

(1) Leasehold interests acquired by the power of eminent domain or by donation.

(2) Acquisition of leasehold interests in bare or unimproved land.

(b) In addition, the GSAR rules in the following table apply. Other provisions of 48 CFR Chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-referenced in this part 570.

**GSAR RULES APPLICABLE TO ACQUISITIONS OF  
LEASEHOLD INTERESTS IN REAL PROPERTY**

501	515.209–70	519.12	536.271
502	515.305	522.805	537.2
503	517.202	522.807	552
509.4	517.207	532.111	553
514.407	519.7	533	

(c) [Reserved]

(d) The FAR does not apply to leasehold acquisitions of real property. Where referenced in this part, FAR provisions have been adopted based on a statutory requirement applicable to such lease acquisitions or as a matter of policy, including, but not limited to “Federal agency procurement” as defined at FAR 3.104.

[64 FR 37265, July 9, 1999, as amended at 76 FR 30848, May 27, 2011]

**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.

**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 condition, 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 Part 121. The size standards may be found at [http://www.sba.gov/size/sizetable\\_2002.html](http://www.sba.gov/size/sizetable_2002.html). 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.

[64 FR 37265, July 9, 1999, as amended at 76 FR 30848, May 27, 2011]

#### **570.103 Authority to lease.**

(a) The Administrator of General Services is authorized by 40 U.S.C. §585 to enter into a lease agreement for the accommodation of a Federal agency in a building (or improvement) which is in existence or being erected by the lessor for the accommodation of the Federal agency. The lease agreement may not bind the Government for more than 20 years.

(b) The contracting officer has exclusive authority to enter into and administer leases on the Government's behalf to the extent provided in the certificate of appointment as a contracting officer. Nothing in this paragraph is intended to limit the contracting officer's authority to designate, consistent with statute and regulation, a contracting officer's representative.

[76 FR 30848, May 27, 2011]

#### **570.104 Competition.**

Unless the contracting officer uses the simplified procedures in subpart 570.2, the competition requirements of FAR part 6 apply to acquisition of leasehold interests in real property.

[64 FR 37265, July 9, 1999, as amended at 76 FR 30849, May 27, 2011]

#### **570.105 Methods of contracting.**

##### **570.105-1 Contracting by negotiation.**

Contracting by negotiation is appropriate for acquiring space in a building through a lease contract. The contracting officer will usually need to conduct discussions with offerors about their proposals and consider factors other than price in making the award.

[76 FR 30849, May 27, 2011]

##### **570.105-2 Criteria for the use of two-phase design-build.**

The contracting officer may use the two-phase design-build selection procedures in 41 U.S.C. 253m for lease construction projects. This includes lease construction projects with options to purchase the real property leased. Use the procedures in 41 U.S.C. 253m and FAR 36.3 when the conditions in (a) and (b) below are met:

(a) The contracting officer anticipates that the lease will involve the design and construction of a building, facility, or work for lease to the Government.

(b) The contracting officer determines whether the procedures are appropriate for entering into a lease construction contract based on the following:

(1) The contracting officer expects to receive three or more offers.

(2) Offerors will need to perform design work before developing a price.

(3) Offerors will incur a substantial amount of expense in preparing offers.

(4) The contracting officer considers criteria such as the following:

(i) The extent to which the project requirements have been adequately defined.

(ii) The time constraints for delivery of the project.

(iii) The capability and experience of potential contractors.

(iv) The past performance of potential contractors.

(v) The suitability of the project for use of the two-phase selection procedures.

(vi) The capability of the agency to manage the two-phase selection process.

(vii) Other criteria established by the HCA.

(c) See 570.305 for additional information.

[64 FR 37265, July 9, 1999, as amended at 76 FR 30849, May 27, 2011]

##### **570.106 Advertising, publicizing, and notifications to Congress.**

(a) If a proposed acquisition is not exempt under FAR 5.202 or GSAR