

GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405

PBS 7025.1A
October 21, 2004

GSA ORDER

SUBJECT: Rent Exemption Procedures

1. Purpose. This order provides procedures for handling requests for exemption from GSA Rent charges.
2. Cancellation. This Order supersedes GSA Order, Rent Exemption Procedures (PBS 7025.1), which is cancelled.
3. Background.
 - a. Section 2100) of the Federal Property and Administrative Services Act of 1949, as amended (Property Act), 40 U.S.C. 4900), authorizes the Administrator of General Services to exempt anyone from charges for space and services (Rent) if the Administrator determines that such charges would be "infeasible or impractical."
 - b. The Federal Management Regulation (FMR), 41 CFR §102-85.130, implements Section 2100) of the Property Act, and provides that requests for exemption from Rent must be made in writing to the Administrator of General Services and submitted in accordance with this order.
 - c. This Order supplements Section 102-85.130 of the FMR and provides specific procedures for processing Rent exemption requests.
 - d. The Administrator has delegated the authority to grant Rent exemptions to the Commissioner, Public Buildings Service. The Commissioner's decision shall be final.
 - e. Rent exemptions may be either for an exemption from full Rent or for a partial exemption from full Rent (i.e., a partial Rent waiver). Unless expressly provided in the Rent waiver, the exemption is for one year and will be reviewed annually for renewal. The exemption, unless otherwise provided, will start from the time the exemption is granted. If the request is made in the middle of the budgetary/fiscal cycle, the exemption will be in effect for one year from the time the next appropriation request is submitted to the Office of Management and Budget (OMB).
4. Nature of revision. This revision clarifies certain exemption criteria applicable to . space to be provided for Presidential Transition Teams and former Presidents. Specifically, this revision clarifies that although a Rent waiver is automatic for transitions when existing vacant space is available in GSA's inventory, when new space must be acquired to meet the requirement, rent exemption requests for space for Presidential Transition Teams or for use by former Presidents shall be treated in the same manner as requests by any other entity eligible to request a Rent exemption under the Property Act.
5. Standard exemption criteria.

a. The Property Act and the FMR provide for exemption from Rent charges when such charges are determined to be "infeasible or impractical." However, the terms "infeasible" and "impractical" are not defined in either the Property Act or the FMR. Many unforeseeable situations may result in a Rent exemption request; therefore, it is not possible to list all circumstances when an exemption should be granted. Instead, the Administrator or his designee must have discretion to determine when exemption requests may be properly granted.

b. In general, exemption requests are granted infrequently. However, circumstances when a Rent exemption request will be granted include, but are not limited to, when:

(1) It is not possible to establish a Rent rate for the space in question;

(2) The Rent charge established for the space in question is less than the expense of billing and collection; or

(3) The organization requesting the exemption has not received appropriate funding for Rent payments to GSA and the Administrator or his designee determines that granting an exemption will serve a compelling governmental or public purpose.

(4) In the case of space to be provided for presidential transitions or for use by former Presidents, when existing vacant space is available at no additional cost to the Government and the use of such space will be of a short duration. However, if new space must be acquired to accommodate a Presidential Transition Team or a former President, Rent will be charged unless the Administrator or his designee determines such charges to be "infeasible or impractical" in accordance with the exemption criteria and procedures set forth in this Order. The appropriate committees of the Congress shall be notified whenever GSA grants a Rent exemption request to a Presidential Transition Team.

6. Procedures for handling requests for exemption from Rent charges.

a. The agency/tenant requesting an exemption from GSA rent is responsible for submitting to GSA a written justification (including any necessary supporting documentation) on why it is either impracticable or infeasible to pay full Rent to GSA, or why granting a Rent waiver would serve a compelling governmental or public interest. Written requests for total or partial Rent exemptions shall be submitted to the Commissioner, Public Buildings Service (PBS), for consideration through the GSA Administrator.

b. The PBS Chief Financial Officer (CFO), after receiving the request and documentation, will coordinate with the Regional Administrator of the affected Region or Regions, and the PBS Office of Real Property Asset Management, and submit the request and supporting documentation to the Commissioner, PBS, for a final determination.

c. The Commissioner will send a response to the requesting agency/tenant within 30 days of receipt of the request. Decisions made by the Commissioner shall be final.

7. Rent exemption records. The PBS CFO will:

a. Be the official repository for all documentation for Rent exemption requests.

b. Enter the applicable exemption code into the automated billing system for each space granted a Rent exemption.

c. Conduct an annual review of all exempt space. The PBS CFO will submit a report to the Commissioner, no later than June 30th, that specifies for each exemption whether it continues to be valid, or whether the exemption should no longer be granted.

8. Distinction between Rent exemptions and other unbilled space.

a. The term "Rent exemption" refers only to the space formally granted an exemption by the Commissioner. All other space for which no Rent charge is assessed is referred to as unbilled space.

b. Unbilled space is to be closely monitored at the Regional level and is not to be used as a mechanism to grant "informal exemption" or in any other way to circumvent the Commissioner's authority to grant Rent exemptions.

c. Rent exemptions, as well as unbilled space, will be periodically reviewed by Central Office personnel.

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