

City Leases



Objective

How are decisions about City leases made and are they in the best interest of the City?

Background

The City currently faces many facility demands and needs. Overcrowded, sub-standard, and inflexible space has created many space and operational challenges for the City. To address this gap, the City leases buildings and facilities from outside entities for City use. The City also leases City-owned buildings and properties to third parties, including for-profit and non-profit organizations.

Several key entities are involved in the management of the City's leasing activities. The City's Office of Real Estate Services (the Real Estate Office) aims to provide real estate expertise to acquire property rights for City purposes, lease property required by various departments, administer land management activities, and engage in other real estate services. Some departments, such as Aviation, develop and manage leases separate from the Real Estate Office. Many City departments have responsibility for monitoring leases to ensure tenant compliance with lease terms.

What We Found

The City lacks a strategic approach to making decisions about City leases and meeting department space needs, which makes it more difficult to ensure department needs are met, move away from leasing space, and manage leasing activities.

- Noted issues include: ill-defined leasing responsibilities, lack of a space inventory, and inadequate long-term planning.
- The City created the Strategic Facilities Governance Team (SFGT) in 2013 to guide the City's facility usage and leasing decisions, but the group has not been successful in assuring all leases are aligned with the City's interests.

The City's current leasing processes do not ensure that leases are developed in the best interest of the City and do not always protect the City from legal risk and uneconomical use of resources.

Issues applicable to all leases	Issues specific to non-profits
<ul style="list-style-type: none"> • Leases are not always effectively coordinated, executed, or timely renewed. • Some lease agreements are missing key clauses that protect the City's interest. • Lease records are not adequately maintained. 	<ul style="list-style-type: none"> • There is not a consistent process for developing and awarding leases at below-market rent: <ul style="list-style-type: none"> • There is no guiding policy on how to select tenants and make rent rate decisions; and • There is little or no documentation regarding how tenants were selected and how rent rate decisions were made in the sample of lease files reviewed. • There is not a consistent process to determine performance measures in lieu of a below-market rent.

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What We Found, Continued

The City does not effectively monitor lease agreements to ensure receipt of all lease deliverables, resulting in financial loss to the City and reduced assurance that tenants are delivering expected services to the public.

- Staff did not effectively verify reports submitted by tenants to determine that all rent owed was properly paid to the City or that all expected services were provided.
- Rent owed to the City was not paid in a timely manner and fees for late payments were not assessed.
- Utility rent was not consistently collected.
- Staff did not consistently ensure that entities leasing City-owned properties maintained up-to-date insurance coverage.

What We Recommend

We recommend that the Director of the Office of Real Estate:

- Take Citywide ownership of the leasing process and seek clarification regarding the Office of Real Estate's authority from the City Manager as needed;
- Create a comprehensive space inventory of all properties owned and leased by the City;
- Develop a long-term plan to guide space management and leasing decisions;
- Clearly define and communicate the roles and responsibilities for the lease development process;
- Develop a formal policy for leasing properties to non-profits at or below-market rent;
- Ensure that all leases are timely renewed;
- Ensure that responsibilities for monitoring lease agreements are clearly defined, assigned, and communicated to all responsible parties; and
- Work with applicable departments to develop policies and procedures for monitoring compliance with lease agreement terms.