

## **All New GSA Construction To Achieve LEED Gold: Leases Require LEED Silver or Energy Star**

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With a portfolio of more than 362 million leasable square feet, the real estate industry took notice when on September 9, 2010, the U.S. General Services Administration, as part of meeting requirements under Executive Order 13514, declared its long-term goal of reaching a “net zero environmental footprint” and released aggressive greenhouse gas reduction measures, laying out how the agency will reduce its overall greenhouse gas emissions for that real estate portfolio by 30 percent by 2020.

The GSA’s 30 percent reduction goal was detailed in the agency’s Sustainability Performance Plan committing to reducing energy consumption in federal buildings by one third, increasing renewable energy generation and purchasing, and more.

An example of a GSA project taking advantage of the newly articulated greening opportunities is the modernization of the existing Edith Green/Wendell Wyatt Federal Building in Portland, Oregon aiming for the U.S. Green Building Council’s LEED® Platinum certification (the highest LEED rating available). The renovated structure will consume less than 60 percent of the energy of a typical office building. It will incorporate an exceptional 18-story façade that integrates shading and reflective devices optimized for each direction of the building’s location, orientation, and local climate. Compared to conventional high-rise buildings, the facility will use at least 65 percent less potable water.

### **GSA selects LEED**

GSA has long been a supporter of third party verification of green building. Drawing from analysis performed by the Pacific Northwest National Laboratory, GSA identified LEED as the most effective rating standard for the Federal real property portfolio to attain, with a focus on the LEED New Construction (LEED-NC) system and a minimum Silver certification. The government laboratory study screened more than 30 sustainable building rating systems and based on the analysis, GSA selected the LEED rating system because it provides: “The ability to be relevant to the scale and complexity of Federal buildings; Stability over time, such that evaluation of a building’s performance is not subject to dramatic changes; Objective measures of sustainable design, verified by third parties; and, Wide availability, with broad practitioner awareness.”

GSA formally conveyed this finding to the Department of Energy in April 2008. DOE officials issued draft regulations in 2010 that are currently undergoing review. GSA is required to evaluate sustainable building rating systems again in 2011.

GSA has since 2007 required that a LEED Silver certification or better be part of the design criteria for all GSA new construction and major renovation projects, and it encourages projects to exceed the minimum with LEED Gold or Platinum certifications.

The number of LEED certified projects across all Federal agencies has increased substantially in recent years. According to the USGBC, the Federal government currently has 241 LEED certified projects with another 3,373 projects pursuing LEED certification.

## **Energy Star**

EPA's ENERGY STAR® system is also used by GSA and other Federal agencies to track and improve building energy efficiency. GSA currently has over 130 buildings with an ENERGY STAR building label. The Energy Independence and Security Act of 2007 requires that all new Federal leases, with very few exceptions, "shall" be with ENERGY STAR labeled buildings (score 75 or better).

## **GSA future goals**

Executive Order 13514 requires that all Federal agencies incorporate a set of new Guiding Principles articulating high performance and sustainable buildings, for at least 15% of the building inventory by FY 2015. In its Sustainability Performance Plan, GSA exceeded that minimum such that by FY 2015, 18% (in lieu of 15%) of GSA's owned buildings greater than 5,000 gross square feet (in lieu of 10,000 rentable square feet) and leases greater than 5,000 GSF will incorporate the sustainable practices in the Guiding Principles.

GSA currently controls 6,006 owned buildings and leases above 5,000 gross square feet.

By December 2010, GSA will assess at least 5% of its owned buildings greater than 5,000 GSF (a minimum of 52 buildings) and at least 5% of its leases greater than 5,000 GSF (a minimum of 250 leases) for compliance with the Guiding Principles.

GSA will use those assessments in a new portfolio management information system to track leased assets that already meet the Guiding Principles based on their certification under a third-party rating system, such as LEED. GSA is also exploring ways to improve energy efficiency of leased space, including increasing lease acquisitions in ENERGY STAR labeled buildings. GSA will provide training for leasing specialists on the use of green lease clauses in lease solicitations.

GSA will continue to use LEED certification to demonstrate compliance with the Guiding Principles. GSA will ensure that all new Federal buildings that have been certified LEED-NC also register for LEED for Existing Buildings Operations and Maintenance (LEED-EBOM) within five years of construction completion. GSA is currently evaluating the opportunity to participate in the USGBC's Portfolio Program, which allows organizations to pursue LEED-EBOM certification for multiple properties through volume certification.

By FY 2015, GSA will design at least half of its historic building renovations to achieve LEED Gold certification or better.

Beginning in FY 2010, GSA will identify three demonstration projects each year to begin designing toward zero net energy.

## **LEED Gold for new construction**

Robert Peck, Commissioner of the Public Buildings Service of the GSA announced on September 29, 2010 in testimony before a House subcommittee “that all of our new construction projects will achieve Leadership in Energy and Environmental Design (LEED) Gold ratings” .. in lieu of the previously minimum required LEED Silver rating.

## **LEED Silver for leases?**

Since December 27, 2007 GSA lease solicitations have contained the language, a “LEED-NC Silver rating is required for all lease construction and major lease renovation projects of 10,000 Rentable Square Feet and above when the government is the sole occupant of the entire building with the exception of retail space.” The “LEED for Commercial Interiors (LEED-CI) green lease solicitation text” is available when a GSA customer agency requests a lease for less than an entire building.

Mr. Peck also told that House subcommittee last month, that beginning in December 2010, an ENERGY STAR label (score 75 or better) may be required for a lease award of 10,000 square feet or more. Presumably, this requirement from EISA is an alternative compliance path for new leases and applies to all lease renewals (.. and while Mr. Peck’s statements were repeated last week by Lance Davis of the Office of High Performance Green Buildings at the GSA, at the Green Matters conference in New Orleans, this is all so new that none of this has yet been promulgated or officially released).

## **National capital region**

All of this has huge implications because of the large real estate portfolio of the Federal government. And no area of the country is more effected that the national capital region where the Federal government owns 299 Buildings with more than 42 Million square feet: 33.2 Million square feet in DC, 6 Million square feet in Maryland, and 3 Million square feet in Virginia.

Additionally, the Federal government leases 559 Buildings with more than 53.6 Million square feet: 22 Million square feet in DC, 11 Million square feet in Maryland, and 20.6 Million square feet in Virginia.

Moreover, a significant number of those national capital area leases expire in short order. In FY 2011 (beginning October 1, 2010) 128 leases expire for 6.1 Million square feet. In FY 2012 107 Leases expire for 6.4 Million square feet. And in FY 2013 123 Leases expire for 7.2 Million square feet. That space will need to be replaced ..

## **Opportunities abound**

Building and leasing to the Federal government is unique and not for the faint of heart, in particular as GSA pursues its goal of net zero environmental footprint. That observed, opportunities abound to provide space to the Federal government. We have the experience and

skill set to provide complete representation in this arena. If we can assist you please contact Stuart Kaplow.

*The Genesis of this article was a post on Tim Hughes' widely read and respected blog covering green building issues <http://www.valanduseconstructionlaw.com>*

*If we can assist you in seeing the opportunities and gaining a competitive advantage in green building please feel free to contact Stuart Kaplow at [skaplow@stuartkaplow.com](mailto:skaplow@stuartkaplow.com).*

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