

**TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES  
CHAPTER 95. REAL ESTATE AND LEASING [AMENDED]**

**SUBCHAPTER 1. LEASING AND SPACE STANDARDS**

**260:95-1-1. Purpose**

The principal objectives of the state's space management program are:

- (1) To provide adequate space to satisfy appropriate functional and locational requirements for state programs;
- (2) To obtain the best balance of quality and cost;
- (3) To obtain maximum utilization of state owned buildings;
- (4) To provide uniform space allocation standards;
- (5) To provide an avenue for state office space planning;
- (6) To maintain a single communications point and information source between the State and the private real estate market; and
- (7) To ensure as much uniformity as practical in lease terms and space planning.

**260:95-1-2. Definitions**

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

**"Administrator"** means the Administrator of the Division of Capital Assets Management.

**"Agency"** means any state agency, board, commission or public trust having the State of Oklahoma as a beneficiary.

**"Boat Storage"** means a boat slip or dry dock storage.

**"Director" or "Director of Real Estate and Leasing Services"** means the person designated by the Director of the Office of Management and Enterprise Services to formulate, enter into, or administer contracts for real property or make written determinations and findings with respect to them and to carry out the duties of the Office relating to real property transactions and the inventory of real property.

**"Division"** means the Division of Capital Assets Management of the Office of Management and Enterprise Services.

**"Full time employee (FTE)"** means permanent state employees.

**"Hangar"** means a structure used for housing aircraft.

**"Laboratory"** means a part of a building, or other place, equipped to conduct scientific experiments, tests, investigations et cetera.

**"Maintenance"** means the repair or preventative up-keep of equipment, machinery, property, and building features or fixtures.

**"Motor Pool"** means a facility used to keep, maintain and services vehicles owned by the Division and state agencies.

**"Net usable square feet"** means the space in non-state owned facilities for which the State shall pay a square foot rate.

- (A) If the space is on a single tenancy floor or building, computing the inside gross area of the space by measuring from the normal inside finish of the permanent exterior walls, or from the face of the convector (pipes or other wall-hung fixtures) if the convector occupies at least 50% of the length of the walls.

(B) If the space is on a multiple tenancy floor, measure from the exterior building walls as above (#A) and to the room side finish of the fixed corridor and shaft walls and/or the center of tenant-separating partitions.

(C) In all measurements, make no deductions for the columns and projections enclosing the structural elements of the building; and deduct from the gross area the following, including enclosing walls:

- (i) Toilets and lounges;
- (ii) Stairwells and bearing partitions;
- (iii) Elevator and escalator shafts;
- (iv) Building equipment and service areas;
- (v) Entrance and all elevator lobbies;
- (vi) Stacks and shafts; and
- (vii) Fixed or common use corridors

(D) Common-Area space accessible to and/or utilized by entities other than the State is not included as net usable square feet.

(E) If restrooms are available in a common area of a multiple tenant building, those restrooms within the state's leased space which are for the state's exclusive use, shall be included as net usable square feet.

(F) When the only accessible restroom facilities in a building are within the state's leased space, one set of restrooms and their enclosing walls shall be deducted from the net usable square feet.

**"Office"** means structures or space for the regular transaction of business used primarily as work areas for personnel, conference areas, reception areas, hearing rooms, drafting areas, etc. Minor storage areas, such as storage of miscellaneous supplies or stationary and file cabinet space within a private office or adjacent to clerical personnel are also included in "office" space.

**"Personnel"** means the peak number of persons to be located in the space, including permanent employees of the agency, temporaries, contractual employees and budgeted vacancies.

**"Print Shop"** means a structure or space where the primary function is publication or printing.

**"Real Estate and Leasing forms"** means forms and documents the Director of Real Estate and Leasing Services approves for real property transactions and for providing information to the Office of Management and Enterprise Services.

**"Real Property"** means land, and generally whatever is erected growing upon or affixed to land; also rights issuing out of, annexed to, and exercising in or about land.

**"Real Property Inventory"** means a comprehensive list of property submitted by the state agencies, boards, commissions, and public trusts listing all real property owned, the value of the property and any underutilized property.

**"Rental Rate Ceiling"** means the net usable square foot rate established by the Office of Management and Enterprise Services as the maximum rental consideration to be made for non-state owned facilities. The ceiling is not the standard rate; it is the maximum rate an agency may pay for leased space without authorization from the Director of Real Estate and Leasing Services allowing the agency to exceed the rental rate ceiling.

(A) On full service leases, which include all utilities except telephones, 5 day per week janitorial services and supplies, and general parking, the rental rate shall not exceed the ceiling rate.

(B) On net leases, which exclude utilities and/or 5 day per week janitorial services or general parking, the rate shall not exceed the ceiling rate when rent related expenses are added to the base rate (i.e. utilities except telephones, 5 day per week janitorial, parking, etc.).

(C) If a lease rate does not include all or part of the utility expenses, documentation of the most recent 12 month period in which the space was occupied may be utilized to estimate what the total rent related expenses will be to the agency. The historical utility expenses or estimated utility expenses shall be considered in rental negotiations and by the Office of Management and Enterprise Services in evaluation/authorization of the lease.

(D) On those full service or net leases wherein the janitorial services will be provided less than five days per week (either at the Lessor or state's expense), the Office of Management and Enterprise Services will provide the agency with the acceptable rental rate.

**"State-owned properties"** means all property lawfully appropriated by the state to its own use; all property dedicated to the state and all property which there is no other owner.

**"State owned space"** means space in structures on state-owned properties.

**"State space standards"** means the standard guidelines for the determination of an agency's space needs in all real property leased, purchased or lease-purchased by the State.

**"Storage"** means a structure or area used primarily for storing items such as furniture, fixtures, equipment and inactive files. Desk space for staff located within larger storage areas is also included in "storage" space.

**"Tower"** means a structure used for supporting some type of antenna or communication devise. A tower may be self-supporting or guyed and may be an independent structure or part of a larger structure.

### **260:95-1-3. General provisions for securing space**

(a) It is the policy of the Office of Management and Enterprise Services to house agencies of state government in state-owned property whenever feasible. However, when requirements for space cannot be satisfied in state facilities, the Office of Management and Enterprise Services will authorize the agency to secure space in non-state owned facilities.

(b) The State Space Standards will be utilized by the Office of Management and Enterprise Services to facilitate space planning, to establish office space needs, and for authorization of the amount and type of space may procure through lease, purchase or construction.

(c) Agencies shall submit a Space Request to the Office of Management and Enterprise Services when requesting new or additional space through leasing, purchasing or lease-purchasing real property.

(d) All leases for space, regardless of size, type, or dollar value, must be authorized by the Office of Management and Enterprise Services.

(e) The Director of the Office of Management and Enterprise Services may, at his/her discretion, waive the requirements as set forth in 580:60-1 when it is shown to be in the best interest of the State of Oklahoma.

### **260:95-1-4. Space allocation standards**

(a) **Purpose.** The purpose of the space allocation standards is to present a uniform and consistent method of evaluation of the amount of space required to support a specific program or agency in all real property to be leased, purchased or lease-purchased by the State.

(b) **General provisions.**

(1) Agencies shall indicate their space needs through the use of the forms and documents prescribed by the Director of Real Estate and Leasing Services.

(2) Agencies are required to implement the space standards for acquiring space through lease or purchase and for internal organization of space.

(3) Whenever possible, the Office of Management and Enterprise Services will satisfy new space requests through the assignment of vacant space available in state-owned facilities.

(4) Funding allocated to an agency by the Legislature for an increase in the amount of space or the rental rate does not waive the requirements of the Office of Management and Enterprise Services unless a specific statutory exemption exists. Procurement of space or rate increases must still be authorized by the Office of Management and Enterprise Services in accordance with the real estate and leasing procedures and space standards.

(5) Unless otherwise noted, all square footage listed and the term "square feet" means "net usable square feet" as defined in 580:60-1-2. As such, it represents the amount of space that is usable for personnel, the placement of furniture and internal circulation areas.

(6) The quality and the type of space assigned or approved by the Office of Management and Enterprise Services may vary depending on various factors. Such factors include, but are not limited to: functional considerations, the magnitude of contiguous space required, and configurations of available space for assignment, including economic consideration when the available space requires remodeling to conform to the State Space Standards.

(7) The final decision concerning the allowable amount of square footage for a given space request shall be made by the Office of Management and Enterprise Services.

(8) The state space standards are the standard guidelines for the determination of an agency's space needs. They are intended to balance full and intensive use of the allocated space with productivity and program needs.

(c) **Personnel space standards.**

(1) The state space standards shall ordinarily not exceed the product of 150 square feet times the number of full-time, funded employees. This standard is not an entitlement per individual employee. It is a standard allocation to the agency as a whole. Individual space allocations within the total should be made on a basis of job function, not on position classification.

(A) The allocation of space for employees who are in the office less than 60 percent of the time is be seventy (70) square feet per position.

(B) Space needs for an individual employee may only be considered for the primary office location of said employee.

(C) Space for employees who work out of their homes or other offices shall not be included.

(D) The allocation of space for personnel who report to the facility on a weekly basis, or less, shall be determined through the Special Space Requirements, rather than on the standard 150 or 70 square foot allowance.

(E) The state space standard allocations include work stations, circulation between work stations, and work station-related support space, such as reception and office equipment areas, unless specified in 260:95-1-4(d).

(2) Space is primarily allocated according to the number of funded authorized positions in the agency or program.

(A) Project and limited term positions are not normally included; exceptions may be made for projects of over two years or limited term positions that recur regularly.

(B) Future expansion needs shall not be considered until positions have been authorized and funded unless there is a documented history of frequent expansion in the agency's programs and number of employees required to support the programs or a legislative change in agency function that will increase agency staff needs.

(3) The allocation of space for personnel in warehouses, print shops, motor pools, large data centers, etc., where the employees support the functions and/or equipment, not vice versa, shall be determined through the Special Space Requirements, rather than on the standard 150 or 70 square foot allowance. Administrative personnel of such functions shall, however, be included in the standard FTE space allocation.

(d) **Special space standards.** This Subsection represents the special space standards which will be the standard guidelines for determining an agency's special space requirements. With appropriate written documentation and justification in an agency's Space Request, additional square footage will be allowable if the space meets the specified criteria. All figures used to compute the justification of Special Space shall be based on the average number of occupants utilizing the particular space at any given time.

(1) **Reception/client areas.** Most office locations require some type of reception area; however, the allowable space may vary based on the program being administered.

(A) Space allocation will be determined on the basis of the following criteria:

- (i) Average number of visitors utilizing the space per day; at any given time;
- (ii) Type of visitors; (i.e., accompanied by families, etc.); and
- (iii) Special requirements (i.e., tables, etc.)

(B) Allowable space is ten (10) square feet times the average number of visitors per day at any given time. Documentation of the number of actual visitors may be required. Space requirements for a receptionist are included in the Personnel Section of the Space Request form.

(2) **Conference rooms.** A separate conference room shall be established only when it will be in use at least twenty hours per week. Documentation of the history of conference room usage may be required.

(A) Space allocation will be determined on the basis of the following criteria:

- (i) Average number of persons in attendance;
- (ii) Frequency of meetings (average hours per week);
- (iii) Availability of private office space;
- (iv) Special requirements (i.e., blackboard, projector and screen, etc.); and
- (v) Availability of existing meeting facilities at little or no cost to building tenants.

(B) Allowable space for conference rooms which meet the above criteria is twenty (20) square feet per person, based on the overall average number of attendees as documented by the agency, not the average of one or two specific meetings.

(C) These standards may be adjusted with appropriate documentation when special equipment is regularly used in a given meeting or conference setting. In addition, the methods for calculating the actual room size may vary according to use and the number of participants and/or spectators.

(3) **Classroom and training rooms.** Classrooms/Training Rooms shall be combined with the conference room usage unless justification exists for separate areas. If separate classrooms and training rooms are justified, they should be established only when they are in use at least 20 hours per week. Occasional space for five or six people will not qualify as special space. The agency shall provide documentation of the actual history of usage of classes or training sessions.

(A) Space allocation will be determined on the following criteria:

- (i) Average number of persons in attendance as documented by agency records;
- (ii) Frequency of classes/training (average hours per week);
- (iii) Special requirements; and
- (iv) Availability of existing meeting facilities at little or no cost within the building and/or the space occupied by the agency.

(B) Allowable space is twenty (20) square feet per person based on the overall average number of attendees, not the average of one or two specific sessions.

(4) **Intake/interview room.** This type of space will be established only when it will be in use at least twenty-five hours per week and will be considered on a case-by-case basis by the Office of Management and Enterprise Services.

(A) This space will be determined on the following criteria:

- (i) Frequency of use (average hours per week); and
- (ii) Availability of private office space or other meeting space.

(B) Allowable space shall not exceed one hundred (100) square feet per individual room, with the total number of qualifying rooms dependent on the documented need for such space.

(5) **Libraries.**

(A) The allowable square footage for book cases is based on the following formula:

- (i) Determine the total number of book cases within the space (i.e. open areas; private offices; libraries, etc.).
- (ii) If the total number of book cases is greater than the total number of FTE's occupying the space, the difference is the number of book cases which is allowable as special space. Contract, temporaries, or volunteers are not included in the number for this allowance.

(B) Allowable space is six (6) square feet each for the number of book cases which exceed the total number of FTE's occupying the space.

(6) **File cabinets.**

(A) The allowable square footage for file cabinets is based on the following formula:

- (i) Determine the total number of file cabinets within the space (i.e., open areas; private offices; file rooms; 2, 3, 4, and 5 drawer, lateral and vertical cabinets).
- (ii) If the total number of file cabinets is greater than the total number of FTE's occupying the space, the difference will be considered as the number of file cabinets which will be allowable as special space. Contract, temporaries, or volunteers are not included in the number for this allowance.

(B) Allowable space is nine (9) square feet each for the number of file cabinets which exceeds the total number of FTE's occupying the space.

(C) Space for mobile filing systems should be justified separately on the Space Request form and shall include exact system dimensions.

(7) **Storage, copiers, mail.** The agency will be allocated additional space for storage, copiers and mail based on the number of FTE's.

(A) Space allocation will be based on the following formula:

(i) Less than fifty FTE's. Allowable space is ten (10) square feet per FTE;

(ii) Fifty or more FTE's. Allowable space is 5% of the space allowed for the total number of FTE's.

(iii) Contract, temporaries, or volunteers are not included when computing this allowance.

(B) Unusual space needs for any of these three areas in excess of the allowable space shall be justified separately on the Space Request.

(8) **Large copiers, reproduction and printing areas.** These areas may, with appropriate documentation, be considered as special space if they are in a physically delineated area with staff dedicated to operating the equipment. The allowable space is the actual measurement of the equipment plus circulation or the manufacturer's recommended allowance. The square footage will not include space for personnel. Personnel should be included in the Personnel Section of the Space Request form.

(9) **Equipment dominated area.** This area shall be considered as special space if people support the equipment, not vice versa. Occasional word processing areas, computer terminals, and scanners used or assigned to employees as a routine part of their work will not qualify as special space. The allowable space will be the actual measurement of the equipment plus circulation or the manufacturer's recommended allowance. The square footage will not include space requirements for personnel. Personnel should be included in the Personnel Section of the Space Request form.

(10) **Employee break room.** Employee break rooms will be considered on a case-by-case-basis as special space.

(A) Space allocation is based on the following criteria:

(i) Availability of a common break room within the building or complex;

(ii) Availability of a conference, classroom, or other multi-purpose room; and

(iii) Total number of employees.

(B) Allowable space is ten (10) square feet per average occupancy.

(11) **Multi-purpose room.** This type of space will be considered for multiple-use purposes for agencies who are unable to justify other specific "Special Space," such as a conference room, break room, central storage, etc., and where there is a justified need for such a room. Allowable space will be determined by using a combination of the other special space allowances. The allocation of this type of space will be considered by the Office of Management and Enterprise Services on a case-by-case basis.

(12) **Other.** Any specialized space required by an agency that has not been defined herein as "Special Space" may be included in the Special Space section of the Space Request form. Justification must be included in order for the space to be considered. Examples include, but are not limited to: training kitchens, restrooms for medical/correctional purposes, laboratories (photography, medical, etc.), examination rooms, vaults, observation rooms, direct patient care requirements, etc.

(e) **Space planning.**

(1) Space allocation planning shall, to the fullest extent possible, employ the open space concept. In most cases the elimination of internal fixed walls makes maximum use of space,

is more flexible in accommodating change, facilitates better control of lighting, heating, air conditioning, and ventilating, and reduces construction and maintenance costs.

(2) Private office space will be provided only when there is a demonstrated functional need; however, no additional square footage will be allowed for the purpose of providing for private office space.

(3) No private office within the total amount of space allowable to the agency shall exceed 300 square feet in size.

(4) The actual design of the space to be occupied shall include those Special Space areas which were authorized by the Office of Management and Enterprise Services. Further, these areas shall be as consistent as possible with the amount of space authorized on the Space Request for such use. The Office of Management and Enterprise Services may alter the final square footage allocation if the agency fails to utilize space in accordance with the agency's space justification as designated on the authorized Space Request form.

(5) The Office of Management and Enterprise Services may aid agencies in preparation of the initial space layout. When an agency requires space design assistance, a request for such assistance should be made to the Director of Real Estate and Leasing Services. An agency may utilize the services of a space planner or architect provided at the building owner's expense; however, the Office of Management and Enterprise Services will have final review and approval of the plan. An agency should not contract for space planning services without specific authorization from the Office of Management and Enterprise Services.

(f) **Space for short-term use.** Agencies having a need for facilities for short-term use, such as conferences and testing, shall utilize available state-owned or leased facilities whenever possible. Agencies shall make inquiries regarding availability of such space to the Director of Real Estate and Leasing Services. If it is determined that no suitable state controlled facilities are available, an agency may arrange for the use of privately owned facilities for a period not to exceed 10 days, provided that the agency has the authority to contract for such Office of Management and Enterprise Services.

(g) **Measurement of space.** Unless otherwise noted, all square footages indicated in the Space Request form, the Space Standards and leases of non-state owned facilities shall mean "net usable square feet."

#### **260:95-1-5. Requests for space**

(a) **Purpose.** The purpose of the Space Request form is to provide a means whereby an agency supplies the Office of Management and Enterprise Services with information and documentation necessary for determining the agency's space requirements.

(b) **General provisions.**

(1) Requests for space shall be submitted to the Director of Real Estate and Leasing Services on the Space Request form. The request shall be utilized by all agencies where there is a need for one of the following:

(A) New space;

(B) Increased space at current location; and

(C) When an agency has been at its present location over four (4) years and every fourth year thereafter as determined necessary by the Office of Management and Enterprise Services.



- (2) The Space Request is required when space will be procured by lease, purchase transfer, or other means, regardless of whether the space being procured is in a state owned or non-state owned facility.
  - (3) The Space Request should be submitted to the Director of Real Estate and Leasing Services no less than ninety (90) days prior to the anticipated need for the space.
  - (4) Information contained in the Space Request must be certified in the manner perscribed by the agency director or a designated representative with authority for real estate and leasing transactions.
  - (5) Requests which do not contain the required information will be returned to the agency without action.
  - (6) The Office of Management and Enterprise Services will evaluate an agency's request for space and authorize what action shall be taken on the request.
  - (7) A Space Request which has been authorized by the Office of Management and Enterprise Services will be valid for a maximum period of six months, unless an extension is granted by the Office of Management and Enterprise Services. A new Space Request may be required if a contract has not been executed prior to the expiration of the Space Request.
  - (8) If an agency's request exceeds the guidelines, written justification addressing each item that exceeds the space allocation standards must be provided by the agency.
  - (9) When a request for expansion of existing space is received, the Director of Real Estate and Leasing Services may review the currently assigned area prior to authorizing additional space. An effort shall first be made to absorb the expansion through a more efficient rearrangement of the existing space.
  - (10) If the agency is requesting additional space at its current location for new employees or programs, the Space Request shall reflect the total number of FTE's and any special space which the agency may justify based on the Space Standard allowances, not the actual square footage of the special space areas currently occupied by the agency.
  - (11) Four (4) Year Space Review.
    - (A) If the Office of Management and Enterprise Services determines that a Four Year Space Review is necessary, the required Space Request will be evaluated before an agency is authorized to renew its current lease; however, relocation and/or alterations to the space will be required only if it is determined to be in the best interest to the State.
    - (B) The information on the Space Request should reflect only what the agency may justify based on the Personnel and Special Space Standard allowances, not the actual amount of space currently occupied by the agency.
    - (C) The "Estimated Space Allocation" and the "Total Space Requested" on the Space Request do not need to reflect the same square footage. In most cases, the amount of space currently occupied by the agency will be more or less than the amount of space that may be justified in accordance with the Space Standards.
- (c) **Analysis of space request.** Seven key elements will normally be considered in determining the amount of space necessary to support the agency or program. These areas are: a general justification of the need and amount of space, type of program, special requirements, type and quality of space, location, and availability of state owned space.
- (1) **Justification.** The intent of the information required is to indicate how the requested space will be used. Sufficient information must be provided to permit the Office of Management and Enterprise Services to fully understand the purpose of the program to be

housed in the space. At a minimum, agencies' justification for the need for the requested space shall include staffing and special space needs.

(2) **Amount of space.** Through the information provided by the agency on the Space Request and use of standards outlined in 260:95-1-4, the Office of Management and Enterprise Services will make a preliminary determination of the amount of space required.

(3) **Type of program.** The type of program to be housed in the space will be a consideration in the agency's request. Factors to be considered include the estimated life of a program and fluctuations in the scope of the program (i.e., work activities, number of clients).

(4) **Special requirements.** A number of special requirements may be of particular importance to the function of a program. Examples of special requirements include parking, security, after hours use, laboratories, private restrooms, floor loadings and structural conditions.

(5) **Type of Space.** Office and storage are the two primary types of space leased by agencies. Agencies shall request the type of space based on the following criteria:

(A) Office space should be requested when the primary purpose of the space is to provide work areas for professional and clerical personnel. Normally such areas require a minimal amount of storage area for forms, files, etc. (This "storage" space shall be accommodated within the office area unless the storage exceeds 10% of the area or 1,000 square feet, whichever is less.)

(B) Storage or warehouse space shall be requested when the primary purpose of space is to store or warehouse equipment, furniture, forms, etc.

(C) Non-typical types of space include, but are not limited to hangars, correctional housing, group homes, towers, boat storage, print shops, motor pools, warehouses and parking lots.

(6) **Quality of space.** The quality of space to be acquired depends on several factors and is not always within the control of the State. The predominant factors affecting the quality of space include:

(A) The State shall solicit modern, air conditioned, general purpose office space. The intent is to obtain moderately priced, average quality space. The selection of quality should be consistent with the intended use of the space. However, space shall comply with all applicable federal, state and local laws, codes, ordinances, rules, and regulations pertaining to health, safety, fire, and public welfare.

(B) The geographic boundaries wherein the space is to be located may create limitations in the space available.

(C) Where a wide range of quality space is available, the rental rates offered are normally the prevailing factor having an effect on quality. When selecting a site, the selection should provide the best practicable balance of quality and price to achieve the best value available within the state's rental structure.

(7) **Location.** The geographic location selected for a desired space is normally dictated by the operational requirements of the program. In many cases, the location of the space will have no bearing on the operational effectiveness of the program. Some common criteria to be considered when selecting a location include the following:

(A) Operational necessity shall be the prime concern when geographic location limits are determined. Space shall be located within the geographic limits of the area to be served and as close as possible to the population center of the citizens to be served.

(B) Generally, the location should be well served by public transportation and main road networks.

(C) Proximity to related agencies or agencies with which frequent contact is expected may be a consideration. In some cases, such contact may make co-location highly desirable.

(D) High rent areas shall be avoided in favor of moderately priced areas whenever possible.

(8) **Availability of state owned space.** After a complete review of the agency's request for space, the Office of Management and Enterprise Services will assist the agency in determining if state owned space is available that will satisfy the agency's space needs. If suitable state owned space is available, the agency will be required to utilize the state owned space.

(d) **Authorization of request.** The Office of Management and Enterprise Services will review the agency's request for space and ancillary information and will approve or deny the request or return it for additional information.

(e) **Appeal procedure.** If an agency does not concur with the amount of square footage authorized, the agency shall first attempt to resolve the difference informally with the Director of Real Estate and Leasing Services. Both parties shall make every attempt possible to reach an agreement which meets with the needs of the agency while remaining in compliance with the State Space Standards. If an agreement cannot be reached, the agency may submit a written request for an appeal to the Administrator of the Division of Capital Assets Management at the Office of Management and Enterprise Services explaining the situation in as much detail as possible. A copy of all pertinent documentation shall be attached to the letter.

#### **260:95-1-6. Leasing of non-state owned property**

(a) **Purpose.** The purpose of the rules for the leasing of non-state owned property is to provide state agencies with policies and procedures concerning acquisition methods for leasing such space.

(b) **General provisions.**

(1) All leases for space, regardless of size and dollar value, shall be submitted to the Office of Management and Enterprise Services for authorization.

(2) The Office of Management and Enterprise Services has the responsibility to act as the leasing agent for all state agencies.

(A) Agencies shall at no time, directly or indirectly contact potential Lessors for the purpose of making oral or written representation, commitments, or agreements before a Space Request is authorized by the Office of Management and Enterprise Services

(B) Inquiries made by potential Lessors or their agents should be referred to the Director of Real Estate and Leasing Services unless the inquiry relates to an active Space Request.

(C) It is the policy of the Office of Management and Enterprise Services to deal directly with an owner, building manager or primary listing broker of a property.

(D) An agency shall not, at any time, contract with a broker to secure space on their behalf.

(3) Any state agency in need of new or additional space shall submit a request from the agency director to the Director of Real Estate and Leasing Services on the Space Request form.

- (4) No agency shall enter into lease negotiations for new space with any building owner or representative without an approved Space Request in which specific delegation of authority is given from the Office of Management and Enterprise Services.
- (5) Standards for the utilization and allocation of space to state agencies have been adopted by the Office of Management and Enterprise Services and are a part of 260:95-1-4. These standards shall be used as a basis for all planning, leasing of space, or allocation of space.
- (6) The State uses net usable square feet as the standard method of measurement.
- (7) State agencies shall adhere to any ceilings on rental rates as established by the Office of Management and Enterprise Services.
- (8) No lease agreement shall contain an open rate including Consumer Price Index, or rental escalation clauses unless authorized by the Office of Management and Enterprise Services.
- (9) State agencies may not pay rental deposits on non-state owned space.
- (10) The State shall not be obligated to pay rent for any period prior to the time that the space is occupied by the State.
- (11) Increases in rental rates must be authorized by Office of Management and Enterprise Services.
- (12) The Director of Real Estate and Leasing Services will serve as a contact between the State and the Lessor as needed and upon request by the agency.
- (13) Whenever possible, the State shall lease space requiring as little renovation as possible to accommodate the requesting agency and meet required building codes and specifications. When renovation is necessary, the cost of such renovation shall be borne by the Lessor.
- (14) All acquisitions of non-state owned space being leased which exceed 2,500 square feet shall be obtained through means of public advertisement unless an exception is authorized by the Office of Management and Enterprise Services . Exceptions include space requirements declared an emergency by the Office of Management and Enterprise Services and leases of non-state owned space for nominal consideration.
- (15) Space not owned by the state or another public entity may not be occupied or accepted by a state agency for nominal or no consideration without the express written authorization of the Governor.
- (16) A lease shall be entered into with the party who has legal ownership of the property. A broker or property manager cannot be listed as the "Lessor" unless they have legal authority to receive rental payments on behalf of the owner. In such cases, written documentation of the delegation of authority shall be provided by the legal owner to be attached to the lease.
- (17) An agency may not lease space in which a current state employee has a right of ownership, or other financial interest in the property without express written authorization from the Governor.
- (18) An agency may not lease space from a current member of the Oklahoma State Legislature or former member of the Oklahoma State Legislature who has been out of office less than two years.
- (19) The Real Estate and Leasing Services forms shall be utilized in all leasing transactions in non-state owned buildings. No provisions to the Real Estate and Leasing Services forms may be changed or non-standard terms or conditions added without prior authorization by the Office of Management and Enterprise Services.
- (20) The lease period shall not exceed one twelve month period; however, it does not have to end the last day of the fiscal period if that date would be less than one year.

(21) The standard Lease Agreement and Renewal Agreement shall allow the agency (Lessee) the right to terminate the lease with thirty days written notification to the Lessor.

(22) Requests for deviations from the standard lease term may be considered by the Office of Management and Enterprise Services when the agency may show programmatic necessity or financial advantage to be in the best interest of the State that would justify a longer or shorter lease term. The agency shall provide written justification to the Office of Management and Enterprise Services for any variance from the terms of the standard lease.

(23) All non-state owned space occupied by the State shall meet all applicable federal, state and local laws, codes, ordinances, rules, and regulations pertaining to health, safety, fire, and public welfare. All construction or renovation to space a state agency leases shall comply with applicable professional architectural and engineering laws.

(24) The State Fire Marshal's office or local fire marshal's office shall inspect the facility to be leased prior to initial occupancy or renovation to existing space, and/or approve building plans for new construction, for compliance with the Life Safety Code, Fire Prevention Code, and National Fire Protection Association Standards. A written report, or floor plan, signed by the State Fire Marshal shall be obtained.

(25) Prior to occupancy of non-state owned space, the proposed space shall be inspected by the State Department of Labor for the presence of friable asbestos containing materials, and written documentation of the inspection shall be obtained. In the event that friable asbestos containing materials are found to be present, the agency shall not be authorized to occupy said space unless the Office of Management and Enterprise Services approves a written exception request from the director or chief executive officer of the occupying agency.

(26) The Lessor shall adhere to the requirements of the Oklahoma Occupational and Safety Standards Act of 1970.

(27) The Lessor shall maintain general liability insurance to be no less than \$1,000,000.00 per occurrence at all times during the lease or any renewal periods unless an exception is authorized by the Office of Management and Enterprise Services due to size of the structure or other limiting factors.

(28) It is a Lessor's responsibility to ensure that the facility leased by the State complies with the American's with Disabilities Act of 1990 (Public Law 101-336) and all amendments and requirements imposed by the regulations issued pursuant to this act in so far as the requirements of the Act affects the agency.

(c) **Delegation of authority.** The Office of Management and Enterprise Services' involvement in obtaining space will vary on a case-by-case basis. At the time of the approval of a request for space, the Director of Real Estate and Leasing Services will determine what tasks the agency will assume.

(1) The Office of Management and Enterprise Services will review proposals obtained by an agency and review, assist, and make recommendations during the negotiation of lease terms and conditions.

(2) The Office of Management and Enterprise Services will specify any delegation of authority to acquire space in writing on the Space Request which is returned to the agency.

(3) If the agency is not delegated specific authority, the Office of Management and Enterprise Services will provide the leasing service.

(4) When the agency is delegated the authority to acquire non-state owned space, the acquisition shall be consistent with existing rules and regulations.

(d) **Leasing of non-state owned space.** The acquisition of non-state owned leased space is divided into two categories.

(1) Leases under 2,500 square feet.

(A) With delegated authority by the Office of Management and Enterprise Services, the agency shall locate potential space from building owners, real estate agencies, or through public advertisement. Where possible, at least three separate sources shall be contacted.

(B) The agency may be required to solicit for space through public advertisement at the discretion of the Office of Management and Enterprise Services. In such cases, if a lease has not been authorized by the Office of Management and Enterprise Services within six months from the initial date of advertisement, the agency may be required to re-advertise for the space at the discretion of the Office of Management and Enterprise Services.

(C) The agency shall deal directly with the owner, building manager, or primary listing broker of a property. At no time shall an agency utilize the services of a secondary broker for the acquisition of non-state owned space without specific authorization from the Office of Management and Enterprise Services.

(D) The agency shall provide the selected prospective Lessor with a copy of the standard lease terms.

(E) Agencies shall negotiate lease terms consistent with the policies of the Office of Management and Enterprise Services and rental rates equivalent to or below market rates in the locality wherein the space is located. The agency shall also adhere to any rent "ceilings" established by the Office of Management and Enterprise Services. Agencies will be notified by the Office of Management and Enterprise Services as changes in rental rate ceilings occur.

(F) Upon selection of a space, the agency shall submit the following information to the Administrator of State Leasing:

(i) A draft copy of the proposed lease which includes:

(I) Location of proposed space.

(II) Lessor's name.

(III) Total net usable square footage of space.

(IV) Rate per square foot.

(V) Services to be provided by the Lessor. (i.e. utilities, # of days/week janitorial services, etc.)

(VI) Renewal options.

(ii) A copy of the proposed floor plan on an 1/8" = 1' or dimensionalized scale.

(G) A list of all properties considered, their locations, condition, rental rates and reasons for eliminating them in final consideration, shall be provided to the Office of Management and Enterprise Services.

(H) If more square footage is proposed than has been authorized by the Office of Management and Enterprise Services, an explanation of the difference is required from the agency.

(I) Upon review and approval of an agency's selection and draft lease by the Office of Management and Enterprise Services, the agency shall proceed with the preparation of the leasing documents.

(J) At no time shall an agency direct or authorize a potential Lessor to begin remodeling or construction before a lease has been signed by the Office of Management and Enterprise Services.

(K) An agency shall not take possession of new or additional space until a contract has been executed by the Office of Management and Enterprise Services.

(L) Agencies who elect to advertise, or are required by the Office of Management and Enterprise Services to advertise for space, shall follow the procedures outlined in 260:95-1-6 (e) and (f).

(2) Leases of 2,500 square feet or more.

(A) An agency shall not enter into a lease for 2,500 square feet or more of space in a non-state owned building except upon advertisement for and receipt of competitive proposals.

(B) Exceptions that are applicable when considering leases of 2,500 square feet or more include:

(i) The standard renewal of leases unless otherwise determined necessary by the Office of Management and Enterprise Services.

(ii) Any lease having a term of less than ninety days, or otherwise authorized by the Director of Real Estate and Leasing Services.

(iii) Any lease with another government or quasi-government entity for nominal or no consideration.

(iv) A modification of a lease of non-state owned space to increase the footage if the modification is based upon the same terms and conditions of the approved lease, provided the total square footage of the increase is less than one half the total of the original square footage.

(v) If the space is deemed to be a single source (tower sites, boat docks, hangars, etc.).

(vi) Space needs arising due to an emergency situation or other circumstances that preclude advertising for space may be exempt from these rules upon written statement of circumstances by the agency to the Director of Real Estate and Leasing Services.

(C) The agency shall follow the procedures set forth in 260:95-1-6 (e), and (f), regarding the advertisement for and selection of non-state owned space.

(D) If a lease has not been submitted to and approved by the Office of Management and Enterprise Services within six months from the initial date of advertisement, the agency may be required to re-advertise for the space at the discretion of the Office of Management and Enterprise Services.

(E) Written notification describing the agency's general space requirements shall be given to entities subscribing to the notification service on the Office of Management and Enterprise Services website in appropriate local real estate companies in the applicable geographic area.

(F) Upon selection of space, the agency shall submit the following to the Director of Real Estate and Leasing Services:

(i) A draft copy of the proposed lease which includes:

(I) Location of proposed space.

(II) Lessor's name.

(III) Total net usable square footage of space.

(IV) Rate per square foot.

(V) Services to be provided by Lessor. (i.e. utilities, # of days/week janitorial services, etc.)

(VI) Renewal options.

- (ii) A copy of the proposed floor plan on an 1/8" = 1' or dimensionalized scale.
  - (G) A list of all properties considered, their locations, condition, rental rates, and reasons for eliminating them in final consideration shall be provided to the Office of Management and Enterprise Services.
  - (H) If more square footage is proposed than has been authorized by the Office of Management and Enterprise Services, an explanation of the difference is required.
  - (I) Upon review and approval of an agency's selection and draft lease by the Office of Management and Enterprise Services, the agency shall proceed with the final preparation of the leasing documents.
  - (J) At no time shall an agency direct or authorize a potential Lessor to begin remodeling or construction before a lease has been signed by the Office of Management and Enterprise Services.
  - (K) An agency shall not take possession of new or additional space until a lease or addendum has been executed.
- (e) **Solicitation for advertisement.** When it is determined that an advertisement is required or the Director of Real Estate and Leasing Services finds that it would be in the best interest of the State to advertise the space requirement, the agency will be advised to prepare and cause the advertisement to be published. The cost of the advertisement shall be borne by the agency soliciting the space.
- (1) The suggested format for advertising may be obtained from the Director of Real Estate and Leasing Services. Agencies may modify advertisements consistent with actual requirements but shall include, as a minimum, the following:
    - (A) Amount of space required.
    - (B) City in which space shall be located.
    - (C) The agency name.
    - (D) The name, address, and telephone number of the agency contact where proposals will be sent.
    - (E) Due date of proposals.
  - (2) Normally the advertisement shall be placed in no more than two newspapers in the community where the space is needed. The ad shall run for a minimum of two issues, with a week between notices if possible.
  - (3) The due date for proposals shall be no less than five days after the last publication. However, the agency may, at its discretion, permit a longer period for response.
  - (4) Advertisements concerning space shall be placed in the appropriate section of a newspaper publication.
  - (5) The Director of Real Estate and Leasing Service may authorize electronic advertisement on the Office of Management and Enterprise Services website in lieu of advertising in local newspapers.
- (f) **Proposals.**
- (1) Parties interested in leasing space to the State shall include the following information in their initial proposal:
    - (A) Location of space.
    - (B) Approximate number of square feet of net usable space available for lease.
    - (C) Prospective Lessor's name, address and telephone number.



(2) Initial proposals shall be accepted from the day the space is first advertised until 5:00 p.m. on the specified due date. Upon receipt, proposals should be stamped with the date received.

(A) Initial proposals received after the time and date set for receipt of offers shall be considered late. However they may be considered with mutual agreement between the agency and the Director of Real Estate and Leasing Services if it is determined to be in the best interest of the agency.

(B) A modification of a proposal which makes its terms more favorable to the State shall be considered at any time it is received.

(3) When less than three responsible offers are received, the agency may, without re-advertisement, extend the date and solicit additional offers by any method approved by the Director of Real Estate and Leasing Services to ensure adequate competition.

(4) In each request for proposal, the State shall reserve the right to amend the specifications at any time prior to award of a lease.

(5) The State reserves the right to reject any and all offers, to request additional information, to waive all formalities in proposals, and to negotiate with any offeror.

(6) There shall be no public opening or review of proposals in response to the advertisement for proposals.

(7) The State shall not be responsible for any costs incurred in the preparation and submission of proposals in response to solicitation for space by a state agency.

(8) After the proposals have been reviewed, the agency shall inspect the properties to determine suitability of each space to the specific needs of the agency. The agency may eliminate from further consideration those properties which do not meet the basic requirements, such as location or square footage, without inspecting the properties.

(9) The agency shall provide each viable prospective Lessor with a copy of the standard lease terms.

(10) As a result of the on-site inspection, with the assistance from the Director of Real Estate and Leasing Services or other agency staff, the agency will prepare a preliminary floor plan on that property initially determined to best meet the needs of the agency. This information shall be submitted to the respondent in order to obtain a final annual lease price and lease term.

(11) A final proposal may, at the agency's discretion, be required from the selected vendor on the Standard Proposal Form as developed and approved by the Office of Management and Enterprise Services.

(12) All proposals shall be kept confidential and shall be released only to state employees having a need for the information until a contract has been executed.

**(g) Specifications.**

(1) Specifications shall be followed by the agency leasing a non-state owned facility in general terms with exceptions to be determined at the discretion of the agency. They shall afford each viable prospective Lessor interested in submitting a serious proposal with knowledge of the agency's space requirements. In specific instances it may, on occasion, be necessary to issue additional specifications due to some unique requirements of a particular agency.

(2) Cost of all construction or renovation to meet the requirements of the specifications or remodeling as determined necessary by the agency shall be borne by the Lessor.

**(h) Evaluation of proposals.**

- (1) It is recommended that the agency, in conjunction with preparing specifications, develop evaluation criteria. The criteria items most significant to the agency's needs should bear the highest consideration. Rental, the cost of relocation, if any, consolidation of activities, if desirable, and any other factors deemed necessary should be weighed.
- (2) The evaluation and selection of the best and most economical proposal shall be made by the agency and submitted to the Office of Management and Enterprise Services for final authorization.
- (3) Criteria to be used in the evaluation of space will include, but not be limited to, the following:
  - (A) The comparison of the square footage required to satisfy the agency's needs with the square footage available in a given facility. Square footage required shall be determined according to 260:95-1-4.
  - (B) An analysis of the quality and condition of building facilities such as elevators, toilets, parking, public traffic areas, and location relative to associated agencies.
  - (C) The cost of occupying the space for the term of the lease should include the following factors:
    - (i) Square footage cost of the proposed space.
    - (ii) Estimated cost of utilities, if not included in the proposed rate.
    - (iii) Cost of custodial services, if not included in the proposed rate.
    - (iv) Cost of parking, if not included in the proposed rate.
  - (D) Time factors affecting need for the space.
  - (E) Capability to accommodate future needs of the agency for space and services.
  - (F) The building's compliance and/or the owner's willingness to assure that the building complies with the requirements of the Americans with Disabilities Act.
  - (G) Availability of adequate public and client access through public transportation and parking.
  - (H) Space efficiency and effectiveness for the agency's purpose.
- (4) Documentation to support the selection shall be provided to the Office of Management and Enterprise Services. Such documentation shall include the following:
  - (A) A copy of the advertisement.
  - (B) A synopsis of the agency's findings for each proposal or site considered.
- (5) The agency shall notify, in writing, each party who submitted a proposal regarding a decision on the space. The agency is not obligated to provide the party with a specific reason for rejection of a proposed site.
- (6) In the event either no proposal or no acceptable proposal is received after advertising, the agency may negotiate in the open market for leasing of the needed space after obtaining authorization from the Office of Management and Enterprise Services.
- (7) The agency may reject all sites; however, specific reasons for rejecting proposals shall be provided in writing to the Office of Management and Enterprise Services. The Director of Real Estate and Leasing Services will then determine whether the space requirement should be re-advertised or whether other acquisition methods are required. Reasons for rejection of proposals include, but are not limited to:
  - (A) Rents exceed available funds and it would not be appropriate to adjust the amount of space to come within available funds.
  - (B) There is reason to believe that the proposals may not have been independently arrived at, may have been collusive, or may have been submitted in bad faith.

- (C) All otherwise acceptable proposals are at unreasonable rents.
  - (D) No proposal met or could meet the specified requirements of the agency.
- (i) **Negotiations of non-state owned space.**
- (1) Negotiations may be conducted with the offeror of each acceptable site as follows:
    - (A) Each responsible offeror of a viable facility may be individually contacted and apprised of the weak and strong points of his offer and any changes or revisions to the specifications.
    - (B) A written best and final offer may be solicited from each viable party with a specific due date.
  - (2) The agency shall negotiate lease terms consistent with the policies of the Office of Management and Enterprise Services to include any rent "ceiling" established by the Office of Management and Enterprise Services.
  - (3) When negotiations have produced final offers for one or more sites with equitable rental rates, the agency will proceed with the remaining requirements to conclude the transaction.
- (j) **Preparation of lease agreement of non-state owned space.** Once space has been selected and exact terms and conditions of a lease have been approved by the Office of Management and Enterprise Services , the agency shall prepare for signature the Lease Agreement and obtain all requested documentation in accordance with 580:60-1-7.
- (k) **Lease renewal of non-state owned space.** The agency shall begin to evaluate its space needs no less than three months prior to the expiration of a lease term.
- (1) The condition of space which has been occupied by an agency shall be evaluated and required improvements discussed with a Lessor prior to initiating a Renewal Lease Agreement.
    - (A) Any requests made by the agency to the Lessor for alterations related to general maintenance, upkeep, or repair, as designated in the original Lease Agreement, may be included as an "Attachment to the Lease Agreement" to specify the action required, dates of completion, and signature of both the Lessor and the agency.
    - (B) General maintenance and repairs shall not justify a rental increase.
    - (C) A change in the vendor, square footage, or rental rate shall not be made in a renewal lease agreement.
  - (2) If the agency intends to exercise a renewal option at the same terms and conditions set forth in the existing lease, the lease shall be renewed without pre-authorization from the Director of Real Estate and Leasing Services.
    - (A) The agency shall submit the Standard Renewal Lease Agreement, or renew via the purchase order when appropriate, and any other required renewal documents to the Director of Real Estate and Leasing Services for signature.
    - (B) If any of the required documents are incomplete, the renewal will be returned to the agency for corrective action prior to final execution.
  - (3) When an agency has been at its present location over four years, and every fourth year thereafter, it may be required to justify continued need of the space by submitting a Space Request to the Director of Real Estate and Leasing Services. The agency shall be notified if such action is necessary.
    - (A) The Request shall be completed in accordance with the procedures outlined in 580:60-1-5.
    - (B) The Director of Real Estate and Leasing Services will review the agency's staffing, specialized requirements and program functions and shall notify the agency of the action

or amount of space to be authorized in accordance with its current needs. Relocation will be considered only if it is determined to be in the best interest of the State.

(4) The agency shall advise the Director of Real Estate and Leasing Services immediately if a Lessor requests a rental increase or is seeking termination of the contract at the end of the current lease term. The Director of Real Estate and Leasing Services will provide assistance to the agency in negotiating a new lease, or will determine if it is necessary for the agency to seek new space.

#### **260:95-1-7. Lease documents for non-state owned space**

(a) **Purpose.** The purpose of the development of standard state leasing documents is to ensure uniformity and legality of leasing transactions in all non-state owned space.

(b) **General provisions.**

(1) The use of the forms, as developed by the Office of Management and Enterprise Services, is required by all agencies regardless of the size or dollar amount of the lease, unless otherwise authorized by the Office of Management and Enterprise Services.

(2) No provisions to the State Leasing forms may be changed or non-standard terms or conditions added without prior authorization by the Office of Management and Enterprise Services.

(3) The name of the state agency leasing the space shall be indicated as the responsible party (Lessee) on a lease. Neither an individual employee nor a division of an agency shall be indicated as the party leasing the space.

(4) A lease shall be entered into with the party who has legal ownership of the property. A broker or property manager cannot be listed as the "Lessor" unless they have legal authority to represent the owner on the contract and have legal authority to receive rental payments on behalf of the owner. In such cases, written documentation of the delegation of authority shall be provided by the legal owner to be attached to the lease.

(5) The agency director shall sign all lease related forms unless otherwise authorized by the Office of Management and Enterprise Services.

(6) The agency shall prepare four original lease documents to be signed by the Lessor and the agency director. After the appropriate signatures are obtained from the building owner and the agency, all original contracts shall be submitted to the Office of Management and Enterprise Services for final authorization.

(7) A lease is not fully executed until signed by the Lessor, the agency (Lessee), and the Office of Management and Enterprise Services.

(8) Any reduction in the amount of space/rental rate, or the Office of Management and Enterprise Services ' authorized increase in the amount of space or the rental rate shall be made a part of the lease through a new lease agreement or an Addendum to the Lease.

(9) If the effective date of a change of the terms and conditions of the lease coincides with a renewal period, a new Lease Agreement may be required.

(10) If an agency wishes to terminate a lease, it shall provide a written notice to Lessor and copy the Director of Real Estate and Leasing Services no less than thirty days prior to the anticipated cancellation date of the lease. If the cancellation of a lease coincides with the termination date of a lease, the agency shall provide notification to the Lessor and the Director of Real Estate and Leasing Services of such action.

(11) The State uses net usable square feet as the standard method of measurement.

- (12) The agency shall not exceed the fair rental prevailing in a community for comparable space nor the State's rental rate ceiling as set by the Office of Management and Enterprise Services.
- (13) No lease agreement shall contain an open rate, including Consumer Price Index, or rental escalation clauses unless authorized by the Office of Management and Enterprise Services.
- (14) State agencies may not pay rental deposits.
- (15) The State shall not be obligated to pay for any rent for any period prior to the time that the Space is occupied by the State.
- (16) The lease period shall not exceed one twelve month period; however, it does not have to end the last day of the fiscal period if that date would be less than one year.
- (17) The standard Lease Agreement and Renewal Agreement shall allow the agency (Lessee) the right to terminate the lease with thirty days written notification to the Lessor.
- (18) Requests for deviations from the standard lease term may be considered by the Office of Management and Enterprise Services when the agency may show programmatic necessity or financial advantage to be in the best interest of the State that would justify a longer or shorter lease term. The agency shall provide written justification to the Office of Management and Enterprise Services for any variance from the terms of the standard lease.
- (19) An agency may not lease space in which a state employee has a right of ownership or other financial interest in the property without express written authorization from the Governor.
- (20) An agency may not lease space from a current member of the Oklahoma State Legislature or a former member of the Oklahoma State Legislature who has been out of office less than two years.
- (21) A lease may be amended during its term with authorization by the Administrator of State Leasing so long as it is in the best interest of the State.
- (22) Any changes to the original Lease Agreement shall be pre-authorized by the Administrator of State Leasing before the agency initiates action to alter the lease.
- (23) If an increase in rental rate is a direct result of renovations required by the agency after initial occupancy of the space, a specified time limit in which the renovations shall be completed shall be included in the appropriate lease document.
- (24) If the costs for utility services (gas, electricity, or water/sewer) are not to be included in the rental rate, these services shall be separately metered for the space to be occupied by the State.
- (25) It shall be the responsibility of the building owner to notify the State of any transfer of ownership of the leased premises.
- (26) A Certificate of Non-Collusion shall be signed by all parties contracting for services with the State.
- (27) Leased space shall comply with all applicable federal, state and local laws, codes, ordinances, rules and regulations pertaining to health, safety, fire, and public welfare. All construction or renovation to space a state agency leases shall comply with applicable professional architectural and engineering laws.
- (28) The State Fire Marshal's office or local fire marshal's office shall inspect the facility to be leased prior to initial occupancy or renovation to existing space, and/or approve building plans for new construction, for compliance with the Life Safety Code, Fire Prevention Code,

and National Fire Protection Association Standards. A written report, or floor plan, signed by the State Fire Marshal shall be obtained.

(29) Prior to occupancy of non-state owned space, the proposed space shall be inspected by the State Department of Labor for the presence of friable asbestos containing materials, and written documentation of the inspection shall be obtained. In the event that friable asbestos containing materials are found to be present, the agency shall not be authorized to occupy said space unless a written exception request from the agency director or chief executive officer is authorized by the Office of Management and Enterprise Services.

(30) The Lessor shall adhere to the requirements of the Oklahoma Occupational and Safety Standards Act of 1970.

(31) The Lessor shall maintain general liability insurance to be no less than \$1,000,000.00 per occurrence at all times during the lease or any renewal periods unless otherwise exempt by the Office of Management and Enterprise Services.

(32) It is a Lessor's responsibility to ensure that the facility leased by the State complies with the American's with Disabilities Act of 1990 (Public Law 101-336) and all amendments and requirements imposed by the regulations issued pursuant to this act in so far as the requirements of the Act affects the agency.

(c) **Forms.** Forms developed by the Office of Management and Enterprise Services shall be utilized in all leasing transactions in non-state owned buildings. Agencies shall adhere to the provisions of the forms and applicable instructions unless an exception is granted by the Office of Management and Enterprise Services.

### **SUBCHAPTER 3. REAL PROPERTY DISPOSAL**

#### **260:95-3-1. Purpose**

The purpose of the state's surplus real property program is to:

- (1) Maximize utilization of state-owned properties;
- (2) Return unused or underutilized state-owned property to private sector ownership;
- (3) Stimulate competition and maximize the return to the state;
- (4) Ensure properties are maintained during the disposal process in accordance with a maintenance plan established by Real Estate and Leasing Services;
- (5) Ensure funds are deposited in compliance with statutes; and
- (6) Advance the long-term capital assets plan of the state.

#### **260:95-3-2. Definitions**

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

**"Agency"** means any state agency, board, commission or public trust having the State of Oklahoma as a beneficiary.

**"Appraisal"** means an estimate of the value of real property prepared by a qualified appraiser.

**"Asset protection"** means coverage provided through the Oklahoma Risk Management program.

**"Director"** or **"Director of Real Estate and Leasing Services"** means the person designated by the Director of the Office of Management and Enterprise Services to formulate, enter into or administer contracts for real property or make written determinations and finding

with respect to them and carry out the duties of the Office relating to real property transactions and the inventory of real property.

**"Fair market value"** means the price which the property would bring if offered for sale in the open market by a seller willing but not obligated to sell and a buyer willing but not obligated to buy, both being fully informed of all purposes for which the property is best suited.

**"Historic property"** means a property that is listed on the National Registry of Historic Places or designated by the Oklahoma Historical Society as a property of historic interest or significance.

**"Improvements"** means buildings or other permanent or temporary structures or developments located on or attached to the land.

**"Interested party list"** means an electronic listing of all parties that have attended pre-bid conferences, site tours, or other publicly held meetings, tours or conferences held by the Office of Management and Enterprise Services regarding lease or disposal of a specific property, or parties who have requested to be added to the listing for a specific property.

**"Liquidation"** means disposal of property for less than ninety percent (90%) of the appraised value.

**"Maintenance"** means the repair or preventative up-keep of equipment, machinery, property and building features or fixtures.

**"Owning agency"** means the agency named as owner on the deed of record or the agency having management, operation and control of the property.

**"Public agency"** means an agency as defined in Title 74, Oklahoma Statutes, Section 1003(A)(1) for purposes of entering into agreements authorized by the Interlocal Cooperation Act.

**"Real Estate and Leasing forms"** means forms and documents the Director of Real Estate and Leasing Services approves for real property transactions and for providing information to the Office of Management and Enterprise Services.

**"Real property"** means land, and generally whatever is erected, growing upon or affixed to land; also rights issuing out of, annexed to, and exercisable within or about land.

**"Real Property Inventory"** means a comprehensive list of property submitted by the state agencies, boards, commissions and public trusts listing all real property owned, the value of the property and any underutilized property.

**"State-owned property"** means all property lawfully designated by the state for its own use; all property dedicated to the state and all property for which there is no other owner.

**"Survey"** means a map or plat drawn by a licensed surveyor after measuring a piece of land, to show its area, boundaries, contours, elevations, improvements and its relationship to the surrounding land. A property survey confirms that a particular piece of land or building is sited in accordance to its legal description.

### **260:95-3-3. Declaration of surplus property**

(a) Upon determination that a property is surplus by the owning agency, the Office of Management and Enterprise Services, the Long-Range Capital Planning Commission, the legislature, or any other entity given statutory authority to compel an agency to declare a property surplus, the owning agency shall submit a letter to the Director of Real Estate and Leasing Services declaring the property surplus. The letter shall be signed by the director or chief executive officer of the owning agency. The letter shall, at a minimum, include the following:

- (1) The address or location of the property,
  - (2) The type of property (land or structure),
  - (3) The inventory number of the property, and
  - (4) The reason the property is being declared surplus.
- (b) The Director of Real Estate and Leasing Services shall respond to the letter declaring the property surplus with a letter acknowledging the declaration and requesting additional information, items and documents associated with the property. The request will include, but may not be limited to:
- (1) Point of contact in the owning agency for all information regarding this transaction;
  - (2) A brief description of the property, including the interior and exterior of the building;
  - (3) The historical significance of property, when applicable;
  - (4) Copies of surveys, property or environmental inspections, or any other report pertaining to the property;
  - (5) Copies of any current easements, leases, rental agreements or other agreements affecting the property;
  - (6) Access to the property as needed;
  - (7) Clear photographs of the property;
  - (8) Floor plans for the buildings;
  - (9) Information from staff that may be of interest as it relates to the property;
  - (10) Abstracts;
  - (11) A list of service providers for internet, security/alarm systems, and fire suppression systems if applicable;
  - (12) A list of the current utility service providers for electric, water and gas if applicable;
  - (13) Property, land, soil inspections and reports if available; and
  - (14) Current condition of the property, including any known defects, damage, repairs needed, and hazardous or environmental problems or any other problems or concerns associated with the property.
- (c) The owning agency shall supply all of the requested information and documentation and shall comply with the requests of the Director.
- (d) Real Estate and Leasing Services will include the property on the report of underutilized properties owned by the state.
- (e) Proceeds from the sale of surplus state property shall be deposited in the Maintenance of State Buildings Revolving Fund in accordance with 62 OS § 908.
- (f) Real Estate and Leasing Services will determine if the property is suitable for transfer to another state agency, direct sale to another public agency, disposal by public or sealed bid auction or a request for proposals. When appropriate, Real Estate and Leasing Services will consult with the Oklahoma Historical Society for assistance in making the determination of the appropriate reuse or disposition of the property and for authorization and recommendations on the treatment of historic properties.

**260:95-3-4. Agency responsibilities after a property is declared surplus**

- (a) Ownership does not transfer to the Office of Management and Enterprise Services when a property is declared surplus. After a property is declared surplus, the owning agency shall continue to be responsible for all maintenance and expenses associated with the property until the property is conveyed to a new owner. In cases where the owner of the property is the State of Oklahoma, and no specific agency is given ownership through deed or statute, the agency that



was financially responsible for the maintenance of the property at the time the property was declared surplus shall be considered the owning agency and will continue to be responsible for the property until title is conveyed to a new owner or use and enjoyment is transferred to a new state agency.

(b) The owning agency shall be responsible for all necessary costs associated with continued ownership of the property and expenses related to the sale of the property. These include, but are not limited to:

- (1) All continued maintenance of the property, including repairs requested by Real Estate and Leasing Services;
- (2) Utilities serving the property;
- (3) Continued asset protection;
- (4) Mowing and/or landscaping;
- (5) Clean-up of the property;
- (6) Removal of all agency personal property and surplus personal property;
- (7) Any required appraisals;
- (8) Any required surveys;
- (9) Any required title research;
- (10) Any required studies or assessments;
- (11) Costs of notices and advertising;
- (12) Seller's closing costs; and
- (13) Any miscellaneous expenses associated with the continued ownership or sale of the property.

(c) Agencies may be reimbursed for pre-approved expenses associated with the sale at the time of closing. Reimbursements require prior approval by Real Estate and Leasing Services. Real Estate and Leasing Services has final authority in determining if an expense is eligible for reimbursement.

#### **260:95-3-5. Reuse or repurposing of surplus property**

If a surplus property is appropriate for repurposing or reuse by another state agency, providing no historic factors preclude reuse or repurposing, Real Estate and Leasing Services will:

- (1) Make a determination that it is in the best interest of the state to attempt to reuse or repurpose the property;
- (2) Attempt to match the property with a suitable agency for ownership;
- (3) Assist the potential new owning agency with space planning and any required forms and authorizations for property acquisition;
- (4) Assist with the procurement of any necessary surveys, appraisals, studies, or assessments;
- (5) Prepare all documents necessary for transfer;
- (6) Make a recommendation for transfer to the Long-Range Capital Planning Commission;
- (7) Facilitate the execution and filing of documents transferring ownership; and
- (8) Deposit proceeds from the transfer in the appropriate fund.

#### **260:95-3-6. Direct sale of property to another public agency**

(a) If a surplus property is appropriate for direct sale to a non-state public agency, the sale price shall not be less than fair market value.

(b) The entity purchasing the property will be responsible for all costs and fees associated with the sale, including, but not limited to:

- (1) One complete appraisal, obtained by the state;
- (2) Any required surveys;
- (3) Any required assessments;
- (4) Any miscellaneous expenses arising from the sale; and
- (5) Closing costs.

(c) If direct sale to a non-state public entity is determined by the Office of Management and Enterprise Services to be in the best interest of the state, Real Estate and Leasing Services will:

- (1) Negotiate the sales price on behalf of the owning agency.
- (2) Prepare all documents necessary for transfer;
- (3) Make a recommendation for transfer to the Long-Range Capital Planning Commission;
- (4) Facilitate the execution and filing of documents transferring ownership; and
- (5) Deposit proceeds from the sale in the appropriate fund.

### **260:95-3-7. Disposal of surplus property by public auction or sealed bids**

(a) If a surplus property is not suitable for transfer to another state agency or direct sale to a non-state public agency, and no conditions or factors exist making the surplus property appropriate for the Request for Proposals process, surplus property shall be disposed of through public auction or by sealed bid auction.

(b) Real Estate and Leasing Services will cause the notices of the public auction or request for sealed bids to be published in accordance with 61 OS § 327. Notices shall include the appraised value of the property.

(c) Real Estate and Leasing Services will advertise the sale of the property. Methods of advertising may include:

- (1) Posting signs and banners;
- (2) Conducting public viewings of the property;
- (3) Publishing electronic notices or advertisements;
- (4) Press releases;
- (5) Social media;
- (6) Listing the property on the Real Estate and Leasing Services web page;
- (7) Listing the property on real estate industry listings;
- (8) Listing the property on public listings, and
- (9) Other methods of advertising as appropriate.

(d) If an award is made, the bid shall be awarded to the highest bidder; however, no bid shall be accepted for less than ninety percent (90%) of the appraised value of the property unless the property is being liquidated in accordance with 260:95-3-9. Real Estate and Leasing Services reserves the right to reject any and all bids.

(e) When a property is disposed of through sealed bid auction, the following process shall be followed:

- (1) Sealed bid packets shall be available to potential bidders on the Real Estate and Leasing Services website and by request. The packets will include instructions for potential bidders.
- (2) Bids must be in sealed envelope bearing the words "Sealed Bid" and the notice number.
- (3) Bids must include a check for ten percent (10%) of the bid price to serve as earnest money.

- (4) Bids will be stamped in by Real Estate and Leasing Services with a date and time stamp.
- (5) Bids may be modified or withdrawn until close of business on the closing date.
- (6) Bids must be received by Real Estate and Leasing Services by close of business on the closing date or postmarked no later than the closing date to be considered. If postmarked by the closing date, bids must also be received by Real Estate and Leasing Services no later than the bid opening date and time. Late bids will not be considered and will be returned to the bidder unopened.
- (7) Bids will be opened publicly by Real Estate and Leasing Services. The date, time and location of the bid opening will be in the bid packet and will be published on the Real Estate and Leasing Services website.
- (8) Any changes to the solicitation or answers to any questions will be emailed to all parties on the interested party list and posted on the Real Estate and Leasing Services website.
- (9) The Director of Real Estate and Leasing Services may waive minor deviations in the bid documents.

**260:95-3-8. Sale or lease, and redevelopment of property through Requests for Proposals**

- (a) The Director of Real Estate and Leasing Services may invite the presentation of written proposals for purchase or lease, and redevelopment, of a surplus property provided it meets one or more of the following criteria:
  - (1) The property is listed on the National Register of Historic Places;
  - (2) The property is designated by the Oklahoma Historical Society as a property of historical interest or significance;
  - (3) The property is located within the Oklahoma State Capitol Complex; or
  - (4) The property is located within a campus owned by the State of Oklahoma.
- (b) The Request for Proposals and Evaluation tools shall be created by a development committee with members from the owning agency and Real Estate and Leasing Services. Other Office of Management and Enterprise Services staff or other people having suitable expertise may serve on the development team at the invitation of the Director of Real Estate and Leasing Services. If the property is an historic property, a designee of the Oklahoma Historical Society shall serve on the development team.
- (c) Real Estate and Leasing Services will advertise the Request for Proposals. Methods of advertising may include:
  - (1) Posting signs and banners;
  - (2) Conducting public viewings of the property;
  - (3) Publishing electronic notices or advertisements;
  - (4) Press releases;
  - (5) Social media;
  - (6) Listing the property on the Real Estate and Leasing Services web page;
  - (7) Listing the property on real estate industry listings;
  - (8) Listing the property on public listings, and
  - (9) Other methods of advertising as appropriate.
- (d) The following procedure shall be followed for submission and acceptance of Proposals.
  - (1) Proposals shall be submitted in a sealed envelope bearing the words "Sealed Proposal" and the notice number.

- (2) Proposals will be stamped in by Real Estate and Leasing Services with a date and time stamp.
  - (3) Proposals may be modified or withdrawn until close of business on the closing date.
  - (4) Proposals must be received by Real Estate and Leasing Services by close of business on the closing date to be considered.
  - (5) Proposals may be modified or withdrawn until close of business on the closing date.
  - (6) Any changes to the solicitation or answers to any questions will be emailed to all parties on the interested party list and posted on the Real Estate and Leasing Services website.
  - (7) There will be no public opening of Requests for Proposals.
  - (8) The Director of Real Estate and Leasing Services may waive minor flaws in the proposal documents.
- (e) All information contained in the proposals is subject to the Open Records Act; however, release of information in the proposals shall be delayed until an award of contract is made by Real Estate and Leasing Services.
  - (f) Agencies shall not release information in the proposals to governing boards or commissions until an award of contract is made by Real Estate and Leasing Services.
  - (g) The evaluation team shall consist of members from the owning agency, the Office of Management and Enterprise Services, a member of the Long-Range Capital Planning Commission or designee, and other members with suitable expertise for the specific property, as determined by the Director of Real Estate and Leasing Services. If the property is a historic property, a designee of the Oklahoma Historical Society shall serve on the evaluation team.
    - (1) Names of members of the evaluation team may be kept confidential until an award of contract is made by Real Estate and Leasing Services.
    - (2) Members of the evaluation team shall not publicly discuss or release information from the proposals or evaluation process until an award of contract is made by Real Estate and Leasing Services.
  - (h) Proposals shall be evaluated principally on:
    - (1) The proposal's economic benefits, cultural benefits, job creation potential, advancement of long-term capital asset plan or other benefits to the State of Oklahoma and the general public;
    - (2) The qualifications and experience of the redeveloper;
    - (3) The financial ability of the redeveloper to complete the redevelopment in a timely fashion; and
    - (4) When applicable, the fidelity of the proposed renovation or redevelopment with the historic significance of the property.
  - (i) The Office of Management and Enterprise Services may enter into negotiations with one or more respondents and may enter into contracts with the respondent or respondents selected by the committee.
  - (j) The Office of Management and Enterprise Services may reject any and all proposals.

**260:95-3-9. Disposal of surplus property through liquidation**

- (a) The Director of Real Estate and Leasing Services may determine it is in the best interest of the state to dispose of a property through liquidation, in compliance with 74 OS § 61.8 and 61 OS § 327, when the property has been offered for sale through public auction or sealed bids two (2) or more times and no acceptable bids were received. In determining if it is in the best interest

of the state to liquidate a property, the Director of Real Estate and Leasing Services may consider the following:

- (1) If continued ownership creates a liability for the state;
- (2) If environmental factors are present that affect the desirability and value of the property;
- or
- (3) If undue expenses to the citizens and State of Oklahoma are created by continued ownership of the property.

(b) Upon determining liquidation of a property is in the best interest of the state, the Director of Real Estate and Leasing Services shall make a recommendation to the Long-Range Capital Planning Commission that the property be disposed of through liquidation.

(c) Upon receiving approval for liquidation of the property from the Long-Range Capital Planning Commission, the Director of Real Estate and Leasing Services may elect to offer the property through:

- (1) Sealed bids,
- (2) Public auction, or
- (3) Electronic auction.

(d) The Director of Real Estate and Leasing Services shall cause proper notice to be published in accordance with 61 OS § 327, regardless of the method of auction.

(e) Real Estate and Leasing Services will advertise the liquidation of the property. Methods of advertising may include:

- (1) Posting signs and banners;
- (2) Conducting public viewings of the property;
- (3) Publishing electronic notices or advertisements;
- (4) Press releases;
- (5) Social media;
- (6) Listing the property on the Real Estate and Leasing Services web page;
- (7) Listing the property on real estate industry listings;
- (8) Listing the property on public listings, and
- (9) Other methods of advertising as appropriate.

(f) If the Director of Real Estate and Leasing Services elects to offer the property through public or sealed bids, the procedure in 260:95-3-7 shall be followed, except Real Estate and Leasing Services may accept a bid of less than ninety percent (90%) of the appraised value.

(g) Real Estate and Leasing Services may reject any and all bids.