




General Services Administration  
Public Buildings Service  
Washington, DC 20405

PQRP-92-05

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MEMORANDUM FOR ALL REAL PROPERTY LEASING ACTIVITIES  
(PQRP DISTRIBUTION LIST)

FROM: ROBERT J. DILUCHIO  
ASSISTANT COMMISSIONER   
FOR REAL PROPERTY DEVELOPMENT - PQ

SUBJECT: Emergency and Disaster Leasing Procedures

1. Purpose. This acquisition letter establishes policies and procedures for the acquisition of space during emergency and disaster conditions.

2. Background. These procedures have been developed as a result of the GSA Disaster Task Force Report of June 1990 to establish guidelines for leasing space to meet agency needs under specified emergency and disaster conditions.

3. Effective Date/Expiration Date. This acquisition letter is effective immediately upon issuance and will expire 12 months from the date thereof, unless extended or otherwise cancelled.

4. Cancellation. Acquisition Letter PR-86-03, entitled Class Justification for Emergency Leasing, dated May 1, 1986, is hereby cancelled.

5. Applicability. All real property leasing activities which lease space under emergency and disaster conditions.

6. Instructions/Procedures. Instructions and Procedures are attached. The following is a summary of attachments:

- a. Attachment 1 - Instructions and Procedures for Emergency and Disaster Leasing.
- b. Attachment 2 - General Services Administration Class Justification for Other Than Full and Open Competition.
- c. Attachment 3 - Class deviation from GSAR 570.303, authorizing use of expedited leasing procedures.

INSTRUCTIONS AND PROCEDURES FOR EMERGENCY AND DISASTER LEASING

1. General. The following instructions and procedures reflect the process to be used in providing space in emergencies and disasters; however, each emergency/disaster must be handled in accordance with the unique seriousness and urgency it presents. While using these written instructions and procedures, regions should not lose sight of the primary concern to deliver the space in the earliest possible timeframe.

2. Use of Expedited Procedures. Regions may use the expedited leasing procedures outlined in GSAR Subpart 570.3, Expedited Procedures for Small Leases and Temporary Leases, without regard to the square footage limits contained therein.

3. Application. This process may be used for leasing actions to provide work space and other facilities in response to:

a. National emergencies declared by the President under applicable provisions of law, including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (P. L. 100-707);

b. Emergencies declared by responding Federal agencies pursuant to statutorily authorized emergency plans or other applicable provisions of law; or

c. Emergencies of a health/safety or other (HSO) nature which the appropriate Assistant Regional Administrator for the Public Buildings Service (PBS) determines so adversely impact the mission of an agency in a Government-owned or leased building as to necessitate the agency's expeditious relocation therefrom.

4. Authorities of the Parties.

a. Emergency 3.a. above will usually involve the Federal Emergency Management Agency (FEMA) as the client agency, however, other agencies designated to provide emergency assistance may also require work space as well. The realty specialist assigned to an emergency, HSO, or disaster leasing action should be experienced and have the authority to make decisions in the field. Recognizing that the realty specialist may not be a warranted contracting officer, the process can still work well if the contracting officer is available to promptly review and sign the lease after the specialist returns from the field. A GSA representative shall precede or accompany the FEMA/agency team to the emergency site or the proposed location area. The agency representative designated to work with GSA on these leasing

actions needs to have the authority to accept a location and to make changes to requirements in the field in order to expedite the process.

5. Process.

a. The process is intended to allow GSA to act quickly and to have facilities leased and available to FEMA/responding Federal agencies so that relief activities can be in operation within 72 hours following the President's declaration, or the requirement to implement an emergency plan. For HSO or agency emergencies, leased space should be made available within 5 days of each occurrence which necessitated the leasing action.

b. The process is to be less formal than the usual lease acquisition, with much of the process handled by telephone or during on-site visits.

c. GSA Handbook ADM P 2400.16A, dated January 8, 1992, Domestic Emergency Assistance Program, defines the roles of GSA and other Federal departments and agencies, and establishes GSA policy for providing assistance to support domestic emergencies. This handbook does not specifically address emergency leasing; however, the overall guidance provided therein is incorporated in this acquisition letter.

6. Requests.

a. Upon notification by the GSA Regional Emergency Coordinator (REC) of the existence of an emergency or the anticipated emergency declaration, or a telephonic request from an authorized agency representative, the space acquisition process begins. The REC is responsible for promptly notifying the GSA Finance Division (7BC), Accounts Receivable Branch, in Fort Worth, TX, of the emergency. The realty specialist must be informed by the REC that an emergency situation exists.

b. The realty specialist handling the action shall, in coordination with the client agency representative, jointly determine the agency's emergency space requirement. After reaching agreement on the emergency space requirement, the realty specialist and the agency representative shall complete the Request for Space, Standard Form 81, and forward it to the authorized agency official for signature. Prior to GSA incurring any contractual obligation (lease execution, etc.), a completed and signed SF-81, including funding citation which supports the request, must be provided by the agency within 72 hours of the verbal request. The client agency must also provide a GSA Form 2957, Reimbursable Work Authorization (RWA), for any

above-standard tenant items. These requirements do not prohibit GSA from taking any necessary preliminary actions to fill the request.

c. Emergency leasing actions shall not be used to fill the agency's long-range or outstanding space requirements.

d. A request received from an agency for emergency leasing action based exclusively on a health/safety or other (HSO) emergency must be accompanied by a statement signed by the agency head/responsible agency official setting forth at least the following factors:

(1) The nature and origin of the HSO emergency.

(2) The effect of the HSO emergency upon the agency's mission which requires the agency's expeditious relocation.

(3) The anticipated duration of the HSO emergency.

All such HSO requests must be concurred in by the GSA-PBS Assistant Regional Administrator prior to executing the lease.

7. Requirements. The agency representative, the communications specialist, the realty specialist and/or the contracting officer shall review the agency's needs to ensure consideration of appropriate delineated areas and identify prospective buildings.

8. Competition Requirements.

a. Competition shall be solicited to the maximum extent possible consistent with the disaster/emergency conditions. After determining the delineated area, the specialist may, if time allows, review industry publications and information in available space files, contact the local GSA buildings manager, and work with the agency representative to develop a list of potential offerors.

b. Normally, GSA pays for travel by its employees in filling space requests as a part of doing business. However, in emergency/disaster situations agency-related travel costs are unplanned expenditures above and beyond normal operating costs. Therefore, the responding agency must agree, in writing, to fund any travel by GSA personnel in filling the emergency space request, as required by Chapter 5, paragraph 3.e.(6) of GSA Order ADM P 2400.16A of January 8, 1992. This also includes preliminary travel by GSA personnel to inspect potential sites. Responding agencies may accomplish this funding through an RWA.

c. A market survey shall be conducted. In most cases, the market survey and the on-site inspection must be conducted simultaneously. All sources that can provide space suitable for the needs of the agency shall be requested to provide an offer, if time allows.

d. The regions may use other than full and open competition procedures in acquiring space and services under the emergency circumstances cited in paragraph 3 above entitled Application. Attachment 2 of this acquisition letter provides a class justification for this purpose, provided the contracting officer makes the scope certification and the fair and reasonable price determination required therein.

9. Request for Offers. Prior to the on-site inspection, the GSA realty specialist shall prepare the appropriate sections of the U.S. Government Lease for Real Property (Short Form), GSA Form 3626, and attach appropriate versions of the General Clauses and Representations and Certifications forms. All agency mission requirements and specifications shall be included. The emphasis should be on leasing acceptable space in an "as is" condition. Alterations should be kept to a minimum. If evaluation factors are appropriate, the GSA realty specialist and the agency representative shall agree on the factor(s) to be included.

10. On-site Inspection.

a. The market survey, including an on-site visit, is the key activity to determine the quality of space offered, general market conditions, comparable prices, neighborhood environment, and what will best serve the needs and mission of the client agency.

b. The realty specialist, GSA communications specialist (and, if needed, a security specialist, a fire safety specialist and a space planner), and the agency representative shall inspect each property with the owner or individual authorized by the owner to sign a lease. A copy of the proposed lease shall be provided for review to the building owner or owner's representative. The specialists and the authorized agency representative shall discuss the requirements with the prospective offeror.

c. Following the inspection and the completion of the market survey form, the specialists and the agency representative shall confer to determine if the building meets, or can be made to meet, the requirements by the specified occupancy date. If the building is a good candidate, negotiations should commence immediately.

11. Items for Negotiation.

a. In addition to those items specified in GSAR Subpart 570.304-4(e), at a minimum, the following items should be negotiated or discussed with the owners or owner's authorized representatives:

(1) Results of building inspection from the market survey form;

(2) Alterations or modifications to be made by the offeror as part of the rent, such as, painting walls, repair or replacement of carpet, electrical and telephone outlets, and lump-sum items. Alterations should be kept to a minimum, limited to those absolutely required. The realty specialist shall work with the agency representative and the offeror to have a drawing prepared to show partitioning, telephone and electrical outlets, and other finish details. If the offeror does not have 1/8 inch or 1/4 inch scaled floor plans, a hand-drawn floor plan noting the dimensions may be prepared by the realty specialist, or space planner.

(3) Overtime rates (if needed). One approach is to seek to eliminate overtime rates by setting a 12-hour building operation schedule.

(4) Hours of operation of the building;

(5) Rental rate including the services, utilities, alterations, and any other requirements identified in the lease contract. If the offer does not include all required services, the realty specialist must be certain that the services can be made available.

(6) Base rates for utilities and services and for real estate taxes, if applicable. (NOTE: ESCALATION CLAUSES WILL RARELY BE USED FOR EMERGENCY OR DISASTER LEASES, ALTHOUGH THEY MAY BE USED FOR LEASE TERMS OF 2 TO 5 YEARS DURATION). If the tax escalation clause is included, it is necessary to negotiate a percentage of occupancy of the building.

12. Evaluation of Offers and Award. The realty specialist shall review the offers, determine the lowest priced acceptable offer or the best offer based on price and evaluation factors and make a recommendation for award to the contracting officer.

13. Documentation.

a. The realty specialist shall complete the Action Summary form which serves as the price negotiation memorandum. The Action Summary shall be signed by the contracting officer.

b. The contracting officer must make the scope certification and the determination that the anticipated cost will be fair and reasonable as required by Attachment 2, if other than full and open competitive procedures are used. The written determination that the anticipated cost will be fair and reasonable should include a brief description of the emergency or disaster conditions which necessitated the use of other than full and open competitive procedures.

c. GSA Forms 3267, PBS/IS Building File Update, and 3268, PBS/IS Space Assignment File, shall be prepared to obtain a building number, input agency rental billing data, and assign the space. Appropriate assignment drawings shall also be prepared.

14. Commencement of Rent. The realty specialist will prepare and submit GSA Form R620, Lease Digest, in sufficient time to commence rental payments as provided by the Prompt Payment Act. If agreed between GSA and the responding agency, the agency may be allowed to make direct rent, alterations, utility and other appropriate payments.

15. File Contents. The realty specialist may follow the expedited lease procedures and, if applicable, include an agency statement of need for HSO leasing action and documentation for lease term.

16. Lease Term. By definition, emergency/disaster situations are usually of short duration and for most purposes a lease term of 1 year or less should suffice. In extenuating circumstances, lease terms of up to 5 years may be more appropriate. The need for such longer term leases must be documented by the contracting officer and included in the lease file. The lease term of a prospectus level emergency lease shall not exceed 180 days, without the prior approval of a prospectus by the Congress.

GENERAL SERVICES ADMINISTRATION CLASS JUSTIFICATION FOR OTHER  
THAN FULL AND OPEN COMPETITION

ACQUISITIONS OF SPACE AND RELATED SERVICES TO SUPPORT FEDERAL  
AGENCIES ACTING IN RESPONSE TO EMERGENCIES OR MAJOR DISASTER  
SITUATIONS AS HEREIN SPECIFIED

Identification and description of action being approved.

This class justification for other than full and open competition is for use by the General Services Administration's (GSA's) contracting activities in the acquisition of space and related services for the Federal Emergency Management Agency (FEMA) and other Federal agencies responding to emergency situations and major disasters as specified below. This class justification is applicable to the following emergencies:

a. National emergencies declared by the President under applicable provisions of law, including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (P. L. 100-707);

b. Emergencies declared by responding Federal agencies pursuant to statutorily authorized emergency plans or other applicable provisions of law; and

c. Emergencies of a health/safety or other (HSO) nature which so adversely impact the mission of an agency in a Government-owned or leased building as to necessitate the agency's expeditious relocation therefrom.

Description of supplies or services required.

GSA Order ADM P 2400.16A dated January 8, 1992, entitled Domestic Emergency Assistance Program, establishes GSA's overall guidance for providing assistance to Federal agencies in emergencies. The Order states that GSA "must ensure that the requesting agency is provided space that meets its needs," and "other services currently provided to the Federal establishment."

Identification of statutory authority.

Section 303(c)(2) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253(c)(2)), provides for contracting without full and open competition when there is an unusual and compelling urgency.



Demonstration that the acquisition requires use of the authority cited.

Pursuant to the authority and responsibilities contained in the Federal Property and Administrative Services Act of 1949, as amended, GSA is often called upon to provide work space and related support services to Federal agencies in emergency situations. The need to provide such work space and services in support of disaster relief efforts is of unusual and compelling urgency, and any delay will seriously harm a critical Government program and the recipients of Federal assistance. This class justification is applicable only to individual acquisitions of work space and related supporting services provided to Federal agencies in response to the emergency or major disaster situations specified in the first paragraph of this Justification for Other Than Full and Open Competition.

Description of efforts to obtain as many offers as practicable.

A market survey shall be conducted and competition shall be solicited to the maximum extent possible from as many potential sources as is practicable, consistent with the circumstances of the particular emergency.

Determination that the anticipated cost will be fair and reasonable.

The Government anticipates being able to negotiate a fair and reasonable price, taking into account market conditions existing at the time of acquisition.

Description of the market survey conducted.

It is impossible to identify sources capable of providing space for emergency or disaster relief in advance of the determination of individual need. As the need for space arises, a market survey will be conducted. All potential sources which can be located within the timeframe, and which can provide habitable space suitable for the needs of the responding agency, will be solicited.

Other facts supporting the use of other than full and open competition.

None.

List of sources that expressed an interest in the acquisition.

Not applicable.

Statement of actions to overcome barriers to competition.

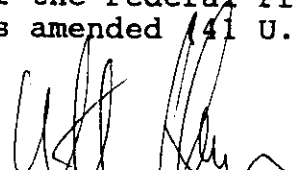
Under the circumstances described herein, there are no actions that the agency can take to overcome the barriers to full and open competition.

Contracting officer certification.

This class justification may be used by GSA contracting activities only when, with respect to each proposed lease contracting action taken pursuant to this class justification, the contracting officer executes and includes in the appropriate lease contract file the following certification:


"I certify that, to the best of my knowledge and belief, the requirement for space falls within the scope and applicability of the class justification for other than full and open competition for the acquisition of work space and related supporting services in response to emergencies or major disaster situations specified in the first paragraph of the class justification for other than full and open competition, entitled Identification and Description of Action Being Approved. The Contracting Officer anticipates being able to negotiate a fair and reasonable price consistent with market conditions and the Government's requirements."

This class justification for other than full and open competition is hereby made and approved in accordance with Section 303(c)(2) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253(c)(2)).


  
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Milton Herson  
Commissioner  
Public Buildings Service

Date: NOV 5 1992


CONCURRENCE:

  
\_\_\_\_\_  
Arthur E. Ronkovich  
Agency Competition Advocate

Reviewed for Legal Sufficiency:

  
\_\_\_\_\_  
Melville H. Valkenburg  
Associate General Counsel  
Real Property Division

Approved:

  
\_\_\_\_\_  
Richard H. Hopf, III  
Associate Administrator  
for Acquisition Policy



General Services Administration  
Public Buildings Service  
Washington, DC 20405

NOV 5 1992

MEMORANDUM FOR RICHARD H. HOPF, III  
ASSOCIATE ADMINISTRATOR  
FOR ACQUISITION POLICY - V

FROM: MILTON HERSON  
COMMISSIONER - P

SUBJECT: Request for Class Deviation From GSAR 570.303,  
Authorizing Use of Expedited Leasing Procedures

In response to the recommendations of the GSA Disaster Task Force Report of June 1990 to establish guidelines for leasing space to meet agency space needs under emergency and disaster conditions, we plan to modify our leasing procedures to allow the expeditious leasing of emergency space.

In accordance with Section 501.404(a) of the General Services Administration Acquisition Regulation (GSAR), your approval is requested to deviate from the GSAR, as outlined herein, when acquiring space to meet agency space needs under the emergency or disaster conditions specified below:

a. National emergencies declared by the President under applicable provisions of law, including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (P. L. 100-707);

b. Emergencies declared by responding Federal agencies pursuant to statutorily authorized emergency plans or other applicable provisions of law;

c. Emergencies of a health, safety or other nature which so adversely impact the mission of an agency in a Government-owned or leased building as to necessitate the agency's expeditious relocation therefrom.

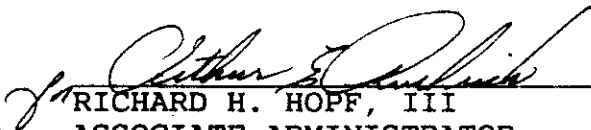
Currently, GSAR 570.303 provides for the use of expedited leasing procedures "when the need for the space is temporary (6 months or less) such as when space is needed by an agency in order to provide support during a domestic or national emergency." We request approval to deviate from GSAR Subpart 570.303, by authorizing the use of expedited leasing procedures in an additional category of cases, namely, when space is needed by an agency during agency emergencies of a health, safety or other nature, regardless of the amount of space or term of the lease.

This deviation, if approved, would only apply to the acquisition of space by leasing during domestic or national emergencies, and agency emergencies of a health, safety or other nature as specified above.

The Office of General Counsel, Real Property Division (LR), has concurred in this request for a deviation.

Expiration of this deviation would occur 1 year from date of approval. However, we request that the GSAR be amended to include the above changes.

APPROVED:



DATE: 11/5/92

RICHARD H. HOPF, III  
ASSOCIATE ADMINISTRATOR  
FOR ACQUISITION POLICY

