

TITLE 7, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 2

**DEPARTMENT of ADMINISTRATIVE SERVICES
STATE BUILDING DIVISION**

**RULES AND REGULATIONS ON
LEASING PRIVATELY OWNED REAL PROPERTY**

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NEBRASKA ADMINISTRATIVE CODE

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LAST ISSUE DATE: (September 11, 1990)

Title 7 - DEPARTMENT OF ADMINISTRATIVE SERVICES

Chapter 2 - LEASING PRIVATELY OWNED REAL PROPERTY

001 Rules and Regulations governing the leasing of privately owned real property. Under authority of and in compliance with Sections 81-161 through 81-161.01, 81-1108.15, 81-1108.16, 81-1108.17, 81-1108.22, 81-1108.55, 81-1108.56 and 81-1108.57, Reissue Revised Statutes of Nebraska, the following rules and regulations are prescribed by the Department of Administrative Services and are effective from December 1, 2004 until revoked or amended. These procedures shall be used as a guideline by all Agencies, Boards or Commissions (herein referred to as "Agency") when requesting the leasing of real property unless specifically exempted by statute. —

001.01 The agency seeking space shall submit a detailed Leasing Requisition for Real Property, incorporated herein by this reference and available from the Department of Administrative Services, State Building Division, to the State Building Division for the space desired. The requisition shall include all general information and any specific requirements necessary to locate and obtain space suitable to the needs of the requesting agency. Space needs shall be based on space guidelines developed by the State Building Division, incorporated herein by this reference and available from the State Building Division. The information submitted to State Building Division shall include, but is not limited to the following items:

001.01A An explanation of the circumstances that have caused

the need for this space (i.e. federal grant, legislative bill, program, expansion, etc.).

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001.01B An explanation of what the proposed space is to be used for (storage, office, lab, etc.) and the proposed location.

001.01C An explanation of how this space will fit into the requesting agency's present plan of operation. (Expand existing office, new office location, regional or district office, etc.).

001.01D A statement certifying that funds are available in the requesting agency's budget to support the proposed lease and any related costs. Indicate fund(s) and program(s) used to support lease total cost.

001.01E A listing of special needs or requirements (i.e. plumbing, electrical, mechanical, voice/data/fax links, etc.).

001.01F Explanation of any other relevant information or justification for space desired.

002 The State Building Division will review the Leasing Requisition for Real Property. Based on the information received, the State Building Division will determine if the request is valid; if so, the State Building Division will proceed with obtaining approval from the Director of the Department of Administrative Services to proceed with procuring the requested space, either state-owned, government owned or privately owned.

003 Upon approval by the Director of the Department of Administrative Services and after determining that all statutory requirements have been met, the State Building Division shall, in cooperation with the requesting agency and based on space guidelines, prepare the necessary detailed specifications for a Request for Proposals (RFP) and arrange for a public notice to be made in a paper of general circulation in the area where the proposed space is desired or required.

003.01 The public notice shall contain the following:

003.01A A general description of the property desired.

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003.01B Instructions on how to obtain a Request for Proposals packet.

003.01C The time and place proposals are to be opened.

003.01D Contact for alternate Request for Proposals packet format.

The Public Notice shall be published at least one time, no less than fifteen days, prior to the deadline established for the receipt of proposals, in a paper of general circulation in the area where the proposed space is desired.

Attendance by all interested vendors, at a pre-proposal meeting may be mandatory depending on the type of space desired. This will be stated in the Request for Proposals packet.

004 All Requests for Proposals shall specify utilization of the standard property lease agreement for the State of Nebraska, incorporated herein by this reference, (the State's current lease agreement will be included in the RFP packet and is available from the State Building Division). The Department of Administrative Services, State Building Division will be the Lessee and the requesting agency will be the Tenant Agency on all leases.

An addendum or attachment may be submitted with the State's standard lease agreement outlining specific conditions and/or requirements of the proposal; however, acceptance of the addendum or attachment will be contingent upon the approval of the State Building Division, Tenant Agency, and legal counsel for the Department of Administrative Services.

All leases MUST contain the clause '...if sufficient appropriated funds are not available to the Lessee and/or Tenant Agency for the purpose of paying necessary operating expenses including rentals on the premises, this lease shall terminate at the election in writing of either party hereto. If at any time it appears that appropriations will be depleted in the future, or not sufficient to pay necessary operating expenses of the Lessee and/or Tenant Agency including rentals hereunder, notice of such fact and the estimated date of depletion shall be given promptly to Lessor. If only a portion of the funds sufficient to pay the necessary operating expenses of the Lessee and/or Tenant Agency including rentals hereunder are appropriated, the lease may

be kept in force with a prorated share of the space and corresponding rental decreased. Any such reduction shall be agreed upon by Lessor, Lessee and Tenant Agency.'

Also required in each lease is a cost breakdown by cost per square foot, total square feet (storage, office, common area, service area, lab, etc.) and total annual cost. Additional lease costs must be stated in the lease agreement (i.e. utilities, janitorial, parking, snow removal, trash removal, lawn care, pest control, etc.).

- 005** The State Building Division will be responsible for opening sealed bids and preparing a bid summary for use by the requesting agency. The bid summary and a copy of all proposals received will be given to the requesting agency. If site inspections of all or some of the proposed spaces are necessary, the State Building Division will coordinate these inspections. A representative from the State Building Division shall be included in all site inspections of all spaces proposed. After a review of all proposals and site inspections by the requesting agency and the State Building Division, a written recommendation by the requesting agency will be made to the State Building Division specifying the most acceptable proposal and corresponding justification for that recommendation. This recommendation shall be made in accordance with the evaluation criteria developed by the requesting agency and included as a part of the Request for Proposals packet as well as statutory provisions which specify the criteria to be considered in determining the contract award which is determined to be in the best interest of the State of Nebraska (Section 81-161, Reissue Revised Statutes of Nebraska, 1943.) The Department of Administrative Services will be the final authority on the proposal selection and award of contract.
- 006** Upon approval by the Director of the Department of Administrative Services and the State Building Division of the agency's recommendation of contract award, the State Building Division will proceed in finalizing a lease agreement with the successful vendor (Lessor) based on the bid specifications and bid proposal. Copies of the lease agreement will be sent to the Lessor for review and signature(s) and then returned to the State Building Division for final review and approval by the State Building Division, verification from the Budget Division as to the availability of sufficient agency appropriations to fund the lease and approval and signature by the Director of the Department of Administrative Services.

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Once all reviews, approvals and signatures have been obtained, the State Building Division will return one fully executed copy of the lease agreement to the Lessor and prepare a Space Allocation Agreement between the Lessee and the Tenant Agency. The Space Allocation Agreement is a binding agreement between the Tenant Agency and the State Building Division guaranteeing reimbursement by the Tenant Agency to Lessee for all rentals and associated lease costs paid to Lessor by the Lessee. A copy of the lease agreement will be attached to the Space Allocation Agreement.

The proposed lease agreement shall not take effect until executed by all required parties and the premises are ready for full legal occupancy.

007 If a lease agreement cannot be successfully executed between the State Building Division and the Lessor, a new Request for Proposals may be issued.

008 These rules and regulations shall apply either wholly or in part to all State Agencies, Boards and Commissions in the following situations:

008.01 When obtaining new space, these rules and regulations, in their entirety, may not apply if the proposed lease cost is less than \$2,500.00 per year and/or not more than 1,000 square feet of space provided the State Building Division determines that the cost per square foot is in line with the current prevailing rental rates in the area.

008.02 When an existing lease containing a renewal option is to be exercised with the same terms and conditions; and if it is determined by the Lessee and/or the Tenant Agency that this extension is in the best interest of the State, the Lessee shall begin the lease extension process with the Lessor. A copy of the correspondence or the fully executed addendum exercising such option shall be sent to the Tenant Agency by the State Building Division along with a revised Space Allocation Agreement.

008.03 When an existing lease does not contain specific language for lease extension and the Lessee and Tenant Agency determine an extension would be in the best interest of the State, the State Building

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Division, in cooperation with the Tenant Agency will initiate lease extension negotiations with the Lessor. A copy of the correspondence or the fully executed addendum will be sent to the Tenant Agency along with a revised Space Allocation Agreement.

008.04 When an existing lease is to be altered to reflect a change in cost, square footage or any other terms and/or conditions, upon approval by the Lessor, Lessee and Tenant Agency, the revised lease or addendum shall be submitted to the Lessor by the State Building Division for approval. When the lease or addendum is fully executed, the State Building Division will provide the Tenant Agency with a copy of the lease or addendum and a revised Space Allocation Agreement reflecting any changes made in the lease.

008.05 When an existing lease and all renewal options are about to expire and the Tenant Agency and the Lessor desire to negotiate an extension of the lease, the State Building Division will determine if negotiations to extend the current lease term or if a formal Request for Proposals is in the best interest of the State.

008.06 If an agency feels they have a special situation not covered in these rules and regulations or have legitimate reasons why the formal bid process should be waived, explanation of the situation and the particular request shall be submitted to the State Building Division for review and approval by the Director of the Department of Administrative Services.

009 When space is available in a facility owned by a political subdivision and this site would meet the space requirements of the Tenant Agency, the formal Request for Proposals process may be waived and direct negotiations by the State Building Division with the facility owner/manager may be initiated to meet specific space needs.

010 A grievance and protest procedure, incorporated herein by this reference, is available by contacting the State Building Division. A grievance or protest must be filed by a vendor within ten (10) days after notification of intent to award a lease contract.

011 The State Building Division will provide the Appropriations Committee and the Committee on Building Maintenance a report on the amount of property leased by the State and the availability of State-owned property for the needs of State agencies on an annual basis.

