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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-201033

February 24, 1981

Mr. Philip G. Read
Director, Federal Procurement
Regulations Directorate
Office of Acquisition Policy
General Services Administration

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Dear Mr. Read:

Proposed

By letter dated October 7, 1980, you requested our comments on a proposed Federal Procurement Regulations ~~(RFR)~~ Temporary Regulation covering the leasing of space by executive agencies] pursuant to a delegation of authority from your agency.

Although the regulation recognizes that the leasing of space must be accomplished through formal advertising unless an exception to this requirement is applicable under 41 U.S.C. § 252(c) (1976), the regulation is otherwise oriented exclusively to the use of negotiation procedures. Since circumstances supporting the use of negotiated procedures may not always be present, we believe the regulation should be revised to provide guidance regarding the use of formal advertising.

In addition, the regulation contains conflicting provisions regarding the use of Standard Form 2-B, U.S. Government Lease for Real Property (Short Form). Section 7(g) of the regulation provides that Standard Form 2-B shall be used for all leases having an annual rental of \$2,000 or less while Standard Form 2, U.S. Government Lease for Real Property, and Standard Form 2-A, General Provisions, Certification and Instruction, U.S. Government Lease for Real Property, shall be used for all leases having an annual rental exceeding \$2,000. On the other hand, Section 7(g) 3(ii) provides that when a written Solicitation For Offers (SFO) is not used, Standard Form 2-B shall be used. Since Section 7(g)(1) states that the use of a SFO is mandatory only for leases of over 5,000 square feet, the regulation contains conflicting requirements for leases of space under



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5,000 square feet having an annual rental in excess \$2,000. In other words, where an agency leases less than 5,000 square feet of space and elects not to use a SFO, it is required under paragraph 7(g)(3)(ii) to use Standard Form 2-B while if the lease is in excess of \$2,000 annually it is required to use Standard Forms 2 and 2A under section 7(q). Accordingly, we believe that this conflict should be eliminated.

Finally, we believe section 7(j)(1) regarding the Economy Act, 40 U.S.C. § 278(a) (1976), should be revised. First, the Act applies to the lease of a part of a building, as well as a whole building. In addition, there are some exceptions to the Act's limitations. Thus, we believe paragraph 7(j)(1) should be revised to read as follows:

"(1) The Economy Act generally provides that no appropriation shall be obligated when:

(i) The rental of any building or part of a building to be occupied for Government purposes, exclusive of services, exceeds the per annum rate of 15 percent of the fair market value of the rented premises; or

(ii) The cost of alterations, improvements, and/or repairs of the rented premises exceeds 25 percent of the amount of the rental, exclusive of services, for the first year or for the rental term if the full term is less than one year."

We have no further comments.

Sincerely yours,

Milton J. Socolar

for Milton J. Socolar
General Counsel