



U.S. General Services Administration

# Federal Accounting Standards Advisory Board

## General Services Administration Leasing Presentation

April 23, 2014

# FAS Fleet Vehicles and Total Workplace

- **Fleet Vehicles**
  - GSA operates a full service leasing program comprised of 200,000 vehicles.
  - All vehicles are treated as operating leases for budget scoring, and there are not specific MOU's or termination clauses for the majority of the services.
  - Termination clauses are drafted for most large vehicle consolidations and special circumstances.
  - All services provided to customer agencies are fully reimbursable and a Replacement Cost Pricing component is factored into leasing rates.
- **Total Workplace**
  - Total Workplace offers operating or capital leases to customer agencies for IT equipment and furniture.
  - There are supplemental agreements to an Occupancy Agreement

# Total Workplace Operating Lease

- Customer cancellation liability: 4 months notification and all removal costs (A.10.a)
- Transfer: GSA may transfer, in accordance w/ applicable statutes/regulations (A.8)
- Duration: 30mo/18mo (A.8)
- Renewal Option: Customer exercised, 30mo/18mo renewal (C)
- Termination: Supplemental OA will not be extended beyond 5 years
- Budgetary Treatment: **Operating Lease**. Paragraph 2 of Appendix B exempts fed-to-fed transactions from the scoring and obligation requirements discussed in Appendix B.
- Financial Accounting: **Operating Lease**. Option periods need not be considered as part of the capital lease criteria for financial accounting, only the base period.

# Total Workplace Capital Lease

- Customer cancellation liability: 4 months notification and all removal
- Transfer: GSA may transfer, in accordance with applicable statutes/regulations
- Duration: 60mo/36mo
- Renewal Option: None
- Termination: N/A
- Budgetary Treatment: **Operating Lease**. While the agreement meets the criteria for Capital Lease for one test ( $PV > 90\% \text{ FMV}$ ), paragraph 2 of Appendix B exempts fed-to-fed transactions from the scoring and obligation requirements discussed in Appendix B.
- Financial Accounting: **Capital Lease**. Agreement meets criteria of the present value of the lease payments exceeding 90% of the asset's FMV. Budgetary and financial accounting standards/guidelines may and do diverge.

# GSA Portfolio

- 8,638 Active Leases
  - 8,632 Operating Leases
    - \$5.61B Annual Rent
    - 194.8M Rentable Square Feet (RSF)
  - 6 Capital Leases
    - \$0.04B Annual Rent
    - 2.7M RSF

# GSA Leasing Obligations

- GSA has authority to enter into long term Operating Leases without obligating for the full term upfront
  - 40 USC § 585 ...*the lease agreement may not bind the Government for more than 20 years and the obligation of amounts for a lease under this subsection is limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31*

# GSA Portfolio

- 21,107 Active Occupancy Agreements (OAs)
  - 10,141 Federally Owned
    - \$3.90B Annual Revenue
    - 183.0M RSF
  - 10,966 Leased
    - \$5.87B Annual Revenue
    - 194.9M RSF

Data from PBS State of  
the Portfolio for FY13

# GSA Portfolio

- The majority of GSA's Occupancy Agreements (OAs) are Cancelable by the tenant agency at any time after the first year with 120 days notice.
  - 89% of all OAs are Cancelable
  
- A small number of GSA's OAs are Non-Cancelable by the tenant agency, meaning the agency has committed to paying for the space throughout the OA term.
  - 11% of all OAs are Non-Cancelable

# GSA Terminology

- GSA's Occupancy Agreements (OAs) are technically referred to as Assignments of Space, not Leases.
- However, we recognize that from an accounting perspective these OAs can be viewed as Leases based on the FASAB definition of the term " Operating Lease"
  - *An agreement conveying the right to use property for a limited time in exchange for periodic rental payments.*

# FASAB Questions

- *GSA's Financing*

- *Please explain how GSA finances its operations (that is, appropriations, borrowing, third-party financing, agency reimbursements).*
  - The Federal Buildings Fund (FBF) is a quasi revolving fund that uses income derived from rent to finance activities.
  - Funds are appropriated annually and allocations place limit on FBF activities, including Rental of Space, which is used to acquire and administer leasehold interests in privately owned buildings.
  - In the past, GSA has had borrowing authority and has utilized the Federal Financing Bank (FFB) to refinance agency indebtedness; however, under the current scoring requirements borrowing would require upfront budget authority comparable to that required for using appropriated funds.

# FASAB Questions

- *GSA's Role*

- *What is GSA's role as landlord for Federal civilian agencies?*
  - GSA has jurisdiction, custody, and control of public buildings and the authority to acquire leasehold interests.
  - Our portfolio is mostly composed of office buildings, courthouses, land ports of entry, and warehouses.
  - GSA has authority to construct, renovate, operate and maintain public buildings as well as assign space to executive agencies.

# FASAB Questions

- *GSA's Role*

- *What types of real property needs at civilian agencies do not fall to GSA?*
  - Most post-office buildings, department of defense buildings (e.g., military installations), buildings located in a foreign country, and buildings constructed for a special purpose that are not generally suitable for use by another agency such as hospitals, prisons, schools and family housing
- *Does GSA provide a full suite of landlord services such as maintenance and improvements?*
  - Yes, GSA provides a level of service comparable to that of a “gross lease” in the private sector.

# FASAB Questions

## ■ *GSA as a Lessee*

- *What is the mix of Government-Owned versus Leased properties in your portfolio?*
  - GSA has a portfolio of approximately 378 million rentable square feet of which 48% is Federally Owned and 52% is Leased.
- *When you lease facilities, is the lease classification for budget scoring generally capital or operating?*
  - The vast majority of GSA lease agreements are classified as Operating Leases for purposes of budget scoring. Capital Leases require congressional approval and upfront budget authority.
- *Does the financial accounting classification usually match the budget scoring now?*
  - Yes

# FASAB Questions

- *GSA as a Lessee*
  - *How do termination clauses (e.g., termination for cause clause, fiscal funding clause, etc.) affect the classification of a lease?*
    - OMB Circular A-11, Appendix B, recognizes GSA's unique budgetary circumstance. "For Operating Leases funded by the General Services Administration's Federal Buildings Fund (which is self-insuring under existing authority), only the amount of budget authority needed to cover the annual lease payment is required to be obligated."
    - Consequently, GSA does not include termination clauses or availability of funds restrictions in longer term lease agreements due to GSA's legal authority in 40 USC § 585(a)(2). Termination clauses are still used to minimize vacancy risk for planned relocations to alternative space.
    - Note: For agencies other than GSA, lease agreements must contain termination clauses for Operating Lease treatment. In addition such agencies must budget up front for the costs of termination in addition to the annual rent.

# FASAB Questions

- *GSA as a Lessee*
  - *What factors influence your decision to lease versus buy to meet a particular need?*
    - The lease versus buy decision in most circumstances is based on the following:
      - Agency needs
      - The availability of funds in the context of competing budgetary priorities
      - What the market offers in purchase opportunities.

# FASAB Questions

## ▪ *GSA as a Lessee*

- *What factors influence your decision to lease versus buy to meet a particular need? (Cont.)*
  - Purchase options - Can be included in the leasehold interest. This is primarily used for office space.
  - Federal construction - Better suited to more specialized Federal requirements, such as land ports of entry, courthouses, and installations for high security agencies.
  - Economic analysis typically shows ownership to be more cost effective than leasing, but GSA recognizes that leasing enables us to more quickly respond to changing market conditions and tenant requirements.
  - GSA considers not only our rate of return, but also our portfolio mix and tenant mission when making lease versus buy decisions.

# FASAB Questions

- *GSA as a Lessee*

- *Do you enter into lease agreements that bundle other services such as maintenance or parking? Does this pose any special accounting challenges now? Are you able to obtain a breakdown of the various costs inherent in the lease payment?*
  - GSA typically enters into fully serviced leases that include maintenance and may include parking based upon client agency requirements.
  - Due to the fact that 73% of GSA's leases are for fractional space in a building, the majority of GSA's leases (94%) are fully serviced.
  - GSA does not consider maintenance and parking as separate, additional services, rather they are part of the leasehold interest. GSA does receive a cost breakdown comprising utilities, janitorial, and maintenance as part of the lease and this is considered as part of the cost and price negotiations during lease procurement.

# FASAB Questions

- *GSA as a Lessor*
  - GSA is an Assignor, not Lessor when dealing with other Federal agencies. This authority is found in 40 USC § 584 “the Administrator of General Services may assign or reassign space for an executive agency in any Federal Government-Owned or Leased building.”

# FASAB Questions

- *GSA as an Assignor*
  - *Are occupancy agreements with other Federal entities considered legally binding documents?*
    - OAs are interagency agreements that are administratively binding; however, they do not rise to the level of being legally binding.
  - *What terms are usual in intra-governmental leases?*
    - There are no intra-governmental leases. GSA is the lessee and assignor; the tenant agency is the assignee.

# FASAB Questions

- *GSA as an Assignor*
  - *Pricing (how are prices established)*
    - Leases are generally awarded after conducting a competitive lease procurement for leased space based upon the lowest priced technically acceptable offer. GSA seeks to award leases at or below prevailing market rates.
    - In rare cases, due to client agency requirements or scarcity of offerings in the market, GSA may conduct a sole source procurement - although price reasonableness must be established in those cases.
    - In either case, the negotiated lease rent plus a GSA fee are charged to the tenant agency. Occupancy Agreements between GSA and tenant agencies memorialize the rent rates and monthly rent bill for tenant agencies.

# FASAB Questions

- *GSA as an Assignor*
  - *Leasehold improvements (advance funded or spread over the lease term)*
    - Tenant improvement allowances are negotiated in the lease contract to make the space ready for occupancy based upon client agency requirements.
    - Tenant improvements above the allowance are reimbursed to GSA through a Reimbursable Work Authorization.

# FASAB Questions

- *GSA as an Assignor*
  - *Cancellation or termination clauses (with or without penalty)*
    - In the vast majority of leases, GSA awards a lease that contains a firm term with no termination rights.
    - The base firm term of the lease (typically 5 to 10 years) may be supplemented by an option period that GSA - based upon tenant agency requirements - may choose to exercise. Often termination rights, with a period of notice to the lessor, may be exercised during the option period.

# FASAB Questions

- *GSA as an Assignor*
  - *The option to avoid termination penalties if another Federal agency assumes the lease*
    - GSA, as the lessee, maintains assignment rights in the leases it acquires. If a tenant agency (assignee) vacates a lease, GSA may backfill that space with another Federal tenant.
    - Termination penalties would only apply if the lease was terminated, requiring a buy-out of the lease.
  - *Other services included with the lease (maintenance, annual improvement allowances)*
    - Most of GSA's leases are fully-serviced.

# FASAB Questions

- *GSA as an Assignor*

- *How do these terms affect classification by the lessee agency?*
  - GSA interprets the lessee agency as itself and a tenant agency who pays GSA to occupy space leased from a private sector lessor as the assignee.
  - The charge is a pass through to enable GSA, as lessee, to pay for the space provided by the private lessor.
  - Occupancy Agreements define the terms of this relationship between GSA and the tenant agency. However, in the event of a dispute, there is no standing to sue, since both GSA and its tenant agencies are United States Government entities.

# FASAB Questions

## ■ *GSA as an Assignor*

- *Are intra-governmental agreements usually classified as Operating Leases?*
  - All GSA leases are entered into with non-federal entities. Agreements between GSA and tenant agencies are not leases, and therefore are not subject to classification for budgetary purposes.
  - OMB scoring criteria, as defined in Circular A-11, Appendix B, are predicated on the allocation of risk between the Government and the private sector.
  - Operating Leases maintain the appropriate level of private risk consistent with the private owner's continuing performance of the ownership responsibilities of the asset leased to the government.
  - Therefore, intra-governmental transactions, such as GSA's Occupancy Agreements with customer agencies, are structurally incompatible with the concept of an operating lease classification.

# FASAB Questions

- *GSA as an Assignor*
  - *Are lessees able to obtain a breakdown of the various charges (bundled services, improvements, profit) in their lease payments?*
    - GSA is the lessee in all its leases. Cost breakdowns are part of the Request for Lease Proposals (and subsequent offers) and the awarded lease contract.
    - The Occupancy Agreement between GSA (the lessee) and the tenant agency (the assignee) breaks out the charges that comprise the rent payments made by the tenant agencies.

# FASAB Questions

- *Intra-governmental*
  - *What is the approximate value of real property lease commitments as opposed to the value of personal property lease commitments?*
    - GSA has real property Operating Lease commitments of \$23.626B for 10/1/2013 and beyond
      - *Data from FY13 Agency Financial Report (AFR), Footnote 9*
    - GSA has real property Capital Lease commitments of \$208M for 10/1/2013 and beyond
      - *Data from FY13 AFR, Footnote 9*
    - GSA has no personal property lease commitments for 10/1/2013 and beyond
      - *Data from FY13 AFR, Footnote 9*

# FASAB Questions

- *Intra-governmental*
  - *What are your thoughts on lessee/lessor symmetry if a single model approach is implemented?*
    - *Some have noted that maintaining symmetry if right-of-use assets are recognized would require more communication between GSA and agencies.*
    - *Others have noted the need to coordinate intra-governmental balances now (that is, payables and receivables and treatment of improvements) means a process should already be in place*

# FASAB Questions

- *Intra-governmental*
  - GSA defines the single model approach for the purpose of responding to this question as the following:
    - Accounting treatment for all leases includes right of use asset and liability on the Balance Sheet.
  - If the single model approach is incorporated into FASAB guidance, then GSA as the lessee will be required to establish a right of use asset for both funded and unfunded leases and report these assets on the Balance Sheet along with a right of use liability.
  - Both the asset and liability will be amortized/drawn down over the lease term.

# FASAB Questions

- *Intra-governmental*

- GSA is the Assignor of space when dealing with other Federal agencies.
- If the tenant agencies were to be required to establish a right of use asset and liability based on their Occupancy Agreement, the tenant agency right of use liability would need to “match” a GSA right of use receivable for this assigned space.
- This would require regular communication between GSA and the tenant agency to ensure no intra-governmental variances are created.

# FASAB Questions

- *Current Accounting*

- *What matters require attention under the current accounting standards for leases?*
  - SFFAS 5 and 6 do not provide sufficient guidance for all leasing activities.
  - If FASB moves forward with proposed Leasing Topic 842, this will be a significant divergence from the current leasing accounting guidance GSA has relied upon.
  - Once Leasing Topic 842 becomes effective, will the SFFAS 34 Hierarchy of Generally Accepted Accounting Principles be amended?

# FASAB Questions

## ▪ *Current Accounting*

- *What matters require attention under the current accounting standards for leases?*
  - These topics require attention under the current accounting standards for applying accounting treatment, presentation and disclosures:
    - Rent abatements
    - Free rent periods and credits toward space alterations
    - Broker commission credits
    - Straight-lining of expenses and revenues
    - Leasehold improvements
    - Sales-type leases
    - Leveraged leases
    - Direct financing leases
    - Sale-leasebacks
    - Public, Private Partnerships
    - Build to suit leases
    - Leases related to portions of assets
    - Sub-leasing arrangements when GSA is the lessee and assignor of space.

# Questions/Issues for FASAB to address

- If right of use assets and liabilities will be unfunded, will the current year amounts for both GSA and tenant agencies be moved from unfunded to funded at the beginning of the year or on a monthly basis?
- What should be included in the calculation of right of use asset and liability amounts?
  - All options?
  - Tenant improvements?
  - Rent abatements?
- Note: Today, the Intra-Governmental Transactions (IGT) Team does not include Other Assets (SGL 1990) in the intra-gov matching of Other Liabilities w/o Related Budgetary Obligations (2990) and Capital Lease Liabilities (2940). GSA has an on-going quarterly intra-gov variance with a tenant agency because of this.

# Questions/Issues for FASAB to address

- Is FASAB considering only a single model approach and not the dual model approach?
- Will Federal agencies and their stakeholders receive value added from the proposed single model approach?
- GSA's mission is to promote economy and efficiency by leveraging our economies of scale. Will this new accounting treatment create efficiencies?

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