

# DAS Directive

Directive No. **GS-D-11**  
Effective Date: **09-01-2009**



To: All Departments, Offices, Agencies, Boards, Bureaus, Commissions and Institutions  
From: Hugh Quill, Director of Administrative Services  
Re: Utilization of State Office Space and Leasing of Commercial Office Space for State Agency Occupancy

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## PURPOSE

The Department of Administrative Services (DAS) strives to maintain uniformity in state leases with the private sector. The purpose of this directive is to establish a policy to ensure state owned office space is fully utilized prior to a state agency entering into a commercial lease for office space and to establish criteria for an agency to apply prior to leasing commercial office space. This directive has also been established to ensure consistency among state agencies when entering the commercial real estate market for office, warehouse, and other types of space.

## BACKGROUND

Ohio Revised Code Section (ORC) 123.01 authorizes the Director of the Department of Administrative Services (DAS) to lease office space for use of state agencies. Generally speaking, other state agencies are not provided the authority to lease office space, and are required to meet the agency's space and leasing needs through and with the assistance of DAS. In exercising this authority, DAS is charged to assign and group together state offices in any city in the state and to establish rules governing space requirements for office, storage and other types of uses. DAS provides these services through its Real Estate Office. As of fiscal year 2006, the state leased approximately 5.5 million square feet of space through approximately 300 leases for use by state agencies.

The Report to the Governor of the Management Improvement Commission 2000 (MIC 2000 Report), with respect to leasing office space by DAS, recommended that facility planning and space utilization be centralized, and that the cost of office space be allocated to state agencies. In making this recommendation, the MIC 2000 Report states: "a five-percent reduction in the required statewide office space resulting from full disclosure of agency space utilization would result in financial savings of \$1.1 million annually" (MIC 2000 Report, p. 20). Additionally, it states: "the consolidation of 500,000 square feet of currently leased office space into state-owned office space could result in financial savings of approximately \$800,000 per year" (Id., p. 21).

## POLICY

To promote efficient and economical use of state resources, it is the policy of DAS that available state owned office space is utilized by state agencies prior to leasing commercial



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space. Commercial office space will be leased on behalf of an agency only upon a showing that: 1) such leasing of commercial office space will improve the efficiency of the operations and services provided by the state agency; and 2) another state agency occupant is identified and committed to state owned office space to be vacated prior to the move out.

DAS is committed to providing state agencies, boards and commissions with centralized real estate leasing services in a manner that ensures continuity and statewide standardization of state real estate practices. DAS is also best able to fully leverage the state's significant demand for leased space to most efficiently and effectively meet the state's needs. The specialized services provided by the DAS Real Estate staff allow other state agencies to focus on their primary missions rather than real estate matters. DAS Real Estate has day to day involvement with real estate negotiations, the advantage of knowing state-wide market conditions and trends, the expertise to ensure consistency in the leasing process among state agencies as well as having established relationships with members of the commercial real estate community. For these and other reasons, the DAS Real Estate Section is best positioned to negotiate the most favorable rental rates and lease terms with private sector firms for state agency occupancy. To promote the most efficient and effective use of state resources, it is the policy of DAS that all state agencies seeking commercial office space adhere to the following requirements:

A. Selection of Agency Housing Coordinator

1. Each state agency, board, or commission shall appoint or assign a Housing Coordinator to serve as the primary point of contact between DAS Real Estate and the agency regarding all real estate matters.
2. Each state agency shall through its Housing Coordinator contact the DAS Real Estate Section to identify the need for expansion, reduction or alteration of commercial leased space as soon as such a need becomes known to the agency. A DAS Real Estate Specialist assigned to the agency will discuss with agency's Housing Coordinator the details of specific need, including but not limited to the parameters of size, most desirable location or geographical area, and limitations on affordability. Once the needs are assessed, DAS Real Estate will determine if the need can best be met in state-owned space or through commercial leased space and proceed accordingly.

B. Space Search

1. The DAS Real Estate Specialist will undertake a preliminary space search for the using agency, screening suitability for state agency occupancy based on availability, features, rate, and willingness of the potential landlord to work with state government. It is extremely important that the using state agency avoid contact with the landlord and/or their representative prior to or during lease negotiations.



2. The DAS Real Estate Specialist will arrange field or site visits by the using agency's Housing Coordinator and other agency representatives.
3. The Agency Housing Coordinator will provide feedback on available sites and select one or more primary or desired location(s).

C. Real Estate Contract Preparation

1. On behalf of the using agency, the DAS Real Estate Specialist will open and conduct all negotiations covering the space with the landlord and/or landlord's representative(s). The Agency Housing Coordinator may be invited to be an active participant.
2. Once a preliminary agreement is reached and the using agency concurs in terms, the DAS Real Estate Specialist will prepare the necessary real estate documents, i.e. lease, addendum, etc.
3. All real estate contracts must be approved as to the form by an Assistant Attorney General (AAG) specifically assigned to review DAS real estate contracts. The Attorney General has provided a template lease contract which outlines legal requirements of the state. The DAS Real Estate Specialist will insert the business terms into the state lease template and submit to the AAG for approval.
4. Once the real estate documents have been approved by the AAG and the using agency has concurred in writing, the DAS Real Estate Specialist will send original lease documents to the landlord for execution.
5. After the real estate documents are executed and returned by the landlord, the DAS Real Estate Specialist will prepare them for execution by DAS on behalf of the state.

D. Contract(s) That Do Not Require Controlling Board Approval

1. In cases where the lease is below the threshold requiring Controlling Board approval, the DAS Real Estate Specialist will route the lease through DAS for execution (Real Estate Section Administrator, Office of Properties and Facilities Chief Administrator, General Services Division Deputy Director, DAS Legal Counsel and DAS Director).
2. Final executed lease documents will be distributed with one original deposited with the State Auditor, and a second original sent to the landlord and copies to the using state agency and the DAS real estate files.



E. Contract(s) That Require Controlling Board Approval

1. If the contract is subject to the approval of the State Controlling Board, the DAS Real Estate Specialist will prepare a Controlling Board (Operating) Request and supporting documentation including the executed lease. The request submitted to the Controlling Board must include a copy of the lease executed by the landlord so legislators can be assured the landlord is obligated to the provisions of the lease.
2. The DAS Real Estate Specialist will route the Controlling Board request through DAS for approval. Enroute to the Controlling Board, the request is reviewed and approved by the DAS Real Estate Section Administrator, the Office of Properties and Facilities Chief Administrator, the General Services Division Deputy Director, DAS Legal Counsel and the DAS Director.
3. After the Controlling Board agenda is published, DAS Real Estate will request that the using agency be present at the appropriate Controlling Board meeting to answer questions regarding programmatic, operational and other user generated aspects. All real estate questions will be fielded by the DAS Real Estate spokesperson.
4. After the Controlling Board approves the real estate transaction and posts the signed confirmation approval on the e-Controlling Board website, the DAS Director or the Director's designee will execute the lease.
5. Final executed lease documents will be distributed with one original deposited with the State Auditor, and a second original sent to the landlord and copies to the using state agency and the DAS real estate files.

F. Miscellaneous Provisions

1. Space Size Standards – DAS Real Estate works with the State Architect's Office of Interior Design to establish space standards to be applied in determining office sizes, space arrangement and layout. As a guideline for broad space planning purposes, DAS has established a standard of 250 - 300 square feet of space per state employee occupant. This figure includes common areas, conference rooms, ancillary areas (copy machines, break rooms, etc.) and other shared spaces. The same standards are applied in assigning space in state-owned facilities. In recognition of the fact that there may be special considerations that make these standards inappropriate, on a case-by-case basis state agency directors and assistant directors may approve, in writing, deviations to meet specific agency needs.

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2. Furniture – Commercial leases should not include furniture. Furniture must be obtained through the usual State Purchasing procedures.
3. Parking – Ohio Attorney General Opinion No. 77-090 (1977) stipulates that a state agency may not directly procure employee parking except under special circumstances. State agencies are encouraged to review this AGO Opinion and act accordingly. While a lease may provide for parking for state vehicles and appropriate state agency customers, it may not specifically provide parking for state employees. Landlords sometimes make on-site non-exclusive parking available to tenants and such is acceptable under the AGO Opinion, but a lease may not itemize rent for employee parking of any kind.
4. Cancellation – By policy, the state reserves a cancellation right on all commercial leased space. Changes in programmatic needs or abolishment of state agencies by the legislature are among the rationale for the state remaining flexible in leasing real estate from the private sector. This cancellation right is unilateral in state leases as the Landlord is not afforded the same right.
5. Holdover – Another unique feature of state leasing is the reservation of a holdover option. All leases are written for a two-year term that is the same as the state operating budget biennium. The holdover provision provides the state the opportunity to continue occupancy of a leased space after the expiration of a lease term for a period not to exceed six (6) months. This affords the state the flexibility to complete negotiations with the landlord after the lease term ends if necessary. While the need for a holdover should be avoided, holdovers are most frequently exercised when a state agency occupant is relocating, to allow time for the details of the planned move to be finalized.
6. Building Operating Expenses (BOE) – By policy, leases will be written without building operating provisions. These operating adjustments pose problems in state government in that the amount of the adjustment is not included in initial agency's operating budget and must be corrected outside the appropriate biennium. For this reason, such provisions are to be avoided.

This directive supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

AUTHORITY & REFERENCE  
ORC 123.01