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## State of Ohio Administrative Policy

### Leasing of Commercial Space for State Agency Occupancy

No: Facilities Management  
**FM-01**

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Effective: September 19, 2016

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Issued By:

Robert Blair, Director

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#### 1.0 Purpose

The purpose of this policy is to ensure consistency among state agencies, boards, and commissions when entering the commercial real estate market for office, warehouse, and other types of space. State agencies, boards, and commissions will hereinafter be referred to collectively as “state agency or state agencies.”

Ohio Revised Code (ORC) §123.01 gives the Director of the Department of Administrative Services (DAS) the authority to lease office, storage, and other types of space for use by state agencies. In exercising this authority, DAS is charged to manage the use of space owned and controlled by the Department, 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 Office of Real Estate and Planning, which strives to maintain uniformity in state leases with the private sector.

#### 2.0 Policy

DAS is committed to providing state agencies with centralized real estate leasing services in a manner that ensures continuity and statewide standardization of 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 Office of Real Estate and Planning staff allow other state agencies to focus on their primary missions rather than real estate matters.

2.1 **Guiding Principles for State Agency Space Allocation:** The actions of the Office of Real Estate and Planning and state agencies shall be guided by the following principles:

2.1.1 **Plan Strategically:** Use space allocation and planning as a means to implement statewide policies.

Plan and make decisions based upon best value for the State as an enterprise, fully leveraging the negotiating power of the State.

- 2.1.2 **Be Smart:** Minimize reliance on commercially-leased space by first filling state-owned space with state agency tenants.

Take advantage of opportunities to improve operational efficiency, such as state agency consolidation of functions, systems, and personnel.

Take advantage of opportunities to share state resources such as conference rooms, break rooms, lobbies, and circulation space.

- 2.1.3 **Be Fiscally Responsible:** Reduce the state's overall rent obligations.

Develop cost analysis based upon total long-term cost of occupancy, including costs of moving, state share of tenant improvements, rent and escalation over the term of the lease.

Fully consider the impact of rental and relocation costs on agency budgets.

- 2.1.4 **Listen to the Customer:** Exercise due diligence in considering the essential operational needs of the state agency, including factors such as location, clientele of agency, services to public and other government entities, accessibility, availability of public transportation, and parking.

Attempt to create the best match for the state agency customer, considering factors such as ratio of available space to space needs of agency; timing of available space; quality of space as it relates to the essential function of the state agency; and likely future expansion/contraction trends.

- 2.1.5 **Be Consistent:** Allocate space using uniform methods, policies, and procedures, such as the square foot per person guidelines (250-300 **square feet per person**) of occupied space.

Show preference toward Class B and Class C space, as defined by Building Owners and Managers Association (BOMA) standards.

## 2.2 **Selection of Agency Housing Coordinator:**

- 2.2.1 Each state agency, board, or commission shall appoint or assign an Agency Housing Coordinator (Housing Coordinator) to serve as the primary point of contact between the DAS Office of Real Estate and Planning and the agency regarding all real estate and planning and design matters.

- 2.2.2 Each state agency shall through its Housing Coordinator contact the DAS Office of Real Estate and Planning to identify the need for expansion, reduction or

alteration of space in buildings owned by DAS or in commercially leased facilities (if appropriate) as soon as the need becomes known to the agency. A DAS Real Estate Specialist or Project Coordinator assigned to the agency will discuss with Housing Coordinator the details of specific need, including but not limited to, the parameters of size, most desirable location or geographical area, timing, and limitations on affordability. Once the needs are assessed, the DAS Office of Real Estate and Planning will determine if the need can best be met in state-owned space or through commercially-leased space then proceed accordingly.

- 2.2.3 If the need can be met in a state-owned building, a Project Coordinator from the DAS Office of Real and Planning will discuss with the Housing Coordinator the details of the need and proceed accordingly.

### 2.3 **Space Search:**

- 2.3.1 If the need cannot be met in a state-owned building, a DAS Real Estate Specialist will undertake a preliminary space search in the appropriate real estate market for the using agency, screening suitability for state agency occupancy based upon availability, features, rate, and willingness of the potential landlord to work with state government. It is extremely important that the using state agency avoid opportunities of contact with a landlord and/or their representative prior to or during lease negotiations.
- 2.3.2 The DAS Real Estate Specialist will arrange field or site visits of the potential, identified locations through the Housing Coordinator.
- 2.3.3 The Housing Coordinator will provide feedback on available sites and participate in the selection process.

### 2.4 **Lease Negotiations and Contract Preparation:**

- 2.4.1 On behalf of the using state 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 Housing Coordinator will be invited to be an active participant as mutually agreed to be appropriate. In an effort to fully leverage the State's demand, it is important that the using state agency avoid opportunities to negotiate terms directly with a potential landlord and/or their representative(s) prior to or during lease negotiations.
- 2.4.2 Once a preliminary agreement is reached and the using agency concurs with the terms, the DAS Real Estate Specialist will prepare the necessary real estate documents with the assistance of legal counsel.
- 2.4.3 Once the real estate documents have been prepared and the using state agency has concurred in writing, the DAS Real Estate Specialist will send original lease documents to the landlord for execution.

2.4.4 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.

2.5 **Contract(s) That Do Not Require Controlling Board Approval:**

2.5.1 In cases where the lease is below the threshold requiring **Controlling Board** approval, the DAS Real Estate Specialist will route the lease documents through DAS for execution to include the Real Estate Administrator, General Services Division Deputy Director, DAS Legal Counsel, and DAS Director).

2.5.2 Final executed lease documents will be distributed with one original deposited with the State Auditor, and a second original sent to the landlord, with copies sent to the using state agency and the DAS real estate file.

2.6 **Contract(s) That Require Controlling Board Approval:**

2.6.1 If the contract is subject to the approval of the Controlling Board, the DAS Real Estate Specialist will prepare a Controlling Board request and supporting documentation, including a partially 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.

2.6.2 The DAS Real Estate Specialist will route the Controlling Board request through DAS for approval to include the Real Estate Administrator, the General Services Division Deputy Director, DAS Legislative Liaison, and the DAS Director.

2.6.3 After the Controlling Board agenda is published, the using state agency will be requested by the DAS Office of Real Estate and Planning to be present at the appropriate Controlling Board meeting to answer questions regarding programmatic, operational, and/or other user-generated aspects. All real estate questions will be fielded by the DAS Real Estate spokesperson. For commercial leases, the spokesperson will be the DAS Real Estate Administrator or the Administrator's designee.

2.6.4 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 agreement.

2.6.5 Final executed lease documents will be distributed with one original deposited with the State Auditor, and a second original sent to the landlord, with copies to the using state agency and the DAS real estate file.

## 2.7 **Miscellaneous Contract Provisions:**

- 2.7.1 **Space Size Standards:** The DAS Office of Real Estate and Planning, through its Planning and Design section, establishes office space methodologies 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. 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, deviations will be considered to meet specific agency needs.
- 2.7.2 **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 Opinion and act accordingly. While a lease may provide for parking for state vehicles and appropriate state agency parking, it may not specifically provide parking for state employees. Landlords sometimes make on-site, non-exclusive parking available, but a lease may not itemize rent for employee parking of any kind.
- 2.7.3 **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 typically unilateral in state leases, as the landlord is not provided the same right.

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

## 3.0 **Authority**

ORC §123.01

## 4.0 **Revision History**

<b>Date</b>	<b>Description of Change</b>
09/01/2009	Original policy, published as GS-D-11.
09/19/2016	Reformatted and renumbered, updated all sections and subsections, addition of Appendix A - Definitions.
09/19/2017	Scheduled policy review.

## 5.0 Inquiries

Direct inquiries about this policy to:

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State of Ohio Administrative Policies may be found online at

<http://das.ohio.gov/Divisions/AdministrativeSupport/StateAdministrativePolicy.aspx>

## Appendix A - Definitions

- a. Controlling Board. A mechanism for handling necessary adjustments to the state budget, which consists of seven members: the Director of the Office of Budget and Management or an employee of the Office of Budget and Management designated by the Director, the Chair or Vice Chair of the Senate and House Finance Committees, a majority member appointed from both the Senate and the House, and a minority member appointed from both the Senate and the House.
- b. Square feet per person. The square footage per person methodology represents the space occupied by a tenant to house personnel, furniture, office equipment, dedicated ancillary support functions, and includes related circulation for these uses. The methodology does not include large conference, training, laboratory, and specialized spaces or common space such as, but not limited, to restrooms, shared conference rooms, elevator lobbies, or building spaces, i.e. elevator or stairwell shafts.