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(1) Furnish staff supervision to using services on all leasing matters, as well as technical assistance and guidance.

(2) Develop plans and studies, usually in the form of Lease Planning Reports, for commanders of using services when appropriate.

(3) Make recommendations to the using services and/or the Chief of Engineers on important lease and lease planning matters.

(4) Report controversial or unusual leasing matters to HQDA (DAEN-REA-L) WASH DC 20314 by the submission of a summary of the facts, copies or proposed lease documents, and other data, together with recommendations thereon.

(b) In accordance with Reoganization Plan No. 18 of 1950 (40 U.S.C. 304c) and under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471), the Public Buildings Service of GSA assumed all functions with respect to the acquisition by lease of general-purpose space; the assignment and reassignment of such leased space and of Government-owned space; and the operation, maintenance, and custody thereof in selected urban centers. The Administrator, GSA, is authorized to assign and reassign office space in the United States upon his determination that such assignments or reassignments are advantageous to the Government in terms of economy, efficiency, or national security after consulting with the heads of the executive agencies concerned.

(c) Reorganization Plan No. 18 also provided that the Administrator may delegate any function transferred to him to the head of any agency of the executive branch of the Government.

(d) Reorganization Plan No. 18 did not transfer to the Administrator any function with respect to:

(1) Buildings or space in buildings located on a military installation, or similar facility of the Department of Defense unless a permit for its use shall have been issued by the Secretary of Defense, or his duly authorized representative; or

(2) Space in Government-owned or leased buildings utilized for special purposes and not generally suitable for use by other agencies.

§ 644.134 Definitions.

(a) General-purpose space is space in buildings, including land incidental thereto, suitable for the general use of Government agencies, including but not limited to office space, general storage space, inside parking space, and warehouse space.

(b) Special-purpose space is space in buildings, including land incidental thereto, wholly or predominantly utilized for the special purposes of an agency, and not generally suitable for general-purpose use, including but not limited to hospitals, housing, and laboratories.

(c) Initial alterations are any improvements, additions, repairs or structural changes which are necessary to adapt leased premises or facilities to needs of the using service and which are approved prior to occupancy.

(d) Subsequent alterations or upgrades are any improvements, additions, repairs or structural changes which are found to be necessary to further adapt leased property to the needs of the using service after occupancy.

(e) Temporary improvements are those which can be removed without damage either to the property installed or the leased property, and to which the Government retains title.

§ 644.135 Lease authorization and approvals.

(a) *Title 10 Reports.* Under the provisions of 10 U.S.C. 2662, a lease proposal or renewal with an estimated annual rental in excess of $50,000 (gross rent as recited in the lease or for each project covered by one or more leases) must be reported to the Armed Services Committees of Congress. The General Services Administration (GSA) charges a Standard Level User Charge (SLUC) for furnishing space. For title 10 reporting purposes, where GSA leases space at Corps request, the SLUC figure, if greater than the gross contract rental figure, shall control. For all leases which require title 10 clearance, the Division/District Engineers will prepare and submit an Acquisition Report to HODA (DAEN-REA-L), WASH DC 20314 in the format shown in Figure 5–10 in ER 405–1–12. The report will support an

action to obtain approvals from the Assistant Secretary of the Army (Installations, Logistics and Financial Management) and the Deputy Assistant Secretary of Defense (Installations and Housing) for the proposed lease prior to its submission to the Committees, and will serve as a basis for a hearing before the Real Estate Subcommittee of the House Armed Services Committee. Draft acquisition report pursuant to title 10 for a lease renewal should be submitted at least 12 months in advance of the termination date of the lease. An explanation for any delay in forwarding the draft acquisition report is required in the transmittal letter if lease terminates prior to one year. Supporting data for this report will include the following:

(1) The geographical area in which the availability of Government-owned space was surveyed, together with reasons for limiting the area. The mission is to be set forth in detail, along with the reason(s) why space in this particular geographical area is essential to the performance of the mission.

(2) Current and required space (including parking) for each using service. For GSA leases the square feet should be the same as reported on the SLUC. Corrected square feet may be reported if a letter of concurrence from the appropriate GSA Region is provided.

(3) Statement covering all Government-owned buildings and facilities under the control of the military departments in that area, together with the reasons why each was rejected. Even though no space is available, a list of the installations in the area will be furnished.

(4) Statement from (GSA) indicating that no space is available to that agency and other Federal agencies in the area or, in the alternative, a list of space that is available, together with reasons why the space is not acceptable to the using service.

(5) Identification of the headquarters and personnel making the determination that any available Government-owned space is not suitable.

(6) Original request, signed by the responsible head of the using agency that action be taken to obtain required clearances under 10 U.S.C. 2662. The using service shall advise whether or not a long-range use is contemplated.

(7) A statement of the current and anticipated contract rentals and current and anticipated SLUC for GSA leases. The SLUC should be as reported by GSA, unless an explanation is provided.

(b) *The Economy Act.* Section 322 of the Act of Congress approved 30 June 1932, as amended (40 U.S.C. 278a) provides that no appropriation shall be obligated or expended for the rent of any building or part of a building to be occupied for Government purposes at a rental in excess of the per annum rate of 15 percent of the fair market value of the rented premises at date of the lease under which the premises are to be occupied by the Government, nor for alterations, improvements, and/or repairs of the rented premises in excess of 25 percent of the amount of the rent for the first year of the rental term, or for the entire rental if the full term is less than one year. The provisions of section 322, as applicable to rentals, shall apply only where the rental to be paid shall exceed $2,000 per annum.

(c) *Exception to Economy Act.* The Act of Congress approved 28 April 1942 (40 U.S.C. 278b) provides that 40 U.S.C. 278a shall not apply during war or a national emergency declared by Congress or by the President to such leases or renewals of existing leases of privately-owned or publicly-owned property as are certified by the Secretary of the Army or the Secretary of the Navy or by such person or persons as he may designate, as covering premises for military or civilian purposes necessary for the prosecution of the war or vital in the national emergency. The provisions of the National Emergencies Act, Pub. L. 94–412 (90 Stat. 1255), 14 September 1976, shall not apply to the powers and authorities conferred by 40 U.S.C. 278b and actions taken thereunder.

(d) *Federal Property and Administrative Services Act.* The Administrator, GSA is authorized by 40 U.S.C. 490a(8) to alter and improve rented premises without regard to the 25 percent limitation of 40 U.S.C. 278a upon a determination by the Administrator that the alterations and improvements are advantageous to the Government in terms of economy,

efficiency, or national security, and that the total cost of the proposed work to the Government for the expected life of the lease shall be less than the cost of alternative space which needs no such improvements.

(e) *Certificates of Necessity.* Department of the Army requests for Certificates of Necessity pursuant to 40 U.S.C. 278b will be forwarded to the Assistant Secretary of the Army through DAEN-REA-L. In any case requiring the issuance of a Certificate of Necessity, the amount requested will be sufficient to provide for all improvements which can be foreseen and that will be required during the term of the lease. Should unforeseen, essential requirements arise at a later date, an additional Certificate of Necessity to cover such work will be necessary. It is required that the using service furnish Division or District Engineers with a request for a Certificate of Necessity, explaining the circumstances, followed by a statement that the continued use of the leased premises, or the work to be performed, as the case may be, is vital in the national emergency. All requests by Division and District Engineers will include a completed ENG Form 869–R, 15 percent Valuation Certificate.

(f) *Approval—Chief of Engineers.* (1) The Chief of Engineers is authorized to approve leases where proposed temporary construction to be placed on land by the Government has an estimated cost equal to or in excess of the current market value of the property, or where the estimated rentals to be paid in the future, plus the cost of restoration, would exceed 50 percent of the current market value of the property.

(2) Leases, renewals, or lease extensions, which are controversial, unusual, or inconsistent with existing policies, require the approval of the Chief of Engineers.

(3) Any lease involving clearances by higher authority will be submitted to HQDA (DAEN-REA-L) WASH DC 20314.

(4) Leases, renewals, or lease extensions of industrial properties, other than for bakeries, laundries, and drycleaning facilities, are to be submitted to DEAN-REA-L for prior approval.

(5) Division and District Engineers, and Chiefs of the Real Estate Divisions, are authorized to perform emergency maintenance and repairs to leased premises not in excess of $500 where lessors refuse to perform, or under such circumstances that the lessor cannot perform. Where the cost exceeds $500, approval by DAEN-REA-L is required. The Comptroller General has ruled that where the lessor is obligated to perform maintenance and repairs under the terms of the lease and after demand of and refusal by the lessor, the Government makes such repairs in order to utilize the property to the fullest extent, the cost should be withheld from rental payments under the lease as soon as possible after work is completed (15 Comp. Gen. 1064). However, no rental payments will be withheld and no repairs made after demand and a refusal by the lessor, without prior approval of DAEN-REA-L.

(g) *Division and District Engineer Authorization.* (1) Division Engineers and their Chiefs of the Real Estate Division have been delegated, without authority to redelegate, leasing authority to approve leases where the annual rent, excluding services and utilities, unless said services and utilities are included in the recited rental consideration, is in excess of $25,000, but not in excess of $50,000. The $50,000 limitation will be strictly observed because of the reporting requirements under the provisions of 10 U.S.C. 2662.

(2) District Engineers and their Chiefs of the Real Estate Divisions are authorized to approve leases wherein the rental excluding utilities and services, unless included in the recited rental consideration, does not exceed $25,000 per annum.

(3) Except for space in the National Capital Region, Division and District Engineers are authorized to process all requests for the assignment of space in Government-owned buildings or leased space in the GSA urban centers to the regional GSA office having jurisdiction.

§ 644.136 Leasing guidelines.

Division and District Engineers, and the Chiefs of the Real Estate Divisions,