



STATE PROPERTIES COMMISSION

270 Washington Street, Suite 2-129, Atlanta, Georgia 30334

POLICY

TITLE: SPC 08 - Leasing Requirements for State Properties Commission Rental Agreements for Administrative Space

ADOPTED: December 11, 2012 (Effective: January 1, 2013)

REVISED: December 11, 2018

1. References

Article VII Section IV Paragraph XIII of the Constitution of the State of Georgia, as amended

The Georgia State Financing and Investment Commission Act, O.C.G.A. § 50-17-20 through 50-17-30

O.C.G.A. § 50-16-41, as amended (hereinafter “Space Management Code”)

2. Definitions

- (a) State Properties Commission (SPC): The agency responsible for optimizing occupancy of state owned and leased real property. SPC administers the process to support agency program requirements that upholds the highest and best use of the State’s portfolio assets.
- (b) Agency: The State entity that will be the end user of the space. SPC shall be the tenant and assign the space to the State entity.
- (c) Letter of Intent (LOI): The form document that incorporates the key terms of the lease negotiation that shall be executed by the Agency, Landlord and SPC when applicable.
- (d) Annual Rental Agreement(s): Rental agreements for administrative space which have an initial term up to twelve (12) months.
- (e) Multiyear Rental Agreement(s): Rental agreements for administrative space which have an initial term greater than twelve (12) months, up to a term of twenty (20) years.

- (f) Short Term Agreement(s): Multiyear Rental Agreements having an initial term greater than twelve (12) months, up to a term of five (5) years.
- (g) Long Term Agreement(s): Multiyear Rental Agreements having an initial term greater than five (5) years, up to a term of twenty (20) years.

3. Purpose

The purpose of this policy is to establish the leasing policy for rental agreements to be entered into by SPC for administrative space. The State Properties Commission (“SPC”) is authorized to enter into Annual Rental Agreements and Multiyear Rental Agreements for administrative space on behalf of any state entity, including the Board of Regents of the University System of Georgia and the Georgia Department of Labor. The Georgia State Financing and Investment Commission (“GSFIC”) is authorized to establish fiscal policies regarding Multiyear Rental Agreements and establish a multiyear contract value authority for use by the SPC.

4. Policy Statement

- (a) Agency Requests: In general, SPC, will contract for the use of administrative space for a term of one (1) year or less through an Annual Rental Agreement which may include up to eight (8) renewal options.

When determining if a Multiyear Rental Agreement should be used to meet a request from a State entity, including the Department of Labor, SPC shall take into consideration: 1) how long the Agency has been in existence; 2) the size of the space requested and 3) the anticipated amount of improvements required to the leased space. As a general guideline the following shall apply:

For Short Term Agreement(s):

- 1) The Agency should have been in existence for more than five (5) years; and
- 2) The programed space requirement should be greater than three thousand (3,000) usable square feet; or
- 3) The cost of the improvements to the administrative space should be greater than fifty thousand dollars (\$50,000).

For Long Term Agreement(s):

- 1) The Agency should have been in existence for more than five (5) years; and
- 2) The programed space requirement should be greater than ten thousand (10,000) usable square feet; or
- 3) The cost of the improvements to the administrative space should be greater than one hundred thousand dollars (\$100,000).

The above shall be used as a general guideline. The Deputy Executive Director in his/her sole discretion may determine the most advantageous lease term.

To ensure compliance with GSFIC multiyear contract value authority, the term of each Multiyear Rental Agreement should be a minimal term to reduce the impact upon GSFIC's debt management plan.

- (b) Board of Regents (BOR): The Board of Regents is exempt from SPC's Space Management Code but is required to obtain SPC approval prior to entering any Multiyear Rental Agreement. The unique type of space and function of BOR necessitates a separate procedure for SPC approval of Multiyear Rental Agreements. Generally, the procedure calls for BOR to follow SPC process for locating and selecting space but negotiations and execution of the rental agreements will be done by BOR.
- (c) Assignment of Space to the Agency: SPC is legally responsible for the assignment of administrative space, therefore, each rental agreement will include SPC as the lessee/tenant.

For Annual Rental Agreements the assignment of the space will be made by SPC though an assignment letter notifying the Agency of the key terms of the master lease agreement. The key terms of the master lease shall match the key terms of the LOI executed by the Agency. The assignment letter will be accompanied by a copy of the fully executed master lease agreement.

For Multiyear Rental Agreements, the Agency will have to enter into an Intergovernmental Agreement ("IGA") with SPC. A fully executed copy of the Multiyear Rental Agreement shall be an exhibit to the IGA. The IGA will contain language requiring the Agency to acknowledge that the IGA is non-cancellable without the consent of SPC and GSFIC. The IGA will also contain language prohibiting private activity or any non-governmental purpose or any purpose constituting a private activity as defined under the IRS Code. The Agency will also pledge responsibility to maintain sufficient funding to support the rental payments over the term of the agreement.

- (d) Board Approval: If the by-laws require SPC board approval for a particular Annual Rental Agreement or Multiyear Rental Agreement, such agreement or award of any solicitation shall not be effective until receipt of the SPC board approval and execution by the authorized SPC designee.
- (e) Conditions Related to Avoiding Private Activity for GO Bond Proceeds: SPC shall be responsible for initial due diligence and ongoing monitoring to ensure compliance with IRS regulations applicable to any associated tax exempt General Obligation Bond financing related to the leased space under a Multiyear Rental Agreement. Any of the following arrangements with non-governmental entities may constitute a private business use: outright transfers of ownership; leases; management contracts; output contracts; research agreements; or any other arrangements that convey special legal entitlements for beneficial use of financed property, that are comparable to those under any of the arrangements listed above.

Before SPC or any other agency enters into any of the arrangements described above in this paragraph (e) with respect to any rental agreement or lease that may have an impact to the State's debt management plan, they will contact the Director of GSFIC / Finance & Investment and the Department of Law and receive confirmation, including certain certifications and representations, that the proposed transaction will not jeopardize the tax-exempt status of outstanding State of Georgia General Obligation Bonds.