



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

DIRECTOR'S ORDER #89: ACQUISITION AND MANAGEMENT OF LEASED SPACE

Approved:

Director

Effective Date: March 5, 2003

Sunset Date: March 5, 2007

This Director's Order and its related handbook supersede National Park Service (NPS) Guideline No. 89, entitled "Space Management Guideline" (release No. 1, October 9, 1994). It also supersedes and incorporates the provisions of my memorandum of January 15, 2002, delegating authority to the Associate Director, Administration to lease general purpose space for up to 20 years, that Associate Director's memorandum of August 18, 2001, on the subject of leased space, and my memo that delegated authority in the Comptroller to lease space up to 20 years.

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I. Purpose and Background

The purpose of this Director's Order is to prescribe program policies and procedures governing the acquisition, utilization, and disposal of leased space for official use by park units and other NPS organizational elements. This Order will also acquaint NPS managers with the basic procedures of the General Services Administration (GSA) in their dealings with customer agencies. NPS managers need to know about GSA procedures because the GSA has lead authority and responsibility within the Federal Government for leasing space to meet the needs of civilian agencies. GSA has published in the Code of Federal Regulations, Subchapter C - Real Property (41 CFR 102-71 through 102-85) policies and procedures controlling the acquisition of real property by lease. This Order is consistent with Subchapter C and conforms to Department of the Interior (DOI) real property policies as written in the Departmental Manual (425 DM 1 through 8).

For purposes of this Order, "leased space" means any office, warehouse, laboratory, visitor center, vehicle parking location, curatorial storage facility, berthing facility or other property that is acquired from an independent source by mutual agreement and used for official purposes for a specific period of time. It does not include house trailers, self-storage units, short-term lodging or temporary conference space.

A basic understanding of policies and procedures on leasing is important because the Service often depends on leased space to provide a quality workplace environment that supports program operations, preserves the value of real property assets, and reduces Federal work space to essential minimum requirements. As one means to help achieve that goal, this Order provides a uniform approach in acquiring leased space for park purposes. It also provides guidance for making the most efficient use of all space resources and encourages managers to fully use existing NPS-owned facilities prior to entering into a lease. A related handbook will also be issued for the benefit of personnel who need more detailed information about leasing procedures.

This Order does not address the policies and procedures for leasing Government-owned property to others. Those policies are published in regulatory form in 36 CFR part 18, and in Director's Order #38 (Real Property Leasing).

II. Authority to Issue this Order

The authority to issue this Director's Order is found in the 1916 NPS Organic Act (16 U.S.C. 1 through 4) and in part 245 of the Department of the Interior Manual.

III. GSA Leasing Policy

A. General. GSA leases privately owned land and building space when needs cannot be met in Government-controlled space, such as Federal office buildings and court houses. GSA considers the advantages of leasing in comparison with new construction, alterations to an existing Federally controlled building, maintenance and operational efficiencies, and the prevailing scale for comparable facilities in the community. GSA acquires space by negotiation, with full and open competition among suitable available locations that meet minimum government requirements. GSA is obligated to enforce the provisions of 41 CFR part 102-73 (Real Estate Acquisition) regarding location of Federal facilities, and the provisions of section 110(a) of the National Historic Preservation Act regarding the use of historic properties (41 CFR part 102-78).

B. Lease Acquisition by GSA. Although GSA is not obligated to accept every request for service, it will generally, upon request and on a reimbursable basis, perform all functions of leasing building space

and land incidental thereto (41 CFR parts 102-74 through 82). GSA services include:

- Facility management (part 102-74).
- Disposal of leased property that is no longer needed prior to expiration of lease (part 102-75).
- Design and construction of repairs and alterations to leased property (part 102-76).
- Meeting art in architecture requirements (part 102-77).
- Historic preservation (part 102-78).
- Design and utilization of leased space to provide a quality workplace environment and support program operations (part 102-79).
- Safety and environmental management (part 102-80).
- Security and utility services (parts 102-81 & 82).

C. Customer Obligations. As GSA customers, NPS officials and employees are obligated to:

- Seek to economize requirements for space.
- Periodically review space needs.
- Give GSA early notice of new or changing space requirements. And
- Cooperate with and assist GSA in conducting leasing actions on behalf of the NPS.

D. Prohibition on Contacts. Where the NPS is occupying space leased by GSA, NPS officials and employees must not contact lessors, offerors, brokers or potential offerors for the purpose of making oral or written representations or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, or payment of overtime services unless authorized to do so by the Director of the Real Estate Division in the responsible GSA regional office or facility support center. Such contacts may minimize GSA's ability to negotiate options on behalf of the NPS if a potential lessor receives unauthorized information that the Government is in need of space. Formal and informal contacts are strictly unauthorized without GSA permission. Likewise, where the NPS leases space under a delegation of authority, contact may be made only with the permission of the NPS real property contracting officer (RPCO), or the contracting officer's representative (COR).

IV. Leasing Procedures

A. Delegation of Authority. The leasing authority delegated by GSA to DOI, and re-delegated to the NPS Director, is further re-delegated to the Comptroller. Under this re-delegation, the Comptroller may perform all functions related to the leasing of "general purpose" space in buildings and land incidental thereto. The Comptroller may also perform all functions related to the leasing of categorical space and special purpose space, as described in 41 CFR 101-18.104-2 and -3, such as antenna and repeater sites, ranger stations, mooring facilities and visitor centers. This authority is subject to the limitations contained in 41 CFR part 102-72 "Delegation of Authority."

B. Locating Newly Leased Properties. The NPS is responsible for determining the delineated area where its facilities are to be located. In compliance with Title VI of the Rural Development Act of 1972, first priority must be given to the location of new offices and other facilities in rural areas. If it would not be practical or feasible to locate a new office or other facility in a rural area, the superintendent or manager must provide a brief written justification explaining why.

In satisfying space requirements in urban areas, first consideration must be given to Central Business Areas (CBA) and other designated areas. GSA may review requested delineated areas to ensure that this requirement is met. In cases where the delineated area is in a non-CBA location, the NPS manager must provide adequate justification to support the request.

If there is a conflict between the rural and CBA requirements the Service will, if necessary, request assistance from GSA to find a satisfactory resolution.

C. Requesting Leased Space. When a new requirement for leased space is identified by a park or other NPS entity, the superintendent or manager will document park needs by completing the SF-81 “Request for Space” form, which may be found on the GSA website at www.fillform.gsa.gov. This form is accompanied by an SF-81a, entitled “Space Requirements Worksheet,” which is helpful in preparing detailed plans for new space needs.

All requests for leased space must be forwarded through the responsible regional office for concurrence. If the regional office concurs in the action, it will notify the Comptroller, who will then:

- Approve or disapprove those requests for which leasing authority is delegated, following review and recommendation by an authorized NPS real property contracting officer.
- Forward requests for space in the Washington, DC metropolitan area to the DOI National Business Center (NBC) for approval. NBC will review and coordinate the space requirements with GSA.
- Forward requests for space outside the Washington, DC metropolitan area to the appropriate GSA regional office if internal real property contracting officer resources are not available to complete the leasing action.

Regional and Center space management coordinators will maintain copies of space requests and related correspondence. **Regions and parks will not independently seek to acquire new space through GSA without the Comptroller’s written concurrence.**

D. Exception for Leasing from a Non-profit Organization. Space may be leased from a non-profit educational organization, historical society or tribal organization as part of a cooperative agreement between NPS and the organization, provided that the space is simply one component of the agreement. Before entering into such an agreement, the responsible superintendent or manager should ensure that the Office of the Solicitor has the opportunity to review the lease provisions of the agreement and that the regional director is aware of, and concurs in, the arrangement. Leases that are part of an overarching cooperative agreement will not be covered under the central space account without the Comptroller’s written approval before the lease is signed.

E. ANILCA Leases. Section 1306 of the Alaska Native Interest Lands Conservation Act (ANILCA) provides special authority for leasing visitor and administrative sites outside NPS boundaries. Although leases issued under ANILCA are not acquired under the delegation of authority from GSA, in those circumstances where the central space account is paying for the leased space, the Comptroller must approve the project before a lease is signed.

V. Occupancy Agreements (OAs)

A. What is an Occupancy Agreement? GSA requires an OA for each customer agency’s space assignment. The OA must be agreed to by GSA and the customer agency prior to commitment of agency funds for occupancy and formal assignment of space. An OA

- Defines GSA’s relationship with each customer agency with regard to an individual lease;
- Describes the actual or proposed space and services to be provided, and all associated actual costs to the customer during the term of occupancy;

- Establishes specific financial terms, provisions, rights and obligations of GSA and its customer for each space assignment;
- Minimizes exposure to future unknown costs for both GSA and customer agencies;
- Stabilizes rent payments to the extent reasonable and desired by customers; and
- Allows tailoring of space and related services to meet customer agency needs.

The customer agency must sign the OA prior to GSA's making any major contractual commitments associated with the space request. Typically, this should occur at the earliest possible opportunity.

B. Funding Commitment. An OA obligates the customer agency to fund the current year rent obligation owed GSA, as well as to reimburse GSA for any other bona fide obligations that GSA may have incurred on behalf of the customer agency. Therefore, only authorized GSA and customer agency officials who can commit or obligate the funds of their respective agencies can execute an OA. Although the OA is an interagency agreement memorializing the understanding of GSA and its customer agency, the OA may not be construed as obligating future year customer agency funds until they are legally available. A multi-year OA commitment assumes the customer agency will seek the necessary funding through budget and appropriations processes. In the event that funding is reduced or eliminated, the obligation to continue annual payments through the conclusion of the lease term remains the responsibility of the tenant agency. At its discretion, GSA may terminate an assignment upon being provided with 120 day written notice of intent to vacate unless the property has been designated as "unique agency space."

C. Authority to Sign an Occupancy Agreement. New OAs for which funding will be provided by the central GSA space account must be approved and signed by the Comptroller. The Comptroller may delegate this authority in writing, including to a regional director if a regional staff member is certified as a warranted leasing officer and a copy of the certificate of appointment is on file in the office of the Comptroller.

For new leases that will be funded through region or park operational resources throughout the period of the lease, the region will provide a copy to the Comptroller, along with a written commitment for funding through other than the Servicewide GSA space account. These leases will be limited to an annual cost of no more than \$25,000. For agreements associated with the Alaska National Interest Lands Conservation Act (ANILCA, 16 U.S.C. 3101 through 3233), signature authority rests with the Alaska Regional Director.

The regional space management coordinator will coordinate new OAs with the Comptroller; the Comptroller will coordinate the review and facilitate the processing of agreements through GSA.

VI. Budgetary Considerations

A. Rent Charges. Generally, rent for Federally owned space provided by GSA is based on market appraisals of fully serviced rental values for the predominant use of the building in the immediate market area. Rent for leased space is based on the actual cost of the lease, including the costs of services not provided by the lessor, plus a GSA fee, and security charges and parking. The rent is based on the terms and conditions of the OA, starting with the shell rent. The rent will also include amortization of tenant improvement (TI) allowances used, real estate taxes, operating costs, extra services, parking, GSA's fee for its services, and charges for security, joint-use, and other applicable rental charges, such as an antenna site, land, or wareyard (for exterior storage).

B. Funding Not Guaranteed. Most expenses incurred by the NPS for renting space through GSA are

budgeted and paid centrally. **However, should regions/parks execute space agreements directly with GSA (i.e. emergency space needs), the region/park is responsible for the cost.** All leases or Occupancy Agreements in these circumstances over \$25,000 must still have the Comptroller's written approval **before** signature. Even if a region chooses to execute an agreement for new space out of its funds, the reprogramming requirements are still in effect. Because of the timing of the Federal budget cycle, decisions about leased space must often be made in advance of knowing whether increased funding will be available to cover the costs associated with a particular lease. Parks, centers and regions must be prepared to cover the costs of a lease in the event additional funding is not forthcoming. Thus, regions should not forward for WASO approval a proposed lease that the region is not prepared to pay for out of park base or regional funds. Allowances for inflationary increases (increases in rental bills resulting from escalator clauses in the lease contract) are provided for by the WASO budget office by including them in the annual budget request as base adjustments.

C. Operational Formulation System (OFS) Entries. Funding requirements for space in a region will be identified, entered and prioritized within OFS by the region. WASO requirements will be coordinated by the Comptroller. As the Service's budget request is compiled each year, the NPS will use these OFS entries to formulate the Service's request for additional programmatic space to the DOI. As with other funding needs of the Service, entry into OFS does not constitute an approved request. Parks should not provide any indication to local community leaders that a new facility will be leased or constructed without first checking with the region and WASO on the status of the approval process. In some cases, WASO will seek to budget for increased requirements, but if the budget is not approved, the NPS will not proceed with the new space.

D. Space Budget Justification. Section 54.5 of OMB Circular A-11 requires that the NPS provide detailed information on space requirements for a multi-year period in each budget cycle. Detailed guidance with respect to completing the six forms that make up the exhibit may be found at <http://www.gsa.gov/exhibit54>. Individual regions must be able to identify their space needs along with expected expenses, effective dates, changes to inventory and explanation of the changes. As with OFS entries, completion of this required OMB form does not constitute approval of a new space request. Funding requests for projects must be identified in Exhibit 54 in order to be fulfilled.

E. Comptroller's Review. The Comptroller's office will review all OAs. If, after evaluation, the Comptroller's office does not concur in acquiring the new space, it will recommend an alternative budgetary approach or cancellation of the project to the Regional Director, in accordance with the following guidelines:

- **Forced moves.** Moves from existing leased space mandated by terms of the lease or GSA must be identified to the Comptroller, who will submit the action in the next budget request as an uncontrollable cost. The Comptroller and responsible region, in consultation with GSA, will determine the cost estimate and timing of the move. Should the region propose a substantial increase (10% or greater) in the space requirement, the action will be treated as a request for new space.
- **Acquiring new or expanded space.** The added annual cost of new or expanded space will be considered as a program increase and presumed to be a commitment by the region as its highest priority for an operational increase. The region must reflect this in an OFS request and assign it the highest priority. In the event the NPS is not successful in obtaining a budgetary increase for the new space, including build-to-suit facilities, the region will be assessed the added cost, which will continue until a budget increase is appropriated.
- **Build-to-suit facilities.** If WASO receives a proposal that provides for a facility to be built through

a lease (in lieu of building a facility and funding it through the construction account), there are additional considerations. Projects funded through the construction account compete for priority Servicewide and are scrutinized for cost and effectiveness through the Development Advisory Board (DAB). Projects funded through lease arrangements compete for operating funds through the OFS and budget formulation process as previously discussed. The cost and budgetary consequences of a lease for park facilities must be weighed carefully. Therefore, proposals to acquire such space must include a justification for locating the facility outside the park boundary and a life cycle cost analysis that compares lease versus construction costs. The Comptroller, in consultation with other members of the DAB, will determine if a project is of such size and complexity as to require DAB review. Single purpose projects, such as those needed for office or storage space, generally do not need to be reviewed by the DAB. Proposals for multi-use facilities that serve visitors will require DAB review. Regions may request construction planning funds if needed for contractor support to prepare the cost analysis and DAB documents.

F. Tenant Improvements. A Tenant Improvement (TI) allowance enables the customer agency to design, configure and build out space to support its program operations and is paid by the agency. If alterations that are made by the agency exceed the TI allowance, this is known as an “above standard” improvement. The cost of such an improvement is paid in a one-time lump sum or amortized over the length of the lease at the discretion of the Comptroller.

VII. Non-budgetary Considerations

A. Socio-economic Considerations. In acquiring space by lease, GSA and the NPS will avoid locations that will result in a hardship on employees. Hardship is defined as meeting both of the following conditions: (1) there is a lack of adequate low- and moderate-income nondiscriminatory housing for employees within reasonable proximity to the location, and (2) the location is not readily accessible from other areas of the community.

B. Energy Conservation and Sustainable Design. Executive Order No. 13123 (Greening the Government Through Efficient Energy Management), issued June 3, 1999, requires that agencies of the Federal Government significantly improve energy management to save taxpayer dollars and reduce emissions that contribute to air pollution and global climate change. The order requires agencies to incorporate lease provisions that encourage energy and water efficiency. Build-to-suit lease solicitations must contain criteria encouraging sustainable design and development, energy efficiency and verification of building performance. Agencies must include a preference for buildings having the Energy Star building label in their selection criteria for leasing buildings. Likewise, agencies must encourage lessors to apply for the Energy Star building label, and explore and implement projects that would reduce costs to the Federal Government.

C. Locating Facilities Outside Park Boundaries. The Service has adopted a policy that it “...will not develop, or re-develop, a facility within a park until a determination has been made that the facility is necessary and appropriate, and that it would not be practicable for the facility to be developed, or the service provided, outside the park.” (See 2001 NPS *Management Policies*, section 9.1.) In cases where it would be practicable to develop the facility, or provide the service, outside the park, leasing will sometimes be the method by which it is done. One required consideration is to determine whether the financial cost would be practicable.

D. Historic Properties. Section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2) and Executive Order 13006 require federal agencies—prior to acquiring, constructing, or leasing buildings—to use, to the maximum extent feasible, historic properties available to it, whenever operationally appropriate and economically prudent (16 U.S.C. 470h-2(a)(1)). The Act also requires each agency to

implement alternatives for the adaptive use of historic properties it owns, if that will help ensure the properties' preservation. Therefore, the Service will consider first the adaptive use of historic buildings to meet its needs before leasing space in non-historic buildings.

The Service will also minimize all adverse impacts on historic properties to the extent that is feasible and prudent, and consult with the Advisory Council on Historic Preservation and the State Historic Preservation Officer regarding proposed undertakings. (Other specific NPS requirements regarding the adaptive use of historic structures may be found in NPS *Management Policies* sections 5.3.5.4.7, 9.1.1.4, and 9.4.3.3.)

Contemporary use of an historic structure may subject the structure to physical stresses for which it was not originally designed. These may include increased floor load, heating and air conditioning upgrade, telecommunications, accessibility requirements and additional electrical power needs. For this reason, park managers should ensure that, if such a structure is intended to be used as office, storage space or other adaptive use, it will be given a full electrical and structural survey before it is altered in any way or occupied by park staff.

VIII. Responsibilities

A. Comptroller

- Perform all functions with respect to acquiring leased space by delegation from GSA through DOI; re-delegate, *on a case by case basis*, some or all functions to warranted leasing officers;
- Sign an OA prior to GSA's making any major contractual commitments associated with a space request;
- Review and approve or disapprove requests, or recommend alternative budgetary approaches for new space received from regional directors and center managers, and facilitate the processing of OAs through GSA;
- Submit requests for new space in the Washington, DC metropolitan area to the NBC for approval;
- Upon receiving notice of a directive to vacate leased space, enter the action in the next budget request as an uncontrollable cost. With the cognizant region and GSA, determine the cost estimate and timing of the move;
- In consultation with DAB members, determine if a project is of such size and complexity as to require DAB review; and
- Prepare a level-3 reference manual or handbook containing more detailed information on leasing.

B. Regional Directors (and Center Managers, as applicable)

- Select a regional space management coordinator who will be responsible for and capable of performing regional review and approval of OAs and all other matters pertaining to leased space in the region;
- Provide written notice to the Comptroller of the selection, and ensure that the individual selected is adequately trained to perform the job functions required;
- Review and approve or disapprove requests for new space received from park units and other NPS entities within the region. Forward approved requests, including the SF 81 and SF 81A to the Comptroller;
- Assume financial responsibility in the event that the GSA space account cannot provide the funds for any approved OA.
- Notify the Comptroller of any GSA or lessor directive to vacate leased space, and determine the cost estimate and timing of the move;

- For build-to-suit projects, prepare and submit a justification for locating the facility outside the park boundary and a life cycle cost analysis that compares lease versus construction costs to the DAB;
- Request construction planning funds if needed for contractor support to prepare cost analysis, environmental analysis, and DAB documents;
- Certify to the Comptroller and GSA that funds are available for “above standard” tenant improvements;
- Identify, enter, and prioritize within OFS funding requirements for space. Notify the Comptroller of new entries;
- Cover the costs of a lease in the event additional funding is not forthcoming; and
- Prepare exhibit 54 of OMB Cir. A-11 annually for all park and regional units and provide to the Comptroller.
- The Alaska Regional Director also has signature authority for leases associated with ANILCA.

C. Superintendents and Managers

- Economize space requirements, periodically review space needs, and provide notice to regional director as soon as possible of new or changing space requirements;
- Notify the regional director of any GSA or lessor directive to vacate leased space;
- Complete Standard Form 81 (Request for Space) and 81A (Space Requirements Worksheet). Forward them to the regional director upon identification of a new space requirement;
- If a lease is to be terminated, give the regional director, Comptroller and GSA at least four months notice prior to the date of termination. Provide a funding account to the Comptroller for any unpaid balance of the cost of tenant improvements, and clear personal property and equipment prior to termination date;
- Request GSA review of measurement, classification, service levels or charges assessed for leased space, if needed;
- Provide GSA with 18 - 20 months advance notice of any expiring OA;
- Be prepared to pay all costs associated with the lease contract, any GSA fees, and damage claims arising from changes in GSA contract costs which are caused by the tenant’s delay in vacating the premises of an expired lease; and
- Be prepared to pay all costs associated with relocation, unless the move is considered a “forced” action.

-----*End of Director's Order*-----