



# STATE PROPERTIES COMMISSION

47 Trinity Avenue, S.W., Suite G02 Atlanta, Georgia 30334

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## POLICY

**TITLE:** Transaction Management - Leasing Requirements for State Properties Commission Multiyear Rental Agreements for Administrative Space

**NUMBER:** SPC – 08 (Effective: January 1, 2013)

**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”)

### 1. Purpose

The purpose of this policy is to establish the leasing policy for multiyear rental agreements to be entered into by SPC enter for administrative space. The State Properties Commission (“SPC”) is authorized to enter into multiyear rental agreements for administrative space, up to a term of twenty (20) years, 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 lease and rental agreements and establish a multiyear contract value authority for use by the SPC.

### 2. Policy Statement

- (a) Entity Requests: When determining a request from a State entity, under the purview of the SPC code including the Department of Labor to enter into a multiyear rental agreement, SPC shall take into consideration the history, future existence, and size of the State entity making such a request. The State entity should have been in existence for more than five (5) years.

The amount and the costs of the tenant improvements of the administrative space should be evaluated. A multiyear rental agreement should be of space greater than three thousand square feet (3,000 sq. ft.) and/or have tenant improvements exceeding fifty thousand dollars (\$50,000) in costs.

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. As a general guideline, a multiyear rental agreement having: a premises of less than 10,000 square feet should not have a term longer than five (5) years; a premises of more than 10,000 but less than 20,000 square feet should not have a term longer than ten (10) years; and a premises of greater than 20,000 square feet shall not have a term longer than twenty (20) years.

- (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 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, subject to SPC approval which approval will be considered by SPC to be the rental of the space by SPC for purposes of O.C.G.A. § 50-16-41(c).
- (c) Intergovernmental Agreement: Since SPC is legally responsible for the assignment of administrative space and because each multiyear rental agreement will show SPC as the lessee/tenant on the document, the state entity making the request for SPC to enter into a multiyear rental agreement will have to enter into an Intergovernmental Agreement ("IGA") with SPC. The IGA will contain language requiring the State entity to acknowledge that the multiyear rental agreement a long-term obligation of the State of Georgia and as such 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 State entity will also pledge responsibility to maintain sufficient funding to support the rental payments over the term of the agreement.
- (d) Board Approval: The terms and conditions of every multiyear rental agreement will be presented to and approved by the SPC board. An agreement 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.