

CHAPTER 11

STATE LEASING AND SPACE UTILIZATION

Authority

N.J.S.A. 52:18A-191.1 et seq., specifically 52:18A-191.8.

Source and Effective Date

R.2008 d.228, effective July 9, 2008.
See: 40 N.J.R. 598(a), 40 N.J.R. 4599(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 11, State Leasing and Space Utilization, expires on January 5, 2016. See: 47 N.J.R. 2051(a).

Chapter Historical Note

Chapter 11, State Leasing and Space Utilization, was adopted as R.1996 d.1, effective January 2, 1996. See: 27 N.J.R. 3779(a), 28 N.J.R. 171(a). Pursuant to Executive Order No. 66(1978), Chapter 11, State Leasing and Space Utilization, expired on January 2, 2001.

Chapter 11, State Leasing and Space Utilization, was adopted as R.2003 d.65, effective February 3, 2003. See: 34 N.J.R. 3487(a), 35 N.J.R. 623(a).

Chapter 11, State Leasing and Space Utilization, was readopted as R.2008 d.228, effective July 9, 2008. As part of R.2008 d.228, Subchapter 5, Advertisements for Leased Space, was renamed Advertisement Process and Submission of Property Profile Forms, effective August 4, 2008. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 11, State Leasing and Space Utilization, was scheduled to expire on July 9, 2015. See: 43 N.J.R. 1203(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 17:11-1.1 Purpose and scope
- 17:11-1.2 Source for public information
- 17:11-1.3 Definitions

SUBCHAPTER 2. RULES OF GENERAL APPLICABILITY

- 17:11-2.1 Planning and usage
- 17:11-2.2 Occupancy, operation and maintenance
- 17:11-2.3 Negotiations of leases; general
- 17:11-2.4 Negotiation of leases in special circumstances

SUBCHAPTER 3. IDENTIFICATION OF AGENCY SPACE AND USAGE

- 17:11-3.1 Capacity and utilization report
- 17:11-3.2 Failure to report
- 17:11-3.3 Current inventory report of State-owned and leased real property

SUBCHAPTER 4. STATE AGENCY REQUESTS FOR SPACE

- 17:11-4.1 Requests for space
- 17:11-4.2 Project description
- 17:11-4.3 Occupancy of space after approval of SPR

SUBCHAPTER 5. ADVERTISEMENT PROCESS AND SUBMISSION OF PROPERTY PROFILE FORMS

- 17:11-5.1 Advertising process
- 17:11-5.2 Property Profile Form (PPF)
- 17:11-5.3 Who is eligible to submit a PPF
- 17:11-5.4 DPMC review of completed PPFs

SUBCHAPTER 6. SITE EVALUATION AND RECOMMENDATION

- 17:11-6.1 Proposal request
- 17:11-6.2 Proposal submission
- 17:11-6.3 Extension of time to submit proposal
- 17:11-6.4 Prices
- 17:11-6.5 Withdrawal of proposal
- 17:11-6.6 Correction of pricing error
- 17:11-6.7 Verification of proposal
- 17:11-6.8 Rejection and re-advertisement of proposal
- 17:11-6.9 Evaluation
- 17:11-6.10 Negotiations
- 17:11-6.11 Notice of recommendation to the Committee
- 17:11-6.12 Documents considered public information

SUBCHAPTER 7. STATE LEASING AND SPACE UTILIZATION COMMITTEE APPROVAL

- 17:11-7.1 Notice of proposed lease (NPL)
- 17:11-7.2 Decision of the State Leasing and Space Utilization Committee
- 17:11-7.3 Validity of lease agreement
- 17:11-7.4 Execution of lease
- 17:11-7.5 Cancellation of an NPL

SUBCHAPTER 8. HEARINGS

- 17:11-8.1 Informal hearings; subject matter
- 17:11-8.2 Protest procedures; rejection of a leased space proposal
- 17:11-8.3 Challenge procedures; challenge to a notice of proposed lease
- 17:11-8.4 Discovery procedures

SUBCHAPTER 9. CONSTRUCTION

- 17:11-9.1 Approval of construction documents
- 17:11-9.2 Notice to proceed with work
- 17:11-9.3 Change order
- 17:11-9.4 Requests for renovation

SUBCHAPTER 10. FURNISHING SPACE

- 17:11-10.1 Acquisition of furniture
- 17:11-10.2 Relocation of furniture

SUBCHAPTER 11. COMPLIANCE WITH LEASE AGREEMENT

- 17:11-11.1 Submission of disclosure statement
- 17:11-11.2 Tenant complaints and lessor compliance issues

SUBCHAPTER 12. TENANT AGENCY RESPONSIBILITIES

- 17:11-12.1 Tenant compliance with lease
- 17:11-12.2 Repair costs
- 17:11-12.3 Renovations
- 17:11-12.4 Notification of lessor non-compliance
- 17:11-12.5 DPMC investigation of complaints
- 17:11-12.6 Environmental contamination of the premises

SUBCHAPTER 13. VACATING LEASED SPACE

- 17:11-13.1 Approval to vacate
- 17:11-13.2 Condition of vacated premises

SUBCHAPTER 14. DEBARMENT/SUSPENSION

17:11-14.1 Debarment/suspension

SUBCHAPTER 15. WAIVER

17:11-15.1 Waiver

SUBCHAPTER 1. GENERAL PROVISIONS

17:11-1.1 Purpose and scope

(a) The Office of Leasing Operations was established by statute under the supervision of the Administrator of the General Services Administration. Pursuant to Reorganization Plan 003-1997 as set out under N.J.S.A. 52:18A-178 et seq., the Office of Leasing Operations and related functions, powers, and duties were transferred to the Division of Property Management and Construction (DPMC). The rules in this chapter are promulgated by the Division of Property Management and Construction of the Department of Treasury to implement the provisions of that law.

(b) The rules require State agencies to account and plan for all operations and programmatic space requirements and to accurately and regularly report these requirements to DPMC.

(c) These rules apply to all State agencies, as defined by N.J.A.C. 17:11-1.3.

Amended by R.2008 d.228, effective August 4, 2008.
See: 40 N.J.R. 598(a), 40 N.J.R. 4599(a).

In (a) and (b), substituted "DPMC" for "DPM&C".

Case Notes

There was no merit to claims that only the Director of the New Jersey Division of Rate Counsel (DRC) had authority to cause the relocation of its office from Newark to Trenton because the Division of Property Management and Construction (DPMC), a division of the New Jersey Department of the Treasury, was responsible for acquiring and disposing of interests and real estate for all departments and other subdivisions of the executive branch, including the DRC. In re White, Div. of Rate Counsel, Dep't of the Treas., CSC Docket No. 2013-2286, 2013 N.J. CSC LEXIS 1175, Final Administrative Action (November 26, 2013).

17:11-1.2 Source for public information

The public may receive information concerning the State lease program and Requests for Leased Space Proposals (RFPs) by contacting the Director of the Division of Property Management and Construction, PO Box 034, Trenton, New Jersey 08625-0034.

Amended by R.2008 d.228, effective August 4, 2008.
See: 40 N.J.R. 598(a), 40 N.J.R. 4599(a).

Substituted "lease program" for "Lease Program", "Requests" for "requests" and "Leased Space Proposals" for "leased space proposals".

17:11-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Advertisement" means a public notice of a need for available space that is advertised in newspapers, periodicals and/or the internet.

"Change order request" means a document requesting authorization for modification or variation from an original scope of work.

"Committee" means the State Leasing and Space Utilization Committee.

"Construction documents" means the drawings and specifications, as prepared, signed and sealed by licensed architects and engineers, necessary to obtain all applicable permits for the construction/renovation of space and the associated certificate of occupancy. These drawings and specifications may include, but are not limited to, general construction, electrical, plumbing, HVAC, fire protection and telecommunications.

"Cost effective" means the least expensive space procurement alternative that can be demonstrated to conform to criteria provided by DPMC in the Request for Leased Space Proposal and to the operational concerns and restrictions of the State agency.

"Co-terminus amendment" means a change that amends the substance of an existing lease to include additional space and provides that the lease term for the additional space will terminate on the same date as the original lease.

"Disclosure Statement" means a document formulated by DPMC, and required of all lessors seeking to do business with the State, that elicits information related to ownership and other interests in the property, tax liabilities and possible conflicts of interest.

"Division of Property Management and Construction (DPMC)" is the organization formed pursuant to a reorganization which occurred subsequent to the passage of P.L. 1992, c. 130. Pursuant to Reorganization Plan No. 003-1997 (filed May 8, 1997, effective July 7, 1997), 29 N.J.R. 2498(a) (June 2, 1997), Governor Whitman abolished the General Services Administration and reorganized the Department of the Treasury's Division of Building and Construction, Division of Facilities Management, the Office of Real Property Management, and the Office of Leasing Operations into the newly created Division of Property Management & Construction (DPMC) in the Department of the Treasury, and transferred the functions of the General Services Administrator under P.L. 1992, c. 130, to the Division Director (the Director).

"Lease" means the agreement, approved by the Committee in accordance with N.J.S.A. 52:18A-191.4 and N.J.S.A. 52:18A-191.5, and fully executed by the State and the lessor that contains the terms and conditions under which the lessor will provide and the State will take a leasehold interest in certain specified real property.