

Welcome to today's presentation on:

Introduction to Occupancy Agreements

the presentation will start at 2:00 PM Eastern

Note: Phones are automatically muted during the presentation. You have the ability to send questions to the host and presenters through the chat feature. They will answer as many of the questions as possible at the end of the presentation. All questions will be captured, and answers sent to all participants before the next session in the Series.



Client Enrichment Series

Introduction to Occupancy Agreements

Hosted by:

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Regional Account Manager
Office of Client Solutions, Region 4



Presented by:

Kelly Ellison
Space Pricing Specialist
PBS Office of Portfolio Management



GSA Public Buildings Service

Rental Policy & Procedures

• Overview

▶ Pricing Policy

• Rent Library

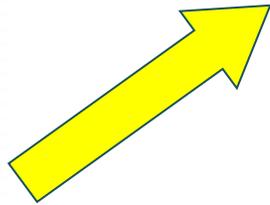
Rent Pricing Policy

The Pricing Desk Guide presents the policies developed by the Public Buildings Service to price real estate and related services to federal tenant agencies. The Pricing Desk Guide sets policy for the entire PBS owned and leased portfolio, and provides pricing direction for both general cases and special circumstances. It is designed to guide PBS employees in the performance of their work, and also serves as a resource for tenant agencies seeking a more thorough understanding of PBS pricing policy and its application. The Pricing Desk Guide will be revised as policy is updated, and the changed content will be clearly marked and dated.

[Pricing Desk Guide](#)>>

[PBS Order 7025.1A](#)

The shortcut to this page is www.gsa.gov/rentpricingpolicy.



Last Reviewed 2012-11-06

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E-TOOLS

- [Rent on the Web](#)
- [Inventory of Owned and Leased Properties](#)



General Services Administration
Public Buildings Service
Rent On The Web (ROW)



Client Secure Access

User Name or Email ID:

Password:

Support

Help Desk Telephone Numbers:
(202) 219 - 1054
(866) 367 - 7878

[Contact Us](#)
www.GSA.gov



John Minor Wisdom U.S. Court of Appeals Building
New Orleans, Louisiana.

Since 2001, customers have been able to access their rent bills on the Internet through Rent on the Web (ROW). Not only does ROW allow PBS to drastically reduce the administrative efforts that is associated with paper billing, but it also delivers the message to our customers that serving them is a priority.

ROW gives customers real-time access to their rent information, which allows them to review their rent bills at the time that is most convenient to them. Obviously, web-based billing information reaches our customers more quickly than billing information that is sent by traditional mail. ROW also allows our customers to electronically download rent information for analysis.

Warning! This is a US General Services Administration Federal Government computer system that is "FOR OFFICIAL USE ONLY". This system is subject to monitoring. Therefore, no expectation of privacy is to be assumed. Individuals found performing unauthorized activities are subject to disciplinary action including criminal prosecution.

The Occupancy Agreement (OA)

- Statement of the business terms between PBS and the tenant agency for a specific space assignment
- Interagency agreement
- Serves as the billing document

Types of OAs

- **Pro Forma OA**

- PBS works with the tenant agency to determine its needs during requirements development. First OA is drafted.
- Estimate of rent charges
- Additional iterations as appropriate, signature required if financial terms or square footage increases

Types of OAs

- **Final OA**

- After substantial completion, PBS coordinates move into space; in lease LA update
- If pro forma OA was signed for sufficient amount, no signature for final OA is required
- This is the billing OA and reflects rent charges

- **Interim Billing OA**

- If the project is completed and agency has taken occupancy of the space, but GSA does not have a signed OA for the FULL rental amount
- Interim OA will bill up to the amount in signed OA while updated signature is obtained

Types of OAs

- **Administrative OA**

- Revisions to billing OAs that do not require customer signature
- Sent to customer with a cover letter for notification purposes
- Examples include:
 - Joint use amenities added or removed from building
 - Capital expenditures for new/enhanced security fixtures
 - Continuing occupancies in leased and owned space
 - Extensions, Renewals and Succeeding leases
 - Changes to parking assignments

Why do we need your signature on the OA?

- Serves as agreement to start billing
- Interagency agreement that outlines expectations of each party
- Documentation for Rent charges
- Critical to keep project on schedule
- Ensures we are meeting agency requirements

OA Signature

- Signature required before PBS
 - Purchases a site
 - Obtains new space
 - Expands space assignment
 - Amortizes TI



Four Parts to the OA

Description of
Space and
Services

Clauses
(Terms and
Conditions)

Signature
Page

Financial
Summary

Description of Space and Services

OCCUPANCY AGREEMENT BETWEEN
[AGENCY NAME]
AND
GENERAL SERVICE ADMINISTRATION

AAZ00123	Final	Version	9	Date Last Modified	10-Jan-2015
AZ1234ZZ		LAZ12345		Increased Space	

[AGENCY NAME] (Code 1234) will occupy 29,320.61 usable (29,602 rentable) square feet of space and 0 structured parking spaces and 4 surface parking spaces at AIR LIBRE AND TATUM BOULEVARD (AZ1234) located at 16241 N. TATUM BOULEVARD, PHOENIZ, AZ, for a period of 106 months commencing on or about 02/16/2011.

[AGENCY NAME] (Code 1234) will pay the General Service Administration rent in accordance with the attached pages(s). In addition to the annual rental to be paid, [AGENCY NAME] (Code 1234) will make a lump sum payment for build-out and other related services in excess of the amount of the Tenant improvement allowance amortized in the rental rate, in accordance with the attached page(s).

[AGENCY NAME] (Code 1234) will pay the General Service Administration additional rent for prorated share of joint use space associated with this location, if any.

Additional/reduced services are shown on the attached Occupancy Agreement Financial Summary.

Types of OA Clauses

Clause Type	Requirement	Application
PBS standard clauses	Mandatory	Required for all occupancies, separate set for leased and federally owned space
Agency specific clauses	Mandatory or optional	Could apply to all of a tenant agency's occupancies (mandatory) or just a subset (optional)
Optional clauses	Optional	Could apply to any occupancy, based on the situation
Ad hoc clauses	Optional	Specific to one occupancy

Standard Clauses – Rent Start

Obligation to Pay Rent

The Tenant agency's obligation to pay rent for the space governed by this OA commences when both of the following occur: the space is substantially complete and operationally functional. Occupancy and rent start will be coordinated with the Tenant.

1. The space is ready for occupancy of personal property, typically the substantial completion date. Substantial completion is signaled in the case of leased space by the granting of an occupancy permit by the proper authority and/or by PBS's acceptance of the space as substantially complete in accordance with the lease. "Substantially complete" and "substantial completion" mean that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in the lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment.

PBS will offer to an authorized representative of the Tenant the opportunity to participate in a walk-through of the space prior to final acceptance of the space as substantially complete by PBS. The authorized representative of the Tenant will make himself or herself available so as to not delay the walk-through of the space. The authorized representatives of PBS and the Tenant will itemize any defects and omissions (D&Os, or "punch list") of the construction project that will need to be corrected prior to final contract payment. Provided that the D&Os are minor matters not materially diminishing use of the space, the authorized representative of PBS, acting on behalf of the Government and its Tenant, will determine substantial completion.

Standard Clauses – Rent Start (Continued)

2. The space is operationally functional. Operationally functional means that the building systems included in this lease must function and Lessor-provided building-specific safety and security features must be operational. Related space that is necessary for a Tenant to function due to workflow adjacencies must be operational. For large projects that entail phased occupancy of the Tenant's space, rent will commence on the individual blocks of space when they are substantially complete and operationally functional. The blocks will be added to the Occupancy Agreement (OA) incrementally. In the case of phased occupancy with separate OAs (example, different Agency/Bureau codes), the rent start date for each OA will occur when the space associated with it is substantially complete and operationally functional.

If there is a substantial punch list for the space that would interfere with the Tenant's full access, occupancy, possession, use and enjoyment of the space, and the Tenant chooses to move in anyway, GSA will negotiate a rent discount with the Lessor while the punch list work is being completed. If after hours work is required, GSA will ensure that adequate security is provided while the contractor is in the Tenant's space.

Once the above "substantially complete" and "operationally functional" requirements have been met, rent will commence. GSA does not provide tenant agencies a grace period prior to rent commencement to accomplish the physical move into the space or to allow for the installation of personal property such as phones, furniture, computers, etc. However, rent should not start until those personal property items that have been included in the lease contract, such as telephone and data systems or audio/video systems, are operational unless the Tenant chooses to move into the space pursuant to the preceding paragraph.

Rent Start

- Tenant agency's obligation to pay rent when space governed by the OA is:
 - substantially complete
 - operationally functional
- Occupancy and rent start will be coordinated with the tenant
- Phased occupancy allowed
- No grace period for moves or installation of personal property

Rent

- **Leased space**

- Rent is a pass-through of the underlying lease contract rent plus:

- Any standard operating costs not performed through the lease
 - PBS lease fee

- **Federally owned space**

- Rent is based on an appraisal or return on investment

Standard Clauses – Lease Rent

Lease Contract Rent

The underlying lease contract rent will be passed through to the tenant agency. For a non-fully serviced lease, the cost of operating services not covered by the lease will also be passed through to the tenant agency. The PBS fee in leased space, calculated at 7% of the annual lease contract cost plus the cost of separately contracted operating services, will also apply. Charges for security and GSA-installed improvements may apply as well.

Charges for operating expenses, joint use space, parking, security and real estate taxes may be adjusted on an annual basis.

- Direct pass-through of lease contract cost
- Operating Costs are typically escalated annually by CPI
- Leases charged a fixed, non-divisible 7% PBS Fee
 - 5% fee for non-cancelable space
 - 4% fee for USPS controlled space

Standard Clauses – Federally Owned Rent

Federal Rent Charges

Federal rental charges will consist of a shell rent plus amortized tenant improvements, if applicable. There may be additional charges for operating expenses, security, joint use, parking, and other space items such as antennas. In 2017, GSA transitions to 10-year rates for occupancies in buildings where new appraisals are available. OAs will be transitioned to a 10-year rate as the current shell rate terms expire. The shell or “as is” rent will be reset every 10 years.

For OAs in a building without a new 10-year appraisal, the shell rate or as is rate will continue to be set for periods up to but not beyond 5 years. These OAs will transition to the new 10-year rate no later than FY22 as their current rate terms expire. In the case of buildings priced on a “Return on Investment” approach, the rent attributable to the original shell improvements will remain level for the duration of the OA. If additional capitalized shell replacements or improvements are made, the Shell Rent rate will be adjusted every 5 years to reflect the additional investment.

Charges for operating expenses, joint use space, parking, antennas and security may be adjusted on an annual basis.

- Rent established by FAR Appraisal or ROI
- Shell rent and operating base established for up to 5 or 10 year periods
- Operating costs escalated annually by OMB inflation factor

10 Year Rate Transition Plan

- FY2017 FAR appraisals include 10-year rates
- Existing OAs are not affected – the transition takes place as OAs expire
- Implementation of 10-year levelized shell rate starts in FY2017
- Transition will be completed in FY2022

10 Year Rate Benefits

- Provides Federal tenants the market advantages of long-term occupancy
- Enhances budget predictability
- Reduces management and administrative costs to Customer Agencies

Standard Clause – Promoting Efficient Spending

Mandatory Clauses

Promoting Efficient Spending

Promoting Efficient Spending to Support Agency Operations

In accordance with the Presidential Memorandum "Disposing of Unneeded Federal Real Estate" issued on June 10, 2010 and Office of Management and Budget Memorandum "Promoting Efficient Spending to Support Agency Operations" issued on May 11, 2012, Executive agencies shall not increase the size of their overall civilian real estate inventory and increases in an agency's total square footage must be offset by reductions elsewhere. SOCIAL SECURITY ADMINISTRATION is aware of Section 3 - Real Property of the OMB memo.

- Clause included in OAs for executive branch agencies
- Customer is responsible for ensuring compliance with OMB restrictions

Standard Clauses – Customer Rights

Occupancy Agreement Iterations

The parties hereby agree that iterations of OAs prepared before completion of a building design, and before final security/joint use charges are provided, contain preliminary financial terms only. Financial terms in preliminary OAs are estimates for budgeting purposes, and are updated through additional OA versions as business terms evolve throughout the space acquisition. Accordingly, execution by the tenant agency on preliminary OAs constitutes that agency's commitment to the project, and is required prior to PBS awarding any contract for: design, construction/alterations, and/or a lease. Until site purchase or contract award to a design architect, the tenant agency has the right to cancel the proposed project without financial obligation.

Financial Terms

While this occupancy agreement (OA) addresses financial terms that cover multiple fiscal years, the parties agree that: The tenant agency may relinquish space upon four (4) months' notice at any point after the first twelve (12) months of occupancy. Thus, after the first twelve (12) months of occupancy, the tenant agency's financial obligation can be reduced to four (4) months of Rent, plus the unamortized balance of any tenant improvements financed through PBS, plus any rent concession not yet earned. Any free Rent or other concession given at the beginning of the occupancy term must be allocated on a pro-rata basis over the entire OA term, and the unearned balance repaid to PBS.

The tenant's financial obligations for years beyond the current year do not mature until the later year(s) are reached. Thus, there is no requirement that the tenant agency certify that current year funds are available to defray future year obligations. The tenant's future years obligation to pay Rent is subject to the availability of funds, but the tenant agrees to make a good faith effort to meet its obligations as they arise.

Cancellation Rights

- Prior to Contract Execution
 - No fault cancellation
- After Contract Execution, Prior to Rent Start
 - Agency is liable for the lesser of these costs
 - 16 month rental obligation had it occupied the space, plus the unamortized balance of the TIs
 - In the case of a lease, the lease buyout costs, or
 - In the case of a owned space, the total project costs incurred

Return of Space Rights

- With 4 months' written notice, tenant has right to release space to PBS provided the following conditions are met:
 - There is no longer a need for the space
 - The space is in marketable blocks
 - The space is not designated as non-cancelable
 - The tenant is at least 16 months into their occupancy term

Non-cancelable Space

- Space has specific qualities such as:
 - Remote or not easily accessible location
 - Special purpose use or build-out
 - Lease Construction
 - Unusual term
 - Lack of any realistic federal need
 - Other factors that significantly impair backfill

Standard Clauses – Move Cost Responsibility

Move Cost Responsibilities

At the end of this OA term, if the tenant cannot remain in the space covered by this OA, the tenant is responsible for funding the physical move to new space. In the event PBS displaces or allows another user to displace the tenant before the expiration of the OA term, PBS must fund, or require the new user to fund, the tenant's physical move, and relocation of the tenant's telecommunications equipment. PBS must also reimburse, or require the new user to reimburse, the tenant for the undepreciated value of any lump sum payments the tenant made toward tenant improvements and the Rent differential at the new location until the displaced agency has time to budget. The Rent differential is calculated on all elements of Rent except the amortized tenant improvement cost. In the event of a PBS disposal of a building or an approved prospectus project requiring the agency relocation from this space before the expiration of the OA term, PBS will fund tenant agency move costs unless PBS has provided 3 years' written notice of the action. In the event PBS provides 3 years' written notice, the agency is responsible for funding the physical move to new space.

- Customer agency is responsible for funding their own physical moves and telecommunication costs
- Customer should be prepared to fund move costs at the end of their OA term

Standard Clauses – Move Schedule

Tenant Agency Move

In the event the space covered by this OA involves a tenant agency move, once a design and construction rider or schedule has been made part of a lease contract, the rider/schedule must be incorporated into this OA. Once part of this OA, the schedule/rider becomes binding upon the tenant agency as well as upon PBS. Delay in project completion caused by either a) tenant agency failure to meet the review and approval times provided in the lease rider, or b) tenant changes to project scope, will be borne by the tenant agency. As a consequence of tenant-caused delay, the lessor may decline to postpone the scheduled substantial completion date (thereby advancing Rent commencement for the space) by the duration of the tenant-caused delay, on a day to day basis; this may result in rent charges at two locations simultaneously for the tenant. Additional direct expenses caused through tenant-caused delay or changes in project scope are chargeable against the tenant allowance; in the event the tenant allowance has been exhausted, the tenant must pay the lump sum cost by RWA. In summary, the tenant is responsible for the delay claim of the affected contractor and for rent that GSA budgeted to start on the date included in the Occupancy Agreement. If partial occupancy of the building is not possible due to one agency change, that agency is liable for the other tenant's rent who are unable to occupy their space on the date contained in their Occupancy Agreement. The rent start date should be adjusted for delay of occupancy caused by the lessor failing to deliver the real property on time. The rent start date should not be adjusted for delay of occupancy caused by a contractor failing to install personal property on time with one exception. For those personal property items that have been included in the lease contract, such as telephone and data systems, or audio/video systems, and the systems are not ready, the rent start date should be adjusted. Delayed furniture delivery and installation, which is not part of the lease contract, is not reason for delaying the rent start date. In its role as tenant representative, PBS may also be the cause of delay. Expenses associated with PBS-caused delay incurred by

Standard Clauses – Move Schedule Continued

the tenant, for such things as additional storage for furniture, re-procurement expense, or additional consulting fees, will be credited against the tenant's rent obligation to PBS for the new space. In the case of lessor-caused delay, if there is a liquidated damages clause in the lease, PBS will pursue the lessor for the value of the damages. In the case of excusable delay (e.g., force majeure or any other delay the cause of which is beyond the reasonable control of either PBS or the tenant agency), neither PBS nor the tenant agency may pursue the other for the consequences of the delay.

- Schedule and project delays
 - Tenant caused delay
 - PBS and lessor caused delays
 - Excusable delay
- Tenant bears the cost of tenant caused delays

Move Policy

- Agencies responsible for funding their own physical moves and telecommunication costs
- Customer agencies in both leased and federally owned space can expect to fund all move costs at the end of their OA term
- Exceptions:
 - Forced moves
 - Emergency relocations due to disasters or crises, PBS may fund the moves up front, subject to funds availability

OA Signature

OA #: OA Status: Final Version: 12 Loc Code: AZ7134ZZ

Other Mandatory Clauses

Tenant Improvement Amortization Cost

_____ has elected to expend a total of \$325,742.65 for their tenant improvements. This amount has been amortized in the rent and is itemized on the Financial Summary.

Tenant Improvement Lump Sum Cost

_____, _____, has elected to pay all or part of their TI Expended amount via a Reimbursable Work Authorization (RWA). The total RWA amount is \$100,000.00 and includes the TI amount of \$90,315.93 plus the RWA fee of \$9,684.07.

Security Services

Beginning in FY 2005, payment for FPS provided Basic and Building Specific Operating Security will be made to the Federal Protective Service (FPS), Department of Homeland Security (DHS) and will be separate from rental payments to GSA (OMB Object Class 23.1). Charges for FPS provided security are determined by, and may be obtained from, FPS.

Optional Clauses

Ad Hoc Clauses

I agree to the initial terms with the understanding modifications will be made over time.

Approved	Approved
Agency Representative	GSA Representative
Title	Title
Date	Date

OA Signature

- Signature required before PBS
 - Purchases a site
 - Obtains new space
 - Expands space assignment
 - Amortizes TI



Standard Clauses – Lease Rent

Occupancy After Lease Expiration

In the event of a continued occupancy after lease expiration, the tenant agency will continue to be financially responsible for the pass-through of the lease contract rent, the PBS lease fee, and any additional costs incurred by PBS resulting from lease renewal, extension, replacement, holdover or condemnation. The tenant agency rights to relinquish space as specified in this OA remain in effect.

Protect Government's Financial Interest – Succeeding Lease / Renewal

This OA reflects the continuing occupancy at this location beginning <Month, Year> for <term> months. The Rent is a pass-through of the underlying lease contract that was negotiated to protect the government's financial interest plus PBS lease fee and any other applicable charges stated in this OA. The square footage remains unchanged and there are no additional tenant improvement costs. This OA is considered FINAL and does not require agency signature. Please notify GSA within 60 days if you disagree with any of the terms and conditions expressed in this agreement.

OA Financial Summary

OA #: OA Status: Final Version: 6 Loc Code: IL0236FC

DOL EBSA - JCK - Lease to Federal Eff
05/01/2011

Page: 1 of 4

Final

Version: 6

Date Last Modified: 04-Oct-2012

ADMINISTRATION
IL0236FC

Fiscal Year Update

OA Start Date:

04-Oct-2012

Fiscal Year: 2013

OA End Date:

30-Apr-2016

Period: 04-Oct-2012 to 30-Sep-2013

	Charge Basis	Annual Charge	Annual Rate
1. Shell Rental Rate			
a. General	21,157	\$416,573.26	\$19.690000000
2. Amortized Tenant Improvement Used/General	21,157	\$142,617.63	\$6.741050000
3. Operating Costs ##	21,157	\$112,212.36	\$5.303896537
A. Market Rent SubTotal	21,157	\$671,403.25	\$31.734946537
5. Amortized Tenant Improvement Used/Custom	21,157	\$21,850.31	\$1.032790000
7. Security Services			
c. Building Specific Amortized Capital	21,717	\$6,539.09	\$0.301110000
B. Agency Rent SubTotal	21,157	\$28,389.40	\$1.341870455
12. Pro-Rata Joint Use Charges			
a. Building Amenities	560	\$16,525.56	\$29.508868465
C. Joint Use SubTotal		\$16,525.56	
D. Total Annual Rent (A+B+C)	21,157	\$716,318.22	
E. Adjustments SubTotal		\$0.00	
F. Total Rent Bill (D+E)		\$716,318.22	
G. Total Antenna Bill		\$0.00	
H. Total Reimbursable Services Bill		\$0.00	
I. Total PBS Bill (F+G+H)		\$716,318.22	
J. LUMP SUM ITEMS			

Regional Contacts

- Regional Account Manager
 - Please contact your local Account Manager for questions regarding space requirements and OAs.
- Real Estate Specialist
 - Please contact your local Real Estate Specialist for questions regarding space requirements and OAs.



Questions?

Thank you for joining us today for a discussion on
Introduction to Occupancy Agreements

Next Session:

- September 17, 2015 - Advanced Topics in Workplace Strategies: Updates to FIT (Furniture & Information Technology)

www.gsa.gov/ces

ClientEnrichmentSeries@gsa.gov

