

CHAPTER 23:

Lease Acquisitions Using Unusual and Compelling Urgency

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1. Overview – Lease Acquisitions Using Unusual and Compelling Urgency

Chapter Outline

This chapter provides guidance relating to policies and regulations impacting leasing actions performed using the authority under 41 U.S.C. 3304(a)(2) as implemented by the Federal Acquisition Regulation (FAR) 6.302-2 and commonly known as Unusual and Compelling Urgency. These types of lease acquisitions occur in an accelerated timeframe necessary to respond to an event or critical government need that cannot be met while providing for full and open competition procedures. This chapter provides supplemental guidance to Chapter 2 and follows the basic outline of that chapter while highlighting important areas of difference or specialization that are applicable to these types of acquisitions.

Important: This chapter focuses on conducting urgent lease projects using Unusual and Compelling Urgency to expedite lease acquisitions. This chapter excludes leasing space for FEMA following a declaration of disaster under the Robert T. Stafford Act and pursuant to a Memorandum of Agreement between GSA and FEMA. Chapter 12 provides guidance and process information in reference to acquiring leases for FEMA following a disaster.

Background

The act of acquiring leasehold interests in real estate is typically carried out in a methodical fashion over many months. However, there are times when the Federal Government has a bona fide need to lease and occupy space in an urgent manner that cannot be accomplished while providing for full and open competition. When an agency's facilities are rendered inoperable due to fire, flooding, or other events, that agency's ability to provide vital services for the public good can be compromised. **As part of the mission of PBS to provide facilities to agencies, when the legitimate mission needs of an agency require immediate action, the FAR allows for GSA to forego full and open procedures in order to swiftly acquire facilities for agencies to carry out their mission.**

While FEMA disaster leasing makes up a significant percentage of lease acquisitions using Unusual and Compelling Urgency, there are times when other agencies have legitimate mission needs that also require that GSA utilize use Unusual and Compelling Urgency. For example, an agency that loses their existing facility to a fire may require that PBS establish temporary or permanent replacement facilities in order to prevent further disruption to the agency's mission. The guidance in this chapter will assist Lease Contracting Officers (LCOs) to respond to urgent leasing requirements while staying within the limits of GSA's leasing authority and following applicable rules and regulations.

Key Definitions and Concepts

This chapter will discuss the policies and procedures regarding the procurement of space for agencies under unusual and compelling justifications. It is important for the reader to differentiate these policies and procedures from other types of lease actions and to understand the key terms

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and concepts associated with urgent lease acquisitions using Unusual and Compelling Urgency authority.

What is Unusual and Compelling Urgency?

Unusual and compelling urgency is the term used to represent a situation where the Federal Government has a bona fide need for goods or services which cannot be acquired within the timeframe needed under traditional full and open procedures. The authority to conduct acquisitions using this process comes from 41 USC 3304(a)(2) and is further described in FAR 6.302-2. Unusual and Compelling Urgency is a form of “other than full and open competition,” similar to sole source acquisitions commonly used to procure succeeding leases in the leasing program as described in GSAR 570.402 as a supplement to FAR 6.302-1 (only one responsible source and no other supplies or services will satisfy agency requirements). In a sole source acquisition, the LCO negotiates with only one Offeror (typically an incumbent Lessor). LCOs procuring space using Unusual and Compelling Urgency procedures are still required to promote competition to the maximum extent practicable under the circumstances. As circumstances surrounding emergencies vary greatly, the ability to promote competition will also vary to a greater or lesser extent. LCOs should consider the urgency with which the agency plans to occupy the space and, where feasible, permit a reasonable negotiation period based on the situation. However, when a reasonably diligent search of the market only reveals few, or possibly a single location, LCOs do not have an obligation to expand the delineated area or perform multiple iterations of market surveys when the urgency of the situation does not permit such activities. **Acquisitions over SLAT using Unusual and Compelling Urgency procedures may not exceed one year, including all options, unless the Head of Contracting Activity (HCA) determines that exceptional circumstances apply.** That determination, which is described in more detail in this chapter, must be documented in the file in tab 2.

LCOs should be aware that Unusual and Compelling Urgency does not waive many required acquisition steps or reviews, such as obtaining funding approval prior to award or conducting fire safety reviews. Where certain steps are specifically exempted, those are noted in this chapter.

What is FEMA Disaster Leasing?

FEMA Disaster Leasing is defined as a specific type of emergency lease acquisition performed for the Federal Emergency Management Agency (FEMA) in support of disaster relief efforts under the Stafford Act and ordered by a Presidential disaster declaration. FEMA disaster lease actions use Unusual and Compelling Urgency to authorize the LCO to limit competition where necessary and to authorize additional flexibilities under FAR Part 18 for emergencies. FEMA Disaster leasing is detailed in Chapter 12. Disaster leasing assistance is provided under a special Memorandum of Agreement between FEMA and GSA as part of the National Response Framework and follows very specific procedures for both lease acquisition and administration. For this reason, disaster leasing to support FEMA and other lease acquisitions using Unusual and Compelling Urgency are handled as separate Leasing Desk Guide chapters in order to prevent confusion.

What is an “Urgent Lease Action?”

Urgent lease actions refer to leases entered into using Unusual and Compelling Urgency justifications to limit competition in response to an urgent need which may be related to a natural disaster, or may be more localized, such as mold or a fire at a particular building which requires the agency to relocate, temporarily or permanently. Urgent lease actions can also refer to

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mission critical needs of the government which cannot be met while providing for full and open competition, such as an urgent request for space connected to a critical occupancy date where delay in fulfilling the need will result in significant harm to the government or public. Leases acquired using Unusual and Compelling Urgency may be short term in nature or may be long term, such as relocating an agency to a new lease when their current space becomes permanently uninhabitable. Lease actions using Unusual and Compelling Urgency may occur with or without a disaster declaration. Urgent lease actions may utilize the flexibility granted under FAR Part 18 for emergency acquisitions, such as providing exemptions for advertising, only when there is a declaration of emergency made under appropriate statutory authority. Urgent lease actions follow the normal leasing process with special noted exemptions and changes. Urgent leasing is covered in detail in this chapter. Unusual and Compelling Urgency is not a means to rectify delays or untimely performance by either GSA or the client agency.

* Please note that the definitions under Chapter 12 uses the phrase “emergency leasing” to refer to those urgent lease actions that are unrelated to FEMA disaster leasing. This chapter abandons the use of “emergency lease” terminology and instead refers to “urgent lease actions” to more specifically reflect the application of Unusual and Compelling to the leasing process which may or may not be related to an “emergency” as defined in the FAR.

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1. Project Initiation/Trigger Event

Urgent leasing requirements are often initiated in response to a trigger event rather than the expiration of an existing lease. The nature of this trigger event and the corresponding need for the government to occupy the space will determine how much time is available to carry out the acquisition. The procedures outlined in this section should be considered to be scalable as necessitated by the specific situation. Many urgent leasing requests concerning existing space will originate with the Lease Administration Manager (LAM) notifying the LCO of a particular situation impacting a lease which may require relocation.

When a trigger event prompts the initiation of an urgent leasing request, it is critically important that the regional team first engages the agency in discussions to determine their current mission driven facility requirements. If the project is to replace an existing facility, project teams should not immediately assume that the agency’s current requirements are identical to their existing facility, especially for temporary facilities. Project teams should also consider alternative working arrangements, such as telework or redistributing the workforce among other established locations while an existing facility is restored to operable condition before pursuing an urgent lease action for temporary space.

Important Note:

Unusual and compelling urgency justifications must demonstrate harm to the public or agency mission if full and open competition is used to satisfy the agency’s space requirements. These procedures are never to be used to expedite a procurement action solely for customer satisfaction or workload management purposes.

Additionally, the project team should consider if an agency's requirement can be fulfilled while providing for full and open procedures through management and workload prioritization.

Trigger events for the use of unusual and compelling urgency can fall into 3 main categories:

- **Statutorily Authorized Emergency Declarations**

Federal laws may be enacted which give government officials the ability to declare an emergency in response to certain events. These officials may be the President of the United States or this authority may be delegated to certain other federal officials, such as the head of an agency. Examples of this authority include presidential declarations of emergency under the Robert T. Stafford Act which is used to authorize disaster relief and carried out by FEMA discussed in Chapter 12. Other examples include a declaration of a public health emergency by the Secretary of Health and Human Services under the Public Health Services Act.

These emergency declarations are authorized by statute and fulfill the requirements of 41 USC 3304(a)(2) permitting agencies to limit competition when contracting for needs that arise in response to these emergencies.

- **Localized Disasters or Events**

Events may occur that do not rise to the level of a national emergency but may impact one or more buildings to the extent that the agency must be relocated on a temporary or permanent basis. Examples of these events include localized flooding due to rainfall or building specific events such as a burst water pipe or building fire.

As described later in this chapter, when an LCO intends to use a localized event to justify the use of Unusual and Compelling Urgency, the LCO must have the written concurrence from appropriate technical experts to validate the necessity of pursuing an urgent lease replacement action to relocate the agency and concurrence from regional counsel that the action falls under the class justification.

- **Mission Critical Deadlines**

The government may, at times, have bona fide mission requirements that cannot be met while providing for full and open competition. Examples of these events may include space required to house agencies in response to laws or executive orders with specified activation dates. They may also include other housing requests that are tied to a specific date which cannot be changed, such as providing space for the U.S. Secret Service in response to a political convention.

This category requires a diligent review of the requirements of the agency, the legitimacy of the required occupancy date, and the harm poised to the public if the acquisition is conducted using full and open competition.

It should be noted that a justification for Unusual and Compelling Urgency should not be pursued in order to expedite procurement actions solely for customer satisfaction or to otherwise expedite

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routine leasing actions for non-essential purposes. The justification must clearly establish that the government's bona fide need requires the use of unusual and compelling urgency procedures. Additionally, many acquisitions can be expedited through prioritization of workload by regional management and these methods should be considered prior to using urgent leasing procedures.

2. Authorizing Unusual and Compelling Urgency Procedures

When the LCO has determined that using urgent leasing procedures is necessary, the LCO must first obtain the proper authorization to engage those procedures. This is most critical for actions over the SLAT, where the justification requirements of FAR Part 6 apply. Authorizing these procedures under the SLAT may be done with the appropriate memorandum to file to notate the circumstances and clearly demonstrate the need for urgent procedures, including the harm to the government or public should full and open competition be used.

Authorizing Unusual and Compelling Urgency Above the SLAT

FAR 6.302 describes the circumstances in which the government can acquire contracts using Other Than Full and Open Competition. One circumstance, as outlined under FAR 6.302-1, "Only one responsible source and no other supplies or services will satisfy agency requirements," is commonly used in the leasing program to conduct sole source procurements with an incumbent Lessor to acquire a succeeding or superseding lease, extensions, and expansions. Unusual and compelling urgency is another form of Other Than Full and Open Competition which is similar to, but different from, sole source acquisitions. Using unusual and compelling urgency requires that the LCO seek competition to the maximum extent practicable under the circumstances. As the circumstances vary, the ability to solicit competition will vary to a lesser or greater extent.

There are two ways that an LCO can authorize these procedures, using the class justification or through approval of a project-specific justification.

Class Justification

The leasing program relies on a class justification (Attachment 1) to authorize unusual and compelling urgency procedures for most instances requiring Unusual and Compelling Urgency. That class justification contains 3 categories which can be used to acquire space for agencies when their need falls under one of the categories noted below:

- 1) National emergencies declared by the President under applicable provisions of law, including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act).

This category is utilized to acquire space for FEMA following disaster events, as discussed under Chapter 12. Space procured for other agencies who are also deployed in response to a national emergency declaration by the President fall under this category.

- 2) Emergencies declared by responding Federal agencies' pursuant to statutorily authorized emergency plans or other applicable provisions of law.

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This category may be used when an emergency is declared by an agency under their own statutory authority (e.g. the Environmental Protection Agency (EPA) in responding to a major oil spill or Health and Human Services declaring a public health emergency).

- 3) Emergencies of a health/safety or other (HSO) nature which so adversely impact the mission of an agency in a Government-owned or leased building as to necessitate the agency's expeditious relocation therefrom.

This category can be used to authorize unusual and compelling urgency in response to a building-specific or other localized event, such as a building fire or flood, which requires the occupying agency to be quickly relocated into new space.

When an LCO believes that an agency's trigger event falls under one of these categories, they must consult with regional counsel before proceeding with the acquisition (except for those actions specifically for FEMA following a Presidential declaration under the Stafford Act). When regional counsel provides written concurrence with the use of the class justification, the LCO should prepare and sign the LCO certification statement in the class justification and place that in the file along with a copy of legal concurrence. Leases over SLAT using Unusual and Compelling Urgency are limited to 1 year unless the Head of the Contracting Activity (HCA) has signed a Determination and Finding of Exceptional Circumstances (Attachment 2) described in this chapter.

In order to utilize the procurement flexibilities available through this authorization, all lease files for leases acquired using Unusual and Compelling Urgency under this class justification must include the required certification, located below.

Required Certification:

"I certify that, to the best of my knowledge and belief, the requirement for space falls within the scope and applicability of the class justification for other than full and open competition for the acquisition of work space and related supporting services in response to emergencies or major disaster situations specified in the first paragraph of the class justification for other than full and open competition, entitled Identification and Description of Action Being Approved. The Contracting Officer anticipates being able to negotiate a fair and reasonable price consistent with market conditions and the Government's requirements."

Additionally, if the LCO intends to use the class justification to relocate an agency due to "health and safety" reasons, the LCO must obtain the written concurrence of the regional industrial hygienist, fire protection engineer, or appropriate equivalent position. This concurrence shall be placed in the file along with sufficient documentation to substantiate the decision.

Individual Justifications for Unusual and Compelling Urgency

The class justification does not cover all instances in which it is appropriate to use Unusual and Compelling Urgency to satisfy an urgent requirement for space (for example, a request for space from a law enforcement agency with a need to occupy space to provide security for a sensitive political meeting occurring in a few months). In these cases, the LCO should prepare a Justification for Other Than Full and Open Competition using the template available in chapter 5 of this guide and tailor the information, including the use of the citation to 41 USC 3304(a)(2) (i.e., "unusual and compelling urgency"), to justify the need to use urgent leasing procedures as

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discussed under FAR 6.302-2. Leases above SLAT using this authority are limited to 1 year unless the Head of the Contracting Activity (HCA) has signed a Determination and Finding of Exceptional Circumstances described in this chapter.

Term Limitation and Exceptional Circumstances Determination

Leases over the SLAT, acquired using unusual and compelling urgency procedures, are limited to one year, including extensions and renewals, unless the HCA determines that exceptional circumstances exist. Accordingly, the regional HCA can sign a determination of exceptional circumstances to authorize leases with a term of more than 1 year to a maximum of 5 years. Leases awarded using Unusual and Compelling Urgency with a term over 5 years, such as a permanent replacement lease, require approval from the PBS Deputy Commissioner. The exceptional circumstances determination may be signed after the lease acquisition when signing the determination prior to award would unreasonably delay the acquisition. In instances when the determination will be signed after award, the LCO should confirm approval through less formal means such as an email from the HCA. This determination is required, regardless of whether a class or individual justification is used.

When the regional team intends to execute a lease with an initial term of more than 1 year, the Determination and Findings (D&F) template located in Attachment B must be completed and signed by the LCO prior to forwarding to the HCA for approval. This determination must be signed by the HCA and placed in the file. Leases over the SLAT with initial terms of 1 year or less, which are later extended to make the total term more than a year, require that a determination of exceptional circumstances is completed. Extensions for leases originally awarded using the class justification require a new LCO certification that the facts and circumstances of the scope of the class justification are met. Lease extensions or renewal which extend the total lease term to more than 5 years require approval from the PBS Deputy Commissioner.

Urgent Lease Actions under the SLAT

The justification requirements of FAR Part 6 do not apply to acquisitions under the SLAT, including the HCA determination requirement for leases over 1 year. FAR Part 13.106-1(b) allows the government to limit the sources solicited, including to a single offeror, when the urgency of the situation does not permit for full and open competition. Except for FEMA disaster leases, when the LCO intends to use urgent lease procedures for acquisitions under SLAT, the LCO must document the specific instances justifying the limitation of competition and obtain written concurrence from regional counsel. If relocating an agency due to health or safety reasons, the LCO must also receive written concurrence from the regional industrial hygienist or other appropriate equivalent position as noted earlier in this chapter for urgent lease actions above SLAT.

The LCO may choose to use the LCO certification noted earlier in this chapter and rely on the class justification where applicable or they may use a memo to file to explain the absence of competition. Using the class justification can be useful if there is a question as to whether the acquisitions can be completed under the SLAT but only where the action meets one of the three criteria for use.



3. Acquisition Strategy and Schedule

Acquisition Strategy

This chapter assumes that the regional team will be acquiring a new lease using urgent leasing procedures. Urgent leasing actions are those which require immediate action on the part of the regional leasing program to avoid harm to the government or public interest. Accordingly, the acquisition strategy should utilize Lowest Price Technically Acceptable (LPTA) procedures and the urgency of the required occupancy date will preclude construction of new buildings. Urgent leasing procedures may not be used to contract for lease construction and the use of best value trade-off selection procedures should be avoided unless closely coordinated with regional counsel. The use of urgent leasing procedures is most compatible with LPTA selection and this chapter will speak to that selection process.

Regional leasing programs should be aware that an urgent lease acquisition requires a significant commitment of resources in order to be able to fully leverage the benefits of this acquisition method to achieve the accelerated schedule expectations. For this reason, regional management should prioritize urgent leasing acquisitions across all of the members of the regional team, not just the LCO. The broker contract can utilize emergency tasking provisions to expedite the onboarding of a broker to assist the LCO. This functionality should also be considered in terms of meeting the workload requirements of urgent lease projects.

Acquisition Plans – All leases, regardless of dollar value, require acquisition planning. FAR 7.103(m) allows for agencies to adjust the scale of the “detail and formality” of the acquisition planning process when there is an urgency of need. Regional management may consider the appropriate form and method for acquisition planning under the circumstances. LCOs must, at a minimum, engage in verbal acquisition planning with their supervisor and document the file using a memo to file.

Schedule Development and Unusual and Compelling Urgency

An urgent lease acquisition schedule can vary significantly based on the requirements of the agency. A “typical” lease acquisition using Unusual and Compelling Urgency should occur within 30-60 days. When agency requirements allow more time for an acquisition, generally that acquisition can be performed while meeting full and open competition requirements through workload prioritization that allows for the project team to focus more intensely on an important project.

<i>Milestone</i>	<i>Expedited Timeframe Estimates</i>
Requirements Development/Justification	1 week
Market Research/Market Survey	1 week
<ul style="list-style-type: none"> See further details within the next part of this chapter 	
Solicitation	1-4 weeks
<ul style="list-style-type: none"> TI Allowance method should be used unless the agency has pre-existing and fully developed Agency Specific Requirements (ASRs) that can be quickly priced and included in the Offeror’s bid. 	

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- The offer due date should be expedited but still allow Offerors sufficient time to prepare a bid and submit the required documentation for that solicitation.
- As noted elsewhere in this chapter, LCOs should still attempt to obtain bids from multiple Offerors where there are multiple Offerors available in the market that can meet the requirements and expedited schedule.

Post award**Variable**

When an agency has a short term urgent lease requirement, it is strongly encouraged that the government avoid spending significant amounts of money on interior build-out that will only be used for a temporary period. As discussed in Attachment 5, there are alternatives to urgent lease actions that may be more appropriate for short term housing needs which do not require an investment in tenant improvements.,

When the agency will remain in the space for a significant period of time, such as a permanent relocation, build-out will typically be required. When this occurs, the team should work with the agency to use methods such as Design Intent Drawing (DID) workshops to expedite the post award period. It is important that the DIDs are reviewed for fire safety and accessibility concerns even for lease acquisitions using Unusual and Compelling Urgency. The project team should also consider if Construction Drawing (CD) reviews are appropriate or could be waived to expedite the post award timeline, typically for smaller or less complex space requirements. The project schedule that is reviewed with the agency at the beginning of the project should have appropriate details concerning the post award process, such as timeframes for design reviews, including DID workshops and CD reviews. These timeframes and corresponding commitments should be a prominent part of the schedule discussion with the agency. For example, if the project schedule calls for each iteration of design reviews to be completed in one week in order to meet a critical occupancy deadline, the agency should be aware of that commitment and prepared to fulfill their obligations within that timeframe.

It is not advisable for the GSA project team to put together a schedule that artificially meets a required occupancy date if the entire project team, including the tenant agency, is not able to meet the commitments required to achieve that date. Making unreasonable schedule commitments can increase the risk of either the Lessor or government being unable to meet the commitments of the lease contract.

4. Agency Communication and Commitment

PBS is responsible for maintaining the integrity of the acquisition program. When necessary, PBS may utilize Unusual and Compelling Urgency to expedite acquisitions. However, achieving the desired result requires a commensurate commitment on the part of the tenant agency. The use of unusual and compelling urgency to acquire space should involve sufficiently high level representation from both PBS regional management and the tenant agency. The project team should develop a schedule that demonstrates how the acquisition will be conducted. This schedule should be detailed enough to clearly demonstrate the level of commitment that will be required of the agency, such as expediting agency reviews of the RLP, construction drawings, etc. This detailed schedule should be shared with the agency and PBS should receive a commitment to maintain that schedule from an appropriate agency representative capable of ensuring that the agency will meet their commitments. The regional team should not begin an urgent lease action without first securing this commitment, preferably documented through an email acceptance of the schedule or documented clearly in meeting minutes which are distributed through email. Otherwise, GSA may authorize an expedited procurement but then ultimately fail to accelerate

the occupancy due to a lack of corresponding urgency within the tenant agency. This would then be detrimental to the integrity of the leasing program.

As noted earlier in this chapter, Unusual and Compelling Urgency should not be used purely for customer service reasons. The Competition in Contracting Act (CICA) remains the cornerstone of the PBS Leasing Program and procurements should follow the requirements for full and open competition for most acquisitions, including those which are considered to be a high priority of the agency but do not have a bona fide need for urgency beyond what can be provided for when using normal acquisition procedures.

5. PBS Regional Team Commitment

When using Unusual and Compelling Urgency, the LCO has authority to expedite the timeframe of the acquisition process. . However, the LCO cannot waive any required step in the acquisition process unless specifically noted in this chapter (such as placing an advertisement). To expedite the entire project and allow the agency to take occupancy faster than they otherwise would be able to, the project team needs to secure commitments from multiple disciplines to expedite their roles to the extent possible. The project manager should work within their regional structure to secure these commitments from the appropriate parties. Some items to consider include:

- Fire protection and life safety reviews
- Environmental compliance (NEPA, NHPA, and floodplain)
- Creation and transmission of Occupancy Agreements
- Scoring
- Provision of BA53 funding
- Design reviews

Part 2 - Market Survey Process

1. Prepare for the Market Survey

The market survey process is outlined in Chapter 2 of this guide. When conducting a procurement using Unusual and Compelling Urgency procedures, the LCO still has a requirement to promote competition to the maximum extent practicable. What is practicable will vary based on the exact circumstances of the situation. The LCO should consider advertising the action on the System for Award Management website Beta.SAM [or any subsequent Governmentwide point of entry (GPE)] when the advertisement would be otherwise required; however, the LCO may elect to forego advertisement consistent with the circumstances of the situation, as outlined under FAR 18.103 (when operating under a disaster declaration). In many metropolitan areas, internet resources, such as CoStar, in addition to phone outreach to local brokers can provide an accurate picture of available space without using an advertisement and this method of locating suitable sources is most appropriate for situations where the urgency precludes a reasonable time for advertisement and responses to be received.

LCOs should discuss the accelerated timeframe of the procurement with representatives of identified buildings to ensure that the Offerors are prepared to respond to the urgency of the requirement. Due to the urgency involved in urgent lease actions, LCOs may encounter issues with buildings that may be eligible for more routine procurements but cannot submit an offer or

provide for occupancy within the expedited timeframe required. For example, a building representative may advertise space for lease but have a tenant who is in the process of relocating and therefore may not be able to provide occupancy by the required date. Other Offerors may be subject to rigorous internal controls which do not allow them to submit an offer quickly.

Alternate Sources of Space

Depending on the tenant and the nature of the space requirements, it can be valuable to consider alternative sources of space in addition to the traditional office market. Having to conduct multiple market surveys due to finding no eligible buildings can cause serious delays to an urgent project schedule. For this reason, it is important to find all suitable properties to avoid the need for a second survey.

Retail

Leasing space in retail settings can be a viable solution for urgent leasing actions. Malls and shopping centers can offer retail space which also provides abundant parking and public transportation access. These types of spaces can be useful for temporary locations involving agencies with a significant public interface. Retail developments typically feature abundant parking on site as well as easy access from major roadways and public transportation. These features can be used by government employees and the public to access the space.

Agency Market Survey Participation

As discussed in Chapter 2, it is important that the agency is prepared for the market survey by ensuring the participation of all agency representatives that are necessary to sign the market survey forms immediately following the survey. This is even more important for urgent lease acquisitions where the schedule is being accelerated. The LCO should communicate this requirement clearly with the agency and receive the agency's commitment. It may be beneficial in the context of the overall project schedule to delay the market survey by a few days or a week if necessary rather than conduct multiple surveys. When an agency's bona fide mission requirements requires an expedited procurement, the agency must also make the necessary time and personnel commitments to maintain the schedule.

2. Conducting the Market Survey

When conducting a market survey for an urgent leasing action, it may be beneficial to develop the RLP/Lease package ahead of time and issue it immediately following the market survey, or even to distribute electronic or paper copies on the survey itself once a building has been determined to meet, or be capable of meeting, the requirements of the Government. It is important to note that Unusual and Compelling Urgency authority allows the government to limit competition but it is not the same as sole source authority. The LCO must consider all buildings identified that are capable of meeting the requirements and can perform in the available time. Even when the procurement is under the SLAT, the LCO should strive to obtain competition where possible. In addition to the procurement rules, from a business standpoint it can be very valuable to have more than one Offeror competing for a lease to prevent unnecessary delays in the event that we are unable to conclude negotiations with a sole Offeror.

A formal market survey report is not required to be created or signed before awarding a lease when using Unusual and Compelling Urgency. The LCO should document the market research and survey using a level of detail commensurate with the size of the lease as soon as practical. Urgent lease actions under the SLAT may use the Lease Action Summary form.

Accepting Buildings As-Is

In a normal lease acquisition the Offeror commits to meeting the shell obligations of the lease by the time that the lease is effective. Upon award, the new Lessor will have time to make any required shell modifications to bring the existing conditions into conformity with the lease requirements. However, many buildings may already meet our standards. For short-term urgent lease acquisitions where the agency is seeking immediate occupancy, the project team can consider accepting spaces as-is in order to expedite occupancy. This method is not recommended for long term leases. When seeking a long term lease, it is beneficial for PBS to conduct our usual due diligence through our standard process but coordinate with regional management to expedite those reviews to the extent possible.

Multi-SME Market Surveys

Accepting space as-is is a very useful tool for accelerating the lease acquisition process. However, it carries risks to the government. When the regional team intends to lease space as-is, the team should expand the market survey team to include multiple SMEs who can provide a proper on-site evaluation.

- On-site safety reviews – The project team should include the regional Fire Protection Engineer on the market survey. An on-site review may eliminate the need for the Lessor to provide a scaled floorplan and the accompanying fire safety forms when the fire protection engineer can determine that the building meets our fire safety standards. Some Lessors may not have scaled floorplans readily available and the creation of new ones can be time consuming. Lessors also may not be familiar with the required fire safety forms which can also take time to complete. In a normal lease acquisition, there is sufficient time for the creation of these items where needed, but for urgent lease actions, it may not be in the government's interest to delay an acquisition to provide time for these items to be created where the Fire Protection Engineer can properly determine that the building is safe for occupancy through an on-site inspection.
- On-site mechanical/electrical review – Including mechanical, electrical, and possibly other engineers on the market survey team can allow the project team to conclude whether building systems are capable of being accepted as-is, or can potentially determine a more specific, limited set of modifications that can be included in the lease. For example, when an agency needs space for immediate occupancy, the mechanical engineer may be able to determine that the existing HVAC is acceptable in its current condition.

When accepting space as-is, it is strongly recommended that the LCO use the existing “as-is” language in the Global Lease template. The “as-is” language in the Global template notifies the Lessor that while the Premises and tenant improvements are accepted in their current condition, the requirement to meet certain technical standards, such as ASHRAE and FPLS requirements, still exist throughout the life of the lease. Use of other “as-is” language must be reviewed and

approved by regional counsel. It is important to not waive mandatory technical requirements, such as accessibility or fire and life safety, or alleviate the Lessor from the responsibility to maintain systems in good working condition even when the government accepts them as-is.

Part 3 – Solicitation Process

The process of preparing a solicitation for an urgent lease action will vary only slightly from the traditional procedures outlined in Chapter 2 of this guide. The agency must be prepared to review and concur on the RLP package in an expedited fashion as dictated by the circumstances and the agreed upon project schedule.

1. RLP Preparation

When conducting an urgent lease acquisition, the LCO should consider all available opportunities to streamline the RLP package and subsequent negotiations. The LCO should first determine which set of lease documents are most appropriate for the requirement. If the acquisition is for a long term lease, such as a permanent relocation, the LCO should give due consideration to using the appropriate lease template and utilize the clauses normally incorporated into long term leases to the extent feasible. Short term document sets, such as the FEMA disaster lease document, already have many clauses removed to make them easier to negotiate in an expedited manner but at the risk of losing certain clauses that may be beneficial to the government for long term occupancies. Leases acquired using Unusual and Compelling Urgency are obtained under the pressures of the urgency of the situation. Long term leases acquired using Unusual and Compelling Urgency procedures should balance the need to expedite the lease acquisition with the on-going interests of the government which will remain long after the urgency has passed.

FEMA Disaster Lease (Oral RLP and Lease) – LCOs may use the FEMA disaster lease documents when the lease term is for 18 months or less and where the agency intends to occupy the space immediately with little to no modifications. The LCO must complete paragraph 1.01 and 4.01 of the “Oral RLP” template with the details of the procurement which must be issued to all capable Offerors.

The FEMA disaster lease documents were designed specifically for use with FEMA. To use the disaster lease documents for other agencies, the LCO must, at a minimum, make the following edits:

- Remove references to “FEMA” throughout the lease document
- Under Section 6, delete lease paragraphs referencing FEMA contacts and FEMA invoicing instructions, substituting the following RENT PAYMENT language instead:

Checklists

Do not use the FEMA Disaster Lease File Checklist for non-FEMA urgent lease actions. Instead, use another checklist (Global Simplified, etc.) as appropriate.

Best Practice:

Prepare the RLP/Lease package prior to the market survey so it is available for immediate distribution.

6.03 RENT PAYMENT

“Rent shall be paid to Lessor by electronic funds transfer (EFT) in accordance with the provisions of the General Clauses. Rent shall be payable using the EFT information contained in the System for Award Management (SAM). In the event the EFT information changes, the Lessor shall be responsible for providing the updated information to SAM. Failure by the Lessor to maintain an active registration in SAM may result in delay of rental payments until such time as the SAM registration is activated.”

- Under Section 6, delete part B of the General Clause Substitutions that replaces FAR Clause 52.232-33, Payment by Electronic Funds Transfer - System for Award Management with FAR Clause 52.232-34 Payment by Electronic Funds Transfer – Other than System for Award Management. This will remove the alternate payment language and revert back to the standard EFT based payment clause in the general clauses.

Small Lease Documents – The Small Lease model templates (RLP, GSA Form 3626, Supplemental Lease Requirements) are eligible for urgent lease actions consistent with the usage guidelines for Small Leases. These documents are generally best suited for smaller emergency lease requirements with initial lease terms over 18 months. The language of the Small Lease provides for a normal design and construction process which may be removed for leases where the intention is to accept the space as-is.

Global Lease Documents – The Global Lease model has no restrictions on its use and may be used for any lease acquisition, including those using Unusual and Compelling Urgency, where the LCO determines that the Global Lease best matches the needs of the agency. The Global Lease is best suited for medium to large urgent lease actions with long term needs, such as when acquiring permanent replacement space for a displaced tenant.

LCOs should consider using the model that best serves the needs of the project. LCOs are encouraged to consider the size of the requirement, the level of urgency involved, and the term of the lease.

2. RLP Distribution

For urgent lease actions, the RLP package should be prepared prior to the market survey or as soon following it as practical. The RLP should be issued immediately following the survey, or even during the market survey once a building is determined to be capable of meeting the RLP requirements.

3. Soliciting From a Single Source (Under SLAT)

Unusual and Compelling Urgency authorizes the LCO to limit competition as necessary to meet the legitimate needs of the government in emergencies. The LCO should still seek to promote competition to the maximum extent practicable under the circumstances and it is often in the government’s best interest to obtain at least two bids when multiple buildings are found that are capable of meeting the requirement. However, as noted in FAR 18.110, during a disaster declaration, the LCO may elect to solicit offers from a single source when the lease acquisition is under SLAT, the LCO determines that only one source is reasonably available due to the urgency of the requirement, and the LCO documents the file to justify this limitation.

Part 4 – Pre-Negotiation/Negotiation Process

1. Overview and Negotiation Objectives

Negotiations for lease acquisitions using Unusual and Compelling Urgency may use an accelerated process. As outlined under GSAR 570.106(g)(2), the LCO does not have to provide a 20 calendar day minimum timeframe for receipt of proposals in cases of unusual and compelling urgency. Instead, the LCO should set an offer due date which reflects the legitimate needs of the situation and document the file. It is recommended to allow at least a few days for offers to prevent the Offeror(s) from unnecessarily inflating their offer to compensate for the risk associated with a lack of offer preparation time. The LCO should also consider using the optional language to notify the market of the intent to award based on initial offers. The LCO should swiftly engage in negotiations following issuance of the solicitation and attempt to resolve any deficiencies before the due date for offers. Following the receipt of offers, the LCO should determine if further negotiations are in the best interest of the Government based on the prices received. Leases acquired using expedited acquisition and occupancy schedules may carry a premium as the Offeror is expected to bid and deliver space faster than is normal but the LCO should still note the appropriately adjusted high end of the market through their market research. The regional project team should also be prepared for higher than normal costs for build-out and design when those services are required to be expedited and incorporate those expectations into their budget projections throughout the project life cycle.

Urgent lease actions place an emphasis on moving quickly. However, the LCO should attempt to find a reasonable balance between expediting the procurement and allowing sufficient time for negotiations so as to achieve a fair and reasonable price for the government. Prior to making award, the LCO must determine the cost of the acquisition to be fair and reasonable in the Price Negotiation Memorandum. While the LCO may cite the urgent nature of the acquisition, the LCO must be able to make this determination based on the market as well as the accelerated nature of the acquisition. The LCO may not base their fair and reasonable determination solely on the fact that the acquisition is using Unusual and Compelling Urgency to justify exorbitant rates. For a more detailed discussion of evaluating price reasonableness, please refer to Chapter 2 of this guide.

Best Practice:

Obtain a signed OA and BA53 approval in advance based on the high end of your market research to avoid delays at lease award. BA53 approvals should be revised to match the awarded amount as soon as practicable after award.

Part 5 – Award Determination

Award Determination for leases using Unusual and Compelling Urgency will follow the provisions in section 5 of Chapter 2 of this guide. The LCO must obtain BA53 funding approval and a signed OA from the client agency prior to entering into any contract obligation, including leases awarded using Unusual and Compelling Urgency. The Price Negotiation Memorandum (PNM) should be written as soon as possible under the circumstances and the level of detail should be commensurate with the size of the lease contract. The LCO may use the standard PNM and TI

PNM templates or may use a more abbreviated format as appropriate. If modifications were agreed to outside of the normal lease language, the PNM should contain some discussion of those negotiations and a rationale for making those modifications. For leases under the SLAT, the LCO may use the Lease Action Summary form but should still discuss any contract language deviations negotiated on the form or in a supplemental memo.

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

1. Overview

The project team should provide as much time and focus on expediting the post award portion of the project as is given to the acquisition. Expediting a procurement up to project award and then having the project run into preventable delays with the post award process will erode the benefit gained by using Unusual and Compelling Urgency. For this reason, it is a best practice to go over the agreed-upon project schedule with the agency at the time of award and ensure that the tenant agency, as well as GSA's own personnel, are prepared to honor the commitments made at the beginning of the project.

Leases for temporary or short term space, should minimize the tenant improvements to reduce the cost of occupying the space. When there is a need for design and construction of TIs, the processes in this section will not deviate significantly from those in Part 6 of Chapter 2 of this guide. Expediting TI build-out generally increases costs and involves increasing the risk to the project which must be carefully managed and monitored by the project team. The regional team should determine the appropriate level of oversight to ensure that the Lessor's team remains on schedule. This may include performing more on-sight inspections than would otherwise be performed.

2. DID Workshops

When the leasing program uses Unusual and Compelling Urgency to expedite the lease acquisition process, it is important that equal consideration is given to expediting the post-award portion of the project as well. A post-award DID workshop should be considered as the default for urgent lease procurements involving tenant improvements. DID workshops are a valuable method of expediting post award design when the agency requires alterations beyond minor changes or cosmetic refreshing. Agency requirements which require the use of Unusual and Compelling Urgency procedures should be willing and able to make the necessary personnel commitments to execute a DID workshop. The DID workshop is described more fully in Chapter 2.

3. TI Negotiations

TI Negotiations and Building Specific Amortized Capital (BSAC) for urgent lease actions follow the same basic process as TI negotiations for traditional lease acquisitions with post award tenant improvement negotiations. The LCO should consider the extent of the

Best Practice:

Review the project schedule that was agreed upon at the beginning of the project at the time of award to remind and renew the commitment of the project team to the expedited schedule.

build-out required and determine the appropriate level of bid detail to request when negotiating the cost of tenant improvements in an urgent lease action. It is strongly recommended that LCOs obtain an Independent Government Estimate (IGE) as soon as the project details allow. When obtained early in the project, the IGE can be used to help prepare the agency for any anticipated RWA costs. The IGE also allows for the LCO to use the IGE as a benchmark for costs whether or not the Lessor obtained competitive bids. For emergency leases, the IGE may be used to negotiate a final price for the tenant improvements without a Tenant Improvement Cost Summary (TICS) table. When the proposed cost of the tenant improvements is within a reasonable range of the IGE, the LCO may determine the price to be fair and reasonable using the IGE as their benchmark.

Reminder:

Furniture walls and other types of modular materials can be used to quickly set up office space as opposed to traditional construction

The LCO, and any cost estimators assisting the LCO, should take into account that expedited build-out will often result in an increase in the cost of the work. For example, if the Lessor will need to work 7 days a week to complete the build-out within the government's required timeframe, overtime costs for labor can increase the cost of the build-out significantly.

Part 7 – Construction Phase

The procedures in this section do not vary from those described in Part 7, Chapter 2 of this guide. As noted in the schedule section, the scope of the build-out required will dictate how quickly it can be accomplished. The team should also expect that expediting construction increases cost.

Part 8 – Lease Commencement and Closeout

The procedures in this section do not vary from those described in Part 8, Chapter 2 of this guide.

Attachment 1: Class Justification for Other than Full and Open Competition

GENERAL SERVICES ADMINISTRATION CLASS JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

ACQUISITIONS OF SPACE AND RELATED SERVICES TO SUPPORT FEDERAL AGENCIES ACTING IN RESPONSE TO EMERGENCIES OR MAJOR DISASTER SITUATIONS AS HEREIN SPECIFIED.

Identification and description of action being approved,

This class justification for other than full and open competition is for use by the General Services Administration's (GSA's) contracting activities in the acquisition of space and related services for the Federal Emergency Management Agency (FEMA) and other Federal agencies responding to emergency situations and major disasters as specified below. This class justification is applicable to the following emergencies:

- a. National emergencies declared by the President under applicable provisions of law, including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (P. L. 100-707);
- b. Emergencies declared by responding Federal agencies' pursuant to statutorily authorized emergency plans or other applicable provisions of law; and
- c. Emergencies of a health/safety or other (HSO) nature which so adversely impact the mission of an agency in a Government-owned or leased building as to necessitate the agency's expeditious relocation therefrom.'

Description of supplies or services required.

GSA Order ADM P 2400.16A dated January 8, 1992, entitled Domestic Emergency Assistance Program, establishes GSA's overall guidance for providing assistance to Federal agencies in emergencies. The Order states that GSA "must ensure that the requesting agency is provided space that meets its needs," and "other services currently provided to the Federal establishment."

Identification of statutory authority.

Section 303(c)(2) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253(c)(2)), provides for contracting without full and open competition when there is an unusual and compelling urgency.

Attachment 1: Class Justification for Other than Full and Open Competition ↵

Demonstration that the acquisition requires use of the authority cited.

Pursuant to the authority and responsibilities contained in the Federal Property and Administrative Services Act of 1949, as amended, GSA is often called upon to provide work space and related support services to Federal agencies in emergency situations. The need to provide such work space and services in support of disaster relief efforts is of unusual and compelling urgency, and any delay will seriously harm a critical Government program and the recipients of Federal assistance. This class justification is applicable only to individual acquisitions of work space and related supporting services provided to Federal agencies in response to the emergency or major disaster situations specified in the first paragraph of this Justification for Other Than Full and Open Competition.

Description of efforts to obtain as many offers as practicable.

A market survey shall be conducted and competition shall be solicited to the maximum extent possible from as many potential sources as is practicable, consistent with the circumstances of the particular emergency.

Determination that the anticipated cost will be fair and reasonable.

The Government anticipates being able to negotiate a fair and reasonable price, taking into account market conditions existing at the time of acquisition.

Description of the market survey conducted.

It is impossible to identify sources capable of providing space for emergency or disaster relief in advance of the determination of individual need. As the need for space arises, a market survey will be conducted. All potential sources which can be located within the timeframe, and which can provide habitable space suitable for the needs of the responding agency, will be solicited.

Other facts supporting the use of other than full and open competition.

None.

List of sources that expressed an interest in the acquisition.

Not applicable.

Attachment 1: Class Justification for Other than Full and Open Competition

Statement of actions to overcome barriers to competition.

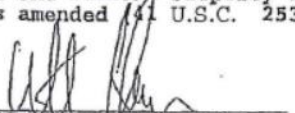
Under the circumstances described herein, there are no actions that the agency can take to overcome the barriers to full and open competition.

Contracting officer certification.

This class justification may be used by GSA contracting activities only when, with respect to each proposed lease contracting action taken pursuant to this class justification, the contracting officer executes and includes in the appropriate lease contract file the following certification:

"I certify that, to the best of my knowledge and belief, the requirement for space falls within the scope and applicability of the class justification for other than full and open competition for the acquisition of work space and related supporting services in response to emergencies or major disaster situations specified in the first paragraph of the class justification for other than full and open competition, entitled Identification and Description of Action Being Approved. The Contracting Officer anticipates being able to negotiate a fair and reasonable price consistent with market conditions and the Government's requirements."

This class justification for other than full and open competition is hereby made and approved in accordance with Section 303(c)(2) of the Federal Property and Administrative Services Act of 1949, as amended (1 U.S.C. 253(c)(2)).


Milton Heron
Commissioner
Public Buildings Service

Date: NOV 5 1992

CONCURRENCE:


Arthur E. Ronkovich
Agency Competition Advocate

Attachment 2: Determination of Exceptional Circumstances

As noted in this chapter, this document is required for any lease over the SLAT when the term is for more than 1 year, either initially or through extensions or renewals. When the term of the lease will exceed 5 years, either initially or through extensions or renewals, the regional HCA must obtain approval from the PBS Deputy Commissioner as the national HCA for PBS.

General Services Administration
Region [X] Public Buildings Service (PBS)
Determination and Findings

Determination of Exceptional Circumstances Pertaining to Acquisitions of Leasehold Interests in Real Property Using Unusual and Compelling Urgency for [Agency] located at [Address]

1. Nature and/or Description of Action Being Approved

[Describe the background for this acquisition.] In order to fulfill those needs, PBS, Region [X], is proposing to enter into a lease for approximately [SF] square feet of office and related space for a term of [X].

2. Citation of Appropriate Statute or Regulation Upon Which Determination and Findings is Based

Contracting without full and open competition is authorized when there is a justification of unusual and compelling urgency. 41 U.S.C. § 3304(a)(2). Leases acquired under urgent and compelling circumstances are limited to a maximum performance period of one year unless the head of the agency determines that exceptional circumstances apply. 41 U.S.C. 3304(c)(1)(B). The authority to make determinations required in connection with the acquisition of leasehold interests has been delegated by the Administrator down through appropriate agency officials to the Head of the Contracting Activity (HCA), the PBS Regional Commissioner for Region [X]. 48 C.F.R. § 502.101, PBS 5450.1, March 4, 2015. The determination may be made after award when making the determination before award would unreasonably delay the award. FAR 6.302-2(d)(5). This determination and findings documents the decision by the HCA that exceptional circumstances apply to this acquisition.

3. Findings That Detail the Particular Circumstances, Facts, or Reasoning Essential to Support the Determination

GSA is often called upon to provide space and related services to federal agencies in emergency situations. The need to provide space and related services for FEMA disaster relief operations is of an unusual and compelling nature.

[Describe the specific need for this location and why the agency's need for this space will continue beyond one year.]

4. This lease is being acquired under the Class Justification for Other than Full and Open Competition, for Acquisitions of Space and Services to Support Federal Agencies Acting in Response to Emergencies and Major Disaster Situations, dated November 5, 1992. The contracting officer certification that this particular requirement falls within the scope of that class justification is attached hereto as Attachment 1.



↳ Attachment 2: Determination of Exceptional Circumstances

- 5. Any delay in providing space and related services under such emergency situations will seriously harm a critical government operation and recipients of federal assistance. Further, it is necessary for GSA to continue to provide the space and related services required for the duration required to support the space needs of the agency during disaster relief operations.
- 6. FEMA has submitted a request for space for a period of [X] months, based on their reasonable expectation of the time required to complete their mission for this location. Due to the magnitude of [Event Name], in order to secure operational stability, it is necessary to obtain a leasehold interest for the period of time reasonably expected by FEMA to complete their mission.

Determination, Based on the Findings, That the Proposed Action is Justified Under the Applicable Statute or Regulation.

On the basis of the above Findings, I hereby determine that exceptional circumstances require that a temporary lease for the immediate housing needs of FEMA operations in [Location], [State], be for a term exceeding 1 year, but not longer than [X] years.

Prepared By:

[Name] [Date]
Lease Contracting Officer

Approved:

[Name] [Date]
Head of the Contracting Activity
Region [X], Public Buildings Service

Approved:

[Name] [Date]
Head of the Contracting Activity
Public Buildings Service

Attachment 3: Table of Acquisition Flexibilities

<i>Item/Requirement</i>	<i>Over SLAT</i>	<i>Under SLAT</i>
Acquisition Planning	May use the approved AP/PMP or may use a less formal method of planning and document the file	May use the approved SLAT AP/PMP or may use a less formal method of planning and document the file
Justification	Class Justification or Individual Justification for Unusual and Compelling Urgency	Class Justification, Individual Justification for Unusual and Compelling Urgency, or Memo to File
Advertisement (when otherwise required)	Not required when there is an emergency declaration	Not required when there is an emergency declaration
Competition	LCO should seek competition to the extent practicable under the circumstances	LCO should seek competition where practicable but may elect to solicit from a single source
Negotiation/Offer Timeframes	LCO should establish a reasonable timeframe based on the urgency of the situation and market availability	LCO should establish a reasonable timeframe based on the urgency of the situation and market availability
PNM/TI PNM	May use the approved templates or utilize a less formal document commensurate with the size and dollar value of the lease	May use the lease action summary, approved PNM template, or utilize a less formal document commensurate with the size and dollar value of the lease
SAM Registration	With an emergency declaration, LCOs may award leases to Offerors not registered in SAM if the Lease includes the alternate version of the General Clause 52.204-7. Registration is required within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.	LCOs may award leases to Offerors not registered in SAM if the Lease includes the alternate version of the General Clause 52.204-7. Registration is required within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

Attachment 4 – National Security

National Security

FAR 6.302-2 speaks to unusual and compelling urgency, which is the focus of this chapter. FAR 6.302-6 covers another method for authorizing Other Than Full and Open Competition that allows agencies to limit competition and to exclude an acquisition and award from publication when doing so might compromise the mission for that location. There are times when the leasing program may need to acquire space in an urgent manner for agencies in support of special mission needs that are related to national security. These instances warrant special attention and should be carefully reviewed by authorized personnel at the regional and national level. In some instances, these acquisitions may require that the LCO carry a higher level of security clearance. The LCO should consult with legal counsel, their Lease Acquisition Officer (LAO), and regional management before attempting to use national security as a justification for not following Full and Open Competition. When conducting procurements related to national security using this authority, the LCO should follow established protocols for these acquisitions which are coordinated between the Office of Leasing, Regional Offices, and the Office of Mission Assurance.

Note: Not all space requests from agencies involved with law enforcement are related to national security and the fact that the requirement may involve some amount of classified information or that classified information may be stored in the facility does not mean that this exemption automatically applies (FAR 6.302-6(b)).

Attachment 5: Alternatives to Using Unusual and Compelling Urgency

Alternatives to using Unusual and Compelling Urgency

Agency Teleworking

Teleworking has become commonplace in the Federal Government and the introduction of technology has enabled many government employees to perform their duties outside of a traditional office environment. If the agency's inability to occupy office space is short term, the regional team should explore the ability for the agency to have its employees telework for this time period rather than pursue a short term lease. For example, if most of the employees in a leased location already telework 3 days a week, the agency is already accustomed to performing their duties more than half of the time through telework. A short term expansion from 3 days a week to 5 for a short period of time would not be a significant burden on the agency in many instances.

Federally Owned Space

In accordance with the Federal Management Regulation (FMR), LCOs should give first consideration to vacant federally-owned space. In addition to regulatory compliance, owned space offers many advantages over leased space for urgent space needs. Owned space can be assigned to satisfy space requirements without the need for a procurement action and GSA can offer flexible occupancy terms to meet the need which may be difficult to obtain through a leasing action. This is especially useful when the requirement is for a very short period of time and the market may not have any interest.

Vacant Leased Space

As with Federally-owned space, vacant space already under a GSA lease offers many advantages over conducting a procurement for new space. Vacant leased space allows GSA to assign space to an agency without the time and effort of a procurement action and can also be offered to the agency with flexible terms to meet their need, subject to the terms available under the lease. When considering vacant leased space, the LCO should review a number of items associated with the current lease, including:

- How much time is left on the current lease? It may be possible to extend the existing term if more time is required.
- Does the space meet all of the agency's requirements or can it be quickly modified to meet their requirements?
- What funds are available to finance required renovations? Lessor funds may be available.

Expansion of an Existing Leases

Leases are typically acquired for "office and related space." This means that while a lease may have been acquired for a particular agency, it is a contract between GSA and the Lessor to provide office space and in many cases additional office space can be added to an existing lease

to accommodate another agency. An existing lease can be expanded to accommodate a space request using the procedures outlined in Chapter 6 of this guide. Such an expansion action may be added following the procedures and justification requirements contained in Chapter 6.

Automated Advanced Acquisition Program (AAAP)

The AAAP system conducts a routine procurement on a monthly basis using procedures that meets the definition of full and open competition. AAAP uses a standardized RLP and Lease, including standardized lease terms. When those terms are capable of meeting the identified requirements, AAAP can be used to quickly award a lease while still providing for full and open competition. AAAP can be a valuable tool for awarding leases for permanent replacement space very quickly. AAAP processes and procedures are described under Chapter 22 of this guide.

Land Lease - Office Trailers

In some instances, the needs of the government, the inventory of space in the market, the agency's mission, or a combination of these may mean that office space, either from traditional or alternative sources cannot be located. In these situations, the project team should consider the viability of using either government owned or leased land and obtaining office trailers through a GSA schedule vendor by a contracting officer with an appropriate general acquisition warrant. These trailers can often be assembled into many different configurations and where government owned land is available, can offer the government more control over security and access than may be possible in a leased location.