Subpart 570.1 - General

Parent topic: Part 570 - Acquiring Leasehold Interests in Real Property

570.101 Applicability.

(a) This part applies to acquisitions of leasehold interests in real property except:

(1) Leasehold interests acquired by the power of eminent domain or by donation.

(2) Acquisition of leasehold interests in bare or unimproved land.

(b) In addition, the GSAR rules in the table below apply. Other provisions of 48 CFR Chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-referenced in this part 570.

GSAR Rules Applicable to Acquisitions of Leasehold Interests in Real Property

501	515.209-70	522.805	536.271
502	515.305	522.807	537.2
503	517.202	538.270	539
509.4	517.207	533	552
514.407	519.7		553

(c) The following GSAM provisions apply to acquisitions of leasehold interests in real property. These are in addition to the GSAR requirements identified in 570.101.

GSAM Applicable to Acquisitions of Leasehold Interests in Real Property

501		522.13	532.6
503	506	522.14	532.8
504.2	507	523.4	532.9
504.8	519.3	530	532.11
504.9	519.6	532.1	533
504.71	519.7	532.4	537.2
505			

(d) The FAR does not apply to leasehold acquisitions of real property. Where referenced in this part, FAR provisions have been adopted based on a statutory requirement applicable to such lease acquisitions or as a matter of policy, including, but not limited to “Federal agency procurement” as defined at FAR 3.104.

570.102 Definitions.

“ANSI/BOMA Office Area (ABOA)” means the area “where a tenant normally houses personnel, and/or furniture, for which a measurement is to be computed,” as stated by the American National

Standards Institute/Building Owners and Managers Association(ANSI/BOMA)publication Z65.1-1996.

“Contract” means lease.

“Contractor” means lessor.

“Landlord” or “lessor” means any individual, firm, partnership, trust, association, State or local government, or other legal entity that leases real property to the Government.

“Lease” or “leasehold interest in real property” means a conveyance to the Government of the right of exclusive possession of real property for a definite period of time by a landlord. It may include operational services provided by the landlord.

“Lease acquisition” means the acquiring by lease of an interest in improved real property for use by the Government, whether the space already exists or must be constructed.

“Lease extension” means extension of the expiration date of a lease to provide for continued occupancy on a short term basis.

“Lease renewal” (option) means the right, but not the obligation of the Government to continue a lease upon specified terms and conditions, including lease term and rent.

“Lessee” or “tenant” means the United States of America.

“Operational services” means services that support use of a leased property, such as heating, ventilation, air conditioning, utilities, and custodial services.

“Simplified lease acquisition procedures” mean the procedures for awarding leases at or below the simplified lease acquisition threshold.

“Simplified lease acquisition threshold” means the simplified acquisition threshold (see FAR 2.101), when applied to the average annual amount of rent for the term of the lease, including option periods and excluding the cost of services.

“Small business” means a concern including affiliates, which is organized for profit, is independently-owned and operated, is not dominant in the field of leasing commercial real estate, and that has annual average gross receipts for the preceding three fiscal years which are less than the size standard established by the Small Business Administration pursuant to 13 CFR 121. The size standards may be found at https://www.sba.gov/content/small-business-size-standards. For most lease procurements, the NAICS code is 531190.

“Solicitation for Offers (SFO)” means a request for proposals.

“Substantially as follows” or “substantially the same as,” when used in prescribing a provision or clause, means that the contracting officer may prepare and use a variation of that provision or clause to accommodate requirements peculiar to an individual acquisition. The variation must include the salient features of the FAR or GSAR provision or clause. It must also be consistent with the intent, principle, and substance of the FAR or GSAR provision or clause and related coverage on the subject matter.

“Succeeding lease” means a lease whose effective date immediately follows the expiration date of an existing lease for space in the same building.

“Superseding lease” means a lease that replaces an existing lease, prior to the scheduled expiration of the existing lease term.

570.103 Authority to lease.

(a) The Administrator of General Services is authorized by 40 U.S.C. §585 to enter into a lease agreement for the accommodation of a Federal agency in a building (or improvement) which is in existence or being erected by the lessor for the accommodation of the Federal agency. The lease agreement may not bind the Government for more than 20 years.

(b) The contracting officer has exclusive authority to enter into and administer leases on the Government’s behalf to the extent provided in the certificate of appointment as a contracting officer. Nothing in this paragraph is intended to limit the contracting officer’s authority to designate, consistent with statute and regulation, a contracting officer’s representative.

570.104 Competition.

Unless the contracting officer uses the simplified procedures in subpart 570.2, the competition requirements of FAR part 6 apply to acquisition of leasehold interests in real property.

570.105 Methods of contracting.

570.105-1 Contracting by negotiation.

Contracting by negotiation is appropriate for acquiring space in a building through a lease contract. The contracting officer will usually need to conduct discussions with offerors about their proposals and consider factors other than price in making the award.

570.105-2 Criteria for the use of two-phase design-build.

The contracting officer may use the two-phase design-build selection procedures in 41 U.S.C. 253m for lease construction projects. This includes lease construction projects with options to purchase the real property leased. Use the procedures in 41 U.S.C. 253m and FAR 36.3 when the conditions in (a) and (b) below are met:

(a) The contracting officer anticipates that the lease will involve the design and construction of a building, facility, or work for lease to the Government.

(b) The contracting officer determines whether the procedures are appropriate for entering into a lease construction contract based on the following:

(1) The contracting officer expects to receive three or more offers.

(2) Offerors will need to perform design work before developing a price.

(3) Offerors will incur a substantial amount of expense in preparing offers.

(4) The contracting officer considers criteria such as the following:

(i) The extent to which the project requirements have been adequately defined.

(ii) The time constraints for delivery of the project.

(iii) The capability and experience of potential contractors.

(iv) The past performance of potential contractors.

(v) The suitability of the project for use of the two-phase selection procedures.

(vi) The capability of the agency to manage the two-phase selection process.

(vii) Other criteria established by the HCA.

(c) See 570.305 for additional information.

570.106 Advertising, publicizing, and notifications to Congress.

(a) If a proposed acquisition is not exempt under FAR 5.202 or GSAR 570.106(e), and is for a leasehold interest in real property estimated to exceed 10,000 square feet, then the contracting officer must publicize the proposed acquisition in the System for Award Management Contract Opportunities at https://www.sam.gov in its place.

(b) For leasehold acquisitions where the solicitation requires the construction of a new building on a preselected site, the contracting officer, in accordance with the timeframes established in FAR 5.203, must publicize the proposed acquisition in the GPE regardless of size or value.

(c) For leasehold acquisitions not subject to a square foot measurement (*e.g.*, antennas, piers, parking), contracting officers must publicize the proposed acquisition in the GPE when the contract action is expected to exceed $25,000, unless an exception under FAR 5.202 applies.

(d) Other than as identified in paragraphs (a) through (c) of this section, the contracting officer need not publicize the proposed acquisition of a leasehold interest in real property, including expansion requests within the scope of a lease (see 570.403), lease extensions under the conditions defined in 570.405, and building alterations within the scope of a lease (see 570.5). However, the contracting officer may publicize proposed lease acquisitions of any dollar value or square footage in the GPE or local newspapers if, in the opinion of the contracting officer, doing so is necessary to promote competition.

(e) The contracting officer may issue a consolidated advertisement for multiple leasing actions.

(f) Except as otherwise provided in paragraph (b) of this section, where publicizing of the proposed acquisition is required, the notice shall be published in the GPE not less than three calendar days prior to issuance of a solicitation.

(g) Except as otherwise provided in paragraph (b) of this section and as set forth in paragraphs (g)

and (h) of this section, the contracting officer shall provide offerors not less than 20 calendar days between solicitation issuance and the date established for receipt of initial offers.

(1) For a proposed acquisition using simplified lease acquisition procedures (see 570.2), consider the individual acquisition and establish a reasonable response time.

(2) In cases of unusual and compelling urgency (FAR 6.303-2), provide as much time as reasonably possible under the circumstances and document the contract file.

(h) If a Member of Congress has specifically requested notification of award, the contracting officer must provide award notifications in accordance with 505.303.

570.106-1 Synopsis of lease awards.

(a) Except for lease actions described in paragraph (b) of this subsection, contracting officers must synopsize in the GPE awards exceeding $25,000 total contract value that are likely to result in the award of any subcontracts. However, the dollar threshold is not a prohibition against publicizing an award of a smaller amount when publicizing would be advantageous to industry or to the Government.

(b) A notice is not required if—

(1) The notice would disclose the occupant agency’s needs and the disclosure of such needs would compromise the national security; or

(2) The lease—

(i) Is for an amount not greater than the simplified lease acquisition threshold;

(ii) Was made through a means where access to the notice of proposed lease action was provided through the GPE; and

(iii) Permitted the public to respond to the solicitation electronically.

(3) Justifications for other than full and open competition must be posted in the GPE. Information exempt from public disclosure must be redacted.

570.107 Oral presentations.

The contracting officer may require oral presentations for acquisitions of leasehold interests in real property. Follow the procedures in FAR 15.102.

570.108 Responsibility determination.

(a) Determine that the prospective awardee is responsible with respect to the lease under consideration. The standards in FAR 9.104 apply. As part of the determination that a prospective contractor is otherwise qualified and eligible for award, review exclusions in the System for Award

Management (SAM).

(b) The contracting officer’s signature on the contract is deemed an affirmative determination.

(c) If the contracting officer finds an offeror nonresponsible, sign and place in the contract file a determination of nonresponsibility. State the basis for the determination.

(d) If the contracting officer finds a small business concern nonresponsible, the procedures at FAR 19.6 apply. Place all documents and reports supporting a determination of responsibility or nonresponsibility in the lease file.

570.109 Certifications.

Before awarding a lease, review applicable representations and certifications for compliance with statute and regulations.

570.110 Cost or pricing data and information other than cost or pricing data.

(a) The policies and procedures of FAR 15.403 apply to lease contract actions.

(b) FAR 15.403-1 defines exceptions to and waivers for submitting cost or pricing data. Most leasing actions will have adequate price competition. For price analysis of offered rental rates, the contracting officer may use a market survey, an appraisal conducted using accepted real property appraisal procedures to establish a market price for comparison, or other relevant market research data. For price analysis of offered tenant improvement costs, obtain two offers or cost and pricing data.

(c) In exceptional cases, the requirement for submission of certified cost or pricing data may be waived under FAR15.403-1(c)(4).

(d) If cost or pricing data are required, follow the procedures in FAR15.403-4 and 15.406-2.

570.111 Inspection and acceptance.

Before accepting the space, the contracting officer must verify that the space complies with the Government’s requirements and specifications and document this in an inspection report. The inspection and acceptance document must contain the square footage accepted and the acceptance date. Include the inspection and acceptance in the contract file. When space such as piers, antennas, and parking are leased, square footage may not be the manner in which the amount of space is specified; therefore, document that the space complies with the Government’s written requirements.

570.112 Awards to Federal employees.

If the contracting officer receives an offer from an officer or employee of the Government, follow the procedures in FAR 3.6.

570.113 Disclosure of mistakes after award.

If a mistake in a lessor's offer is discovered after award, the contracting officer should process it substantially in accordance with FAR 14.407-4 and GSAM 514.407-4.

570.114 Protests.

FAR 33.1 and 533.1 apply to protests of lease acquisitions.

570.115 Novation and change of ownership.

In the event of a transfer of ownership of the leased premises or a change in the lessor's legal name, FAR 42.12 applies.

570.116 Contract format.

The uniform contract format is not required for leases of real property.

570.117 Sustainable requirements for lease acquisition.

Contracting officers must include sustainable design requirements appropriate for the type of leasing action in the solicitation. Contracting officers can find solicitation requirements and instructions at https://www.gsa.gov/real-estate/realestate-services/leasing/leasing-policy under the "Sustainability Policies" tab and within the applicable Leasing Desk Guide chapter to assist them in complying with GSA's sustainable requirements.

570.117-1 Federal leadership in environmental, energy, and economic performance.

In order to create a clean energy economy that will increase our Nation's prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment, GSA will accomplish all sustainability requirements described in 570.117-2 that apply to lease acquisitions.

570.117-2 Guiding principles for federal leadership in high performance and sustainable buildings.

GSA is committed to the design, construction, operation, and maintenance of leased space that complies with all of the following Guiding Principles:

(a) Employ Integrated Design Principles;

(b) Optimize Energy Performance;

(c) Protect and Conserve Water;

(d) Enhance Indoor Environmental Quality; and

(e) Reduce the Environmental Impact of Building Materials.

570.118 Foreign Ownership Disclosure.

If a foreign ownership disclosure is made pursuant to clause 552.270-33:

(a) The contracting officer shall notify the Federal tenant for the leased space in writing:

(1) If the disclosure is made during the lease acquisition process, the contracting officer shall notify the Federal tenant prior to lease award.

(2) If the disclosure is made concurrent with a request for novation, the contracting officer shall notify the Federal tenant prior to executing the novation.

(3) If the disclosure is made concurrent with a renewal option or extension, the contracting officer shall notify the Federal tenant prior to executing the renewal option or extension.

(b) The contracting officer shall coordinate with the Federal tenant regarding security concerns and any necessary mitigation measures.