

Welcome to today's presentation:

Emergency Leasing

July 14, 2022

The presentation will start at 1 pm Eastern

Note: Phones are automatically muted during the presentation. You can send questions to our presentation team via your Q&A pane and team will answer as many questions as possible during the presentation. All questions will be responded to in writing in a formal Q&A document, posted along with the slide deck and session recording, on our website, www.gsa.gov/ces

Our Presenters and Host

Presenters

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Poll #1

**How familiar are you with the GSA PBS
basic leasing process?**

- a. Not familiar**
- b. Somewhat familiar**
- c. Very familiar**

Agenda

- What is “Emergency Leasing”
- What is Unusual and Compelling Urgency
- Emergency Leasing Process Walk-Through

What is “Emergency Leasing?”

- Emergency leasing is an expedited acquisition process that relies upon a special acquisition authority known as “Unusual and Compelling Urgency”
- Emergency leasing follows the same basic process as our standard leasing process with certain steps abbreviated or omitted entirely
 - Refer to Leasing 101 posted on our YouTube channel
 - It is important for viewers to have a basic understanding of the leasing process

Unusual and Compelling Urgency

- Unusual and Compelling Urgency is a powerful authority provided under 41 U.S.C. 3304(a)(2) and implemented through FAR 6.302-2
- This authority allows the govt. to award new contracts without having to follow Full and Open Competition requirements and allows for a very fast acquisition process

Full and Open
Competition



vs

Unusual and
Compelling Urgency



“Spectrum of Urgency” - Degrees

All govt. needs have a certain level of urgency, but most can be fulfilled using Full and Open Competition without the govt. incurring “serious injury”

Customary Govt.
Requirements

Urgent
Requirements

Life Saving and
Life Sustaining
Requirements

Level of Urgency



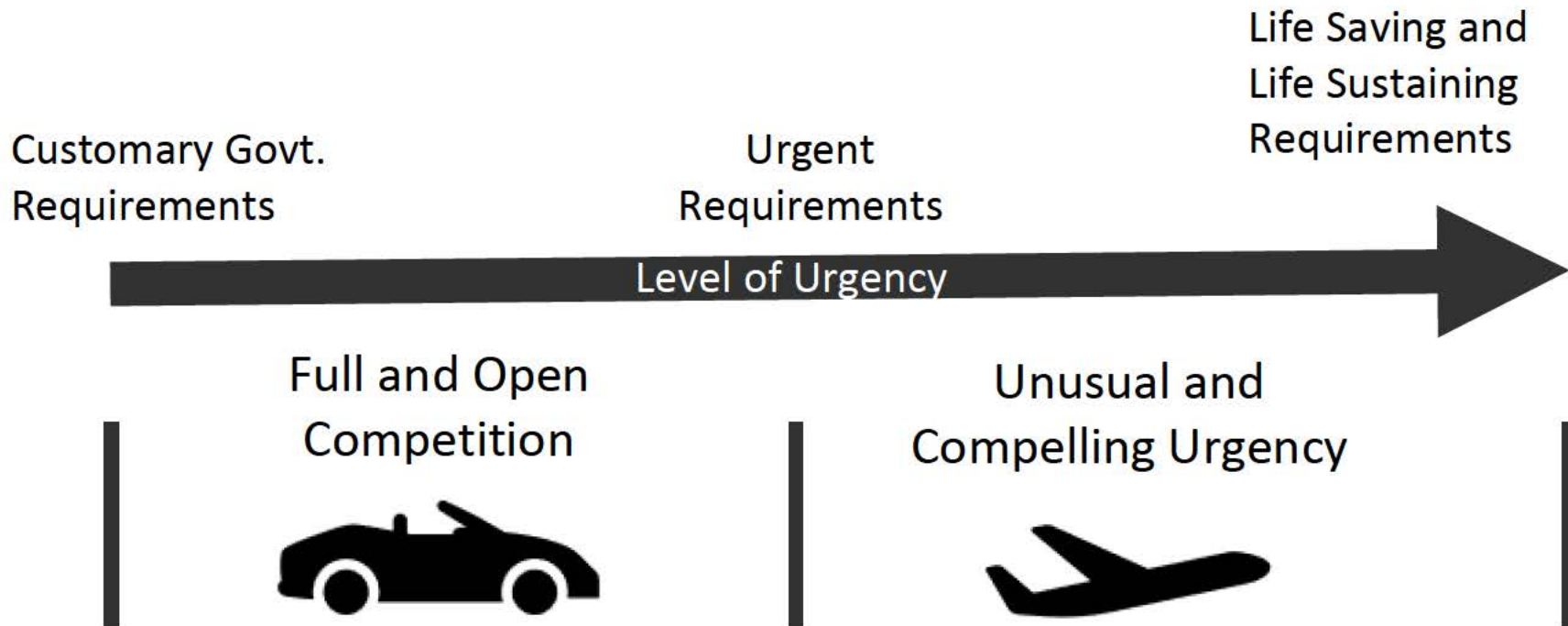
Space will be provided in a timely manner while meeting full and open competition requirements

Space needed faster than what can be provided for using full and open competition

Space needed for immediate use, “day to day” urgency of need

“Spectrum of Urgency” – Acquisition Methods

All govt. needs have a certain level of urgency, but most can be fulfilled using Full and Open Competition without the govt. incurring “serious injury”



Unusual and Compelling Urgency - Impact

- Using this authority requires that the government establish that delay in awarding the contract would result in “serious injury, financial or otherwise, to the Government”
- Unusual and Compelling Urgency is **NOT** the same as a sole source
 - PBS still seeks competition from “as many sources as is practicable under the circumstances”
 - This authority cannot be used to arbitrarily pick a building and ignore other options

Unusual and Compelling Urgency vs Other Models

Category	Full and Open	Sole Source	Unusual and Compelling Urgency
Trigger Event	Normal space request	Cost or mission based justification to limit to 1 offeror - typically the incumbent Lessor	Emergency
Competition	Yes	No	Limited
Speed	Regular	Faster	Fastest

Coalition of Partners

Using this authority requires involvement by SES level officials within GSA, and it should involve similar levels within your organization. Taking advantage of this authority requires significant levels of commitment on both GSA and the partner agency.



This authority is not a substitute for management commitment and support.



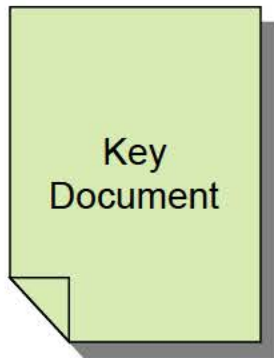
Process Walk-Through

IMPORTANT NOTE

Emergency leasing covers instances where an agency, the public, or the Government as a whole, would be harmed if we acquired the space through our normal Full and Open Competition process. This presentation, and the emergency leasing process **does NOT apply to leases acquired for FEMA** following a declaration of disaster under the Stafford Act. Those leases are known as “**disaster leases**” and follow their own, very unique procedural and administrative process.

Key Symbols

Important Symbols to Note



This step involves a key document that requires either review, approval, or notification

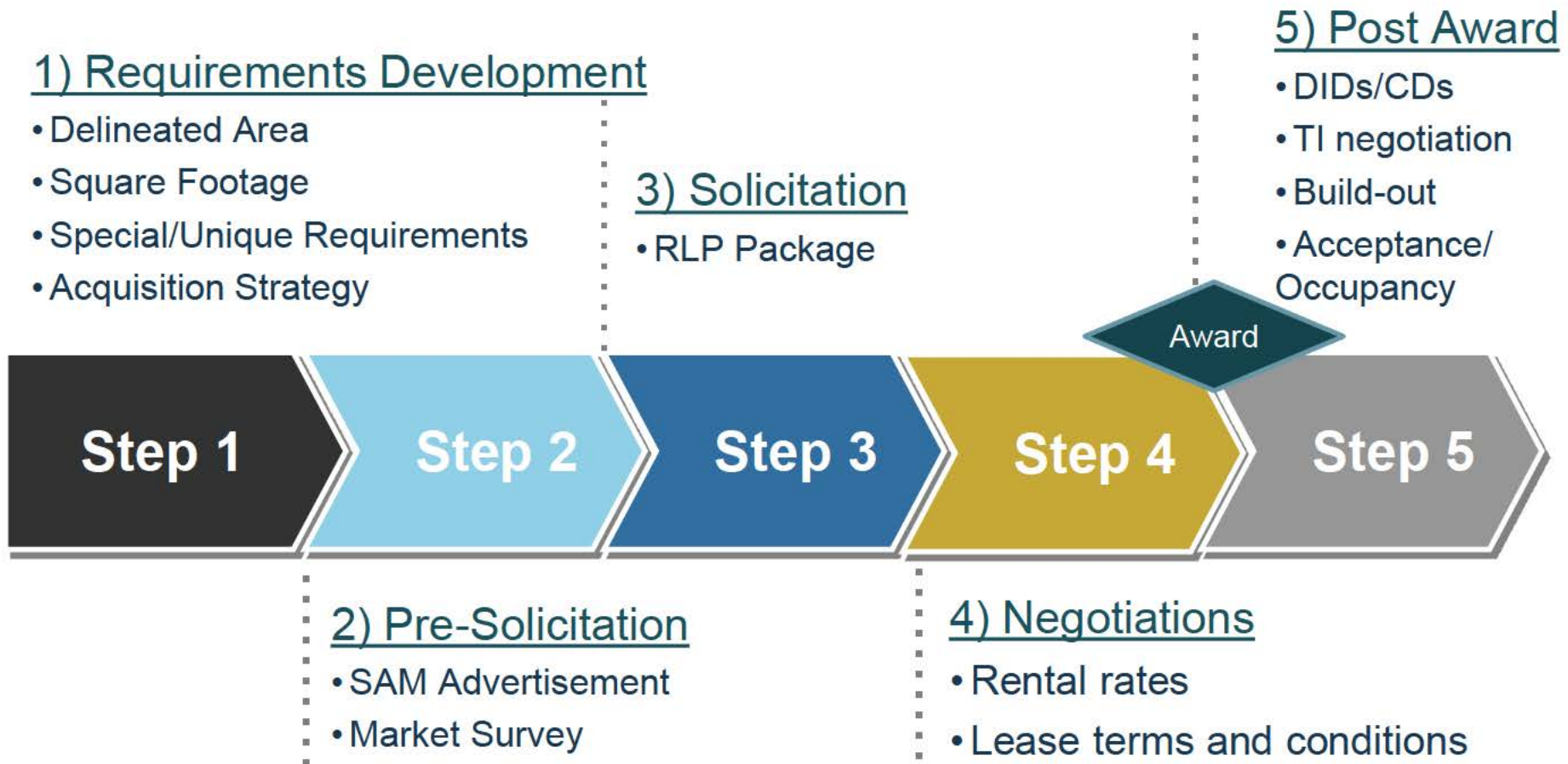


This step involves significant collaboration between GSA and the client

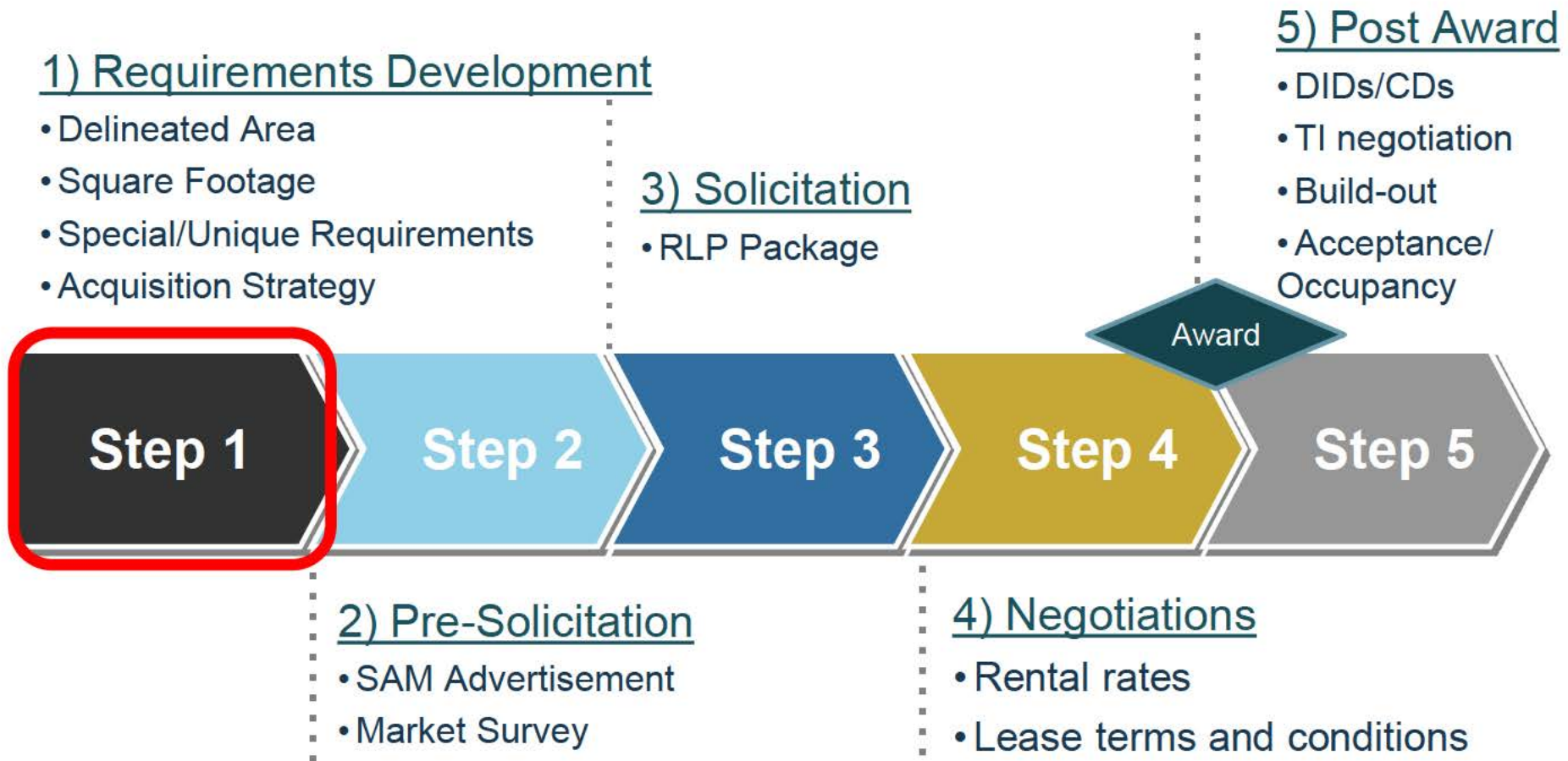


This step involves a hand-off that may change or introduce new key team members

The Leasing Process



The Leasing Process – Focus on Step 1 – Requirements Development



Requirements Development and Trigger Events

- Most leasing actions being with GSA reaching out to the agency due to an expiring lease or the agency reaching out to GSA
- Emergency leases are driven by a trigger event which creates an urgent need for new space

Examples of Trigger Events

- Natural Disasters
 - Hurricanes
 - Earthquakes
 - Floods
 - Wildfires
- Man Made
 - Attack/Terrorism
 - Arson
- Local/Building Events
 - Water intrusion - pipe burst/roof leaks/etc
 - Fire damage - electrical/accidental/etc

Trigger Event Examples Continued

- Legislative/Presidential Order
 - New Law
 - New Executive Order
 - Requires new facilities in order to meet your agency's obligations which cannot be obtained in time through Full and Open Competition
- Unique/Sensitive Mission Critical Deadline
 - A special need for space which must be provided in an urgent manner in order to prevent serious harm to the government
 - Ex. Providing space for security operations for an upcoming political convention

Poll #2

Do you believe your agency is at risk for one or more of these trigger events?

A. No

A. Maybe

A. Yes

Damage Assessment

- If your trigger event involves damage to an existing space, the first step will be to assess that damage and determine if relocation is necessary
 - Lessors are responsible for repairing the leased premises
 - Lessors are NOT responsible for replacing personal property
 - GSA will work with the Lessor to obtain their remediation/repair plan and determine if it is reasonable
- Agencies should have a plan ready and be prepared to utilize telework and other remote options to continue operations for short periods of time during repairs or the provision of replacement space

Damage Assessment – Lessor Timeframes

The standard lease boilerplate contains a clause that provides Lessors with up to **270 days** to repair damage, provided that they can provide a “reasonable” schedule within 60 days from the event that demonstrates how the space will be repaired

13. FIRE AND CASUALTY DAMAGE (JUN 2016)

If the building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the building in which the Premises are located are only partially destroyed or damaged, so as to render the Premises untenable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **270 days** from the event of destruction or damage, to repair or restore the Premises, provided that the Lessor submits to the Government a reasonable schedule for repair of the Premises within **60 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within **270 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. During the time that the Premises are unoccupied, rent shall be abated. Termination of the Lease by either party under this clause shall not give rise to liability for either party.

Nothing in this lease shall be construed as relieving Lessor from liability for damage to, or destruction of, property of the United States of America caused by the willful or negligent act or omission of Lessor.

Requirements Development – Temporary vs Permanent

- Requirements development for emergency leasing requires that the agency and GSA first determine if this is a temporary or permanent relocation
 - A building partially damaged by fire can be fixed and temporary replacement space may be needed
 - A building completely destroyed by fire cannot be rebuilt within the timeframe required in the contract and permanent replacement space will be needed
- The extent of time that the agency will need to occupy the space will have a significant impact on the requirements

Requirements Development – Short vs Long Term

- Short term requirements should look to replicate minimal functionality that cannot be obtained through remote work options
- Long term requirements should consider the agency's current and expected future space needs for that location rather than default to replacing the existing space as it was
 - Ex. A lease that was established 10+ years at 30,000 sf may only need 20,000 (or less) today

Requirements Development – Don't Short Cut Planning

- It is important, even during an emergency, that proper time is committed to planning
 - Developing proper requirements for a short term space may require a few days
 - Developing proper requirements for a long term space may require a few weeks

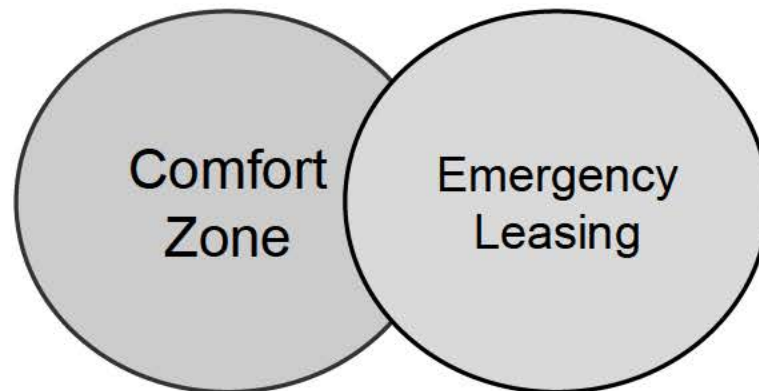
Do not let the urgency of the situation drive bad business decisions that save a days but we have to live with for years

Acquisition Strategy - Unusual and Compelling Urgency

- When acquiring an emergency lease, the govt. will use Unusual and Compelling Urgency as our acquisition strategy
- As covered earlier, this allows us to acquire new leases very quickly
- The specific situation and level of urgency will drive the schedule and what steps may be abbreviated or omitted entirely

The Schedule and Expediting Lease Projects

- All projects, including emergency leases, need a schedule
- This is a critical item that requires both sides to commit to actions or expedite steps beyond what the usual process
 - RLP reviews
 - DID workshops
 - CD reviews



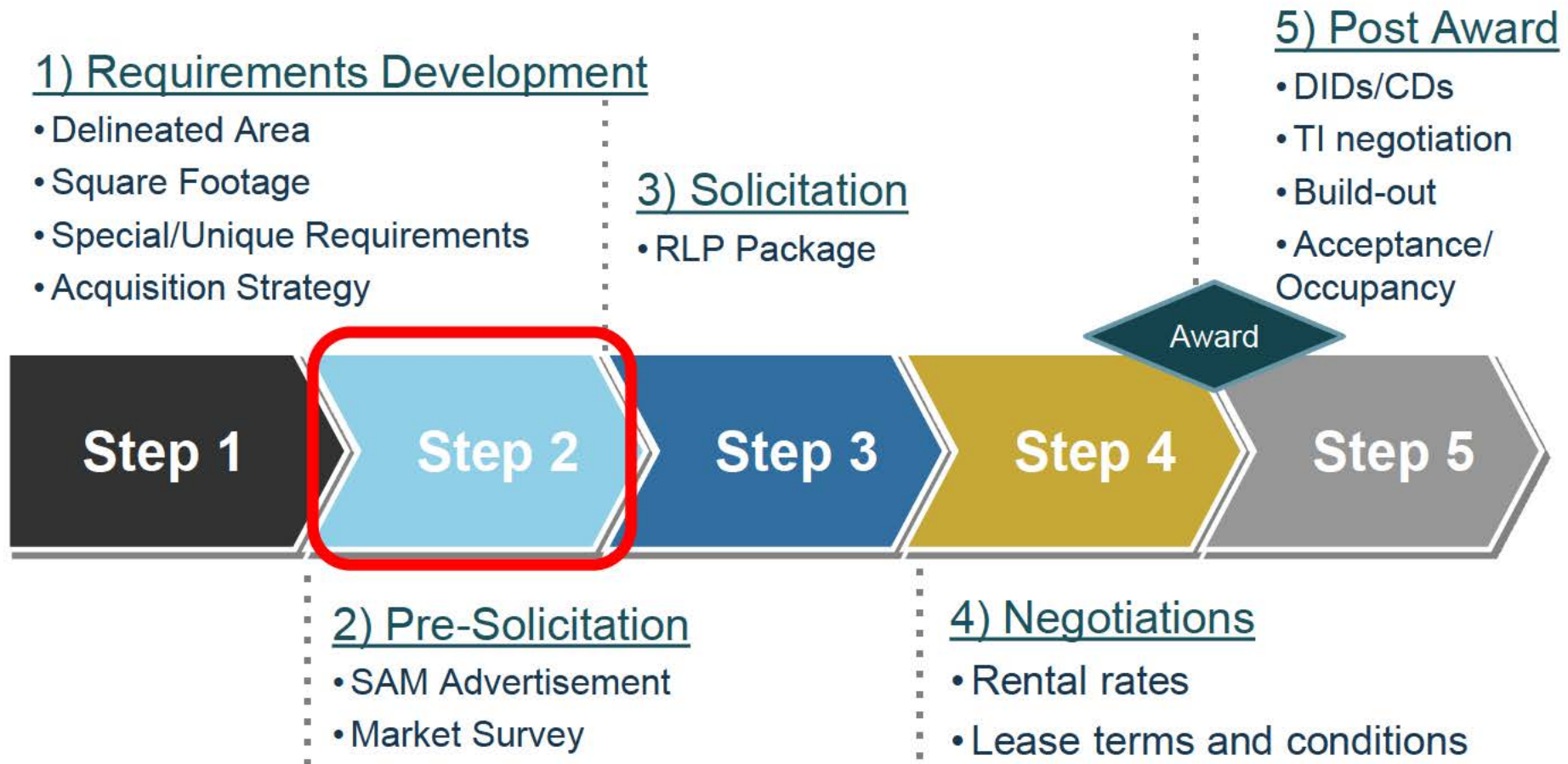
Scheduling and the Cost of Urgency

- When possible, it is beneficial for the govt. to abbreviate steps, such as advertising, rather than omit them entirely
- There is a cost to expediting a schedule which must be balanced
 - Offerors increase bids to compensate for risk and increased costs of expediency (OT labor)
 - Lead time items may limit what is possible
 - Offerors may not bid at all



Questions?

The Leasing Process – Focus on Step 2 – Pre-Solicitation



Pre-Solicitation - Market Research

- Pre-solicitation is the process of engaging with the market to gather information for the upcoming acquisition
 - Locate available properties
 - Determine negotiation objectives
- The GSA team will use a number of tools to get this information
 - Advertisement on SAM.gov
 - Online databases such as COSTAR
 - Telephone outreach

Market Research in Emergencies

- Depending on the specific situation, an ad may be placed for a limited time in order to promote competition or be omitted if the level of urgency does not provide enough time for an ad to be beneficial
- Telephone outreach becomes very more important to provide instant contact with building reps
- GSA will notify offerors of the urgency and timeline expected

Market Research in Emergencies – Offeror Pool

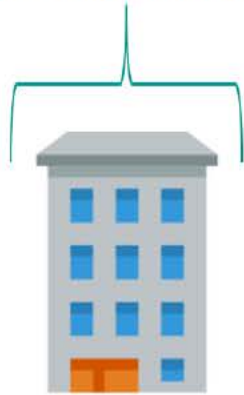
- Short term or immediate occupancy requirements can reduce the number of eligible properties



Market Research in Emergencies – Narrowing Down the Pool

- The urgency may limit us to a single offeror but the goal is to have more than one
- Competition gives us a back-up in case we cannot reach a reasonable deal with one offeror

Can't submit offer quickly enough

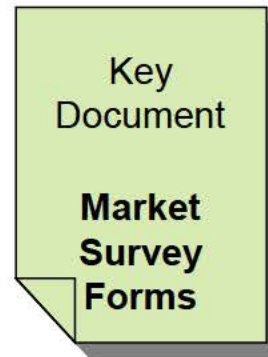


Tenant in place



Emergency Market Surveys

In an emergency, the goal will be to issue the RLP package as soon as possible after the survey, or even on the tour itself. It becomes imperative that the **decision makers are available and ready to sign the market survey forms**





Additional Questions?

The Leasing Process – Focus on Step 3 - Solicitation



RLP Package - Client Review

- It is important that the client review the Request for Lease Proposal (RLP) before it is issued
 - Validate SF range is correct
 - Agree on timing and process for post award design development
 - Ensure critical special requirements are included



Original

ACTION REQUIRED: TYPE IN TENANT AGENCY HOURS OF OPERATION CONSISTENT WITH THE CURRENT PRICING DESK GUIDE DEFINITION OF NORMAL HOURS IN THE PARAGRAPH BELOW. IF TENANT AGENCY REQUIRES AFTER HOURS CLEANING, MODIFY THIS PARAGRAPH ACCORDINGLY IF THE SUCCESSFUL OFFEROR AGREES TO PROVIDE EXTENDED HOURS AND/OR DAYS AT NO ADDITIONAL COST OR CONSEQUENCE TO THE GOVERNMENT, SUCH HOURS SHOULD BE ACCEPTED AND INCLUDED IN THE LEASE.

6.01 PROVISION OF SERVICES, ACCESS, AND NORMAL HOURS (JUN 2012)

A. The Government's normal hours of operations are established as XX AM to XX PM, Monday through Friday, with the exception of Federal holidays. Services, maintenance, and utilities shall be provided during these hours. The Government shall have access to the Premises and its Appurtenant Areas at all times without additional payment, including the use during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed during normal hours.

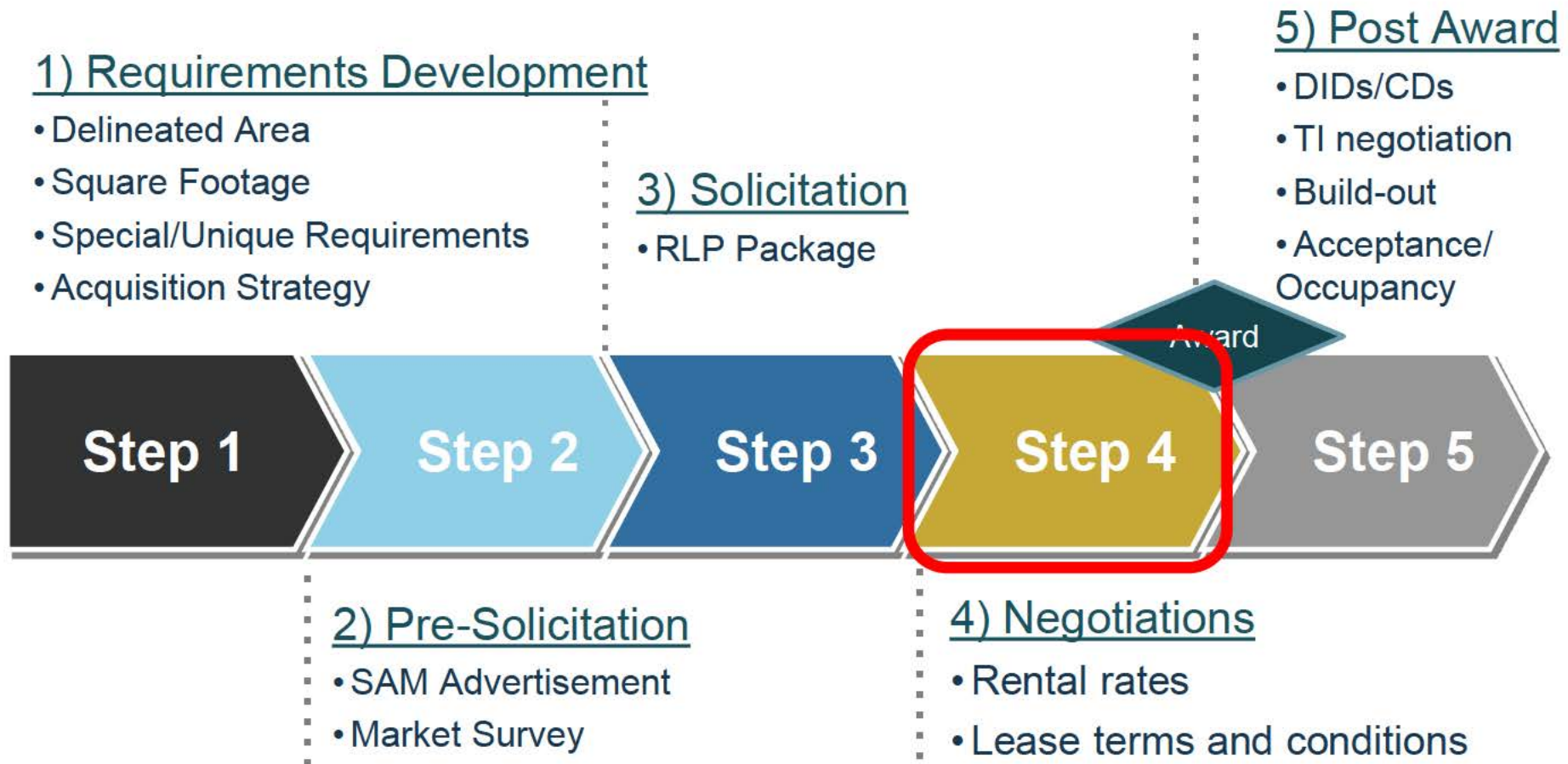
Revised

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The Leasing Process – Focus on Step 4 - Negotiations



Emergency Lease Negotiations

- Offerors typically get a minimum of 20 calendar days to submit their bid (GSAM 570.106)
- In an emergency situation, the amount of time will match the urgency of the situation
 - 5 days should be considered the minimum in most situations
 - Offerors need time to review the lease, if they are not given enough time, they may drop out or inflate their offer

Emergency Lease Negotiations - Pricing

- In an emergency, the government may need to pay a higher price than they would otherwise expect to pay
 - Urgency does cost money
 - Urgency does not mean “money is no object”
- The contract price must still be determined to be “fair and reasonable”

Due Diligence Checks

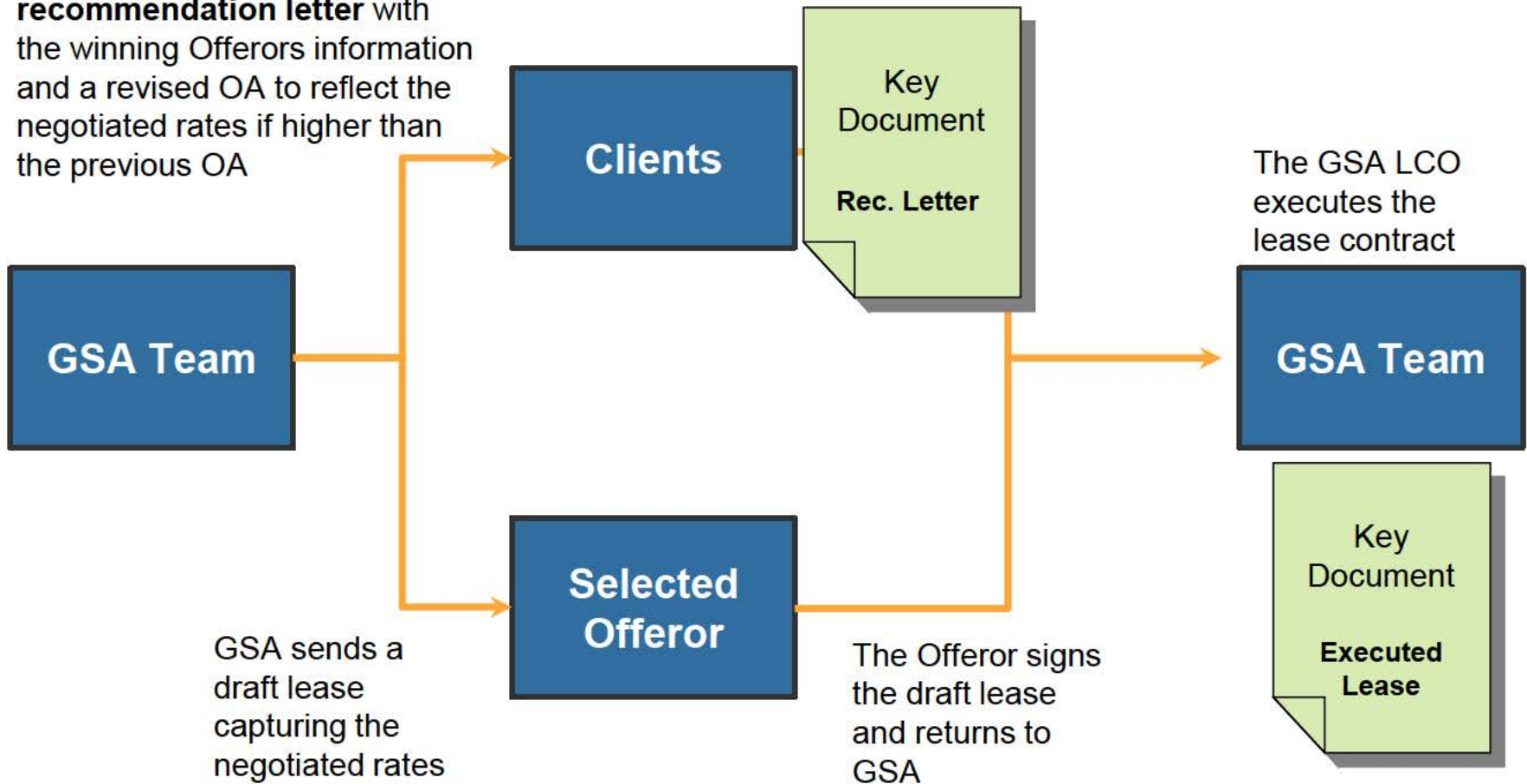
- Emergency space must still pass our due diligence and be safe for occupancy
- Due Diligence items checked:
 - Fire/Life Safety
 - Verifying space size
 - Seismic (map determines level)
 - Offeror's Capability to Perform
 - Proper Ownership
 - Financial Responsibility
 - Completed SAM.gov
 - Meets all items set out in the RLP

Awarding the Contract

- The winner is normally determined using the **Lowest Price Technically Acceptable (LPTA)** method
 - The RLP and Lease set forth what is “technically acceptable”
 - Rates are evaluated using Present Value to compare different cash flows over time
- There may or may not be a negotiation period, especially if the initial offers are fully responsive and within market range

Award Process Flow

GSA sends the Client a **recommendation letter** with the winning Offerors information and a revised OA to reflect the negotiated rates if higher than the previous OA



GSA sends a draft lease capturing the negotiated rates

The Offeror signs the draft lease and returns to GSA

The GSA LCO executes the lease contract

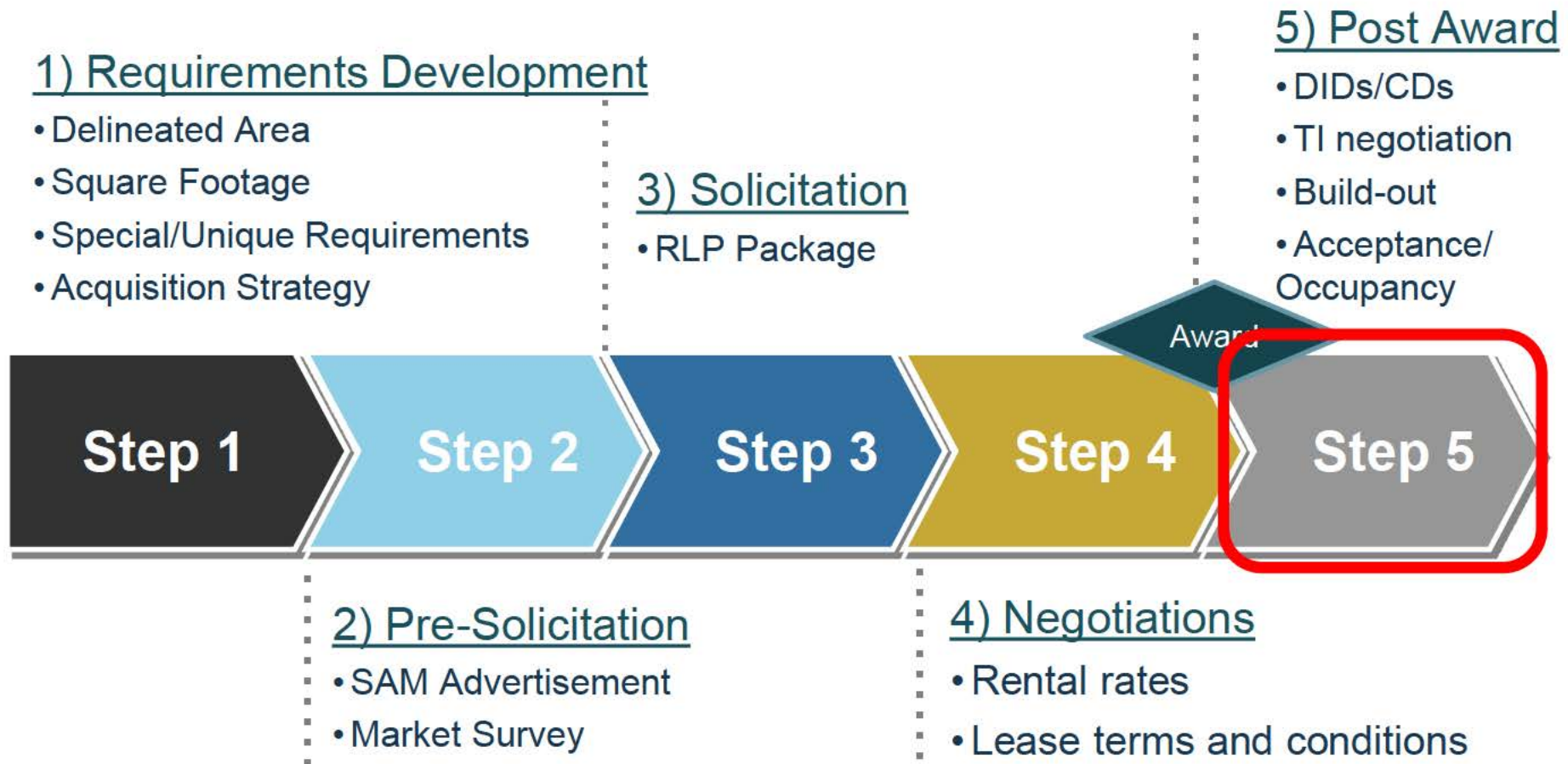
How long does this take?

- Acquisitions for long term replacement space using Unusual and Compelling Urgency should be able to be completed within 30-60 days
 - Requirements Development - 1 week
 - Market Research and Survey - 1 week
 - Solicitation and Negotiation - 1-4 weeks
 - Award - 1 week
- Short term acquisitions may take less time if the agency's requirements are ready and the agency accepts space as is and there is sufficient support



Any More Questions?

The Leasing Process – Focus on Step 5 – Post Award



Post Award Design and Construction - Emergency Leases

- Expediting design and construction requires significant commitment and collaboration
 - Remember the time frames agreed upon when the project schedule was developed
- The build-out requirements should be developed during requirements development, not deferred until after award
 - The agreed upon build-out requirements should be maintained, adding or changing at this stage erodes the speed and value of this process
 - Short term space build-out should be kept to the minimal requirements for functionality

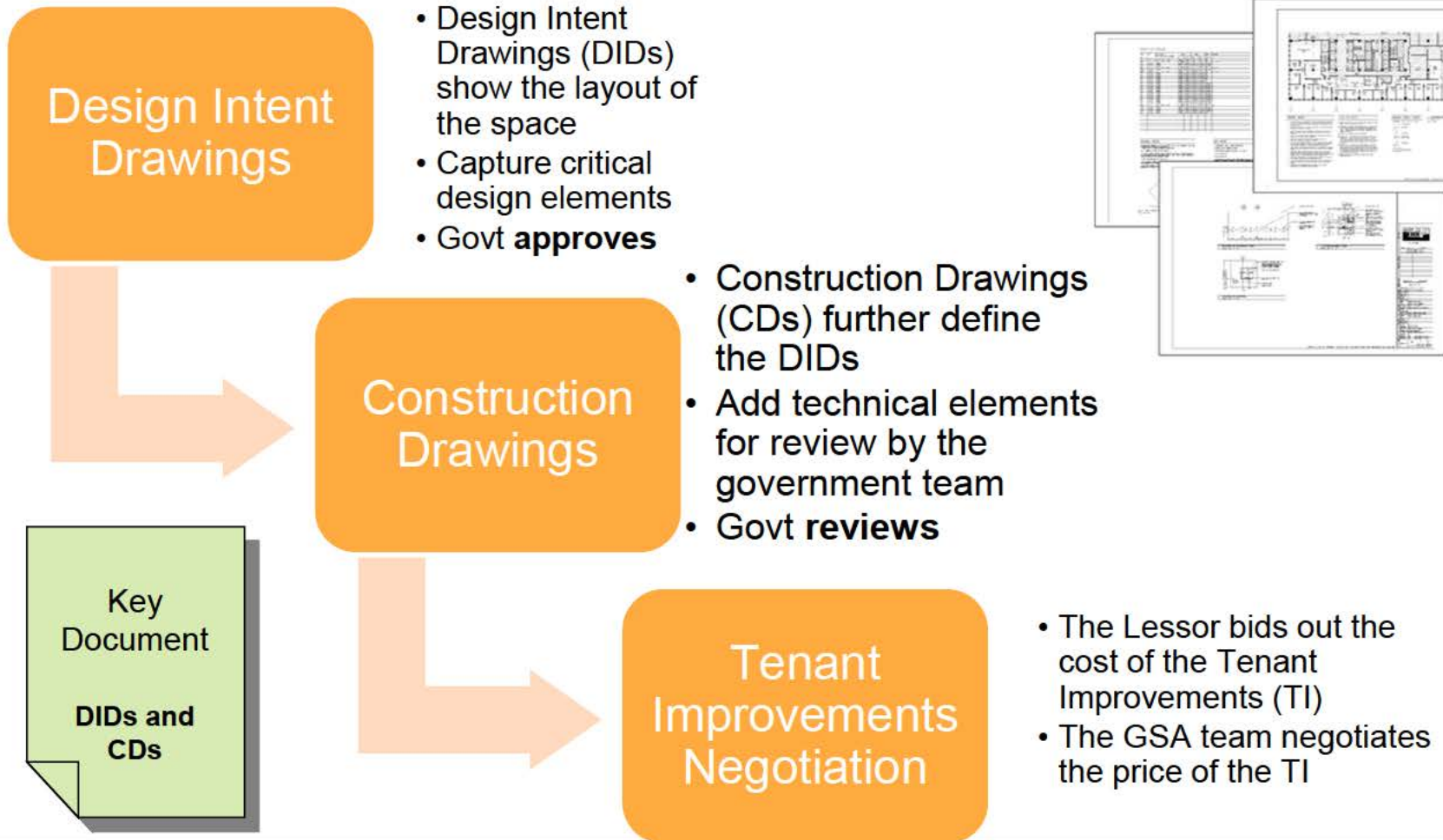
Design Intent Drawing (DID) Workshops

- DID workshops are 1-2 day intensive, collaborative meetings hosted by the Lessor's design team
 - Can be in person or virtual
- At the end of the meeting, the goal is to have an **approved DID**
 - Decision makers need to be available

This method of DID development should be considered the default for any emergency lease requiring design and build-out



Design



How long does this take? Expectations

- Expediting “standard level” build-out should be thought of in terms of % reductions from the standard build-out time
 - Expediting comes at cost and risk which should be balanced
 - Ex. 10% reduction of 10 months = 1 month
 - Permitting, lead time items, and supply chain can be a constraint
- Short term emergency space should focus on accepting space as is whenever possible

Construction and Acceptance

- Once construction is complete, the government team will inspect and accept the work
 - **Substantial Completion** – The Lessor has completed their scope of work to prepare the space for occupancy by the government. Any remaining work is minor, such as “punch list” items, and completion/correction of these items will not interfere with the government’s use of the space
 - Upon acceptance, the lease becomes effective and rent commences
- At this point the government has possession of the premises and the customer can begin to install furniture and other personal property
- The point of contact for GSA will transfer to the Lease Administration Manager (LAM)



Knowledge Check #1

Can you request an emergency lease because of pressure from senior management to get a new lease done quickly?

A. No

A. Yes

Knowledge Check #2

What are legitimate trigger events for an emergency lease?

- A. A building destroyed by fire**
- A. A mission critical deadline set by law**
- A. A hurricane that causes damage to a building that cannot be repaired in a reasonable time**
- A. All of the above**

Project Pulse Survey - Your Lease Project Feedback

The Project Pulse Survey is sent to client POCs for both Lease and Reimbursable Work Authorization (RWA) projects.

The surveys occur at different points the project lifecycle, so you can assess our performance throughout your project.

We value your feedback and use your comments to help improve all aspects of service delivery.

For more information, see our [Fact Sheet](#) under “Executing Your Project” or contact your [National Customer Lead](#).

GSA U.S. General Services Administration

Project Pulse Survey

Striving for Continued Success in Service Delivery

Background and Benefits

PBS aims to provide excellent customer services in all aspects of project delivery. The Project Pulse Survey is a quick and easy way for customers to provide feedback on our RWA and Leasing project delivery efforts. PBS uses this valuable information to evaluate our performance and identify best practices and areas for improvement at different stages of project delivery.

We administer the monthly survey on customer RWA and Leasing space projects, regardless of size. The short survey is conducted online and takes just a few minutes to complete.

When is the Project Pulse Survey Administered?

Starting in the first quarter of 2021, PBS will administer the survey up to three times during each RWA and Leasing project.

RWA Project	Leasing Project
Acceptance (for projects greater than \$25,000)	At Request for Lease Proposal
Expense Midpoint (for projects greater than \$250,000)	At Lease Award
Substantial Completion	Lease Effective Date

What Does the Survey Measure?

Each brief survey's questions vary based on when in the project lifecycle the survey is sent. In general, the survey evaluates:

- Overall Satisfaction
- Communication and Transparency
- Clear Point of Contact
- Satisfaction of Requirements
- Cost and Budget
- Schedule
- Quality of Work

Emergency Leasing - Thank You For Attending!

Presenters

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GSA PBS Office of Leasing

Concluding Questions?



Upcoming Client Enrichment Series Sessions

RWA Fundamentals

Thursday July 21st 1pm - 3pm eastern - [Register Now](#)

Workplace Feasibility Modeling Made Easy With WIFM 2.0

Wednesday July 27th 2pm-3:30pm eastern - [Register Now](#)

eRETA Digest

Tuesday, August 9th 1pm-2:30pm eastern - [Register Now](#)

Say Aloha to KAHUA

Thursday, August 18th 1pm-2:30pm eastern - [Register Now](#)

GSA's COVID-19 Resources for Customers

See our [***Safer Federal Workplace page***](#)

Watch CES sessions on  **YouTube**

[Bookmark and binge watch all your favorite CES sessions!](#)

www.gsa.gov/ces

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