EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2021–0317. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact Ms. Karen Marsh, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1065; fax number: (919) 541–0516; and email address: *marsh.karen@epa.gov* or Ms. Amy Hambrick, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–0964; facsimile number: (919) 541–3470; email address: *hambrick.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: On November 15, 2021,[1] the U.S. Environmental Protection Agency (EPA) published a proposed rule that included distinct groups of actions. First, the EPA proposed to revise the new source performance standards (NSPS) for GHGs and volatile organic compounds (VOCs) for the Crude Oil and Natural Gas source category under the Clean Air Act (CAA) to reflect the Agency's most recent review of the feasibility and cost of reducing emissions from these sources. Second, the EPA proposed emissions guidelines (EG) under the CAA, for states to follow in developing, submitting, and implementing state plans to establish performance standards to limit GHGs from existing sources (designated facilities) in the Crude Oil and Natural Gas source category. Third, the proposal included several related actions stemming from the joint resolution of Congress, adopted on June 30, 2021 under the Congressional Review Act (CRA), disapproving the EPA's final rule titled, ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review.'' 85 FR 57018 (September 14, 2020). Finally, in the proposal, the EPA requested comments on potentially regulating other types of emission sources and numerous topics associated with the proposed NSPS and EG. Since publication of the proposal, which specifies that the comment period closes on January 14, 2022 the EPA has received numerous requests from industry and states to extend the comment period due to the lengthy and complex nature of the action. After considering these requests to extend the public comment period, the EPA has decided to extend the public comment period until January 31, 2022. This extension will provide additional time requested by the public to review the proposal and gather and provide information to the Agency.

Penny Lassiter,

Director, Sector Policy and Programs Division.

[FR Doc. 2021–27312 Filed 12–16–21; 8:45 am]

BILLING CODE 6560–50–P

[1] 86 FR 63110.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–73

[FMR Case 2021–102–1; Docket No. GSA–FMR–2021–0020; Sequence No. 1]

RIN 3090–AK42

Federal Management Regulation; Real Estate Acquisition

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration is amending the FMR part regarding real property acquisition to reflect current laws and regulatory policies and to clarify the policies for entering into leasing agreements for high security space in accordance with the Secure Federal LEASEs Act.

DATES: Interested parties should submit written comments at the address shown below on or before February 15, 2022 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FMR case 2021–102–1 to: *Regulations.gov: https://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FMR Case 2021–102–1''. Select the link ''Comment Now'' that corresponds with FMR Case 2021–102–1. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FMR Case 2021–102–1'' 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 FMR Case 2021–102–1, 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 *www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Chris Coneeney, Director, Real Property Policy Division, Office of Government-wide Policy, at 202–208–2956 or *chris.coneeney@gsa.gov.* For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FMR Case 2021–102–1.

SUPPLEMENTARY INFORMATION:

I. Background

The Secure Federal Leases from Espionage And Suspicious Entanglements Act, or the Secure Federal LEASEs Act, Public Law 116–276, 134 Stat. 3362 (2020) (the ''Act''), provides for the disclosure of ownership information to Federal lessees leasing high-security space that would allow the lessee to mitigate potential national security risks. The Act was signed into law on December 31, 2020 (available at *https://www.congress.gov/116/plaws/publ276/PLAW-116publ276.pdf*). The Act imposes disclosure requirements regarding the foreign ownership, particularly ''immediate owner'', ''highest level owner'' and ''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). GSA implemented Section 3 and Section 5 of the Act through the interim rule General Services Administration Acquisition Regulation (GSAR) Case 2021–G527 (86 FR 34966) (available at *https://www.federalregister.gov/documents/2021/07/01/2021-14161/general-services-administration-acquisition-regulation-immediate-and-highest-level-owner-for*).

The requirements of the statute are applicable to Federal lessees, defined by the Act as 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''. The Act is not applicable to DOD or to the intelligence community. Section 2876 of the FY 2018 National Defense Authorization Act (Pub. L. 115–91) already provides DOD similar authority to obtain ownership information with respect to its high-security leased space.

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) (available at *https://www.gao.gov/assets/gao-17-195.pdf*). 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.

Section 4 of the Act adds the requirement for identification of beneficial ownership information, and requires GSA to develop a government-wide plan for identifying all immediate, highest-level, and beneficial owners of high-security leased space. Section 4 of the Act further requires GSA to submit a corresponding report. This proposed rule addresses the annual collection of ownership disclosures from GSA, delegated lease authority agencies, and independent leasing agencies to GSA.

What is a ''beneficial owner''?

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.

The 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 National Defense Authorization Act (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, and, as of June 30, 2021, GSAR 2021–G527, Immediate and Highest-Level Owner for High-Security Leased Space.

Because of the related rulemaking, there are several definitions of ''beneficial owner'' (or ''beneficial ownership'').

The United States Securities and Exchange Commission (SEC) Definition

§ 885 (Disclosure of beneficial owners in database for Federal agency contract and grant officers) of the FY 2021 NDAA (Pub. L. 116–283) [1] states that beneficial ownership has the meaning given under § 847 (Mitigating risks related to foreign ownership, control, or influence of Department of Defense contractors or subcontractors) of the FY 2020 NDAA (Pub. L. 116–92).[2] § 847 does not specifically define beneficial ownership but requires ''beneficial ownership'' to ''be determined in a manner that is not less stringent than the manner set forth in section 240.13d–3 of title 17, Code of Federal Regulations.'' This Code of Federal Regulations reference is the SEC definition.[3] The SEC definition mainly concerns the beneficial owner of a security (*e.g.* stock/bond/option for a corporation), not the corporation or company-at-large.

Corporate Transparency Act Definition

The Corporate Transparency Act (CTA) definition can be found at § 6403 of the FY 2021 NDAA. This section defines ''beneficial ownership'' as, with respect to an entity, an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (i) exercises substantial control over the entity; or (ii) owns or controls not less than 25 percent of the ownership interests of the entity.

Secure Federal LEASEs Act Definition

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.''

GSA's Interpretation

GSA interprets that the SEC definition is too limiting for use in the representation clause because it's concerned with the beneficial owner of a security rather than a company or corporation. The Secure Federal LEASEs Act and the CTA definitions are similar. Both definitions similarly characterize a beneficial owner as someone who (i) controls a covered entity, or (ii) has a substantial interest. The primary difference between the two is related to ''substantial interest.'' The Secure Federal LEASEs Act states that a beneficial owner is someone who ''. . . has a substantial interest in or receives substantial economic benefits from the assets of the covered entity'' while the CTA definition says a beneficial owner ''owns or controls not less than 25 percent of the ownership interests of the entity.'' GSA interprets that the CTA definition meets the intent of the SFLA definition. As such, GSA intends to use the CTA definition (and therefore incorporates it into the GSAR representation clause at 552.270–33) because it's more specific (''not less than 25 percent'' as opposed to having to define ''substantial interest'' or ''substantial economic benefits'') and because it would allow GSA to leverage Treasury's Financial Crimes Enforcement Network's (FinCEN) efforts to collect beneficial owner information for all corporations. GSA does not believe this definition to be ''not less stringent'' than the SEC definition.

Covered entities already provide certain information on immediate and highest-level ownership, per OMB Control Numbers 9000–0097, 9000–0185, and 3090–0324. However, covered entities will need to provide additional disclosure of creditors who may be deemed beneficial owners if they either exercise substantial control over the covered entity or owns or controls not less than 25 percent of the ownership interests of the covered entity. 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. Executive Orders 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,

[1] *https://www.congress.gov/bill/116th-congress/house-bill/6395/text.*

[2] *https://www.congress.gov/bill/116th-congress/senate-bill/1790/text.*

[3] *https://www.ecfr.gov/current/title-17/chapter-II/part-240/section-240.13d-3#p-240.13d-3(a).*

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 rule is anticipated to be a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

III. Congressional Review Act

This rule is not a major rule under 5 U.S.C. 804(2). Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a 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 under the CRA cannot take effect until 60 days after it is published in the **Federal Register**. OIRA anticipates that this rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Regulatory Flexibility Act

GSA certifies this rule will not have a significant economic impact on a substantial number of small entities because it applies only to Federal agencies and employees.

V. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

VI. Regulatory Impact Analysis

The cost and benefit impacts of amending FMR part 102–73 regarding real property acquisition to reflect current laws and regulatory policies to implement the Section 4 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.

(1) Federal Leasing—Current Processes

Potential offerors are required to report certain ownership information to the System for Acquisition Management (SAM), including immediate or highest-level owners.

(2) Federal Government Leasing—General Security Framework

As outlined within the Interagency Security Committee (ISC) Standard and the GSA Leasing Desk Guide, the facility security level (FSL) [4] 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, the Federal lessee and GSA must coordinate with the necessary parties to set the appropriate level of security before the solicitation is drafted. This level of security will be memorialized by the Security Organization as a preliminary FSL, which serves as a precursor to the final FSL generally made with the tenants' post award. *The Risk Management Process for Federal Facilities: An Interagency Security Committee Standard* [5] outlines the policies required for federal tenants in consultation with the responsible Security Organization to determine, set, and modify levels of security. The ownership information collected via this rule will not affect the FSL designation.

(3) Federal Government Leasing—Determining Countermeasures

Federal lessees follow the ISC Standard for physical security criteria (PSC) for Federal Facilities. The standard establishes baseline physical security countermeasures for each FSL. The standard defines the process for determining the appropriate security measures through the ISC Risk Management Process; it also covers any uncommon measures required to address the unique risks at a particular facility. The GSA Public Buildings Service Leasing Desk Guide currently uses the PSC to prescribe the process for determining appropriate countermeasures for a facility. Therefore, GSA assumes other federal agency lessees adhere to ISC standards as well within their leasing guides and use the criteria provided by ISC to calculate the level of security required for the tenants.

(c) Compliance Plan Estimated Due to Proposed Rule

GSA assumes the following steps would most likely be part of an agency's plan to collect and report owner disclosures using GSA's government-wide plan and GSAR 552.270–33 and 552.270–34:

1. Government-Wide Plan and Regulatory Familiarization.

The agency reads and understands the government-wide plan and potentially uses GSAR 552.270–33 and 552.270–34 for collection actions.

2. Workforce Training.

The agency must educate its purchasing/procurement professionals [6] to heighten their familiarization with GSA's government-wide plan's disclosure requirements (as applicable).

3. Compliance with the Revised Representation Clause.

The agency must identify and disclose whether entities do or do not have a foreign beneficial owner of leased space. If an affirmative disclosure is made for leases involving high-security space, GSA shall be notified of the disclosure made in the representation per the schedule set forth within the GSA government-wide plan.

(d) Benefits

This Act requires the disclosure of 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

[4] 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. (*ISC Standard, March 2021*).

[5] *https://www.cisa.gov/sites/default/files/publications/The%20Risk%20Management%20Process%20-%202021%20Edition_1.pdf.*

[6] 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.

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.[7] Threats to the United States posed by foreign intelligence entities are becoming more complex and harmful to U.S. interests.[8] 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 secrets.[9] 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.[10]

Additionally, by requiring ''Beneficial Owner'' information in the representation clause, Federal lessees will benefit by better understanding how an individual's ownership position can provide them access that could prove problematic for certain agencies. Congress underscored that ''money launderers and others involved in commercial activity intentionally conduct transactions through corporate structures in order to evade detection, and may layer such structures . . . across various secretive jurisdictions such that each time an investigator obtains ownership records for a domestic or foreign entity, the newly identified entity is yet another corporate entity, necessitating a repeat of the same process.'' [11] The ability to engage in activity and obtain financial services in the name of a legal entity without disclosing the identities of the natural persons who own or control the entity—the natural persons whose interests the legal entity most directly serves—enables those natural persons to conceal their interests. And as the Treasury's Financial Crimes Enforcement Network (FinCEN) has noted previously, such concealment ''facilitates crime, threatens national security, and jeopardizes the integrity of the financial system.'' [12] The goal of the Act is to close security loopholes by directing Federal agencies to notify GSA whether foreign owners have a stake in high-security buildings leased by Federal agencies, either through foreign-incorporated legal entities or through ownership in United States-incorporated legal entities, even when the leased space is used for classified operations or to store sensitive data. 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 rule ensures that Federal lessees will have the ability to obtain information on foreign ownership and provide it to relevant Federal tenants.

(e) Public Costs

A. To estimate the aggregate burden to agencies of complying with the Act, the number of disclosures to obtain was calculated using numbers pulled from GSA's records and databases.[13] As of August 2021, GSA has approximately 7,860 leases. Of the 7,860, approximately 1,263 [14] (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).

B. GSA also delegates leasing authority to several agencies, which are required to follow GSA's policies. GSA estimates there are 5,000 leases represented by these agencies with the Delegated Leasing Authority from GSA.[15] 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 800 (5,000 × 16 percent).

C. Agencies possessing independent leasing authority are not required to follow GSA's policies. GSA indicates that there are 41 agencies with independent statutory authority.[16] Further, GSA estimates there are 25,995 leases represented by these agencies.[17] GSA does not have data available to identify which of these are for high-security lease space. GSA assumes these 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 independent agencies to 4,159 (25,995 × 16 percent).

D. 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 each of 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 and independent agencies.

E. 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 and independent agencies.

F. GSA processed 380 novations from May 1, 2020 to April 30, 2021 [18] (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. GSA

[7] *National Counterintelligence Strategy of the United States of America 2020–2022.*

[8] *National Counterintelligence Strategy of the United States of America 2020–2022.*

[9] *National Counterintelligence Strategy of the United States of America 2020–2022.*

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

[11] Corporate Transparency Act Section 6402(4).

[12] *Notice of Proposed Rulemaking: Customer Due Diligence Requirements for Financial Institutions, 79 FR 45151, 45153 (August 4, 2014).*

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

[14] The GSA Office of Leasing provided this number by surveying their internal database.

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

[16] The GSA Office of Government-wide Policy used the Federal Real Property Profile Management System to determine the number of agencies with a lease authority indicator of independent statutory authority.

[17] This information is based on publicly available data sources provided by the GSA Office of Government-wide Policy Real Property Policy Division. *https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-profile-frpp/federal-real-property-public-data-set.*

[18] This information is based on internal inventory data sources provided by the GSA Office of Leasing. GSA does not have data on how many novations other agencies with Delegated Leasing Authority processed.

assumes the same profile for delegated facilities and independent agencies.

A breakdown is provided in the table below.

Part above		GSA	Delegated authority agencies	Independent lease authority agencies
A, B	Leased Space	7,860	5,000	25,995
	High Security (HS) Lease Space	1,263	800	4,159
C	New Procurements	76	48	250
	New Offers	228	144	749
D	Renewals	31	16	83
E	Extensions	106	64	333
F	Novations	380	250	1,300
	HS Novations	61	40	208
	HS Lease Baseline	6,222		
	Combined New HS Lease Baseline	2,063		

1. Public Total Costs

GSA notes that amendment to FMR 102.73—Real Estate Acquisition regarding real property acquisition to reflect current laws and regulatory policies carries no direct cost to the public. Section 4 of the Secure Federal Lease Act focuses solely on the government's required activities for the planning, disclosures and notifications, reporting and implementation of the Act by GSA and Federal agencies to Congress.

(f) Government Cost Analysis

During the first and subsequent years after publication of the rule, leasing acquisition members (which include a combination of Leasing Contracting Officers, Lease Administration Managers, Realty Specialists, and General Counsel) will need to learn about GSA's government-wide plan and disclosure 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 unless specified. GSA assumes that leasing acquisition members will, on average, stay consistent in subsequent years. Numbers and assumptions apply to delegated and independent leasing agencies as well.

For consistency, the number of leases to be reviewed match the numbers in the ''Existing HS Lease Baseline'' row (6,222 combined) and ''New annual Lease Baseline'' row (2,063 combined) found in table in Section VI.(f).

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

1. Government Compliance With Public Law 116–276. Section 4(a) Development of a Government-Wide Plan

The Government must educate its leasing acquisition members via a government-wide plan to heighten their familiarity with the collection and reporting of the beneficial owners of high security leased space.

a. GSA calculates it will take 160 hours in the second year to create the plan. GSA estimates this cost by multiplying the time required to develop and approve the plan by the estimated compensation, on average, of a GS–12. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$13,466 (= 160 hours × $84.16 × 1).*

GSA estimates that it will take 5 hours in outyears to update the plan on a yearly basis. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$421 (= 5 hours × $84.16 × 1).*

b. GSA calculates it will take 80 hours in the second year to submit the plan to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. GSA estimates this cost by multiplying the time required to submit the plan by the estimated compensation, on average, of a GS–12. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$6,733 (= 80 hours × $84.16 × 1).*

c. GSA estimates that it will take approximately 2,178 leasing acquisition members 30 minutes (0.5 hour[19]) to complete training related to the plan.[20] Therefore, GSA calculated the total estimated cost for this part of the rule to be *$91,650 (= 0.5 hours × $84.16 × 2,178).*[21]

After the initial training, GSA estimates it will take 15 minutes (0.25 hours[22]) to maintain training related to the plan. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$45,825 (= 0.25 hours × $84.16 × 2,178).*

d. GSA estimates the 41 agencies with independent lease authority may review GSAR 522.270–33 and 522.270–34 in a limited capacity to mirror GSA's policies. Therefore, GSA estimates those agencies may spend less time than GSA reviewing the GSARs as they may write, review, and become familiar with their own internal policies. GSA estimated on average, a GS–12 would spend 1 hour per year becoming familiar with GSAR 522.270–33 and GSAR 552.270–34 therefore, it would take independent leasing agencies 30 minutes (0.5 hours[23]) to review the GSAR. This would only occur for those agencies in the first year of collection and reporting. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$1,725 (= 0.5 hours × $84.16 × 41).*

e. GSA calculates it will take 60 hours in the first year of collection and

[19] 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.

[20] Combined number of GSA/Delegate lease members and independent authority lease members.

[21] All totals in the Government Cost Analysis section are rounded.

[22] 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.

[23] 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.

reporting for independent leasing agencies to create their own policy in response to GSA's plan. GSA estimates this cost by multiplying the time required to develop the policy by the estimated compensation, on average, of a GS–12. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$207,034 (= 60 hours × $84.16 × 41).* GSA calculates it will take 2.5 hours in outyears to review the policy and possibly revise the policy. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$8,626 (= 2.5 hours × $84.16 × 41).*

f. GSA estimates independent leasing agencies would spend 30 minutes (0.5 hours [24]) training their workforce on their new policy. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$61,268 (= 0.5 hours × $84.16 × 1,456).*

GSA estimates independent leasing agencies would spend 15 (0.25 hours [25]) minutes training their workforce on their policy in subsequent years. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$30,634 (= 0.25 hours × $84.16 × 1,456).*

2. Government Compliance With Public Law 116–276. Section 4(b), Disclosures and Notifications

a. GSA estimates that of the baseline high-security lessors for GSA and delegated authority leases each year, 10 percent [26] (or 206 lessors) will respond affirmatively 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 it will take leasing acquisition members approximately 5 hours to collect this information. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$86,684 (= 5 hours × $84.16 × 206).*

GSA estimates it will take approximately 5 hours to collect the information submitted by GSA lease contracting officers and delegated authority leases. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$86,684 (= 5 hours × $84.16 × 206).*

b. GSA estimates that of the new high-security lessors for GSA and delegated authority leases each year, 10 percent [27] (or 69 lessors) will respond affirmatively 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 it will take leasing acquisition members approximately 1 hour to submit this information to GSA. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$5,807 (= 1 hours × $84.16 × 69).*

c. GSA estimates it will take approximately 5 hours to collect the information submitted by GSA and delegated authority leases. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$5,807 (= 1 hours × $84.16 × 69).*

d. GSA estimates that of the baseline high-security lessors for independent authority leases each year, 10 percent (or 416 lessors) will respond affirmatively 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 it will take leasing acquisition members approximately 5 hours to collect this information. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$175,053 (= 5 hours × $84.16 × 416).*

GSA estimates it will take approximately 5 hours to collect the information submitted by independent authority leases. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$175,053 (= 5 hours × $84.16 × 416).*

e. GSA estimates that of the new high-security lessors for independent authority leases each year, 10 percent (or 137 lessors) will respond affirmatively 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 it will take leasing acquisition members approximately 1 hour to collect this information. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$11,530 (= 1 hours × $84.16 × 137).*

GSA estimates it will take approximately 1 hour to collect the information submitted by independent authority leases. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$11,530 (= 1 hours × $84.16 × 137).*

3. Government Compliance With Public Law 116–276. Section 4(c), Report and Implementation

a. GSA estimates it will take 8 hours beginning in year 3 to submit an annual report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of representatives. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$673 (= 8 hours × $84.16 × 1).*

4. Government Compliance With Public Law 116–276; Section 4(c)(3), Secure Federal Lease Act Consideration of Implementation Improvements

a. GSA estimates it will take a total of 40 hours in years 3 and 4 to review and consider commercial technology offerings to improve data collection. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$3,366 (= 40 hours × $84.16 × 1).*

b. GSA estimates it will take a total of 8 hours in years 5–10 to review and consider commercial new technology offerings to improve data collection. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$673 (= 8 hours × $84.16 × 1).*

5. Government Total Costs

The total cost of the above Cost Estimate is *$848,376* in the first year after publication.[28] The total cost of the above Cost Estimate in subsequent years is *$127,738* annually.[29]

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)	$1,649,361
Annualized Costs (3 percent) ...	161,932
Present Value (7 percent)	1,415,574
Annualized Costs (7 percent) ...	134,298

6. Overall Total Costs

The overall total cost is equal to Section VI.(f) Government Total Costs above as there is no direct cost to the public based on the amendment to FMR 102.73 as noted in Section VI.(e).

(g) Analysis of Alternatives

The preferred alternative is the process laid out in the Act whereby GSA annually collects disclosures from Federal lessees and then reports that information to Congress.

Alternative 1: GSA could take no regulatory action to implement this

[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] 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.

[26] GSAR Case 2021–G527.

[27] GSAR Case 2021–G527.

[28] Total costs calculated by GSA.

[29] Total costs calculated by GSA.

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: Federal lessees could send information on their activity directly to Congress, rather than in a centralized approach through the GSA. However, GSA rejects this approach given the likelihood of inconsistent collection and reporting of data along with potential additional costs and burden to government agencies.

Alternative 3: GSA could follow the implementation approach based Section 4 of the Act directing GSA to aggregate disclosures from each Federal lessee one year after the implementation of the plan described in subsection (a) of the Act, and each year thereafter for 9 years, submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of the implementation of the plan, including the number of disclosures. This is the preferred method, which will allow GSA to help close security loopholes by designing a verification system that identifies a property's owners if the space would be used for high-security purposes. In addition, this rule will help support current best practices being followed more uniformly throughout the Federal government. Finally, this rule ensures that Federal lessees will have the ability to obtain information on foreign ownership and provide it to relevant Federal tenants.

(h) Specific Questions for Comment

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

Assumption 1: GSA estimates that this rule will impact mainly Federal agencies.

Question 1: If this assumption is not valid, are there industry(s) to which this rule will cause significant impact or disruption?

Assumption 2: The impact of this rule will not significantly change the way current Federal lessors interact with GSA.

Question 2: If this assumption is not valid, to what extent will this rule, specifically the revised elements of FMR 102.73, change how you interact with GSA?

List of Subjects in 41 CFR Part 102–73

Administrative practice and procedure, Federal buildings and facilities, Rates and fares.

Krystal J. Brumfield,

Associate Administrator, Office of Government-wide Policy.

Therefore, GSA proposes amending 41 CFR part 102–73 as set forth below:

PART 102–73—REAL ESTATE ACQUISITION

■ 1. The authority citation for 41 CFR part 102–73 is revised to read as follows:

Authority: 40 U.S.C. 121(c); Sec. 3(c), Reorganization Plan No. 18 of 1950 (40 U.S.C. 301 note); Sec. 1–201(b), E.O. 12072, as amended by E.O. 13946, 85 FR 52879, Aug 27, 2020; Subpart D Authority Pub. L. 116–276, 134 Stat. 3362.

■ 2. Revise 102–73.5 to read as follows:

§ 102–73.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including GSA's Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services; except for subpart D, which applies to Federal agencies exercising independent lease authority in addition to those operating under or subject to the authorities of the Administrator of General Services.

■ 3. Add subpart D to part 102–73 to read as follows:

Subpart D—Secure Federal Leases From Espionage and Suspicious Entanglements Act, Public Law 116–276

Authority

102–73.310 What are the governing authorities for this subpart?

Definitions

102–73.315 What definitions apply to this subpart?

Applicability

102–73.320 Who must comply with these provisions?

Information Collection

102–73.325 What information must a covered entity provide to the Federal lessee?

102–73.330 What information must a Federal lessee provide to GSA?

102–73.335 When will Federal lessees provide information to GSA?

102–73.340 How will Federal lessees provide information to GSA?

Subpart D—Secure Federal Leases From Espionage and Suspicious Entanglements Act, Public Law 116–276

Authority

§ 102–73.310 What are the governing authorities for this subpart?

The governing authorities are the Secure Federal Leases from Espionage And Suspicious Entanglements Act, Public Law 116–276, 134 Stat. 3362 (2020) (the ''Secure Federal LEASEs Act'') and 40 U.S.C. 121(c).

Definitions

§ 102–73.315 What definitions apply to this subpart?

Federal lessee, as defined by the Secure Federal LEASEs Act, means:

(a) The Administrator of General Services, the Architect of the Capitol, or the head of any Federal agency, other than the Department of Defense, that has independent statutory leasing authority; and

(b) Does not include the head of an element of the intelligence community.

Covered entity, as defined by the Secure Federal LEASEs Act, means:

(a) A person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group; or

(b) Any governmental entity or instrumentality of a government.

Beneficial owner means, with respect to a covered entity, an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

(a) Exercises substantial control over the covered entity; or

(b) Owns or controls not less than 25 percent of the ownership interests of the covered entity.

Control means, with respect to a covered entity:

(a) Having the authority or ability to determine how a covered entity is utilized; or

(b) Having some decision-making power for the use of a covered entity.

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.

Applicability

§ 102–73.320 Who must comply with these provisions?

Each Federal lessee and covered entity must cooperate and comply with these provisions.

Information Collection

§ 102–73.325 What information must a covered entity provide to a Federal lessee?

Sections 3 and 4 of the Secure Federal LEASEs Act require that, before the Government may enter into a lease agreement or novation with an entity for high-security leased space (defined as Facility Security Level III, IV or V), offerors must disclose whether the immediate owner, highest-level owner, or beneficial owner of the leased space, including an entity involved in the financing thereof, is a foreign person or entity, including the country associated with the ownership entity. Other agencies may replicate GSA's approach to this requirement, by referring to the interim rule General Services Administration Acquisition Regulation Case 2021–G527 (86 FR 34966).

§ 102–73.330 What information must a Federal lessee provide to GSA?

Federal lessees must provide the following information when sharing their Secure Federal LEASEs Act disclosures with GSA:

(a) Name of the agency conducting the procurement

(b) Date of disclosure

(c) Solicitation number or Contract number (for novations)

(d) Type of Action (prior to entering a lease or prior to a novation agreement)

(e) Total number of affirmative disclosures made (note—in some instances, there may be more than one owner-of-a-type. If more than one affirmative disclosure is made, include all disclosures)

(f) As part of the total number of disclosures made, was one of the disclosures an affirmative immediate owner disclosure? If so, how many?

(g) As part of the total number of disclosures made, was one of the disclosures an affirmative highest-level owner disclosure? If so, how many?

(h) As part of the total number of disclosures made, was one of the disclosures an affirmative beneficial owner disclosure? If so, how many?

§ 102–73.335 When will Federal lessees provide information to GSA?

Federal lessees will submit the required information on an annual basis.

§ 102–73.340 How will Federal lessees provide information to GSA?

Federal lessees will submit the required information to GSA via email at *SFLA@gsa.gov.*

[FR Doc. 2021–27333 Filed 12–16–21; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), Department of Health and Human Services (HHS or the Department).

ACTION: Notification of intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), this annual notification solicits proposals and recommendations for developing new, or modifying existing, safe harbor provisions under section 1128B(b) of the Social Security Act (the Act), the Federal anti-kickback statute), as well as developing new OIG Special Fraud Alerts.

DATES: To ensure consideration, public comments must be received no later than 5 p.m. on February 15, 2022.

ADDRESSES: In commenting, please refer to file code OIG–1121–N. Because of staff and resource limitations, we cannot accept comments by fax transmission. You may submit comments in one of two ways (no duplicates, please):

1. *Electronically.* You may submit comments electronically at *https://www.regulations.gov.* Follow the ''Submit a comment'' instructions and refer to file code OIG–1121–N.

2. *By regular, express, or overnight mail.* You may send written comments to the following address: OIG, Regulatory Affairs, HHS, Attention: OIG–1121–N, Room 5527, Cohen Building, 330 Independence Avenue SW, Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.

For information on viewing public comments, please see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Samantha Flanzer, Office of Inspector General, (202) 619–0335.

SUPPLEMENTARY INFORMATION: Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *https://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

A. OIG Safe Harbor Provisions

Section 1128B(b) of the Act (42 U.S.C. 1320a–7b(b)), the Federal anti-kickback statute, provides for criminal penalties for whoever knowingly and willfully offers, pays, solicits, or receives remuneration to induce or reward, among other things, the referral for or purchase of items or services reimbursable under any of the Federal health care programs, as defined in section 1128B(f) of the Act (42 U.S.C. 1320a–7b(f)). The offense is classified as a felony and is punishable by fines of up to $100,000 and imprisonment for up to 10 years. Violations of the Federal anti-kickback statute also may result in the imposition of civil monetary penalties under section 1128A(a)(7) of the Act (42 U.S.C. 1320a–7a(a)(7)), program exclusion under section 1128(b)(7) of the Act (42 U.S.C. 1320a–7(b)(7)), and liability under the False Claims Act (31 U.S.C. 3729–33).

Because of the broad reach of the statute, stakeholders expressed concern that some relatively innocuous business arrangements were covered by the statute and, therefore, potentially subject to criminal prosecution. In response, Congress enacted section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100–93 (note to section 1128B of the Act; 42 U.S.C. 1320a–7b), which requires the development and promulgation of regulations, the so-called safe harbor provisions, that would specify various payment and business practices that would not be subject to sanctions under the Federal anti-kickback statute, even though they potentially may be capable of inducing referrals of business for which payment may be made under a Federal health care program. Since July 29, 1991, there has been a series of final regulations published in the **Federal Register**