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December 2019

GSA LEASING

Improving Stakeholder Outreach and Lease Model Evaluation Could Enhance Competition

Accessible Version

GAO-20-181

GAO Highlights

Highlights of GAO-20-181, a report to the Committee on Transportation and Infrastructure, House of Representatives

View GAO-20-181. For more information, contact Lori Rectanus at (202) 512-2834 or rectanusl@gao.gov.

Why GAO Did This Study

As the federal government's landlord, GSA works with lessors and real estate brokers to identify space for other federal agencies to use. As part of this process, GSA uses leases that include requirements not commonly used in the private sector. These requirements and GSA's lengthy and complex leasing process can affect federal leasing costs and competition for leases.

GAO was asked to review issues related to cost and competition for GSA leases with private sector lessors. This report examines: (1) lease requirements selected stakeholders identified as affecting cost and competition and steps GSA has taken to address stakeholders' concerns, and (2) how GSA has identified stakeholders' concerns and evaluated its simplified lease model. GAO reviewed pertinent federal statutes and regulations and GSA's contracting policy and leasing data from fiscal years 2016–2018. GAO conducted interviews with 20 GSA lessors selected from GSA's data to represent a range of location, and cost of the leases and the six real estate brokers that work with GSA.

What GAO Recommends

GAO is making three recommendations, including that GSA: (1) expand its outreach as appropriate to obtain feedback from lessors that are representative of its entire lease portfolio, and (2) evaluate whether the simplified lease model is achieving its intended results. GSA agreed with the recommendations and said it believes there are additional opportunities to expand its outreach efforts and evaluate the simplified lease model.

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Improving Stakeholder Outreach and Lease Model Evaluation Could Enhance Competition

What GAO Found

Stakeholders, including 20 lessors (e.g., building owners) and the six real-estate brokers that negotiate federal government leases, identified several aspects of the General Services Administration's (GSA) leases that can affect cost and competition. For example, specific lease requirements such as early termination (see table) can lead lessors to increase their rent rates or decide not to bid on a lease—thereby increasing federal leasing costs or decreasing competition. According to GSA officials, many of these lease aspects reflect contracting policy rather than being required by law, regulation, or executive order. GSA has made some changes, such as lengthening the term of some leases, to address stakeholder concerns. Stakeholders also identified the time it takes to complete a lease and GSA's propensity for staying in a space beyond the term of a lease as increasing costs and making GSA leases less attractive to potential bidders.

Examples of Requirements That Stakeholders Cited as Affecting Cost and Competition for the General Services Administration's (GSA) Leases

Requirement	Description
Early termination	Gives GSA the option to terminate the lease after a set period of time; this option increases a lessor's risk of a vacancy.
Tenant substitution	Allows GSA to substitute the originally intended tenant agency in a building for another agency with a potentially very different mission.
Janitorial and maintenance	Stipulates stringent intervals and requirements for cleaning and maintenance services—more so than typical non-government leases.

Source: GAO analysis of stakeholder information. | GAO-20-181

Note: This table represents selected stakeholders' views on a sample of leases.

GSA has undertaken initiatives to identify stakeholders' concerns to inform its reform efforts, but it lacks complete information to address concerns or evaluate its efforts. Specifically, GSA has not gathered information from a representative group of lessors because its recent utreach has involved two industry groups that focus primarily on organizations such as real estate brokers and investment trusts that are experts in GSA leasing. These organizations may not have the same concerns as smaller, less experienced, organizations. By obtaining information from a broad spectrum of stakeholders, GSA would be better positioned to know whether its leasing reforms are addressing stakeholders' concerns. Additionally, to expedite processing of lower-value leases, GSA developed a simplified lease model that excludes some requirements that stakeholders identified as challenging but may protect GSA, such as tenant substitution. GAO found that for fiscal years 2016 to 2018, GSA used the model for only about one-third of potentially eligible leases. GSA has proposed increasing use of the model, but it does not know whether the model as currently used is achieving the anticipated benefits, including reduced lease processing times, or the impact of financial or other risks from this model because GSA has not evaluated its use. Without such an assessment, GSA does not have the information needed to determine whether the simplified lease model is achieving its intended results, whether to make improvements, or how to mitigate any risks.

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Abbreviations

AAAP	Automated Advanced Acquisition Program
FBI	Federal Bureau of Investigation
FWS	Fish and Wildlife Service
GSA	General Services Administration
ICE	Immigration and Customs Enforcement
IRS	Internal Revenue Service
SSA	Social Security Administration

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The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

The General Services Administration (GSA) serves as the federal government's landlord and has the authority to lease properties for use by other federal agencies. As of fiscal year 2019, GSA leased nearly 188 million square feet of space from private sector building owners—known as "lessors"—for a total of $5.7 billion to accommodate the needs of federal agencies. These leases come with requirements not commonly used in the private sector, such as allowing for tenant substitution during the term of the lease and requiring the responsible lessor to pay for services such as utilities. These leases also involve lengthy negotiations—at times longer than a year—to finalize the lease. While lessors have traditionally valued GSA leases for the government's reliable credit and stable tenancy, stakeholders such as lessors and real estate brokers have raised concerns that the additional requirements and a lengthy process increase the lessors' costs, which they then pass through to the federal government. GSA has sought input from stakeholders to identify areas where its lease requirements may be increasing costs or affecting lessors' willingness to compete for leases as well as to inform its reform efforts. In response, GSA made some changes to its lease requirements and developed a simplified lease model as a faster and more efficient way to process lower value leases. However, questions still remain as to whether its lease requirements are increasing costs or affecting lessors' willingness to compete for leases.

You asked us to review issues related to cost and competition for GSA leases with private sector lessors. This report examines

- lease requirements selected stakeholders identified as affecting cost and competition and steps GSA has taken to address stakeholders' concerns, and
- how GSA has identified stakeholders' concerns and evaluated its simplified lease model.

To address both objectives, we collected information from stakeholders including current GSA lessors and real estate brokers to obtain their perspectives on GSA leases and the GSA leasing process. We selected a non-generalizable sample of 20 current GSA lessors by first obtaining data from GSA on each of the leases it entered into during fiscal years 2016 to 2018, the most recent data available. We assessed the reliability of this data by reviewing documentation, interviewing GSA officials, electronically testing the data, and verifying data with GSA officials. We concluded that the data were reliable for the purposes of our reporting objectives. We used this data to group GSA's leases into three categories based on total annual rent and then selected leases randomly from each group.[1] To obtain a broader perspective on GSA's leasing process, we also interviewed the six real estate brokers who participate in GSA's Leasing Support Services program, and four other experts on the GSA leasing process, such as professional organizations who represent building owners.[2] We used a semi-structured interview format with open-ended questions and conducted a content analysis of the lessors' responses to identify recurring themes. The information gathered from our interviews with these stakeholders is useful in illustrating a range of views on the GSA leasing process but is not generalizable.

To identify the lease requirements these stakeholders identified as affecting cost and competition and what GSA has done to address their concerns, we selected the eight most commonly mentioned requirements and the most commonly mentioned areas of GSA's leasing process based on responses from both the lessors and the brokers. We grouped the lessors by those who told us they had experience with three or more GSA leases—we called these "more experienced" lessors—and those who told us they had experience with one or two leases—we called these "less experienced" lessors. To identify the source of the GSA requirements stakeholders identified, we interviewed GSA officials and reviewed GSA documentation as well as laws, regulations, and executive orders that governed GSA's use of these requirements. To determine how GSA and tenant agencies develop space requirements—one of the

[1] To ensure that our sample included lessors with a range of experience with GSA leases, we also checked that these leases had similar characteristics to GSA's total population of leases in other important characteristics such as lease model used and GSA region. We excluded leases that used models designed for specific lease products such as leases for parking structures or leases for on airport properties, and we also excluded leases where GSA had entered into a new lease that superseded or succeeded a lease that had already been established under a different model.

[2] In the GSA Leasing Support Services program, GSA uses commercial real estate brokers to perform a variety of tasks in the leasing process, including negotiating leases.

requirements stakeholders identified as having effects on cost and competition—we selected a non-generalizable sample of five executive branch bureau-level and independent agencies to include those with the greatest number of GSA leases entered into during fiscal years 2016–2018. These agencies were (1) the Fish and Wildlife Service (FWS); (2) the Internal Revenue Service (IRS); (3) the Federal Bureau of Investigation (FBI); (4) the Social Security Administration (SSA); and (5) Immigration and Customs Enforcement (ICE). We reviewed documents and interviewed officials from each of these five agencies to learn about how they develop space requirements, work with GSA to identify feasible properties, participate in the development of the final space design and construction, and plan for their future leased space needs.

To identify the steps GSA has taken to identify stakeholder concerns and evaluate its simplified lease model, we reviewed pertinent GSA documents and interviewed GSA officials. We also obtained views of lessors and brokers about GSA's lease reform efforts, including whether they were aware of the efforts, and what effects they had observed. We determined how often GSA has used a simplified lease model that contains fewer of the requirements that stakeholders identified as concerns. We also assessed the characteristics of the leases for which GSA used the simplified model, based on the GSA fiscal year 2016-2018 lease data described previously. We analyzed the data to obtain information about the number of leases that had used each of GSA's lease models, and the average rent amounts, size, security levels, and terms.[3] We compared GSA's efforts to identify and address stakeholder concerns to *Federal Standards for Internal Control* related to external communication, and its efforts to assess the simplified lease model to criteria from our prior work on the use of performance information for decision-making.[4] For more information on our scope and methodology, see appendix I.

[3] While we were able to compare rental rates and other characteristics of leases performed under GSA's standard and simplified lease models, we were not able to assess the extent to which the lower rental costs might be attributable to the use of the simplified lease model because there are other factors that contribute to its use that are not included in GSA's data. For example, in order for GSA to use the simplified lease model, tenant agencies must provide fully developed requirements prior to GSA's advertising the lease. The data do not include the date GSA received these requirements.

[4] See GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sep 10, 2014) and; *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (Washington, D.C.: Sep 9, 2005).

We conducted this performance audit from October 2018 to December 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

GSA serves as the federal government's primary civilian real property agent. When GSA does not have available federally owned space that can meet the needs of federal agency tenants, it leases space for these agencies in privately owned buildings. The Administrator of GSA delegates leasing authority to GSA regional commissioners, who further delegate authority to lease contracting officers.[5]

For leases that GSA procures for tenant agencies, GSA serves as the lessee and pays rent to the building owner, who serves as the lessor. The tenant agency pays monthly rent to GSA, which includes a fee for GSA's services, and uses the leased space subject to the terms of an occupancy agreement with GSA. This agreement typically specifies not only the rent fee but also the amount the tenant agency must reimburse the lessor for improvements to the leased space—such as changes to walls, electrical outlets, telephone lines, and secure rooms—these are known as "tenant Improvements."

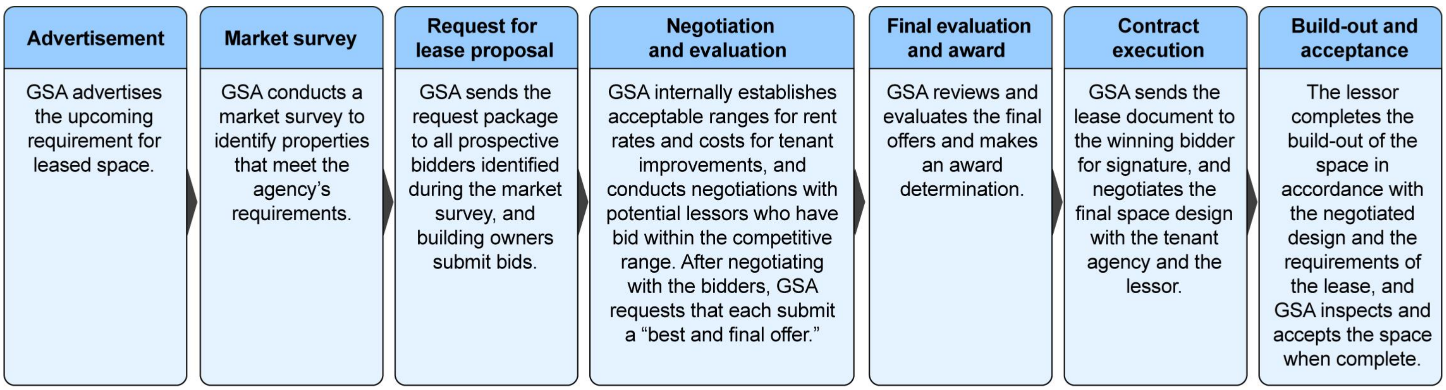
GSA leasing process. GSA uses different processes to carry out the leasing process depending on the size, cost, and type of the lease. For all of these processes, the leasing-planning process begins when GSA receives a request for space from a tenant agency and determines that fulfilling the request will require leasing space.[6] According to the typical process outlined in the GSA Public Buildings Service (PBS) *PBS Desk Leasing Guide*, officials work with the tenant agency to define the requirements for the leased space, including the geographic area in which

[5] According to GSA, lease contracting officers are warranted and thus have authority to obligate the federal government, including executing and administering lease contracts.

[6] GSA officials clarified from their point of view that while the lease planning process begins when they receive a request for space from the tenant agency, the lease procurement process begins once they have finalized the requirements for leased space.

GSA will search for available properties. After this initial stage, GSA takes additional steps to acquire a new lease, see figure 1.

Figure 1: The General Services Administration's (GSA) Typical Lease Acquisition Process



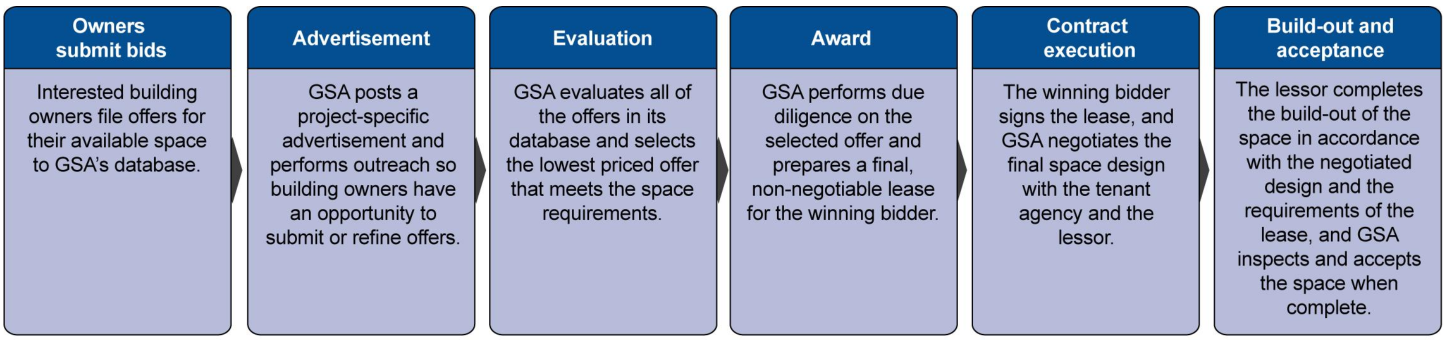
Source: GAO analysis of GSA documentation. | GAO-20-181

Text of Figure 1: The General Services Administration's (GSA) Typical Lease Acquisition Process

Advertisement	Market survey	Request for lease proposal	Negotiation and evaluation	Final evaluation and award	Contract execution	Build-out and acceptance
GSA advertises the upcoming requirement for leased space.	GSA conducts a market survey to identify properties that meet the agency's requirements.	GSA sends the request package to all prospective bidders identified during the market survey, and building owners submit bids.	GSA internally establishes acceptable ranges for rent rates and costs for tenant improvements, and conducts negotiations with potential lessors who have bid within the competitive range. After negotiating with the bidders, GSA requests that each submit a "best and final offer."	GSA reviews and evaluates the final offers and makes an award determination.	GSA sends the lease document to the winning bidder for signature, and negotiates the final space design with the tenant agency and the lessor.	The lessor completes the build-out of the space in accordance with the negotiated design and the requirements of the lease, and GSA inspects and accepts the space when complete.

For certain office space leases larger than 500 square feet, which represent more than 90 percent of GSA's leases as of the end of fiscal year 2019, GSA can deviate from its typical leasing process and instead use what it calls the Automated Advanced Acquisition Program (AAAP). GSA began using a predecessor to this program in 1991 in the National Capital Region only and rolled out the current version to all national markets in 2015. In this program, instead of GSA's first proposing requirements to potential lessors, the lessors first submit offers to GSA for pre-existing available space, including the space's size, location, and features, and the rent amounts the lessor is offering for different lease durations. Once GSA develops a set of requirements with a tenant agency, it evaluates these standing offers to eliminate those that would not meet the space requirements, ranks the bids by present value, and selects the lowest cost option, see figure 2.

Figure 2: Automated Advanced Acquisition Program Leasing Process Used by the General Services Administration (GSA)



Source: GAO analysis of GSA documentation. | GAO-20-181

Text of Figure 2: Automated Advanced Acquisition Program Leasing Process Used by the General Services Administration (GSA)

Owners submit bids	Advertisement	Evaluation	Award	Contract execution	Build-out and acceptance
Interested building owners file offers for their available space to GSA's database.	GSA posts a project-specific advertisement and performs outreach so building owners have an opportunity to submit or refine offers.	GSA evaluates all of the offers in its database and selects the lowest priced offer that meets the space requirements.	GSA performs due diligence on the selected offer and prepares a final, non-negotiable lease for the winning bidder.	The winning bidder signs the lease, and GSA negotiates the final space design with the tenant agency and the lessor.	The lessor completes the build-out of the space in accordance with the negotiated design and the requirements of the lease, and GSA inspects and accepts the space when complete.

Note: GSA uses this process for new and continuing office-space leases greater than 500 square feet.

GSA is required to take further steps for high value leases with a net annual rent above the statutory “prospectus” threshold—adjusted by GSA to $3.1 million in fiscal year 2019.[7]

For these leases, GSA must submit a prospectus, or proposal, to the House and Senate authorizing committees for their review and approval. As of the end of fiscal year 2019, GSA managed 8,045 leases, of which 291, or about 4 percent, had current annual rents above the 2019 prospectus level. These leases, however, accounted for about 41 percent of GSA’s total annual rent obligations.

GSA leases. GSA leases differ substantially from typical commercial leases. For example, in a GSA lease, GSA—as the lessee—proposes the lease requirements. In a typical commercial office space lease, however, the lessor drafts the lease requirements and proposes them to the prospective tenant. For additional examples of the differences between GSA and typical commercial leases, see table 1.

Table 1: Examples of Differences between the General Services Administration’s (GSA) Leases and Typical Commercial Office Space Leases

Category	GSA Lease	Typical Commercial Office Space Lease
Operating costs	The lessor is responsible for providing services such as utilities, and therefore estimates future operating costs and prices those into their rental bid.	The tenant is responsible for utilities and other operating costs covering tenant space.
Full service	The lessor is responsible for performing ongoing janitorial and maintenance work on both common areas and tenant space.	The tenant pays for janitorial services, insurance, and ongoing maintenance covering tenant space.
Rent escalation	Base rent for the building “shell”—the building structure and systems—may be flat or have increases scheduled after a certain number of years, with operating costs scheduled to periodically increase at the rate of inflation.	Annual total rent increases, if any, are specified in the lease.
Rent payment	In arrears	In advance

[7] 40 U.S.C. § 3307(a) sets the prospectus threshold at $1.5 million for leases; however, the Administrator of GSA has the authority to adjust that amount annually under 40 U.S.C. § 3307(h). Under GSA policy, advertisement for a high-value lease cannot be published until the Office of Management and Budget has cleared the prospectus and GSA has submitted the signed prospectus to the House and Senate authorizing committees for their review and approval. Further, GSA’s policy is to not enter into high-value leases until the authorizing committees have adopted a resolution approving the project.

Holdovers	If a lease expires without a new agreement, GSA might continue to occupy the space without a contractual agreement with the lessor. In this situation it is GSA policy to continue to pay the rent amount in effect as of the last day of the lease.	A tenant's failing to vacate the space on time will pay a substantial penalty specified in the lease.
Real estate taxes	The lessor is responsible for estimating future property taxes and including them in the cost of their bid, and GSA provides a rent adjustment if the property taxes increase or decrease after the first full year of occupancy.	The tenant is responsible for compensating the lessor for all or a portion of the actual real estate taxes in a given year.
Termination	GSA typically has the right to terminate a lease early without penalty for any reason after a certain period of time— usually 5 or 10 years. The period of the lease before this date is known as the "firm" term, while the period of the lease between this date and the ultimate lease expiration is known as the "soft" term.	The tenant is only allowed to terminate the lease early without penalty in certain special circumstances such as damage to the property.

Source: GAO analysis of GSA and industry information. | GAO-20-181

Note: Commercial office-space leases can vary depending on the specific space to be leased and the needs of the individual lessors and tenants involved. This table provides examples of what selected industry stakeholders told us was contained within a typical office space lease without special conditions.

GSA's lease reform efforts. In 2011, GSA issued a lease-reform implementation plan in response to comments from lessors and tenant agencies. In this plan GSA recommended changes including developing new lease models to better tailor its lease requirements to specific circumstances, and improving elements of its leasing process.[8] As part of this and other initiatives since then, GSA developed leasing products and tools that it can use in various situations. These include:

- **Simplified lease model:** GSA developed this lease model for lower value leases with a facility security level of I or II, and a net annual rent—total rent minus operating expenses—of up to $150,000.[9] GSA designed this model as a faster and more efficient method of processing lower value leases. As compared to GSA's standard and global lease models—which can be used on leases of any size—this model contains fewer requirements and may not have certain more

[8] GSA, *Lease Reform Implementation Report*, (Washington, D.C.: April, 2011).

[9] The Facility Security Level is a determination of the risks, such as those from terrorism or natural disasters, faced by a certain facility, ranging from I (lowest) to V (highest). As of the end of fiscal year 2019, around 40 percent of GSA's leases had an annual rent of less than $150,000.

complex elements such as annual operating-cost adjustments, real estate tax adjustments, or an allowance for tenant substitution. In addition, the model requires GSA and the tenant agency to finalize the complete set of space requirements prior to GSA's advertising the lease, a requirement that eliminates negotiations on the tenant improvements after GSA awards the lease.

- **Net-of-utilities leases:** As discussed in table 1, in most GSA leases the lessor is responsible for paying the utilities, and must estimate future utility costs as part of its bid for the lease. In a net-of-utilities lease, the tenant pays the utility costs for tenant space directly. A 2016 GSA study indicated that GSA could achieve savings through net-of-utilities leases for a small number of leases with certain characteristics including: the lease being over 50,000 square feet, a single tenant agency occupying the entire space, the tenant agency consuming large amounts of energy, and several other factors. GSA estimates that around 360 of its more than 8,000 leases meet these criteria.
- **Succeeding and superseding leases:** In most cases, GSA is required to conduct a full and open competition for leases. However, in certain circumstances GSA instead pursues succeeding or superseding leases.[10] In circumstances where relocating to a new leased property would result in substantial relocation or duplication costs that GSA could not reasonably expect to recover through competition, GSA is allowed to pursue a succeeding lease, and when market conditions warrant renegotiation of an existing lease or when the tenant agency needs to make substantial modifications to a space before the expiration of a lease, GSA is allowed to pursue superseding leases.

[10] In a succeeding lease, GSA enters into a new lease for the same space upon expiration of the old lease. In a superseding lease, GSA begins a new lease for the same space before the expiration of the old lease, and the new lease supersedes the old one.

Selected Stakeholders Identified Several Aspects of GSA Leases That Affect Cost and Competition, and GSA Has Taken Some Steps to Address These Concerns

The GSA leasing stakeholders we spoke with identified some aspects of GSA leasing that are attractive to potential lessors such as the government's good credit and GSA's long average occupancy. [11] They also identified a number of aspects of these leases that they said can affect their costs and the number of lessors who are willing and able to bid on a GSA lease. These areas were:

- **Structure:** overall characteristics of a lease including the volume and complexity of requirements, and how GSA structures rent payments, reimbursements for tenant improvements, and provision of services;
- **Requirements:** specific provisions in the lease such as early termination, janitorial and maintenance, tenant substitution, and real estate taxes; and
- **Process:** the steps lessors must follow to complete a GSA lease, such as the length of time and GSA's ability to remain in a space after the end of the lease.

Lessors Said GSA Leases Are Attractive because of Lower Financial Risk and Stability

The stakeholders we spoke with identified a number of benefits of GSA leasing that are attractive to potential lessors, including the government's credit worthiness, long average tenancy in a space, and positive relationships with GSA and tenant agencies. Eighteen of the 20 lessors we spoke with identified the government's credit worthiness as a benefit.

[11] We interviewed 20 current GSA lessors and six real estate brokers who are participating in the GSA Leasing Support Services contract for a total of 26 stakeholders. In addition, we identified 12 of the lessors as having more experience with GSA leases, and eight as having less experience with GSA leases. Both lessors and brokers provided responses about the requirements in GSA leases and what actions lessors take in response to those requirements, while only the lessors we spoke with provided responses about the benefits to GSA leasing and the areas of the leasing process in general that can affect cost and competition. This results in a different denominator for these topics.

This credit, lessors said, is better than many private sector tenants and presents lower risks, and some of the more experienced lessors said that GSA leases are an important part of their overall lease portfolios. For example lessors said that GSA leases represent a reliable revenue stream and that they are confident they will be paid on time for the full term of the lease, while for commercial leases—even for large companies—there is an increased risk of a rent default. Eight of the 20 lessors said that GSA and tenant agencies are relatively easy tenants to work with once the lease is in place. For example, lessors said the tenant agencies are very professional, and some of them said that they generally do not receive many requests for service from the occupying staff. In addition, seven lessors mentioned GSA's long average tenancy in a space, which they said helps with a lessor's long-term financial stability. One lessor said that commercial tenants stay on average three to five years, while their GSA tenants have lease lengths of 10 or 15 years. According to GSA, agencies occupy spaces leased through GSA for an average of around 22 years.

Lessor Perspective on GSA Leases

"The government is a Grade A tenant."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Stakeholders Identified Structural Aspects of GSA Leases That Can Affect Cost and Competition

The lessors and real estate brokers we spoke with told us that the way GSA structures aspects of its leases can affect cost and competition. These aspects include the volume and complexity of requirements in the leases, the way GSA structures rent payments, how GSA defines and reimburses costs for tenant improvements, and the full service nature of GSA leases. Many lessors told us that they increase their bid prices in response to these aspects of GSA leases. GSA officials said that each of these aspects reflects GSA's contracting policy, and it is not required to structure its leases this way by law, regulation, or executive order; however, they use these requirements to provide additional flexibility in managing their lease portfolio and reduce risk to the government.

Volume and Complexity

About three-fourths of lessors we interviewed said the volume and complexity of GSA lease requirements make these leases less attractive to potential bidders and can result in fewer bidders competing for a lease.[12] These lessors further stated that GSA's leases, in contrast to many private sector leases, can be quite lengthy—up to 85 pages—and contain many references to other documents that are not included in the lease text such as a seismic certification, a small business subcontracting plan, a Department of Labor wage determination, and a foreign ownership and financing certification.

Lessor Perspective on GSA Leases

"GSA's lease is three-fourths of an inch thick, has many cross-references, takes weeks to read, and requires an attorney to understand."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Lessors must look up these other documents to fully understand the lease requirements, and some of the lessors we spoke to said that it can be difficult for them to quickly find the most important information. Lessors also noted that—in response to the volume and complexity of requirements—they may increase their bid prices. To account for risks inherent in these complex contracts lessors may also use the services of legal counsel or other experts, which could also increase costs. GSA officials told us that in the past several years they have made efforts to streamline their leases, including by eliminating duplicative or unnecessary provisions. One lessor told us that GSA has improved its leases by making them more intuitive and easier to read, a development that could be helpful for new potential lessors.

Rent Structure

About half of the stakeholders we spoke with, including 10 of the 12 more experienced lessors, said the way GSA structures its rent payments makes it difficult for these lessors to predict what actual operating costs will be in the future.[13] Lessors said that because the shell rent (i.e. the building structure and systems) portion is typically flat over the firm term of a lease, and the operating expenses only increase at the consumer price index's rate, the rental payments they receive are generally not

[12] Sixteen of the 20 lessors we spoke with cited the volume and complexity of requirements as affecting cost and competition.

[13] Fifteen of 26 stakeholders, including 12 of 20 total lessors and three of six brokers identified the rent structure as affecting cost and competition.

sufficient to cover their actual increases in expenses. In addition, these lessors said that in a GSA lease, the lessor is typically responsible for providing utility services and that lessors pass these costs through to GSA as part of the operating cost portion of the rent. In a private sector lease, these costs are typically the tenant's responsibility. To account for these issues, 11 lessors told us that they increase their bid prices to ensure that they will cover their costs, and two lessors told us that they would not bid on another GSA lease unless there were additional cost increases built into the lease. GSA officials told us that structuring rent payments this way provides GSA with a standardized method for addressing inflation and budgeting for future rental costs.

Lessor Perspective on GSA Leases

"The way GSA accounts for base rent and operating expenses is different than in a private sector lease. In our leases, the base rent is frozen throughout the term of the lease and only the operating expenses are allowed to increase based on inflation. Because of this, when preparing a bid we have to estimate operating expenses years into the future, which can be difficult, and if we guess too low we can end up losing money on the lease."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Tenant Improvements

About one-third of the stakeholders we spoke with said the way GSA structures reimbursement for tenant improvements is a challenge, and three lessors said GSA's requirements for construction standards and space designs can be difficult to meet.[14] Stakeholders said that GSA's requirement that lessors fund construction costs for tenant improvements upfront can put financial stress on lessors. For example, stakeholders said that lessors often must take on substantial debt in order to finance the construction of the tenant improvements. GSA reimburses lessors for tenant improvement costs over the firm term of the lease, but lessors told us that these payments do not begin until after the space is occupied, which can be delayed by the tenant agency's changing its requirements. In prior work we found that this process of paying tenant improvements over the firm term of a lease increases the overall cost to the federal government of leasing space, primarily due to interest costs passed

[14] Ten of 26 stakeholders, including eight of 20 lessors and two of six brokers, identified tenant improvements requirements as affecting cost and competition.

through by the lessors.[15] In addition, half of the lessors we spoke with identified challenges with the process of developing and finalizing agency requirements for leased space, including frequent changes to space requirements and the need to develop detailed construction information before bidding on a lease.

Lessor Perspective on GSA Leases

"At the beginning I had to agree to a certain dollar amount for the tenant improvements, even though I did not know when the construction would happen, or how I would get paid back. You can get paid back in a lump sum, or the tenant improvements can be amortized over the lease term, but you do not know which it will be at the start of the process. This makes financing difficult."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Six lessors told us that they increase the cost of their bids in part due to GSA often over-estimating the cost of tenant improvements. This situation can require a lessor to take out a larger loan than necessary, which adds financing costs to the project. Lessors said that this situation can also prevent some potential lessors from bidding if they cannot obtain the amount of financing GSA requires. Additionally, lessors cited some tenant agencies' space requirements which can call for expensive materials or difficult to construct items. For example, they described leases where they had to construct multiple restrooms or heating and cooling systems for small offices that typically house fewer than five employees.

GSA officials told us that they structure the tenant improvements requirements in this way in order to establish expectations for the lessor. They said that they rely on tenant agencies to develop initial requirements for leased spaces, and they work with those agencies on the final designs and construction standards. We examined space requirements of the five federal agencies we reviewed that lease large amounts of space through GSA, and each of these agencies uses standardized guidance such as a handbook or design guide.[16] These documents included information on developing specific requirements for leased space such as identifying the size of space needed, the types of workspaces used, and sample layouts

[15] See GAO, *Federal Real Property: GSA Could Decrease Leasing Costs by Encouraging Competition and Reducing Unneeded Fees,* GAO-16-188 (Washington, D.C.: Jan 13, 2016).

[16] These agencies were SSA, ICE, FBI, IRS and FWS.

for different types of facilities. Officials from these agencies told us that they use these handbooks as their primary reference when setting requirements for leased spaces and approving the final designs, and to develop these handbooks they use agency mission needs, government-wide security standards, and requirements from laws, regulations, and executive orders. They said that they generally rely on GSA to provide them with local market information such as the availability of suitable existing buildings, market rents, and other factors.

Full Service Leases

About one-third of stakeholders we spoke with identified the full service nature of GSA's leases as difficult, time consuming, and expensive—requiring them to estimate highly variable costs far into the future.[17] For example, one lessor spoke of being required to provide all services—janitorial, maintenance and utilities—which can include simple things like replacing light bulbs. Further, the lessor has to work around the tenant agency's operating hours to provide these services. Five lessors told us that they raise their bid prices to cover the costs of full service leases because they are cost and labor intensive. One lessor said that lessors estimate on the high end of the range to make sure they make a profit.

> **Lessor Perspective on GSA Leases**
>
> *"The biggest issue for a potential lessor to consider is how hands-on they want to be—GSA leases are full service leases requiring lots of attention."*

Source: GAO interviews with selected GSA lessors. | GAO-20-181

GSA officials told us that they structure leases this way because full service leases are generally less expensive to the government—avoiding the administrative burden of having to establish and maintain a contract for each service and avoiding the risk of higher than expected utility costs. In 2017, GSA issued guidance to its lease contracting officers on using net-of-utilities leases—those structured so that the tenant agency pays the utilities. GSA officials and stakeholders we spoke with told us that having a tenant agency pay utilities directly gives agencies an incentive to cut down on energy use and could result in lower costs. According to GSA, structuring leases as net-of-utilities leases requires

[17] Eight of 20 lessors identified the full service nature of GSA's leases as affecting cost and competition. None of the six brokers cited this area.

substantial resources to manage and monitor. Therefore, GSA's current policy is to use this structure for only certain large, energy-intensive leases. GSA officials told us they plan to continue using net-of-utilities leases but do not have plans to expand the program further.

Stakeholders Cited Specific GSA Lease Requirements That Can Affect Cost and Competition

Stakeholders identified a number of specific GSA lease requirements that they said can affect cost and competition. These requirements include early termination options, GSA's unilateral ability to substitute the tenant agency, provisions for reimbursing real estate taxes, and ongoing janitorial and maintenance requirements. Most of these requirements are GSA contracting policy, but the janitorial and tenant substitution requirements have some elements that GSA says it uses in response to either a law, a regulation, an executive order, or a combination of these and other sources.

Early Termination

About two-thirds of stakeholders, including all 12 more experienced lessors, identified GSA's including early termination options in leases as affecting the cost of the leases.[18] GSA leases typically have a date after which GSA can terminate the lease with as little as 90 days' notice, and since many GSA leases require significant initial capital for construction of the tenant improvements, some lessors told us they need to take out a loan using GSA's future rent payments as the source of repayment. However, stakeholders and other experts told us that many loan underwriters will not consider any payments after GSA's termination right date due to the risk that the GSA will leave the space, a factor that they said makes the loans more expensive and difficult to obtain. Nine of the lessors and two of the other experts we spoke with also said that it was unlikely GSA would ever exercise its termination options. Four lessors told us that they increase their bid prices to reflect the increased risk and expense that the early termination clauses provide, and four lessors and one broker told us that lessors may not bid on a lease at all if GSA includes an early termination option.

[18] Seventeen of the 26 stakeholders, including 15 of 20 lessors and two of six brokers, identified early termination options as affecting cost and competition. Of the lessors, all 12 of the more experienced lessors and three of the eight less experienced lessors identified these options.

Lessor Perspective on GSA Leases

"The market, and lenders, look at the firm term as the length of the lease, and don't take the soft term into account as GSA does… soft terms are the biggest structural obstacle in GSA lease requirements. If GSA included soft terms in leases just for emergencies, rather than as a matter of practice, the soft terms would not be as much of a problem."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

GSA officials told us that these options allow them to maintain flexibility and use space efficiently despite changing tenant agency missions and space needs. In response to data GSA has collected from AAAP bids showing that GSA receives lower bids for longer firm-term leases, GSA has begun lengthening the firm term of its new leases. Specifically, GSA's analysis of AAAP bids data showed that for lease offers in fiscal years 2017 and 2018, lessors bid a lower rent amount for a 10-year firm term as opposed to a 5-year term 96 percent of the time with an average savings of around 10 percent. GSA officials told us that they have been using more 10- and 15-year firm terms as opposed to the previous standard practice of five years. For example, according to GSA, in fiscal year 2014, 19 percent of GSA's leased inventory had a firm term of 10 years or more, and in fiscal year 2017, this figure had risen to 26 percent. In addition, GSA has implemented a lease-term-setting tool, which officials said will help them lengthen the firm terms of leases where appropriate.

Janitorial and Maintenance

About one-third of the stakeholders we spoke with identified janitorial and maintenance services as a challenge, and two lessors said that costs for janitorial and maintenance services can be difficult to estimate.[19] For example, one lessor told us that it is difficult to estimate these costs two years into the future, let alone for the 10 or more years of a GSA lease, because of changes to local job market conditions and labor laws. In addition, stakeholders said that GSA leases require more frequent or comprehensive janitorial and maintenance services than do private sector leases. For example, lessors said that some cleaning and paint and carpet replacement intervals were more frequent than the industry standard. Four lessors told us that they include the additional costs for these services into the cost of their bids, and some lessors told us that

[19] Eleven of 26 stakeholders, including nine of 20 lessors and two of six brokers, identified ongoing janitorial and maintenance requirements as affecting cost and competition.

they include up to 125 percent of their estimated true costs in their bids. According to GSA, it developed some of these requirements, particularly those related to specific cleaning products that lessors must use, in response to a combination of several laws, executive orders, and agency initiatives or recommendations.[20] Some of the other requirements, such as the intervals for carpet and paint replacement, are GSA's contracting policy, and officials told us that they have remained relatively static since the 1990's.

Lessor Perspective on GSA Leases

"In one lease, we found that janitorial services for GSA cost approximately twice as much as normal cost for a non-GSA lease."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Tenant Substitution

About one-third of the stakeholders we spoke with said that lessors—particularly lessors with multi-tenant buildings—are concerned about GSA's ability to substitute one tenant agency for another, a requirement that can affect competition for leases.[21] One concern cited was the possibility of substituting a law enforcement agency (e.g., ICE or FBI) that may have armed officers into a building previously occupied by an administrative tenant agency. Another was that increased traffic may result from substituting a busy public-facing agency (e.g., SSA or IRS) into a formerly quiet building environment. Stakeholders and other experts we spoke with said that scenarios like these can affect other tenants' willingness to renew leases in a building; however, as we found in 2016, they also told us that GSA rarely exercises this option.[22] Two stakeholders and another expert told us that lessors take specific actions in response to this requirement, including negotiating with GSA over modifying this clause, which one said they have been successful in doing.

[20] For example, GSA developed requirements for allowed cleaning and paper products by following, among other things, recommendations from the Environmental Protection Agency (Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing), a GSA initiative (GSA Order- PBS 1096.1), and provisions from laws including Title II of the Resource Conservation and Recovery Act of 1976 Pub. L. No. 94-580, 90 Stat. 2795 (codified as amended at 42 U.S.C. ch. 82).

[21] Nine of 26 stakeholders, including six of 20 lessors and three of six brokers, identified tenant substitution as affecting cost and competition.

[22] GAO-16-188.

Federal regulation requires GSA to include this clause in leases with annual rents above the simplified acquisition threshold unless the lease contracting officer determines that it would not be appropriate. This regulation, however, stems from a general GSA statutory authority regarding federal property.[23] GSA's leasing regulations do not require GSA to use this requirement in leases with net annual rents under the simplified lease acquisition threshold, but GSA officials told us that as a matter of practice they also include it in these smaller leases. GSA officials told us that GSA, as the lessee, is ultimately responsible for a lease's financial obligation, and the ability to substitute tenant agencies helps GSA mitigate the costs of vacant leased space in the event a tenant agency chooses to leave a leased property.

Lessor Perspective on GSA Leases

"The substitution of tenant requirement is especially an issue in multi-tenant buildings, and lenders can have trouble with it as well, but GSA almost never uses it. Our organization tries to get GSA to modify these clauses, and we are successful about 50 percent of the time, but this varies by GSA region."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Real Estate Taxes

About one-third of the stakeholders we spoke with said GSA's requirements for real estate tax reimbursement may lead lessors to increase their bid prices to account for real estate tax uncertainty.[24] GSA reimburses lessors for increases in real estate taxes above a base year—the first full year after GSA certifies the leased space as fit for occupancy. Lessors told us that since the date of occupancy is dependent on the completion of the design and construction process, the duration of which is difficult to estimate, when setting bids they have to estimate taxes without knowing the base year. Two lessors told us that when bidding on a lease they estimate on the high side to make sure they cover their costs, and another other lessor said that their organization might not bid

[23] Specifically, this statutory provision directs the GSA Administrator to prescribe the regulations considered necessary to carry out the administrator's functions under title 40 U.S.C. Subtitle I. It does not require GSA to include any specific requirements in its leases. See 40 U.S.C. § 121(c).

[24] Eight of 26 stakeholders, including seven of 20 lessors and one of six brokers, identified real estate tax requirements as affecting cost and competition.

on a GSA lease because of issues with the real estate tax requirements. GSA officials told us that they use these requirements because they allow GSA to establish the real estate tax base and the portion that GSA will reimburse. Officials also told us that lessors have told them that their current approach to tax adjustment places a risk on lessors that may ultimately get passed on to GSA in the form of higher rent, and at a May 2018 GSA industry event, lessors discussed difficulties with setting the base year. GSA officials told us that they are developing new requirements for lease construction that would allow for real estate taxes to be directly passed through by the lessor to GSA.

Lessor Perspective on GSA Leases

"The base year is often not clearly stated in the lease and is sometimes mentioned informally (e.g., in emails)…the lessor has no recourse to negotiate over the tax base year with GSA. It poses one of the biggest risks and has caused us to walk away from some bids after not being able to get a clear lease amendment specifying the tax base year."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

Stakeholders Identified the GSA Leasing Process as Affecting Cost and Competition

The lessors and real estate brokers we spoke with also identified a number of general areas of GSA's leasing process that they said can increase costs or reduce the number of bidders. These areas included the length of time it can take to finalize a GSA lease, GSA's ability to occupy a space after lease expiration generally without penalty or the payment of damages beyond continuing rent payments—referred to as a "holdover"—and GSA's propensity for entering into short-term extensions for current leases while negotiating new leases.

Length of Time

About two-thirds of the lessors we spoke with mentioned frustration with the length of time it takes to finalize a GSA lease.[25] Lessors told us that after GSA awards a lease, it can take more than a year of additional negotiations with the lessor, GSA, and the federal tenant agency to

[25] Fourteen of 20 lessors we spoke with identified the length of time it takes to finalize a GSA lease as affecting cost and competition.

finalize the design requirements and construct the space. In 2016 we reported that the total length of GSA's leasing process could be up to six to eight years.[26] Because GSA does not generally begin to pay rent until after the space is fit for occupancy, lessors said that the length of time it takes to complete the lease award, design and construction processes can create financial stress on a lessor. For example, one lessor said that GSA's overall leasing process was challenging, and the largest issue, rather than any particular requirement, was agreeing on the design after lease award. This length of time was because the tenant agency was slow to make decisions about the space design, and while GSA tried to coordinate by setting up weekly meetings about this design among GSA, the tenant agency and the lessor, there were also several layers of time-consuming GSA review. About one-third of the lessors we spoke with also identified challenges communicating with GSA and the tenant agency during the lease negotiation process, including challenges identifying points of contact and resolving disputes.[27] Three lessors said that they or other lessors might not bid on additional GSA leases specifically because of the lengthy and complex process to finalize a lease. GSA officials told us that they rely on space requirements from the tenant agency and that the faster they receive those requirements, the faster the bid award can be completed and design process finalized.

Lessor Perspective on GSA Leases

"If it were up to me, I wouldn't bid on any more GSA leases because they are too time intensive not only for management at our organization, but also for our accounting, engineering, construction and property management teams."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

GSA officials told us that they have been using a number of initiatives to speed up their leasing process. For example, they said that in response to these time pressures they have begun requesting requirements as much as 48 months in advance of when a new lease will be needed. Officials from three of the five tenant agencies we spoke with told us that it can be difficult to estimate their space needs so far in advance because their missions and space needs can change. In addition, since 2015 GSA has been using the AAAP—in which potential lessors submit standing

[26] GAO-16-188.

[27] Seven of 20 lessors we spoke with identified communications challenges as affecting cost and competition.

bids for vacant space that GSA then matches to requirements for new and continuing leases—in all of its national real estate markets. Four of the more experienced lessors we spoke with told us that they had noticed positive changes as a result of the AAAP. These changes included faster lease processing times and an overall simpler leasing process with less negotiating. One lessor told us that they only bid on new GSA leases that are part of this program.

Holdovers and Short-term Extensions

One-quarter of the lessors we spoke with identified drawbacks associated with GSA lease holdovers and short-term extensions, and at least three of the lessors we spoke with had experienced a holdover for one of their leases.[28] Lessors said that the possibility of GSA's holding over in a space or signing a short-term extension can affect their ability to finance a building and their time frame for finding a new tenant if GSA exits a property. Lessors also noted communications difficulties with GSA, for example some said that they had reached out to GSA to negotiate a lease well in advance of an incumbent lease's going into holdover, but this action did not help them get a new lease on time. Lessors told us that they bid much higher rates for short-term extensions than they do for leases awarded through the normal process. In 2015 we reported that a significant number of GSA leases experience a holdover or short-term extension and that these can cause uncertainty for tenant agencies and lessors, increase GSA's workload, and delay the completion of building maintenance and other tenant improvements.[29]

Lessor Perspective on GSA Leases

"Holdovers and short-term extensions diminish lessors' opinions of GSA."

Source: GAO interviews with selected GSA lessors. | GAO-20-181

[28] Five of 20 lessors we spoke with identified holdovers and short-term extensions as affecting cost and competition.

[29] We recommended that GSA identify performance goals and targets related to the use of holdovers and short-term extensions, and in response, GSA included performance measures and associated targets in its 2016 Public Buildings Service Strategic Business Plan to measure the extent to which GSA is replacing leases without using holdovers and short-term extensions. See GAO, *Federal Real Property: Performance Goals and Targets Needed to Help Stem GSA's Reliance on Lease Extensions and Holdovers,* GAO-15-741(Washington, D.C.: Sep 30, 2015).

Reducing holdovers and short-term extensions is one of the key tenets of GSA's *2018–2023 Lease Cost Avoidance Plan*. One method GSA uses to more quickly process leases for tenant agencies remaining in their current space is the superseding and/or succeeding lease. In 2018 GSA developed a revised tool to help its officials more quickly estimate whether GSA would likely achieve lower costs using a succeeding lease as opposed to performing a full and open competition for a new lease. Lease contracting officers can use this tool to identify leases that would be likely candidates for a succeeding or superseding lease earlier in the process. We analyzed the leases GSA entered into during fiscal years 2016 through 2018 and found about 29 percent of them were succeeding or superseding leases. GSA officials told us that they have tried to increase awareness of the new tool and appropriate use of succeeding and superseding leases through training programs.

GSA Does Not Have Complete Information to Address Stakeholder Concerns and Assess Its Simplified Lease Model

GSA began reform efforts in 2011 by conducting outreach, introducing new lease models, and adjusting some leasing provisions in response to stakeholder concerns. While GSA has continued its industry outreach, its more recent outreach efforts have not gathered information from a representative group of lessors. Further, GSA has not analyzed the information it does collect and therefore does not know if its reform efforts are adequately addressing stakeholder concerns. Also, GSA has not assessed whether one of its reform efforts—the simplified lease model—is achieving its intended benefits or how it could affect risk.

GSA's Recent Stakeholder Outreach Efforts Are Limited, and GSA Lacks Information on Lessor Concerns

Since fiscal year 2018, GSA has conducted informal industry outreach to certain lessors and other stakeholders about the leasing process. These efforts have included attending and making presentations at industry conferences, facilitating industry meetings with regional commissioners, and hosting feedback sessions. For example, in May 2019 GSA gave a presentation to a large industry organization on the current status of its efforts to reduce lease costs, and in May 2018 staff participated in a training event organized by GSA's Office of Government-wide Policy where officials from industry shared their experiences with the leasing process.

GSA officials told us that they gather information primarily from two industry groups, both of which have reached out to GSA, have a large number of members that are GSA lessors, and have a significant amount of knowledge of the GSA leasing process. GSA officials told us that they have used information mainly from these two groups to inform reform efforts, including creating net-of-utilities leases and longer firm-term leases. However, these two groups are focused primarily on organizations such as real estate brokers and investment trusts that are experts in the GSA leasing process. These organizations are not representative of GSA's total population of lessors, which also includes many smaller organizations that have less experience with the GSA leasing process. By focusing its efforts on these larger groups, GSA is missing the perspective of smaller lessors, whose representatives may not attend industry meetings.

These smaller lessors may have different types of concerns that GSA is not capturing. For example, in our sample of 20 lessors we identified areas where the perspectives of organizations with varying levels of experience with GSA leases differed. More than half of the less experienced organizations identified experiencing communication challenges with GSA and the tenant agency, while only two of the more experienced organizations identified this concern. Concerns about early termination clauses in GSA leases were cited by less than half of the less experienced organizations, but all of the more experienced organizations mentioned this clause as affecting their willingness to do business with GSA. Also, one of the brokers we spoke with said that smaller lessors tend to have different concerns about leasing requirements than larger lessors, but also have less ability to react to those concerns by, for example, raising their bid prices. In addition to limiting outreach to two groups that do not represent all types of GSA lessors, GSA has not maintained official records of the information it receives from these efforts. Further, it has not analyzed the information that it collects from lessors and other stakeholders for use in revising the leasing process. These omissions hinder GSA's ability to identify the full range of lessor concerns.

GSA's recent approach to outreach differs from earlier approaches where GSA conducted more formal outreach to lessors. For example, in 2011 GSA performed formal outreach in order to inform decisions about significant changes to its leasing process. Officials told us that they selected a wide variety of lessors and held formal outreach sessions where GSA took minutes and maintained a record of all of the comments. GSA then analyzed the comments and used the results of its analysis to inform the initiatives it was conducting at that time, including the development of the simplified lease model. In addition, in 2017 GSA established the Office of Leasing Industry Outreach Program, which was a formal program to allow industry representatives to discuss various leasing issues with GSA officials through conference calls, webinars, and in-person sessions. GSA conducted nine monthly sessions with this program in 2017 and kept a formal record of only the first four sessions. Officials told us that they have since shifted their approach to conduct outreach more like that conducted by the Office of Government-wide Policy discussed above.

Federal internal control standards call for agencies to communicate with, and obtain quality information from, external parties such as stakeholders that can help the agency achieve its objectives.[30] While GSA has in the past collected and analyzed information from a wide variety of stakeholders to the leasing process, the real estate market is constantly changing. By obtaining current information from a broad spectrum of stakeholders and documenting and analyzing the information collected, GSA would be better positioned to know whether its lease reforms are addressing stakeholder concerns and how its lease requirements affect cost and competition.

GSA Does Not Know Whether Its Simplified Lease Model Is Achieving Anticipated Benefits

As previously noted, GSA developed its simplified lease model in 2011 to simplify the acquisition of smaller value leases with the intent of making the leasing process more efficient and cost-effective. GSA officials told us that using this model is also intended to help them achieve other lease reform goals including reducing holdovers and short-term extensions by speeding up the leasing process and making GSA leases more attractive to a wider spectrum of potential lessors. In addition, officials said that they believe greater use of the simplified lease model would increase competition for leases, particularly in real estate markets with high demand for office space. Since initial implementation, GSA has undertaken initiatives to increase the use of this model, including by

[30] GAO-14-704G

raising the eligibility threshold from $150,000 to $250,000, and GSA officials told us that they have proposed raising the threshold to $500,000, a move that would cover more than 70 percent of GSA's leases. However, GSA has not performed any analysis on the number of leases that were eligible for, but did not use, this model.

Using available data, we analyzed the leases GSA entered into during fiscal years 2016 through 2018 that were potentially eligible for the simplified lease model and compared those that used the model to those that used GSA's global and standard lease models. We found that the group of leases where GSA had used the simplified lease model had achieved lower rents both overall and per square foot than the group of potentially eligible leases where GSA had used its standard or global models (see table 2).[31] These leases had lower average costs even though they had shorter average total terms and firm terms.[32] This finding is notable because, according to GSA, longer leases typically have lower costs than shorter ones. However, our analysis of available data also found that GSA only used the simplified lease model on 124 of the 406 leases that were potentially eligible, or about 31 percent (see table 2).

Table 2: General Services Administration (GSA) Leases Under $150,000, Using the Global and Standard, and the Simplified Lease Models, Fiscal Years 2016–2018

Variable	Global and Standard Model	Simplified Model
Total Number of Leases	282	124
Percentage of Total[a]	69.5 percent	30.5 percent
Average Rent per Square Foot	$25.33	$23.16

[31] We considered a lease potentially eligible if it had an annual rent amount of less than $150,000, which was the eligibility threshold at the beginning of fiscal year 2016, and it did not use one of GSA's lease models designed for specific situations such as the succeeding or superseding, parking, or on-airport models. Even though the facility security level is an additional eligibility requirement for the model, we could not include it in this analysis because GSA does not have security level information for many of the leases in this dataset. However, we determined that omitting this data field did not substantially change the results of this analysis because only a smaller number of leases with costs below $150,000 also had a facility security level of III or above.

[32] We were not able to assess the extent to which the lower rental costs might be attributable to the use of the simplified lease model because there are other factors that that contribute to its use that are not included in GSA's data. For example, in order for GSA to use the simplified lease model, tenant agencies must provide fully developments prior to GSA advertising the lease. The data do not include the date GSA received these requirements.

Average Total Annual Rent	$77,874	$57,628
Average Rentable Square Feet	3,530	2,526
Average Total Term	10.8 years	9.8 years
Average Firm Term	6.1 years	5.4 years

Source: GAO analysis of GSA data. | GAO-20-181

Note: The simplified lease model contains fewer requirements than the global and standard models. GSA designed this model as a faster and more efficient method of processing lower value leases.

[a]Total excluding leases that used parking, airport, succeeding/superseding, and other models designed for specific situations.

GSA officials told us that they face two primary challenges in increasing adoption of the simplified lease model. First, lease contracting officers must choose to use the simplified model as opposed to GSA's standard lease model. While GSA's leasing policy states that lease contracting officers should use the simplified lease model to the maximum practical extent,[33] the lease contracting officers generally have wide discretion in selecting the type of lease to use for a particular acquisition. GSA officials told us that they believe some lease contracting officers may be hesitant to use the model because it is less familiar to them. GSA officials also told us that they have provided training for lease contracting officers on the appropriate use of the simplified lease model and have encouraged them to use it.

Second, in order for GSA to use the simplified lease model, tenant agencies must provide a complete set of space requirements that GSA can use in a lease solicitation—what GSA calls biddable requirements—prior to GSA's advertising the lease. According to GSA officials, tenant agencies do not always provide these requirements on time. By having biddable requirements in place before receiving bids, GSA can avoid negotiating these requirements after the lease is awarded. GSA officials and lessors told us that not having these requirements in place is a major source of project delays. GSA tracks both when it receives initial requirements from the tenant agencies and when the more fully developed requirements that GSA uses in its standard lease model solicitations are in place. In order to use the simplified lease model, GSA and the tenant agency then develop biddable requirements that need additional detail.

[33] GSA, "Chapter 3: Simplified Lease Acquisition," *PBS Leasing Desk Guide.* (Washington, D.C.: 2011).

An Example of challenges agencies face in providing lease requirements to the General Services Administration (GSA):

Officials from three of the five tenant agencies we spoke with told us that it can be difficult for them to provide GSA with requirements two or more years in advance because agency missions and space needs change. For example, Internal Revenue Service officials told us that providing requirements 36 months in advance of a lease's expiring is difficult for them because they may not know what their agency budget and personnel will be that far in advance. Officials from the Federal Bureau of Investigation said that lead times greater than three years are challenging because their agency missions change frequently, which leads to changing space needs.

Source: GAO interviews with selected GSA lessors. | GAO-20-181

GSA has taken some steps to increase use of the simplified lease model. For example, several GSA regions have begun to work with SSA on a pilot program to reduce the time it takes for GSA to complete leases with that agency, including by increasing the availability of the simplified lease model. This program is in the early stages and, according to the charter, developed in August 2019, its objectives are to reduce the total time it takes to complete leases, increase up-front knowledge of project costs, and minimize the number of changes needed to leases all while maintaining or reducing the average costs for these projects. GSA and SSA plan to accomplish these objectives by identifying the areas of the leasing process most prone to delays, developing strategies for more quickly finalizing the complete requirements needed to use the simplified lease model, and testing the improvements in both large and small real estate markets. GSA plans to begin testing the changes developed by this program during the first half of 2020. SSA officials told us that they typically begin planning approximately 42 months prior to lease expiration with the goal of providing initial requirements to GSA by 36 months prior.

GSA lacks comprehensive information on the benefits and challenges of using the simplified lease model because it has not evaluated the results it has obtained from using it. For example, officials told us that they have not analyzed the lease processing times or rental rates they have achieved using the model. Officials also said that they already collect the data they would need to study the model and they have used this data to analyze related issues such as lease holdovers and short-term extensions. Officials also told us that they do not consider use of the simplified lease model to pose any financial risks provided that lease contracting officers follow GSA's existing policies. However, they told us that GSA has not reviewed financial and other risks that may arise from using the model. These factors include risks due to the model's not containing certain provisions that may protect GSA, such as tenant substitution. We have reported that agencies can use information about the performance of programs to identify problems or weaknesses, to try to identify factors causing the problems, and to modify programs to address them.[34] Program assessment helps to establish a program's effectiveness. Without conducting such an assessment, GSA does not have the information needed to determine whether the simplified lease model is achieving intended results, whether to make improvements, or how to mitigate any risks.

Conclusions

The federal government spends nearly $6 billion annually on leasing space from private entities, and GSA has taken steps to encourage private sector competition for government leases. GSA's efforts to address stakeholder concerns with lease requirements have had some success. Specifically, GSA's 2011 formal stakeholder outreach and subsequent development of new lease models and other process changes have given GSA some options to reduce leases' complexity and better tailor leases to the needs of individual projects. However, because GSA's recent outreach has not included a representative group of its lessors, and it has not documented and analyzed the information collected from this outreach, GSA may not have the information it needs to fully address lessors' concerns.

Further, the simplified lease model—which GSA developed to address some of these stakeholder concerns and more effectively use its resources—has been in use for several years. Given that GSA has proposed further expanding the use of the model to higher value leases, it is important to know the results GSA has obtained from using the model, such as the characteristics of leases for which it achieves the greatest savings in costs and time, and the extent to which it bears financial or other risks from its use. Such information would help inform GSA's future decision-making on the use of the simplified lease model.

[34] GAO-05-927

Recommendations for Executive Action

We are making the following three recommendations to GSA:

- The Administrator of the General Services Administration should expand its outreach as appropriate to obtain feedback from lessors that are representative of its entire lease portfolio. (Recommendation 1)
- The Administrator of the General Services Administration should, for future outreach efforts, document and assess lessors' feedback about the leasing process. (Recommendation 2)
- The Administrator of the General Services Administration should evaluate whether the simplified lease model is achieving its intended results. (Recommendation 3)

Agency Comments

We provided a draft of this report for review to the General Services Administration, the Social Security Administration, and the Departments of Homeland Security, the Interior, Justice, and the Treasury.

The General Services Administration concurred with our recommendations in its written comments, which are reproduced in appendix II. The General Services Administration and the Department of the Interior provided technical comments, which we incorporated as appropriate. The Departments of Homeland Security, Justice, and the Treasury, and the Social Security Administration had no comments on the draft report.

As agreed with your offices, unless you publically announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees; the Administrator of the General Services Administration; the Secretaries of the Departments of Homeland Security, the Interior, and the Treasury; the Commissioner of the Social Security Administration; the Attorney General; and other interested parties. In addition, the report will be available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions concerning this report, please contact me at (202) 512-2834 or rectanusl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Lori Rectanus
Director, Physical Infrastructure

Appendix I: Objectives, Scope, and Methodology

This report examines (1) lease requirements selected stakeholders identified as affecting cost and competition and steps GSA has taken to address their concerns, and (2) how GSA has identified stakeholder concerns and evaluated its simplified lease model.

To obtain information for both objectives, we reviewed laws, regulations, and executive orders covering GSA leases and GSA's leasing process. We also obtained data from GSA on each of the 1,618 leases it entered into between the beginning of fiscal year 2016 and the end of fiscal year 2018, the most recent data available. This data included fields for the current annual rent, the size of the lease in rentable square feet, the lease model GSA used, the facility security level, the occupying agency, and the lease's effective and expiration dates, among others. We assessed the reliability of this data by reviewing documentation; interviewing GSA officials; electronically testing the data by, for example, examining missing values and outliers; and verifying the accuracy of potentially erroneous data with GSA officials. We concluded that the data were reliable for the purposes of selecting a sample of GSA lessors and reporting on GSA's portfolio of leases and the general characteristics of the groups of leases that used different lease models.

In addition, to address both objectives, we collected information from and interviewed a non-generalizable sample of 20 GSA lessors to obtain their perspectives on GSA leases and GSA's leasing process. To select these lessors, we used the fiscal year 2016–2018 lease data that GSA provided and selected leases using the annual rent amount as the primary selection criteria. We excluded leases that used models designed for specific lease products, such as leases for parking structures or leases on airport properties, and we also excluded leases that were successions or supersessions of leases that had already been established under different models. To make the selections, we first split the data into three groups based on annual rent, the first group of leases with annual rents under $150,000; the second group with annual rents between $150,000 and below $500,000; and the last group with annual rents above $500,000.[1] We then randomly ordered the leases within each of the three groups, and selected 53 total leases in that order from the three groups.[2] We checked this grouping to ensure that the selected leases had similar characteristics to GSA's general population in other important lease characteristics such as lease model used and GSA region. We then randomly ordered the selected leases and contacted the lessors for those leases in that order.

We interviewed the first 20 lessors from our selected leases who agreed to be interviewed. When contacting the lessors we found that in most cases the lessor named in GSA's data was a subsidiary to another organization. In those cases, we interviewed the organization that self-identified as being responsible for the selected lease, or their representative. We conducted these interviews between March 2019 and June 2019 and used a semi-structured interview format with open-ended questions for those interviews. During these interviews, we asked for lessors views on the requirements in GSA's leases that can affect their willingness to bid on GSA leases and the prices they can offer, actions they take in response to those requirements, other areas of GSA's leasing process that can be difficult for them, the benefits to leasing to GSA, and their perspectives on GSA's recent lease reform efforts. To obtain a broader perspective on GSA's leasing process, we also conducted semi-structured interviews on the same topics with six real estate brokers who are participating in the GSA Leasing Support Services contract.[3] We asked the brokers to provide their experiences on which areas of GSA leases result in the greatest number of cost and competition issues from lessors, and what the lessors do about those areas. We also interviewed four other experts on GSA leasing including professional organizations and attorneys who represent building owners, and former GSA officials. Although the results of these stakeholder interviews are not generalizable to the entire population of GSA lessors,

[1] We chose these amounts as our cutoffs because $150,000 was the threshold for use of the simplified lease model at the beginning of fiscal year 2016, and $500,000 is the amount to which GSA officials told us they are proposing to raise the threshold.

[2] In order to ensure parity in our sample, we somewhat oversampled the larger leases. In the random number order, we selected the first 21 leases from the above $500,000 group, the first 17 leases from the between $150,000 and $500,000 group, and the first 15 leases from the below $150,000 group.

[3] In the GSA Leasing Support Services program, GSA uses commercial real estate brokers to perform a variety of tasks in the leasing process, including negotiating leases.

they provide illustrative examples of lessors' experiences with GSA leases and the leasing process.

After conducting these semi-structured interviews with lessors and brokers, we conducted a content analysis of the interview data. To conduct this analysis, we organized the responses by topic area, and then one GAO analyst reviewed all of the interview responses and identified recurring themes. Using the identified themes, the analyst then developed categories for coding the interview responses and independently coded the responses for each question. To ensure accuracy, a second GAO analyst reviewed the first analyst's coding of the interview responses, and then the two analysts reconciled any discrepancies.

To identify the lease requirements that stakeholders we spoke with identified as affecting cost and competition, we synthesized information from our content analysis of interview responses to identify the most commonly mentioned requirements. We selected the eight most commonly mentioned requirements by summing the total number of responses from both the lessors and the brokers. As part of this analysis we also selected the four areas stakeholders most often mentioned as challenges that were related to GSA's leasing process, as opposed to a specific requirement, but that stakeholders nonetheless identified as having effects on cost and competition. To assess how the responses from lessors may have differed based on how much experience a lessor has with GSA, we grouped the lessors we spoke with into two categories. The first category was those lessors who had told us that they had experience with three or more GSA leases, we referred to these lessors as "more experienced," and the second category was those lessors who had experience with one or two GSA leases, we referred to those lessors as "less experienced." To identify the source of the GSA requirements stakeholders identified, we reviewed GSA documents and interviewed officials to learn about each of the requirements. In addition, we reviewed laws, regulations and executive orders that governed GSA's use of these requirements.

To determine how GSA and tenant agencies develop requirements for leased space—one of the requirements stakeholders identified—we selected five bureau-level and independent agencies to review how they develop initial requirements for leased space and how they work with GSA and the lessor to finalize those requirements. We selected these agencies by the number of GSA leases they had entered into during fiscal years 2016-2018, using the lease data for that time period provided by

GSA. We selected the agencies that had entered into the greatest number of leases, and in order to ensure that we had a diversity of experiences from across the federal government, and we limited our selection to executive branch independent agencies and one-bureau-level entity from each cabinet department.[4] Based on these factors, we selected (1) Department of the Interior Fish and Wildlife Service (FWS); (2) Department of the Treasury Internal Revenue Service (IRS); (3) Department of Justice Federal Bureau of Investigation (FBI); (4) Social Security Administration (SSA); and (5) Department of Homeland Security Immigration and Customs Enforcement (ICE). While the views of these agencies are not representative of all executive branch agencies, they provide a range of examples and experiences with leasing space through GSA. We reviewed documents and interviewed officials from each of these five agencies to learn about how they develop requirements for leased space, how they work with GSA to identify feasible properties, how they participate in the development of the final space design and construction, and how they plan for their future leased space needs.

To identify the steps GSA has taken to identify stakeholder concerns and evaluate its simplified lease model, we reviewed pertinent GSA documents and interviewed GSA officials on recent lease reform efforts, including how GSA has defined them, what information GSA used to develop them, how GSA has implemented them, and how GSA has assessed their performance. In addition, we obtained information from our interviews with lessors and real estate brokers about their impressions of GSA's lease reform efforts, including whether they were aware of the efforts, and what effects they had observed. We compared GSA's efforts to identify and address stakeholder concerns to Federal Standards for Internal Control related to external communication.[5]

To identify how often GSA has used its simplified lease model and the characteristics of the leases for which GSA used the model, we used the GSA fiscal year 2016–2018 lease data described previously. We analyzed the data to obtain information about the number of leases that had used each of GSA's lease models, and the average rent amounts, size, and terms. Even though the facility security level is an additional

[4] We also eliminated the Transportation Security Administration because they entered into leases primarily for airport properties, which are not representative of the broader real estate market.

[5] See GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sep 10, 2014).

eligibility requirement for the model, we could not include it in this analysis because GSA does not have security level information for many of the leases in this dataset. However, we determined that omitting this data field did not substantially change the results of this analysis because only a small number of leases with costs below $150,000 also had a facility security level of III or above. We were not able to assess the extent to which the lower rental costs might be attributable to the use of the simplified lease model because there are other factors that that contribute to its use that are not included in GSA's data. For example, in order for GSA to use the simplified lease model, tenant agencies must provide fully developments prior to GSA advertising the lease. The data do not include the date GSA received these requirements. We compared GSA's efforts to evaluate its simplified lease model to criteria from our prior work on the use of performance information for decision-making.[6]

We conducted this performance audit from October 2018 to December 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[6] See GAO, *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (Washington, D.C.: Sep 9, 2005).

Appendix II: Comments from the General Services Administration

The Administrator

December 5, 2019

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the U.S. Government Accountability Office (GAO) draft report entitled *Improving Stakeholder Outreach and Lease Model Evaluation Could Enhance Competition* (GAO-20-181).

GAO made the following recommendations to GSA:

1. The Administrator of the General Services Administration should expand its outreach as appropriate to obtain feedback from lessors that are representative of its entire lease portfolio.
2. The Administrator of the General Services Administration should, for future outreach efforts, document and assess lessors' feedback about the leasing process.
3. The Administrator of the General Services Administration should evaluate whether the simplified lease model is achieving its intended results.

GSA agrees with the recommendations and is developing a plan to address them. While GSA has expanded its outreach to the lessor community in recent years (Recommendation 1) and documented and responded to the feedback received when possible (Recommendation 2), we believe there are additional opportunities to expand our outreach efforts. GSA will also take action in response to Recommendation 3. GSA has provided technical comments in the enclosure and requests these be considered to improve clarity in the final report.

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If you have any questions, please contact me at (202) 929-7277 or Jeffrey A. Post, Associate Administrator, Office of Congressional and Intergovernmental Affairs, at (202) 501-0563.

Sincerely,

Emily W. Murphy

Emily W. Murphy
Administrator

Enclosure: GSA Technical Comments

cc: Ms. Lori Rectanus, Director, Physical Infrastructure, GAO

Text of Appendix II: Comments from the General Services Administration

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Sincerely,

Emily W Murphy Administrator

Enclosure: GSA Technical Comments

cc: Ms. Lori Rectanus, Director, Physical Infrastructure, GAO

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Lori Rectanus at (202) 512-2834 or rectanusl@gao.gov

Staff Acknowledgments

In addition to the contact named above, Amelia Bates Shachoy, Assistant Director; Alex Fedell, Analyst-in-Charge; James Duke; Cynthia Grant; Geoffrey Hamilton; Gina Hoover; Terence Lam; Malika Rice; Kelly Rubin; Jim Russell; Patrick Tierney; and Amelia Michelle Weathers made key contributions to this report.

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