

I: Introduction

The General Services Administration (GSA) is the procurement arm of the federal government. GSA is responsible for over 8,000 owned and leased buildings as well as a motor pool of over 130,000 vehicles. It was established in 1949 following the passage of the Federal Property and Administrative Act on July 1st of that year. GSA's purpose is to help manage and support the functioning of federal agencies (www.wikipedia.com). GSA accomplishes this mission through its Federal Acquisition Service and Public Building Service Branches. This paper will focus on the Public Building Service and its role and the manner in which it procures non-federally owned space for federal agencies.

According to the Federal Acquisition Regulations (FAR), leased space should be procured using full and open competition. However, there is a caveat that in certain situations the space requirement of the requesting agency can be fulfilled by awarding a lease using other than full and open competition. One example of this is the succeeding lease, although it is important to note that succeeding leases can be procured using both competition and sole source processes. In order to pursue a succeeding lease, certain criteria must be met. First, if the lease is under the Simplified Lease Acquisition Threshold (SLAT- less than \$100,000 net annual rent), then the simplified lease process can be followed. In that case, you just have to supplement the file with three comparable buildings in the market. If the lease will be over SLAT a different process should be followed. According to FAR section 570.402 there are two conditions under which a succeeding lease may be awarded when it will be over SLAT: (1) You do not identify any potential acceptable locations and (2) You identify potential acceptable locations, but a cost-benefit analysis indicates that award to an offeror other than the incumbent Lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government

cannot expect to recover such costs through competition. (Federal Acquisition Regulation, Section 570). In this case, if a succeeding lease is to be awarded, the process is stricter. The Contracting Officer must advertise the lease to let any potential offerors know that the Government would be interested in alternative space if it is economically advantageous and do a survey of the market. If the space is advertised and no offers are received or nothing is found on the market survey, then the Contracting Officer can justify an award provided it meets safety and environmental requirements, security criteria and is within fair market range. (FAR, Section 570.402-4).

If there are other potential options, the Contracting Officer must perform a cost benefit analysis. If the cost benefit analysis shows that the Government can recover relocation costs and duplication of costs through competition, then all interested parties must be solicited using full and open competition. If the cost benefit analysis shows that the costs cannot be recovered, then the Contracting Officer must develop a justification to award explaining how the cost benefit analysis was performed and that award to another offeror will likely result in substantial cost to the Government. (FAR, Sections 570.402-4,5)

Realty Contracting Officers have always had the ability to award succeeding leases as part of their Warrants. However, after the passage of the Competition in Contracting Act (CICA) of 1984, the justification for using a succeeding lease procurement become more stringent and as a result, it was used less. In fact, some of the 11 regions of GSA discourage its use altogether, although it can still be a valuable tool. The number of Realty Specialists and Contracting Officers has dwindled in the last few years while the amount of work has increased. This has led the administration to rethink the use of succeeding leases because there are not enough realty specialists and contracting officers to procure space for all of our clients.

The purpose of this paper is to give an overview of the GSA's authority to procure space and the methods that are used to fulfill its mission. Specifically this paper will focus on the policy of using a succeeding lease action to complete our client agencies' requirements for space. I will be looking at the policy cycle of the succeeding lease from its history all the way through to its current stage. It has always been a tool available to federal realty specialists with the most noticeable cycle occurring between its inception in 1949 and how its use changed after the Competition in Contracting Act (CICA) was implemented in 1984.

In addition, I will identify all of the stakeholders involved in the implementation of this type of policy versus using full and open competition. There are a number of stakeholders ranging from our client agencies, to the Lessors, the public, management and the realty specialist. All have different opinions on the use of succeeding leases (also know as other than full and open competition) as opposed to full and open competition. Even between regions in GSA the use of succeeding leases varies widely.

Finally I will look at the process models that best describe this type of procurement action and give prognosis of what I think will happen with this policy issue. The models that best fit are:

- ❖ Punctuated Equilibrium Theory
- ❖ Systems Model
- ❖ Rational Model

One model that does not particularly fit is:

- ❖ Sub governments Model

II: Policy Cycle

On July 1, 1949 the Federal Property and Administrative Services Act was signed into law. As a result, the General Services Administration was established in section 101 of the act. Section 303 of the Act laid out the competition requirements of this new agency: “Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services—(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this title and the Federal Acquisition Regulation.” In the same section, the agency was given the authority to determine when full and open competition can be waived: “(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.” (SEC. 303.[41 U.S.C. 253] Competition Requirements). This was the first cycle of the policy. It was formulated and adopted by the Truman Administration to help the federal government manage and support the missions of its agencies. The General Services Administration was formed to implement the regulations set forth in the act. The official mission of the GSA is to “help federal agencies better serve the public by offering, at best value, superior workplaces, expert solutions, acquisition services, and management policies.” (www.gsa.gov)

Although the policies of federal procurement have not changed drastically since 1949, another phase of this policy cycle started in 1984. It was at this time that the Competition in Contracting Act was implemented. Although this act did not change the ability of a Contracting Officer to award a lease to an incumbent Lessor, it did make the process a lot stricter. Because of this some regions formed a culture of avoiding succeeding leases (as well as other forms of other than full and open competition). According to my region’s Realty Service’s Officer (RSO)

the main reason behind this is because Contracting Officers did not fully understand the new regulations. Some regions continued to use succeeding leases, however, and this caused some of the GSA's clients to question the consistency of GSA's procurement practices.

As a result of this, as well as the decline in the population of Realty Contracting Officers, there has been another shift in the use of succeeding leases, specifically in my region. There has also been a big push to make procurement practices consistent across all the regions. Because of this, in August of 2005 the Director of Region 9's Real Property Programs Division released a policy memo on Succeeding Lease Guidelines. In this memo, succeeding leases are described as "a valuable tool in situations of rising market rental rates or when demand results in limited vacancy rates." (Tate. GSA Guidance #9PMP-G-05-007).

In addition, guidelines were set forth for Contracting Officers to "consider a succeeding lease if it meets the tenant agency's long term space needs, fits the agency's budget parameters, and the agency agrees that it is an option that is in the best interest of the Government." It also describes the benefits of succeeding leases as "procurement lead time and acquisition costs may be reduced and flexibility for the Government." (Tate. GSA Guidance #9PMP-G-05-007). This is an important change because it is probably the most drastic shift in the policy cycle for federal lease procurement. When done properly, the succeeding lease procurement process now being viewed as an important tool in the federal procurement of leased space.

Timeline

1949	1984	2005
GSA is implemented after Truman passes act in 1949. Policy formulated and adopted by President, implemented by GSA.	Competition in Contracting Act passes. Makes sole source succeeding leases harder to justify.	Succeeding leases become more widely accepted.

III: Stakeholder Analysis

There are many people and entities that become involved in the federal procurement of space. When the General Services Administration receives a space request from one of its client agencies to procure new space, the whole process begins. If no space is available in one of the owned buildings in GSA's inventory, space in the private sector is sought. This is where the realty specialist comes in. Ever since GSA was formulated in 1949 to manage the property of most federal agencies

The first stakeholder is the individual client agencies. More often than not, the agencies have been requesting to stay in their current location in order to save money on relocation costs. All federal agencies have been subject to increasing budget cuts in the last few years and the agencies feel that using a succeeding lease will help to reduce costs. Also important to note is that within recent years there has been a push from within GSA to become more "customer service oriented." This new process is called the Transaction Management Playbook (TMP) and it dictates a new manner of dealing with our client agencies. These two factors work together to provide a justification for attempting to incorporate more succeeding leases. In about 80% of the space requests I have seen, the agency has requested to stay put. Even though the agencies are important stakeholders, GSA still has a fiduciary duty to the tax payers to at least seek competition through advertisement and a market survey even when we are pursuing a succeeding lease. That being said, the agencies have the ability to exert a lot of power over the process. If they are not happy, they can and do play games to delay the process.

Another important stakeholder is the public, specifically those members of the public who will be using the services of the agencies that GSA procures space for. It is required that the current space meets all safety and environmental requirements in order to be considered for a

succeeding lease, unless it has been determined that no practicable alternative exists. The federal government is usually the first to institute more stringent health and safety requirements before they are generally accepted and used by the private sector. This is why the public is an important stakeholder in this process. Besides the local offices who are housed in the space, the public is the official end user of any space that is procured by GSA. It is for this reason that GSA seeks to place all agencies in high quality class “A” office space.

The owners of the buildings that we currently lease space from as well as those who are interested in leasing space to the Government are also stakeholders. The owner(s) of the buildings that GSA currently leases space from are generally proponents of a succeeding lease. However, any other owners who want to lease to the government would obviously be opposed to a succeeding lease. This is the reason for advertising the Government’s intention to lease space using other than full and open competition with the stipulation that it will consider alternate space if relocation, duplication and tenant improvement (T.I.) costs can be recovered. The Lessors have the power to make claims or protests against the government. They can protest the award if they feel it was unfair and can make claims if they feel they suffered financial damage.

GSA management, including the directors, Realty Service Officers, and the Assistant Regional Administrator, etc, is another stakeholder in this process because they are the ones that it will reflect upon if any procurement comes under scrutiny. They are the ones who may get caught in the political fray if a lease procurement goes bad. GSA, like all agencies in the public sector, has a hierarchy and can be very political. Each person has to report to someone above them which means that the procurement of leased space sometimes takes on a “top down” implementation approach. This simply means that upper management’s role as a stakeholder in

the process gives them the power to dictate whether or not using the succeeding lease tool is politically acceptable.

Finally, the Real Estate Contracting Officers are stakeholders as well. They are the ones on the front lines who are ultimately responsible for the lease. It is their signature on the lease and they have a lot of power and leeway. As long as the federal acquisition regulations (FAR) are followed, the Contracting Officer has the most power in the procurement process. That being said, they also are shouldered with the most responsibility. If there are any claims or if the integrity of the procurement process is questioned, the Contracting Officer's Warrant is on the line. Besides, or perhaps even more than the agency, the GSA Contracting Officer exercises an immense amount of power.

IV: Process Models

There are a few process models that I feel describe this policy well. In addition, there is one that I feel does not apply. We learned a lot of different policy models in class and many of them had aspects that I felt could be applied to this case, there were three that fit particularly well. They are the punctuated equilibrium, systems and rationalism models. The one I do not feel fits is the sub-governments or "iron triangle" model.

The "Rationalism" model describes policies in which the benefits outweigh the costs and promote social gain. (T&K, 323). In addition, although it is disregarded as an approach by some theorists Theodoulou and Kolfinis describes the rational models as having "theoretical value...because the approach allows analysts to understand how rational actions often dictate decision making in the policy process" (T&K, 83). There are a number of subsections to the rational choice model, and some of these apply to this policy more than others. The two I feel

apply most to this policy are Institutional Rational Choice and Expected Utility. I feel that these two apply because it the GSA itself, as the implementer of the policy, applies the rational choice model when pursuing a succeeding lease.

In Graham Allison's article, "Conceptual Models and the Cuban Missile Crisis", Allison explains the rational model in terms of the Cuban Missile Crisis, but I feel that his explanation transfers to this example as well because he describes the organizing concepts in general terms. He states that the dominant inference pattern of the rational model is that "if a nation performed a particular action, that nation must have had ends towards which the action constituted an optimal means" (Allison, 694). I felt this model was very straightforward and that it helped to explain my policy issue because the general purpose of using a succeeding lease is to procure space that is the best value to the government.

I also felt that the systems model applied to this policy because it describes the policy making process as being influenced by its environment. According to Theodoulou and Kolinis, "the systems model views public policy as a political systems response to demands arising from the environment" (T&K, 325). I felt that this model could be applicable in a lot of cases because would be hard to argue that the environment surrounding a particular issue did not have an effect on that issue. I also liked that the "model stresses the interrelationship between the various actors and institutions in the policy process" (T&K, 325). In the policy cycles section of this paper, I describe what I see as an example of the systems model in practice. When the political environment dictates that succeeding leases should not be used, there are less done. However, the recent shift in the environment has been to do more succeeding leases as long as they meet the criteria set forth in the Code of Federal Regulations (CFR).

Of all of the models, I think that the Punctuated Equilibrium Model best fits this policy. I think this model is generally applicable to most types of policies, but it is very fitting in this case. In their article “Punctuated-Equilibrium Theory: Explaining Stability and Change in American Policymaking,” True, Jones and Baumgartner analyzed a number of policy cases and discovered three interesting facts: “(1) that policymaking both makes leaps and undergoes periods of near stasis as issues emerge on and recede from the public agenda; (2) that this tendency toward punctuated equilibria is exacerbated by American policy institutions; and (3) that policy images play a critical role in expanding issues beyond the control of specialists and special interest.” (TJ&B, 98). The purpose of this model is to describe why policies stay the same for so long then may change suddenly. In the case of succeeding leases, nothing much really changed until something dramatic (Competition in Contracting Act) occurred to cause a shift in its use. In addition T&K theorize that the “policy process can be characterized as incremental and relatively stable in nature. This seemingly contradictory nature...between dynamic and stable policy change, coexists depending on the greater...political conditions that emerge” (T&K, 92). This situation occurred during this policy’s cycle when the political conditions changed within GSA recently and it became more encouraged to use succeeding leases.

I thought that the sub-government of “iron triangle” model was the worst at explaining this policy. The “iron triangle” refers to the collaboration between the legislature, bureaus, and interest groups in relation to policies. I do not feel that the model applies in this case because it is not an issue that involves any interest groups. I think this model applies to more highly visible and political polices such as “No Child Left Behind” or the “USA PATRIOT ACT.” In this case, even though there are still political elements, there are no specific interests groups who are acting to influence the policies of GSA.

V: Prognosis

Considering that this policy has not changed drastically since the GSA was implemented in 1949, I foresee it continuing on much of the same path. The major change through out the years has been the acceptability of the use of succeeding leases. The most recent shift has been toward using more succeeding leases in cases where it makes sense. Some may argue that pursuing a succeeding lease gives the impression of ignoring the competition requirements. This is not the case, however, because when done properly, a succeeding lease may actually increase competition. The advertisement and market survey requirements that must be met before a succeeding lease can be awarded extend the opportunity to any interested building owners to make an offer with the stipulation that it the government must be able to recover any costs associated with relocation, tenant improvement, etc.

Another important aspect of using succeeding leases is that a lot of GSA's tenant agencies are requesting to remain in the same space. In addition, GSA has made a push to become more customer service oriented. The purpose of this is to be more in tune with the requests of our clients then we have been in the past. In fact, the national headquarters of one agencies that I work with has issued a memorandum stating that their long range plans for leasing is to remain in existing locations in order to save move costs. Their reason for this that the agency's rent bills are upwards of \$600 million annually and are expected to rise about 40%. This increase is due to higher market rates across the nation. Unfortunately these increases are cutting into the budgets the agency has associated with payroll. (Hixson Interview, 7/5/07). Thomas Hixson, Realty Services Officer for Region 9, explained this situation to me, as well as the solution. It is obvious that a "blanket" justification would not be acceptable, however "we do have a good took in the form of a sole source justification for a succeeding lease, provided

staying in the incumbent location makes good economic sense (i.e. we've already built out the space in the past and would not have to re-do improvements)" (Hixson Interview, 7/5/07).

Finally, I feel that succeeding leases will become a more widely used tool due to the fact that it cuts down on the extremely long procurement period before a lease is awarded. This is frustration to the Lessors that we work with and can be costly for the Government when the process results in a short term extension. These short-term extensions are difficult to negotiate and tend to be higher than a long term negotiated lease. Having the ability to properly use a succeeding lease when it makes sense for the project would have a number of benefits. The first would be the tenant agency's satisfaction and a possible reduction in their overall budget. Another important benefit would be an improved relationship with the private sector real estate market. Lately we have getting fewer offers because building owners are not willing to deal with the long lag period between when they start the process and when they finally start receiving rent. If we could cut down the time it took to award a lease and get the agency moved it, I think it would go great lengths to eventually get more competition as more owners would want to work with the government.

Finally, and closest to my heart, are the realty specialists/contracting officers. There has been a decline in the amount of people in GSA to actually do the work. The result is fewer people with more work. It is practically impossible to carry on more than 2 or 3 full procurements and most realty specialists are carrying 6 or more. This means that the realty specialists are under an immense amount of pressure to complete all of the projects and keep everyone happy. Cutting down time on some projects where a succeeding lease would be an appropriate solution may help the situation.

