

*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