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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 552 and 570

[GSAR Case 2021-G527; Docket No. GSA-GSAR-2021-0014; Sequence No. 1]

RIN 3090-AK44

General Services Administration Acquisition Regulation; Immediate and Highest Level Owner for High-Security Leased Space

AGENCY: Office of Acquisition Policy,
General Services Administration (GSA).

ACTION: Interim rule.

SUMMARY: GSA is amending the General Services Administration Acquisition Regulation (GSAR) to implement Section 3 and Section 5 requirements of the Secure Federal Leases from Espionage and Suspicious Entanglement Act (the Act or Secure Federal LEASEs Act). The Act addresses the risks of foreign ownership of Government-leased real estate and requires the disclosure of ownership information for high-security space leased to accommodate a Federal agency.

DATES: *Effective:* June 30, 2021.

Applicability: This interim rule applies to new lease awards, the exercise of options for current leases, lease extensions, and ownership changes for high-security leased space. Except where otherwise provided, the Act's disclosure requirements shall apply with respect to any lease or novation agreement entered into on or after June 30, 2021, involving high-security leased space. That includes new, renewal, succeeding, expansion, superseding, extension, and replacing leases and novations.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before August 30, 2021 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to GSAR Case 2021-G527 to the Federal eRulemaking portal at <https://www.regulations.gov> by searching for "GSAR Case 2021-G527". Select the link "Comment Now" that

corresponds with "GSAR Case 2021-G527". Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "GSAR Case 2021-G527" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite "GSAR Case 2021-G527" in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Carroll, Procurement Analyst, at 817-253-7858 or GSARPolicy@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARRegSec@gsa.gov. Please cite GSAR Case 2021-G527.

SUPPLEMENTARY INFORMATION:

I. Background

On Dec. 31, 2020, the then president signed into law the Secure Federal Leases from Espionage and Suspicious Entanglements Act (Secure Federal LEASEs Act), (Pub. L. 116-276, 134 Stat. 3362). The Act imposes disclosure requirements regarding the foreign ownership, particularly "beneficial ownership," of prospective lessors of "high-security leased space" (*i.e.*, property leased to the Federal government having a security level of III or higher). Section 3 and Section 5 of the Act regarding immediate and highest-level ownership applies to a lease or lease novation for high-security leased space entered into six months after the date of the enactment of the Act. GSA will modify existing leases to reflect the requirements of the Act when any of the various actions highlighted in the Applicability section arise.

These requirements of the statute are applicable to leases by the U.S. General Services Administration (GSA), the Architect of the Capitol, "or the head of any Federal agency, other than the Department of Defense (DOD), that has independent statutory leasing authority" (Federal lessees). The Act is not applicable to DOD or to the intelligence community. In that regard, Section 2876 of the FY 2018 National

Defense Authorization Act (NDAA) (Pub. L. 115-91) already provides DOD similar authority to obtain ownership information with respect to its high-security leased space. GSA's regulatory action applies to GSA and to agencies relying upon GSA's leasing authority.

The Act addresses national security risks identified in the Government Accountability Office (GAO) report, GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners, dated January 2017 (GAO-17-195). This report found certain high-security Federal agencies were in buildings owned or controlled by foreign entities. According to the report, most Federal tenants were unaware the spaces GAO identified were subject to foreign ownership or control, exposing these agencies to the heightened risk of surreptitious physical or cyber espionage by foreign actors. The report also noted GAO could not identify the owners of approximately one-third of the Federal government's high-security leases because such ownership information was unavailable for those buildings.

As the US Government's "landlord," GSA serves as the central leasing agent for Federal leases and is responsible for managing and obtaining space on behalf of multiple Federal agencies. When GSA enters into a leasing agreement, the agency becomes the "tenant" of GSA, with GSA acting as the lessee of the property. GSA currently uses information contained in the System for Award Management (SAM) to collect foreign ownership information for potential lessors, including immediate or highest-level owners. However, as Congress recognized in the Act, SAM does not capture more nuanced forms of foreign control such as entities involved in financing properties or beneficial ownership.

GSA is currently reviewing and investigating potential future implementation steps and potential updates through electronic means to implement the requirements of the Act, including externally (System for Award Management) or internally (GSA's Lease Offer Platform). As these alternatives are not yet available, this interim rule will require reporting on an action-by-action basis.

What is "high-security leased space"?

The statute defines "high security leased space" as "space leased by a Federal lessee that—(A) will be occupied by Federal employees for nonmilitary activities; and (B) has a facility security level of III, IV or V, as

determined by the Federal tenant in consultation with the Interagency Security Committee, the Department of Homeland Security, and the General Services Administration.” Facility security levels and the process for determining these are outlined in the Interagency Security Committees publication “The Risk Management Process.”¹

New Disclosure Requirements

Section 3 of the Act imposes the following requirements:

- Prior to entering into a lease agreement with a “covered entity” or allowing such a landlord to convey its interest in a leased space that qualifies as a “high-security leased space”—meaning a lease with a security level of Level III, IV, or V—a Federal lessee must require the landlord to identify and disclose whether the “immediate owner” or “highest-level owner” of the leased space, including an entity involved in the financing thereof, is a foreign person or a foreign entity, and to identify the country associated with each ownership entity. A “covered entity” is a person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, or any governmental entity or instrumentality of a government. Leases entered into by the Department of Defense and for Federal tenants within the intelligence community (as defined in the National Security Act of 1947, 50 U.S.C. 3003) are expressly excluded from these requirements.

- The Act requires disclosure of the “immediate owner” (the entity that has direct control of the offeror of a lease, as defined by ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees) and “highest-level owner” (the entity that owns or controls an immediate owner of the offeror of a lease or that owns or controls one or more entities that control the immediate owner).

- The Act also requires disclosure of whether an entity is involved in the financing of the leased space is a foreign person or entity. GSA has provided a definition of “financing” at 552.270–33.

- Once a lease is executed, the Act requires annual disclosure of the foreign ownership of the landlord (and financing of the property) with respect to each prior one year period.

- Section 3 of the Act applies to any lease or novation agreement entered into on or after June 30, 2021.

- This Section of the Act requires that a covered entity (*i.e.*, “a person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group”; or “any governmental entity or instrumentality of a government”) identify and disclose whether the immediate or highest-level owner of the leased space, including an entity involved in financing of the property, is a foreign person or a foreign entity, including the country of origin associated with the ownership, before a Federal lessee enters into a lease agreement with a covered entity or approves a novation agreement with a covered entity that involves a change of ownership under a lease for high-security leased space.

- Under the Act, an “immediate owner” is “an entity, other than the offeror of a lease, that has direct control of the offeror, including ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees” and a “highest-level owner” is “the entity that owns or controls an immediate owner of the offeror of a lease, or that owns or controls 1 or more entities that control an immediate owner of the offeror.” If a disclosure is made, the Federal lessee is required to notify the Federal tenant of the building (or other improvement) that will be used for high-security space and to consult with the Federal tenant regarding security concerns and to determine whether mitigation measures are necessary prior to lease award or approval of the novation agreement.

- A covered entity is required to provide this ownership information in response to a solicitation for offers issued by the Federal lessee or before approving a novation agreement for a lease. Covered entities also must update the information provided to the Federal lessee annually. The information that must be provided on an annual basis includes: The list of immediate or highest-level owners of the covered entity during the preceding one-year period of Federal occupancy or the information required to be provided relating to each such immediate or highest-level owner.

Section 4 of the Act is not addressed in this regulation. It will be implemented through separate rulemaking and is outlined here for awareness. Section 4 also imposes disclosure requirements for beneficial ownership:

- Subject to the development of GSA’s government-wide plan for obtaining ownership information outlined in Section 4 of the Act, covered entities also will be required to disclose information about beneficial ownership. A “beneficial owner” is “with respect to a covered entity, each natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—(i) exercises control over the covered entity; or (ii) has a substantial interest in or receives substantial economic benefits from the assets of the covered entity.” However, a beneficial owner of a covered entity does not include: A minor child, a person acting as a nominee, intermediary, custodian, or agent on behalf of another person; a person acting solely as an employee of the covered entity and whose control over or economic benefits from the covered entity derives solely from the employment status of the person; a person whose only interest in the covered entity is through a right of inheritance or a creditor of the covered entity unless either also meets the definition of “beneficial owner.” This disclosure will be addressed in a future rule.

- Comments are welcome on foreign ownership, including beneficial ownership, with the understanding that such comments may help inform a future regulatory action.

Additional Lease Language

Lease agreements for high-security leased space will be required to include language that limits the access to the leased space by the covered entity and any member of the property management company responsible for the space without prior approval from the Federal tenant. The Federal tenant may only grant access to the high-security leased space (or any property or information located in the space) if the tenant determines that access is “clearly consistent with [its] mission and responsibilities.” The Federal lessee is required to have written procedures, signed by both the Federal lessee and the covered entity, that govern “access to the high-security leased space in case of emergencies that may damage the leased property.”

Government-Wide Plan for Obtaining Ownership Information

Section 4 of the Act requires GSA, in conjunction with the Office of Management and Budget (OMB), to develop a government-wide plan for agencies to identify all immediate, highest-level, or beneficial owners of high-security leased spaces before

¹ *Interagency Security Committees publication “The Risk Management Process”, March 2021*

entering into a lease agreement with a covered entity for the accommodation of a Federal tenant in a high-security leased space.

The plan must require the disclosure of any immediate, highest-level, or beneficial owner that is a foreign person and notification by the Federal lessee of high-security space to the affected Federal tenant of such foreign ownership. The plan, however, must exclude collecting ownership information on widely held pooled-investment vehicles, mutual funds, trusts, or other pooled-investment vehicles. The Act requires GSA to submit the plan to specific Congressional committees by Dec. 31, 2021 and to implement the plan by Dec. 31, 2022. This plan will be separately addressed in a future rule, and is not included in this interim rule.

Unlike the direct control-based immediate owner and highest-level owner, the Act defines the term “beneficial owner” to include any person that—through a contract, arrangement, understanding, relationship, or otherwise—exercises control over the covered entity or has a substantial interest in or receives substantial economic benefits from the assets of the covered entity, with some exceptions. GSA and OMB’s plan must require the Federal lessee to collect the foreign ownership information for any immediate, highest-level, or beneficial owner that is a foreign person and, upon such a disclosure of foreign ownership, to notify and consult with the Federal tenant.

Implications of the Act and Related Rulemakings

This Act is one of several recent examples of congressional concern about foreign ownership and control and congressional action in the world of government contracting to help address potential national security concerns. *See, e.g.*, FY 2021 NDAA (Pub. L. 116–283), § 819, Modifications to Mitigating Risks Related to Foreign Ownership, Control, or Influence of DOD Contractors and Subcontractors; § 885, Disclosure of Beneficial Owners in Database for Federal Agency Contract and Grant Officers; § 6403, Beneficial Ownership Information Reporting Requirements.

Covered entities already provide certain information on immediate and highest-level ownership through the System for Award Management registration process, per OMB Control Numbers 9000–0097 and 9000–0185. However, covered entities will need to provide additional information through a manual representation regarding any

financing entities and foreign ownership details for the enhanced requirements per Section 3 of the Act. Additionally, subject to the development and implementation of GSA’s government-wide plan for Section 4 of the Act, through separate rulemaking, covered entities will need to provide disclosure of creditors who may be deemed beneficial owners if they either exercise control over the covered entity or have a substantial interest in or receive substantial economic benefits from the covered entity’s assets. Therefore, property owners will need to take this provision into account when considering financing options for leasing high-security space to the Federal government.

II. Requirements Contained in This Rulemaking and Related Rulemakings

With this rule, GSA is implementing Section 3 and Section 5 of the Act.

Section 3—

- Requires Federal lessees for high-security leased space to require covered entities to identify and disclose whether the owner of the leased space, including an entity involved in the financing thereof, is a foreign person or a foreign entity, including the country associated with the ownership entity, before entering into a lease agreement. Covered entities must provide Federal lessees such information—

- when first submitting proposals in response to a solicitation for offers issued by the lessee; and

- annually, to include the list of immediate or highest level owners of the covered entity during the preceding one-year period of occupancy.

- Requires the Federal lessee to notify the Federal tenant in writing if such a disclosure of foreign ownership is made and consult with the tenant regarding any security concerns prior to awarding a new lease agreement.

Section 5—

- Requires that leases for high-security space include certain language regarding access to the high-security leased space by the covered entity and any member of the property management company.

Section 4 of the Act requires the identification of beneficial owners of high-security leased spaces and will be addressed in a subsequent rulemaking through GSAR Case 2021–G522 and FMR Case 2021–102–1. In addition, the FAR Council has opened FAR Case 2021–005 which will implement sections 885 and 6403 of the NDAA for FY 2021 (Pub. L. 116–283) to require certain offerors to disclose beneficial

ownership information in their offers for contracts over the simplified acquisition threshold.

Finally, other agencies may need to do additional rulemaking because the GSAR only governs the contract terms and conditions for leased space procured by GSA and its delegated agencies.

III. Authority for This Rulemaking

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including in the GSAR, to control the relationship between GSA and contractors. In addition, the Secure Federal LEASES Act, authorizes the collection of ownership information for high-security leased space.

IV. New GSAR Requirements

With this rule, GSA is implementing one new GSAR representation and one new GSAR clause. The new representation is 552.270–33 (Foreign Ownership and Financing Representation for High-Security Leased Space) and the new clause is 552.270–34 (Access to Limitations for High-Security Leased Space). Both apply to new lease awards, the exercise of options for current leases, lease extensions, and ownership changes for high-security leased space. Except where otherwise provided, the Act’s disclosure requirements shall apply with respect to any lease or novation agreement entered into on or after June 30, 2021, involving high-security leased space. That includes new, renewal, succeeding, expansion, superseding, extension, and replacing leases and novations.

The new GSAR representation implemented in 552.270–33 requires offerors for high-security leased space to identify whether the immediate owner, highest-level owner, or an entity involved in the financing of the lease is foreign-owned. If so, they must represent the associated country. Awardees will also be required to represent on an annual basis. This representation also applies upon extensions, exercise of renewal options and change of ownership/novations.

The new GSAR clause at 552.270–34 requires lessors for high-security leased space to limit access to the space unless approved by an authorized Government representative.

V. Expected Impact of the Rule

GSA anticipates that this rule will have an impact on current Federal lessors of high-security leased space, future potential lessors of high-security leased space, and the Federal lessor

industry of high-security leased space. The rule seeks to ensure effective implementation and enforcement of the national security measures imposed by the Secure Federal LEASEs Act with minimal disruption to the mission of GSA and its Federal tenants and Federal lessors. As set forth in Section VI.(d) below, GSA recognizes the benefits that will result from this rule.

GSA notes that this rule is one of several actions with regard to the Secure Federal LEASEs Act and other statutes regarding foreign ownership by GSA, other agencies with lease authority promulgating their own rules, and by the FAR Council. GSA understands that the impact of actions dealing with foreign ownership, including specifically beneficial owners, is not well understood and is still being assessed.

In addition, while this interim rule, specific to Sections 3 and 5 of the Secure Federal LEASEs Act, will be effective June 30, 2021, GSA is seeking public comment, including, as indicated below, on the potential impact of this rule on Federal lessors. After considering the comments received, a final rule will be issued, taking into account and addressing the public comments, as well as helping to shape implementation of future rules like beneficial ownership. GSA plans to share public comments received on such questions with other agencies and the FAR Council.

VI. Regulatory Impact Analysis

The cost and benefit impacts of amending the General Services Administration Acquisition Regulation (GSAR) to implement certain requirements outlined in the Secure Federal LEASEs Act (SFLA) (Pub. L. 116–276) are discussed in the analysis below. This analysis was developed by GSA in consultation with agency procurement officials and the GSA Office of Leasing. Section VI.(h) of this rule is requesting specific feedback regarding the impact of this rule, as well as other pertinent policy questions of interest, in order to inform finalization of this and potential future subsequent rulemakings.

(a) Risks to Industry of Not Complying With SFLA

As a strictly contractual matter, an organization's failure to submit an accurate representation to the Government constitutes a breach of contract that can lead to cancellation, termination, and financial consequences. Therefore, it is important for contractors to develop a compliance plan that will allow them to submit

accurate representations to the Government in the course of their offers.

GSA notes that this interim rule does not authorize GSA lease contracting officers to use the information disclosed by offerors as a differentiating factor for selection of a lease award, nor does it authorize GSA to terminate a lease, prevent a novation, or otherwise decline to make an award based on the disclosure. As such, GSA estimates that this rule will not result in these activities, and therefore no moving costs have been included in this regulatory impact analysis.

(b) Contractor Actions Needed for Compliance

GSA assumes that most Federal lessors maintaining high-security leased space or Federal lessors that are competing for solicitations for high-security leased space are already familiar with the majority of the requirements of this rule, or, similarly, will not find the requirements of this interim rule as anything significantly more than what is currently expected. GSA previously implemented ownership disclosures requirements through internal policy², GSA's Request for Lease Proposals (or solicitations), and GSA's guidance through its public-facing Leasing Desk Guide³ and Leasing Alerts and Lease Acquisition Circulars.⁴

(1) GSA Leasing—Current Processes

Regardless of who owns the leased space, Federal agencies are already taking risk management measures appropriate for the security level of the space. The GSA Leasing Desk Guide⁵ outlines requirements and standards for new and replacement space. In Chapter 19 (issued in 2012), it provides

² In March 2017, GSA's Office of Leasing issued Leasing Alert LA-FY17-06 requiring Lease Contracting Officers (LCOs) to determine whether the ownership of leased space is identified as a foreign-owned entity and to notify the client agency in such instances, so that the agency can take any needed security mitigation measures. The Leasing Alert outlined the procedures to make this determination which involved a review of the entity's SAM registration; the Leasing Alert also required this review for all lease procurements and novations, regardless of the Facility Security Level (FSL).

In October 2018, GSA added a "Foreign Ownership and Financing Representation," to be included with all Request for Lease Proposals (RLP) packages issued for prospectus-level lease projects. This "paper" representation required the offeror to confirm both foreign ownership and foreign financing.

³ GSA's *Leasing Desk Guide* (Desk Guide).

⁴ GSA's *Leasing Alerts and Lease Acquisition Circulars* (LAC).

⁵ The Desk Guide chapters contain authorities, policies, technical and procedural guides, and administrative limitations governing the acquisition by lease of real property. Chapter 19 is specific to security requirements.

instructions for competitive procurements based on the Interagency Security Committee (ISC),⁶ Physical Security Standards, and it outlines the Public Buildings Service's (PBS) responsibilities for performing background investigations on the lessors' contractors.

In addition, a 2018 GSA Leasing Alert,⁷ provided required and recommended measures for lessors related to cybersecurity protections and precautions in leased facilities. It establishes lease language that prohibits lessors from connecting any portion of their building and access control systems (BACS) to any federally-owned or operated IT network and requires notification for cybersecurity incidents that impact a federal tenant's safety, security, or proper functioning. The lease language also outlines recommended cybersecurity measures that lessors are encouraged to follow.

Lessors are already currently required to report certain ownership information. As previously outlined, GSA currently uses information contained in the System for Award Management (SAM) to collect foreign ownership information for potential lessors, including immediate or highest-level owners, and provides such information to tenant agencies. While this rule requires additional information related to the lessor's financing, the review of immediate or highest-level owner detail has already been in place and is a requirement Federal lessors are familiar with.

(2) GSA Leasing—General Security Framework

As outlined in the GSA Leasing Desk Guide, the facility security level (FSL)⁸ for each space requirement is set by the Department of Homeland Security-Federal Protective Service (FPS) and the client agency, in consultation with the GSA as part of the requirements development phase of a lease acquisition. If the client agency and FPS have not already conferred, GSA must coordinate with the necessary parties to set the appropriate level of security before the solicitation is drafted. The Desk Guide states that GSA Leasing

⁶ A Federal committee dedicated to the protection of Federal civilian facilities in the United States. It has 21 primary member agencies and 30 associate member agencies. The ISC has developed standards applicable to all civilian Federal facilities, including leased facilities.

⁷ LA-FY18-05, *Cybersecurity Measures for Leased Facilities*.

⁸ A categorization based on the analysis of several security-related facility factors, which serves as the basis for the implementation of countermeasures specified in ISC standards. (*CISA ISC Standard, March 2021*).

acquisition members must maintain contact as necessary with the appropriate FPS inspector throughout the lease administration. The facility security level designation does not change solely based on lessor ownership information collected via this rule.

(3) GSA Leasing—Determining Countermeasures

GSA follows the Interagency Security Committee (ISC) provided standard for Physical Security Criteria (PSC) for Federal Facilities. This standard establishes baseline physical security measures for each FSL. This standard defines the process for determining the appropriate security measures; it also covers any uncommon measures required to address the unique risks at a particular facility. The GSA Desk Guide currently uses the PSC to prescribe the process for determining appropriate countermeasures for a facility. Adherence to this process (1) ensures that all security criteria will be considered; (2) defines the relationship between the levels of risk determined for each undesirable event and; (3) mitigates risk through countermeasures that provide a commensurate Level of Protection (LOP). The lessor ownership information does not affect the PSCs for Federal Facilities and therefore GSA does not anticipate this rule to have a significant impact on the security standards used by GSA tenants.

(c) Compliance Plan Estimated Due to Interim Rule

GSA assumes the following steps would most likely be part of a lessor's plan that would need to be developed by any entity to stay in compliance with the new representation clause at GSAR 552.270–33 and other clause at GSAR 552.207–34 being implemented by this rule:

1. Regulatory Familiarization. The entity must read and understand the GSAR rules and the resulting necessary actions for compliance.

2. Workforce Training. The entity must educate its purchasing/procurement professionals⁹ to ensure that they are familiar with the representation and clause and their disclosure requirements (as applicable).

3. Compliance with Clauses. The entity must identify and disclose whether the immediate or highest-level owner of the leased space, including an entity involved in the financing thereof,

⁹ GSA estimates that the purchasing/procurement professional requiring training as a result of this rule on average would be equal to a mid-career professional. The equivalent labor category used to capture cost estimates therefore is a GS–12 Step 5, or Journeyman Level 1.

is a foreign person or a foreign entity, including the country associated with the ownership entity. If a disclosure is made, the Federal lessee shall notify the Federal tenant of the building or other improvement that will be used for high-security space in writing, and consult with the Federal tenant regarding security concerns and necessary mitigation measures, if any, prior to award of the lease or approval of the novation agreement.

(d) Benefits

This Act requires the identification of all individuals who own or benefit from partial ownership of a property that will be leased by the federal government for high-security use. The statute is in response to a 2017 Government Accountability Office (GAO) report which indicated that Federal agencies were vulnerable to espionage and other intrusions because foreign actors could gain unauthorized access to spaces used for classified operations or to store sensitive data. Agencies store law enforcement evidence and other sensitive data and are often unaware of foreign ownership of their office spaces. While many of the foreign owners identified in the 2017 GAO report were companies based in allied countries such as Canada, Norway, Japan or South Korea, other properties were owned and managed by entities based in more adversarial nations. The report noted Chinese-owned properties, in particular, presented security challenges because of the country's proclivity for cyberespionage and the close ties between private sector companies and the Chinese government. The GAO report highlighted the dangers posed by these properties, indicating that "leasing space in foreign-owned buildings could present security risks such as espionage, unauthorized cyber and physical access to the facilities, and sabotage."

The United States faces an expanding array of foreign intelligence threats by adversaries who are using increasingly sophisticated methods to harm the Nation.¹⁰ Threats to the United States posed by foreign intelligence entities are becoming more complex and harmful to U.S. interests.¹¹ Foreign intelligence actors are employing innovative combinations of traditional spying, economic espionage, and supply chain and cyber operations to gain access to critical infrastructure, and steal sensitive information and industrial

¹⁰ *National Counterintelligence Strategy of the United States of America 2020–2022.*

¹¹ *National Counterintelligence Strategy of the United States of America 2020–2022.*

secrets.¹² The exploitation of key supply chains by foreign adversaries represents a complex and growing threat to strategically important U.S. economic sectors and critical infrastructure.¹³

Additionally, by requiring "Financing Entity" information in the representation clause, GSA will benefit by better understanding the source of funds used to finance projects. Risks associated with financing, such as money laundering, involve disguising financial assets so they can be used without detection of the illegal activity that produced them.¹⁴ These transactions further shield the entity from a recorded connection to the funds by providing a plausible explanation for the source of the funds.¹⁵ Typical examples used for this type of activity include the purchase and resale of real estate, investment securities, foreign trusts, or other assets.¹⁶ By collecting this information, GSA will be able to share more transparent information on foreign financing of leases with tenant agencies.

The goal of the Act is to close security loopholes by directing the GSA to design a verification system that identifies a property's owners if the space would be used for high-security purposes. While GSA and other Federal agencies have made positive changes in response to GAO's 2017 report, this rule will help support current best practices being followed more uniformly throughout the Federal government.

Finally, this Act ensures that GSA (and all agencies particularly with independent leasing authority) will have the ability to obtain information on foreign ownership and provide it to relevant Federal tenants.

(e) Public Costs

During the first and subsequent years after publication of the rule, lessors will need to learn about the clauses and its requirements. GSA estimates this cost by multiplying the time required to review the regulations and guidance implementing the rule by the estimated compensation of a purchasing/

¹² *National Counterintelligence Strategy of the United States of America 2020–2022.*

¹³ *National Counterintelligence Strategy of the United States of America 2020–2022.*

¹⁴ Government Accountability Office Report ((GAO–17–195), *GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners*, dated January 2017.

¹⁵ Government Accountability Office Report ((GAO–17–195), *GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners*, dated January 2017.

¹⁶ Government Accountability Office Report ((GAO–17–195), *GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners*, dated January 2017.

procurement mid-career professional. The equivalent labor category used to capture cost estimates therefore is a GS-12 Step 5.

A. To estimate the aggregate burden to Government lessors of complying with the rule, the number of lessors that will be impacted was calculated using numbers pulled from GSA's records and databases.¹⁷ As of June 2021, GSA has approximately 7,860 leases totaling approximately 183,000,000 in Rentable Square Footage (RSF) and approximately \$5,600,000,000 in annual rent (\$2,800,000,000 of that total represents small entities). Of the 7,860, approximately 1,263¹⁸ (or 16 percent) of the leases are for high-security lease space (lease space in a facility with a security level of III, IV, or V) totaling approximately 87,000,000 in RSF and approximately \$3,000,000,000 in annual rent. Approximately 68 percent¹⁹ of the leasing entities are small entities. High-security leases with these small entities represents \$1,370,000,000 in annual rent covering approximately 37,000,000 RSF.

B. GSA also delegates leasing authority to several agencies, which are required to follow GSA's policies. GSA

estimates there are 1,300²⁰ buildings represented by these agencies with Delegated Leasing Authority²¹ from GSA. GSA does not have data available that identifies which of these are for high-security lease space. GSA assumes that these delegated agencies have a similar profile to GSA's for high-security leased space to total portfolio space, *i.e.*, 16 percent. This would bring the total number of high-security lease space for delegated agencies to 208 (1,300 × 16 percent). GSA also assumes the same profile for small entities of 68 percent.

C. Based on historical data maintained by GSA's Office of Leasing, GSA estimates that 6 percent of its high-security leased space will be solicited for a new contract each year (6 percent of 1,263 = 76 leases). These solicitations result from a mix of expiring high-security leases or new requirements for high-security facilities. GSA assumes these trends will continue for the time horizon outlined by this regulatory impact. Based on historic bid rates and high current vacancy levels, GSA further estimates that 3 lessors will make offers for these high-security lease procurement for a total of 228 offers (76

high-security leases awarded * 3 lessors competing for each solicitation. 76 * 3 = 228) GSA assumes the same profile for delegated facilities.

D. Since 2014, GSA has averaged approximately 31 renewal options per year for high-security leases (equal to approximately 17 percent of all renewals options during the same period) and averaged approximately 106 extensions for existing high-security leases (also equal to approximately 17 percent of all extensions during the same period). GSA assumes the same trend will continue in subsequent years. GSA assumes the same profile for delegated facilities.

E. GSA processed 380 novations from May 1, 2020 to April 30, 2021^{22 23} (therefore approximately 5 percent of leases resulted in a novation (380/7,860)). GSA does not have data on how many of those were related to FSL III, IV, or V. GSA will assume 16 percent of those novations were for FSL III, IV, or V leases. Therefore, it is assumed 61 novations were processed for high-security leases in the last year.

A breakdown is provided in the table below.

| Par above | | GSA | Delegated authority agencies |
|-----------|--|------------------------|------------------------------|
| A,B | Leased Space | 7,860 | 1,300 |
| A,B | High-Security (HS) Space Leases (16 percent) | 1,263 | 208 |
| | Total HS Portfolio | 1,263 | 208 |
| | Existing HS Lease Baseline | 1,263 | 208 |
| | Combined HS Lease Baseline | 1,471 (1,263 + 208) | |
| C | New Procurements (6 percent HS) | 76 | 12 |
| C | New Offers (x3) | 228 | 36 |
| | Total New Responses | 228 | 36 |
| D | Renewals (17 percent HS) | 31 | 35 |
| D | Extensions (17 percent HS) | 106 | 35 |
| E | Novations (5 percent Leases) | 380 | 65 |
| E | High-Security Space Novations (16 percent) | 61 | 10 |
| | Total HS Novations | 61 | 10 |
| | New HS Lease Baseline | 426 (228+31+106+61) | 116 (36+35+35+10) |
| | Combined New HS Lease Baseline | 542 (426 + 116) | |

¹⁷ If not otherwise stated, numbers related to leases are provided by the GSA Office of Leasing through surveying their internal databases.

¹⁸ The GSA Office of Leasing provided this number by surveying their internal database.

¹⁹ This information is based on internal inventory data sources provided by the GSA Office of Leasing.

²⁰ This information is based on internal inventory data sources provided by the GSA Office of Leasing.

²¹ Federal Management Regulation (FMR) Bulletin 2008-B1 limits the square footage permissible under a General Purpose lease delegation to 19,999 usable ANSI/BOMA ("ABOA") square feet of space; since FSL designations are tied

to square footage in addition to other factors, this estimate is likely higher than actual.

²² This information is based on internal inventory data sources provided by the GSA Office of Leasing.

²³ GSA does not have data on how many novation other agencies with Delegated Leasing Authority processed.

Steps to Compliance

1. Regulatory Familiarization

Below is a list of compliance activities related to regulatory familiarization that GSA anticipates will occur:

a. Familiarization With GSAR 552.270–33, Foreign Ownership and Financing Representation for High-Security Leased Space

i. GSA estimates that it will take existing high-security lessors approximately 3 hours²⁴ each to familiarize themselves with the new GSAR representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$372,000$ ²⁵ ($= 3 \text{ hours} \times \84.16 ²⁶ $\times 1,471$). Of the 1,471 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 1,000 lessors, are small entities.

After the initial familiarization in the first year for each current awardee or subsequent awardee, GSA estimates it will take 15 minutes (0.25 hours²⁷) to stay familiar with the representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$31,000$ ($= 0.25 \text{ hours} \times \$84.16 \times 1,471$).

ii. GSA estimates that new high-security lessors each year will take approximately 3 hours²⁸ each to familiarize themselves with the new GSAR representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$137,000$ ²⁹ ($= 3 \text{ hours} \times \84.16×542). Of the 542 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 369 lessors, are small entities.

²⁴ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

²⁵ Totals are rounded.

²⁶ This hourly rate, \$84.16, is the 2021 GS rate for a GS–12 Step 5 of \$42.08 per hour (using the rate for the rest of the United States) adjusted upward by 100 percent to account for fringe benefits and overhead.

²⁷ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

²⁸ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

²⁹ Totals are rounded.

b. Familiarization With GSAR 552.270–34, Access to Limitations for High-Security Leased Space

i. GSA estimates that it will take existing high-security lessors approximately 2 hours³⁰ each to familiarize themselves with the clause at GSAR 552.270–34. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$248,000$ ($= 2 \text{ hours} \times \$84.16 \times 1,471$). Of the 1,471 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 1,000 lessors, are unique small entities.

After the initial familiarization in the first year for each current awardee or subsequent awardee, GSA estimates it will take 15 minutes (0.25 hours³¹) to stay familiar with the representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$31,000$ ($= 0.25 \text{ hours} \times \$84.16 \times 1,471$).

ii. GSA estimates that new high-security lessors each year will take approximately 2 hours³² each to familiarize themselves with the clause at GSAR 552.270–34. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$108,000$ ($= 2 \text{ hours} \times \84.16×542). Of the 542 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 369 lessors, are small entities.

The total estimated cost to become familiar with the representation clause (GSAR 552.270–33) and the other new clause (GSAR 552.270–34) is estimated to be $\$619,000$ for the existing high-security lessors. In subsequent years, this cost is estimated to be $\$290,000$ for new high-security lessors annually.

2. Implementation of Workforce Training

The entity must educate its purchasing/procurement professionals to ensure that they are familiar with the representation and clause and their disclosure requirements (as applicable).

³⁰ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

³¹ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

³² The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

a. GSA estimates that it will take existing high-security lessors approximately 6 hours³³ each to train their workforce on the representation clause at GSAR 552.270–33 and the GSAR clause at 552.270–34. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$743,000$ ($= 6 \text{ hours} \times \$84.16 \times 1,471$). Of the 1,263 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 1,000 lessors, are small entities.

After the initial training in the first year for each current awardee or subsequent awardee, GSA estimates it will take 30 minutes (0.50 hours³⁴) to conduct continuing additional workforce training. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$62,000$ ($= 0.50 \text{ hours} \times \$84.16 \times 1,471$).

b. GSA estimates that new high-security lessors each year will take approximately 6 hours each to train their workforce on the representation clause at GSAR 552.270–33 and the GSAR clause at 552.270–34. Therefore, GSA calculated the total estimated cost for this part of the rule to be $\$274,000$ ($= 6 \text{ hours} \times \84.16×542). Of the 542 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 369 lessors, are small entities.

The total estimated cost to implement workforce training for the representation clause (GSAR 552.270–33) and the access limitation clause (GSAR 552.270–34) is estimated to be $\$743,000$ for the existing high-security lessors. In subsequent years, this cost is estimated to be $\$336,000$ for new high-security lessors annually.

3. Compliance With Clauses

a. GSAR 552.270–33, Foreign Ownership and Financing Representation for High-Security Leased Space

i. GSA estimates that it will take existing high-security lessors approximately 2 hours³⁵ each to

³³ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

³⁴ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

³⁵ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

complete the representation at sections (c)(1), (d)(1), and (e)(1) (essentially no required disclosures required) of the representation clause. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$248,000 (= 2 hours × \$84.16 × 1,471). Of the 1,471 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 1000 lessors, are small entities.

ii. GSA estimates that new high-security lessors each year will take approximately 2 hours each to complete the representation at sections (c)(1), (d)(1), and (e)(1) (essentially no required disclosures required) of the representation clause. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$91,000 (= 2 hours × \$84.16 × 542). Of the 542 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 369 lessors, are small entities.

iii. GSA further estimates that of the existing high-security lessors, 10 percent³⁶ (or 147 lessors) will respond affirmatively to one or more sections at (c)(1), (d)(1), and (e)(1) of the representation clause that the offeror “does” have an “immediate owner”, and/or “is” owned or controlled by another entity (or “highest owner”), and/or “does” involve a “foreign entity” and will be required to complete additional section at (c)(2) and (c)(3), potentially (c)(4), (d)(2) and (d)(3), potentially (d)(4), and (e)(2). GSA estimates that it will take these offerors an additional 10 hours³⁷ to complete those various sections of the representation clause. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$124,000 (= 10 hours × \$84.16 × 147). Of the 147 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 100 lessors, are unique small entities.

iv. GSA estimates that of the new high-security lessors each year, 10 percent³⁸ (or 54 lessors) will respond affirmatively to one or more sections at (c)(1), (d)(1), and (e)(1) of the representation clause that the offeror “does” have an “immediate owner”, and/or “is” owned or controlled by

another entity (or “highest owner”), and/or “does” involve a “foreign entity” and will be required to complete additional sections at (c)(2) and (c)(3), potentially (c)(4), (d)(2) and (d)(3), potentially (d)(4), and (e)(2). Thus, approximately 54 lessors (10 percent of 542) need to fully complete GSAR 552.270–33. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$45,000 (= 10 hours × \$84.16 × 54). Of the 54 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 37 lessors, are small entities.

After the existing and new high-security lessors complete the representations, GSA estimates it will take 15 minutes (0.25 hours³⁹) to update any information as necessary and as required annually. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$34,000 (= [0.25 hours × \$84.16 × 1,471] + [25 × \$84.16 × 147]).

b. GSAR 552.270–34, Access to Limitations for High-Security Leased Space

i. GSAR 552.270–34 requires lessors for high-security leased space to limit access to the space unless approved by an authorized Government representative. GSA estimates that 10 percent of lessors, or 147 (10 percent of 1,471) will request approval once per lease and will take an estimated 3 hours⁴⁰ to submit each request. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$37,000 (= 3 hours × \$84.16 × 147). Of the 147 lessors impacted by this part of the rule, GSA assumes that 68 percent, or 100 lessors, are small entities.

ii. GSA estimates that 10 percent, or 54 (10 percent of 542) of new high-security lessors each year will request approval once per lease and will take an estimated 3 hours⁴¹ to submit each request. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$14,000 (= 3 hours × \$84.16

× 54). Of the 54 lessors impacted by this part of the rule, GSA assumes that 68 percent, or 37 lessors, are small entities.

iii. GSA acknowledges that existing high-security lessors will be required to establish written procedures, as documented in the Government’s Occupant Emergency Plan, governing access to the high-security leased space in case of emergencies. GSA estimates that reviewing these procedures will take approximately 3 hours.⁴² Therefore, GSA calculated the total estimated cost for this part of the rule to be \$371,000 (= 3 hours × \$84.16 × 1,471). Of the 1,471 lessors impacted by this part of the rule, GSA assumes that 68 percent, or approximately 1000 lessors, are small entities.

iv. GSA acknowledges that new high-security lessors will be required to sign written procedures, as documented in the Government’s Occupant Emergency Plan, governing access to the high-security leased space in case of emergencies. GSA estimates that reviewing these procedures will take approximately 3 hours.⁴³ Therefore, GSA calculated the total estimated cost for this part of the rule to be \$137,000 (= 3 hours × \$84.16 × 542). Of the 542 lessors impacted by this part of the rule, GSA assumes that 68 percent, or 369 lessors, are small entities.

After the existing high-security lessors initially establishes the written procedures, GSA estimates it will take 15 minutes (0.25 hours⁴⁴) to update any information as necessary. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$31,000 (= 0.25 hours × \$84.16 × 1,471).

The total estimated cost to complete both the representations and the clause is estimated to be \$780,000 the existing high-security lessors. In subsequent years, this cost is estimated to be \$351,000 for new high-security lessors annually.

4. Public Total Costs

The total cost of the above Cost Estimate is \$2,100,000 in the first year

³⁶ The amount of lessors impacted is an assumption based on subject matter expert judgment.

³⁷ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

³⁸ The amount of lessors impacted is an assumption based on subject matter expert judgment.

³⁹ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

⁴⁰ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

⁴¹ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

⁴² The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

⁴³ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

⁴⁴ The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgement. Subject matter experts include representatives from GSA’s Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

after publication. The total cost of the above Cost Estimate in subsequent years is \$977,000 annually.

The following is a summary of the estimated costs calculated for a 10 year time horizon in perpetuity at a 3- and 7-percent discount rate:

| Summary | Total costs |
|----------------------------------|-------------|
| Present Value (3 percent) | \$9,500,000 |
| Annualized Costs (3 percent) ... | 1,100,000 |
| Present Value (7 percent) | 7,950,000 |
| Annualized Costs (7 percent) ... | 1,330,000 |

GSA notes that this interim rule does not authorize GSA lease contracting officers to use the information disclosed by offerors as a differentiating factor for selection of a lease award, nor does it authorize GSA to terminate a lease, prevent a novation, or otherwise decline to make an award based on the disclosure. As such, GSA estimates that this rule will not result in these activities, and therefore no moving costs have been included in this regulatory impact analysis.

GSA acknowledges that there is uncertainty underlying these estimates, including elements for which an estimate is unavailable given inadequate information. As more information becomes available, including through comment in response to this notice, GSA will seek to update these estimates which could increase the estimated costs.

(f) Government Cost Analysis

During the first and subsequent years after publication of the rule, leasing acquisition members (which includes a combination of Leasing Contracting Officers, Lease Administration Managers, Realty Specialists, and General Counsel) will need to learn about the clauses and its requirements. GSA estimates this cost by multiplying the time required to review the regulations and guidance implementing the rule by the estimated compensation, on average, of a GS-12 leasing acquisition member. GSA assumes that leasing acquisition members will, on average, stay consistent in subsequent years. Numbers and assumptions apply to delegated agencies as well.

GSA anticipates several areas of impact as a result of this rule. These impacts mirror the public impacts and will appear as regulatory familiarization, workforce training, and time to review compliance with clauses. These costs are justified in light of the compelling national security objective that this rule will advance.

For consistency, the number of leases to be reviewed match the numbers in

the “Existing HS Lease Baseline” row (1,471 combined) and “New annual Lease Baseline” row (542 combined) found in table in section VI.(e).

1. Regulatory Familiarization

a. GSA estimates that it will take approximately 516 leasing acquisition members 1.5 hours to become familiar with the GSAR 552.270–33 representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$65,000⁴⁵ (= 1.5 hours × \$84.16 × 516).

After the initial familiarization, GSA estimates it will take 15 minutes (0.25 hours) to stay familiar with the representation in subsequent years. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$11,000 (= 0.25 hours × \$84.16 × 516).

b. GSA estimates that it will take approximately 516 leasing acquisition members 30 minutes (0.5 hours) to become familiar with the GSAR 552.270–34 representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$22,000 (= 0.50 hours × \$84.16 × 516).

After the initial familiarization, GSA estimates it will take 6 minutes (0.10 hours) to stay familiar with the representation in subsequent years. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$4,300 (= 0.10 hours × \$84.16 × 516).

2. Workforce Training

The Government must educate its leasing acquisition members to ensure that they are familiar with the representation and clause and how to review and act on the submitted information, access requests, and written procedures.

a. GSA estimates that it will take approximately 516 leasing acquisition members 1 hour to complete training related GSAR 552.270–33 representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$43,000 (= 1 hours × \$84.16 × 516).

After the initial training, GSA estimates it will take 6 minutes (0.10 hours) to maintain training related to the representation. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$4,300 (= 0.10 hours × \$84.16 × 516).

b. GSA estimates that it will take approximately 516 leasing acquisition members 30 minutes (0.50 hours) to complete training related to the GSAR

552.270–34 clause. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$22,000 (= 0.50 hours × \$84.16 × 516).

After the initial training, GSA estimates it will take 3 minutes (0.05 hours) to maintain training related to the clause. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$2,200 (= 0.05 hours × \$84.16 × 516).

3. Review of Compliance With Clauses

The primary cost to GSA will be to review the representations required by GSAR 552.270–33 and the compliance with GSAR 552.270–34.

a. GSAR 552.270–33, Foreign Ownership and Financing Representation for High-Security Leased Space

i. GSA estimates that it will take leasing acquisition members approximately 6 minutes (0.10 hours) to review the representation at sections (c)(1), (d)(1), and (e)(1) (essentially no required disclosures required) of the representation clause at GSAR 552.270–33 for existing high-security lessors. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$12,000 (= 0.10 hours × \$84.16 × 1,471).

ii. GSA estimates that for new high-security lessors each year, it will take leasing acquisition members approximately 6 minutes (0.10 hours) to review the representation at sections (c)(1), (d)(1), and (e)(1) (essentially no required disclosures required). Therefore, GSA calculated the total estimated cost for this part of the rule to be \$4,600 (= 0.10 hours × \$84.16 × 542).

iii. GSA estimates that for existing high-security lessors, 10 percent (or 147 lessors) will respond affirmatively to one or more sections at (c)(1), (d)(1), and (e)(1) of the representation clause that the offeror “does” have an “immediate owner”, and/or “is” owned or controlled by another entity (or “highest owner”), and/or “does” involve a “foreign entity” and will be required to complete additional sections at (c)(2) and (c)(3), potentially (c)(4), (d)(2) and (d)(3), potentially (d)(4), and (e)(2). GSA estimates that it will take leasing acquisition members 5 hours to complete the reviews on those various sections of the representation clause, notify the Federal tenant of the building or other improvement of any security concerns and necessary mitigation measures (if any) prior to award or approval of a novation agreement. Therefore, GSA calculated the total

⁴⁵ All totals in the Government Cost Analysis section are rounded.

estimated cost for this part of the rule to be \$62,000 (= 5 hours × \$84.16 × 147).

iv. GSA estimates 10 percent, or 54 lessors, of new high-security lessors each year will respond affirmatively to one or more sections at (c)(1), (d)(1), and (e)(1) of the representation clause that the offeror “does” have an “immediate owner”, and/or “is” owned or controlled by another entity (or “highest owner”), and/or “does” involve a “foreign entity” and will be required to complete additional sections at (c)(2) and (c)(3), potentially (c)(4), (d)(2) and (d)(3), potentially (d)(4), and (e)(2). GSA estimates that it will take leasing acquisition members 5 hours to complete the reviews on those various sections of the representation clause, notify the Federal tenant of the building or other improvement of any security concerns and necessary mitigation measures (if any) prior to award or approval of a novation agreement. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$23,000 (= 5 hours × \$84.16 × 54).

b. GSAR 552.270–34, Access to Limitations for High-Security Leased Space

i. GSAR 552.270–34 requires lessors for high-security leased space to limit access to the space unless approved by an authorized Government representative. GSA estimates that 10 percent of lessors, or 147 (10 percent of 1,471) will request approval once per lease and it will take the leasing acquisition member an estimated 3 hours to review and approve the request. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$37,000 (= 3 hours × \$84.16 × 147).

ii. GSA estimates that for new high-security lessors, 10 percent of lessors (or approximately 54) will request approval once per lease and it will take the leasing acquisition members an estimated 3 hours to review and approve the request. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$14,000 (= 3 hours × \$84.16 × 54).

iii. GSA acknowledges that the rule will require written procedures, as documented in the Government’s Occupant Emergency Plan,⁴⁶ governing access to the high-security leased space in case of emergencies. GSA estimates that writing these procedures will take approximately 2 hours. Therefore, GSA calculated the total estimated cost for

this part of the rule to be \$248,000 (= 2 hours × \$84.16 × 1,471).

iv. GSA acknowledges that the rule will require, for new high-security leases, written procedures, as documented in the Government’s Occupant Emergency Plan, governing access to the high-security leased space in case of emergencies. GSA estimates that writing these procedures will take approximately 2 hours. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$91,000 (= 2 hours × \$84.16 × 542).

After the first year the rule is implemented, GSA estimates it will take 6 minutes (0.10 hours) to update any information in the subsequent years for the written procedures. GSA does not estimate any additional significant burden with access requests. Therefore, GSA calculated the total estimated cost for this part of the rule to be \$12,000 (= 0.10 hours × \$84.16 × 1,471).

The total estimated cost to GSA to review representations and written procedures is estimated to be \$359,000 in the first year after publication. The total estimated cost to GSA to review representations and written procedures annually is estimated to be \$145,000.

4. Reduced Competition

GSA acknowledges both new clauses may lead to reduced competition. Some lessors may choose to exit the Federal market, particularly lessors that primarily lease to the private sector, because of the additional disclosure requirements, and the subsequent reduced level of competition may increase prices. However, estimated costs faced by contractors represent a small fraction of lease payments, and therefore GSA expects effects along these lines to be minimal.

5. Government Total Costs

The total cost of the above Cost Estimate is \$511,000 in the first year after publication. The total cost of the above Cost Estimate in subsequent years is \$166,000 annually.

The following is a summary of the estimated costs calculated for a 10 year time horizon at a 3- and 7-percent discount rate:

| Summary | Total costs |
|------------------------------------|-------------|
| Present Value (3 percent) | \$1,750,000 |
| Annualized Costs (3 percent) | 205,000 |
| Present Value (7 percent) | 1,488,000 |
| Annualized Costs (7 percent) | 212,000 |

GSA notes that this interim rule does not authorize GSA lease contracting officers to use the information disclosed by offerors as a differentiating factor for selection of a lease award, nor does it

authorize GSA to terminate a lease, prevent a novation, or otherwise decline to make an award based on the disclosure. As such, GSA estimates that this rule will not result in these activities, and therefore no moving costs have been included for in this regulatory impact analysis.

6. Overall Total Costs

The overall total cost of the above Cost Estimate, including both Public and Government costs, is \$2,653,000 in the first year after publication. The overall total cost of the above Cost Estimate, including both Public and Government costs in subsequent years, is \$1,143,000 annually.

The following is a summary of the estimated overall total costs calculated for a 10 year time horizon at a 3- and 7-percent discount rate inclusive of both Public and Government costs:

| Summary | Total costs |
|------------------------------------|--------------|
| Present Value (3 percent) | \$11,216,000 |
| Annualized Costs (3 percent) | 1,315,000 |
| Present Value (7 percent) | 9,439,000 |
| Annualized Costs (7 percent) | 1,344,000 |

(g) Analysis of Alternatives

Alternative 1: GSA could take no regulatory action to implement this statute. However, this alternative would not provide any implementation and enforcement of the important national security measures imposed by the law. Moreover, the general public would not experience the benefits of improved national security resulting from the rule as detailed above in Section VI.(d). As a result, we reject this alternative.

Alternative 2: GSA could take a more stringent approach to the requirements of the Act and apply the new clauses to not only all GSA leases and delegated leases for FSL III, IV, or V space but for all FSL designations. However, given the relatively low levels of risk at those facilities, as described by the ISC, compared with the costs and burden applying this new representation clause and access clause,⁴⁷ no additional benefit would be gained. As a result, we reject this alternative.

GSA also considered issuing an acquisition letter, but concluded the best alternative was to issue this interim rule directly implementing the statute and allowing for public comment.

⁴⁷ As this Regulatory Impact Analysis only considers 1,471 high-security leases (or approximately 16% of the GSA leasing portfolio), it’s reasonable to estimate that if the entire portfolio was included, costs could be approximately 5X more costly than currently shown.

⁴⁶ The GSA Office of Leasing will develop a templated Plan for all leasing acquisition members to use. Therefore, it will not require individual development of each plan by each member. This will lessen the burden.

(h) Specific Questions for Comment

To understand the exact scope of the impact of this rule and how this impact could be affected in subsequent rulemaking, GSA welcomes input on the following assumptions and questions regarding anticipated impact on affected parties.

Assumption 1: As previously stated, GSA assumes that most Federal lessors maintaining high-security leased space or Federal lessors that are competing for solicitations for high-security leased space are already familiar with the majority of the requirements of this rule, or, similarly, will not find the requirements of this interim rule as anything significantly more than what is currently expected. GSA previously implemented ownership disclosures requirements through internal policy,⁴⁸ GSA's Request for Lease Proposals (or solicitations), GSA's guidance through its public-facing Leasing Desk Guide,⁴⁹ Leasing Alerts and Lease Acquisition Circulars.⁵⁰

Question 1: If this assumption is not valid, to what extent are the requirements in this rule significantly different from what GSA has currently been doing as part of its procedures for foreign ownership disclosure?

Assumption 2: GSA estimates that this rule will impact mainly the Federal lessor industry.

Question 2: If this assumption is not valid, is there another industry(s) to which this rule will cause significant impact or disruption?

Assumption 3: The impact of this rule will not significantly change the way current Federal lessors interact with GSA (or other Federal agencies with independent leasing authority).

Question 3: If this assumption is not valid, to what extent will this rule change how you interact with GSA (or other Federal agencies with independent leasing authority)?

⁴⁸ In March 2017, GSA's Office of Leasing issued Leasing Alert LA-FY17-06 requiring Lease Contracting Officers (LCOs) to determine whether the ownership of leased space is identified as a foreign-owned entity and to notify the client agency in such instances, so that the agency can take any needed security mitigation measures. The Leasing Alert outlined the procedures to make this determination which involved a review of the entity's SAM registration; the Leasing Alert also required this review for all lease procurements and novations, regardless of the Facility Security Level (FSL).

In October 2018, GSA added a "Foreign Ownership and Financing Representation," to be included with all Request for Lease Proposals (RLP) packages issued for prospectus-level lease projects. This "paper" representation required the offeror to confirm both foreign ownership and foreign financing.

⁴⁹ GSA's *Leasing Desk Guide* (Desk Guide).

⁵⁰ GSA's *Leasing Alerts and Lease Acquisition Circulars* (LAC).

Assumption 4: The impact of this rule will not significantly reduce the number of lessors competing for High-Security Leased Space solicitations.

Question 4: If this assumption is not valid, to what extent will this rule reduce the likelihood of you—lessor to the Federal Government for High-Security Leased Space—from not competing for future solicitations of High-Security Leased Space?

Assumption 5: The compliance activities, and associated costs, estimated by GSA are stated at Section VI.(e).

Question 5: Is there a compliance activity that GSA has failed to consider? If so, please specify the activity, explain the activity, describe the impact of the activity, and please estimate the annual cost of such activities and subsequent yearly activity costs.

Question 6: Is there a compliance activity that GSA has noted that is significantly understated (in terms of annual and subsequent costs)? If so, which compliance activity and what specifically was understated? Please explain how the compliance activity should be estimated.

Assumption 7: Other agencies relying upon GSA's leasing authority have similar profiles of high security leases in their inventory.

Question 7: What information is available to better estimate high security leases in other agency inventories?

Assumption 8: GSA sufficiently detailed all compliance requirements for the rule.

Question 9: What additional information or guidance do you view as necessary to effectively comply with this rule?

Question 10: What other challenges do you anticipate facing in effectively complying with this rule?

Question 11: What thoughts or observations would you like to share regarding foreign ownership, including beneficial ownership, for GSA to consider in subsequent rule-making?

VII. Executive Order 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This interim rule has been reviewed in accordance with E.O. 12866

Section 6(b) and determined by OMB to be a significant regulatory action. See Section VI for a regulatory impact analysis of the rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a "major rule" may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This interim rule has been reviewed and determined by OMB not to be a "major rule" under 5 U.S.C. 804(2).

IX. Regulatory Flexibility Act

The General Services Administration does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an Initial Regulatory Flexibility Analysis has been performed, and is summarized as follows:

The purpose of this interim rule is to implement certain requirements outlined in the Secure Federal LEASEs Act (Pub. L. 116-276) into the GSAR.

The objective of the rule is to prescribe appropriate policies and procedures to address the risks of foreign ownership of Government-leased real estate and requires the disclosure of ownership information for high-security space leased to accommodate a Federal agency. One new representation and one new clause have been developed to support these policies and procedures: GSAR 552.270-33 (representation) and GSAR 552.270-34 (clause). Both will be required in all novations, solicitations and contracts for leased space that (1) will be occupied by Federal employees for nonmilitary activities; and (2) have a facility security level of III, IV, or V.

A new representation requirement at GSAR 552.270-33 will be incorporated into all new lease awards, options exercised for current leases, lease extensions, and ownership changes for high-security leased space. Except where otherwise provided, the statutory disclosure requirements shall apply with respect to any lease or novation agreement entered into on or after June 30, 2021, involving high-security leased space. That includes new, replacing, succeeding, and superseding leases, renewal options, extensions, and novations. This includes actions involving small entities. The representation requires offerors for high-security leased space to identify whether the immediate owner, highest-level owner, or an entity involved in the financing of the lease is foreign-owned. If so, they must represent

the associated country. Awardees will also be required to re-represent on an annual basis. This representation also applies upon change of ownership/novations.

As of June 2021, GSA has approximately 7,860 leases in total. Approximately 68 percent (5,345) of leasing entities were small entities. This information is based on internal inventory data sources. Approximately 1,263 of GSA portfolio leases are for high-security lease space (lease space in a facility with a security level of III, IV, or V). 76 leases per year are estimated to be solicited for new high-security space procurements. These solicitations result from a mix of expiring high-security leases or new requirements for high-security facilities. Using the approximation above (68 percent), GSA estimates that for the 1,263 lessors already maintaining leased space at a Level III, IV, or V secure facility approximately 859 will be small entities (1,263*68 percent). If GSA includes agencies with delegated leasing authority, the approximate number of total leases at a Level III, IV, or V is 1,471. This would increase the approximate number of small entities to 1000 (from 859). For the estimated 76 solicitations in subsequent years, assuming 3 offerors per solicitation, approximately 155 will be submitted by small entities.

The clause at GSAR 552.270–34 requires lessors for high-security leased space to limit access to the space unless approved by an authorized Government representative.

This rule does not duplicate, overlap, or conflict with any other Federal rules.

Because of the requirements outlined by the statute, it is not possible to establish different compliance or reporting requirements or timetables that take into account the resources available to small entities or to exempt small entities from coverage of the rule, or any part thereof. However, in order to reduce the burden imposed on the public, GSA is currently reviewing and investigating potential future implementation through electronic means, including externally (System for Award Management) or internally (GSA's Lease Offer Platform).

Entities that provide affirmative responses when completing the representation at 552.270–33 would be required to provide additional representation information in their offers for high-security leases.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (GSAR Case 2021–G527) in correspondence.

X. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. GSA has requested, and OMB authorized, emergency processing of the collection of information involved in this rule, consistent with 5 CFR 1320.13. GSA has determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the PRA, because the immediate and highest level owner disclosure requirement for high-security leased space in the Secure Federal LEASEs Act goes into effect on June 30, 2021.

b. The collection of information is essential to the mission of GSA to ensure compliance with the Secure Federal LEASEs Act and protect the Government supply chain from risks posed by foreign owners.

c. Moreover, GSA cannot comply with existing representations because public harm is reasonably likely to result if current procedures are followed. Specifically, authorizing collection of this information will ensure that GSA does not enter into leases that are in violation of the Secure Federal LEASEs Act or enter into, extend, or renew leases with any entity or lessor that is in violation of the Secure Federal LEASEs Act.

This requirement supports implementation of Section 3 of the Secure Federal LEASEs Act (Pub. L. 116–276) for high-security leased space. This section requires offerors to identify the immediate or highest-level owner of the space, including any financing entity, and disclose whether that owner or financing entity is a foreign person or entity, including the country associated with the ownership entity. The offerors shall (1) provide such identification and disclosure when first submitting a proposal in response to a solicitation; and, if awarded the lease, (2) update such information annually.

This requirement is partially implemented in the Federal Acquisition Regulation (FAR) through the provisions at FAR 52.204–3, Taxpayer Identification, FAR 52.204–7, System for Award Management, FAR 52.204–17, Ownership and Control of Offeror, and clause at FAR 52.204–13, System for Award Management Maintenance. OMB Control Numbers 9000–0097 and 9000–0185 cover the FAR provisions and clause. However, the FAR does not account for foreign financing as required by the Act.

The annual public reporting burden for this collection of information through GSAR 552.270–33 is estimated based on the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

1. Initial Disclosure

Baseline Representation

Estimated annual responses: 542.

Estimated hours per response: 2.

Additional Representation

Estimated annual responses: 54.

Estimated hours per response: 10.

Total Initial Response Burden Hours: 1,624.

2. Annual Updates

Estimated annual responses: 542.

Estimated hours per response: 0.25.

Total Update Response Burden Hours: 136.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

XI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Administrator of General Services (GSA) that urgent and compelling circumstances necessitate that this interim rule go into effect earlier than 60 days after its publication date.

Since the Secure Federal LEASEs Act was signed on December 30, 2020, GSA has been working diligently to implement the statute, which has multiple effective dates embedded. Specifically, Section 7 requires implementation of the Section 3 requirements by June 30, 2021.

Given the complexity of the Secure Federal LEASEs Act, this rule required thorough efforts to reach out to other agencies and conduct up-front analysis. These factors have left GSA with insufficient time to publish the rule with 60 days before the legislatively established effective date of June 30, 2021, or to complete full public notice and comment before the rule becomes

effective. As noted, however, GSA is seeking public comment on this interim rule and will consider and address those comments.

It is worth noting this rule follows FAR rules dealing with ownership disclosure and supply chain security, such as FAR Case 2012–024 which added FAR provision 52.204–17 and FAR Case 2019–009 which added FAR provision 52.204–24. As such, Government agencies are already authorized to collect certain immediate and highest-level owner information (reference OMB Control Numbers 9000–0097 and 9000–0185).

Having an implementing regulation in place by the effective date is important to avoid confusion, uncertainty, and potentially substantial legal consequences for agencies and the lessor community. The statute requires lessors to identify and disclose whether the immediate or highest-level owner of the leased space, including an entity involved in the financing thereof, is a foreign person or a foreign entity, including the country associated with the ownership entity. If they did so without an implementing regulation in place, contractors would have no guidance as to how to comply with the requirement.

For the foregoing reasons, pursuant to 41 U.S.C. 1707(d), GSA finds that urgent and compelling circumstances make compliance with the notice and comment and delayed effective date requirements of 41 U.S.C. 1707(a) and (b) impracticable, and invokes the exception to those requirements under 1707(d). While a public comment process will not be completed prior to the rule’s effective date, GSA will consider comments submitted in response to this interim rule in issuing a subsequent rulemaking.

List of Subjects in 48 CFR Parts 501, 552, and 570

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Governmentwide Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 501, 552, and 570 as set forth below:

■ 1. The authority citation for 48 CFR parts 501, 552, and 570 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

■ 2. In section 501.106, amend table 1 by adding entries for “552.270–33” and

“570.703(c)” in numerical order to read as follows:

501.106 OMB approval under the Paperwork Reduction Act.

| GSAR reference | OMB control No. |
|------------------|-----------------|
| * * * | * * * |
| 552.270–33 | 3090–0324 |
| 570.703(c) | 3090–0324 |
| * * * | * * * |

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Add sections 552.270–33 and 552.270–34 to read as follows:

552.270–33 Foreign Ownership and Financing Representation for High-Security Leased Space.

As prescribed in 570.703(c), use the following clause:

Foreign Ownership and Financing Representation For High Security Leased Space (JUN 2021)

(a) *Definitions.* As used in this clause—
Financing means the process of raising or providing funds through debt or equity for purposes of meeting the requirements of the Lease, including, but not limited to, acquisition, maintenance, and construction of, or improvements to, the Property.

Foreign entity means a:
 (i) Corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group that is headquartered or organized under the laws of a country that is not the United States or a state, local government, tribe, or territory within the United States; or
 (ii) Government or governmental instrumentality that is not the United States Government.

Foreign person means an individual who is not:

- (i) A United States citizen; or
- (ii) An alien lawfully admitted for permanent residence in the United States.

Highest-level owner means the entity that owns or controls an immediate owner of the offeror or Lessor, or that owns or controls one or more entities that control an immediate owner of the offeror or Lessor. No entity owns or exercises control of the highest-level owner.

Immediate owner means an entity, other than the offeror or Lessor, that has direct control of the offeror or Lessor. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

Unique entity identifier means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity.

See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) *Timing.* The Offeror or Lessor shall complete this representation when submitting a proposal. If the Offeror is the successful awardee, the Offeror (now Lessor) shall review, update, and provide this representation on an annual basis, reflecting all changes to immediate owner, highest-level owner and financing during the preceding 1-year period, starting one year from the Lease Term Effective Date through final payment of any contract. If the Lessor intends to transfer the lease to a successor in interest under the circumstances set forth in FAR 42.1204, the Lessor shall submit this representation to the Lease Contracting Officer with any request to novate the lease. The Offeror or Lessor is responsible for the currency, accuracy and completeness of the data disclosed, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data.

(c) *Immediate owner.* (1) The Offeror or Lessor represents that it does or does not have an immediate owner.

(2) If the Offeror or Lessor indicates “does” in paragraph (c)(1) of this clause, then enter the following information for the immediate owner. If the offeror or Lessor has more than one immediate owner (e.g., joint venture), then the offeror or Lessor shall provide the information for each entity.

| | |
|---|--|
| Legal name (do not use a “doing business as” name). | |
| Unique entity identifier (if available). | |

(3) If the Offeror or Lessor indicates “does” in paragraph (c)(1) of this clause, then complete this additional representation: Is the immediate owner a foreign entity? Yes or No.

(4) If the Offeror or Lessor indicates “does” in paragraph (c)(1) of this clause, then complete this additional representation: Is the immediate owner a foreign person? Yes or No.

(5) If the Offeror or Lessor indicates “Yes” in either paragraph (c)(3) or (4) of this clause, indicating that there is foreign ownership (as a foreign entity or foreign person), then enter the following information for the foreign owner (respond for each as applicable).

| | |
|-------------------|--|
| Physical address. | |
| Country. | |

(d) *Highest-level owner.* (1) The Offeror or Lessor represents that the immediate owner, if any, is or is not owned or controlled by another entity?

(2) If the Offeror or Lessor indicates “is” in paragraph (d)(1) of this clause, indicating that the immediate owner is owned or controlled by another entity, then enter the following information for the highest-level owner.

| | |
|---|--|
| Legal name (do not use a “doing business as” name). | |
| Unique entity identifier (if available). | |

(3) If the Offeror or Lessor indicates “is” in paragraph (d)(1) of this clause, then complete this additional representation: Is the highest-level owner a foreign entity? Yes or No.

(4) If the Offeror or Lessor indicates “is” in paragraph (d)(1) of this clause, then complete this additional representation: Is the highest-level owner a foreign person? Yes or No.

(5) If the Offeror or Lessor indicates “Yes” in either paragraph (d)(3) or (4) of this clause, indicating that there is foreign ownership (as a foreign entity or foreign person), then enter the following information for the foreign owner (respond for each as applicable).

| | |
|-------------------|--|
| Physical address. | |
| Country. | |

(e) *Financing entity.* (1) The Offeror or Lessor represents that the financing does or does not involve a foreign entity?

(2) The Offeror or Lessor represents that the financing does or does not involve a foreign person?

(3) If the Offeror or Lessor indicates “does” in either paragraph (e)(1) or (2) of this clause, indicating foreign financing (as a foreign entity or foreign person), then enter the following information for the foreign financing (respond for each as applicable).

| | |
|---|--|
| Legal name (do not use a “doing business as” name). | |
| Unique entity identifier (if available). | |
| Physical address. | |
| Country. | |

(End of clause)

552.270–34 Access Limitations for High-Security Leased Space.

As prescribed in 570.703(d), use the following clause:

Access Limitations for High-Security Leased Space (Jun 2021)

(a) The Lessor, including representatives of the Lessor’s property management company responsible for operation and maintenance of the leased space, shall not—

(1) Maintain access to the leased space; or
(2) Have access to the leased space without prior approval of the authorized Government representative.

(b) Access to the leased space or any property or information located within that Space will only be granted by the Government upon determining that such access is consistent with the Government’s mission and responsibilities.

(c) Written procedures governing access to the leased space in the event of emergencies shall be documented as part of the Government’s Occupant Emergency Plan, to be signed by both the Government and the Lessor.

(End of clause)

PART 570—ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

■ 4. Add section 570.118 to subpart 570.1 to read as follows:

570.118 Foreign Ownership Disclosure.

If a foreign ownership disclosure is made pursuant to clause 552.270–33:

(a) The contracting officer shall notify the Federal tenant for the leased space in writing:

(1) If the disclosure is made during the lease acquisition process, the contracting officer shall notify the Federal tenant prior to lease award.

(2) If the disclosure is made concurrent with a request for novation, the contracting officer shall notify the Federal tenant prior to executing the novation.

(3) If the disclosure is made concurrent with a renewal option or extension, the contracting officer shall notify the Federal tenant prior to executing the renewal option or extension.

(b) The contracting officer shall coordinate with the Federal tenant regarding security concerns and any necessary mitigation measures.

■ 5. Amend section 570.703 by adding paragraphs (c) and (d) to read as follows:

570.703 GSAR contract clauses.

* * * * *

(c) Insert the representation clause at 552.270–33, Foreign Ownership and Financing Representation for High-Security Leased Space, in novations, solicitations and contracts for leased space that:

(1) Will be occupied by Federal employees for nonmilitary activities; and

(2) Has a facility security level of III, IV, or V.

(d) Insert the clause at 552.270–34 Access Limitations for High-Security Leased Space, in novations, solicitations and contracts for leased space that:

(1) Will be occupied by Federal employees for nonmilitary activities; and

(2) Has a facility security level of III, IV, or V.

[FR Doc. 2021–14161 Filed 6–30–21; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2019–0059; FF09E21000 FXES1111090000 212]

RIN 1018–BD09

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Suwannee Moccasinshell

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Suwannee moccasinshell (*Medionidus walkeri*) under the Endangered Species Act of 1973 (Act), as amended. In total, approximately 190 miles (306 kilometers) of stream channels in Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, and Union Counties, Florida, and Brooks and Lowndes Counties, Georgia, fall within the boundaries of the critical habitat designation. The effect of this regulation is to designate critical habitat for the Suwannee moccasinshell under the Act. **DATES:** This rule is effective August 2, 2021.

ADDRESSES: This final rule is available on the internet at <http://www.regulations.gov> under Docket No. FWS–R4–ES–2019–0059 and at <https://www.fws.gov/panamacity/>. Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at <http://www.regulations.gov>. All of the comments, materials, and documentation that we considered in this rulemaking are available upon mailed request from U.S. Fish and Wildlife Service, Panama City Ecological Services Field Office, 1601 Balboa Avenue, Panama City, FL 32405; or by telephone 850–769–0552.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at <http://www.regulations.gov> at Docket No. FWS–R4–ES–2019–0059, and at the Panama City Ecological Services Field Office at <https://www.fws.gov/panamacity/> (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the