

Rent vs. Lease vs. Buy

Written by Nick Sanders
Monday, 10 September 2018 00:00

In what appears to us to be yet another sign of the dumbing-down of acquisition professionals, the FAR Councils published a [proposed rule](#) that would revise FAR Part 7.4 to “clarify ... that the term ‘lease,’ as used in the subpart, includes the ‘rental’ of equipment.” Yes, because it was *completely unclear*

for the past 34 years that the term “rental” was semantically equivalent to the term “lease.” Nobody ever understood that when the FAR told Federal acquisition professionals attempting to perform a lease versus purchase analysis to “consider ... cumulative rental payments for the estimated period of use” (under the Subsection heading of “Equipment Lease or Purchase”) it was completely misusing terms, and therefore the Federal acquisition professionals who were required to adhere to the requirements were being confused.

And thus the required lease versus purchase analyses were being screwed-up. All because people were confused between “rental” and “lease”.

We are not making this up.

In fairness, it is possible that somebody looking to split hairs might argue that “rental” applies only to land or property (going by the online definition), whereas “lease” could apply to anything (including land or property). And a “rental period” is, technically, only 30 days and is automatically renewed each period, whereas a “lease” is for a specified period. Those are real differences. But *Holy Heck* is that a convoluted way to approach regulatory analysis! You know a lawyer must have been involved, because the differences (such as they are) are all legal differences. Legal nuances, so to speak.

However, even the FAR Councils weren’t willing to admit that there was a real semantic difference between the two terms. The new proposed language would tell Federal acquisition folks that—

While there are some differences between renting and leasing in many industries, *there is no standard distinction between both renting and leasing that spans across all industries.*

Rental agreements are typically for shorter periods of time than lease agreements. Additionally, maintenance requirements and financial terms (

e.g.,

fees or payment terms) differ between a lease and a rental agreement.

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(Emphasis added.)

If there is no real difference and if we should all expect reasonable professionals to figure out that when the FAR says “cumulative rental payments” (under the direction regarding how to do a lease versus purchase analysis) it might be talking about the actual cumulative payments under a lease, then why did the FAR Councils feel such a burning need to address this issue?

In the comments associated with the proposed rule, we were told that “The objective of the rule is to ensure the value of rental agreements are included in the decision on whether to lease or purchase equipment. ... Based on Fiscal Year 2016 data from the Federal Procurement Data System, the Government issued approximately 34,925 contract actions for the rent/lease or purchase of equipment.”

In other words, there were no known cases of a lease versus purchase analysis not being performed (or being performed incorrectly) because some hack argued that “rental payments” were somehow different from “lease payments.” Nope. Instead, the FAR Councils decided to attack this ... *issue* ... because there were *a lot* of transactions that required a lease versus purchase analysis—and they wanted to make it super clear to even those Federal acquisition folks at the lowest levels of reading comprehension exactly how to perform such a lease versus purchase analysis.

And just to be absolutely rock-solid certain that all Federal acquisition professionals were given a complete toolset that could be used to perform a lease versus purchase analysis—

The rule also adds a helpful link to a GSA site that provides additional guidance on renting and leasing equipment and updates the GSA office from which agencies may request information when making lease or purchase decisions. In addition, weblinks have been added to the rule for Office of Management and Budget (OMB) guidance for lease-purchase analysis, see Special Guidance for Lease-purchase Analysis (Section 13 of (OMB) Circular A-94, also see 8.c.(2)); and OMB Circular A-11 Appendix B Budgetary Treatment of Lease-Purchases and Leases of Capital Assets.

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Apparently reading comprehension, and basic business analysis skills, are in such dire straits within the Federal acquisition corps that “helpful” links are being added to the Federal Acquisition Regulation, so as to walk “professionals” through the process.

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It’s pretty clear—or it *absolutely* should be—that before entering into a lease, one should determine whether it is more economically beneficial to instead purchase. This is just Financial Analysis 101. But rather than find acquisition professionals who can actually *do*

Financial Analysis 101, the FAR Councils have chosen to accept the current state of the workforce and simply walk the “professionals” through the required steps, with lots of hand-holding “helpful links” to make sure they don’t stumble along the way.

Anyway, as with all proposed rules, the public (*that’s you*) is invited to submit comments. Follow the link above (in the first sentence) if you wish to provide input to the FAR Council’s deliberative rule-making process. We do not encourage anybody to mock the rule-makers, as tempting as it may be—though of course we’ve taken that liberty here, within this blog article.