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General Services Administration Lease Terminations: Lessors' Rights and Responsibilities

By Gordon Griffin, Robert C. MacKichan Jr. and Jeremy D. Burkhart*

In this article, the authors discuss lessors' rights when faced with a termination notice from the U.S. General Services Administration, and other considerations for lessors.

As part of ongoing efforts to reduce waste, the U.S. Department of Government Efficiency (DOGE), in coordination with the new leadership at the U.S. General Services Administration (GSA), is reaching out to all tenant agencies with non-firm term leases to see if there are opportunities to reduce space usage. Many of these leases are expected to be terminated in the weeks to come.

This article provides a brief description of lessors' rights when faced with a termination notice, as well as some other considerations for lessors. Note that lessors should consider reaching out to their tenants in non-firm lease terms to coordinate efforts in staying off of the termination list. In addition, lessors may have access to things such as utilization metrics that might be useful for tenants that want to keep their spaces.

TERMINATION RIGHTS FOR A NON-FIRM TERM

The government's right to terminate a lease comes from the language in the lease itself. Unlike traditional government contracts, there is no right to terminate for convenience; the government has no right to terminate during the firm term, and its rights to terminate after the firm term come from the lease provisions governing terminations. So, the first step in determining the parties' rights is to examine the language of the lease.

The current standard GSA language from the L100 Lease Form¹ provides as follows:

1.05 TERMINATION RIGHTS (OCT 2016)

The Government may terminate this Lease, in whole or in parts, at any time effective after the Firm Term of this Lease, by providing not less than XX days' prior written notice to the Lessor. The effective date of

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¹ <https://www.gsa.gov/system/files/Global%20Lease%20Template%20L100%20%28Oct.%202023%29%20C.pdf>.

the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

This language is straightforward: Once notice is given, rent is expected to stop after the stated period (typically 90 or 120 days). Older versions of the GSA lease (the Solicitation for Offers paired with an SF-2 form) tended to have slightly more expansive termination rights for the government. Note that leases with agencies other than GSA—such as those with Enhanced Use Lease Authority (i.e., U.S. Department of Defense, NASA and U.S. Department of Veterans Affairs)—often do not provide for a government right to terminate for convenience. Lessors should closely review the terms of any notice of termination or lease amendment for waivers and releases of claims. There is no obligation to accept such a waiver.

HOLDOVER IMPLICATIONS

One of the most important items to consider is whether the government can get its people and its property out of the space in the time allowed by the termination rights provision. As GSA's Leasing Desk Guide notes, “[f]ailure to remove all Government assets and clean the space could put GSA in a holdover position if the lease has already expired, meaning that the lessor could file a claim for additional rent payments.” This may be problematic for a number of tenants in the coming months, as many of them were not planning to have their leases terminated.

Lessors should track the removal of the government's property and put the contracting officer on notice of the government's holdover if property is being left behind. Also, GSA typically closes out its leases with a document called the Condition Survey Report. Lessors should work to memorialize the government's failure to remove its property in this document if possible.

Also, note that a number of older leases do not include the “waiver of restoration” language in the new L100 lease form. Accordingly, the government could be liable for any damage in excess of normal wear and tear from a hastily departing tenant.

THE GOVERNMENT'S OPTIONS FOR TERMINATING DURING THE FIRM TERM

If the government does elect to vacate the premises during the firm term of a lease, its only contractual right to relief is through the Vacant Premises clause of the lease, which allows the government to reduce rent by a certain amount—usually about \$1.50 to \$2 per rentable square foot—which is intended to offset the windfall that a lessor might receive in operating costs associated with the vacated space.

The bad news: The lack of a legal right to terminate the lease does not mean that the government will not attempt to do so anyway. There have been a number of situations recently in which the government seeks to terminate for its convenience, seeking lessor consent to an early termination. GSA's primary leasing policy document, the Leasing Desk Guide, expressly notes that there are a number of options for exiting a lease in the firm term:

When a decision is made to accept the space relinquishment request, the range of choices which may be available to the LCO are: a) to backfill the space with another federal agency, b) sublease the space to the private sector, c) terminate the lease early if it has termination rights, d) terminate the lease via buyout with the lessor if PBS does not have viable lease termination rights, e) to enter into a superseding lease for a reduced amount of space, but with a longer firm term, or f) strategically hold onto to the space to meet a contingent possible need.

Of the options listed above, most are not really viable in the current environment. It is unlikely that the DOGE/GSA team would support "strategically holding" on to leases or backfilling with other agencies, so more offers of buyouts are expected as DOGE and GSA continue to seek out efficiencies.

If the parties cannot agree to a buyout price and the government abandons a leased property and ceases paying rent, the government effectively forces the lessor to file a claim under the Contract Disputes Act in order to protect its rights.

OTHER CONSIDERATIONS

Lessors should keep in mind that while DOGE does appear focused on cutting costs and suspending and/or terminating certain leases and contracts, exceptions can always be granted.

For instance, in the recent GSA-wide directive² issued on January 24, 2025, to put all contracts on hold, the acting GSA administrator specifically excepted certain categories of work, including:

- Actions to support the president, vice president and the Secret Service in ensuring security at any dollar level; and
- Actions in support of the Federal Emergency Management Agency (FEMA) at any dollar level.

² <https://www.gsa.gov/system/files/GSA%20Directive%20to%20Pause%20Acquisition%20and%20Lease%20Actions.pdf>.

If a lease has any tangible connection to these or other apparent priorities of the Trump Administration, it may be possible to persuade the contracting officer not to terminate the lease.

CONCLUSION

Lessors should keep in mind that leases, unlike government contracts, do not automatically provide the government with a right to terminate for convenience. Accordingly, lessors should closely review the terms of their leases and consult with counsel to understand their rights regarding termination, waivers and potential claims. If a lease is terminated, carefully monitor whether the government has its people and property out of the space in the time allotted in order to assess whether there is a right to holdover rent.

Lessors should contact counsel for advice on how to respond to a termination notice or for questions related to contracting or leasing with the federal government.