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Workspace Management Initiative Can Benefit State, But DMS Not Taking Adequate Steps to Ensure Goals Are Met

at a glance

If properly managed and monitored, the Department of Management Services (DMS) Workspace Management Initiative and use of a private tenant broker should produce savings and better office space utilization. However, DMS is not taking adequate steps to ensure that all of the initiative's goals are met. Specifically, while using the tenant broker has produced short-term savings, questionable cost-savings methodology and modification of lease safeguards make the initiative's long-term fiscal impact uncertain and appear to conflict with statutory requirements. In addition, DMS has made only limited efforts to implement workspace standards for new leases, and some new leases may not improve the quality of buildings housing state workers unless the Legislature provides special funding for that purpose.

DMS must take additional steps to ensure that the initiative's overall goals are met, including assigning a property management professional to monitor the tenant broker contract and ensure that DMS adheres to federal "smart buyer" best practices; implementing contract performance measures; conducting "lease-versus-buy" analyses for master leases; and ensuring that tenant broker and agency leasing staff are trained on state procurement and leasing procedures. While DMS amended its tenant broker contract on December 15, 2005, to address some of these concerns, it is too early to evaluate whether these changes will improve services.

Scope

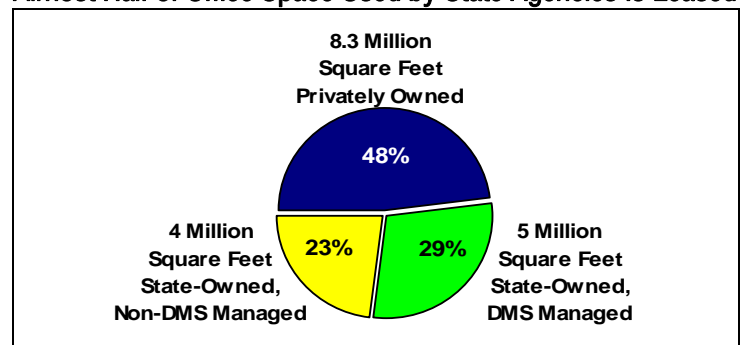
As requested by the Legislature, this report reviews the state's workspace management initiative, which is managed by the Department of Management Services (DMS).

Background

The state rents or owns approximately 17.3 million square feet of office space to house its employees.¹ As shown in Exhibit 1, 52% of this space is state-owned such as the Capitol and 22 regional service centers located throughout the state, while the remaining 48% is privately owned and leased by agencies. As the state pays \$114.8 million in annual lease payments for privately owned office space, it is important that the leasing process be effective and efficient.

Exhibit 1

Almost Half of Office Space Used by State Agencies Is Leased



Source: The Department of Management Services as of June 30, 2005.

¹ Excluding universities and community colleges.

As provided by statutes and rules, the process used to lease private office space is partially decentralized. DMS oversees the process and must review and approve agency estimates of space needs and proposed lease conditions. In general, agencies have been responsible for entering into leases using a standard agreement for leased space and competitive processes to lease space of 5,000 square feet or more, and are required to award leases to the lowest and best bidder. Agencies may not lease space in the private sector when suitable space is available in a state-owned building in the same geographic region, unless they receive prior DMS approval. DMS has a staff of five property management professionals who manage the leasing process.

Numerous reviews over the years have found problems in the state's leasing process. For example, the Auditor General and OPPAGA have reported that agencies have sometimes overstated space needs and used inconsistent procurement procedures that resulted in bid protests.² A 1994 legislative task force recommended steps to reduce agency office space needs and leasing costs, including using a market consultant to provide DMS with data on leasing market rate data. In Fiscal Year 2002-03, the Legislature required DMS to contract with a private consultant to study office space issues. This study, conducted by the CLW Real Estate Services Group, recommended several actions, including directing DMS to take a stronger role as the centralized facilities services provider for all state agencies, contracting with a commercial real estate consultant to serve as a tenant representative, and adopting and enforcing new space standards.

DMS subsequently established the Workspace Management Initiative to reduce costs, improve space quality, and promote optimum space use. The initiative has three major components.³

- Centralized Leasing. DMS was authorized by executive order to procure private leases on behalf of state agencies using an invitation to negotiate process rather than the competitive bid process. DMS also was authorized to contract with a professional tenant broker to assist in lease negotiations and monitor market conditions.
- Workspace use standards. DMS directed agencies to reduce the amount of office space per employee to a goal of 180 usable square feet to the extent possible without sacrificing critical public or client services.⁴
- Asset Management. DMS is evaluating state-owned office buildings to determine if the state should sell the buildings and move affected employees to other buildings (either state-owned or leased) of higher quality. DMS is in the process of disposing of several lower quality buildings in the Tallahassee area and is currently reviewing options for divesting state-owned office buildings across the state.

As part of the initiative, DMS signed a two-year contract with the Staubach Company-North Florida, LLC (Staubach) in October 2003. Pursuant to the contract, Staubach provides services including tenant broker representation, market data analysis, and contract negotiation. The contract establishes compensation for Staubach at 4% of the full service rental obligation for the entire fixed term of the lease for any transaction negotiated and closed on behalf of the state or as otherwise agreed between Staubach and third-party landlords.^{5,6} Since the state contract anticipates that landlords will pay all commissions,

private sector leasing costs, improving workspace quality, and improving the delivery of services. The executive order also requires executive agencies to enter into inter-agency agreements with DMS to procure and manage all leases of 5,000 square feet or more. DMS can aggregate and consolidate space where practical and to improve lease terms. Executive agencies were encouraged in the executive order to enter into similar agreements for leases under 5,000 square feet. The order further requires DMS to competitively procure leases and exercise all available options authorized by law.

⁴ Rule 60H-2.0021(4)(a), *F.A.C.*

⁵ Fifty percent of the commission is to be paid upon execution of the lease or renewal agreement, with the remaining 50% to be paid upon commencement of the lease or renewal agreement.

⁶ The commission is not to exceed "industry standards." However, we could not find, nor could DMS direct us to, documentation showing such industry standards. DMS provided us proposed commissions from bidders for the state's tenant broker contract. The proposed commissions ranged from 6% on all transactions plus reimbursements for some expenses to a sharing of "market commissions" between the tenant broker and the state.

² See *Operational Performance Audit of the Lease Management Program of the Florida Department of General Services*, Auditor General Report No. 11392, March 1990; *Special Review of the Divisions of Building Construction, Facilities Management, Motor Pool and Purchasing Within the Department of Management Services*, Auditor General Report No. 11972, November 1992; *Program Evaluation and Justification Review: Department of Management Services*, OPPAGA [Report No. 96-88](#), June 1997.

³ To ensure that state agencies cooperate with the Workspace Management Initiative, the Governor signed an executive order in June 2004 requiring executive agencies to use the tenant broker. The order requires each executive agency to work toward reducing

DMS anticipated that there would be no cost to the state for these services. The contract does not contain performance measures.

As of June 30, 2005, Staubach had negotiated 150 leases for 20 state agencies. This includes four master leases totaling 1.5 million square feet in four Tallahassee area properties (Koger Center, Winewood Center, Fort Knox, and Northwood Centre).⁷ These master leases, covering a period of 15 years, allow the state to consolidate leases and operate similar to the state's regional service centers.⁸ Staubach received or will be paid a total of \$12.1 million in commissions from these 150 leases.

Findings

The Workspace Management Initiative and the tenant broker have the potential to improve the state's process for leasing office space. Tenant brokers, as experienced real estate professionals, should be able to help state agencies navigate the leasing process, provide local market knowledge, perform financial analyses, and offer expert negotiation skills.

However, DMS is not taking adequate steps to ensure that all of the initiative's goals are met. Specifically,

- using the tenant broker for centralized leasing has produced short-term savings but due to certain DMS actions the initiative's long-term value is uncertain;
- DMS has made only limited efforts to implement workspace standards for new leases; and
- some new leases may not improve the quality of buildings housing state workers.

The tenant broker has produced short-term savings, but long-term value is uncertain

The centralized leasing component of the Workspace Management Initiative was intended to save money through expert market analysis and negotiation, increased consistency, and

consolidated leasing. While the initiative has produced short-term savings, its long-term value is uncertain due to overstated cost-savings estimates, eliminated lease safeguards, and customers not being timely surveyed to facilitate service improvements.

Short-term savings have been achieved. The state has realized savings from the private tenant broker's lease negotiations. These savings include periods of free rent and upfront tenant improvement dollars (i.e., funds furnished by landlords for improving land or buildings to meet tenant needs). For example, under the terms of a new lease negotiated by Staubach, tenants in the Koger Center in Tallahassee received 20 months of rent-free occupancy, which has a value of approximately \$16 million. Similarly, the Department of Children and Families was able to lease a building in Leon County with the provision that the landlord provide \$8 per square foot in tenant improvement funds to the facility, with a value of \$240,552.

Staubach reports that it has saved the state \$79 million to date through its lease broker services; DMS has validated and approved this estimate (see Exhibit 2). Most claimed savings (70%) are associated with new leases, extensions, and/or stay in place contracts, which include the "master leases."

Exhibit 2 DMS's Private Tenant Broker Claims to Have Saved the State \$79 Million

Reported Savings as of June 30, 2005	
Renegotiated Existing Term	
Current Lease Term Remaining Rental	\$ 94,273,863
Renegotiated Current Lease Term Remaining Rental	73,919,732
Total Renegotiated Savings	\$ 20,354,131
New Lease, Extension Term, and/or Stay in Place	
"Market" Rental (Existing rental w/ escalations)	\$ 464,650,207
"Actual" Negotiated Rental	408,306,047
Total Savings versus "Market"	\$ 56,344,160
Renegotiated Renewal Term	
Total Rental as per Renewal Right	\$ 18,129,584
Total Rental as per Renegotiated Renewal	15,710,243
Total Savings versus Renewal Right	\$ 2,419,341
Total Savings	\$ 79,117,632

Source: Department of Management Services and Staubach Company -North Florida, LLC.

⁷ The four "master leases" currently house the Department of Children and Families, the Agency for Health Care Administration, the Department of Business and Professional Regulation and several other agencies. These master leases include 38 leases.

⁸ In addition to the base lease term of 15 years, the leases for Koger Center and Fort Knox each include two 5-year options.

However, the long-term fiscal impact of the leases is uncertain due to weaknesses in the methodology used to project cost savings, the modification or elimination of certain leasing safeguards, and the lack of follow-up with agency tenants.

Method used to calculate savings is questionable. The rental savings represented in the lease transaction summaries that Staubach used to calculate its savings estimate are questionable in some cases. This occurs because the method used to calculate the savings is based on existing state lease rental rates rather than current market rental rates. In addition, the tenant broker has claimed budgetary savings for agencies that paid rent under both old and new leases, which overstates savings.

In an April 28, 2005, memo to Secretary Tom Lewis, Staubach officials explained the cost savings methodology that DMS adopted and noted that the method “more closely reflects budgetary savings versus market savings.”⁹ That is, the company calculated savings by comparing new lease rates to the rates paid by the state for its former leases, adjusted by an historical escalation rate. When there was not an historical rate, the company estimated savings using increases in the new lease or in prevailing market escalations.

This methodology is questionable because lease rates, particularly in the later years of long-term leases, may not reflect current market rates.¹⁰ In its assessment of state leasing practices, CLW Real Estate Services Group reported that state agencies generally pay more than the going rate for office space when compared to the private sector. If this is true, using the current rental rate to determine cost savings may lead to questionable estimates.

In addition, the tenant broker has claimed budgetary savings for agencies that paid rent under both old and new leases, which overstates savings. Staubach, in its 2005 lease transaction

summary claimed budgetary savings of \$5.9 million over the 15-year lease term for the Department of State and other state agencies, although these agencies had not moved into the Koger Center as of August 1, 2005, and were still paying rent at other locations.

A more appropriate approach to estimating the cost savings achieved by the tenant broker would be for Staubach and DMS to compare newly negotiated lease rates to documented market analyses of alternatives for the same classification of space. Staubach has the market data and expertise to perform these analyses. However, we could not independently determine the actual cost savings for the leases that have been negotiated by Staubach to date as there was little or no documentation in the DMS lease files to support what the actual market rate for a given property was prior to the execution of a new lease, lease extension, or renewal.

Several lease safeguards have been modified, which could increase future state costs. Statutes and rules require agencies to use a standardized lease agreement and perform various analyses to protect the state’s financial interests. However, DMS has allowed the tenant broker to negotiate the elimination or modification of some traditional state contractual safeguards, and it has not ensured that agencies have conducted the required analyses. These omissions increase the state’s financial risk and could reduce the long-term value of centralized leasing services.

Lease articles have been modified. Agencies are required to use a standard state lease agreement that specifies the terms and conditions of the contract. The standard agreement is intended to safeguard the state’s financial interests, and lease provisions are not to be modified unless authorized by DMS’s director of facilities management.^{11, 12}

However, DMS approved modification or deletion of several articles in leases within the four “master leases” that do not appear to be in the best interest

⁹ DMS officials stated that the department’s method for calculating savings is more “conservative” than a market-based methodology.

¹⁰ Depending on market conditions at the end of a lease, rental rates for new leases may be higher or lower than the former lease rate. Thus, the value added by the tenant broker cannot be reasonably projected using this methodology. The exception would be renegotiated leases during an existing term where budgetary savings could be fairly calculated against the existing lease rate for the remainder of the base term.

¹¹ Rule 60H-1.003(2), *F.A.C.*

¹² With the exception of lease provisions on the payment of utilities and janitorial services, which agencies are allowed to modify without needing DMS approval.

of the state.¹³ Examples of these changes include those described below.

- Article II of the standard lease, which allows agencies 30 days to pay invoices, was modified to 20 days in 19 leases, and a provision was added that payments not made within 20 days of the invoice under the modified article are to be assessed an administrative penalty of 1.5%. This modification substantially reduces the time to make lease payments and increases late payment fees over that allowed by statute.¹⁴
- Article XVII of the standard lease, which requires all property taxes be paid by the landlord, was modified in one lease to require the state to pay all property taxes in excess of a base year tax amount plus 3% cumulative and compounded. We estimate this modification could result in the state paying an additional \$3,140,000 for property taxes over the term of the lease for one master lease (Winewood Office Complex in Tallahassee).¹⁵
- For Article XVIII of the standard lease, which provides that lease payments are contingent on the Legislature appropriating funds, language was added in 19 leases that makes unfunded lease obligations a debt of the state accumulating interest at the prime rate plus 4%.¹⁶ Addition of this language appears inconsistent with s. 255.2502, *Florida Statutes*, which provides that the payment of leases is contingent on the Legislature appropriating funds and that any contract in violation of the section shall be null and void.¹⁷

¹³ The master leases include 38 leases.

¹⁴ Section 215.422, *F.S.*, allowing state agencies 30 days to pay invoices also requires interest (presently 7% per year) be paid if payment is not issued 40 days of receipt of the invoice.

¹⁵ The state's tenant broker informed DMS that the proposed rental rate would provide "a safe buffer for the landlord from worrying about the taxes more than they are now." However, the Office of Leon County Property Appraiser stated that due to changes in assessed value as well as tax rates (millage changes). "...it is difficult to assume that property taxes will not increase more than 3% annually over the life of the lease..." Our estimate is based on the average increase in property taxes at the Winewood Office Complex from 2000 through 2004."

¹⁶ According to the leases, the prime rate is based on the prime rate as published in *The Wall Street Journal* "from time to time."

¹⁷ It is the legal opinion of DMS's general counsel that contractual language required by this section of the statutes is "not amended, supplemented or waived" by the additional language.

- Article XXI of the standard lease, which allows an agency to terminate a private sector lease with six months notice if the agency moves to a state-owned building, was eliminated in the 38 leases within the Tallahassee area master leases. This could result in under-utilized state-owned buildings because agencies will no longer be able to terminate private leases in order to occupy these buildings.

Although authorization of the modification or deletion of these lease articles is required by rule, this authorization was documented for only one lease article and in only one of the master lease files we examined. In addition, while Staubach staff indicated that waiving these standard clauses made it easier to close deals with landlords, we found no indication that DMS calculated the fiscal impact of these actions, although they could substantially alter the state's costs.

Lease analyses not performed. Florida statutes and rules require agencies to perform financial analyses of proposed leases in order to ensure that the contracts are in the state's best financial interests. These analyses are to include a net present value analysis comparing the cost of the lease to other potential sites, and an analysis of projected utility costs to ensure economical building operations.^{18, 19}

However, our review of leases Staubach negotiated as of March 31, 2005, found that eight of the lease files did not include calculation of net present value. In addition, only one of the leases reviewed contained an analysis comparing the net present value of the leased property with

¹⁸ Rule 60H-1.015, *F.A.C.*, requires the evaluation of leases of 5,000 square feet or more using a net present value analysis. This analysis takes future lease payment dollars and discounts them to present dollars. Section 255.254(1), *F.S.*, requires a life cycle analysis or building operation analysis on any building exceeding 20,000 square feet leased or constructed by the state to determine the building's operating efficiency.

¹⁹ When questioned regarding cost/benefit analyses on individual lease terms, DMS commented that it "...was [not] required to document negotiations, conversations, or create a "cost/benefit analysis" for individual lease terms." However, Rule 60H-1.003(2), *F.A.C.*, requires requests for changes to the standard lease agreement to be in writing and "state with reasonable particularity" why the change is necessary and in the best interests of the state. We would expect DMS, as the lead agency in master lease negotiations, to ensure that reasons for changes to the standard lease agreement are properly documented.

competing offers; this analysis enables the state to compare the cost of leases over their term.^{20, 21} Similarly, DMS did not ensure that the required analyses of projected utility costs were performed for the four master leases negotiated by the private tenant broker, despite the fact that the state was obligating itself to 1.5 million square feet of space for 15 years. Failure to perform these building analyses could result in agencies being responsible for paying building energy costs in excess of what they had anticipated.

State agency leasing staff not regularly surveyed. Although DMS has contracted with the tenant broker since October 2003, it did not conduct satisfaction surveys of agency customers until its contract with Staubach was almost completed. DMS reported in October 2005 that Staubach sent out surveys to agencies in August and provided completed surveys and a summary to the department in September. However, for most of the contract period, DMS and Staubach have lacked customer (i.e., agency) feedback on the tenant broker's performance, which could identify ways to improve the Workspace Management Initiative as well as enable DMS to more fully evaluate Staubach's performance.

Our own survey of agency leasing staff identified several areas needing improvement.²² For example, agency leasing managers asserted that the tenant broker did not always have a good understanding of applicable state laws regulating lease procurement. In addition, agency staff reported uncertainty regarding their role because DMS has neither developed operating procedures nor updated its leasing manual to cover the role and responsibilities of the tenant broker. Agency leasing staff reported that in some cases, they are continuing to obtain proposals, select spaces, oversee renovations, and process paperwork, although these are services that are to be provided by the tenant broker.

²⁰ Eight of the 43 lease files examined were for leases under 5,000 square feet and not required to have a net present value analysis. However, six of these eight leases were part of 15-year master leases and should have included this analysis.

²¹ The net present value (NPV) calculations performed for three of the four master lease agreements that contained such information only compared the NPV of the new master lease to the existing lease for these spaces, not to comparable properties in the local area.

²² We sent questionnaires to 63 leasing staff and received 31 responses, for a 49% response rate.

The agency leasing staff also asserted that

- Staubach places too much emphasis on negotiating lower rates and not enough emphasis on improving space quality;
- the tenant broker has neither reduced the time needed to obtain replacement leases nor increased the pool of properties available for consideration; and
- Staubach does not provide well-trained and knowledgeable tenant brokers in all areas of the state, particularly southern regions.

DMS should consider this agency feedback in its own assessment of Staubach's performance and the Workspace Management Initiative.

Limited efforts have been made to implement workspace allocation standards

DMS and the private tenant broker are not taking aggressive steps to meet the Workspace Management Initiative's goal to reduce state office space. While some newly negotiated leases have incorporated the standard of 180 square feet per FTE, the majority have not. As a result, the state is likely leasing more space than needed, incurring higher than necessary long-term costs.

DMS is responsible for monitoring agency compliance with the space standard, and it has the authority to require agencies to reduce space when the opportunity presents itself.²³ Such opportunities usually arise when leases are negotiated or renewed, as these leases determine the amount of space that agencies will occupy for many years.

However, our analysis of a sample of leases established by the tenant broker revealed that 11 out of 14 agency sites exceeded the space allocation standard. For example, the Department of Business and Professional Regulation's lease at the Northwood Centre in Leon County equated to 321 square feet per FTE, while the Department of Education's lease in Dade County equated to 272 square feet per FTE, both far exceeding the 180 square feet standard.

²³ Rule 60H-2.0021(4)(b), *F.A.C.*, exempts public use space (such as reception areas, service counters, and interview rooms) and special use space (such as drug laboratories, large conference rooms, and cafeterias) from the 180-square-foot-per-FTE space allocation standard. We excluded such space from our analysis when the information was recorded in DMS files.

In total, 25% of the total net square footage leased in the transactions we reviewed exceeds the space allocation standard.²⁴ If the space allocation standard had been applied to these sites, the state would have saved approximately \$3.8 million annually in rental costs. Detailed results of our analysis are shown in Appendix A.

DMS staff conceded that the department is not doing enough to enforce the new space standards. Administrative rules required each state agency to submit a plan to DMS for reducing office space, both public and private, by November 1, 2004, and on an annual basis thereafter. However, DMS staff reported that they did not have these plans. In addition, our review of department files revealed that many lease renewals, such as the Winewood Center master lease, were approved by DMS without requiring the tenant broker to complete a plan for meeting the space allocation goal. These plans are important, as the tenant broker has little incentive to encourage compliance with the space standards on its own because its commissions are based on the amount of space leased. DMS should create a performance measure to evaluate the tenant broker on its efforts to reduce space. DMS signed an amendment to its tenant broker contract on December 15, 2005; the amendment made a number of changes to the contract including adding performance measures. However, it is too early to evaluate whether these changes will adequately measure tenant broker performance.

New leases may not improve the quality of facilities

Although the Workspace Management Initiative is intended to improve the quality of both state-owned and leased facilities, some of the long-term lease decisions made under the initiative may not achieve this goal. Specifically, some newly leased facilities have been classified as lower-quality space, and the tenant improvement funds associated with the 15-year master leases may not be sufficient to cover the long-term costs of standard maintenance and needed building improvements. Moreover, DMS has not conducted “lease-versus-buy”

analyses for long-term leases, which can result in the state spending more on rent than it would have spent if the buildings had been purchased.

Lower quality space is being leased for 15 years. An important goal of the Workspace Management Initiative is to improve the quality of office space. To that end, DMS hired CLW Real Estate Services Group to evaluate the quality of both state-owned and leased buildings. Using criteria established by the Building Owners Managers Association, CLW assigned buildings a grade of A, B, or C based on factors such as physical and aesthetic appearance, interior quality, and property location.²⁵

While DMS is in the process of disposing of some state-owned buildings that were assigned low grades (e.g., the Johns and Warren buildings in Tallahassee), it has committed to long-term leases on aging, below average private sector facilities. For example, two of the privately owned office complexes under the 15-year master leases negotiated by the tenant broker include buildings that were rated as “C” facilities.²⁶ The Winewood Center in Tallahassee, which houses the Department of Children and Families, was classified as in overall below average condition, with most of the buildings needing new carpet, paint and other improvements. Similarly, the Fort Knox Center in Tallahassee, which houses the Agency for Health Care Administration, includes “C” rated buildings needing air quality improvements, carpet replacement, and repainting.

Tenant improvement funds appear insufficient to improve building quality over lease term. As the state is now committed to long-term occupancy of below-average facilities, it is important that sufficient funds be available to maintain and improve these buildings over time. If leases provide for insufficient funds to repair and

²⁴ We were unable to determine the amount of square footage in each lease that was exempt from the 180-square-foot-per-FTE standard with few exceptions, as DMS files do not contain this information.

²⁵ Class “A” buildings have high quality standard finishes, state of the art systems, and exceptional accessibility, and they typically have rental rates that are above average for the area. Class “B” building finishes are fair to good for the area and systems are adequate, but buildings do not compete with Class “A” buildings at the rental rate. Class “C” buildings compete for tenants requiring functional space at rents below the average for the area. While not an official classification of the Building Owners Managers Association, sometimes buildings are graded as “D”; these buildings are the older buildings in less desirable locations with the lowest rents.

²⁶ Staubach and DMS officials asserted that long-term lease terms for large government centers typically range from 10 to 20 years because such terms maximize economic benefits to the state.

renovate these buildings, DMS cannot achieve its goal of improving the quality of state office space.

It appears that there are insufficient tenant improvement dollars available from landlords to improve the office space leased under the four master leases. DMS reported that \$19 million is to be set aside in “tenant improvement funds” for remodeling, renovation, and other improvements to the facilities under the contracts negotiated by the master broker.²⁷ These funds must also be used for routine maintenance (e.g., carpet and paint) and for reconfigurations needed as tenants move in and out over 15 years.²⁸

As shown in Exhibit 3, our analysis of the estimated costs to improve buildings at Winewood and Fort Knox Centers significantly exceeds the reserved tenant improvement funds. Using the Division of Retirement’s recent actual

renovation costs of \$48 per square foot for its space at Winewood, we determined that tenant improvement dollars in certain leases are insufficient to renovate and reconfigure all buildings in these master leases to a higher quality and meet the space allocation standard.²⁹ Specifically, improving the space and achieving the space allocation standard would cost an estimated \$20.1 million beyond the tenant improvement dollars made available by the owners of these centers.³⁰

DMS officials have stated that there are sufficient tenant improvement dollars to improve the quality of leased buildings in the master leases. DMS officials also reported that state agencies can request additional funding from the Legislature if there are insufficient tenant improvement dollars available from landlords to fund the improvements. However, this policy essentially hides the true costs of leasing the space, increases state costs, and negates a substantial portion of the savings reported by using the tenant broker.

²⁷ *Remodeling* is the changing of existing facilities by rearrangement of space and/or use with possible changes to the use and occupancy of the space. *Renovation* is defined as the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment with the use and occupancy of the spaces remaining the same.

²⁸ Several Staubach-negotiated leases state that tenant allowances are to be only used for interior improvements such as carpet, paint, and moving walls. Certain types of repainting (such as changing the color of a wall where the existing paint is adequate) or recarpeting (where the carpet is not worn and the tenant wants a new pattern) can be viewed as tenant improvements. However, replacement of worn carpeting and paint is properly considered maintenance. The \$1.15 million commission Staubach earned for the master lease on the Winewood Office Buildings in Tallahassee is to be paid from a maintenance escrow account that is also used to pay for items such as tenant improvements, carpeting, and paint.

²⁹ For example, DMS provided us documentation showing that lack of tenant improvement funds limited renovations in one building at the Winewood Office Center to just paint and carpet. The documentation also stated that lack of tenant improvement funds prohibited restacking of the entire facility.

³⁰ DMS officials have stated it is more reasonable to estimate a cost of \$25-\$35 per square foot for renovation and “restacking”. However, using an estimated cost of \$27.50 per square foot, the cost to improve spaces to a higher quality and meet space allocation standards is still an estimated \$9.5 million beyond the tenant improvement dollars made available by the owners of Winewood and Fort Knox.

Exhibit 3 Current Tenant Improvement Funds Would Not Meet Projected Cost to Significantly Improve Space Quality Over 15-Year Life of Master Leases

Master Lease Government Center	Square Footage	Tenant Improvement Funds Available Over 15 Years	Potential Cost to Improve Space ⁴	Shortfall
Winewood	287,115 ¹	\$2,300,000 ²	\$13,800,000	\$11,500,000
Fort Knox	229,276	2,400,000 ³	11,000,000	8,600,000
Total	516,391	\$4,700,000	\$24,800,000	\$20,100,000

¹ Does not include Division of Retirement’s 43,835 square feet.

² Staubach’s commission on Winewood (\$1.15 million is equal to half the funds provided by the landlord for maintenance, tenant improvement, and brokerage commission).

³ Tenant improvement dollars at Fort Knox Center are available in years 6 through 11 of the lease with these dollars to be repaid at the prime interest rate plus 4% over the remaining life of the lease.

⁴ Potential costs were calculated at \$48 per square foot.

Source: OPPAGA analysis of Department of Management Services information provided on January 3, 2006.

Lease-versus-buy analyses not conducted for master leases. Finally, we believe that DMS and the tenant broker should conduct lease-versus-buy analyses before entering into long-term leases. While state law does not require such analyses, they would be beneficial and allow the state to evaluate the long-term costs of building or buying facilities rather than leasing facilities for periods of 15 years. In some cases, it may be less expensive to build or buy office space than it is to rent it long-term. For example, the Leon County Property Appraiser's Office estimated the 2004 market value of the Winewood Center in Tallahassee to be \$19.3 million. DMS and the tenant broker negotiated a 15-year master lease for this property in November 2004 that will cost the state \$88.3 million over the life of the lease.

Conclusions and Recommendations

If properly managed and monitored, DMS's Workspace Management Initiative and tenant broker have the potential to produce savings and better use of state and leased office space. However, DMS has not taken adequate steps to ensure that all goals are met. Using the tenant broker has produced short-term savings but questionable cost-savings methodology and modification of lease safeguards makes the initiative's long-term value uncertain. In addition, DMS has made only limited efforts to implement workspace standards for new leases, and some new leases may not improve the quality of buildings housing state workers. While DMS amended its tenant broker contract on December 15, 2005, to address some of these concerns, it is too early to evaluate whether these changes will improve services.

To help ensure the overall success of the Workspace Management Initiative, we recommend that DMS make the improvements discussed below.

Adhere to federal "smart buyer" best practices.³¹ These practices provide that DMS should have the capability to define the services needed and assess the value and quality of services provided by the tenant broker. Key steps in these best practices include ensuring that leasing contract safeguards are adequate; required analyses of buildings and leases are performed; space allocation standards are implemented; and tenant improvement dollars are adequate to ensure long-term quality.

To effectively implement these federal "smart buyer" best practices, we recommend that DMS assign one of its five property management professionals to monitor the tenant broker contract, with primary responsibility for

- ensuring that changes to the standard lease agreement are documented, verified, and approved as being in the state's best interest;
- monitoring state agency efforts to meet the workspace allocation standard;
- ensuring adequate tenant broker funds for improving office space; and
- reviewing performance data and requesting corrective action as needed.

Implement contract performance measures. To better evaluate cost savings, DMS should require its tenant broker to report savings based on a comparison of current market rates of similar quality buildings rather than the rate paid by agencies at the expiration of prior leases.

In addition, DMS should establish standards and reporting requirements for the overall value of office space to be leased through the tenant broker. DMS should develop a quality assurance "report card" for each long-term lease (i.e., over 10 years) to measure broker performance in these areas. DMS should grade the tenant broker on

- sufficiency of tenant improvement funds to bring the office space up to a "B" classification or better;
- attaining the 180 square foot per FTE goal, and the availability of tenant improvement

³¹ Ralph S. Spillinger, in conjunction with the Federal Facilities Council Standing Committee on Organizational Performance and Metrics. *Adding Value to the Facility Acquisition Process: Best Practices for Reviewing Facilities Design*, Federal Facilities Council Technical Report #139, January 2000.

funds to reconfigure space as needed to achieve this goal;

- whether a cost-benefit analysis was conducted to determine if it was in the state's best interest to enter into long-term leases;
- whether a cost-benefit analysis was conducted to determine if it was in the state's best interest to modify standard lease clauses; and
- timeliness of lease negotiation and execution, measured from the date of the state agency's request for space to the date of lease finalization.

Moreover, we recommend that DMS, not the tenant broker, periodically conduct agency customer satisfaction surveys to provide an independent evaluation of Staubach's performance. The survey should assess agency satisfaction with timeliness of tenant broker services, its consideration of available properties, and how well it is meeting agency needs. DMS should provide and follow up on corrective action plans to address any deficiencies revealed via surveys.

Conduct lease-versus-buy analyses. When contemplating long-term leases, DMS and the tenant broker should conduct "lease-versus-buy" analyses to determine the best long-term value for the state. Such analyses should compare

rental costs to the costs associated with buying the office space or building a similar facility. In some cases, it may be less expensive for the state to build or buy office space than to rent it long-term.

Ensure that tenant broker and agency leasing staff are trained on state procurement and leasing procedures. Our survey revealed that state agency leasing staff is not always sure of their role versus that of the tenant broker. To clarify these roles and ensure the effectiveness of current leasing practices, we recommend that DMS update its real estate manual to define the roles and responsibilities of agency leasing personnel and the tenant broker. The updated manual should include revised lease forms; current state procurement rules and regulations; operating procedures; and guidelines based on the size and difficulty of the lease. DMS should provide training to both agency and tenant broker once the new manual is produced.

Agency Response

In accordance with the provisions of s. 11.51(6), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of Management Services for his review and response.

The Secretary's written response is included in Appendix B, beginning on page 12.

Appendix A

Several New Leases Exceed the 180-Square-Foot-per-FTE Goal

Agencies are directed by Rule 60H-2.0021(4)(a), *Florida Administrative Code*, to reduce the amount of office space per full-time equivalent (FTE) employee to a goal of 180 usable square feet whenever possible without sacrificing critical public or client services.¹ To assess DMS's efforts to implement this workspace allocation standard for newly negotiated leases, we examined 14 agency sites with leases established by the tenant broker. For each of these leases, we calculated the number of square feet leased per FTE. As shown in the table below, 25% of the total net leased square footage exceeds the 180 square feet per FTE goal, at an annual cost of over \$3.8 million.

Agency	County	Total Leased Square Footage	Specialized /Public Space /Square Footage ¹	Net Leased Square Footage	Stacking Analysis	Full-Time Equivalent	Square Feet per FTE	Square Footage in Excess of 180 Sq. Ft. Goal	Base Rental Rate	Excess Rent
Agency for Health Care Administration	Leon	229,276	11,464 ³	217,812	No	1,031	211	32,232	16.79 ⁵	\$ 541,175
Children and Families	Leon	152,865	4,990 ²	147,875	No	470	315	63,275	\$16.45	1,040,874
Business and Professional Regulation	Leon	182,695	9,135 ³	173,560	No	541	321	76,180	14.50	1,104,610
Education	Leon	49,503	1,492 ²	48,011	No	259	185	1,391	14.50	20,170
Revenue	Leon	17,782	889 ³	16,893	No	70	241	4,293	14.50	62,248
Children and Families	Leon	287,155	14,358 ³	272,797	No	1,144	238	66,877	13.63	911,534
Management Services	Leon	43,835	2,192 ³	41,643	No ⁴	203	205	5,103	13.63	69,554
Education	Miami-Dade	3,145	157 ³	2,988	No	11	272	1,008	21.00	21,168
Juvenile Justice	Volusia	11,628	581 ³	11,047	No	47	235	2,587	17.52	45,324
Corrections	Leon	51,184	2,559 ³	48,625	No	302	161	(5,735)	16.25	(93,194)
Elder Affairs	Palm Beach	6,422	321 ³	6,101	No	35	174	(199)	19.25	(3,831)
Education	St. Lucie	4,365	218 ³	4,147	No	18	230	907 ⁷	19.15	17,369
Children and Families	Columbia	17,745	887 ³	16,858	No	62	272	5,698	17.50	99,715
Corrections	Broward	9,075	454 ³	8,621	Yes	48	180	(19)	16.75	(318)
TOTAL		1,066,675	49,697	1,016,978		4,241	240	253,598		\$3,836,398

25% total net leased square footage exceeds square feet goal per FTE⁶

¹ Rule 60H-2.0021, *F.A.C.*, directs all agencies to obtain an average space of 180 square feet per FTE. The rule does not exempt leases under 5,000 square feet from this requirement. Exceptions to the space allocation standard include public use spaces (reception areas, service counters, etc.) and special use spaces (mail rooms, large conference rooms, etc.).

² The master lease details this space as "storage" which appears to fall under the category of "special use space" as contained in Rule 60H-2.0021, *F.A.C.*

³ DMS lease files lacked "As Built Plans" for most leases reviewed, thus preventing the determination of specialized and public space square footage. Therefore, we estimated the percentage of specialized and public space square footage at 5%. We used 5% because it is consistent with the specialized and public space square footage in the leases for which DMS has special use space data [Department of Children and Families (3.3%) and Department of Education (3%)]. Use of a higher percentage (e.g., 10%) would result in lower estimated excess square footage and rent.

⁴ DMS's Division of Retirement did a stacking analysis for this lease. However, this analysis was completed in November 30, 2005, approximately five months after the division moved into the space. The analysis noted that there was insufficient tenant improvement to restack spaces to meet the 180 square foot per FTE goal.

⁵ A blend of rates that vary by type of space (e.g., storage, newly acquired space) that is computed by dividing the total cost of the lease by the square footage.

⁶ Percentage calculated by dividing the total square footage in excess of 180 square feet goal by total net leased square footage.

Source: Department of Management Services as of January 2, 2006.

Appendix B



DEPARTMENT OF MANAGEMENT
SERVICES

**"We serve those who
serve Florida"**

JEB BUSH
Governor

Tom Lewis, Jr.
Secretary



Office of the Secretary
4050 Esplanade Way
Tallahassee, Florida
32399-0950

Telephone:
850-488-2786

Fax:
850-922-6149

Internet:
www.MyFlorida.com

January 19, 2006

Gary R. VanLandingham, Director
Office of Program Policy Analysis
& Government Accountability
Claude Pepper Building, Room 312
111 West Madison Street
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

Pursuant to Section 11.51(5), Florida Statutes, this is our response to the recommendations included in your revised report dated January 13, 2006, *Workspace Management Initiative Can Benefit State, But DMS Not Taking Adequate Steps to Ensure Goals Are Met*. This response supersedes my letter of November 17, 2005.

As a result of our December 2, 2005 meeting, additional field work by OPPAGA and assistance by Department staff, your third revised report contains additional information which is useful to the Department. In particular, DMS has already taken steps to implement OPPAGA's observation that documentation contained in the leasing files could be improved.

While the additional field work by OPPAGA has clarified some points in the report, after careful review, the Department respectfully must non-concur with the revised report.

Utilizing professional tenant brokerage services is a common trend for large office space consumers, public and private. Florida is following the best practices of the Federal government, Colorado, California, Texas, Washington DC, Michigan, New York and others by leveraging its commercial real estate buying power and utilizing specialized representation.

Since implementation in 2003, Florida's Workspace Management Initiative has reduced taxpayer cost, improved the quality and improved the use of private office space leased by the State of Florida. It is one of the smartest and best managed programs in Florida government and a great example of using private sector methods to achieve public sector objectives.

Mr. Gary R. VanLandingham, Director
Office of Program Policy Analysis & Government Accountability
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Florida's Workspace Management Initiative has:

- **Produced long term savings for the State.** Over the term of the leases that average 8.1 years renegotiated to date, the State is projected to save a total of **\$76,229,586** (\$79,117,632 rental reductions less \$2,888,046 in known costs). Landlords have also conceded an additional **\$22,162,536** in tenant improvement allocations over the lease term.
- **Reduced Rental Rates.** The State has achieved a total rental reduction to date of \$19,634,548. Using 2003 as a baseline, total annual rental amounts decreased by **7.15%** (\$10,872,254) in 2004 and **6.1%** (\$8,762,294) in 2005.
- **Reduced Square Footage Under Lease.** The amount of private office space leased by the State has decreased by **7.46%** (710,791 square feet).
- **Reduced the Number of Leases.** The number of State leases has decreased by 92 or a reduction of **8.42%**.
- **Improved Space Utilization.** In 2003, the State was using an average of 366 square feet per employee in leased space. Today, the average is 269 square feet per employee, or a decrease in occupied space of **26.5%**.

If further information concerning our response is needed, please contact Steve Rumph, Inspector General, or John Davis, Audit Director, at 488-5285.

Sincerely,



Tom Lewis, Jr.
Secretary

cc: John Holley, Chief of Staff
Department of Management Services

Lee Ann Korst, Deputy Secretary
Department of Management Services

Mr. Gary R. VanLandingham, Director
Office of Program Policy Analysis & Government Accountability
Page 3

Tim Dimond, Director Real Estate and Development
Department of Management Services

Steve Rumph, Inspector General
Department of Management Services

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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- [Performance-based program budgeting \(PB²\) reports and information](#) offer a variety of tools. Program evaluation and justification reviews assess state programs operating under performance-based program budgeting. Also offered are performance measures information and our assessments of measures.
- [Florida Government Accountability Report \(FGAR\)](#) is an Internet encyclopedia of Florida state government. FGAR offers concise information about state programs, policy issues, and performance.
- [Best Financial Management Practices Reviews of Florida school districts](#). In accordance with the *Sharpening the Pencil Act*, OPPAGA and the Auditor General jointly conduct reviews to determine if a school district is using best financial management practices to help school districts meet the challenge of educating their students in a cost-efficient manner.

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Project supervised by Kara Collins-Gomez (850/487-4257)

Project conducted by Richard H. Woerner (850/487-9217)

Gary R. VanLandingham, OPPAGA Director