



OCT 30 2007

RSL-2007-11

MEMORANDUM TO ASSISTANT REGIONAL ADMINISTRATORS, PBS  
REGIONAL REALTY SERVICES OFFICERS

THRU: ANTHONY E. COSTA  
DEPUTY COMMISSIONER - PD

FROM: SAMUEL J. MORRIS III  
ACTING ASSISTANT COMMISSIONER FOR OFFICE OF  
REAL ESTATE ACQUISITION - PQC

SUBJECT: Free Space in a Leased Location

1. Purpose. This Realty Services Letter (RSL) issues policy and criteria applicable when free space is included as part of a lease.
2. Background.
  - a. Regional practices have, with minor variations, allowed for acceptance and incorporation of portions of leased space termed "free," when provided by a Lessor in a space procurement. "Free" is herein defined as provided at/with no additional cost to the Government.
  - b. On September 21, 2007 the Office of Real Property Asset Management issued Pricing Policy Clarification #22, *Free Space in Lease Locations*, to provide policy and guidance when incorporating free space under lease. This RSL is being issued coincident with Clarification #22 to avoid inconsistencies, clarify processes, and promote proper methodologies when incorporating free space into a lease.
3. Effective Date/Expiration Date. This RSL is effective immediately and will expire 12 months from the date of issuance unless modified, cancelled, or reissued.
4. Cancellation. None
5. Applicability. This RSL applies to all real property leasing activities.
6. Instructions/Procedures. See Attachment 1.

Attachments: 1: Policies / Procedures for Free Space in a Lease  
2: Pricing Policy Clarification #22  
3: OA Tool and STAR instructions for Free Space

Policies / Procedures for Free Space in a Lease

1. General. The policies in this RSL must be applied in all space procurements where free space is offered as a portion of the total leased space.
  - a. When space in excess of a stated space requirement is offered for free prior to award of a lease, the tenant agency must either 1) agree to accept the extra free space and sign an Occupancy Agreement (OA) for the actual square footage, or 2) reject the free space. If the customer agency accepts the free space, the rent for the total square footage, including the free space, will be assessed on the rent bill, with the overall rate blended over the entire square footage (free and leased). When creating the OA with free space, the responsible GSA associate must enter the full amount of space –including free space square footage, and include the free space adhoc clause as part of the OA. The clause contains a narrative accounting for the presence of free space. This is explained in greater detail in Pricing Policy Clarification #22 and in Instructions – Free Space in a Leased Location OATool and STAR. If the customer agency rejects the free square footage, the Offeror must show that the free space will be partitioned off from the leased space.
  - b. When offered, Contracting Officers, Realty Specialists, and Broker Partners must advise the Offeror that any space offered as free will not be considered during negotiations, will not be evaluated as part of price evaluations, and will not be considered a factor in lease award.
2. The Lease.
  - a. The Realty Specialist must clearly indicate in the lease contract that for the purposes of all rental calculations, all space offered as free is excluded from tenant improvements, operating costs, overtime utility rates, CPI escalations, and percentage of occupancy for tax escalations. The Realty Specialist must also include in the contract that maintenance of free space be provided at no additional costs to the Government.
  - b. When incorporating free space into the lease, the entire square footage of the free portion of space must be clearly cited on the SF2 (both in Rentable and ANSI/BOMA Office Area).
  - c. To document free space in the SF2, the following language is suggested for use:

“xxx,xxx rentable square feet of [office/warehouse] and related space, which yields xxx,xxx ANSI/BOMA Office Area square feet of space **and** an additional xxx rentable square feet (yielding xxx ANSI/BOMA Office Area SF) of free space (for which the Government will not be charged rent, including real estate taxes and operating cost escalations) in excess of the total xxx,xxx rentable/xxx,xxx ANSI/BOMA square footage indicated above, for a total of yyy,yyy rentable square feet, (yielding yyy,yyy usable square feet) under lease, at *Building Name and Address*”.
3. Lease Rider. The lease agreement must specifically state that “All rights, responsibilities, and obligations that bind the Lessor and Government under this lease agreement, including the General Clauses, and any other attachments hereto, shall pertain to the entire space under lease, including the free space.”

4. Tenant Improvement Allowance. The Realty Specialist must not increase the TI allowance to cover build out for any portion of space identified as free under the lease agreement. All space designs and floor plans must clearly delineate all areas identified as free under the lease agreement, as situated in relation to the demised leased space under rent, copies of which must be maintained in the lease file.
5. Lease Metrics. For the purposes of lease metrics (i.e., Lease Cost Relative to Market, etc.), all leases containing free space must be noted as such when reporting on the particular lease in question. When National Office adjudicates a lease in relation to the LCRM, all free square footage will be deducted out of the lease, and not considered a component for adjudication.
6. Release of Space. If the customer agency accepts the free space, and during the term of the lease decides to return space to GSA, an amount of square footage up to the total free space square footage must be returned first, with no rental adjustment, before any space under rent can be released. This will apply even if the physical space that was initially counted as free remains in the tenant's possession, in accordance with Pricing Policy Clarification #22 and the free space OA clause.
7. Scoring. When submitting a lease containing free space to Portfolio for a scoring analysis, the Realty Specialist must exclude all free space square footage from scoring calculations.
8. Prospectus Leases. When free space is offered as part of prospectus lease procurements, Realty Specialists must consult with their regional Portfolio office. The regional Portfolio office will obtain guidance from the National Real Property Asset Management office prior to accepting free space for such leases.



Attachment 2

GSA Public Buildings Service

SEP 21 2007

MEMORANDUM FOR ASSISTANT REGIONAL ADMINISTRATORS (PBS)

FROM: *Cathleen C. Kronopolus*  
CATHLEEN C. KRONOPOLUS  
ASSISTANT COMMISSIONER (PV)

SUBJECT: Pricing Policy Clarification #22,  
Free Space in Leased Locations

The attached pricing policy clarification covers policy when free space is offered at a leased location. Also attached are implementation instructions and a sample of the OA Clause used in accordance with this clarification.

This clarification has been cleared through the PBS Issuance System. It was drafted in coordination with the Pricing Network and the Real Estate Acquisition Division. A Realty Services letter will be issued to provide operational guidance in support of the policy.

If you have questions regarding this clarification, please contact one of the National Pricing Points of Contact, Beth Lemanski at 202-501-3277, David C. Baker at 202-595-4648 or Kelly Juarez at 816-823-2545.

Attachments

cc: Assistant Commissioners, Regional PT Directors, Regional Pricing POCs, and Realty Services Officers

## FREE SPACE CLARIFICATION #22

Effective Date: September 10, 2007

Purpose: Pricing Policy Clarification #22 on Free Space in a Leased Location  
No policy currently exists for the treatment of free space in leased locations. This clarification is provided for consistent treatment of the issue.

Existing Desk Guide Language:

The existing Pricing Desk Guide does not address free space in leased locations.

Clarification:

Add to Section 3.2 after Rent Concessions.

### **Free Space in Leased Locations**

When an offeror has a contiguous block of space that exceeds the maximum amount for which GSA has solicited, he or she may offer this space at no charge to the Government. When the offered space exceeds the maximum solicitation for offers (SFO) requirement, the tenant agency must be consulted. The agency must agree to accept the extra space and sign an occupancy agreement (OA) for the actual square footage, or it must reject the additional square footage.

If the customer agency accepts the space, then rent for the total square footage (including the free space) will be assessed on the rent bill. However, the overall rate will be reduced (blended in the OA Tool) to essentially make the additional space free. If the customer agency rejects the extra square footage, the offeror must show that the free space will be partitioned off from the requested block of space.

Once free space is accepted, the following apply:

- The contracting officer must not consider the free space during negotiations or evaluations of a competitive lease action.
- The tenant improvement allowance must not be increased to include the square footage of the free space.
- A clause must be completed and included in the OA to explain the terms of the free space and details of the blended rate.
- The square footage of the free space must not be included in the base cost of services.
- The annual Consumer Price Index (CPI) adjustment is not applied to the free space.
- The percent of government occupancy, for real estate tax purposes, must not include the free space.

- If space is returned by the agency prior to expiration of the lease, an amount of square footage up to the total free space square footage must be returned first, with no adjustment to the rent, before any paid space can be released. This is the case even if the physical space that was initially counted as free remains in the tenant's possession. This information is included in the free space OA clause.
- The free space square footage is not included in any scoring analysis pertaining to a location with free space.
- Seek further guidance from Real Property Asset Management (RPAM) at national office prior to accepting free space for a prospectus level lease.

Charges outside of the lease contract, such as security costs billed through the Federal Protective Service (FPS), will be assessed on the entire block of space since it is occupied by the customer agency.

**Instructions  
Free Space in a Leased Location  
OATool and STAR**

In situations where the offeror is providing more space than the maximum in the Solicitation for Offers (SFO), data should be entered in the OATool and STAR to capture both the amount of space as reflected in the SFO and the free space. Data should be entered as follows:

**OATool**

1. Create OA for full amount of space including both the SFO space and the free space reflecting the correct USF, RSF. Also include Parking and appropriate Effective and Expiration Dates.
2. On the OA Main Screen enter "Includes ### RSF of Free Space" in the Version Description.
3. On Rates page, enter the annual amount for each Rent Component based on the square footage we are paying rent to the lessor. The OATool will then calculate the blended rate.
4. Add the Optional Clause – Free Space by checking box next to the clause.
5. Fill in the appropriate amounts for all text boxes in this clause and save

**STAR**

1. The Project should reflect the square footage requested by the agency
2. The Lease should use the total of the "paid" and "free" space. This total should be entered on the Lease Details screen in the ANSI rentable field.
3. Add Remarks - "Includes ### RSF of Free Space" to the Lease module.
4. Space records should be created in one CBR for the full amount of usable and rentable square footage including the "paid" and "free" space. A separate record for the "free" space should be created with Space Category of Assigned – New, Space Type based on build out and "Free Space" should be added to the Activity Name field. (For Senate and House space, the separate space record should still be created but it will not be possible to add Free Space to Activity Name field since the member name appears there)

**OA Clause for Use When Free Space is  
Offered and Accepted in a Leased Location**

Although the maximum requirement for this assignment was ### RSF, the Lessor has included ### RSF of space free of charge which brings the total square footage to ### RSF. The actual square footage occupied is documented in this OA and will be reflected on the rent bill. However, only ### RSF is being assessed rent. The blended rates (to accommodate the free space) per rentable square foot are reflected on the financial summary pages of this OA. If space is returned by the agency prior to expiration of the lease, an amount of square footage up to the total free space square footage must be returned first, with no adjustment to the rent, before any paid space can be released. This is the case even if the physical space that was initially counted as free remains in the tenant's possession.