

ADVOCACY ALERT

POTENTIAL GSA LEASE CANCELLATIONS



The new Trump Administration quickly prioritized a push to drastically shrink the size of the federal government. To date, this has included moves to reduce the size of the federal workforce, as well as a to-be-determined effort to reduce federal building space. Property owners and managers will want to stay apprised of the evolving situation and prepare as appropriate.

CONTEXT

- While there's been no reveal of a detailed plan or timeline, the goal of dramatically shrinking the federal property portfolio is clear. In the first week of the new Administration, federal leases administered by the General Services Administration (GSA) were placed in the spotlight, with multiple announcements that leases had been cancelled. No specifics were shared on how the government terminated these particular long-term leases.
- It's been widely reported that the GSA has been tasked with reducing non-defense federal building space by at least 50 percent. It's also been reported that GSA regional managers received direction to terminate leases on federal offices across the country, and that the GSA is reaching out to agencies to determine opportunities to reduce space needs if leases are terminated as expected.

KEY POINTS

- A lease is a binding contract. Unlike nearly all other government contracts, GSA standard leases do not automatically provide the government with a right to terminate for "convenience" at any time or for any reason. The government has no right to terminate during the firm term, and its rights to terminate afterward are determined by the provisions in the individual lease.
- Many GSA leases contain a provision that allows an exit after a date certain following the firm term, typically with 90 or 120 days written notice.
- If a lease is terminated, the government must get its personnel and property out of the space in the time allowed by the termination rights provision. Failure to do so could put GSA in a holdover position and the lessor could file a claim for additional rent payments. This could become an issue if government tenants were not planning to have their leases terminated.

RECOMMENDATIONS

- **Review Your Leases** - The government's right to terminate a lease comes from the language in the individual lease, so a close examination of the lease language is a necessary first step. Review the terms of any notice of termination or any lease amendment for waivers and releases of claims.
- **Review Your Compliance** - Lessors should focus on their internal processes to ensure compliance with lease requirements in order to avoid any potential terminations for minor defaults. Consider reaching out to tenants to increase communication.
- **Contact Your Legal Counsel** - When possible, consult with experienced lawyers who are familiar with government contracts and real estate. This is the ideal path for understanding the terms of leases and your rights regarding termination, waivers and potential claims.
- **Monitor Terminations Carefully** - If a lease is terminated, monitor whether the government removes its personnel and property out of the space in the time allotted. Failure to vacate could result in a right to holdover rent.
- **Stay Connected** - Keep apprised by staying in touch with your BOMA local association. If lease cancellations become more widespread, BOMA is the ideal venue to share experiences.