramps, restrooms, and miscellaneous other requirements. The GSA Accessibility Compliance Checklist for Leased Facilities can be found on the U.S. Access Board's website.
- Cost-effective energy-efficient upgrades specified in the lease contract.



- Restrooms—Should be fully equipped and stocked, with working fixtures.
- Adequate light levels.
- HVAC balancing.
- Electrical outlets—Should be operable, the correct type, and placed properly.
- Special requirements.
- Security items, such as blast film.
- Exterior features, if applicable, such as the condition of landscaping, correctly marked parking, or flag poles.

d. Acceptance Determination

Before GSA can accept the space, it must be “substantially complete.” This means that all work necessary for the Government’s access, occupancy, use, and enjoyment has been completed, except for minor matters that don’t interfere with access, occupancy, use, or enjoyment. If it is not capable of being used for its intended purpose and delivering its intended benefits, then it is not substantially complete, and GSA may not accept the space.

Additionally, the lease requires the Lessor to provide a valid certificate of occupancy. Some jurisdictions follow a two-phase process that involves issuing a temporary certificate of occupancy, which is acceptable. If the local jurisdiction does not issue certificates of occupancy, the Lessor must have a licensed fire protection engineer verify that the space meets all applicable local codes and ordinances to provide an acceptable level of safety. It is important to understand that the certificate of occupancy is essential and required for GSA acceptance of the space, but it is not in itself sufficient for that purpose. The certificate of occupancy verifies that the space meets local legal and code requirements, but it does not verify compliance with the lease.

With new construction or if the Lessor is required to perform seismic retrofit, the Lessor must provide documentation regarding seismic certification for the space to be considered substantially complete. See Appendix G, Seismic Safety in Leasing.

Except where the square footage has already been pre-determined (such as in a succeeding lease), when space is offered and accepted, the amount of ABOA square footage delivered will be confirmed by:

- The Government’s measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans; or
- A mutual on-site measurement of the space, if the Lease Contracting Officer determines that it is necessary.

Documenting the Decision

For new and new/replacing leases, GSA must document its acceptance decision with the completed GSA form 1204, Condition Survey Report or similar form signed by the Lessor, customer agency, and GSA.

If the space is deemed substantially complete, the Government accepts the space and requests a schedule for resolving punch list items, and the Lessor turns over keys to the customer agency. The remaining punch list items and a schedule for fixing them can be documented in a lease amendment if the additional work will go on for more than 7 days or beyond the move-in date.

If the GSA rejects the space as not substantially complete, then GSA must explain to the Lessor what is required to reach substantial completion. The Lessor should immediately undertake remedial action and, when the space is ready, issue a subsequent notice to inspect to the Government.

Provide the field office (including the LAM) with copies of all correspondence.

Imminent Lease Expiration

There may be circumstances where the Lease Contracting Officer has awarded a replacing lease to the incumbent Lessor at the current location and the TI and/or BSAC work required under the replacing lease will not be completed prior to lease expiration. In this scenario, the Lease Contracting Officer has two options:

Option 1: Delay the start of new lease term and rent commencement until the work is completed; obtain an interim lease extension. This option provides lower risk to the Government with respect to ensuring contract performance and is the *preferred* option.

Option 2: Commence the start of new lease term and rent commencement upon expiration of the current lease. Under this option, the Lease Contracting Officer establishes the lease term and rent commencement date as the day after current lease expiration, noting that there is outstanding work to be performed by the Lessor. While this option has the benefit of avoiding the need for a lease extension, which is undesirable to the market, it also provides a higher level of risk to the Government with respect to contract performance.

In deciding between these two options, the Lease Contracting Officer must assess the associated benefits and risks in order to determine which option is in the best interest of the Government and document any decision to commence a replacing lease prior to the completion of the work.

Please note the following caveats regarding Option 2:

- Option 2 is only allowable when the Government is currently occupying the space under the replacing lease and must not be used for new leases or leases where the agency is relocating to alternative space.
- Option 2 should only be used when there is a high degree of certainty that the TI and/or BSAC design and construction phase will commence expeditiously following lease award.
- If choosing Option 2, the Lease Contracting Officer must document the decision.

Good Practice

GSA form 1204 should also capture outstanding deliverables, such as the as-built drawings and schedule of periodic services.



- The Government must not commence the payment of any TI or BSAC rent for work which has not been completed, inspected and accepted.
- In the event the full TI or BSAC allowances as stated in the lease are not used, the TI and/or BSAC rent must be adjusted accordingly (de-amortized).
- Unused TI or BSAC may not be converted into free rent in lieu of de-amortization, nor may it be “banked” for future use.
- A Lease Amendment commemorating the commencement of TI and/or BSAC rent, including any rental changes due to a reduction in principal or amortization term, must be executed.
- While a new REXUS project number may be required, all documentation associated with the buildout (design, TI/BSAC negotiation, construction, and inspection) must be uploaded into G-REX under the appropriate headings under Tab 9, Post Award, under the original project number.

For further information on documenting this decision, see Chapter 5, Succeeding Lease, Superseding Lease.

e. Re-inspect as Necessary

GSA does not always accept space after the first inspection. Re-inspect to determine substantial completion, if the space was initially rejected, or to resolve all remaining punch list items. The lease file should reflect definitive resolution of punch list items. Document the items that have been completed, the ones that are still pending, and any new problems discovered.

f. Schedule of Periodic Services

Upon space acceptance, the lessor must provide a detailed written schedule of all periodic services and maintenance to be performed other than daily, weekly, or monthly items. The Leasing Specialist must ensure that this schedule is provided to the LAM for future lease enforcement purposes.



Part 8: Lease Commencement and Closeout

- 1. Overview 2.8-1**
- 2. Lease Amendment for Lease Term Commencement..... 2.8-3**
- 3. Processing Lease Payment and Client Billing 2.8-3**
 - a. Starting Rent..... 2.8-3
 - b. Customer Billing 2.8-4
- 4. Close-out of Existing Lease 2.8-4**
- 5. Post-Occupancy Deliverables..... 2.8-5**

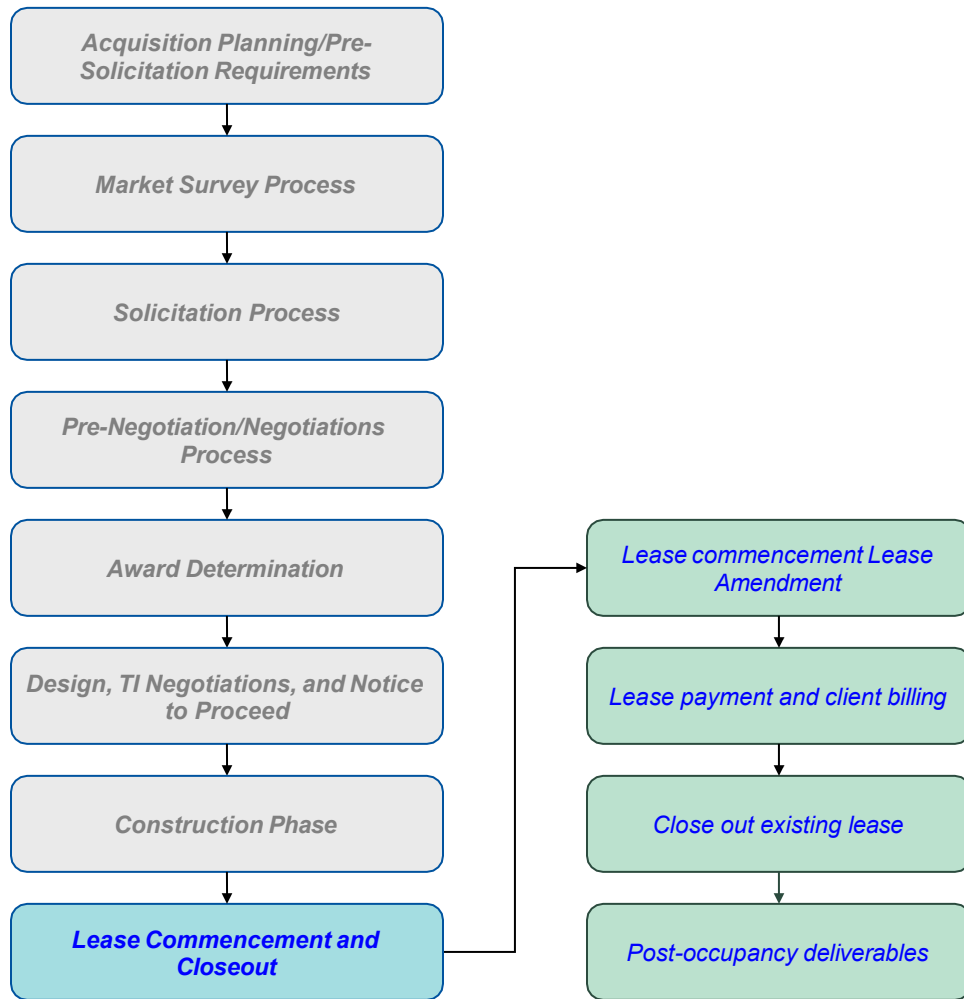
1. Overview

Once GSA determines that the space is substantially complete and accepts it, the official start date for occupancy and paying rent must be established. GSA must help the customer agency plan and coordinate the dates for its move. Moving in the customer agency’s furniture and equipment can amount to de facto acceptance of the space.

- Lease activation—Upon acceptance of the space, the lease is activated, the customer agency occupies the space, and rent payment begins.
- Project closeout—The lease acquisition project is closed out.
- Post-occupancy deliverables—The Lessor provides a number of standard items after occupancy.

The following illustration shows the lease commencement and closeout phase. Each step label is linked to the section that discusses the topic.

Lease Commencement and Closeout





2. Lease Amendment for Lease Term Commencement

A lease amendment must be used to establish commencement of lease (or rental) payments. A typical lease amendment for lease term commencement specifies the effective and expiration dates of the lease, the square footage, and the actual rental rates including step rents, which are broken down to show subcomponents such as shell, operating, BSAC and TI rent; and other rental payment information. For leases using either a TI allowance or BSAC placeholder estimate, where either are more than the actual costs established and agreed to during the post-award TI/BSAC bidding phase, the rental rate must be adjusted downwards in accordance with the terms of the lease.

Before the Lease Contracting Officer may execute this lease amendment, the Leasing Specialist must update REXUS project information to reflect these terms and obtain a recertification of BA53 funds.

GSA must receive a signed/approved OA before awarding a lease or a lease amendment affecting rent. A previously signed OA for sufficient rent meets this requirement. Otherwise, develop and have the agency sign a revised OA, reflecting the new terms, before a lease amendment is executed. Once completed and signed by all parties, the lease amendment must be transmitted to the original lease distribution list.

3. Processing Lease Payment and Client Billing

Once the lease documents are executed, the Leasing Specialist must initiate actions in REXUS to activate rent payments and client billing. This is the time to confirm all the rent components including step rents that are in the lease or amendment(s) are properly reflected as projected payment lines in the lease module in REXUS. These tasks must occur expeditiously to ensure timely payment and billing.

Note that the Lease Contracting Officer must confirm that all tenant improvement build-out work is completed and accepted by the Government before tenant improvement reimbursements are paid to the Lessor. Progress payments for initial tenant improvements are not authorized for leases.

a. Starting Rent

Source documents—including the lease, lease amendments, and the electronic version of the annual representations and certifications completed as part of the SAM.gov registration, serve as the basis for input into REXUS, where a Lease Digest (Form 620) is generated and rent payments are activated.

Processing rent payment requires confirming the alignment of certain Lessor information in SAM.gov and REXUS. SAM.gov registration is verified pre-award as discussed previously in Part 4, Paragraph 3.a of this chapter. It is important to note that Lessors must update their SAM.gov registrations annually; failure to do so will prevent GSA from issuing rent payments. If design and



construction for the project has lasted more than a year, the Lessor may need to update SAM.gov in order to begin rent payment.

b. Customer Billing

The source documents identified earlier, along with the signed/approved OA, must be forwarded to the Rent Bill Management (RBM) team. Once the action is approved by RBM, the signed OA is finalized in the OA Tool and client billing begins. For guidance related to the immediate billing of a succeeding lease continuing occupancy, see Leasing Desk Guide Chapter 5, Succeeding Lease, Superseding Lease.

All OA and lease amendment documentation must be loaded into G-REX. Upon doing so, the Leasing Specialist can close out the project in REXUS.

OASIS

As stated earlier in this chapter, GSA is updating its process for creation and distribution of OAs in FY23. Please refer to future guidance on the use of OASIS and the OA approval process.

4. Close-out of Existing Lease

If the new lease replaces an existing lease, Leasing Specialists must also coordinate the disposition of the old lease. This entails conducting a post-move inspection with the LAM or designee at the previous lease location. All Government equipment and furniture must be removed, and the space left reasonably clean, allowing for normal wear and tear. Failure to remove all Government assets and clean the space could put GSA in a holdover position if the lease has already expired, meaning that the previous Lessor could file a claim for additional rent payments.

If damage has occurred to the space beyond normal wear and tear, a written agreement (a lease amendment, notation of GSA Form 1204, Condition Survey Report, etc.) to address the damage should be prepared.

The Lessor must return all Personal Identity Verification (PIV) access cards to the GSA Lease Administration Manager.

The lease file should be documented to record that the lease has terminated (as further described in Chapter 17, Lease Administration). Document the final disposition and return of keys to the Lessor in the lease file, preferably using the condition survey form (GSA 1204), which is signed by the Lessor. Leasing Specialists should be mindful that it is important to document this step, regardless of the particular form used.

If the existing lease is “non-fully serviced,” the LAM is responsible for contacting the 1102 Contracting Officer responsible for the service contract to discuss termination of services. It is important that the Leasing Specialist, LAM and Contracting Officer are in concert on this topic to address funding changes, proper contract administration, and/or modification.

Update REXUS to reflect the termination of the old lease. For further guidance on lease terminations related to space expansions or reductions, see Chapter 6, Change in Square Footage—Expansion and Reduction.



5. Post-Occupancy Deliverables

The lease requires the Lessor to provide a number of standard items after occupancy. Additionally, other post occupancy deliverables may be required as part of the customer agency's special requirements. The Leasing Specialist should maintain a list of deliverables throughout the RLP development, negotiation, award, post-award, and change order process for reference to confirm that the Government receives all of the information for which the Lessor has been paid.

The lease may include items such as the following, which the Lessor must provide:

- As-built drawings
- Schedule of periodic services (if not already provided upon space acceptance)
- Energy Star documentation
- Completion of green buildings rating certification (i.e., LEED or Green Globes)
- Radon testing
- Warranties.

As-Builts

At this point the Lessor should provide GSA with the final as-built drawings that document the actual construction as performed (as distinct from the initial construction drawings). This is an important requirement of the lease that needs to be enforced, as these drawings are increasingly important to our client agencies. See LA 21-05 Mandatory Use of Central

Facilities Repository (CFR) for As-Built Drawings for more information on the storage of these important documents.

Additional agency requirements may include such items as verifying HVAC loads for space that serves special functions, such as 24-hour computer server rooms.

The Leasing Specialist should remind the Lessor of post-occupancy deliverables and monitor their delivery. If the Lessor fails to deliver any items, the Leasing Specialist must investigate the remedies stated in the lease and enforce the terms appropriately.