

15 FAM 300 LEASED SPACE ABROAD

15 FAM 310 GENERAL POLICY AND GUIDELINES

(CT:OBO-27; 03-08-2012)
(Office of Origin: OBO)

15 FAM 311 AUTHORITY AND SCOPE

15 FAM 311.1 Authority

(CT:OBO-27; 03-08-2012)

- a. **General:** The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 291 *et seq.*; the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2396); and *Department of State Delegation* of Authority Numbers 114 (State).
- b. **Post leasing authority:** Authority to execute, renew, and amend real property leases abroad is held by the Director of the Bureau of Overseas Buildings Operations (OBO), through the Secretary of State, under the Foreign *Service* Buildings Act of 1926, as amended (22 U.S.C. 291 *et seq.*). The *general services officer* or *management officer* executes leases at post. In the absence of the general services officer or management officer, post must request authorization from the *Directorate of Planning and Real Estate* in the Bureau of Overseas Buildings Operations (*OBO/PRE*) for another embassy officer to sign the lease. Other authority to execute, renew, or amend short- or long-term leases and to manage U.S. Government-owned property for the U.S. Agency for International Development (USAID) is delegated by USAID to mission directors and executive officers per *the* Automated Directives System (*ADS*), *specifically* ADS 535.2 and ADS 103.3.21.

15 FAM 311.2 Scope

(CT:OBO-27; 03-08-2012)

This subchapter applies to all short-term leases (STLs) and long-term leases (LTLs), executed in the name of the U.S. Government, of real properties for residential, office, and other functional space for the use of the Department of State, *foreign affairs agencies*, and other U.S. Government agencies represented at post, and their employees. LTLs are treated as acquisitions for programming, authorization, and funding purposes, but the documentation for LTL proposals and the LTL contract is governed by leasing regulations in this subchapter. Detailed procedures and guidelines are *addressed* in 15 FAM 300 through 15 FAM 350. Questions or comments on these policies should be directed to OBO/PRE for State. For USAID, contact the Overseas Management *Division, Office of Management Services*, Bureau for Management, USAID/Washington (USAID/W - *M/MS/OMD*).

15 FAM 311.3 Leasehold Management

(CT:OBO-27; 03-08-2012)

- a. OBO provides each post with a funding target for *both* the State program *and International Cooperative Administrative Support Services (ICASS)* leasehold *accounts* based on post's budget submissions (initial baseline plus additional requirements planned). All leases exceeding the funding target require notification to and approval by OBO, regardless of size or cost (i.e., even if *the leases* are under \$25,000 *per year; or under the rental benchmarks for post; or within space standards for the employee occupying the property for which post needs additional funding*).
- b. Requests for new State program functional (nonresidential) leases are strictly prioritized and weighed against other requirements, both regionally and worldwide. Posts must provide sound justifications for any new lease requests and be prepared to consider alternatives if funding is not available or is delayed.
- c. *The Office of Real Property Management in the Directorate of Planning and Real Estate (OBO/PRE/RPM) manages the OBO 7400 leasehold account. This consolidates oversight of lease waivers, management of the Real Property Application (RPA) database, control of real property records and archives, and funding for leased real property in a single office.*

15 FAM 311.4 Major Leases

(CT:OBO-27; 03-08-2012)

Major leases (functional and nonfunctional): *In order to protect the financial interest of the Department when leasing property, the Department*

must obtain appraisals or other appropriate documentation, such as a market study or field research, for the acquisition and renewal of major leases. Major leases are defined as those having an annual rent greater than \$500,000, or an aggregate lease liability greater than \$2 million over the initial term of the lease, including anticipated increases. This requirement also applies to any portfolio of similar properties that are leased at the same time and place that, in the aggregate, meet these criteria:

- (1) Appraisals, market studies, or other research for major lease acquisitions or renewals should be ordered prior to the lease negotiations with enough time for the Department to make a credible business decision while maintaining the leverage and ability to pursue alternative properties, if necessary. The time required for the procurement of appraisals and market studies is 60 to 90 days. This research is funded from the OBO/PRE program budget;*
- (2) There are cases when operational, security, or other circumstances require paying more than the values identified by the appraisal. This requirement does not affect the Department's ability to take into account special circumstances such as unique relocation costs, specialized improvements involved in particular renewals, or new leases;*
- (3) Questions regarding this requirement or scopes of work to procure appraisals or market studies, et al, should be directed to the Office of Master Planning and Evaluations, in the Directorate of Planning and Real Estate, in the Bureau of Overseas Buildings Operations (OBO/PRE/MPE); and*
- (4) This appraisal requirement may be waived by OBO/PRE/MPE, if the cost of the appraisal appears high relative to the amount at stake; if only a single credible appraisal can be obtained; if local conditions and experience indicate no credible appraisals can be obtained; or if it is in the best interests of the U.S. Government based on the facts and circumstances.*

15 FAM 312 LEASING POLICY

15 FAM 312.1 Long-Term Leasing Authority

(CT:OBO-27; 03-08-2012)

As single real property manager (SRPM), the Department of State signs lease contracts and manages all long-term leases (LTLs) for U.S. diplomatic and consular missions, with the exception of some USAID leases. LTLs

require prior Bureau of Overseas Buildings Operations (OBO) approval or, for USAID leases, the approval of the Overseas Management *Division, Office of Management Services*, Bureau for Management, USAID/Washington (USAID/W - *M/MS/OMD*).

15 FAM 312.2 Leases for Functional Space

(CT:OBO-27; 03-08-2012)

- a. *All leases* of functional space, *regardless of the annual rental cost, must be approved* by OBO and the funding agency's Washington headquarters. Leasing functional space for a facility at a new post, relocating a major *facility* at an existing post, or leasing shared space must be approved by all agencies involved. Posts must submit requests and proposals to OBO, the regional bureaus, and the parent agencies, following the procedures outlined in 15 FAM Exhibit 312.2. USAID leases signed by the executive officer or mission director require prior approval by USAID/W - *M/MS/OMD*; OBO approval is not required. (See also collocation policy in 12 FAH-5, Physical Security Handbook.)
- b. Before leasing additional space, posts must consider property that the U.S. Government already owns, leases, or otherwise controls.

15 FAM 312.3 U.S. Government Leasing and Living Quarters Allowance (LQA) Programs

(CT:OBO-27; 03-08-2012)

Posts must obtain OBO, regional bureau, and parent agency approval before initiating or reestablishing a U.S. Government leasing program for residential quarters or a living quarters allowance (LQA) program (see 15 FAM 314).

15 FAM 312.4 Lease Costs and Funding

(CT:OBO-27; 03-08-2012)

All long-term leases (LTLs) *must* establish fixed rental rates for the entire term of the lease *to the extent possible*. Funding responsibilities for short-term leases (STLs) and *long-term leases* (LTLs) are found in 15 FAM 160, 15 FAM 633, and 15 FAM 650.

15 FAM 312.5 Security

(CT:OBO-27; 03-08-2012)

New and renewed residential leases, including those funded by living quarters allowances (LQAs) or overseas housing allowances (OHAs), must meet security *standards* established by the Bureau of Diplomatic Security (DS) and must be approved by the regional security officer/post security officer (RSO/PSO); see 12 FAM 330. New and renewed leases for office and other functional space also require approval by the Bureau of Diplomatic Security and the parent agency's office of security.

15 FAM 312.6 Safety, Health, and Environment

(CT:OBO-27; 03-08-2012)

- a. When residential properties are leased (either a new lease or a lease renewal), the property must meet Department safety, health, and environmental requirements established by the *Office of Safety, Health, and Environmental Management*, in the *Directorate of Operations*, in the Bureau of Overseas Buildings Operations (*OBO/OPS/SHEM*; see 15 FAM *252.5*) and must be certified by the post occupational safety and health officer (POSHO) before occupancy. In addition, the Department's residential safety, health, and fire prevention awareness checklist contains additional guidelines to assist POSHOs in assessing properties for safety, health, and environmental concerns.
- b. New and renewing leased facilities for functional space *must* also be assessed by the POSHO to identify any safety, health, or environmental problems and to ensure that hazards are abated before occupancy.

15 FAM 312.7 Short-Term Leasing Authority

(CT:OBO-27; 03-08-2012)

- a. All short-term leases (STLs) must be executed by the post general services officer or management officer, or by other post administrative personnel as authorized by *OBO*, except for certain USAID-managed leases.
- b. All leased buildings *must* conform to local structural, safety and health, fire, and building codes and/or requirements.
- c. All leases for other agencies require prior parent agency approval (except for certain renewals and *Department of Commerce leases*; see paragraphs e and f in this section) and must be executed following the procedures for Department of State leases.
- d. Prior OBO approval for Department of State, or USAID/W - *M/MS/OMD* for

USAID, is required in the circumstances listed below (see detailed guidelines in 15 FAM 320). The limitation applies to both the Department of State and USAID unless otherwise designated:

- (1) Rental costs *that* exceed the *following must be approved by OBO or USAID:*
 - (a) *The maximum allowable amount of \$50,000 per year;*
 - (b) *The rental benchmarks established by the Rental Benchmark Program;*
 - (c) *The space standards maximum regardless of the rental costs;
or*
 - (d) *For posts that do not have established rental benchmarks, all leases exceeding \$25,000 per year;*
- (2) *The lease requires an advance payment that exceeds 12 months (State) or that exceeds 18 months or extends beyond the end of the next fiscal year, whichever is the shorter period (USAID);*
- (3) *The lessor has requested offshore payments;*
- (4) *The lessor will construct or substantially alter leased premises to U.S. Government specifications;*
- (5) *The lease contains a nonstandard clause or otherwise deviates from the model lease (15 FAM Exhibit 341B);*
- (6) *The time period between lease execution and estimated occupancy exceeds three months;*
- (7) *Rents to be paid under the lease will be assigned to a third party or other creditor, not the owner;*
- (8) *The rent cannot be funded from current post-held allotments;*
- (9) *Funding is by another agency that requires prior approval;*
- (10) *The lease is for other than residential space (e.g., functional or recreational space);*
- (11) *The post has not previously had a residential leasing program, or is reestablishing a previously discontinued program;*
- (12) *The lease is for 10 years or longer (i.e., is not a short-term lease);*

(13) The lease is for housing to be used as temporary or transient quarters (new and renewal leases); or

(14) The lease is for designated residences.

- e. STLs executed for the Department of Commerce (DOC) require prior DOC/Washington approval regardless of cost, except for renewals occurring automatically under the initial lease terms.
- f. STLs executed for the Defense Intelligence Agency (DIA) require prior DIA headquarters (HQ) approval. This requirement applies to all leasing actions abroad including lease renewal and termination.

15 FAM 312.8 Waivers and Approvals for Short-Term Leases (STLs)

15 FAM 312.8-1 Leases with Rents Exceeding Allowable Amount

(CT:OBO-27; 03-08-2012)

- a. **Authority:** Under 22 U.S.C. 301 and Secretary of State Delegation of Authority No. 114, *dated January 18, 1967*, any short-term lease (STL) in the name of the United States of America requiring an annual payment in excess of \$50,000 and any lease which will cross the \$50,000 per year threshold during the term of the lease must be approved by the Secretary of State, the Under Secretary for Management (M), or the *OBO* Director, and reported to Congress. By law, this authority cannot be delegated *other than to M or the Director of OBO*.
- b. **Approval required:** Leases in the name of the United States of America that exceed \$25,000 *per year, or the rental benchmarks for post*, require prior approval, notwithstanding the increase to \$50,000 *provided* by Public Law 102-138, *which amended 22 U.S.C. 301*. Authority to grant approvals or waivers of this requirement is vested in OBO for the Department of State for all personnel under the authority of the chief of mission (COM), except USAID. USAID/W - *M/MS/OMD* acts for USAID (providing approval and oversight) *for leases signed by USAID officials*. The prior approval requirement applies *also* to lease renewals that exceed \$25,000, *or the rental benchmarks for post*, including leases initially approved. See 15 FAM 320 for procedures for requesting approval.

15 FAM 312.8-2 Residential Leases Exceeding Space Standards

(CT:OBO-27; 03-08-2012)

- a. **General policy:** Any lease for residential housing must be within the space standards in 15 FAM 237, or be justified on the basis of cost effectiveness. *There must be lease waiver approval for any leases that exceed standard assignments, regardless of cost. This policy applies* to all agencies represented at post. U.S. Government leases that exceed the space standards require waivers or prior approval of OBO for the Department of State, or USAID/W - *M/MS/OMD* for USAID.
- b. **Other waivers and approval requests:** *Posts must request approval of leases for properties that exceed space standards under the circumstances listed in 15 FAM 320.*

15 FAM 312.8-3 Procedures for Requesting Approval of Short-Term Leases (STLs)

(CT:OBO-27; 03-08-2012)

Guidelines and procedures for requesting waivers or approval of short-term leases (STLs) are found in 15 FAM 320.

15 FAM 313 ADDITIONAL LEASING REQUIREMENTS

15 FAM 313.1 Alterations, Improvements, and Repairs to Short-Term Lease (STL) Properties

(CT:OBO-27; 03-08-2012)

- a. Within the limitation of funds provided by the regional bureau, the Bureau of International Organization Affairs (IO), or parent agency for this purpose, missions are authorized to accomplish minor alterations, improvements, and repairs (known as "make-ready") when a lease is initially acquired or reassigned, provided structural alterations to the building are not involved. Such make-ready costs, if approved at the post level, *must* not exceed \$5,000 and may also be subject to additional limitations established by the regional bureau, IO, or parent agency. Make-ready work estimated to exceed the established limitation must have prior approval of the funding agency in Washington, DC. Security improvements (e.g., grillwork, installation of solid core doors) are not considered make-ready costs and are funded by the Bureau of Diplomatic Security (DS); see also 15 FAM 160 and 15 FAM 633.

- b. Since preparations for occupancy increase the property's value, they should be lessor-financed. Post funding of make-ready work should be the last resort after all other alternatives have been considered. These include negotiation with the lessor to perform alterations, assume all or part of the make-ready costs, or agree to a reduction in the rental rate. The post should not expend *Diplomatic* and *Consular Programs (D&CP)* funds for this purpose until attempts to have the lessor finance the preparations have been exhausted.
- c. *Any cost for required alterations must not be included as an additional cost in the rent. If the landlord agrees to perform the work, it either must be done within the previously agreed upon rental rate or funded separately by the post, agency, or DS, or a combination of these sources.*

15 FAM 313.2 Preference for 5-Year Minimum Term

(CT:OBO-27; 03-08-2012)

Posts *must* make every effort to retain appropriate housing under leases of 5 years or more to realize maximum cost-benefit, *to* amortize make-ready and security upgrade costs, and *to* facilitate negotiation of more favorable lease terms.

15 FAM 313.3 Leases of Designated Residences

(CT:OBO-27; 03-08-2012)

Posts must have prior OBO approval of new leases for residences of the ambassador, deputy chief of mission, consul general (when principal officer), U.S. representative to an international organization abroad (when principal officer), and Marine security guards. Posts *must* carefully consider these leases since they normally involve significant costs for additional furniture, furnishings, appliances, and equipment as well as unbudgeted costs associated with the move. *All new or replacement designated residences must meet the Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq) to the extent possible.*

15 FAM 313.4 Letters of Intent to Lease

(CT:OBO-27; 03-08-2012)

Since the legality of letters of intent varies significantly from country to country, all letters of intent must be submitted to OBO for approval before

issuance. For letters of intent concerning leases to be executed by USAID, USAID *missions must initially consult with their respective regional legal advisor.*

15 FAM 313.5 Retention of Leases Vacant Between Occupants

(CT:OBO-27; 03-08-2012)

In recognition of particular factors in a host country that necessitate a U.S. Government leasing program, post management is authorized to retain leases on units that *might* be left vacant for short periods (not to exceed 90 days unless approved by OBO) between transfers of employees if post deems it in the best interests of the U.S. Government. (See 15 FAM 160 for funding responsibilities.)

15 FAM 313.6 Parking for Privately Owned Vehicles (POVs)

(CT:OBO-27; 03-08-2012)

- a. Garage or parking space for one privately owned vehicle (POV) may be leased at U.S. Government expense for employees occupying U.S. Government-owned/long-term leased (GO/LTL) or short-term leased (STL) residential property, if the residence does not include such facilities. Parking spaces for POVs are not authorized for individual Marine guard watchstanders.
- b. *When approved by the head of agency, as necessary to provide to employees on living quarters allowance or overseas housing allowance (LQA/OHA), authorization is given to rent garage space for one POV per the allowance rate set in the Department of State Standardized Regulations, (DSSR), Subchapter 130, Living Quarters Allowance, Section 131.2, regardless of whether such space is included with the quarters. (See DSSR, U.S. Government Civilians, Foreign Areas, Chapter 100, and the Office of Allowances in the Bureau of Administration.)*
- c. POV parking at the workplace is not a U.S. Government obligation, either in Washington, DC or abroad. If such parking facilities are not otherwise available, the post employee association may acquire such space for leasing to employees.
- d. For security reasons, the Department of State strongly discourages parking POVs in a U.S. Government-held facility unless the vehicles can

be adequately screened. If the regional security officer/post security officer (RSO/PSO) determines that screening is not possible, and if the post still wishes to facilitate employee travel to and from work, alternatives to be considered include these:

- (1) When consistent with guidance in 14 FAM 562.2, the post may provide reimbursable home-to-office-to-home transportation for employees; and
- (2) An employee association may lease offsite parking for POVs and charge a fee to post employees. Such facilities *must* be located at least 100 feet from any U.S. Government office buildings. The Bureau of Diplomatic Security (DS) will consider funding security improvements, including guard services, lighting, closed-circuit televisions, and access controls.

15 FAM 313.7 Recreational Facilities

(CT:OBO-27; 03-08-2012)

- a. Post management may request approval and funding to acquire recreational facilities at hardship posts and at posts where recreational facilities for U.S. Government employees are nonexistent or very expensive (see 6 FAM 500 for detailed guidance). Post proposals for such facilities must be reviewed for security considerations and approved by the RSO/PSO and then submitted by the posts to the *Office of Real Property Management, in the Directorate of Planning and Real Estate, in the Bureau of Overseas Buildings Operations (OBO/PRE/RPM)* or for USAID facilities, USAID/W – *M/MS/OMD*, for technical review and funding consideration.
- b. Employee recreation associations may acquire recreational facilities with the approval of the *RSO/PSO*. OBO review of recreation association facilities is required where construction or placement of such facilities is proposed on U.S. Government-owned/long-term leased (GO/LTL) property, or where such construction or placement affect the boundary walls, access, or other aspect of neighboring GO/LTL property. *(See 6 FAM 524, paragraph b, and 6 FAM 526, paragraph a.)*

15 FAM 313.8 Rental Agents

(CT:OBO-27; 03-08-2012)

Although employing an agent to obtain a lease is not prohibited, the policy is to avoid this service and resulting cost where there is no cost advantage to

the U.S. Government. In any case, no fee *is to* be paid except to a reputable, licensed, and/or accredited rental agent and only in accordance with a recognized local practice, verified in advance of engaging the agent. Fees *might* be payable in full by the lessor, by the lessee, or divided between the two. Responsibility for payment of this fee must be determined in advance and in writing. Rental agents are paid from the same fund as the basic lease.

15 FAM 313.9 Thirty-Six Months' Notification

(CT:OBO-27; 03-08-2012)

Thirty-six months prior to the lease expiration of every functional and designated lease, each post must notify the Office of Building Acquisitions and Sales (OBO/PRE/BAS) and the Office of Real Property Management (OBO/PRE/RPM), in the Directorate of Planning and Real Estate, in OBO/PRE of post's intention regarding the lease upon its expiration. Options include terminate, extend, expand, reduce, consolidate with other space, renegotiate terms, increase/decrease landlord services, and upgrade the space.

15 FAM 314 GUIDELINES FOR ESTABLISHMENT OF U.S. GOVERNMENT LEASING PROGRAMS

(CT:OBO-27; 03-08-2012)

- a. In addition to or in place of U.S. Government-owned (GO), long-term leased (LTL), and living quarters allowance (LQA) housing existent abroad, posts *might* seek to establish a short-term lease (STL) housing program when one or more of the following conditions prevail: host-country laws prohibit individuals from leasing housing on their own; limited housing availability; difficult and complex local rental laws; or substantial make-ready and/or security upgrade funds are required to bring residential properties up to acceptable standards. Prior approval of each parent agency is required for conversion of its LQA housing.
- b. When requesting approval for a U.S. Government leasing program, posts *must* submit to the *Office of Real Property Management (OBO/PRE/RPM)* information on the following factors:
 - (1) Comparative costs of present and proposed housing programs;

- (2) Availability of suitable leased housing;
 - (3) Security;
 - (4) Employee productivity;
 - (5) Employee and family fire protection and life safety, comfort and morale; and
 - (6) The workload impact on the administrative staff, including need for additional positions, if any; an estimate of the average amount of staff time that will be spent negotiating and communicating with lessors; and increased travel and work time of general services office (GSO) personnel.
- c. Posts must also consider whether such leased quarters will be U.S. Government-furnished. The post should discuss funding of furniture, furnishings, appliances, and equipment (FFA&E) for new STL living quarters with the regional bureau and parent agencies.

15 FAM 315 THROUGH 319 UNASSIGNED

15 FAM EXHIBIT 312.2 LEASE WAIVER REQUEST FORMAT FOR FUNCTIONAL SPACE

(CT:OBO-27; 03-08-2012)

- a. All leases of functional (nonresidential) space whether new, renewal, or replacement, and regardless of size or cost, require the advance approval of the Department of State's Bureau of Overseas Buildings Operations (OBO), regional bureaus, Bureau of Diplomatic Security (DS), and the parent agency, if applicable.
- b. This exhibit lists the information and format required for submitting a request to OBO. For USAID-leased properties, send requests to the Overseas Management *Division, Office of Management Services*, Bureau for Management, *USAID/Washington (USAID/W – M/MS/OMD)*. This exhibit does not address requirements for long-term leases (LTLs)—10 years or more. Information required for LTLs is given in 15 FAM 332 and does not apply here.
- c. Posts must obtain approval of both OBO and DS's Project Coordination Branch in the Physical Security Division (DS/PSD/PCB) before signing a lease for functional space. Information that posts provide in accordance with the format below must go to both OBO and DS. DS's Physical Security Division in the Office of Physical Security Programs (DS/PSP/PSD) will advise posts if any additional information is required.
- d. For major leases as defined by 15 FAM 311.4, post must procure an appraisal, market study, or other research prior to submitting the Electronic Lease Waiver Request (E-LWR) as per paragraph f of this exhibit, or obtain permission from the Office of Master Planning and Evaluations, in the Directorate of Planning and Real Estate, in the Bureau of Overseas Buildings Operations (OBO/PRE/MPE), to waive this requirement based on the facts and circumstances of the lease.*
- e. Leases for functional space often involve terminology that is not used in standard lease formats. Posts must submit data well in advance, in the event a detailed review of lease language is required.*
- f. Posts must submit requests by using the E-LWR application, completing each item with the information requested.*

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- g. Send the E-LWR to the Office of Real Property Management, in the Directorate of Planning and Real Estate, in the Bureau of Overseas Buildings Operations (OBO/PRE/RPM) for action.*