



## CHAPTER 8:

# Alterations in Leased Space

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## 1. Overview

Alterations as discussed in this chapter of the desk guide are post occupancy layout modifications requested by an agency during the lease term. The intended result is for the space to better support the agency's mission and evolving long-term needs.

The General Services Administration's (GSA) procedures for securing leasehold alterations are described in GSAM 570.5. The reader should understand that this policy gives the Lease Contracting Officer latitude to make discretionary decisions in the Government's best interest.

### a. Reasons for Alterations

The most common reasons for alterations in leased space include:

- Installing or replacing equipment;
- Using new or modified layouts;
- Accommodating requirements for additional facilities (such as conference rooms); or
- Changing mission-related requirements (such as security enhancements).

### b. Procurement Responsibility

#### The Leasing Specialist and Lease Contracting Officer

Typically, the Leasing Specialist (LS) and Lease Contracting Officer (LCO) are responsible for procuring alterations of any size as long as those alterations are being performed directly by the lesser. The Leasing Specialist or Lease Contracting Officer are not authorized to conduct competitive procurements for alterations with anyone other than the lessor (see table 8.1). They must use a Lease Amendment as the contractual document for this work.

#### The Property Manager

Property Managers who have been delegated Contracting Officers Representative authority by the Lease Contracting Officer may procure alterations up to \$150,000 depending upon the level of their contracting officer's warrant. Unlike the alterations process followed by the Lease Contracting Officer, Property Managers are authorized to procure the alteration directly with the lessor or through other vendors using a competitive process, using GSA Form 300, Order for Supplies and Services, as the contractual document.

#### The Client Agency Official

Occasionally, the Lease Contracting Officer will delegate Contracting Officers Representative authority to a client agency official to procure minor alterations from the lessor, for an amount up to \$150,000. The authorized official, who will procure these alterations with the

Note:

Even when designated as a Contracting Officer Representative (COR), if the Property manager contracts for an alteration, they must have their own Contracting Officer's warrant and not rely upon their COR designation for authority.



lessor using a purchase order request or another agency approved form, must have a contracting officer's warrant at the appropriate level.

**Contract Specialist and Contracting Officer (GS-1102)**

On rare occasions, the existing lessor cannot or will not perform the alteration and this work must be procured from an alternate source by a contracting officer from the GS-1102 series. The contracting officer must procure this work through a competitive process or through other procurement vehicles such as the 8(a) program or firms on GSA schedules. The lessor may still compete for the work in a full and open competitive procurement.

**The Lessor's Role**

Although leases do not give lessors a right of first refusal to perform alterations, it is typically beneficial to allow lessors to perform the work. In most cases, lessors offer the lowest risk option for performing alterations because of their knowledge of their buildings and systems. Using an outside vendor could result in liability to the Government as a result of any damage or poor workmanship on the part of that vendor. The Office of Regional Counsel should be consulted to address the potential liability when procuring alterations from a source other than the Lessor.

Note: This chapter does not address the steps required for a Property Manager, client agency official or Contract Specialist to contract for alterations using a GSA Form 300.

<b>Table 8-1</b>	<i>LS/LCO Standard Approach</i>	<i>Contracting Officers (CO) (GS-1102s)</i>	<i>Property Managers (Field Office)</i>	<i>Client Agency Officials (authorized by the GSA LCO)</i>
How Big?: Alteration procurement size	Any dollar amount	Any dollar amount	At or less than \$150,000	At or less than \$150,000
With whom? Directly with lessor or others	Direct with lessor only	Competitive with contractors or other procurement vehicle such as 8(a) or firms on GSA schedule	Direct with lessor or competitive with others	Direct with lessor only
Using what? Lease Amendment; GSA Form 300, Order for Supplies or Services; or other approved form	Lease Amendment	GSA Form 300	GSA Form 300	GSA Form 300 or other client agency form
Exceptions/Notes		1. CO only gets involved if lessor does not perform alterations and the alterations must be secured from an alternate source.  2. The SOW must be provided by the client agency.	1. LCO must have delegated Contracting Officer's Representative (COR) authority to Property Manager  2. Property Manager must provide copies of GSA Form 300 to LS/LCO for the lease file	

**c. Government's Contractual Right to Perform Alterations**

GSA's unilateral right to perform alterations in space under lease is prescribed in several places throughout the standard lease contract:



- General Clauses, Paragraph 19: Alterations
- General Clauses, Paragraph 33: Proposals for Adjustment
- General Clauses, Paragraph 34: Changes

The Government, not the lessor, has the right to decide who will perform the alterations.

## d. Effect of Alterations on Leases

### Operating and Maintenance Costs

Certain buildouts can affect both the operating and maintenance costs of the space. For example, construction of a computer room with dedicated 24-hour heating, ventilation, and air conditioning may increase utility consumption or require special filters. The addition of equipment that requires periodic maintenance will add costs of maintenance for the lessor unless the government will perform such maintenance. Under such circumstances, the lessor may request an equitable adjustment as a result of an alteration. Even if the alteration was procured using a GSA Form 300, the Leasing Specialist may still have to prepare a Lease Amendment to make the lessor “whole” on these adjusted costs. While it is the lessor’s responsibility under the lease to make a timely claim for equitable adjustment, the Leasing Specialist must always be aware of these potential effects when procuring alterations. The Leasing Specialist or Lease Contracting Officer must be careful to prescribe in the Lease Amendment who will perform the maintenance.

**Reminder:** If the Leasing Specialist/Lease Contracting Officer agrees to an equitable adjustment in the operating expenses paid through the rent, revise the Occupancy Agreement and obtain the client agency’s signature on it.

### Method of Funding Alterations

Unlike the initial tenant improvement (TI), which is funded primarily through an amortization in the rental rate, leasehold alterations are primarily funded through reimbursable work authorizations (RWAs). RWA funding is discussed further in this chapter, as well as in Chapter 2, Part 6, “Design, TI Negotiations, and Notice to Proceed”, under the heading “TI Overage.” Detailed RWA guidance is provided on the RWA Guidance and Policy web page at [http://pbsportal.pbs.gsa.gov:7777/portal/page?\\_pageid=82,559762&\\_dad=portal&\\_schema=PORTAL](http://pbsportal.pbs.gsa.gov:7777/portal/page?_pageid=82,559762&_dad=portal&_schema=PORTAL)

Joint use space alterations in a multi-tenanted leased building are funded by GSA in accordance with the Pricing Desk Guide 4<sup>th</sup> edition available at

[http://pbsportal.pbs.gsa.gov:7777/portal/page?\\_pageid=84,701041&\\_dad=portal&\\_schema=PORTAL](http://pbsportal.pbs.gsa.gov:7777/portal/page?_pageid=84,701041&_dad=portal&_schema=PORTAL)

### Lease Amendments and Other Contractual Forms

Lease Amendments are used to document the lease terms or conditions for most standard alteration procurements. Table 8-1 summarizes the exceptions to this process. One best practice to consider is to prepare Lease Amendments for all alterations, even those procured separately by purchase order. Preparing a Lease Amendment will provide a historical record within the lease file if there are future restoration or equitable adjustment claims by the lessor.



#### **Section 106 Compliance for Alterations in Historic Buildings**

Work that may alter historic spaces, materials or site characteristics is subject to National Historic Preservation Act Section 106 review, coordinated by GSA's Regional Historic Preservation Officer (RHPO). Contact the RHPO in early planning for requests potentially affecting historic properties to identify and address preservation issues the project may raise.

## **2. The Standard Alterations Process**

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The following steps typically apply to standard alteration procurements (see LS/LCO standard approach column of Table 8-1).

### **a. Requirements and Scope Development Phase**

#### **Alterations Request**

The client agency first submits an alterations request to GSA by letter or email and must include a scope of work (SOW). This request may or may not include a GSA Form 2957, Reimbursable Work Authorization (RWA).

#### **Refining/Developing SOW**

Next GSA must work with the client agency in developing or refining the scope of work as necessary. Depending upon the alteration required, the scope of work can contain, for example, one or more of the following: a narrative, floor plans, equipment specifications, contractor qualifications, and security clearance procedures.

The level of detail in the scope of work will vary based on the procurement process. More detailed SOWs will be needed if a solicitation for alternative sources is required.

#### **Section 106 Consultation**

Federal Management Regulation (FMR) 102-78, Historic Preservation, and GSA ADM1020.2, Procedures for Historic Properties, outline requirements and procedures for compliance with Section 106 of the National Historic Preservation Act. Every effort should be made to avoid, or if unavoidable, to minimize, adverse effects on historically significant spaces, materials, and character-defining architectural features, in accordance with the Secretary of the Interior's Standards for Rehabilitation. Depending on the magnitude of the request, additional review for compliance with the National Environmental Protection Act or coordination with local development plans may be required. Agencies in historic properties should coordinate with GSA's Regional Historic Preservation Officer early in scope development to ensure that Section 106 requirements are met prior to committing funds to a specific solution or approach that may affect historic materials or spaces.

#### **Scope Determination**

General Services Administration Acquisition Manual (GSAM) 570.502-1 outlines different justification and approval procedures, depending on whether the alterations are considered to be within the general scope of the lease. To assist in determining whether the requested alterations are within the scope of the original lease or out of scope requirements the Leasing Contracting Officer must:



- Decide whether the work is fairly and reasonably part of the lease requirement originally contracted for; and
- Evaluate the intended purpose of the alterations along with the estimated cost compared to the current use of the space.

The cost of the alterations relative to the lease value is not necessarily an indicator of whether they are within or outside the scope. The Leasing Specialist must understand that although most alterations will fall within the scope of the lease, common sense must be applied to the scope determination and the criteria listed above.

### **In-Scope Requirements**

If the alterations are within the scope of the original lease, they may be performed by the lessor without a Justification for Other than Full and Open Competition (Justification) if:

- The lessor is willing to perform the alterations at a fair and reasonable price; and
- It is in the Government's interest to acquire the alterations from the lessor.

As a best practice recommended under this scenario, the Leasing Specialist or Property Manager should create a memorandum to the file to document the scope determination.

### **Out-of-Scope Requirements**

If the alterations are outside the scope of the original lease, the Leasing Specialist or Property Manager is authorized to proceed with one of the following options:

- If the alteration cost will exceed the simplified lease acquisition threshold, prepare a Justification and execute a contract with the lessor;
- If the alteration cost will exceed the micro-purchase threshold, as defined in FAR 2.101 but fall below the simplified lease acquisition threshold, use simplified acquisition procedures and explain the absence of competition in the file; or
- Work with a GS-1102 Contracting Officer to procure the alterations from an alternative vendor.

## **b. Preproposal and Proposal Phase**

### **Preproposal Actions**

#### Acquisition Plan

The first step in this phase is to create an acquisition plan. The Leasing Specialist must adjust the current acquisition plan template so that it is geared toward space alterations, not lease acquisition. The plan must address relevant issues, milestones, risks, such as:

- How to decide whether the price is fair and reasonable;
- The Independent Government Estimate (IGE), competitive bidding, cost and pricing data, etc.;
- The time remaining in the lease term;



### ↳ 2. The Standard Alterations Process

Note: Before contracting for major alterations when the remaining lease term is cancelable, consideration must be given to:

- Early exercise of any existing renewal option;
- Cancellation of the lease and procuring new space;
- Acquiring a succeeding lease; or
- Acquiring a superseding lease before contracting for major alterations.

The Leasing Specialist should consider alternatives that include the cost of alterations amortized completely or partially over an appropriate succeeding lease term, as well as offers for a succeeding lease with the Government paying the alterations by negotiated lump sum, and then make a comparison of all alternatives, taking into account the client agencies' operating needs and all of the costs associated with each alternative. The lease contract file must reflect the rationale in support of the chosen alternative.

This strategic thought process may also be employed for alterations regardless of scope.

- The operating rent effect, if any;
- The schedule effect (if part of larger project);
- Other client-specific issues (such as the Department of Defense 1-year funding requirement); and
- The client regulatory requirements that support the alteration project.

#### Obtain Independent Government Estimate

The Leasing Specialist or Property Manager must obtain an Independent Government Estimate (IGE) to serve as the basis for analyzing and negotiating the lessor's cost proposal. The IGE can be created from any of the following sources:

- GSA project engineers;
- Cost estimators;
- Estimating contractors;
- Field office personnel (if the alteration is \$150,000 or less); or
- The Client agency (although agency estimates may not be detailed enough to be used for negotiation purposes).

If the estimate for the alteration is \$150,000 or less, the alterations may be requested by a local GSA field office or the authorized client agency official.

If the estimate is more than \$150,000 but **less than** the prospectus threshold (more than \$1,395,000 for Fiscal Year 2011), then the alterations must be requested by

#### Tip:

Sometimes the RWA money comes first. However, the RWA cannot be accepted until the SOW is completed and a supporting estimate is obtained.



the client agency's authorized ordering official.

If the estimate **exceeds the prospectus threshold** (more than \$1,395,000 for Fiscal Year 2011), the Leasing Specialist or Property Manager must consult with Portfolio Management and the Office of Regional Counsel before proceeding with the project. Additional information for alterations that exceed the prospectus threshold can be found on the PBS Insite Office of Portfolio Management Capital Allocation Division (PT) web page [[http://pbsportal.pbs.gsa.gov:7777/portal/page?\\_pageid=84,148370&\\_dad=portal&\\_schema=PORTAL](http://pbsportal.pbs.gsa.gov:7777/portal/page?_pageid=84,148370&_dad=portal&_schema=PORTAL)].

#### Request RWA From Agency

The RWA request must include the amount of the IGE plus additional overhead fees generated from the RWA calculator ([http://pbsportal.pbs.gsa.gov:7777/pls/portal/PORTAL.www\\_media.show?p\\_id=7234260&p\\_settin\\_gssetid=38964&p\\_settingssiteid=0&p\\_siteid=80&p\\_type=basetext&p\\_textid=7234261](http://pbsportal.pbs.gsa.gov:7777/pls/portal/PORTAL.www_media.show?p_id=7234260&p_settin_gssetid=38964&p_settingssiteid=0&p_siteid=80&p_type=basetext&p_textid=7234261)). These fees typically include a 4 percent GSA project management fee, as well as an RWA overhead fee and contingency (if not already included in the estimate).

#### Project Manager Accepts RWA

The Project Manager's signature on the RWA indicates acceptance. Once it is signed, the responsible GSA associate (usually the regional RWA Manager) then sends the RWA to the budget analyst. The budget analyst then assigns an RWA number and returns a copy of the RWA to the client agency with a cover letter. The budget analyst also returns a copy of the cover letter and a copy of the RWA to the Project Manager, who forwards them to the Leasing Specialist or Property Manager.

### Proposal Actions

#### Issue Request for Proposal

The Lease Contracting Officer must send the lessor a letter requesting pricing for the work. The letter must reference requirements in GSAM 552.270-13, Proposals for Adjustment, for structuring the price proposal. Include in the letter (as attachments) all requirements information from the client agency.

#### Receive and Evaluate Proposal from Lessor

When GSA receives the proposal from the lessor, it must be evaluated to determine whether it meets the Government's requirements. To analyze price or cost, compare the proposed cost to the IGE and any applicable audit. The profit resulting from the proposal should also be assessed, if possible.

The breakdown of costs (labor and material) must be reviewed, as well as any required designs and drawings.



## c. Negotiations, Contract Preparation, and Award Phases

### Price Negotiations

The negotiated price must be fair for both the Government and lessor and provide the lessor with incentive for efficient and economical performance. This requires sound judgment and a willingness to make a reasonable compromise when necessary. Before negotiating, it is important to set goals. These can include individual line item negotiating goals (for example, drywall, plumbing, and finishes), as well as total pricing goals, so that a determination of fair and reasonable pricing can be made. The negotiations must be documented in the contract file (see Chapter 2, Part 5, Award Determination, paragraph 3 c, Price Negotiation Memorandum).

#### Tip: Backfill occupancies

The process for contracting for alterations related to backfilling vacant space are the same as for a midterm alteration required by an agency. Funding considerations are discussed in section 2.2.3 of the Pricing Desk Guide 4<sup>th</sup> edition.

### Contract Preparation

#### Confirm Funding

The Leasing Specialist can confirm funding for the alterations through discussions with the local budget analysts in your region. The budget analysts will need specific contract information such as the lease and Lease Amendment number, building number, lessor name, and negotiated contract costs. The Leasing Specialist must obtain a Pegasus Document Number (PDN) from the budget analyst to confirm funding. The Lease Contracting Officer must never rely on the RWA alone, as other intervening factors may have affected the balance remaining on the RWA.

#### Draft Contract

A Lease Amendment is the contract vehicle for alterations. The Lease Amendment must incorporate the scope of work, negotiated price the Government will pay for the alterations, time frames to complete work, invoicing instructions, drawings, any increase in operating or maintenance costs, and restoration language. General conditions are also added to the Lease Amendment to ensure successful performance and protection of the Government's interests.

### Award

#### Lease Amendment as Obligor Document (Preferred Method)

To process this award, the Leasing Specialist must send the lessor two copies of the Lease Amendment for signature. The lessor then returns both copies to the Government. The Lease Contracting Officer executes the Lease Amendment and returns one copy to the lessor along with a transmittal letter authorizing the lessor to proceed with work. The Leasing Specialist must then send a copy of the Lease Amendment (the obligor document) to the budget analyst within 5 days of execution.

#### Contract Award and Obligation (Notice To Proceed Method)

In rare circumstances, it may be necessary to unilaterally issue a Notice to Proceed (NTP) before executing a Lease Amendment (or other contractual agreement). Under this process, the Lease Contracting Officer sends a letter with NTP language to the lessor (the NTP must include a



PDN and invoicing instructions), and this letter becomes the obligating document. The Leasing Specialist must send a copy of the NTP to the Budget Office within 5 days of signing the letter. For contractual continuity, the Lease Contracting Officer must also prepare the Lease Amendment for the lessor's signature that incorporates the scope of work, using the effective date of the NTP letter as the effective date of the Lease Amendment (ideally, this occurs simultaneously, with the Lease Amendments for signature accompanying the NTP). The lessor returns both copies signed by the Lessor to the Government, and the Lease Contracting Officer signs the Lease Amendment (returning one copy to the lessor). The Leasing Specialist must then send a copy of the executed Lease Amendment to the Budget Office as soon as practical.

### **d. Post-Notice To Proceed Phase**

#### **Designation of Contracting Officer's Representative**

Only the Lease Contracting Officer is authorized to designate a Contracting Officer's Representative (COR) to assist with monitoring lessor performance and conducting progress inspections. The COR has specific but limited authority. For example, the Contracting Officer's Representative may never:

- Execute a contract or contract modification;
- Obligate Government funds;
- Make final decisions that may be subject to appeal; or
- Terminate a lessor's right to proceed.

A sample letter designating a COR is attached at the end of this chapter. The enumerated responsibilities are to be determined by the Lease Contracting Officer.

#### **Monitoring Performance**

Progress reports and construction meetings are the primary tools for monitoring performance (and actual conduct of the work). This is important to verify that the lessor is fulfilling his or her obligations. Other monitoring tools include reviewing shop drawings and conducting progress inspections. If performance issues are found, the Leasing Specialist or Property Manager must take appropriate action to enforce any contract requirements that are not being met.

#### **Progress Inspections**

To document progress inspections, the Leasing Specialist or buildings manager must keep a running list of items that vary from contract requirements.

Any defects or omissions must be captured in the progress inspection and listed for the lessor to correct. The Leasing Specialist or Lease Contracting Officer is responsible for making sure that the lessor corrects all defects and omissions. Emphasize to the lessor that no interim lists given to the lessor during any portion of the work schedule should be considered a final inspection.

#### **Final Inspection**

It is recommended that the Leasing Specialist confirm that GSA does not make final payment for alterations until the work is inspected by a qualified Government employee or independent Government contractor (see GSA Form 184, Construction Progress Report, or GSA Form 220,



Inspection Report for Work Under Contract, for this documentation). The Leasing Specialist must also verify that this inspection confirmed that the alteration was completed in a satisfactory manner. In many cases, the GSA project manager will conduct a final inspection alone and will follow up with a joint final inspection with the end user.

**Acceptance and Payment**

Acceptance of contract work is final and conclusive except for issues involving the warranty, latent defects, gross mistakes, or fraud. Acceptance establishes that the lessor's work meets the contract requirements or is substantially complete. Once the work is accepted, payment is authorized using GSA Form 3025, Receiving Report, and sent to GSA's Budget Office.

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**3. Administrative Best Practices**

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The following additional best practices apply to post occupancy alterations.

- **Project number**—Always create a project number for an alteration. Even if no Rent Bill Management action is occurring, creating a project number allows your supervisor to assess your workload accurately.
- **Project documentation**—It's advantageous to create a separate folder for documenting alteration activities. Contractual documents must be kept in the original lease contract file.
- **Lease Amendments**—Fully executed Lease Amendments are required for all alterations procured by a Lease Contracting Officer. Except for the exigent circumstances as noted under "Award" the Leasing Specialist must prepare a fully executed Lease Amendment before the Lease Contracting Officer issues the NTP for an alteration; consider preparing Lease Amendments for even those procured separately by purchase order to provide a historical record within the lease file, in the event of future restoration or equitable adjustment claims by the lessor.
- **Key players and their roles**—The Leasing Specialist should seek to understand the key players and their roles in this transaction. Leasing Specialist colleagues and subject matter experts can help identify who is doing what.

GSA must always first approach the lessor to request a proposal for alterations, since alterations usually require tying into the building's existing electrical, mechanical, plumbing, or fire protection systems. Using alternative sources for alterations could negate the lessor's responsibility for maintaining these systems, especially in instances of negligence or damage on the part of the Government or the Government's contractor.



# ATTACHMENT: Sample Letter Appointing Contracting Officer's Representative

Dear [Name]:

This letter formalizes your appointment as the Contracting Officer's Representative (COR) for the lease listed below:

Location	Agency	Lessor Contact
[Building Name]	[Agency Name]	[Name]
[Address 1]	[Agency Contact]	[Building Name]
[Address 2]	[Building Name]	[Address 1]
[Address 3]	[Address 1]	[Address 2]
[City], [State], [Zip code]	[Address 2]	[Address 3]
	[Address 3]	[City], [State], [Zip code]
	[City], [State], [Zip code]	[Telephone]
	[Telephone]	[Facsimile]
	[Facsimile]	[Email]
	[Email]	

A copy of the lease has previously been sent to you. [Or a copy of the lease is attached.]

The responsibilities of the COR are to ensure that the lessor complies with the scope of the lease as written and include the following:

1. Perform day-to-day management of leased space, including building maintenance and operating matters relating to the building's services, utilities, equipment and other matters more specifically set forth in the FMR and GSA orders;
2. Inspect and accept work which the lessor may do under the lease contract and modifications, subject to the limitations of your authority;
3. Inspect and accept services which the lessor is obligated to provide under the lease contract;



↳ ATTACHMENT: Sample Letter Appointing Contracting Officer's Representative

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4. Advise the Contracting Officer as difficulties or situations arise which may disrupt or hinder performance;
5. Issue cure letters under established procedures when delivery of routine services does not conform to lease requirements; specifically, you are authorized to enforce
  - (a) Day-to-day delivery of services and utilities necessary to maintain efficient operation of the facility;
  - (b) Periodic services (i.e., window washing, cyclical painting, snow removal, pest control, etc.); and
  - (c) Routine maintenance.

With the exception of Item 5 above, you may delegate these responsibilities to your staff as you think necessary. ]

This appointment as COR is effective on the date above and shall remain in effect until it is rescinded in writing. Should your agency have any questions or requests regarding your delegation, please contact me at [Number].

Sincerely,

[Name]

[Title]