



April 2008

Report No. 08-22

DMS Has Improved State Leasing Processes, Additional Performance Measures Needed

at a glance

Consistent with our recommendations and 2007 legislative action, the Department of Management Services has improved its leasing operations. The department has contracted with three new tenant brokers, improved its monitoring of tenant broker services, and changed the way it measures tenant broker contract performance. The department is also conducting training for tenant brokers and agency staff on state procurement and leasing policies. However, we continue to recommend that the department

- develop additional contract performance measures for tenant broker services;
- conduct customer satisfaction surveys rather than having the tenant broker perform these surveys; and
- use lease-versus-buy analyses to improve state leasing.

Scope

In accordance with state law, this progress report describes actions taken by the Legislature and the Department of Management Services (DMS) to address the findings and recommendations of a 2006 OPPAGA report.^{1, 2}

¹ Section 11.51(6), *F.S.*

² *Workspace Management Initiative Can Benefit State, But DMS Not Taking Adequate Steps to Ensure Goals Are Met*, OPPAGA Report No. 06-06, January 2006.

Background

The Department of Management Services' Division of Real Estate Development and Management has responsibility for developing, operating, and maintaining state-owned facilities and overseeing the state's process for leasing privately owned spaces. The division oversees, reviews, and approves agency estimates of space needs and proposed lease conditions. Agencies must use competitive processes to lease space of 5,000 square feet or more and typically enter into leases using a standard agreement developed by the department. Agencies may not lease privately owned space when suitable space is available in a state-owned building in the same geographic region, unless they receive prior department approval.

The 2003 Legislature directed DMS to contract with a private consultant to study office space issues. Subsequently, the department established the Workspace Management Initiative to reduce costs, improve office space quality, and promote optimum space use. The initiative has three major components.³

³ To ensure that state agencies cooperated with the Workspace Management Initiative, the Governor signed an executive order in June 2004 requiring executive agencies to use tenant broker services. The order required each executive agency to work toward reducing private sector leasing costs, improve workspace quality, and improve the delivery of services. The order also required 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

- Centralized Leasing. To assist agencies in procuring private leases, DMS contracted with a professional tenant broker to negotiate leases and monitor market conditions.
- Workspace use standards. DMS established a workspace goal of 180 usable square feet per full-time equivalent employee (FTE).⁴
- Asset Management. DMS explored options for divesting state-owned office buildings across the state.

As part of the initiative, the department signed a two-year contract with the Staubach Company-North Florida, LLC in October 2003. Pursuant to the contract, the company provided services including tenant broker representation, market data analysis, and contract negotiation. At the time of our 2006 report, the company had negotiated leases for 20 state agencies, including four master leases totaling 1.5 million square feet in four Tallahassee area properties (Koger Center, Winewood Center, Fort Knox, and Northwood Centre).⁵ 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.⁶ The company received more than \$12 million in commissions for negotiating these leases.

Prior Findings

Our 2006 review concluded that the Workspace Management Initiative and tenant broker had potential to improve the state's process for leasing office space. However, the Department of Management Services had not taken adequate steps to ensure that all of the initiative's goals were met. While the use of the tenant broker produced short-term savings, the department's questionable cost-saving methodology and modification of lease safeguards made the initiative's long-term value uncertain. In addition, DMS had made only

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 required DMS to competitively procure leases and exercise all available options authorized by law.

⁴ Rule 60H-2.0021(4)(a), *F.A.C.*

⁵ The four "master leases" 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.

⁶ In addition to the base lease terms of 15 years, the leases for Koger Center and Fort Knox each include two 5-year options.

limited efforts to implement workspace standards for new leases. We also reported that some new leases did not appear to improve the quality of buildings housing state workers. To ensure the overall success of the Workspace Management Initiative, we recommended that the department take several steps.

- Adhere to federal "smart buyer" best practices to ensure that changes to the standard lease agreement are in the state's best interests, monitor state agency efforts to meet the workspace allocation standard, require adequate tenant improvement funds for enhancing office space, review performance data, and request corrective action as needed.
- Establish standards and implement contract performance measures to require the tenant broker to report savings based on a comparison of current market rates of similar quality buildings. In addition, the department should develop a quality assurance "report card" for each long-term lease to measure broker performance and measure customer satisfaction in-house rather than relying upon the tenant broker to conduct satisfaction surveys.
- Complete lease-versus-buy analyses to determine the best long-term value for the state including comparing rental costs to the cost associated with buying the office space or building a similar facility.
- Update its real estate manual and training for tenant broker and agency leasing staff to ensure that they are trained on state procurement and leasing procedures, to clarify roles played, and to ensure the effectiveness of current leasing practices.

Current Status

Consistent with our recommendations, the Legislature and Department of Management Services have modified state agency leasing operations. Under new legislative authority, DMS is adopting federal "smart buyer" practices and has taken additional action to improve the state's processes for leasing office space. The department has also taken steps to improve its monitoring of tenant broker services and performance.

In addition, the department has conducted training for tenant broker and agency leasing staff on state procurement and leasing policies and has revised its leasing manual and guidelines.

However, the department has not taken steps to implement other recommendations. We continue to believe that state leasing would be improved if the department adopted additional contract performance measures for tenant broker services, conducted customer satisfaction surveys in-house rather than having the tenant broker assess agency satisfaction with its services, and used lease-versus-buy analyses to guide state leasing decisions.

The Legislature and department have taken steps to implement federal “smart buyer” best practices

Consistent with our recommendations, the 2007 Legislature required the Department of Management Services to adopt several federal “smart buyer” best practices for state agency leasing (Ch. 2007-220, *Laws of Florida*). For example, the law requires DMS to develop and implement a leasing plan that forecasts space needs for all state agencies and identifies opportunities for reducing costs such as relocating to vacant facilities or building or acquiring state-owned space. The law also requires the department to annually report to the Legislature on measures such as changes in occupancy rates of state-owned and leased spaces and cost-benefit analyses of acquisition, build, and consolidation opportunities.

In response to these statutory changes, the department modified the way it manages the Workspace Management Initiative. DMS designated five new staff positions appropriated by the Legislature to oversee its leasing program and tenant broker contracts. These staff will collect and analyze leasing information from state agencies as well as monitor state agency leasing and tenant broker activities within the three regions of the state—North, Central, and South.

Department officials reported that they expect the additional legislative authority and new workspace management structure to improve the department’s ability to monitor agency efforts to meet the 180 square foot workspace allocation

standard. In addition, they expect that better information and planning will help state agencies consider building quality as part of leasing decisions.⁷ However, there are no specific requirements that agencies take improved quality into consideration when leasing office space. According to department officials, agencies make the final leasing decisions.

Our prior report also recommended that the department ensure that any changes to the state’s standard leasing agreements were in the state’s best interest. The department reports that there have been no changes to the standard leasing agreements in recent years.

The department has established additional contract performance measures, but more are needed

Consistent with our recommendation, the Department of Management Services’ new tenant broker contracts include additional performance measures and modify the department’s cost-savings methodology. However, several of our recommendations for ensuring that the state receives the best value from tenant broker services have not yet been implemented.

In response to the 2007 legislative changes, the department entered into three new tenant broker contracts in early 2008. These tenant brokers are available to provide state agencies services such as annual market rate surveys and in-depth market analyses for all major markets and advisory support for relocation to state-owned space if the agency requests assistance. In the past, the use of tenant broker services was mandatory, but under the 2007 legislative changes, agencies may use tenant brokers at their discretion.

Consistent with our recommendation, the department has improved the methodology it uses to assess tenant broker cost savings. The new methodology compares historical rate increases for leased buildings to the current market costs for buildings of similar quality. In addition, the new contracts require tenant brokers to develop and

⁷ According to the Building Owners Managers Association, buildings are rated “A,” “B,” or “C” depending on factors including physical and aesthetic appearance, interior quality, and property location. One goal of the Workspace Initiative is to improve the quality of office space leased by the state.

report additional performance measures that are approved by DMS. Department officials reported that they intend to track tenant broker speed, responsiveness, and number of days to complete a transaction as well as other performance measures.

However, we continue to recommend that the department develop quality assurance measures for long-term leases and assess whether contracts facilitated by tenant brokers contain sufficient tenant improvement funds to maintain and improve the quality of office space provided. In addition, we continue to recommend that the department track and report the extent to which the state is attaining the 180 square feet per FTE goal, as well as establish a performance measure that tracks the timeliness of lease negotiation and execution as measured from the date of the state agency's request for space to the date of lease finalization. Moreover, the 2008 tenant broker's contract requires the tenant broker to conduct customer service surveys. Department officials indicated that the new contracts will allow the department to monitor automated customer satisfaction surveys developed by the tenant broker. To ensure an independent evaluation of the tenant broker's performance, we continue to recommend that DMS, not the tenant broker, conduct agency customer satisfaction surveys.

Lease-versus-buy analyses have not been conducted

The department has not implemented our recommendation to conduct lease versus buy analyses to compare rental costs for office space to the cost of purchasing or building office space.

Department officials indicated that because a majority of leases are short-term (three to five years), they do not consider lease-versus-buy analyses feasible. However, the current tenant broker contracts allow the department to conduct lease versus buy analyses upon request. We continue to believe that lease-versus-buy analyses for long-term leases (10 or more years including optional extension periods) would be beneficial and help determine the best long-term value for the state.

Tenant brokers and agency leasing staff are receiving training on state procurement and leasing policies

Consistent with our recommendation, the department has taken steps to ensure that tenant broker and agency leasing staff receives training on state procurement and leasing policies. The department conducted tenant broker training on procurement and leasing in May 2006 and March 2007. Moreover, the current tenant broker contract requires all brokers to attend process training in Tallahassee. The department held additional training for agency staff in February 2008 that included topics such as performance measures and feedback on customer service issues. In addition, the department revised the DMS leasing manual and guidelines to help agencies meet their leasing and real estate needs. According to officials, the department is updating the leasing manual and guidelines to reflect the terms and conditions of the new tenant broker contracts.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

Project supervised by Mary Alice Nye (850/487-9253)
Project conducted by Richard H. Woerner (850/487-9217)
Kara Collins-Gomez, Staff Director (850/487-4257)
Gary R. VanLandingham, Ph.D., OPPAGA Director