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Federal government becomes preferred office tenant

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As private-sector office leasing dwindles during a recession, private property and office building owners depend instead on government tenants, said real estate attorney Peter M. Friedman.

"The government, in a bad economy, is the only one with money," said Friedman, a partner at Holland & Knight LLP and head of the firm's Chicago real estate group. "They regularly pay and they keep paying, which is the lifeblood of the building owner in a bad economy."

Even though Chicago office vacancies continue to rise, nearly 50 city offices are in a lease with the U.S. Government Services Administration (GSA), according to statistics provided by Holland & Knight, which recently hosted a seminar on negotiating and managing GSA leases.

Friedman said in the current economy, GSA and other government leases comprise more than half of all leases in the country. He explained that they're counter-cyclical, since in a downturn, the federal government pumps billions of dollars into new departments and programs that need office space for their personnel.

Friedman pointed to the U.S. Department of Justice, Social Security Administration and Environmental Protection Agency as just three federal agencies that occupy a significant amount of space in Chicago.

Robert C. "Bob" MacKichan Jr., a partner in Holland & Knight's Washington, D.C., office and chair of the firm's GSA Leasing and Federal Real Estate Services Team, who formerly served as general counsel of the GSA, said there is not only a greater demand for space, but also a greater interest in com-

peting for federal leases.

"What might have been in the last couple of years competition with four competitors now has a dozen or more," MacKichan said. "This has to be the busiest year that I've had in my practice."

MacKichan said the firm's federal real estate team works with owners of buildings or developers of new projects that want to lease their space to the government. Attorneys assist their clients through the entire process, he said, from competing for a contract, to finalizing a lease, to managing any issues that surface during the lease.

He said the federal real estate team helps clients with common issues in GSA leases, such as complying with the government's security needs and, more recently, its environmental standards. In many cases, he said, federal agencies won't occupy a building that doesn't provide Leadership in Energy and Environmental Design certification or another energy rating.

In addition to meeting the government's technology and sustainability needs, he said, clients must lease their properties at reduced rates to beat the competition for GSA leases.

"In today's marketplace in particular, competitors have been sitting on vacant space for some time," he said. "They can be aggressive when it comes to prices."

Adam Keyser, senior project manager for Preferred Development Inc., a Chicago-based commercial real estate development and management company, said his company was "aggressively pursuing" GSA leases in 2009.

Keyser said Preferred Development submitted undeveloped land and existing structures for nearly 20 contracts advertised by

the federal government. He said the company contacted Holland & Knight for help in submitting its "solicitation for offer," the initial paperwork that confirms a company's interest in these deals.

"We did not always agree with the language or the structure as provided in the SFO," he said. "Bob, because of his experience at GSA, was very helpful to us in navigating through which provisions we needed to revise."

"In something we didn't have a lot of experience in, he gave us insight and was able to make our package that much more professional."

Keyser said Preferred Development negotiated on a few properties, but never completed a deal. He said the company decided to stop pursuing GSA leases.

"There are plenty of developers out there who do it and do it well, and we threw our hat in the ring to give it a shot," he said. "We determined it wasn't for us."

MacKichan said clients continue to compete for federal leases, because they're usually set for five to 15 years and can't be terminated.

"They don't have to worry about the tenant going broke, and it's nice to know that they're going to pay for a defined term," he said.

MacKichan said he expects his practice to continue growing over the next year, but he has heard about an increased interest in telecommuting from his colleagues in the federal government. In particular, GSA employees have been told to work from home one day each week, he said.

"I'm wondering whether that will have an impact on the government needs for leased space," he said.