



FLORIDA DEPARTMENT of

management
SERVICES

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Lease Liaison 1st Quarter Meeting
September 11, 2018

Greetings and
Introductions

Wheel of Fortune

DEP Recycling

CBRE

Change of
Ownership & Lease
Cancellation

CAA

Lease Procurement

Housekeeping

Announcements

Questions

Greetings/Introductions

Michele Stevens
Bureau Chief of Leasing

DEP Recycling Program

Christopher Perry
Department of Environmental Protection



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Recycling Programs

In Lease Managed State Offices

September 11, 2018

Christopher Perry

(850)245-8759

Christopher.Perry@dep.state.fl.us





Florida Law

Florida Statute 403.714 Duties of State Agencies –
(1) Each state agency shall:

(a) Establish a program for the collection of all recyclable materials generated in state offices throughout the state, including at a minimum, aluminum, high grade office paper, and corrugated paper

(d) Establish and implement a solid waste reduction program for materials used in the course of agency operations.

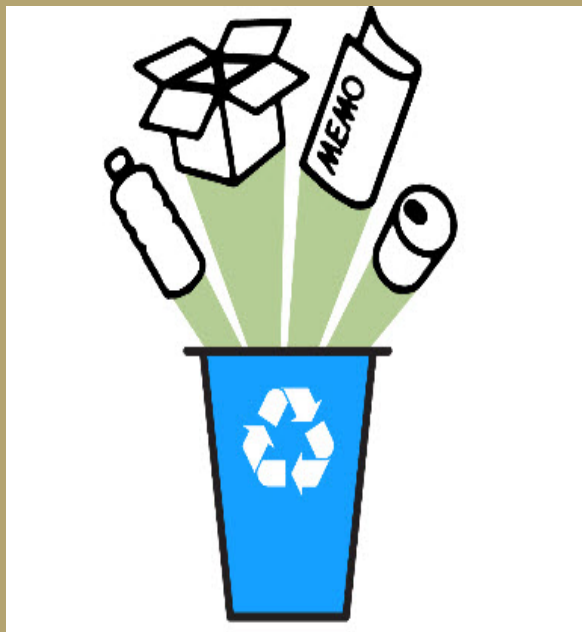


Recyclable Materials





Single Stream Recycling



Place ONLY Recyclable Items In This Cart.

Paper				
Plastic				

YES

DO NOT PLACE THESE ITEMS IN THIS CART.

No Plastic Bags
No Styrofoam

Pizza Boxes
Pyrex
Wax Coated Items
Ceramics
Food Scraps
Yard Waste Or Leaves
Garden Hoses
Textiles Or Used Clothing
Light Bulbs
Electronics

NO



Avoiding Contamination of Recyclables

- Plastic Bags DO NOT belong in recycling bins
- Remove all food residue and any liquid that remains in containers before placing in recycling bin
- Simple Rule for all recyclable material: CLEAN & DRY



Recycling Hazardous Materials

- The Florida Department of Environmental Protection strongly recommends recycling all unwanted electronic products such as fax machines, computers, cell phones as well as any products containing lead or mercury
- Contact your local County Recycling Coordinator (Listing available on DEP website)
- These materials should never be placed in recycling bins



What to look for...

Exterior signs of an existing commercial recycling program





What to look for...

Interior signs of an existing commercial recycling program





Leading By Example

- Make successful Recycling Programs a priority state wide
- Take responsibility for success
- Encourage and reward “green thinkers”



Thank You / Questions

Christopher Perry

(850)245-8759

Christopher.Perry@dep.state.fl.us



Change of Ownership & Lease Cancellation

Joe Duncan & Dawn Givens
DMS Bureau of Leasing

Change of Ownership

Agency Review Checklist

Change of Ownership(1)

Lease Number		City/County		New Owner	
Previous Owner		Agency		Lease Liaison	

Request for Space Need (RSN) Approval

TRIRIGA

Documents Required from Agency for DMS review:

- | | |
|---|--|
| <input type="checkbox"/> Submit RSN in TRIRIGA <i>(Please complete <u>all</u> fields)</i> | <input type="checkbox"/> Employment Eligibility Verification(E-Verify Form) FM-4054K |
| <input type="checkbox"/> Recorded Warranty Deed | <input type="checkbox"/> Division of Corporations New Owner Information-FEID |
| <input type="checkbox"/> Fully Executed Disclosure Statement FM-4114 | <input type="checkbox"/> Formal Letter from New Owner to Agency |

Comments

(1) Applicable per Rule 60H-1.0261

RSN for Change of Ownership and Cancellation

Request For Space Need Form

Request ID * Select a Broker

If No Broker Used, Explain

* Requesting Organization

Department Division

* Geography Lookup

City County

* Net Useable Square Feet square-feet * Type of Action

* Proposed Term of Lease From To

* With An Option To Renew For * Years * Space Type

* Proposed Facility Location Space Is An * Type Of Solicitation

* Request is for Me Someone Else

Proposed Location Type

Information about this lease location may be obtained from

* Contact Name * Title

* Email Address * Work Phone Show Phone Number

Are there any extenuating circumstances that would preclude the above referenced lease from occupying space in a State owned building?

If yes, please explain

Staffing Information

* Number of FTE's

* Total Square Feet Justified * Administrative Square Feet

Total Square Feet Per FTEs Administrative Square Per FTE

If Administrative square feet per FTE exceeds 180 SF, please explain:

* Current Sq.Ft. Current FTE Current Rate per Sq.Ft.

* Current Lease No Current Cost Per FTE Monthly Rent

* Additional Comment

The undersigned hereby certifies that the space criteria standards published by the Department of Management Services as part of the Facilities Management Program have been used to compute the space requirements necessitating this lease and that this request in no way provides excess space to this unit of State Government.

* Agency Head * Title * Date

Client Agency Agreements

Ryan Meikenhous & Shelby Walker
DMS Bureau of Business Support Services

CAA

What's a Client Agency Agreement?

- Client Agency Agreements (CAA) are arrangements between the Department of Management Services (DMS) and a Requesting Agency (Client Agency) for DMS to manage a capital improvement project on the Client Agency's behalf, per section 255.31, Florida Statutes. For project management services, DMS is statutorily authorized in section 215.196, Florida Statutes, to assess a DMS Fee (formerly known as a DBC Fee) for this service.

CAA

Getting Started

- Determine if a CAA is necessary
- Visit https://www.dms.myflorida.com/business_operations/real_estate_development_and_management/building_construction/client_agency_agreements
- Complete the CAA form and submit to the email listed
- Contracts Administrator will draft and send the CAA to the Client Agency for signature
- Project Manager (PM) is assigned to the project

CAA



4050 Esplanade Way
 Tallahassee, FL 32399-0950
 Tel: 850-488-2074 | Fax: 850-922-6149

Rick Scott, Governor

Erin Rock, Secretary

CLIENT AGENCY AGREEMENT REQUEST FORM

To request a Client Agency Agreement from the Department of Management Services, please complete this form and email it to CAA@dms.myflorida.com.

Date Submitted: _____

Agency Information

Agency and Division/Bureau: _____

Agency Address: _____

Agency Project Contact Name: _____ Phone: _____

Email: _____

Agency's Purchasing Contact Name: _____ Phone: _____

Email: _____

Agency Budget Contact Name: _____ Phone: _____

Email: _____

Agency Signature Authority Name (signature not required at this time): _____

Desired Completion Date: _____

Scheduling Limitations (if any): _____

Lease # _____ Area of Building (ex: NW corner of 2nd floor): _____

Project Information

Project and Building Name: _____

Project and Building Address: _____

Project Scope (description of work to be performed): _____

Funding Information

Total Project Budget (including DMS Fee): \$ _____

Type of Funding (FCO, Operating, Etc.): \$ _____

Date Funds Expire: _____

Federal Funds: Yes No If yes, amount \$ _____

TBD

Client Agency Agreements

TBD

TBD

TBD

TBD

TBD

Questions

CAA

During Project

Once the CAA is in place, the PM coordinates the project with the Client Agency.

- DMS PM oversees the project
- Contracts Administrator(s) procures/activates vendors to perform design/construction work and any CAA amendments as necessary

CAA

After Project

Once a project is complete, the final action is to amend the CAA down to the amount spent on the project to close out the CAA.

CAA

Questions?

Contact Shelby Walker at
Shelby.Walker@dms.myflorida.com

Lease Procurement and Sunshine Law

Kellie Scott
DMS Special Counsel



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Procurement 101

Procurement for Real Estate

Chapter 255, Florida Statutes

Chapter 60H-1, Florida Administrative Code

Procurement for Commodities, Goods and Services

Chapter 287, Florida Statutes

Chapter 60A-1, Florida Administrative Code

Administrative Procedures Act (for bid protests)

Section 120.57(3), Florida Statutes

While Chapters 255 and 287, Florida Statutes, do have similarities, there are also very distinct differences so be certain to consult the correct chapter when starting a procurement.

The procedures for hearing laid out in Section 120.57(3), Florida Statutes, set forth the process to challenge a solicitation.

Solicitation for use of 5,000+ square feet

Section 255.25(3)

Except as provided in subsection (10), a state agency may not enter into a lease as lessee for the use of 5,000 square feet or more of space in a privately owned building except upon advertisement for and receipt of competitive solicitations.

(1)a. An **invitation to bid** must be made available simultaneously to all lessors and include a detailed description of the space sought; the time and date for the receipt of bids and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining the acceptability of the bid. If the agency contemplates renewing the contract, that fact must be stated in the invitation to bid. The bid must include the price for each year for which the contract may be renewed. Evaluation of bids must include consideration of the total cost for each year as submitted by the lessor. Criteria that were not set forth in the invitation to bid may not be used in determining the acceptability of the bid.

(1)b. The contract shall be awarded with reasonable promptness by written notice to the responsible and responsive lessor that submits **the lowest responsive bid**. The contract file must contain a written determination that the bid meets the requirements and criteria set forth in the invitation to bid.

Solicitation for use of 5,000+ square feet

Section 255.25(3)

(2)a. If an agency determines in writing that the use of an invitation to bid is not practicable, leased space shall be procured by competitive sealed proposals. A **request for proposals** shall be made available simultaneously to all lessors and must include a statement of the space sought; the time and date for the receipt of proposals and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria, which must include, but need not be limited to, price, to be used in determining the acceptability of the proposal. The relative importance of price and other evaluation criteria must be indicated. If the agency contemplates renewing the contract, that fact must be stated in the request for proposals. The proposal must include the price for each year for which the contract may be renewed. Evaluation of proposals must include consideration of the total cost for each year as submitted by the lessor.

(2)b. The contract shall be awarded to the responsible and responsive lessor whose proposal is **determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals.** The contract file must contain documentation supporting the basis on which the award is made.

Solicitation for use of 5,000+ square feet

Section 255.25(3)

(3)a. If the agency determines in writing that the use of an invitation to bid or a request for proposals will not result in the best leasing value to the state, the agency may procure leased space by competitive sealed replies. The agency's written determination must specify reasons why negotiation may be necessary in order for the state to achieve the best leasing value and must be approved in writing by the agency head or his or her designee before advertisement of an invitation to negotiate. Cost savings related to the agency procurement process are not sufficient justification for using an invitation to negotiate. An **invitation to negotiate** shall be made available to all lessors simultaneously and must include a statement of the space sought; the time and date for the receipt of replies and of the public opening; and all terms and conditions applicable to the procurement, including the criteria to be used in determining the acceptability of the reply. If the agency contemplates renewing the contract, that fact must be stated in the invitation to negotiate. The reply must include the price for each year for which the contract may be renewed.

(3)(b) The agency shall evaluate and rank responsive replies against all evaluation criteria set forth in the invitation to negotiate and select, based on the ranking, one or more lessors with which to commence negotiations. **After negotiations are conducted, the agency shall award the contract to the responsible and responsive lessor that the agency determines will provide the best leasing value to the state.** The contract file must contain a short, plain statement that explains the basis for lessor selection and sets forth the lessor's deliverables and price pursuant to the contract, and an explanation of how these deliverables and price provide the best leasing value to the state.

Extension of Leases

Section 255.25(3)(c), Florida Statutes

The department may approve extensions of an existing lease of 5,000 square feet or more of space if such extensions are determined to be in the best interests of the state; however, the total of such extensions may not exceed 11 months. If at the end of the 11th month an agency still needs that space, it must be procured by competitive bid in accordance with s. [255.249\(9\)\(b\)](#). However, if the Department of Agriculture and Consumer Services, the Department of Financial Services, or the Department of Legal Affairs determines that it is in its best interest to remain in the space it currently occupies, it may negotiate a replacement lease with the lessor if an independent comparative market analysis demonstrates that the rates offered are within market rates for the space and the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. A present-value analysis and the consumer price index shall be used in the calculation of lease costs. The term of the replacement lease may not exceed the base term of the expiring lease. For those agencies for which the department may approve lease actions, the department may approve a replacement lease with a lessor for an agency to remain in the space it currently occupies if such lease is, in the judgment of the department, in the best interests of the state. In determining best interest, the department shall consider availability of state-owned space and analyses of build-to-suit and acquisition opportunities. The term of the replacement lease may not exceed the base term of the expiring lease. Any relocation of an agency at the direction of the department shall be within existing appropriations and shall not require a transfer of any funds pursuant to chapter 216.

Communication During Solicitations

- The Sunshine Law applies during competitive solicitations.
- After a competitive solicitation is issued, evaluators or members of a negotiation team cannot discuss proposals or replies with other team members outside of noticed public meetings.
- After a competitive solicitation has been issued, all phone calls and emails concerning the solicitation must be directed to the designated Procurement Officer or sole point of contact.

Competitive Solicitation – Temporary Exemptions from Sunshine Law



Certain activities during a competitive solicitation have been provided a temporary exemption from, or delay from compliance with, requirements of the Sunshine Law.

The following meetings or portions of meetings fall under this exemption:

- Vendor negotiation meetings,
- Vendor oral vendor presentations,
- Vendor question and answer sessions, and
- Agency negotiation strategy sessions.

s. 286.0113(2)(b), F.S.

Competitive Solicitation – Temporary Exemption from Sunshine Law



This time limited exemption is in effect until:

- An agency provides notice of intended decision; or
- 30 days after the opening of the bids, proposals, or final replies, whichever occurs earlier; or
- Following a “reject all” by the agency, when the agency, at the same time, provides notice of its intent to reissue the solicitation and only until the agency issues a notice of intended decision relating to, or withdraws, the reissued solicitation, but no longer than 12 months after the initial agency notice withdrawing the original solicitation.

s. 286.0113(2)(c)2 & 3

A complete recording of any exempt meeting must be made. No portion may be left out of the recording.

s. 286.0113(2)(c)1.

If exempt and non-exempt subjects are discussed at a meeting, the portion of the meeting where the non-exempt subject is discussed remains subject to Sunshine Law and must be open to the public.

Bond for Protest

Section 255.25(3)(d), Florida Statutes

Any person who files an action protesting a decision or intended decision pertaining to a competitive solicitation for space to be leased by the agency pursuant to s. [120.57\(3\)\(b\)](#) shall post with the state agency at the time of filing the formal written protest a bond payable to the agency in an amount equal to 1 percent of the estimated total rental of the basic lease period or \$5,000, whichever is greater, which bond is conditioned on the payment of all costs that may be adjudged against him or her in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. If the agency prevails after completion of the administrative hearing process and any appellate court proceedings, it shall recover all costs and charges, which must be included in the final order or judgment, excluding attorney fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him or her. If the person protesting the award prevails, the bond shall be returned to that person and he or she shall recover from the agency all costs and charges, which must be included in the final order of judgment, excluding attorney fees.

Bid Protest

Section 120.57(3)(b), Florida Statutes.

Any person who is adversely affected by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the solicitation. The formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.

Section 120.57(3)(e), Florida Statutes.

Upon receipt of a formal written protest referred pursuant to this subsection, the director of the division shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written protest by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.



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Florida's Sunshine Law

What is the Sunshine Law?

Florida Constitution

Chapter 119, Public Records

Chapter 286, Public Meetings

Case Law and Attorney General Opinions

State Agency Policies

The Sunshine Law provides a right of access to governmental proceedings and records at both the state and local levels.

Florida Constitution

ARTICLE I, SECTION 24. Access to public records and meetings.—

- (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.
- (b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

Section 119.01(1), Florida Statutes

It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

"Public records" include all:

- documents,
- tapes
- papers,
- letters,
- maps,
- books, and
- photographs,
- films,
- sound recordings,
- data processing software,

other material (regardless of physical form, characteristics, or means of transmission) made or received pursuant to law or in connection with the transaction of official business by any agency. This includes e-mails, text messages and other forms of electronic communication.

s. 119.011(12), F.S.

- Drafts of documents that are shared with other people are considered public records and must be produced upon request.
- E-mail created or received by agency employees in connection with official business that perpetuates, communicates, or formalizes knowledge, is subject to the public records law and open for inspection. All e-mails must be produced to any person upon request, unless falling within a statutory exemption.
- Records produced during a competitive solicitation process are subject to the public records law unless a statutory exemption applies.

Section 286.011, Florida Statutes

- (1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, **at which official acts are to be taken are declared to be public meetings open to the public at all times**, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. **The board or commission must provide reasonable notice of all such meetings.**

- (2) **The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded**, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

Section 120.525, Florida Statutes

Meetings, hearings, and workshops.—

- (1) Except in the case of emergency meetings, **each agency shall give notice of public meetings, hearings, and workshops by publication in the Florida Administrative Register and on the agency's website not less than 7 days before the event.** The notice shall include a statement of the general subject matter to be considered.
- (2) An agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda, along with any meeting materials available in electronic form excluding confidential and exempt information, shall be published on the agency's website. The agenda shall contain the items to be considered in order of presentation. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time.

Florida Office of the Attorney General

Open Government Website

<http://www.myfloridalegal.com/pages.nsf/Main/314BA231F89C0C8A8525791B006A54E2>

- The website includes many resources, including the Government-In-The-Sunshine Manual which incorporates laws, judicial decisions, and Attorney General opinions in place as of the year prior to publication.

Who must be familiar with the Sunshine Law?

The Sunshine Law applies to state employees but also to state business.

All agency employees should be familiar with the Sunshine Law but it is particularly important for agency employees participating in negotiations or evaluations, or serving as subject matter experts.

It is also important for agency contractors dealing with state business issues to be familiar with the Sunshine Law.

There are general exemptions, temporary or permanent, from public meetings requirements, including, but not limited to:

- Security or fire safety plans; and
- Certain meetings that take place during competitive solicitations.

s. 286.0113, F.S.

Exemptions may only be created by the Legislature by 2/3 vote of its members.

Public Records Violations

119.10(1) Violation of chapter; penalties.

(1) Any public officer who:

(a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Knowingly violates the provisions of s. [119.07](#)(1) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(2) Any person who willfully and knowingly violates:

(a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(b) Section [119.105](#) commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

Public Meetings Violations

Section 286.0114, Florida Statutes.

(6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.

(7)(a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

If you have any questions, contact your agency Office of General Counsel or agency contact if you are an outside contractor.

Thanks,

Kellie Scott

Office of Special Counsel

kellie.scott@dms.myflorida.com

Housekeeping

Michele Stevens & Tia Miller
DMS Bureau of Leasing

Announcements

Michele Stevens & Tia Miller
DMS Bureau of Leasing

Questions

