Welcome to today’s presentation:

**Emergency Leasing**

*July 14, 2022*

_The presentation will start at 1 pm Eastern_

**Note:** Phones are automatically muted during the presentation. You can send questions to our presentation team via your Q&A pane and team will answer as many questions as possible during the presentation. All questions will be responded to in writing in a formal Q&A document, posted along with the slide deck and session recording, on our website, [www.gsa.gov/ces](http://www.gsa.gov/ces)
Our Presenters and Host

Presenters

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How familiar are you with the GSA PBS basic leasing process?

a. Not familiar
b. Somewhat familiar
c. Very familiar
Agenda

- What is “Emergency Leasing”
- What is Unusual and Compelling Urgency
- Emergency Leasing Process Walk-Through
What is “Emergency Leasing?”

• Emergency leasing is an expedited acquisition process that relies upon a special acquisition authority known as “Unusual and Compelling Urgency”

• Emergency leasing follows the same basic process as our standard leasing process with certain steps abbreviated or omitted entirely
  – Refer to Leasing 101 posted on our YouTube channel
  – It is important for viewers to have a basic understanding of the leasing process
Unusual and Compelling Urgency

- Unusual and Compelling Urgency is a powerful authority provided under 41 U.S.C. 3304(a)(2) and implemented through FAR 6.302-2
- This authority allows the govt. to award new contracts without having to follow Full and Open Competition requirements and allows for a very fast acquisition process
All govt. needs have a certain level of urgency, but most can be fulfilled using Full and Open Competition without the govt. incurring “serious injury”.

**Customary Govt. Requirements**
- Space will be provided in a timely manner while meeting full and open competition requirements.

**Urgent Requirements**
- Space needed faster than what can be provided for using full and open competition.

**Life Saving and Life Sustaining Requirements**
- Space needed for immediate use, “day to day” urgency of need.
All govt. needs have a certain level of urgency, but most can be fulfilled using Full and Open Competition without the govt. incurring “serious injury”.
Unusual and Compelling Urgency - Impact

- Using this authority requires that the government establish that delay in awarding the contract would result in “serious injury, financial or otherwise, to the Government”

- Unusual and Compelling Urgency is **NOT** the same as a sole source
  - PBS still seeks competition from “as many sources as is practicable under the circumstances”
  - This authority cannot be used to arbitrarily pick a building and ignore other options
<table>
<thead>
<tr>
<th>Category</th>
<th>Full and Open</th>
<th>Sole Source</th>
<th>Unusual and Compelling Urgency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trigger Event</td>
<td>Normal space request</td>
<td>Cost or mission based justification to limit to 1 offeror - typically the incumbent Lessor</td>
<td>Emergency</td>
</tr>
<tr>
<td>Competition</td>
<td>Yes</td>
<td>No</td>
<td>Limited</td>
</tr>
<tr>
<td>Speed</td>
<td>Regular</td>
<td>Faster</td>
<td>Fastest</td>
</tr>
</tbody>
</table>
Coalition of Partners

Using this authority requires involvement by SES level officials within GSA, and it should involve similar levels within your organization. Taking advantage of this authority requires significant levels of commitment on both GSA and the partner agency.

This authority is not a substitute for management commitment and support.
Process Walk-Through
**IMPORTANT NOTE**

**Emergency leasing** covers instances where an agency, the public, or the Government as a whole, would be harmed if we acquired the space through our normal Full and Open Competition process. This presentation, and the emergency leasing process **does NOT apply to leases acquired for FEMA following a declaration of disaster under the Stafford Act.** Those leases are known as “**disaster leases**” and follow their own, very unique procedural and administrative process.
Key Symbols

Important Symbols to Note

1. Key Document:
   - This step involves a key document that requires either review, approval, or notification.

2. Handshake:
   - This step involves significant collaboration between GSA and the client.

3. Handoff:
   - This step involves a hand-off that may change or introduce new key team members.
The Leasing Process

1) Requirements Development
   • Delineated Area
   • Square Footage
   • Special/Unique Requirements
   • Acquisition Strategy

2) Pre-Solicitation
   • SAM Advertisement
   • Market Survey

3) Solicitation
   • RLP Package

4) Negotiations
   • Rental rates
   • Lease terms and conditions

5) Post Award
   • DIDs/CDs
   • TI negotiation
   • Build-out
   • Acceptance/Occupancy
The Leasing Process – Focus on Step 1 – Requirements Development

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[Diagram showing step-by-step process]
Requirements Development and Trigger Events

- Most leasing actions being with GSA reaching out to the agency due to an expiring lease or the agency reaching out to GSA

- Emergency leases are driven by a trigger event which creates an urgent need for new space
Examples of Trigger Events

- **Natural Disasters**
  - Hurricanes
  - Earthquakes
  - Floods
  - Wildfires

- **Man Made**
  - Attack/Terrorism
  - Arson

- **Local/Building Events**
  - Water intrusion - pipe burst/roof leaks/etc
  - Fire damage - electrical/accidental/etc
Trigger Event Examples Continued

- Legislative/Presidential Order
  - New Law
  - New Executive Order
  - Requires new facilities in order to meet your agency’s obligations which cannot be obtained in time through Full and Open Competition

- Unique/Sensitive Mission Critical Deadline
  - A special need for space which must be provided in an urgent manner in order to prevent serious harm to the government
    - Ex. Providing space for security operations for an upcoming political convention
Poll #2

Do you believe your agency is at risk for one or more of these trigger events?

- A. No
- A. Maybe
- A. Yes
Damage Assessment

• If your trigger event involves damage to an existing space, the first step will be to assess that damage and determine if relocation is necessary
  – Lessors are responsible for repairing the leased premises
  – Lessors are NOT responsible for replacing personal property
  – GSA will work with the Lessor to obtain their remediation/repair plan and determine if it is reasonable

• Agencies should have a plan ready and be prepared to utilize telework and other remote options to continue operations for short periods of time during repairs or the provision of replacement space
The standard lease boilerplate contains a clause that provides Lessors with up to 270 days to repair damage, provided that they can provide a “reasonable” schedule within 60 days from the event that demonstrates how the space will be repaired.

13. FIRE AND CASUALTY DAMAGE (JUN 2016)

If the building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the building in which the Premises are located are only partially destroyed or damaged, so as to render the Premises untenantable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed 270 days from the event of destruction or damage, to repair or restore the Premises, provided that the Lessor submits to the Government a reasonable schedule for repair of the Premises within 60 days of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within 270 days from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. During the time that the Premises are unoccupied, rent shall be abated. Termination of the Lease by either party under this clause shall not give rise to liability for either party.

Nothing in this lease shall be construed as relieving Lessor from liability for damage to, or destruction of, property of the United States of America caused by the willful or negligent act or omission of Lessor.
Requirements Development – Temporary vs Permanent

- Requirements development for emergency leasing requires that the agency and GSA first determine if this is a temporary or permanent relocation.
  - A building partially damaged by fire can be fixed and temporary replacement space may be needed.
  - A building completely destroyed by fire cannot be rebuilt within the timeframe required in the contract and permanent replacement space will be needed.

- The extent of time that the agency will need to occupy the space will have a significant impact on the requirements.
Requirements Development – Short vs Long Term

- Short term requirements should look to replicate minimal functionality that cannot be obtained through remote work options.

- Long term requirements should consider the agency’s current and expected future space needs for that location rather than default to replacing the existing space as it was.
  - Ex. A lease that was established 10+ years at 30,000 sf may only need 20,000 (or less) today.
Requirements Development – Don’t Short Cut Planning

- It is important, even during an emergency, that proper time is committed to planning
  - Developing proper requirements for a short term space may require a few days
  - Developing proper requirements for a long term space may require a few weeks

Do not let the urgency of the situation drive bad business decisions that save a day but we have to live with for years
When acquiring an emergency lease, the govt. will use Unusual and Compelling Urgency as our acquisition strategy.

As covered earlier, this allows us to acquire new leases very quickly.

The specific situation and level of urgency will drive the schedule and what steps may be abbreviated or omitted entirely.
The Schedule and Expediting Lease Projects

- All projects, including emergency leases, need a schedule
- This is a critical item that requires both sides to commit to actions or expedite steps beyond what the usual process
  - RLP reviews
  - DID workshops
  - CD reviews
Scheduling and the Cost of Urgency

• When possible, it is beneficial for the govt. to abbreviate steps, such as advertising, rather than omit them entirely
• There is a cost to expediting a schedule which must be balanced
  – Offerors increase bids to compensate for risk and increased costs of expediency (OT labor)
  – Lead time items may limit what is possible
  – Offerors may not bid at all
Questions?
The Leasing Process – Focus on Step 2 – Pre-Solicitation

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   • Acceptance/Occupancy
Pre-Solicitation - Market Research

- Pre-solicitation is the process of engaging with the market to gather information for the upcoming acquisition
  - Locate available properties
  - Determine negotiation objectives
- The GSA team will use a number of tools to get this information
  - Advertisement on SAM.gov
  - Online databases such as COSTAR
  - Telephone outreach
Market Research in Emergencies

- Depending on the specific situation, an ad may be placed for a limited time in order to promote competition or be omitted if the level of urgency does not provide enough time for an ad to be beneficial.

- Telephone outreach becomes very more important to provide instant contact with building reps.

- GSA will notify offerors of the urgency and timeline expected.
Market Research in Emergencies – Offeror Pool

- Short term or immediate occupancy requirements can reduce the number of eligible properties

Acceptable/Regular Offeror Pool vs. Unacceptable
Market Research in Emergencies – Narrowing Down the Pool

• The urgency may limit us to a single offeror but the goal is to have more than one
• Competition gives us a back-up in case we cannot reach a reasonable deal with one offeror

Can’t submit offer quickly enough  Tenant in place
Emergency Market Surveys

In an emergency, the goal will be to issue the RLP package as soon as possible after the survey, or even on the tour itself. It becomes imperative that the decision makers are available and ready to sign the market survey forms.
Additional Questions?
The Leasing Process – Focus on Step 3 - Solicitation

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Step 1  Step 2  Step 3  Step 4  Step 5

Award
RLP Package - Client Review

- It is important that the client review the Request for Lease Proposal (RLP) before it is issued
  - Validate SF range is correct
  - Agree on timing and process for post award design development
  - Ensure critical special requirements are included

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**Original**

**ACTION REQUIRED:** TYPE IN TENANT AGENCY HOURS OF OPERATION CONSISTENT WITH THE CURRENT PRICING DESK GUIDE

| Definition of Normal Hours | Paragraph Below | If Tenant Agency Requires After Hours Cleaning: Modify This Paragraph According to If the Successful Offeror Agrees to Provide Extended Hours and/or Days at No Additional Cost or Consequence to the Government, Such Hours Should Be Accepted and Included in the Lease.

6.01 Provision of Services, Access, and Normal Hours (Jun 2012)

A. The Government's normal hours of operations are established as XX AM to XX PM, Monday through Friday, with the exception of Federal holidays. Services, maintenance, and utilities shall be provided during these hours. The Government shall have access to the Premises and its Appurtenant Areas at all times without additional payment, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed during normal hours.

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**Revised**

**ACTION REQUIRED:** TYPE IN TENANT AGENCY HOURS OF OPERATION CONSISTENT WITH THE CURRENT PRICING DESK GUIDE

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The Leasing Process – Focus on Step 4 - Negotiations

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**Emergency Lease Negotiations**

- Offerors typically get a minimum of 20 calendar days to submit their bid (GSAM 570.106)
- In an emergency situation, the amount of time will match the urgency of the situation
  - 5 days should be considered the minimum in most situations
  - Offerors need time to review the lease, if they are not given enough time, they may drop out or inflate their offer
• In an emergency, the government may need to pay a higher price than they would otherwise expect to pay
  – Urgency does cost money
  – Urgency does not mean “money is no object”

• The contract price must still be determined to be “fair and reasonable”
Due Diligence Checks

- Emergency space must still pass our due diligence and be safe for occupancy
- Due Diligence items checked:
  - Fire/Life Safety
  - Verifying space size
  - Seismic (map determines level)
  - Offeror’s Capability to Perform
    - Proper Ownership
    - Financial Responsibility
    - Completed SAM.gov
  - Meets all items set out in the RLP
Awarding the Contract

- The winner is normally determined using the **Lowest Price Technically Acceptable (LPTA)** method
  - The RLP and Lease set forth what is “technically acceptable”
  - Rates are evaluated using Present Value to compare different cash flows over time
- There may or may not be a negotiation period, especially if the initial offers are fully responsive and within market range
GSA sends the Client a **recommendation letter** with the winning Offeror's information and a revised OA to reflect the negotiated rates if higher than the previous OA.

GSA sends a draft lease capturing the negotiated rates to the selected Offeror. The Offeror signs the draft lease and returns it to GSA. The GSA LCO executes the lease contract.

Key Document: Rec. Letter

Key Document: Executed Lease
How long does this take?

- Acquisitions for long term replacement space using Unusual and Compelling Urgency should be able to be completed within 30-60 days
  - Requirements Development - 1 week
  - Market Research and Survey - 1 week
  - Solicitation and Negotiation - 1-4 weeks
  - Award - 1 week

- Short term acquisitions may take less time if the agency’s requirements are ready and the agency accepts space as is and there is sufficient support
Any More Questions?
The Leasing Process – Focus on Step 5 – Post Award

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Step 1:  
Step 2:  
Step 3:  
Step 4:  
Step 5:
Post Award Design and Construction - Emergency Leases

• Expediting design and construction requires significant commitment and collaboration
  – Remember the time frames agreed upon when the project schedule was developed

• The build-out requirements should be developed during requirements development, not deferred until after award
  – The agreed upon build-out requirements should be maintained, adding or changing at this stage erodes the speed and value of this process
  – Short term space build-out should be kept to the minimal requirements for functionality
Design Intent Drawing (DID) Workshops

• DID workshops are 1-2 day intensive, collaborative meetings hosted by the Lessor’s design team
  – Can be in person or virtual
• At the end of the meeting, the goal is to have an approved DID
  – Decision makers need to be available

This method of DID development should be considered the default for any emergency lease requiring design and build-out
Design

**Design Intent Drawings**
- Design Intent Drawings (DIDs) show the layout of the space
- Capture critical design elements
- Govt approves

**Construction Drawings**
- Construction Drawings (CDs) further define the DIDs
- Add technical elements for review by the government team
- Govt reviews

**Tenant Improvements Negotiation**
- The Lessor bids out the cost of the Tenant Improvements (TI)
- The GSA team negotiates the price of the TI

**Key Document**
- DIDs and CDs
How long does this take? Expectations

- Expediting “standard level” build-out should be thought of in terms of % reductions from the standard build-out time
  - Expediting comes at cost and risk which should be balanced
  - Ex. 10% reduction of 10 months = 1 month
  - Permitting, lead time items, and supply chain can be a constraint
- Short term emergency space should focus on accepting space as is whenever possible
Construction and Acceptance

• Once construction is complete, the government team will inspect and accept the work

  — **Substantial Completion** – The Lessor has completed their scope of work to prepare the space for occupancy by the government. Any remaining work is minor, such as “punch list” items, and completion/correction of these items will not interfere with the government’s use of the space

  — Upon acceptance, the lease becomes effective and rent commences

• At this point the government has possession of the premises and the customer can begin to install furniture and other personal property

• The point of contact for GSA will transfer to the Lease Administration Manager (LAM)
Knowledge Check #1

Can you request an emergency lease because of pressure from senior management to get a new lease done quickly?

A. No
A. Yes
Knowledge Check #2

What are legitimate trigger events for an emergency lease?

A. A building destroyed by fire
A. A mission critical deadline set by law
A. A hurricane that causes damage to a building that cannot be repaired in a reasonable time
A. All of the above
The Project Pulse Survey is sent to client POCs for both Lease and Reimbursable Work Authorization (RWA) projects.

The surveys occur at different points the project lifecycle, so you can assess our performance throughout your project.

We value your feedback and use your comments to help improve all aspects of service delivery.

For more information, see our Fact Sheet under “Executing Your Project” or contact your National Customer Lead.
Emergency Leasing - Thank You For Attending!

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Concluding Questions?
Upcoming Client Enrichment Series Sessions

**RWA Fundamentals**
*Thursday July 21st  1pm - 3pm eastern - Register Now*

**Workplace Feasibility Modeling Made Easy With WIFM 2.0**
*Wednesday July 27th 2pm-3:30pm eastern - Register Now*

**eRETA Digest**
*Tuesday, August 9th  1pm-2:30pm eastern - Register Now*

**Say Aloha to KAHUA**
*Thursday, August 18th  1pm-2:30pm eastern - Register Now*

GSA’s COVID-19 Resources for Customers
See our [Safer Federal Workplace page](https://www.gsa.gov/safer-federal-workplace)

Watch CES sessions on [YouTube](https://www.youtube.com)
*Bookmark and binge watch all your favorite CES sessions!*

[www.gsa.gov/ces](https://www.gsa.gov/ces)
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