

General Conditions for Delegated Leasing Authority

Pursuant to 40 U.S.C. §§ 121(d) and 585(a), the Administrator hereby delegates the authorities set forth herein. Unless otherwise specified, delegations are to the heads of agencies.

This document outlines the general conditions governing the use of delegated leasing authority granted by the General Services Administration (GSA). Agencies utilizing GSA leasing delegations must adhere to these conditions. The document covers program overview, procurement and post-award requirements, and reporting obligations.

1. Eligibility and Program Requirements

- 1.1. Authorized Personnel: Delegated leasing authority may be exercised only by warranted realty contracting officers who meet all experience and training requirements of the GSA Contracting Officer Warrant Program. These requirements are specified in the GSA Handbook for the GSA Real Property Leasing Certification Program, available at www.gsa.gov and subject to revision.
- 1.2. Compliance with Regulations: Agencies using GSA leasing delegations must acquire and use the space in accordance with all applicable laws, executive orders, regulations, GSAM, and Office of Management and Budget (OMB) Circulars. Agencies are required to use GSA-issued lease templates and adhere to all policies and guidance issued by GSA. A document, titled “laws and regulations” can be located on the lease delegations website at www.gsa.gov.
- 1.3. Agency Capacity: Agencies are responsible for maintaining the capacity to support all delegated leasing activities, including a warranted realty contracting officer, legal review and oversight, construction and inspection management, cost estimation, lease management and administration, and program oversight. All supporting positions must possess the education and experience required for their respective fields. GSA may request copies of professional licenses, certifications and designations at any time to verify the organizational structure is staffed with qualified personnel to support all leasing functions.
- 1.4. Needs Assessment: Prior to submitting a lease delegation application to GSA, the requesting agency must conduct an assessment of its needs to establish technical requirements and the amount of space necessary to meet mission requirements. Detailed space requirements and space breakout will be mandatory.

- 1.5. GSA Oversight and Revocation: GSA retains the right to assess, at any time, both the integrity of each individual lease action as well as the capability of an agency to perform all aspects of the delegated leasing activities, and, if necessary, to revoke an agency's delegation in whole or in part. Improper use of any delegation may result in revocation of the delegation and denial of future delegation requests.
- 1.6. File Access for Audits: As a condition for the use of GSA leasing delegations, agencies must make their pre-award and post-award lease files available for audit by GSA Office of Lease, GSA Office of Inspector General personnel or other GSA personnel or authorized agents as determined by the GSA Assistant Commissioner, Office of Leasing, or his or her successor or designee. An agency's delegation of leasing authority may be suspended until the agency has either made its lease files available for inspection or responded, to GSA's satisfaction, to all audit report recommendations and suggested corrective actions, or both.
- 1.7. Lease Delegation Request Timeline: Agencies must submit a lease delegation request through the GSA Delegation Data System no less than 36 months in advance of lease expiration if there is a continuing need for the space and the agency wishes to obtain a new delegation to satisfy its space requirement. GSA will evaluate available vacant space and long-term housing plans and notify the agency, in writing, if compatible vacant space is available, and, if so, the delegation request will be denied.
- 1.8. Prohibition of Subleasing: The client agency is not permitted to sublease any portion of the delegated lease space.
- 1.9. Holdover Prohibited: Agencies must manage their delegated lease inventory to avoid occupancy beyond the approved delegated lease term. A lease in holdover is in violation of the lease delegation authority and improper use of any delegation may result in revocation of the delegation and denial of future delegation requests.
- 1.10. Moving to GSA Vacant Space: The GSA Pricing Desk Guide, Backfill Occupancies, section 2.2.3, applies to an agency moving from a delegated lease to GSA vacant space. An agency is responsible for funding its own physical move and telecommunication costs at the beginning and end of its occupancy term.

- 1.11. Returning Leasing Authority to GSA: An agency that does not wish to obtain a new delegation of leasing authority must give GSA at least 36 months notice in advance of the lease expiration date. The agency notice must include a complete Agency Space Requirements package to enable GSA to develop a procurement schedule and, if necessary, recommend a lease extension term, if an extension of the delegated lease will be necessary to afford GSA adequate time to procure a long-term replacement lease. The agency with delegated authority will be responsible for extending the lease after receiving a new delegation of leasing authority from GSA. The delegation of leasing authority for the lease extension must be submitted and approved accordingly.
- 1.12. Definition of Predominant Use: In leasing and space management, predominant use refers to *the use to which the greatest portion of a location (building or space) is put*. The largest segment of the space determines how it is classified. Smaller or incidental uses do not redefine the overall classification. In the GSA context, there is no fixed minimum percentage (e.g., 51%, 60%, etc.) specified in regulation to establish predominant use. Under 41 CFR § 102-85.35 (Federal Management Regulation) , *predominant use* is defined as:
 - The use to which the greatest portion of a location is put.
 - The regulation intentionally does not prescribe a numeric threshold. Instead, it is a relative determination — whichever use occupies the largest share of the space is considered predominant.

2. Procurement and Post-Award Requirements

- 2.1. Lease Term and Renewal Options: Subject to pre-negotiated renewal options, client agencies may seek up to 20 years of leasing authority. These renewal options must be pre-priced and clearly outlined in the Acquisition Plan when requesting authority. If the renewal options are explicitly detailed in the Acquisition Plan and approved in the formal approval letter, client agencies do not need to seek re-approval from GSA when the time comes to exercise the option. However, if a renewal option was not pre-negotiated or included in the total lease term granted by GSA, the client agency must re-apply for authority before adding the option to the lease. In addition, client agencies are required to upload a copy of the final renewal Lease Amendment (LA) in the system of record. The LA can be uploaded as part of the original project under approved authority.
- 2.2. Delegation of Authority Letter Expiration: All formally issued delegation of authority letters will now include expiration dates. If a lease or lease agreement

has not been executed against the approved authority by the specified date, the client agency must re-apply for authority. Please note the following expiration timelines:

1. Extension and renewal projects: Expire 12 months from the date of approval.
 2. Long-term leases: Expire 24 months from the date of issuance.
- 2.3. Post-Award Documentation Submission: For all delegated projects, the agency must submit electronically to the GSA Delegation Data System, within 30 business days after lease award, the following documents or evidence of compliance:
 1. The fully executed lease document and all attachments;
 2. The Request for Lease Proposal (RLP) and any modifications issued during the procurement;
 3. The RLP ad posted on SAM.GOV or in a local publication;
 4. If a sole source contract over the simplified lease acquisition threshold of \$350,000 average annual rent, a Justification for Other Than Full and Open Competition in accordance with section 6.303 of the Federal Acquisition Regulation (FAR);
 5. If a sole source contract under the simplified lease acquisition threshold of \$350,000 average annual rent, lease file documentation explaining the lack of competition may be submitted in lieu of a Justification for Other Than Full and Open Competition in accordance with GSAM section 570.203–2;
 6. The market survey data identifying properties considered in connection with the space need, including historic buildings considered in accordance with Executive Order 13006;
 7. Documentation of compliance with the National Environmental Policy Act of 1969, as amended (NEPA), in accordance with 40 CFR 1508.9 and the GSA Public Buildings Service’s NEPA Desk Guide, which can be found at <http://www.gsa.gov/portal/content/101194>;
 8. Documentation that vending facilities will be provided in accordance with the Randolph-Sheppard Act;
 9. The final scoring evaluation in accordance with OMB Circular A–11 (2012), Criteria and Scoring Ramifications for Operating and Capital Leases, as the Circular may be revised from time to time;
 10. The Price Negotiation Memorandum, prepared in accordance with GSAM section 570.307 and section 15.406–3 of the FAR;

11. Documentation that the building is in compliance with all applicable fire and life safety requirements (GSA Form 12000 or a Certificate of Occupancy);
12. Documentation that the building is in compliance with the seismic requirements of the RLP (seismic certification and representation or exemptions);
13. Documentation of compliance with the floodplain management requirements of Executive Order 11988;
14. Copy of the Post-Award Synopsis posted in SAM.GOV;
15. The small business subcontracting plan, if required, in accordance with section 19.702 of the FAR;
16. Documentation that the Excluded Parties List (also known as the Debarred Bidders List) was checked;
17. A Funds Availability Statement signed prior to lease award by a budget official with the requesting agency; and
18. Documentation that the negotiated rental rate is within the prevailing market rental rate for the class of building leased in the delegated action. The documentation may include information from organizations such as SIOR, Black's Guide, Torto-Wheaton, or Co-Star. If the negotiated rental rate exceeds the market range, provide information as to why the market rate was exceeded.

- 2.4. GSA Review of Procurement: After review of the post-award documents, GSA may request additional information to determine whether the procurement was performed in accordance with all applicable laws, executive orders, regulations, and OMB Circulars that apply to Federal space acquisition activities. To determine whether the delegation was in the Government's best interest, GSA will evaluate whether the delegation was cost-effective for the Government in the acquisition and delivery of the space. In evaluating cost-effectiveness, GSA will consider the negotiated rental rate in comparison to the prevailing market rental rate for a similar class of building and other factors as GSA deems appropriate, including overhead costs, personnel costs, support contract costs, travel costs, accounting costs, and reporting costs. The agency must provide, upon request by GSA, detailed acquisition costs.

3. Reporting Requirements

- 3.1. Federal Real Property Profile (FRPP) Reporting: Federal agencies are required to submit data for assets in their real property inventory to the Federal Real Property Profile (FRPP). Agencies are required to report data on all leased

assets (regardless of space type) acquired under a delegation from GSA. A complete list of the FRPP data elements and definitions can be found in the Federal Real Property Council's Guidance for Real Property Inventory Reporting, a copy of which can be obtained at <http://www.gsa.gov/datadictionary>. FRPP data concerning GSA lease delegation actions may be provided to the GSA Public Buildings Service upon prior approval of the Federal Real Property Council.

- 3.2. Additional Information Requests: GSA also reserves the right to request additional information on agencies' delegated lease activities based on the data submitted to the FRPP. GSA will perform reconciliation of data between the FRPP data system and the GSA Delegation Data System. Failure of an agency to timely or fully provide this additional information may result in GSA's revocation of the delegation to that agency.

- 3.3. Reporting: A master record of the agency's delegated portfolio is to be managed and maintained up-to-date. Additionally, this master record must be emailed to GSA on a bi-annual basis. The master sheet must include all relevant lease information, including but not limited to:
 - Full address
 - Square footage (both RSF and ABOA)
 - Space type (office, warehouse, medical, etc)
 - Lease term (actual effective and expiration dates)
 - Lease action type
 - FRPP identifier
 - GREX locator
 - Annual cost
 - Total contract value