



Rules of
Office of Administration
Division 35—Division of Facilities Management
Chapter 2—Leasing

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**Title 1—OFFICE OF
ADMINISTRATION
Division 35—Division of Facilities
Management
Chapter 2—Leasing**

1 CSR 35-2.010 Rule Objectives

PURPOSE: This rule states the objectives of the rules of the Office of Administration pertaining to the procedures for procuring and managing property leased from others, and for leasing excess property to others.

(1) The objectives of rules 1 CSR 35-2.010 through 1 CSR 35-2.060 are to establish uniform procedures for—

(A) Procuring leased real property for various agencies of state government;

(B) Managing leased real property; and

(C) Leasing to others the excess real property owned or controlled by various agencies of the state government.

(2) Exceptions. The provisions of this regulation do not apply to the following agencies of state government: the General Assembly, Elected Officials, the Judiciary, Department of Conservation, Missouri Department of Transportation, institutions of higher education and bodies corporate and politic.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998.*

**Original authority: 34.030, RSMo 1939, amended 1945.*

1 CSR 35-2.020 Definitions

PURPOSE: This rule defines terms as used in rules 1 CSR 35-2.010 through 1 CSR 35-2.050 for procuring and managing leased real property.

(1) Definitions. As used in 1 CSR 35-2.010 through 1 CSR 35-2.050—

(A) “Agency” means any organizational unit of state government, with the exceptions specified in 1 CSR 35-2.010(2);

(B) “Leased premises” means the property being or to be leased;

(C) “Lessor” means the landlord, owner or agent of the owner of the leased premises;

(D) “Lessee” means the state of Missouri;

(E) “Tenant/using agency” means the organizational unit of state government which occupies the leased premises;

(F) “Premises” means all land, buildings and equipment furnished as part of the property leased to the state;

(G) “Request for Proposal (RFP)” means a document describing the particular specifications the facility must comply with and the terms and conditions of the contract; and

(H) “Lease” means the documents formalizing and binding the lessor and the lessee. Contract documents shall include the signed request for proposal, any amendments thereto, and the countersigned award page.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998.*

**Original authority: 34.030, RSMo 1939, amended 1945.*

1 CSR 35-2.030 Administration of the Leasing Process

PURPOSE: This rule establishes the agency of authority and responsibility for procuring and managing leased real property.

(1) The commissioner of administration is the exclusive representative of the state of Missouri in all real estate leasing transactions except as otherwise provided in this chapter. Neither the tenant/using agency nor any individual, organization or group, other than the commissioner of administration, shall have authority to obligate the state of Missouri in real estate leasing transactions in any form.

(2) The tenant/using agency shall have primary responsibility for managing the day-to-day operation of the leased premises, but shall have no authority to waive or modify provisions of the bid specifications or the terms and conditions of the lease. The tenant/using agency shall provide the commissioner of administration with written documentation of any problems, complaints or concerns that are contrary to the terms and conditions of the lease.

(3) The commissioner of administration may establish and maintain written guidelines to implement these regulations governing the leasing of real property. The guidelines may include, but not be limited to:

(A) Procedures and documents for identifying the amount and type of real property needed;

(B) Procedures and documents for procuring leased premises; and

(C) Procedures and documents for administering the contracts.

(4) All leases entered into by the Office of Administration shall prohibit carrying a firearm or other weapon readily capable of lethal use into the leased premises. This pro-

hibition shall not apply to state and federal law enforcement officers, peace officers, probation and parole officers, wardens and superintendents of prisons or penitentiaries, members of the armed forces and national guard, persons vested with judicial authority by the state or federal court, and members of the state General Assembly, acting in their official capacity. Possession of a firearm by a person holding a valid state concealed carry endorsement in a vehicle located in a parking area upon the premises of any area referenced in this rule shall not be prohibited so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

AUTHORITY: sections 8.110, 8.320, 34.030, 37.005, 536.023.3 and 536.025, RSMo 2000. Original rule filed April 15, 1998, effective Nov. 30, 1998. Emergency amendment filed Oct. 9, 2003, effective Oct. 19, 2003, expired April 15, 2004. Amended: Filed Oct. 9, 2003, effective April 30, 2004.*

**Original authority: 8.110, RSMo 1939, amended 1949, 1957, 1965, 1995; 8.320, RSMo 1958, amended 1965; 34.030, RSMo 1939, amended 1945; 37.005, RSMo 1973, amended 1983, 1986, 1987, 1991, 1996, 1997; 536.023, RSMo 1975, amended 1976, 1997; and 536.025, RSMo 1975, amended 1976, 1993, 1995, 1997.*

1 CSR 35-2.040 Lease Acquisition

PURPOSE: This rule establishes a uniform procedure for procuring leased real property.

(1) All acquisitions of leased property, including both newly executed leases and the extensions of existing leases after all renewal options have expired, shall be procured through publicly advertised competitive proposals, unless the commissioner of administration deems it to be in the best interest of the state to negotiate a particular procurement.

(2) For each lease, the commissioner of administration, in conjunction with the tenant/using agency, shall develop a Request for Proposal (RFP) for the property to be acquired.

(3) The commissioner of administration may suspend from bidding on state leases any individual or organization who—

(A) Materially fails to comply with the provisions of an award from the state or a lease agreement with the state;

(B) Submits false or misleading information in response to an RFP;



(C) Takes actions that are intended to inhibit or prevent the operation of an open, competitive bid or proposal process; or

(D) Acts in a manner contrary to sound or ethical business practice, or in a manner deemed by the commissioner of administration to be detrimental to state leasing practice.

(4) The commissioner of administration may require any bidder/lessor to submit a surety document payable to the state of Missouri to insure compliance with the RFP and/or lease.

(5) The commissioner of administration shall conduct an evaluation of all proposals in accordance with the RFP.

(6) The decision to award a lease to a lessor shall be based upon the lowest and best proposal received in accordance with the terms of the RFP.

(A) No individual, agency or organization other than the commissioner of administration may obligate the state of Missouri in the procurement of leased real property.

(B) The commissioner of administration reserves the right to reject any and all proposals, and may waive any minor informality or irregularity in a proposal.

(C) The lessor will be required to comply with all terms and conditions stipulated in the proposal as accepted.

(7) The commissioner of administration may require the successful bidder to submit specified documents detailing any renovation and/or construction that is to occur on the premises to insure compliance with the proposal.

(8) The commissioner of administration may signify that the documents for major construction projects or renovations have been reviewed and accepted by issuing a notice to proceed to the successful bidder.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998.*

**Original authority: 34.030, RSMo 1939, amended 1945.*

1 CSR 35-2.050 Management of Leased Real Property

PURPOSE: This rule establishes a uniform procedure for managing leased real property.

(1) In order for any lease of real property to obligate the state of Missouri, the lease must

be signed by the commissioner of administration, the director of the Division of Facilities Management, or their designees.

(2) The rights and obligations of the lessor and the lessee shall be as specified in the lease.

(3) The tenant/using agency shall be responsible for the day-to-day operations of the rental facility.

(4) The commissioner of administration shall have the authority to make a one (1)-time lump-sum payment to a lessor for improvements to a leased facility under the following conditions:

(A) The improvements would provide a direct benefit to the operations of the state's programs and are not required for the provision of any of the services covered by the lease, such as maintenance, upkeep or repair of the facility;

(B) The amount paid by the commissioner for the construction of the improvements is no more than the reasonable cost to construct the improvements; and

(C) The remaining term of the lease, including the lessee's options to renew, exceeds twelve (12) months. A one (1)-time payment may only be made in the last one (1)-year renewal period of a lease if necessary to meet unforeseen changes in program requirements.

(5) Monies to fund all payments due under lease agreements are appropriated annually by the Missouri General Assembly for one (1) fiscal year beginning July 1. No lease shall be binding on the lessee unless and until appropriations have been made by the Missouri General Assembly and, if applicable, funds have been received from the United States government for any payment therefor. This limitation shall apply for any fiscal year during the initial period and all renewal periods.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998.*

**Original authority: 34.030, RSMo 1939, amended 1945.*

1 CSR 35-2.060 Leases of Excess Property to Governmental and Private Entities

PURPOSE: This rule establishes a uniform procedure for leasing excess property to other governmental and private entities.

(1) Definitions. As used in this rule 1 CSR 35-2.060—

(A) "DFM" means the Office of Administration, Division of Facilities Management;

(B) "Holding agency" means the governmental unit, which is the primary occupant of a facility that is controlled by the state of Missouri and contains excess property;

(C) "Excess property" means that portion of a parcel of improved or unimproved real property controlled by the state of Missouri, which is temporarily vacant or is not fully utilized by the holding agency; and

(D) "Lessee" means the state agency or private entity, which occupies excess property which it leases from the state of Missouri or from the holding agency.

(2) Inventory of Property. Each holding agency shall annually report its excess property to DFM, by updating its Land and Building System (LABS) report from the preceding year.

(3) Leases of Property to Other State Agencies. DFM shall collect information about excess property and distribute information about such property to other state agencies, and shall attempt to utilize such property to satisfy space requirements of the agencies before considering the acquisition of additional space.

(4) Leases of Property to Non-State Entities.

(A) DFM may lease to non-state entities excess property, which cannot be effectively utilized by state agencies. DFM shall give preference in such leases to those organizations, which provide services that are related to the programs of a state agency.

(B) Each holding agency shall retain daily control over space assigned to it, but shall not commit such property to a non-state organization without first obtaining written approval from the commissioner of administration.

(5) Miscellaneous Terms for Leases to State and Non-State Agencies.

(A) The lessee shall pay rent for the use of excess property at its fair market value, as determined by the amount paid by state agencies for the rental of similar properties, unless the commissioner of administration determines that reducing or waiving the rental payments produces a clear benefit to the state.

(B) Leases of excess property shall be awarded to the bidder who submits the highest and best bid in response to a publicly advertised solicitation for bids or through competitive proposals if the commissioner of administration determines that publicly



advertised bidding is not practical or not advantageous or is not in the best interest of the state because of the holding agency's need to provide space to an entity performing services closely related to and important to the holding agency's mission.

(C) DFM shall resolve any disputes between the holding agency and the lessee.

(D) Other terms of the lease agreements shall be determined by DFM.

(E) All agreements for the lease of state-controlled real property shall be signed by both the commissioner of administration and the director of DFM or their designees.

AUTHORITY: section 37.005, RSMo Supp. 1997. Original rule filed April 15, 1998, effective Nov. 30, 1998.*

**Original authority: 37.005, RSMo 1973, amended 1983, 1986, 1987, 1991, 1996, 1997.*