

REVIEW OF PUBLIC BUILDINGS SERVICE'S
DELEGATIONS OF AUTHORITY TO LEASE SPACE
REPORT NUMBER A060082/P/6/R07004
AUGUST 24, 2007

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U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

Date :August 24, 2007

Reply to

Attn of :Heartland Field Audit Office (JA-6)

Subject :Review of Public Buildings Service's Delegations of Authority to Lease Space
Report Number A060082/P/6/R07004

To :David L. Winstead
Commissioner, Public Buildings Service (P)

We have completed a review of leasing actions related to Public Buildings Service's (PBS's) Delegations of Authority to Lease Space program. This review was conducted in response to concerns related to a delegated leasing action by the Department of Homeland Security. Our primary objective of the review was to determine whether leasing actions that were performed by customer agencies under a delegation of authority were awarded in accordance with applicable laws, regulations, and policies and procedures.

Our review has determined that many of the delegated leases had problems including potential prospectus violations, excessive rental rates and other lease costs, violations of delegated authority, and inadequately documented lease files.

In our opinion, the leasing problems occurred primarily as a result of the customer agencies' lack of expertise in performing lease procurements and because the agencies failed to report lease details to GSA officials and obtain assistance from GSA. As a result, we believe that PBS should modify the lease delegation program to institute controls that will limit future delegations of leasing authority to customer agencies.

Your response to the draft audit report is included in its entirety as Appendix C of this report.

If you have any questions or would like additional information regarding the report, please contact Katina Beach, Andrea Daniel, or me at 816-926-7052.

John F. Walsh
Audit Manager
Heartland Field Audit Office



REVIEW OF PUBLIC BUILDINGS SERVICE'S
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INTRODUCTION

Background

The General Services Administration's (GSA's) Public Buildings Service (PBS) has primary authority to lease real property for use by Federal agencies. This authority is derived from the Federal Property and Administrative Services Act of 1949 and Reorganization Plan No. 18 of 1950. That authority is now codified in Title 40 of the United States Code, Section 585, which authorizes GSA PBS to enter into space leases on behalf of Federal agencies for terms up to 20 years.

On September 25, 1996, PBS established the "Can't Beat GSA Leasing" program, which is often referred to as the "Provider of Choice" (POC) program. The POC program encourages all Federal agencies to utilize PBS as their leasing agent for general-purpose space but does allow these customer agencies to request that GSA delegate its leasing authority to the agency. This delegation of authority allows the agency to perform a specific leasing action without the assistance of PBS personnel. In accordance with lease delegation procedures, customer agencies are responsible for complying with all applicable rules, laws, and regulations related to awarding leases, including the Title 40 United States Code and General Services Administration Acquisition Manual. In addition to compliance with laws and regulations, the POC lease delegations have other restrictions including that (1) the annual rental not exceed prospectus limitations, and (2) agencies provide PBS with award information on delegated leases.

Although most delegated leases are for general-purpose office space, we note that the delegation of leasing authority portion of the POC program did not alter the space delegation requirements in sections 101-18.104-2 and 101-18.104-3 of the Federal Property Management Regulations (subsequently replaced by Federal Management Regulation, Parts 102-73.145 through 102.73.225), which pertain to categorical and special-purpose space.

GSA's Office of Governmentwide Policy (OGP) serves in an oversight role for the lease delegation program. The OGP has reported on the POC program three times, in 1998, 2001, and 2006. OGP reviews indicated that in fiscal year (FY) 1997, PBS awarded approximately 668 leases for agencies compared to 6 leases processed by agencies under the POC program. The second review indicated slow growth in the use of the POC program with only a total of 14 leases awarded under the POC program between FYs 1999 and 2001. The third review conducted in 2005 indicated that agencies were

increasing their use of the POC program. Data gathered from the agencies indicated a total of 70 leases awarded under the POC program during FY 2004.

Our review of delegated leasing actions was initiated based on some indications that a delegated lease action for dormitory space performed by the Department of Homeland Security may have exceeded prospectus limitations.

Objective, Scope and Methodology

The primary objective of this review was to determine whether leasing actions that were performed by customer agencies under a delegation of authority from GSA were awarded in accordance with applicable laws, regulations, and policies and procedures.

This review was designed to be a nationwide review of GSA's delegated leases. To select the review sample, we (1) compiled a list of delegated lease activity in the Southeast Sunbelt, Greater Southwest, Pacific Rim, and National Capital regions because our review of PBS Central Office records indicated that these regions had the greatest delegated square footage during FY 2001 through FY 2006, (2) developed the list of delegated leases for these four regions by combining delegated lease listings from PBS Central Office, OGP, and PBS regional offices, and (3) selected delegated leases for these four regions that appeared to exceed 25,000 square feet for the customer agencies with the greatest lease delegation activity during FY 2001 through FY 2006. These customer agencies included the Departments of Defense, Homeland Security, Interior, Justice, Treasury, Agriculture, Veterans Affairs, and the National Archives and Records Administration.

The sample included 52 leases that accounted for 6.9 million of 8.2 million square feet of space (84%) included in the lease delegation list for the four regions; however, for various reasons, we reviewed documentation for 25 leases (see Appendix A and Appendix B).

The results of the review are qualified because GSA did not have one central point that included all lease delegation information. Accordingly, we could not verify that our sample universe was complete or that all of the information was accurate. (See Report Qualification section)

To accomplish our objective, we:

- Reviewed lease files and documentation provided by the customer agencies;
- Reviewed laws, regulations, and applicable guidance;
- Held discussions and corresponded with GSA officials within OGP and PBS; and
- Held discussions and corresponded with officials from the customer agencies that provided files and documentation for the selected delegated leasing actions.

The review was performed during the period of September 2006 through April 2007 in accordance with generally accepted Government auditing standards.

RESULTS OF REVIEW

Brief

Our review of twenty-five delegated leases determined that eighteen delegated leases were not awarded in accordance with applicable policies, laws, and/or regulations. The issues that we identified included potential prospectus violations, excessive rental rates and other lease costs, violations of delegated lease authority, and inadequately documented lease files.

In our opinion, the leasing problems occurred primarily as a result of the customer agencies' lack of expertise in performing lease procurements and because the agencies failed to report lease details to GSA officials and obtain assistance from GSA.

As a result, to prevent future violations of laws, regulations, and authority delegations related to delegated leasing actions, we believe that PBS should modify the POC program to limit delegations of leasing authority to customer agencies. In addition, PBS should implement management controls commensurate with the risk associated with delegated leasing actions.

Finding - Delegated leases were not awarded in accordance with applicable policies, laws, and regulations.

Our review of delegated lease procurements made during FY 2001 through FY 2006 determined that eighteen out of twenty-five delegated lease procurements had some type of deficiency (see Appendix A). These deficiencies included (1) potential prospectus violations, (2) excessive lease costs, and (3) violations of delegated authority.

Potential Prospectus Violations

The Public Buildings Act of 1959 requires Congressional approval of all leases when the annual rental (excluding services and utilities) for the lease contract exceeds the prospectus limitation (\$1.74 million in 1996 and adjusted annually for inflation). In addition, the prospectus limitation may apply to supplemental lease agreements (SLAs)¹.

Our review of customer agency lease file documentation indicated several delegated leasing actions may have been awarded in violation of prospectus approval requirements. Although we believe the lease file documentation provided indicates these may be prospectus violations, we did not perform additional review work related to these potential violations because (1) these were delegated lease actions and were not performed by GSA personnel (these potential violations will be referred to the appropriate Office of Inspector General for the customer agency involved), and (2)

¹ SLAs are modifications to a lease contract after the lease is executed.

additional review work was not needed to support our review conclusions. Some examples of potential prospectus violations are:

Department of Defense. The Department of Defense (DOD) awarded a lease on June 6, 2003, for 114,816 square feet (sq. ft.) of office space on Fort Sam Houston Army Base at an annual net rental rate of \$2,210,208. While the rental rate itself appears to be a violation of FY 2003 prospectus limitation of \$2,210,000, what was more troubling was that on September 29, 2003, DOD issued SLA No. 1 for a lump sum reimbursement of \$7,713,341 in additional tenant improvement (TI) work. The closeness of the dollar value of the rental rate to the prospectus limitation combined with the large SLA for TI work awarded after the execution of the lease indicates that the customer agency may have been aware of the prospectus limitations and may have attempted to engineer the rental rate to avoid obtaining Congressional approval by paying for renovation work through an SLA. However, not only is the lease rental rate subject to prospectus limitations, but SLAs are also subject to similar limitations (i.e., SLAs cannot violate prospectus requirements) and accordingly, SLA No.1 for this lease may have been awarded in violation of prospectus limitations. Even if SLA No.1 to this lease did not exceed prospectus limitations, tenant improvement work that is paid for on a lump sum basis (either in the lease award or in SLAs) is generally amortized over the firm term of the lease and added to the rental rate in order to ensure that the lease does not exceed prospectus limitations. Lastly, we noted that DOD issued additional SLAs for TI during FY 2004 that totaled \$3,221,929 (which exceeded the FY 2004 prospectus threshold of \$2,290,000). As a result, we believe that DOD potentially violated prospectus approval requirements on at least three separate actions taken under this delegated lease authority.

While DOD obtained a Title 10 Clearance² approval from the House Committee on Armed Services for this lease on January 3, 2003, the lease file documentation provided shows that no prospectus was prepared and Congress did not approve this lease. We also note PBS' delegation of authority letter, dated November 22, 2002, specifically directed DOD to prepare a prospectus to submit to Congress for deliberation by the Senate and the House of Representatives.

Department of Homeland Security. On April 18, 2001, the Department of Homeland Security (DHS) awarded a lease for ten acres of land upon which a 134,100 sq. ft. facility would be constructed to provide 300-room dormitory for the Federal Law Enforcement Training Center (FLETC) in Glynco, GA. The lease was for a firm term of twenty years at an annual rent of \$2,013,625. Deducting the operating expenses estimated by FLETC to be \$216,100, net annual rent was \$1,797,525, or \$192,475 below FY 2001 prospectus of \$1,990,000. On October 24, 2001, DHS awarded a lease for a second 300-room dormitory on the same property for an additional net annual rent rate of \$1,774,115. On September 4, 2002, a third 300-room dormitory lease was executed on the same site with a net annual rent rate of \$1,882,565. Combined with the initial and first option, the net annual rent for all three dormitories is \$5,454,205

² Title 10 USCS 2662 clearance for Armed Services states that DOD must report a lease of any real property under Title 10 if the estimated annual rent is more than \$750,000.

(\$1,797,525 + \$1,774,115 + \$1,882,565 = \$5,454,205), which is in excess of the prospectus limitations in effect during this period.

DHS officials contend that they did not violate prospectus requirements because each dormitory building is a stand-alone project. Based on our review of information related to this delegated lease project, we believe that these buildings were a total project that required congressional approval.

Department of the Interior. The Department of the Interior (DOI) awarded a lease on November 2, 2001, for construction of a 160,000 sq. ft. building used for offices and records storage and related uses for a term of ten years in Albuquerque, NM. This is another troubling delegated lease action because it appears that DOI was aware of prospectus limitations and attempted to avoid this limitation by only paying rent on 140,000 sq. ft. for the first two years of the lease and receiving 20,000 sq. ft. for “free” and then paying higher rent on the entire 160,000 sq. ft. for the remainder of the lease period. A present value calculation of the rental rate indicated that the rental for later years also exceeded prospectus limitations. Based on our review of DOI’s lease file documentation, we believe that DOI may have violated prospectus requirements in the award of this delegated lease.

DOI also awarded a twenty-year firm term lease on June 20, 2004, for construction of a 140,000 sq. ft. building in Albuquerque, NM. Although the base rental for this leasing action was under prospectus limitations, an additional \$11.1 million of lump sum TI work was added through two SLAs. One SLA was for \$8,995,201 (effective July 1, 2005) and in addition to this SLA being above prospectus limitations, we believe that the lease itself exceeded prospectus limitations because the base rent combined with the amortized cost of the lump sum work exceeded prospectus limitations.

Department of Veterans Affairs. On August 18, 2000, PBS granted conditional authority to the Department of Veterans Affairs (VA) for general-purpose office space in Phoenix, AZ. The conditional authority stated that the requirement for prospectus approval was not met and, therefore, PBS did not give authorization to VA to proceed with the procurement process for this lease. The VA subsequently awarded this twenty-year lease on October 12, 2001, without obtaining a final delegation letter from PBS. Based on the lease file documentation, the Senate approved the leasing action on September 25, 2001, and the House of Representatives approved the leasing action on November 7, 2001. However, the Congressional approval granted authorization to lease space for a maximum of fifteen years, not the twenty years awarded by the VA. We consider both the fact that the official prospectus approval was after the lease award and the lease was awarded for a term that exceeded the authority of the prospectus to be potential prospectus violations.

Conclusion. We believe that these potential prospectus violations occurred because the customer agencies did not comply with laws and regulations and also

because the customer agencies did not fully understand prospectus requirements and lacked expertise in this area.

Recent changes in the Federal Register (Vol. 70, No. 215, § 102-73.40, issued on November 8, 2005) state, "...the general purpose lease delegation authority is restricted to below the prospectus threshold, and therefore, GSA must conduct all lease acquisitions over the threshold." Although this change should prevent the delegation of most prospectus level leasing actions, it does not address other potential prospectus violations that we found including split leasing procurements and exceeding delegated lease limits. Accordingly, we believe that GSA should implement additional limitations on delegated leasing authority.

Excessive Lease Costs

In addition to possible prospectus violations, we believe that some of the delegated leasing actions were awarded at rates and/or included costs that were excessive. Although we did not perform in-depth reviews of the pricing received under these delegated leasing actions, we believe that the examples noted below raise sufficient issues to question the validity of the pricing.

Department of Defense. Under delegations of authority from GSA, DOD awarded four sole source leases to a private company that controls space on the Fort Sam Houston Army base. We believe that the lease rental rates, lump sum items, and operating expenses of these leases are excessive in comparison to the local market.

As background, DOD has a program to utilize vacant space on DOD bases called the Enhanced Use Lease (EUL) program. The EUL is provided authority under Title 10 United States Code Section 2667, as amended. This authority allows for military installations to outlease land and facilities to a private or public entity and allows the base to receive funding from the private company to supplement the base appropriation.

The master lease for the Fort Sam Houston EUL property is between the Secretary of the Army (Lessor) and Fort Sam Houston Redevelopment Partners, Ltd. (Lessee), for a term of fifty years, beginning June 1, 2001 and ending May 31, 2051. The master lease states, "Beginning on the Lease Term Effective Date, the Lessee shall assume all of the Lessor's obligations to maintain, at the Lessee's sole cost and expense..." In addition, Section 3.b states, "The Lessor shall receive as rent ("Rent") hereunder the following percentages of the Net Cash Flow³ arising from the operation of the Lease Premises on an annual basis during the Term:

- Years 1-13 of the Term – ten (10%) percent
- Years 14-25 of the Term – twenty-five (25%) percent
- Years 26-30 of the Term – forty-five (45%) percent
- Years 31-50 of the Term – fifty (50%) percent

³ Net Cash Flow was defined to mean the excess of rental income over the lessee's expenses.

Under this master lease, the lessee assumed control of three existing buildings at Fort Sam Houston and then leased space in these existing buildings to Army tenants that obtained delegations of lease authority from GSA. In essence, the lessee, with no upfront rental cost, had secured the ability to lease space at Fort Sam Houston. We believe that this agreement should have allowed the lessee to provide space at rental rates that were significantly below market rental rates.

However, our review of the four leases awarded at Fort Sam Houston showed that the awarded rental rates for the leases exceeded appraised market values by 28.4% to 32.4%. Although the files contain varying appraisals, we believe the most reliable appraisal was performed on the largest lease and established a market value of \$18.50 per sq. ft. while the awarded rental rates ranged from \$23.75 to \$24.50 per sq. ft.

In addition to the rental rates, each of these leases had significant lump sum costs for TI. For example, SLA No. 1 for the largest of the four leases (114,816 sq. ft.) included \$7,713,341 for TI work (through subsequent SLAs, this amount grew to over \$12 million). This amounts to \$67 per sq. ft. for these SLAs and a total TI amount of \$105 per sq. ft. In our reviews of leases for general-purpose office space, TI work above what is normally required by the lease is generally under \$35 per square foot.

Lastly, these leases required the adjustment of operating expenses on a yearly basis to reimburse the lessor for increases in expenses such as utility and janitorial costs. Our review determined that these leases included unusually large increases in operating and included cost items that should not be charged directly through operating expenses. For example, on the largest of the four leases, the lease award operating expenses were \$5.25 per sq. ft. SLA No. 30 to this lease increased operating expenses by 52% to \$7.96 per sq. ft. and the Lessor's Annual Cost Statement included costs for items that are not directly reimbursable as operating expenses such as Payroll Engineer, Payroll Assistant Engineer, Payroll Manager, Payroll Secretary, Dues & Subscriptions, and Meals.

As a result, we believe that the rental rates and other costs associated with these leases were higher than what should have been negotiated and awarded.

Department of the Treasury. One of the Treasury leases that we reviewed was a sole source lease where the agency remained in its current location (that had previously been awarded by GSA). Treasury awarded a lease on July 16, 2006, for 30,426 sq. ft. of office space in St. Petersburg, FL for a term of five years with annual stepped-rent starting at \$517,242 (\$17.00 per sq. ft.) for year one to \$593,916 (\$19.52 per sq. ft.) for year five, with one five-year extension option. The contracting officer converted the stepped-rent into a level rent rate of \$18.18 per sq. ft. Prior to this lease, Treasury paid GSA \$16.58 per sq. ft., which included a GSA fee of eight percent. Treasury could not explain why the rental rate increased for this lease.

Conclusion. Some of the reasons that agencies requested delegated lease authority were (1) to avoid paying GSA the fee that GSA charges to agencies for the

award and administration of leases, and (2) to expedite the lease process. No agency stated that they requested delegated lease authority because they believed that they could obtain better pricing than GSA. On the leases that we reviewed, we believe that potential cost savings could have been realized if the leases were awarded in accordance with applicable laws, regulations, policies and procedures.

Agencies Not Adhering to PBS Delegation Letter Requirements

We determined that for most of the lease delegations actions that we reviewed, customer agencies did not comply with the requirements listed in the PBS delegation letters that granted the customer agencies the authority to lease space. As previously discussed under the prospectus violations section, customer agencies failed to comply with GSA directives regarding prospectus requirements. Some customer agencies were specifically instructed to either obtain prospectus approval or to obtain an additional delegation letter from PBS and still failed to do so. In addition, some agencies exceeded the authorized square footage amounts specified in the delegation letter, failed to properly document lease files, and failed to keep GSA informed of the leasing actions. Some specific examples are:

Department of the Interior. The DOI U.S. Geological Survey awarded a lease on March 1, 2004 for approximately 47,412 sq. ft. of office space in Sacramento, CA for a term of ten years, with one ten-year option. The PBS delegation of authority letter approved the requirement for 26,000 sq. ft. The file did not include documentation as to why the additional square footage was awarded.

In addition, PBS delegated leasing authority to the DOI Bureau of Indian Affairs (BIA) for 106,000 sq. ft. of general-purpose office space in Albuquerque, NM, and BIA awarded a lease on June 20, 2004, for 140,000 sq. ft. The file documentation did not indicate that GSA had approved the increase in square footage.

Department of Veterans Affairs. On June 25, 2003, PBS delegated lease authority to the VA for 24,947 sq. ft. of office space in Decatur, GA. On September 9, 2003, the VA awarded a five-year lease in Atlanta, GA for 27,429 sq. ft. Through SLAs, the VA increased the square footage of this lease to 51,296. The lease file documentation did not contain an additional delegation letter from GSA or documentation as to why the additional square footage was awarded.

Department of Agriculture. The Department of Agriculture (USDA) awarded a ten-year lease on October 5, 2004, for 84,380 sq. ft. of office and basement storage space in Albuquerque, NM. The September 30, 2004, PBS delegation of authority letter approved the requirement for 75,000 - 90,000 sq. ft. However, through SLAs, USDA increased the space further to 117,172 sq. ft. There was no documentation indicating that USDA had these increases in square footage approved by GSA.

In addition, some examples of inadequate documentation include:

Contract File History. At least 14 of the 25 (56 percent) of the lease files reviewed contained insufficient documentation to support that the Government received a fair and reasonable price. Federal Acquisition Regulation (FAR) 4.801, states that file documentation shall be sufficient to constitute a complete history of the transaction. In these instances, pertinent lease file documentation, such as an acquisition plan, market survey, appraisal, price negotiation memorandum, etc., was not provided or included in the lease file. Agency responses to our requests for these documents often included a statement that the documentation was not in the contract file and/or that the Contracting Officer (CO) was not aware of the requirement to prepare or include a document in the file.

Lack of Justifications. In at least two instances where the leases were procured under urgent and compelling needs, the file documentation lacked justification. The CO is required to document the file to show the basis for the procurement as FAR 6.303 states a CO shall not commence negotiations for a sole source contract without written justification identifying the cause as outlined in FAR 6.302 and required approvals are obtained as required by FAR 6.304.

Lack of Scoring Evaluation. In one instance, our review of the lease file documentation and the response from the agency indicated there was no scoring evaluation conducted. According to Federal Management Regulation § 102–73.135, all Federal agencies must follow the OMB Circular A-11 budget scorekeeping rules for leases, capital leases, and lease-purchases. Also, although we did not perform detailed scoring analyses, some of the scoring analyses that were included in the lease files did not appear to have been properly prepared.

We believe these instances where the agencies overlooked directives, exceeded the authorized square footage amounts, or failed to properly document files occurred because the agencies either disregarded or did not fully understand the parameters set forth in the PBS delegation of authority letters.

Conclusion

While not every leasing action that we reviewed had significant problems, many of the leasing actions, especially some large leasing actions, had problems that included potential violations of laws and regulations, pricing irregularities, and violations of policies and procedures. In our opinion, the leasing problems occurred primarily as a result of the customer agencies' lack of expertise in performing lease procurements and because the agencies failed to report lease details to GSA officials and obtain assistance from GSA.

Currently, GSA has been working to improve its oversight of lease delegations and developed a draft outline for a new oversight plan. To prevent the problems identified in this report would require oversight of customer agencies during the lease award process as well as approval of the lease and any amendments. However, this

monitoring and oversight would be excessive, especially considering that this program does not result in any fees that could be used to fund the necessary oversight.

As a result, to prevent future violations of laws and policies as well as excessive leasing costs, we believe that PBS should modify the POC program to institute controls that will limit future delegations of leasing authority to customer agencies. For example, PBS should consider limiting its delegations of multi-year lease authority for general-purpose office space procurements to a specific square footage threshold (i.e., 10,000 sq. ft.) and establish controls commensurate with the risks at that threshold. For space requests such as parking, warehouse space, land, or special-purpose space, GSA should also establish limits on the delegations of authority it will grant; however, the basis may differ from that of general-purpose office space.

Recommendations

We recommend that the Commissioner, Public Buildings Service;

1. Establish threshold limits for the delegation of GSA's lease authority to other agencies.
2. Implement management controls over delegated leases that are commensurate with risks associated with the delegations.

Management Comments

In his August 22, 2007, comments to the draft report, the Commissioner concurred with the recommendations. The Commissioner's comments to the draft report are included as Appendix C of this report.

Internal Controls

Our review of documentation for compliance determined that in general, customer agencies had little or no internal control structures to ensure that the leasing actions performed by the agencies under delegations of authority from GSA complied with applicable laws, regulations, and policies and procedures.

Report Qualification

The review results are based on data provided by PBS Central Office, OGP, and PBS regional offices that was sometimes inconsistent, duplicative, or incomplete. However, we found no information that led us to believe the universe from which our sample was taken was materially incorrect. As a result, we believe that the sample of delegated leases that we selected provided an adequate basis for the review findings.

APPENDICES

REVIEW OF PUBLIC BUILDINGS SERVICE'S
DELEGATIONS OF AUTHORITY TO LEASE SPACE
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APPENDIX A
Sample Delegated Leasing Actions Reviewed (1)

Agency	Lease Location	Delegated Sq. Ft. (2)	Actual Sq. Ft. (2)	Type of Space	Notes
DOD	San Antonio, TX	Not Specified	326,528	Warehouse/Office	(3)
DOD	Lackland AFB, TX	Not Specified	6 Units	Student Housing	(4)
DOD	San Antonio, TX	130,000	118,567	Office	(5)
DOD	San Antonio, TX	70,000	75,136	Office	(6)
DOD	San Antonio, TX	42,300	51,000	Office	(7)
DOD	San Antonio, TX	18,500	28,901	Office	(8)
DOD	Irving, TX	22,245	22,245	Office	(9)
DHS	Glynco, GA	Not Specified	400,000+	Dormitories	(10)
DOI	Albuquerque, NM	106,000	140,000	Office	(11)
DOI	Harahan, LA	28,000	28,311	Warehouse	(12)
DOI	Tucson, AZ	Not Specified	50,247	Warehouse/Office	(13)
DOI	Sacramento, CA	26,000	47,412	Office	(14)
DOI	Albuquerque, NM	Not Specified	160,455	Office	(15)
DOI	Washington, DC	50,000	31,520	Office	(16)
DOI	Reston, VA	30,000	18,064	Office	(17)
DOJ	Bennettsville, SC	37,000	45,000	Warehouse	(18)
Treasury	St. Petersburg, FL	30,426	30,426	Office	(19)
Treasury	San Bernardino, CA	40,796	40,796	Office	(20)
VA	Phoenix, AZ	Not Specified	95,558	Office	(21)
VA	Atlanta, GA	24,947	51,296	Office	(22)
NARA	Atlanta, GA	Not Specified	350,000	Warehouse/Office	(23)
NARA	Fort Worth, TX	255,445	205,462	Warehouse/Office	(24)
NARA	Perris, CA	Not Specified	183,194	Warehouse/Office	(25)
USDA	Albuquerque, NM	75,000-90,000	117,172	Office	(26)
USDA	Salem, AR	Not Specified	2,696	Office	(27)

Notes:

- (1) This appendix presents a listing of twenty-five delegated leasing actions that we reviewed and a brief description of the review results.
- (2) The delegated square feet (sq. ft.) was the square footage noted in the Public Buildings Service (PBS) delegation of authority letter and the awarded sq. ft. represents the total sq. ft. for the lease (either documented on award documentation or through a supplemental lease agreement (SLA)).
- (3) On March 20, 2002, PBS granted authority to the Department of Defense (DOD) Air Force Medical Logistics Office (AFMLO) to procure warehouse space in San

Sample Delegated Leasing Actions Reviewed (cont.)

Antonio, TX. AFMLO requested that Veterans Affairs Special Services (VASS) procure this lease on its behalf and on April 16, 2003, VASS awarded a lease for 248,513 sq. ft. of warehouse and office space (mostly warehouse) for the AFMLO for a term of five years, with one five-year option. While some requested documentation was not provided, we did not find reportable conditions for this lease.

- (4) The request for delegation of authority for this lease came from the Transportation Security Administration. The January 12, 2004, agreement provides for housing for up to 108 civilian police officers per year for training at a rate of \$83.00 per day per unit. The term of this agreement was from October 1, 2004, through September 30, 2005. We did not find any reportable conditions related to this delegated leasing action.
- (5) The DOD Army Corps of Engineers (COE) awarded a lease on June 6, 2003, for 114,816 sq. ft. of office space at an annual net rent rate \$2,210,208 (\$24.50 per sq. ft.) for the United States Army South on the Fort Sam Houston Army base. This lease had numerous problems including potential prospectus violations and lease cost issues and is discussed in the body of the report.
- (6) The DOD COE awarded a lease on May 16, 2003, for the United States Army Medical Information Systems and Services Agency for 75,136 rentable sq. ft. of office space with annual rent of \$1,784,480 (\$23.75 per sq. ft.) on the Fort Sam Houston Army base. This lease had numerous problems including potential prospectus violations and lease cost issues and is discussed in the body of the report.
- (7) The DOD COE awarded a lease on July 3, 2003, for the Southwest Region Office/Installation Management Agency for 51,000 sq. ft. of office space on the Fort Sam Houston Army base. The annual rent on this lease was \$1,249,500 or \$24.50 per sq. ft. This lease had numerous problems as discussed in the body of the report.
- (8) The DOD COE awarded a lease on September 22, 2004, for the Defense Contract Management Agency for 28,901 sq. ft. on the Fort Sam Houston Army base at an annual rental of \$686,399 or \$23.75 per sq. ft. This lease had numerous problems and is discussed in the body of the report.
- (9) The DOD COE awarded this lease on September 1, 1999, for 22,245 sq. ft. of office space in Irving, TX for the Defense Contract Audit Agency (DCAA). This five-year lease was awarded to the current lessor at rental rates that were higher than the previous lease that DCAA had with GSA. DCAA obtained an additional delegation of authority to lease space and entered into a 22,245 sq. ft. lease at the same property for the period October 1, 2005 through September 30, 2006, with four one-

Sample Delegated Leasing Actions Reviewed (cont.)

- year options. In addition to the possible rental rate issues, the lease file did not include some required documentation.
- (10) Under a single delegation of authority from GSA, the Department of Homeland Security (DHS) awarded a lease on April 18, 2001, for ten acres of land and a 134,100 sq. ft. facility to provide a 300-room dormitory for the Federal Law Enforcement Training Center in Glynco, GA. DHS then awarded two additional leases for dormitories on same property. As discussed in the body of the report, we believe that this leasing action violated prospectus limitations.
- (11) The Department of the Interior (DOI) Bureau of Indian Affairs (BIA) was delegated authority to lease a total of approximately 106,000 sq. ft. in Albuquerque, NM. On June 20, 2004, BIA procured a lease for 140,000 sq. ft. of office space for a twenty-year firm term at an initial annual rental of \$3,026,800 or \$21.62 per sq. ft. This leasing action had numerous issues including, potential prospectus violations, high cost of tenant improvements, exceeding the delegation of authority, and missing lease file documentation.
- (12) DOI Mineral Management Service awarded a lease on September 30, 2005, for 28,311 sq. ft. of warehouse/storage space for a term of twelve months. This lease delegation was granted in the aftermath of Hurricane Katrina. Although the lease file documentation was limited, it appeared that competition was not obtained for this procurement. In addition, the annual rental appeared to be excessive at \$382,198 or \$13.50 per sq. ft.
- (13) The DOI National Park Service awarded a twenty-year firm term lease on July 13, 2001, for 50,247 sq. ft. of office, storage, laboratory, and highly specialized repository space based on a PBS delegation of authority for 54,700 sq. ft. The lease was in Tucson, AZ, and the annual rental for this space was \$1,997,318 or \$39.75 per sq. ft. Although the rental rate is very high, this could be due to the cost of building the specialized space.
- (14) The DOI U.S. Geological Survey awarded a lease on March 1, 2004, for approximately 47,412 sq. ft. of office space in Sacramento, CA for a firm term of ten years at a rental of \$1,223,230 or \$25.80 per sq. ft. PBS delegated authority for 26,000 sq. ft. and as a result, the lease award specifications did not adhere to the PBS delegation. In addition, the lease file did not contain required documentation such as a price negotiation memorandum or an award evaluation.
- (15) DOI National Business Center (NBC) awarded a lease on November 2, 2001, for construction of a 160,000 sq. ft. building used for offices, records storage and related uses for a term of ten years at stepped rental rate. The rental rate for the first two years of the lease was \$2,560,600 or \$18.29 per sq. ft. for 140,000 sq. ft. and 20,000 sq. ft. at no cost. As discussed in the body of the report, we believe that the 20,000 sq. ft. was provided at no cost in an attempt to avoid prospectus requirements. However, we believe that this project still exceeded prospectus

Sample Delegated Leasing Actions Reviewed (cont.)

limitations. Also, this lease file did not include all the necessary documentation including an acquisition plan, market survey, appraisal, price negotiation memorandum, and a scoring analysis.

- (16) On August 22, 2002, DOI NBC awarded a ten-year lease for 9,950 sq. ft. of office space in Washington, DC with rent of \$465,163 or \$46.75 per sq. ft. for the first year. Four SLAs have been issued increasing office space to 31,520 sq. ft., adding parking spaces, and increasing the base rent to approximately \$1,482,524 or \$47.03 per sq. ft. Lease file documentation including a market survey, appraisal, solicitation for offers, price negotiation memorandum, documentation for urgent and compelling need, and required security and fire/safety documentation was not provided.
- (17) DOI NBC awarded a five-year lease on July 2, 2003, for 8,425 sq. ft. of office and related space in Reston, VA at an annual rent of \$181,643 or \$21.56 per sq. ft. Three SLAs have been issued increasing the lease to 18,064 sq. ft., exercising the optional five-year extension, and increasing the annual rent to approximately \$449,782 or \$24.90 per sq. ft. Lease file documentation including an appraisal, price negotiation memorandum, documentation for urgent and compelling need, and required security and fire/safety documentation was not provided.
- (18) Department of Justice Bureau of Prisons awarded a lease on November 29, 2005, for 45,000 sq. ft. of storage space at an annual rental rate of \$3.60 per sq. ft. Although we found several areas of non-compliance such as exceeding the PBS authorized amount of square feet and incomplete file documentation, this lease was for a very short term and was leased by the month (initially, by the day) and as a result, this leasing action was not material.
- (19) On July 16, 2006, Department of the Treasury (Treasury) awarded a five-year lease for 30,426 sq. ft. of office space in St. Petersburg, FL, for a term of five years with annual stepped-rent starting at \$517,242 (\$17.00 per sq. ft.) for year one to \$593,916 (\$19.52 per sq. ft.) for year five. We noted this was a sole source award to the incumbent lessor at a higher rental rate (the previous rent from GSA was \$16.58 per sq. ft., which included the GSA fee of eight percent).
- (20) On October 11, 2006, Treasury awarded a lease in San Bernardino, CA for 40,796 sq. ft. of office space for a term of five years at a rental of \$763,701 or \$18.72 per sq. ft. This was also a sole source award to the incumbent lessor.
- (21) On October 12, 2001, the Department of Veterans Affairs (VA) awarded a twenty-year lease in Phoenix, AZ for 95,558 net useable sq. ft. of office and related space for an annual rental of \$2,173,945 or \$22.75 per net useable sq. ft. As discussed in the body of the report, the Congressional committees approved a prospectus for this lease for a maximum of fifteen years and the VA awarded this lease for a firm term of twenty years.

Sample Delegated Leasing Actions Reviewed (cont.)

- (22) The VA awarded a lease on September 9, 2003, for 27,429 sq. ft. of office space for a term of five years in Atlanta, GA. Through SLAs, the square footage of this lease was increased to 51,296. The lease file documentation indicated that VA had not received a delegation of authority for this leasing action.
- (23) On August 15, 2003, National Archives and Records Administration (NARA) awarded a twenty-year lease for a new records center facility in Atlanta, GA for 350,000 sq. ft. of warehouse and office space at a full annual rental of \$2,240,070 or \$6.40 per sq. ft. We did not find any reportable conditions related to this delegated leasing action.
- (24) NARA awarded a twenty-year lease on May 16, 2005, for 161,256 sq. ft. of warehouse and office space to be constructed in Fort Worth, TX, at a full annual rental of \$1,612,560 or \$10.00 per sq. ft. We did not find any reportable conditions related to this delegated leasing action.
- (25) NARA awarded a twenty-year lease on September 15, 2003, for 183,194 sq. ft. of warehouse and office space to be constructed in Perris, CA at a full annual rental of \$2,273,438 or \$12.41 per sq. ft. We did not find any reportable conditions related to this delegated leasing action.
- (26) The Department of Agriculture (USDA) awarded a ten-year lease on October 5, 2004, for 84,380 sq. ft. of office and basement storage space in Albuquerque, NM at an annual rental of \$1,616,805 or \$19.16 per sq. ft. The PBS September 30, 2004, delegation letter grants authority to USDA to lease space for 75,000 - 90,000 sq. ft. However, after award, USDA increased the space to 117,172 sq. ft. There was no documentation indicating that USDA had these increases in square footage approved through GSA. In addition, the lease file was not complete in that it did not contain supporting documentation such as a price negotiation memorandum.
- (27) USDA awarded a lease for office space on February 1, 2003, for a term of five years for 2,696 sq. ft. of office space in Salem, AR. This lease was selected for review because the list of delegated leases did not show a square footage amount. We did not find any reportable problems with this delegated leasing action.

REVIEW OF PUBLIC BUILDINGS SERVICE'S
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APPENDIX B

Sample Lease Delegations That Were Not Reviewed or Did Not Result in a Lease (1)

Agency	Agency/Bureau	Lease Location	Sq. Ft. per Listing	Notes
DOD	COE/USARSO	N/A	130,000	(2)
DOD	COE	Ft. Sam Houston, TX	94,000	
DOD	COE	Ft. Sam Houston, TX	75,136	
DOD	US Army/Air Force Exchange	N/A	60,000	(2), (3)
DOD	AAFES	Dallas, TX	60,000	
DOD	COE/USAIMA	N/A	42,300	(2)
DOD	Navy	San Diego, CA	56,000	(4)
DOD	Navy	El Cajon, CA	27,068	(5)
DOD	COE (Defense Finance)	Texarkana, AR	50,000	(6)
DHS	Customs	Orlando, FL	48,000	(7)
DOI	NPS	N/A	52,241	(2)
DOI	Interior–US Geological Society	Sacramento, CA	47,412	(2)
DOI	DOI–National Business Center	Reston/Springfield, VA	70,000	(8)
DOI	Bureau of Reclamation	Austin, TX	65,678	(9)
DOI	DOI	N/A	50,475	(10)
DOI	DOI	N/A	35,000	
DOI	DOI	N/A	25,000	
DOJ	DOJ/Bureau of Prisons	Bennettsville, SC	37,000	(2)
DOJ	U.S. Attorneys	Charlotte, NC	5 parking spaces	(11)
DOJ	Justice Management Division	Washington, DC	Parking garage	(11)
Treasury	Department of Treasury	N/A	40,000	(12)
Treasury	IRS	El Monte, CA	63,750	(13)
VA	VA	New Orleans, LA	150 parking spaces	(14)
VA	Veterans	N/A	45,000	(15)
NARA	NARA	East Point, GA	300,000	(2)
NARA	Archives – NRF	Fort Worth, TX	161,256	(2)
USDA	USDA–NRCS	Batesville, AR	N/A	(16)
USDA	USDA – Forest Service	Bishop, CA	78.2 acres	(17)

Notes:

- (1) This appendix presents a summary of the delegated leasing actions that were in our sample but that either did not result in an actual leasing action or that we were not able to review for the reasons noted.
- (2) Based on the information that we used to compile the universe of delegated leasing actions, we believed that these entries represented separate delegated leasing actions. However, during our review we determined that these were duplicate entries for the same delegated leasing action.

Sample Lease Delegations That Were Not Reviewed or Did Not Result in a Lease
(cont.)

- (3) We did not review this delegated leasing action because the customer agency failed to provide the file documentation we requested.
- (4) This delegated leasing action was eventually cancelled and the space was provided under a contract to provide a Navy Marine Corps Intranet (NMCI) Help Center under an NMCI contract with Electronic Data Systems.
- (5) According to Department of Defense (DOD) Naval Facilities Engineering Command officials, the Department of Veterans Affairs procured this build-to-suit medical center for the Navy with authority under the Economy Act. Therefore, this action was not conducted under a GSA delegation of authority to lease space and we did not review this action.
- (6) DOD Army Corps of Engineers (COE) officials stated that the 50,000 square feet (sq. ft.) lease for the Defense Accounting and Finance Service (DFAS) in Texarkana, AR has not been executed due to DFAS changing its mind about leasing the space.
- (7) While a delegation of authority was granted, Department of Homeland Security (DHS) officials stated that the lease for 48,000 sq. ft. in Orlando, FL was not executed due to a change in mission requirements and the space was no longer needed.
- (8) Department of the Interior (DOI) officials stated that while a delegation of authority was obtained, the lease for 70,000 sq. ft. in Reston/Springfield, VA was not executed.
- (9) DOI officials stated that the square footage noted on our sample for the Bureau of Reclamation (BOR) lease of 65,678 sq. ft. in Austin, TX is incorrect. The actual square footage for this lease is 4,942 sq. ft. While we did have a listing in the FY 2004 Office of Governmentwide Policy listing for a lease with the BOR for 4,942 sq. ft., we did not review this lease in depth because of the small size of the lease.
- (10) Regional Public Buildings Service (PBS) officials stated that no delegation of authority letters exist for the listings of 50,475 sq. ft., 35,000 sq. ft., and 25,000 sq. ft. for DOI. In addition, DOI officials could not provide any information on these entries. Accordingly, we did not review information for these entries.
- (11) Department of Justice officials stated that while delegations of authority were granted, the leases for 5 parking spaces in Charlotte, NC and a parking garage in Washington, DC were not executed.

Sample Lease Delegations That Were Not Reviewed or Did Not Result in a Lease
(cont.)

- (12) Department of Treasury (Treasury) officials stated that although a delegation of authority was granted, the lease for 40,000 sq. ft. was not executed. Treasury officials further stated that GSA eventually procured this lease for them.
- (13) The Treasury lease for 63,750 sq. ft. in El Monte, CA has not been awarded as of February 15, 2007, and, therefore, our review was limited. Treasury officials stated that they have received one offer for this lease.
- (14) Department of Veterans Affairs officials told us that the lease for 150 parking spaces in New Orleans, LA was not executed.
- (15) This delegation leasing action could not be verified as an actual lease delegation action and as a result, we replaced this entry in the sample with a 24,947 sq. ft. lease delegated action in Atlanta, GA that we did review.
- (16) Although the compiled listing of delegated leases had an entry for the Department of Agriculture (USDA) in Batesville, AR, we determined that the space occupied by USDA is located in a GSA-controlled building.
- (17) The USDA Forest Service lease for 78.2 acres was procured under USDA's standing authority to lease special purpose space. Since the focus of our review was on general-purpose office

REVIEW OF PUBLIC BUILDINGS SERVICE'S
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APPENDIX C
Management Comments



GSA Public Buildings Service

AUG 22 2007

MEMORANDUM TO ARTHUR L. ELKIN
REGIONAL INSPECTOR GENERAL FOR AUDITING (JA-6)

FROM: DAVID L. WINSTEAD
COMMISSIONER (P) *David L. Winstead*

SUBJECT: Draft Report: Review of Public Buildings Service's Delegations of
Authority to Lease Space, Report Number A060082

The Public Buildings Service (PBS) appreciates the opportunity to comment on the Office of Inspector General's (OIG's) draft audit report referenced above. The report contained a number of findings and made two recommendations. PBS agrees with the need to improve our oversight of the leasing delegation activities of other agencies to ensure compliance with realty contracting laws, regulations, Executive orders, and procedures. In general, it is difficult for us to comment on the specifics contained in the audit report. This is especially true concerning the facts and findings related to the particular leases reviewed by the OIG auditors, because we do not have copies of those leases and have not reviewed them. PBS otherwise agrees with the findings and recommendations of the draft report, except as noted here and below. Upon issuance of the final report, PBS will work on implementation of OIG's recommendations.

We share your concern over potential violations of the prospectus statute (40 U.S.C. 3307) by our customers. However, PBS does not believe the report provides sufficient information to determine whether agencies have complied with the requirements to submit a prospectus for any of the particular lease acquisitions that were audited based on the factors of projected rent and dollar thresholds that trigger prospectus submission. Examples of lump sum payments for tenant improvements that were cited in the report may or may not be an indication of a possible violation. This would depend largely on what the lump sum payments actually were buying.

Further, the section, Report Qualification, on page 10 of the report states that PBS Central Office, Office of Governmentwide Policy (OGP), and the PBS regional offices have data that were "sometimes inconsistent, duplicative, or incomplete." It should be noted that OGP and PBS rely on different reporting criteria for their data. PBS collects information on general purpose leasing delegation authorizations that allow the agencies to procure their own space. This ultimately may or may not result in a lease award. OGP collects data on actual lease awards. In addition, at the start of the "Can't Beat GSA" leasing program, OGP collected data only on general purpose leasing

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Management Comments (cont.)

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delegations. After the issuance of FMR (Federal Management Regulation) Bulletin 2005-B1, OGP began collecting data on all three types of leasing delegations (categorical, special purpose, and general purpose).

With respect to your recommendation to establish threshold limits for the delegation of general purpose leasing authority, in the absence of a clear recommendation on the appropriate threshold, we are considering this and intend to establish some threshold.

We will perform oversight through post award file reviews of delegated lease actions and act appropriately where agencies misuse the delegation or fail to comply with applicable laws, regulations, Executive orders, and GSA policies and procedures.

Again, thank you for the opportunity to respond on the draft report. Should you have any questions, please contact Tony Costa, Deputy Commissioner, PBS, on (202) 501-1100.

cc: ✓ Rolando N. Goco
Deputy Assistant Inspector General for Auditing
Real Property Audit Office (JA-R)

REVIEW OF PUBLIC BUILDINGS SERVICE'S
DELEGATIONS OF AUTHORITY TO LEASE SPACE
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APPENDIX D
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