



8/2/2023

GSA Office of Governmentwide Policy

Class Deviation CD-2023-03

MEMORANDUM FOR PBS LEASING CONTRACTING ACTIVITIES

FROM: JEFFREY A. KOSES
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

DocuSigned by:

Jeffrey A. Koses

21BD80B9E8AC4A0

SUBJECT: GSAR Class Deviation - Lease Definitions Clause

1. Purpose.

This memorandum approves a class deviation to the General Services Administration Regulation (GSAR) at 570.102, 552.270-4 and 552.270-20 to provide updated definition language for lease procurements.

This deviation is amending the GSAR coverage on lease contracts to maintain consistency in language, and to clarify, update and incorporate existing lease guidance previously implemented through internal Public Buildings Service (PBS) policies.

2. Background.

Lease Acquisition Circular LAC-2012-02, issued by the PBS Office of Leasing on June 1, 2012, issued updated templates reflecting changes to certain lease clauses and paragraphs implemented through the PBS Lease Reform Initiative. These clauses and paragraphs, which have been subsequently updated through multiple Office of Leasing policy issuances since 2012, are not in alignment with the wording stated throughout GSAM 570 and 552.

This deviation brings further clarity around definitions used in GSA leases¹.

Pursuant to GSAM 501.404, this class deviation aligns the following updated leasing clauses and text for compliance with the GSAR and satisfies the SPE approval requirement:

¹ For example, there are currently four different definitions to describe leasehold interests (i.e. property, building, premises, space). Having all definitions categorized in one place will help clarify relationships. Space is a subset of premises, which is a subset of building, which is a subset of property (i.e., space < premises < building < property).

Lease Template Reference (L100 or GSA 3517)	Last Revision by Leasing	GSAR Reference	Last Revision by GSAR
—	—	GSAR 570.102, Definitions	Jan 2016
Definitions and General Terms	Oct 2022	GSAR 552.270-4, Definitions	Sep 1999
Payment	Sep 2022	GSAR 552.270-20, Payment	Sep 1999

3. Authority.

This class deviation is issued under the authority of General Services Administration Acquisition Manual (GSAM) 501.404.

4. Applicability.

New Leases

The updated clauses must be included in all new leases. Specifically:

- For any open solicitation, the solicitation must be either amended prior to close or the clause incorporated into the award prior to signature.
- For any future solicitation, the solicitation must be amended prior to award.

Existing Leases

The updated clauses must be included in all existing leases, no later than at the time of option exercise, through a separate contract modification action.

Updating Leasing Templates

The PBS Office of Leasing will update the leasing templates to reflect the updated clauses. In addition, the PBS Office of Leasing will work expeditiously to revise relevant guides and resources (e.g., Leasing Alerts (LA), Leasing Desk Guide (LDG)).

5. Deviation.

See Attachment A for the changes in the GSAR text as revised by this class deviation. PBS contracting activities shall update relevant lease contract templates to reflect this updated language. Attachment B reflects a “clean” version of the deviated GSAR text.

The definitions from GSAR 552.270-4 are being incorporated into GSAR 570.102. Within 570.102, the definitions are reorganized into three groupings to provide better context and understanding of each term.

- “Lease acquisition terms” are relevant to internal GSA lease acquisition procedures.
- “General contract terms” are relevant for any contract type and may have equivalent FAR contract terms.
- “Real property terms” are relevant to the real estate being acquired and are based on industry standards (e.g., ANSI/BOMA).

GSAR 552.270-4 is also updated to align with FAR 52.202-1.

The chart below lists the terms affected by this deviation (in alphabetical order), identifies the categories for each term, action taken by this deviation, and rationale for the change.

Term	Category	Action	Notes
ANSI/BOMA	Real Property Term	Added	Clarifies acronym.
ANSI/BOMA Occupant Area or “ABOA”	Real Property Term	Added	Adopted from the Global Lease Templates. Replaces “Office Area” from ANSI/BOMA.
ANSI/BOMA Office Area (ABOA)	N/A	Deleted	Replaced by “ANSI/BOMA Occupant Area” or “ABOA” to reflect the updated measurement standard.
Appurtenant Areas	Real Property Term	Added	Adopted from the Global Lease Templates.
Broker	Real Property Term	Added	Adopted from the Global Lease Templates.

Building	Real Property Term	Added	Adopted from the Global Lease Templates.
Commencement Date	N/A	Deleted	Replaced by "Lease Term Commencement Date", adopted from the Global Lease Templates.
Commission Credit	Real Property Term	Added	Adopted from the Global Lease Templates.
Common Area Factor	Real Property Term	Added	Adopted from the Global Lease Templates.
Contract	General Contract Terms	Reorganized	The term already appears in 570.102, 552.270-4, and the Global Lease Templates. Moved to the <i>General Contract Terms</i> category.
Contracting Officer	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Contractor	General Contract Terms	Reorganized	The term already appears in 570.102, 552.270-4, and the Global Lease Templates. Moved to the <i>General Contract Terms</i> category.
Days	General Contract Terms	Added	The term appears in Global Lease Templates but doesn't exist in GSAR 570.102 or 552.270-4. Adopted from the Global Lease Templates.
Delivery Date	General Contract Terms	Reorganized	The term appears in 552.270-4, but doesn't exist in Global Lease Templates. Moved to the <i>General Contract Terms</i> category.
Delivery Time	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Excusable Delays	General Contract Terms	Reorganized	The term appears in 552.270-4, but doesn't exist in Global Lease Templates. Moved to the <i>General</i>

			<i>Contract Terms</i> category.
Firm Term	Real Property Term	Added	Adopted from the Global Lease Templates.
Landlord or Lessor	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Lease Acquisition	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Lease Award Date	General Contract Terms	Added	Adopted from the Global Lease Templates.
Lease Extension	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Lease or Leasehold Interest in Real Property	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Lease Renewal (Option)	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Lease Term Commencement Date	General Contract Terms	Added	Replaces "Commencement Date" from 552.270-4. Adopted from the Global Lease Templates.
Lessee or Tenant	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Lessor	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Lessor Shall Provide	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.

Non-Firm Term	Real Property Term	Added	Adopted from the Global Lease Templates.
Notice	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Operational Services	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Premises	Real Property Term	Revised	The term appears in Global Lease Templates and in 552.270-4 but doesn't exist in GSAR 570.102.
Property	Real Property Term	Added	Adopted from the Global Lease Templates.
Rentable Space or Rentable Square Feet (RSF)	Real Property Term	Added	Adopted from the Global Lease Templates.
Simplified Lease Acquisition Procedures	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Simplified Lease Acquisition Threshold	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Small Business	N/A	Deleted	Determined unnecessary. "Small Business" is sufficiently addressed by FAR 52.204-8, which is used in lease contracts.
Solicitation for Offers (SFO)	N/A	Deleted	Determined unnecessary and not currently defined by PBS Leasing.
Space	Real Property Term	Added	Adopted from the Global Lease Templates.
Substantially as	N/A	Deleted	Determined unnecessary and not

Follows			currently defined by PBS Leasing.
Substantially Complete or Substantial Completion	General Contract Terms	Reorganized	The term appears in 552.270-4, but doesn't exist in Global Lease Templates. Moved to the <i>General Contract Terms</i> category.
Succeeding Lease	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Superseding Lease	Lease Acquisition Terms	Reorganized	The term appears in 570.102, but doesn't exist in Global Lease Templates. Moved to the <i>Lease Acquisition Terms</i> category.
Work	General Contract Terms	Reorganized	The term appears in 552.270-4, but doesn't exist in Global Lease Templates. Moved to the <i>General Contract Terms</i> category.

6. Effective Date.

This deviation is effective immediately and remains in effect until rescinded or incorporated into the GSAR.

7. Point of Contact.

Any questions regarding this deviation may be directed to Amy Lara, GSA Acquisition Policy Division, at GSARPolicy@gsa.gov.

Attachments Attachment A – GSAR Deviation Text, Line-In/Line-Out
Attachment B – GSAR Deviation, Clean Version

**Class Deviation CD-2023-03
Attachment A**

GSAR Text, Line-In/Line-Out

GSAR Baseline: Change 166 effective 05/05/2023

- Additions to baseline made by proposed rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by proposed rule are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding part and/or subpart, and following section
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a section or subsection

PART 552 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

Subpart 552.2 - Text of Provisions and Clauses

* * * * *

552.270-4 Definitions [(DEVIATION)].

As prescribed in 570.703, insert the following clause:

~~DEFINITIONS (Sep 1999)~~

~~The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:~~

~~—(a) “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.~~

~~—(b) “Commencement Date” means the first day of the term.~~

~~—(c) “Contract” and “Contractor” means “Lease” and “Lessor,” respectively.~~

~~—(d) “Contracting Officer” means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.~~

~~—(e) “Delivery Date” means the date specified in or determined pursuant to the provisions of this lease for delivery of the premises to the Government, improved in accordance with the provisions of this lease and substantially complete, as such date may be modified in accordance with the provisions of this lease.~~

~~—(f) “Delivery Time” means the number of days provided by this lease for delivery of the premises to the Government, as such number may be modified in accordance with the provisions of this lease.~~

~~—(g) “Excusable Delays” mean delays arising without the fault or negligence of Lessor and Lessor’s subcontractors and suppliers at any tier, and shall include, without limitation:~~

~~——(1) acts of God or of the public enemy,~~

~~——(2) acts of the United States of America in either its sovereign or contractual capacity,~~

~~——(3) acts of another contractor in the performance of a contract with the Government,~~

~~——(4) fires,~~

~~——(5) floods,~~

~~——(6) epidemics,~~

~~——(7) quarantine restrictions,~~

~~——(8) strikes,~~

~~——(9) freight embargoes,~~

~~——(10) unusually severe weather, or~~

~~— (11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.~~

~~— (h) “Lessor” means the sub- lessor if this lease is a sublease.~~

~~— (i) “Lessor shall provide” means the Lessor shall furnish and install at Lessor’s expense.~~

~~— (j) “Notice” means written notice sent by certified or registered mail, Express Mail or Comparable service, or delivered by hand. Notice shall be effective on the date delivery is accepted or refused.~~

~~— (k) “Premises” means the space described in this lease.~~

~~— (l) “Substantially complete” and “substantial completion” means that the work, the common and other areas of the building, and all other things necessary for the Government’s access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment.~~

~~— (m) “Work” means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.~~

(End of clause)

[DEFINITIONS (AUG 2023) (DEVIATION)]

When a solicitation or contract uses a word or term that is defined in the Federal Acquisition Regulation (FAR) or General Services Acquisition Manual (GSAM), the word or term has the same meaning as the definition in FAR 2.101, GSAM 502.101, or GSAM 570.102 in effect at the time the solicitation was issued or lease contract was awarded, unless -

(a) The solicitation, amended solicitation, or lease contract provides a different definition (e.g., R100, L100);

(b) An applicable part, subpart, or section of the FAR or GSAM provides a different meaning.

(End of clause)]

* * * * *

552.270-20 PAYMENT.

As prescribed in 570.703, insert the following clause:

PAYMENT (~~Sep 1999~~) (AUG 2023) (DEVIATION)

(a) When space is offered and accepted, **[ANSI/BOMA Occupant Area (ABOA)]** ABOA square footage delivered will be confirmed by either:

(1) The Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space conforms with such plans[; or]-

(2) A mutual on-site measurement of the space if the Contracting Officer determines it necessary.

(b) The Government will not pay for space in excess of the amount of ABOA square footage stated in the lease.

(c) If the amount of ABOA square footage delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of ABOA space delivered and the annual rental will be adjusted as follows:

ABOA square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is:

$$(1 + CAF) \times \text{Rate per RSF} = \text{Reduction in Annual Rent}$$

[(d) *Common Area Factor (CAF)*. The CAF is expressed as a percentage of the difference between the amount of rentable square feet (SF) and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% (11,500 RSF-10,000 ABOA SF)/10,000 ABOA SF.

(e) *Rentable Square Footage (RSF)*. The RSF is calculated using the following formula for each type of space (e.g., office, warehouse, etc.) included in the premises: ABOA SF of Space x (1 + CAF) = RSF.]

(End of clause)

* * * * *

PART 570 - ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

* * * * *

Subpart 570.1 - General

* * * * *

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.~~

[(a) Lease Acquisition Terms.]

“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.

[(b) General Contract Terms.

“Contract” means lease.

“Contractor” means Lessor.

“Days” means calendar days, unless specified otherwise.

“Delivery Date” means the date specified in or determined pursuant to the provisions of the lease for delivery of the premises to the Government, improved in accordance with the provisions of the lease and substantially complete, as such date may be modified in accordance with the provisions of the lease.

“Excusable Delays” mean delays arising without the fault or negligence of Lessor and Lessor’s subcontractors and suppliers at any tier, and shall include, without limitation:

- (1) acts of God or of the public enemy,**
- (2) acts of the United States of America in either its sovereign or contractual capacity,**
- (3) acts of another contractor in the performance of a contract with the Government,**
- (4) fires,**
- (5) floods,**
- (6) epidemics,**
- (7) quarantine restrictions,**
- (8) strikes,**
- (9) freight embargoes,**
- (10) unusually severe weather, or**
- (11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.**

“Lease Award Date” means the date the LCO executes the lease and furnishes written notification of the executed lease to the successful offeror (usually the date on which the parties’ obligations under the lease begin).

“Lease Term Commencement Date” means the date on which the lease term commences.

“Substantially Complete” or “Substantial Completion” means that the work, the common and other areas of the building, and all other things necessary for the Government’s access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment. The space shall be considered substantially complete only if the space may be used for its intended purpose.

“Work” means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

(c) Real Property Terms.

“ANSI/BOMA” is an acronym for American National Standards Institute/Building Owners and Managers Association.

“ANSI/BOMA Occupant Area” or “ABOA” means the measurement standard (Z65.1-2017) provided by ANSI/BOMA for Occupant Area, which is “the total aggregated area used by an Occupant before Load Factors are applied, consisting of Tenant Area and Tenant Ancillary Area.” The Method A – Multiple Load Factor Method shall apply.

“Appurtenant Areas” means those areas and facilities on the property that are not located within the premises, or for which rights are expressly granted under this lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the premises and express appurtenant rights (e.g. parking areas).

“Broker” means GSA’s broker, if GSA awarded this lease using a contract real estate broker.

“Building” means building(s) situated on the property in which the premises are located.

“Commission Credit” means the amount of commission that is credited to the lease, if GSA’s broker agreed to forgo a percentage of its commission, in connection with the award of this lease.

“Common Area Factor (CAF)” means a conversion factor determined and applied by the building owner to determine the rentable square feet for the leased space. The CAF is expressed as a percentage of the difference between the amount of rentable square feet (SF) and ABOA SF, divided by the ABOA SF. The CAF shall be determined in accordance with the applicable ANSI/BOMA standard for the type of space to which the CAF shall apply.

“Firm Term” means the part of the lease term that is not subject to termination rights.

“Non-Firm Term” means the part of the lease term following the end of the firm term, which is subject to termination rights.

“Premises” means the total occupant area or other type of space, together with all associated common areas described in the lease. Appurtenant areas (e.g., parking areas) to which the Government has rights under this lease are not included in the premises.

“Property” means the land and buildings in which the premises are located, including all appurtenant areas (e.g., parking areas) to which the Government is granted rights.

“Rentable Space or Rentable Square Feet (RSF)” means the area for which a tenant is charged rent. It is determined by the building owner and may vary by city or by building within the same city. Rentable space may include a share of common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. Rentable space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts. To determine the RSF, the ABOA SF is multiplied by the sum of one (1) plus the CAF, for each type of space included in the premises.

“Space” means that part of the premises to which the Government has exclusive use, such as occupant area, or other types of space. Appurtenant areas (e.g., parking areas) to which the Government has rights under the lease are not included in the space.]

* * * * *

[570.119 Real Property Lease Formulas.

The Contracting Officer will use the following formulas as applicable:

(a) *Common Area Factor (CAF)*. The CAF is expressed as a percentage of the difference between the amount of rentable SF and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% [(11,500 RSF-10,000 ABOA SF)/10,000 ABOA SF].

(b) *Rentable Square Feet (RSF)*. The RSF is calculated using the following formula for each type of space (e.g., office, warehouse, etc.) included in the premises: ABOA SF of Space x (1 + CAF) = RSF.]

* * * * *

Subpart 570.7 - Solicitation Provisions and Contract Clauses

* * * * *

570.703 GSAR CONTRACT CLAUSES.

(a) * * *

552.270-4 Definitions. ~~Insert this clause if including the clause at 552.270-28.~~

* * *

* * * * *

**Class Deviation CD-2023-03
Attachment B**

GSAR Text, Clean Version

GSAR Baseline: Change 166 effective 05/05/2023

- Additions to baseline made by proposed rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by proposed rule are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding part and/or subpart, and following section
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a section or subsection

PART 552 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

Subpart 552.2 - Text of Provisions and Clauses

* * * * *

552.270-4 Definitions [(DEVIATION)].

As prescribed in 570.703, insert the following clause:

[DEFINITIONS (AUG 2023) (DEVIATION)]

When a solicitation or contract uses a word or term that is defined in the Federal Acquisition Regulation (FAR) or General Services Acquisition Manual (GSAM), the word or term has the same meaning as the definition in FAR 2.101, GSAM 502.101, or GSAM 570.102 in effect at the time the solicitation was issued or lease contract was awarded, unless -

- (a) The solicitation, amended solicitation, or lease contract provides a different definition (e.g., R100, L100);**
- (b) An applicable part, subpart, or section of the FAR or GSAM provides a different meaning.**

(End of clause)]

* * * * *

552.270-20 PAYMENT.

As prescribed in 570.703, insert the following clause:

PAYMENT (AUG 2023) (DEVIATION)

(a) When space is offered and accepted, ANSI/BOMA Occupant Area (ABOA) square footage delivered will be confirmed by either:

(1) The Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space conforms with such plans; or

(2) A mutual on-site measurement of the space if the Contracting Officer determines it necessary.

(b) The Government will not pay for space in excess of the amount of ABOA square footage stated in the lease.

(c) If the amount of ABOA square footage delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of ABOA space delivered and the annual rental will be adjusted as follows:

ABOA square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is:

$$(1 + CAF) \times \text{Rate per RSF} = \text{Reduction in Annual Rent}$$

(d) *Common Area Factor (CAF)*. The CAF is expressed as a percentage of the difference between the amount of rentable square feet (SF) and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% (11,500 RSF-10,000 ABOA SF)/10,000 ABOA SF.

(e) *Rentable Square Footage (RSF)*. The RSF is calculated using the following formula for each type of space (e.g., office, warehouse, etc.) included in the premises: ABOA SF of Space x (1 + CAF) = RSF.

(End of clause)

* * * * *

PART 570 - ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

* * * * *

Subpart 570.1 - General

* * * * *

570.102 Definitions.

(a) Lease Acquisition Terms.

“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.

“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.

“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.

(b) General Contract Terms.

“Contract” means lease.

“Contractor” means Lessor.

“Days” means calendar days, unless specified otherwise.

“Delivery Date” means the date specified in or determined pursuant to the provisions of the lease for delivery of the premises to the Government, improved in accordance with the provisions of the lease and substantially complete, as such date may be modified in accordance with the provisions of the lease.

“Excusable Delays” mean delays arising without the fault or negligence of Lessor and Lessor’s subcontractors and suppliers at any tier, and shall include, without limitation:

- (1) acts of God or of the public enemy,
- (2) acts of the United States of America in either its sovereign or contractual capacity,
- (3) acts of another contractor in the performance of a contract with the Government,
- (4) fires,
- (5) floods,
- (6) epidemics,
- (7) quarantine restrictions,
- (8) strikes,
- (9) freight embargoes,
- (10) unusually severe weather, or
- (11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.

“Lease Award Date” means the date the LCO executes the lease and furnishes written notification of the executed lease to the successful offeror (usually the date on which the parties’ obligations under the lease begin).

“Lease Term Commencement Date” means the date on which the lease term commences.

“Substantially Complete or Substantial Completion” means that the work, the common and other areas of the building, and all other things necessary for the Government’s

access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment. The space shall be considered substantially complete only if the space may be used for its intended purpose.

“Work” means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

(c) Real Property Terms.

“ANSI/BOMA” is an acronym for American National Standards Institute/Building Owners and Managers Association.

“ANSI/BOMA Occupant Area” or “ABOA” means the measurement standard (Z65.1-2017) provided by ANSI/BOMA for Occupant Area, which is “the total aggregated area used by an Occupant before Load Factors are applied, consisting of Tenant Area and Tenant Ancillary Area.” The Method A – Multiple Load Factor Method shall apply.

“Appurtenant Areas” means those areas and facilities on the property that are not located within the premises, or for which rights are expressly granted under this lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government’s enjoyment of the premises and express appurtenant rights (e.g. parking areas).

“Broker” means GSA’s broker, if GSA awarded this lease using a contract real estate broker.

“Building” means building(s) situated on the property in which the premises are located.

“Commission Credit” means the amount of commission that is credited to the lease, if GSA’s broker agreed to forgo a percentage of its commission, in connection with the award of this lease.

“Common Area Factor (CAF)” means a conversion factor determined and applied by the building owner to determine the rentable square feet for the leased space. The CAF is expressed as a percentage of the difference between the amount of rentable square feet (SF) and ABOA SF, divided by the ABOA SF. The CAF shall be determined in accordance with the applicable ANSI/BOMA standard for the type of space to which the CAF shall apply.

“Firm Term” means the part of the lease term that is not subject to termination rights.

“Non-Firm Term” means the part of the lease term following the end of the firm term, which is subject to termination rights.

“Premises” means the total occupant area or other type of space, together with all associated common areas described in the lease. Appurtenant areas (e.g., parking areas) to which the Government has rights under this lease are not included in the premises.

“Property” means the land and buildings in which the premises are located, including all appurtenant areas (e.g., parking areas) to which the Government is granted rights.

“Rentable Space or Rentable Square Feet (RSF)” means the area for which a tenant is charged rent. It is determined by the building owner and may vary by city or by building within the same city. Rentable space may include a share of common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. Rentable space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts. To determine the RSF, the ABOA SF is multiplied by the sum of one (1) plus the CAF, for each type of space included in the premises.

“Space” means that part of the premises to which the Government has exclusive use, such as occupant area, or other types of space. Appurtenant areas (e.g., parking areas) to which the Government has rights under the lease are not included in the space.

* * * * *

570.119 Real Property Lease Formulas.

The Contracting Officer will use the following formulas as applicable:

(a) *Common Area Factor (CAF)*. The CAF is expressed as a percentage of the difference between the amount of rentable SF and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% [(11,500 RSF-10,000 ABOA SF)/10,000 ABOA SF].

(b) *Rentable Square Feet (RSF)*. The RSF is calculated using the following formula for each type of space (e.g., office, warehouse, etc.) included in the premises: ABOA SF of Space x (1 + CAF) = RSF.

* * * * *

Subpart 570.7 - Solicitation Provisions and Contract Clauses

* * * * *

570.703 GSAR CONTRACT CLAUSES.

(a) * * *

552.270-4 Definitions.

* * *

* * * * *