



GSA Public Buildings Service

June 14, 2023

MEMORANDUM FOR: REGIONAL COMMISSIONERS, PBS  
REGIONAL LEASING DIRECTORS  
REGIONAL LEASE ACQUISITION OFFICERS

FROM: CROFTON WHITFIELD  
ASSISTANT COMMISSIONER FOR THE OFFICE OF  
LEASING - PR

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SUBJECT: LEASING ALERT (LA-23-02) – Consistent Treatment of Rents  
During Lease Holdovers

1. **Purpose.** This Leasing Alert revises guidance previously issued via Leasing Alert LA-19-02 entitled “Consistent Treatment of Rents During Lease Holdovers” issued on March 22, 2019, regarding the treatment of tax and operating cost rental adjustments as well as amortized rental components for tenant improvements (TI) and Building Specific Amortized Capital (BSAC) during holdovers, including standstills. This Leasing Alert now requires processing of operating and tax adjustments during holdover and allows for the reduction of TI and BSAC rent under certain circumstances. Future changes to Leasing Desk Guide (LDG) Chapter 10 (Lease Holdovers, Standstill Agreements, and Condemnations), Section 2, (Rental Payments During Holdovers) will include these clarifications.
2. **Background.**
  - a. A holdover is a tenancy at sufferance that is created when the Government continues to occupy the leased premises beyond the expiration date of the lease term, without an agreement between the parties to continue the occupancy. A standstill agreement is a temporary measure that preserves the status quo between the Lessor and the Government during a lease holdover. Holdover tenancies should be avoided whenever possible as holding over without the benefit of an agreement may lead to friction between the Lessor and the Government. Lease Contracting Officers (LCOs) should

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present Lessors with standstill agreements where a holdover seems likely. Please refer to LDG Chapter 10 for additional information regarding holdover tenancies, including the use of standstill agreements.

- b. Current LDG guidance states that the General Services Administration (GSA) should continue to pay rent during holdover at the same rate in effect prior to expiration. However, this guidance does not address whether or not to process tax or operating cost adjustments during a holdover tenancy. In addition, the guidance does not address lease scenarios where the amortization of TI and BSAC rental components coincide with lease expiration. Due to the lack of clear policy direction on these issues, regions were not addressing these consistently. As a result, the Office of Chief Financial Officer (OCFO) raised these issues to the Office of Leasing, requesting further clarification.
- c. In response, the Office of Leasing initially issued Leasing Alert LA-19-02 entitled "Consistent Treatment of Rents During Lease Holdovers" on March 22, 2019. LA-19-02 did not allow for the processing of operating cost or tax adjustments during a lease holdover unless a standstill agreement was in place. LA-19-02 did require monthly holdover rental payments at the then-current rental rate stated in the expired lease, even if the current rent at lease expiration included TI and/or BSAC rent had been fully amortized at the expiration of the lease.
- d. Subsequent to the issuance of LA-19-02, the Office of Leasing, in consultation with the Office of the General Counsel, determined that GSA should process operating and tax adjustments for leases in holdover. In addition, the Office of Leasing also determined that, **under certain circumstances described below**, it is appropriate to remove TI and BSAC rent from the monthly holdover rent paid to the lessor. The revised guidance is stated below:

### 3. Guidance:

- a. Operating Cost Adjustments: The Government shall continue to process operating cost adjustments for leases in holdover status.
- b. Real Estate Tax Adjustments: The Government shall continue to process real estate tax adjustment requests for leases in holdover status.
- c. TI and BSAC Rent Components: As stated under LDG Chapter 10, it is PBS Leasing policy, where the Government occupies space after expiration of a lease and before execution of a succeeding lease or replacement lease, to continue to make monthly rental payments at the then-current rental rate stated in the expired lease. As clarification, for leases in holdover where the rental at expiration includes TI and/or BSAC rent, the LCO must carefully review the lease to confirm the details regarding the TI and/or BSAC rental payment. If the lease outlines the terms of the amortization **and these improvements have been fully amortized at lease expiration**, then the LCO should reduce the rent by the TI and/or BSAC rent during the holdover. However, if the amortization period stated in the lease extends beyond the

lease expiration, or if the lease is not clear regarding the amortization terms, then the LCO may not reduce the rent without further consultation with regional counsel. In either instance, if reducing the rent, the LCO must send written notice to the lessor explaining the rental reduction, along with a unilateral lease amendment documenting the reduced rent. Since the purpose of this unilateral lease amendment is administrative, lessor signature is not required. REXUS lease payment lines must also be reduced by these amounts.

4. **REXUS/OA Data Entry Procedures.**

- a. Under current REXUS business rules, REXUS automatically defaults to processing any Consumer Price Index (CPI) operating cost adjustments that would have been due. This aligns with the updated guidance under this Leasing Alert; therefore, no additional override steps in REXUS are required.
- b. As stated previously under 3.c above, adjust REXUS lease payment lines if reducing the holdover rent to remove fully amortized TI or BSAC.

5. **Effective Date.** This Leasing Alert is effective as of the date of issuance unless modified, canceled, or re-issued. The PBS Office of Leasing will work with the Office of Governmentwide Policy toward regulation to address this Leasing Alert.

6. **Applicability.** This Leasing Alert is mandatory and applies to all GSA real property leasing and portfolio activities.

7. **Cancellation.** Leasing Alert LA-19-02.