

Client Enrichment Series – Q & A



Topic: *Emergency Leasing*

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Additional Emergency Leasing Related Resources:

[Presentation Video](#) and Passcode: R+G&12vR

[Leasing Policy and the Leasing Desk Guide](#)

Q1. Will a delegated agency be allowed to skip a delegation request in the event of a compelling urgency?

A. There is a categorical delegation for short term emergencies, but you will still need to report your action through G-REX so that our delegations team is aware that you executed an emergency lease. The lease has to be executed by a qualified Lease Contracting Officer.

Q2. Is lack of planning or foresight adequate reason to use the unusual and compelling authority?

A. Lack of planning or foresight alone is not justification. In every case that we intend to use Unusual and Compelling Urgency we must be able to provide “serious injury” to the government’s interest if there was a delay in awarding the contract. In most cases, even if the contract was to be fulfilled using full and open competition the government would not suffer “serious injury.”

Q3. If the client is “relocated” into a swing space due to extensive flooding, would this “trigger” the emergency leasing and would the swing space be considered “permanent”?

A. The lease allows Lessors 270 days to repair space when it is damaged. GSA would work with the Lessor to determine if the swing space was going to be temporary or if we need to procure permanent replacement space based on the time it will take to repair the space. Temporary swing space would like not be the same space that we would obtain for a long term relocation, so the goal would be to provide the right housing solution rather than provide temporary space and then make it permanent.

Q4. Does the “Class A” space definition, requirements, and assessment procedures still apply in the emergency leasing process?

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- A. I think it's important to note that GSA does not require "Class A" space. We do require that any building we lease is of modern, sound construction and there is language in our lease template that speaks to that. "Class A" space is a marketing designation that is used to market a space as being among the best in that market. What space is "Class A" or "Class B" can sometimes be subjective. Emergency leases would go through our usual due diligence process to make sure that the space is in a building of sound, modern construction and that it is safe for occupancy.

Q5. *If there is a choice of Disaster Lease vs. Emergency Lease, which is a better choice in terms of budgetary consideration? Disaster declarations usually come with additional funding for those actions. Do emergency lease actions come with additional funding or would that come out of the existing Agency budget?*

- A. Disaster leasing applies to FEMA specifically for their disaster relief operations under the Stafford Act. The money that FEMA has for disaster leases is money that is appropriated to them through the Stafford Act. Agencies cannot choose to use a disaster lease. When another agency experiences an emergency, we would use the emergency leasing process which uses the same Unusual and Compelling Urgency authority that we use to obtain spaces for FEMA disaster relief. Funding for the action would generally need to come from the agency. It is important that senior management is involved in emergency lease actions for your agency as they can help you to obtain the necessary funding for an emergency lease. It is also recommended that emergency leases, when intended to be temporary, use minimal alterations which can help reduce the cost associated with an emergency lease.

Q6. *Does the 270 days apply even if the lessor has shown past actions of failing to comply to the current leasing agreement?*

- A. Lessors have to provide us with a schedule within the first 60 days of the damage occurring that shows how they will be able to repair the space within 270 days. We will work with the Lessor to examine their schedule and determine if we agree that it is reasonable. If it is, then we will monitor the work of the Lessor and if we determine that they are falling behind schedule and will not be able to meet the deadline, we can take action sooner.

Q7. *If we utilize the Urgent and Compelling (U&C) authority and later an audit reveals that the agency did not have adequate documentation showing that the government would incur serious injury, what would happen? Would we end up having to ratify the U&C action?*

- A. GSA is the acquisition entity. If we perform a contracting action and later there was a concern revealed by an audit, GSA would take the appropriate action as required. The tenant agency would not be asked to ratify any leasing action conducted by GSA.

Q8. *Is there an equal process for emergency project execution? eg- space needs to be built out after the emergency lease is acquired?*

- A. In the presentation we discuss methods of expediting post award design and build-out. These include using DID workshops to create DIDs within a few days instead of weeks or months. Construction can normally be expedited to a certain extent but issues such as permitting time, supply time disruptions, and other considerations may limit how much the

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construction of a specific scope can be expedited. It is best to consider expediting build-out in terms of the reduction in time from a “standard” build-out process.

Q9. I did not see a length of lease requirement in the LDG for under SLAT. Can you share what that is?LDG

A. There is no length of lease requirement. Leases can be short term, as in a few months, or they could be up to the 20 year limitation that GSA has for leases.

Q10. An emergency occurs - say an earthquake. We relocated to a new space. The original Lessor rebuilds the old space within 270 days. Are we "required" to relocate back to the old space if we now prefer the new space?

A. If the Lessor can repair the space within the 270 days allowed by the lease, the agency would typically relocate back into their previous space.

Q11. Could vandalism trigger an emergency?

A. Concerns with crime would be assessed by the Federal Protective Service (FPS) in an effort to determine how to provide an appropriate level of safety for that location. If an agency is having concerns with safety, they should engage with GSA and FPS to help determine a solution. In some cases, due to the long term nature of our leases, changes can occur to an area during the term of the lease. When that occurs, FPS may increase the security at that location. If the concerns become so severe that FPS does not believe that the agency should remain in that location, then an emergency lease could be considered to relocate them to new space. The decision to relocate the agency would be based on FPS's assessment.

Q12. With regard to Requirements Development - When looking at Unusual & Compelling where the anticipated transaction is expected to be below SLAT (specifically for a delegated agency), what is the maximum lease term we can go to market with?

A. GSA has statutory authority to lease space up to 20 years. That statutory limit applies to leases both above and below the simplified lease acquisition threshold (SLAT).

Q13. Hypothetically, in a long term specialized space lease, does increased crime and gang activity that endangers the federal employees qualify as an emergency? We had a scenario with regular gunfire in/around/at our leased offices last year. One of the office window by an employee was hit with bullets.

A. Please refer to the previous answer in this document regarding working with FPS to address security concerns.

Q14. Do the emergency lease rules apply to historically designated buildings or are there additional considerations for these facilities?

A. Historic buildings who wish to submit an offer for an emergency lease would be granted the same considerations as with other leasing actions. The regional leasing team would work with their regional historic preservation officer on any concerns they may have.

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Q15. What are the rent requirements when moving into "temporary" space, is the agency responsible for both rents? And what happens when an agency moves out of a non-cancellable lease permanently due to an emergency?

A. GSA is not typically required to pay rent for space when it is not able to be used. If an agency had to relocate from their space while repairs are being performed, the agency would not normally be responsible for paying rent during that time.

Q16. Is a landlord selling a lease to another landlord with the intention of kicking out an agency so that the new landlord can build condos considered unusual and compelling urgency? What if your lease is in Holdover?

A. When a building is sold, if the government has a lease for space in that building, the lease will continue to be valid for the term remaining on the lease. A new owner cannot choose to ignore our lease and evict us simply because they were not the owner when the lease was signed.

Q17. If an agency requires a temporary relocation due to an emergency, but the property has since been re-categorized into a flood zone, would GSA simply use that opportunity to make the emergency relocation a permanent one?

A. The lessor would have 270 days to repair the damage. If they can repair the damage within that time, the agency would normally return to their original space.

Q18. In a "temporary" space, is the agency charged for the new rent rate, even if higher, or the permanent space rates that may be much lower?

A. The agency would typically pay the rent for the space that they occupy. If we acquire emergency space for an agency, the agency will have an opportunity to sign the OA and be aware of their financial obligation. Short term leases tend to carry a premium over long term lease rates so some adjustment should be expected. The price that is negotiated would be a price that has been determined to be "fair and reasonable" by the Lease Contracting Officer.

Q19. Is there a difference in the process and/or "responsibility" IF the unforeseen circumstance/event is caused by an employee of the client agency?

A. The decision to acquire emergency space would be based on the needs of the government for space and the harm that might occur to the government's interest is not provided for quickly in an emergency situation. The cause of the situation, if it was the act of an employee, would not specifically impact the determination whether an emergency lease was warranted or not.

Q20. What is the level of participation/approval required from the SES (i.e. approve Requirements, approve Ad, approve each step in the process)? What exactly will they need to do so that we can prepare them in advance for the eventuality?

A. Senior management, SES or director level, is recommended to assist the agency with making the necessary internal commitments to expedite actions necessary to take full advantage of the use of this authority. There is no specific document that would be required to be signed.

Q21. Can parking be stipulated (3 walkable blocks for example) in the emergency lease?

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A. Parking requirements can be included in the requirements issued by the Request for Lease Proposals just as they would be included in a lease acquisition using Full and Open Competition.

Q22. What's the fastest time you have ever heard of for doing an U&C lease that stood audit scrutiny from solicitation to award?

A. When GSA acts as the procuring entity of a contract for space, any audit concerns would be handled by GSA. As noted in the slide presentation, the goal of an emergency lease action would be to award the lease within 30-60 days for long term actions. Short term spaces acquired "as is" may take less time.

Q23. How is accessibility compliance incorporated with emergency leasing? (ABAAS)

A. The same accessibility compliance process applies to an emergency lease as a normal lease.

Q24. Regarding Telecom groups that manage the installation of the office's phone system: Normal installation time is within 90 days. Would they be expected to expedite their time frame for their installations in an emergency lease situation?

A. Agencies should be prepared to expedite their actions faster than their usual timeframe in an emergency. The time required for agencies to perform their internal actions will be part of the planning process that is completed by a project manager. If a particular action cannot be expedited, that may impact the speed with which space can be provided.

Q25. Can agencies utilize GSA contracts for office space with WeWork/hoteling work spaces instead of doing an emergency lease?

A. The GSA team will work with the impacted agency and consider all possible contracting options, including service contracts for shared work spaces. The specific contracting method used will depend on the agency's requirements, market, and other factors.

Q26. How long does it take to set up a short term lease? This is a concern when there is a safety issue.

A. All emergency leases will go through the same due diligence process that other leases complete in order to ensure that any space that is leased is safe for occupancy. The goal of the emergency leasing process is to award a contract within 30-60 days.

Q27. When you are Estimating the Length of the emergency lease are there guidelines that we should use to determine the length? Say the emergency lease is created by being forced to vacate a premise by the landlord for demolition.

A. If the government has a lease at a location, the government normally cannot be forced to move out of the space before the end of the lease by the Lessor. Emergency lease terms will be determined based on the specific needs of the agency, subject to the standard 20 year statutory limitation for GSA leasing actions.

Q28. Can other Federal Agencies "regulations" (I.e. EPA or OSHA) trigger the need for an emergency lease?

A. The decision to use the emergency leasing process is based on the determination that the government will incur serious injury if this process is not used. If there is an EPA or OSHA issue at a

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location that requires that the government quickly vacate that location, the emergency leasing premises could be used to acquire replacement space.

Q29. *Would a local/state disaster declaration that doesn't rise to the level of a Stafford act presidential disaster declaration fall into a "disaster" relocation category, or an Emergency relocation category, or something else?*

A. Local building events that require that the government relocate an agency can trigger the emergency leasing process.

Q30. *If there aren't any locations that meet the LCTA, then what is considered a reasonable financial maximum acceptable?*

A. The rent paid in any lease contract must be determined to be fair and reasonable by the Lease Contracting Officer. The maximum amount that can be paid for an emergency lease is based on the local market rates. Appropriate market adjustments may be made for short term leases based upon premiums normally seen in that market.

Q31. *If an emergency lease location ends up working very well for our agencies and the old location can't/won't get back to leasable status DO we then need to go full and open to consider the emergency location as a permanent locale? or could they be a sole source selection at that point?*

A. The specific action taken in this situation would be determined by examining the needs of the government and making a business decision as to the best way to meet their needs. The default for contracting for space is to use full and open competition. It is also possible that the regional team may pursue a sole source acquisition if the specific situation justifies that particular acquisition method.