

CHAPTER 19
State Budget and Control Board

19-447.1000. Leasing of Real Property.

A. LEASE OF NON STATE-OWNED REAL PROPERTY

No governmental body shall contract for the lease, rental, or use of non state-owned real property without approval of the Office of General Services, except as specified in subsection C. Requests shall be directed to the Office of General Services. The Office of General Services shall negotiate or approve the terms of all leases of non state-owned real property unless the governmental body has been exempted.

1. GENERAL REGULATIONS

(a) The Office of General Services shall be accountable for the procurement of leased real property for governmental bodies in accordance with the regulations promulgated by the Board.

(b) All leases shall require the written approval of the Office of General Services, except when such lease is exempt from approval by the Budget and Control Board.

(c) Before approving any lease, Office of General Services shall:

(1) assure that all appropriate approvals have been obtained.

(2) verify that adequate funds exist for the lease payments;

(3) verify that lease payments represent no more than fair market rental;

(4) verify that upfitting costs represent no more than current market costs;

(5) verify that a multi-year financial plan has been submitted by the requesting agency for review by the Budget and Control Board's budget office.

(d) All requests for leased real property by governmental bodies and agencies shall be submitted to the Office of General Services on a "Request for Space Form" provided by General Services.

(1) This form shall include, but not be limited to:

(a) The purpose for which the space will be used.

(b) Any special requirements or needs with written justification (computer rooms, etc.).

(c) Parking requirements and justification.

(d) The general location or area desired.

(e) A multi-year financial plan for review by the Board's budget office.

(2) The amount of office space desired shall be computed and justified using the standards specified in Code Section 1-11-55.

(3) Other types of space (warehouse, laboratory, etc.) shall require a written letter of justification from the requesting agency or governmental body and shall include documentation of market standards for use of this type space. The Office of General Services shall be accountable for investigating the existing space or any other information given in the justification.

(4) The "Request for Space Form" or any other document requesting space or justifying the need for space shall be certified by the Director of the requesting agency or governmental body.

(e) An agency or governmental body desiring to renew an existing lease is responsible for notifying the Office of General Services in writing of its intention to do so at least 60 days before the renewal deadline as stated in the lease. Upon approval by appropriate boards and the Office of General Services, the governmental body or agency shall notify the Lessor that it has elected to exercise its right of renewal pursuant to the lease. The Office of General Services may send each a renewal request form and a reminder notice well in advance of these deadlines.

(f) Under no circumstances will the requesting governmental body or state agency contact or negotiate lease terms with any real estate agency, broker, builder, owner, or representative in reference to space needs without the prior written consent of the Office of General Services.

(g) The Office of General Services will begin investigation of available rental space within ten (10) working days after receiving the "Request for Space Form".

(h) When processing requests for space, the Office of General Services will first determine whether appropriate state-owned or state-leased space is available before exploring commercial space alternatives.

If such space is available, the Office of General Services will direct the requesting agency or governmental body to occupy said space. If state-owned or state-leased space is unavailable or inappropriate, the Office of General Services shall begin a solicitation process to secure proposals for commercial space from as many qualified developers and/or brokers as is practicable.

(i) Rental rates will be determined by the Office of General Services for all leases by use of standard acceptable market rent analysis methods.

2. TYPES OF LEASE TRANSACTIONS

All state leases will be categorized as one of the following five types:

(a) Exempt Leases. Those leases exempted in accordance with subsection C or otherwise exempted by the Budget and Control Board.

(b) Standard Lease. All leases which commit less than \$1 million in a five year period and which do not involve equity accrual.

(c) Major Leases. Any lease which commits \$1 million or more in a five year period but which is otherwise standard in all respects.

(d) Lease/Purchases. All lease transactions which include clauses providing for equity accrual.

(e) Other Leases. All leases which are not encompassed by the first four categories. At its discretion, the Office of General Services may place any proposed lease transaction in this category if it involves complex issues or methodologies which warrant special handling.

3. EXEMPT LEASES

All exempt leases will be administered in accordance with regulations and procedures outlined in subsection C or Budget and Control Board directives.

4. STANDARD LEASES

(a) The Office of General Services will be responsible for managing all aspects of soliciting lease proposals from commercial entities. In all solicitations, the Office of General Services is required to assure that equitable competition occurs in the broadest market practicable.

(b) The Office of General Services will review all proposals from prospective Lessors with the agency or governmental body. The Office of General Services will recommend the proposal which offers the most cost effective terms and conditions to the agency or governmental body after satisfying subjective criteria such as parking, location requirements, special needs, etc. If the agency accepts the recommendation, General Services will make the selection and begin negotiations to finalize the lease transaction.

(c) If the agency or governmental body cannot accept the Office of General Services' recommendation, the dispute shall be referred to the Budget and Control Board, which will make the final determination.

(d) Evaluation criteria shall include total cost (including rental payments, upfitting costs, escalations, additional rents, operating, and all other costs) and location. Other subjective criteria such as parking and other special needs may be included. Total cost shall be given the highest weight of any single factor.

(e) Before making a recommendation, the Office of General Services shall verify that:

(1) all prior approvals have been obtained;

(2) adequate funds exist for the lease payments;

(3) lease payments are no more than fair market rental; and

(4) upfitting costs are no more than reasonable market costs.

(f) The Office of General Services may reject the agency's request for additional space and/or space at a specific location.

5. MAJOR LEASES

(a) All regulations and procedures for standard leases will apply to all major leases.

(b) All major leases must be reviewed by the Joint Bond Review Committee and approved by the Budget and Control Board before a final lease becomes effective.

6. LEASE/PURCHASES

All regulations and procedures for major leases will apply to lease/purchase transactions.

7. OTHER LEASES

(a) At its discretion, the Office of General Services may place any proposed lease transaction in this category if it involves complex issues or methodologies which warrant special handling.

(b) The Office of General Services shall determine which of the above regulations are applicable to any special lease situation and may adopt additional procedures to meet special needs on a case by case basis.

8. STANDARD LEASE DOCUMENTS

(a) The Office of General Services will be responsible for drafting and updating the state standard lease document.

(b) The state standard lease document will be used in all lease negotiations unless a substitute document is approved in advance by the Office of General Services.

(c) The state lease document will incorporate cancellation provisions including a right to cancel in the event of a (a) non-appropriation of funds for the renting agency, (b) dissolution of the agency and (c) the availability of public space in substitution for private space being leased by the agency.

B. LEASE OF STATE-OWNED REAL PROPERTY

No governmental body shall contract with any commercial entity or other governmental body for the lease, rental, or use of state-owned real property whether it be titled in the name of the State of South Carolina or any governmental body, without approval of the Office of General Services, except as specified in subsection C. Requests shall be directed to the Office of General Services. The Office of General Services shall negotiate or approve the terms of all leases of state-owned real property unless the governmental body has been exempted.

C. EXEMPTIONS

The Budget and Control Board may exempt governmental bodies from leasing state-owned and non state-owned real property through the leasing procedure herein required provided, however, that annual reports be filed with the Office of General Services, prior to July 1 of each year. Annual reports shall contain copies of all existing leases of state-owned and non state-owned real property. The Budget and Control Board may limit or withdraw any exemptions provided for in this Regulation.

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