



U.S. General Services Administration

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Subcommittee on Federal Financial Management, Government
Information, Federal Services, and International Security
Federal Leased Property: Are Federal Agencies Getting a Bad Deal?
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Good afternoon Chairman Carper, Ranking Member Brown, and members of the Subcommittee. My name is David Foley and I am the Deputy Commissioner of the U.S. General Services Administration's Public Building Service. I appreciate being invited here today to discuss the U.S. General Services Administration's (GSA) efforts to reduce our reliance on leased space, our approach to the acquisition of leased space, as well as how we manage delegations of our authority.

Pursuing Federally Owned Space -

GSA searches for the most effective ways to provide space for Federal agencies that help them achieve their missions, while protecting the public's interest.

Ideally, this means satisfying long-term requirements, especially those with special use inherent to the government, in cost-effective and highly utilized government-owned space. GSA, along with this Administration, has prioritized finding ways to maximize utilization of the current inventory and avoid costly leases, particularly ones that result in build-to-suit or lease construct buildings.

Capital from the American Recovery and Reinvestment Act of 2009 (ARRA) allowed GSA to make smarter asset management decisions, converting several projects that were slated for costly lease construction to Federal construction and avoiding millions in future lease costs.

In our annual capital project submissions, GSA and the Administration have also taken strides to find ownership solutions. For instance, in GSA's FY12 program, GSA and the Federal Bureau of Investigation (FBI) worked together to find a solution that would convert an existing building, the Philip Burton Federal Building in San Francisco, CA, to satisfy the requirements of the FBI and avoid a previously authorized lease construction solution, saving taxpayers millions of dollars.

GSA has also been moving to dramatically improve utilization of our current inventory, with the benefit of consolidating leases into owned space. We are showcasing that effort in our own headquarters, where, with only a modest amount of expansion space, we intend to turn a building that previously served approximately 2,500 personnel and modernize it into a building that will serve 6,000. This will allow us to consolidate costly leases in the metropolitan area and save millions of dollars.

GSA intends to continue these efforts moving forward.

Managing Leases -

Where a Federal construction solution is not possible, or not preferable, GSA implements a deliberate and comprehensive process that ensures adequate competition and takes into account other public interests, including placement in central business districts or facilities which are close to public transportation. Additionally, GSA has the authority to grant lease delegation requests for other Federal agencies, and we grant such requests in a responsible manner and with appropriate oversight.

GSA currently has an inventory of over 370 million square feet of space, approximately half of which is spread among nearly 9,000 leases across the country. GSA effectively manages its leased space. In FY2010, leased space vacancy was only 0.8 percent. GSA leases space for most Federal agencies including, but not limited to, offices, laboratories, warehouses, and clinics. Leases are located according to the client agency's mission requirements in urban, suburban, and rural areas and in accordance with established location laws and policies.

Space Planning with Agencies -

A potential leasing action begins when a Federal agency brings a space request to GSA. These requests can range from replacement leases, expansion space, or more effective space for an agency's mission. In all cases, we first determine if federally owned or leased space is already available that could meet the agency's requirements. If unavailable, GSA evaluates the appropriateness of a potential leasing action.

GSA tailors its approach to space requests based on the size and complexity of the identified need. Leases under the current prospectus threshold (i.e., a net annual rent less than \$2.79 million for FY2011) represent approximately 98 percent of our leases and 73 percent of the leased square footage. Prospectus-level leases with annual rent exceeding \$2.79 million represent 2 percent of leases transacted.

The requirements-development, review, and evaluation process of prospectus-level leases is more extensive due to the size and cost of these leases. Consistent with broader Administration policy for real property, GSA strives to ensure that prospectus level lease actions reflect the best and most cost effective approach to providing the Federal government with necessary space, particularly by encouraging mobile workforce planning that can reduce the overall need for space. Specifically, GSA seeks to ensure that space is efficiently utilized, including the emerging approaches for office space configurations, identification of specialized space necessary to meet mission requirements, and availability

of space in subject markets. Additionally, these large leases require review and clearance by both GSA's Central Office and the Office of Management and Budget (OMB) prior to submission to Congress. While ensuring that proposed leases comply with all criteria governing lease scoring treatment under OMB Circular A-11, OMB also reviews the leases to ensure that the proposed action is consistent with personnel and resource estimates in the President's budget.

The lease prospectus discussion involving GSA, the customer agency, and OMB is the opportunity for the three parties to discuss the relationships among requirements, costs, and availability of resources leading to sound decisions that meet Government needs in a manner consistent with taxpayer interests.

GSA's Leasing Process -

Once GSA has worked with an agency to carefully define and scope their requirements and ensure that the space they need is based on accurate projections and reflects available funds, GSA's lease acquisition process runs through a carefully sequenced set of steps to obtain adequate competition and a fair rental rate for taxpayers.

One of GSA's fundamental, key strategies is to promote competition by attempting to maximize the number of potential qualified offerors for a lease solicitation. By improving communication with the commercial real estate sector, GSA's presence in the market is strengthened and a sense of partnership with leasing industry practitioners emerges, resulting in increased competition for GSA leases.

GSA follows a sequenced and efficient leasing acquisition process, which includes market advertising and surveying, assessments, evaluations, negotiations, and contract execution. The details of this process are highlighted below.

Advertisement: If the space requirement is greater than 10,000 square feet, GSA advertises requirements for space on the Federal Business Opportunities website at www.fedbizopps.gov, or in the local newspaper where appropriate, in order to obtain maximum competition from the private sector. While advertising is not required for smaller space requirements, GSA often does so in order to promote competition.

Market Survey: Based on agency requirements, GSA conducts a market survey with agency representatives to identify properties that meet the agency's requirements. This is a critical step in the procurement process. If GSA determines during the market survey that there is insufficient competition in the area, GSA will work with the client agency to expand the area of consideration or refine their space requirements before soliciting the local commercial real estate market.

The Request for Lease Proposal (RLP): GSA develops the RLP package (previously known as a Solicitation for Offers (SFO)), a standard document tailored to the requirements of each particular solicitation, and sends it to all prospective offerors identified during the market survey. The RLP is available upon request to any party.

Negotiations and Evaluation: Once offers are received and evaluated, GSA begins negotiations. GSA internally establishes negotiation objectives (acceptable ranges for rental rates, costs for tenant improvements, and cost ranges for additional requirements) and conducts discussions with potential lessors in the competitive range.

Final Proposal Revisions: Once negotiations are completed, GSA requests Final Proposal Revisions, where offerors are requested to submit their “best and final offer” to the Government.

Final Evaluation and Award: After submission of final revisions, GSA reviews and evaluates offers and makes an award determination. Award is made based on price or price and other factors explained in the RLP. Most leases are awarded to the offeror who meets the Government’s minimum requirements at the lowest price. For more complex requirements, such as prospectus level leases, GSA may conduct “best value” procurements, which allows for a balance between the technical merits of the proposal and the cost.

Contract Execution: GSA compiles and sends an executable lease document with all negotiated terms and conditions to the apparent successful offeror for signature. Upon return of the signed lease from the apparent successful offeror, the GSA Lease Contracting Officer awards the lease by executing the lease contract.

Build-out and Acceptance: The lessor completes the build-out of the space in accordance with the requirements of the lease and GSA inspects and accepts the space when completed. Following GSA’s acceptance of space as substantially complete, the Government starts payment of rent to the lessor.

Move-in: Concurrent with GSA’s acceptance of space from the lessor, we assist our tenants in occupying the space, at which time their payment of rent to GSA begins pursuant to an Occupancy Agreement between GSA and the tenant agency which sets forth the terms and conditions related to their occupancy. This step completes the lease acquisition process.

Agencies with Independent Authority and Delegation of Authority for Lease Acquisition -

Several agencies, commissions, and other Executive agencies have their own authority to hold land and acquire leasehold interests on behalf of the Federal government. Their

authority to do so is outlined in the U.S. Code, or in annual appropriation acts. GSA maintains standing delegations for special purpose space and a list of categorical delegations in the Federal Management Regulation.

Agencies that do not have authority or that do not want to exercise their independent authority may apply to GSA for a Delegation of Lease Authority on a lease-by-lease basis. Agencies must abide by the same laws and controls that govern GSA and certify that they have a properly warranted Leasing Contracting Officer to conduct the procurement and execute the lease.

Since the modification of delegation authority in late 2007, GSA has processed 1,803 lease delegation request applications, comprising roughly 8.5 million rentable square feet. Any delegated lease in excess of 19,999 rentable square feet requires approval from the Administrator of GSA.

The following agencies have requested and been granted lease delegation authority: Department of Commerce, Army Corps of Engineers, Department of Homeland Security, Department of Health and Human Services, Department of Interior, Department of the Treasury, Department of Justice, Department of Agriculture, and the Department of Veterans Affairs.

Improving and Streamlining the Leasing Process -

While these controls are important, GSA constantly looks for ways to streamline, standardize, and simplify our leasing processes to minimize the costs associated with acquiring a lease. We also continually assess our performance against other rental rates in the same or similar markets through a Lease Cost Relative to Market measure. GSA is committed to adapting its internal processes to mirror leasing in the private sector, and to fully utilize the market leverage that results from the Federal government being a reliable tenant.

Consultation with the private sector leasing and lending community inspired GSA to undertake many improvements, such as aligning our simplified lease acquisition threshold and our space terminology with private sector practices, introducing a succeeding lease model for situations where relocation is not cost-effective, streamlining the acquisition process by creating a nationwide standardized template for use by GSA's regional offices, and redeveloping FedBizOpps advertisements for greater consistency and easier accessibility. GSA also supports the creation of the President's proposed Civilian Property Realignment Board, which would facilitate more lease consolidations across the government.

Conclusion -

GSA's approach to leasing Federal space allows agencies to achieve their mission effectively and works to protect the public's interest by acquiring space at a fair rate, while focusing the highest levels of control on the largest potential leasing actions. Where we grant delegations on our authority, we require that those same controls are in place. In addition, we aim to constantly improve our processes to attract further competition from the private sector and minimize costs to taxpayers.

Thank you for inviting me to appear before you today. I appreciate the opportunity to discuss GSA's leasing practices and expertise, and I welcome your questions.