Lease Contracts for Real Property: The Life Cycle of a Lease

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Harvesting Knowledge

2016 Fall Conference | October 25 - 26

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Division of Contracts & Expenditures

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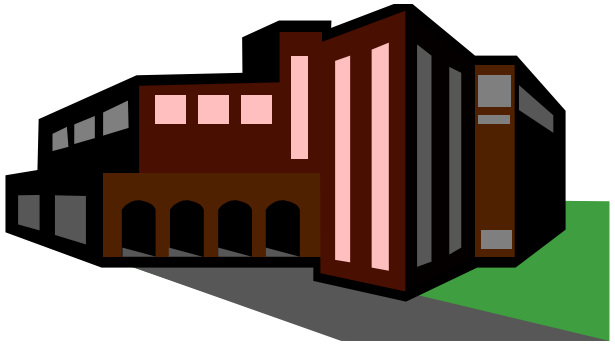
Background Information

Agencies that May Enter into Lease Contracts

- Office of General Services
- New York State Police
- State University of New York
- City University of New York
- Dormitory Authority of the State of New York



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Leases Requiring OSC Approval

- Contract value of $50,000 or more
- Intrinsic value of $25,000 or more

Common Lease Terminology

- Usable Space
- Rentable Space
- Tenant Work Letter
- Turn Key Lease
- Lease Allowance
- Triple Net
- Holdover
- OP Contract

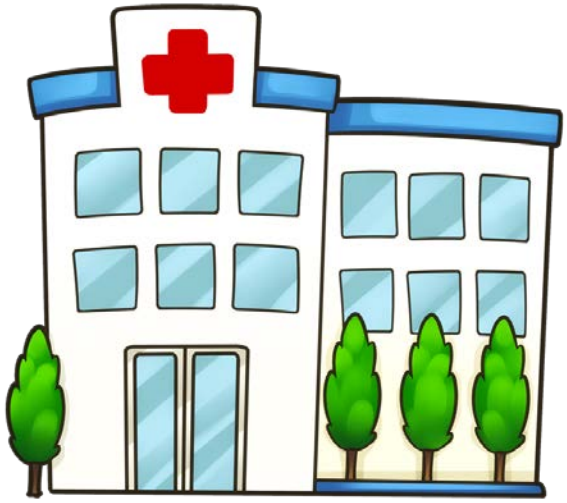
Before a Lease is Executed

Need Justification

- New program
- Program expansion
- New technology
- Legislative mandate

Site Justification

- Cost
- Vicinity
- Program needs



Cost Justification

Best Site at the Best Price

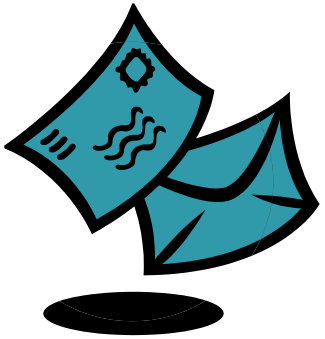
- Market Analysis
- Comparable Property Analysis of Specific Properties

Advertising Requirements

- Contract Reporter

The New York State Contract Reporter
NYSCR.ny.gov
NYS' official source of contracting opportunities
Bringing business and government together

- Local Papers



- Mailings to Interested Parties

The NYS Contract Reporter Website

New York State | State Agencies | Search all of NY.gov

Opportunities posted today 44

Opportunities posted in the last 7 days 189

Total available opportunities 742

NYSCR.ny.gov

The New York State Contract Reporter

NYS' official source of contracting opportunities
Bringing business and government together

Log In

Sign up and register for your free account!

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I want to find contracts to bid on | I want to advertise opportunities | Learn about the New York State Business Registry | Learn about doing business with New York

I want to advertise opportunities

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Drafting a Lease

Be Sure to Address

- Start Date and End Date
- Utilities
- Not-to-Exceed Amount for Tenant Work
- Holdover, Termination & Escalation Provisions

Possession Clause

Lease Term Begin Date & Obligation to Pay Rent commence on:

- Approved lease delivered to landlord, or
- Substantial completion, or
- Ready for occupancy

Insurance Requirements

Insurance Resources

- The Council of Contracting Agencies Procedure Manual For Insurance Requirements
- Your Agency's Legal Office
- A.M. Best Insurance Report

Required Insurance Coverage

- Commercial General Liability
  - $2 to $5 million *per occurrence*
- Commercial Property
  - Not less than full insurable value
- Waiver of Subrogation
- Workers Compensation & Disability

Prior to Submitting a Lease to OSC

Lease Costs

- Initial term rent
- Tax escalations
- Operating escalations
- Utilities
- Janitorial services
- Parking
- Security services
- Other

Intrinsic Value	Total of all associated costs including items not paid directly to the Landlord
STS/AC340s Value	Total to be paid directly to the Landlord

Sample Lease Calculation

	Proposed	10 Year Cost
Location	1 John Doe Street	
Rentable Sq. Footage	12,500	
Rate per Square Foot	$16.38	
Annual Rent*	$204,750.00	$2,307,292.00
Other Cost:		
Electric	***$18,750.00***	***$205,649.00***
Escalations -Operating-		$41,550.00
Escalations - Tax	-	$24,199.00
Parking	$22,500.00	$225,000.00
Total Annual Cost	$246,000.00	$2,803,690.00

*Reflects Rental Rate increase to $20.00 psf in years 6-10

Note: Costs in ***BOLD italics*** are not part of this Agreement and **should not** be included in AC340.

$2,803,690.00	-	$205,649.00	=	$2,598,041.00
Total Cost		Electric		STS Value

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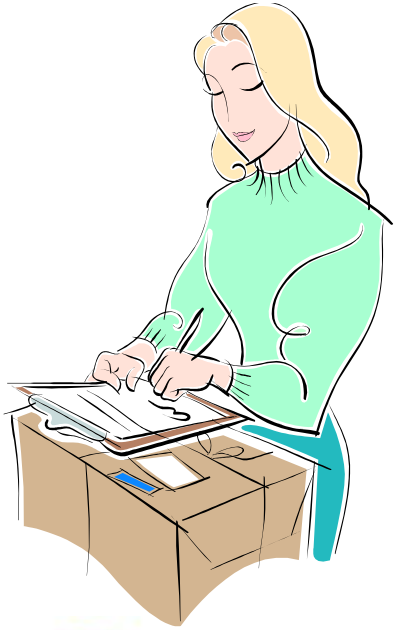
Vendor Responsibility Documentation

- Agency Determination
- Workers' Compensation
- Disability Benefits Insurance Coverage

Attorney General Review

- Approves as to form
- Forwards to OSC



Lease Package Requirements

- STS/AC 340S
- Cover letter
- Agency contact information
- Complete lease agreement
  - Original signatures
  - Additional signature pages
- Advertisement
- Need, site & cost justifications
- Vendor responsibility documents

During the Lease Term

Lease Modification

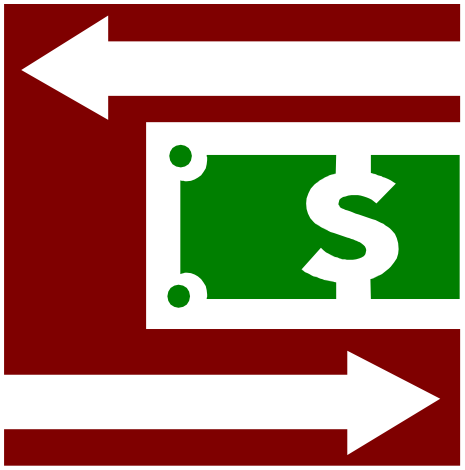
Changes during the term

- Formal amendment
- Original signatures
- AG approval

Lease Assignment

Two STS/AC 340S Forms:

1. Negative amount to reduce old contract
2. Positive amount to open new contract



- Contract assignment agreement with effective date
- Vendor responsibility documentation
- Cover letter

1. Reduce Original Lease

Reduce Contract Amount to Equal Life To Date expenditures

Contract Value	$100,000
LTD	- $40,000
Remainder	$60,000

Closeout STS	- $60,000

2. Establish New Lease

- STS/AC340S equal to amount taken off the old lease
- Begin Date equal to effective date of assignment
- Funds reservation through current fiscal year

OP Prefix Transaction

Purchase Order Subject to OSC Review

- One time costs considered in the lease but not part of the contract amount
  - Tenant build-out costs
- Costs not considered in original lease
  - New carpet
  - Reconfiguration

OP Submission Requirements

- Need justification
- Cost justification
- Vendor responsibility documentation if vendor other than landlord
- NYS Description field = lease contract number (e.g., L001234)

Reallocation of Space

OGS Reallocation Letter provides:

- Effective date
- Square footage
- Rental rate
- Agency share

Reallocation Chart

Agency	Rentable SF	Rate per SF	Monthly Rent	Annual Rent	Pro-rata Share of Building	Pro-rata Share of Parking	Additional Rent
A	5,664	$16	$7,552	$90,624	8.85%	27	$928.37
B	58,336	$16	$77,781.34	$933,376	91.15%	273	$9,561.64
Totals	64,000	$16	$85,333.34	$1,024,000	100%	300	$10,490.01

End of the Lease Term

Lease Renewal

- Fixed-Rate Renewal Option
- To-Be-Negotiated Rate Renewal Option

Lease Holdover

As specified in the lease

- Current rate
- Higher rate

Holdover Requirements

- Holdover letter to landlord
- Cover letter
- STS/AC 340S
- Cost calculation
- Funds reservation

Holdover - Example 1
STS/AC 340S Amount

$50,000	Needed for one year
$22,500	Remaining on contract
- $7,500	Outstanding voucher
$15,000	**Available**
$50,000	Needed for holdover
-$15,000	Balance available
$35,000	**STS amount**

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Holdover - Example #2

Six month holdover is required:

$100,000	Needed for six months
$20,000	Remaining on contract
- $15,000	Outstanding voucher
$5,000	**Available**

$100,000	Needed for six months
- $5,000	Available
$95,000	**STS amount**

Find Available Amount in SFS

Step 1: Procurement Contracts

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Step 2: Add/Update Contracts

Step 3: Enter Business Unit & NYS Contract Number

Find an Existing Value | Add a New Value

Search Criteria

SetID	=	SHARE
Contract ID	begins with	
Contract Version	=	
Version Status	=	
Contract Process Option	=	
Short Supplier Name	begins with	
Supplier Name	begins with	
Master Contract ID	begins with	
Business Unit	begins with	OAS01
NYS Contract #	begins with	L001256
Department	begins with	
Contract Profile	begins with	

☐ **Correct History** ☐ **Case Sensitive**

Step 4: Search

Search Criteria

SetID	=	SHARE
Contract ID	begins with	
Contract Version	=	
Version Status	=	
Contract Process Option	=	
Short Supplier Name	begins with	
Supplier Name	begins with	
Master Contract ID	begins with	
Business Unit	begins with	OAS01
NYS Contract #	begins with	L001256
Department	begins with	
Contract Profile	begins with	

☐ **Correct History** ☐ **Case Sensitive**

Search | Clear | Basic Search | Save Search Criteria

Step 5: Select Appropriate Version

Find an Existing Value | Add a New Value

Search Criteria

SetID	=	SHARE
Contract ID	begins with	
Contract Version	=	
Version Status	=	
Contract Process Option	=	
Short Supplier Name	begins with	
Supplier Name	begins with	
Master Contract ID	begins with	
Business Unit	begins with	OAS01
NYS Contract #	begins with	L001256
Department	begins with	
Contract Profile	begins with	

☐ **Correct History** ☐ **Case Sensitive**

Search | Clear | Basic Search | Save Search Criteria

Search Results

View All

SetID	Contract ID	Contract Version	Version Status	Contract Process Option	Supplier ID	Short Supplier Name	Supplier Name	Expire Date	Contract Status	Master C
SHARE	OAS01-L001256-3670000	8	Current	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-367000		History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000	6	History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000	5	History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000	4	History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)
SHARE	OAS01-L001256-3670000	3	History	Order	1000006814	DELTA PROP-001	DELTA PROPERTIES LLC	03/31/2016	Approved	(blank)

Step 6: Amount Summary Displays

L001256

3670000

ECC

LFR00006

Requisition Exists

Tax Exempt

Amount Summary

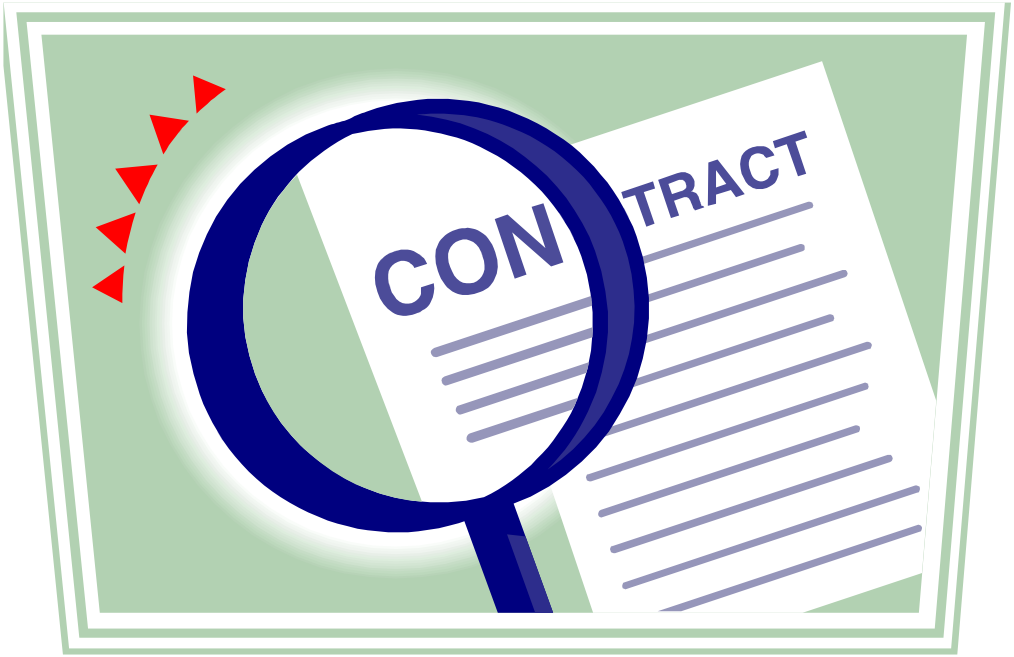
Maximum Amount	15,113,142.79	USD
Line Item Released Amount	269,591.54	
Category Released Amount	0.00	
Open Item Released Amount	0.00	
Total Released Amount	269,591.54	
Remaining Amount	316,551.86	
Remaining Percent	2.09	

Non-PO Exp	14560186.870
Non-PO Adj	-33,187.480
Vchr Exp	
In Prcs Hdr Amount	0.000
Amendment Rqst Amt	0.000

Contract Closeout

- After all outstanding payments are made
- Reduce to zero
  - Negative STS/AC 340S equal to remaining amount

Real Property & Negotiated (RPN) Contracts Team



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Office of General Services

The Business Services Center's Partnership with Real Estate Planning & Development

October 2016

OGS Real Estate Planning & Development (REPD)

Real Estate Planning & Development (REPD) is a department within OGS, outside the BSC, that has become New York’s central office for real estate operations.

OGS Real Estate Planning & Development (REPD)

REPD will:

1. Develop a centralized, statewide database of all NYS real estate, both owned and leased
2. Manage and process all real estate transactions
3. Manage and administer all OGS controlled space and property
4. Support operations and customer service and establish performance metrics for lease processing including site identification, lease processing and administration
5. Pilot the SFS Real Estate Module

Note: Leases not managed by the OGS Real Estate Planning & Development will continue to be managed by agencies.

The BSC Role in Processing Real Estate Transactions

In support of OGS REPD, the BSC is serving as the central office for processing and monitoring all OGS managed real estate transactions in SFS on behalf of our customer agencies.

Centralizing lease payment processing results in timely payments to landlords and lower interest payments for customer agencies.

New Leases

REPD will initiate a project to secure a leased location on behalf of the agency once the programmatic requirement is established. Working collaboratively with the agency, REPD will oversee full execution of a lease document.

- Agency will fill out Lease Purchase Request Form and submit to the BSC
- Based on this information received from OGS/REPD and the Agency, the BSC will enter the contract requisition into SFS and electronically route it to the agency for review and approval
- The Agency will approve contract requisition in SFS

New Leases (cont.)

- Upon Agency approval, the BSC will generate a Single Transaction Summary (STS) and provide to Agency for submission, with contract documents to AG and OSC for contract approval

- Upon AG & OSC approval, BSC will create a contract release to generate a purchase order

- Once BSC receives a commencement letter from OGS/RE, BSC will link the purchase order to the lease in the real estate module to facilitate automated lease payments

Contract Administration

BSC will support all lease contract administration functions in SFS including:

- Monitoring contract balances
- Monitoring PO balances
- Coordinating and processing purchase order change notices
- Holdovers
- Amendments
- Assignments
- Reallocations

Lease Related One-Time Purchases Requiring OSC Approval

Lease Related One-Time Purchases are generally for one-time purchases that do not require a formal contract document other than the standard purchase order.

- Any purchase that is lease related, but not covered by the scope of the lease and is payable to the landlord, requires OSC approval, regardless of cost. If the purchase is related to Capital Construction, REPD approval is required regardless of cost
- Upon agency request, BSC will enter the contract requisition in SFS and submit to the agency for review and approval

Lease Related One Time Purchases Requiring OSC Approval

- Once agency approves the contract requisition in SFS, BSC will generate STS and submit to OSC for contract approval
- Upon OSC approval, BSC will create a contract release to generate a purchase order. Purchase Orders will include associated lease project ID

Types of Lease Transactions and Payment Processing Methods

	RECURRING	NON-RECURRING	Payment Method
FIXED	Base rent, parking, janitorial, storage*	N/A	Automated Voucher
VARIABLE	Real estate taxes, operating expenses, escalations, electric**	OPL – One Time Purchase – Lease***	Traditional Voucher Process

*services included within the scope of the lease where dollar amounts are defined (fixed)

**services included within the scope of the lease where dollar amounts are not defined (variable)

***goods or services not within the scope of the lease however pertain to a leased facility (variable)

Payment Processing

Using the new automated payment functionality in SFS, the BSC facilitates the scheduling and management of automated payments for recurring lease transactions.

- Automated payments occur on the 1st of the month
- Landlords should be strongly encouraged to automate the payment process using Automated Clearing House (ACH)

The BSC will continue to manually process invoices for non-recurring and variable payments including obtaining agency approval to pay and ensuring funds are encumbered for payment.

Contact Information

Business Services Center

Phone (518) 457-4272

BSC Lease Purchase Order/Change Notices:
Contractpos@ogs.ny.gov

BSC Lease Accounts Payable Unit:
BSCAPleases@ogs.ny.gov

Real Estate Planning & Development

Phone (518) 474-4944