



GSA Public Buildings Service

AUG - 5 2004

MEMORANDUM FOR ASSISTANT REGIONAL ADMINISTRATORS

FROM: WILLIAM H. MATTHEWS *William H Matthews*
ASSISTANT COMMISSIONER - PV

SUBJECT: Pricing Policy Clarification #12
Rent Appeals

The attached pricing policy clarification covers Rent appeals. The policy clarification was initiated based on a customer request to clarify our Rent appeal process.

The policy clarification was drafted in coordination with the Regional Pricing Points of Contact (POC's) and the Pricing/Billing Panel. A copy of this clarification is being provided to the Regional Pricing POC's for dissemination within each Region.

If you have questions regarding this clarification, please contact the National Pricing Points of Contact, Kevin Rothmier at 816-926-1100 or Steve Peters at 215-446-4670.

Attachment

cc: Assistant Commissioners, Regional PT Directors, Regional Pricing POCs



PBS Pricing Network

Purpose: Policy Clarification #12 on Rent Appeals
Desk Guide Section 6.3, Page 6-6

Effective Date: July 12, 2004

Existing Desk Guide Language:

Section 6.3 on page 6-6 contains the current policy regarding Rent Appeals.

Clarification:

Replace section 6.3 in its entirety with the following.

6.3 Rent Appeals

PBS anticipates that the use of an OA at the start of all space assignments will substantially reduce the conditions that give rise to Rent appeals. Nonetheless, agencies have both an informal and formal process to appeal Rents or challenge assignment elements (service levels, space measurement, etc.) that have bearing upon Rent numbers.

Informal Process

Customer agency requests that a PBS regional office review and/or explain the basis of a Rent charge for a specific space assignment. Such requests do not constitute appeals.

Formal Process

Customer agency directs a written appeal, with supporting documentation, for a specific space assignment to the appropriate Regional Administrator.

Appeals are governed by the following conditions:

- Terms, including rates, to which the parties agreed in an OA cannot be appealed.
- **Leased Space:**
 - Underlying lease contract rent cannot be appealed.
 - Additional services outside the lease, procured by PBS and passed through to the customer agency, such as utility charges or custodial services, also

cannot be appealed if substantiated by contract, accounting or payment documents.

- **Federally Owned Space – Full Service Shell Rate**

- When the fully-serviced (shell + operating) shell rate is established through appraisal, the appraised rate must exceed comparable commercial square foot rates by at least 20 percent to be eligible for appeal. When shell Rent in owned space is established on the basis of ROI at the inception of an OA, and the customer agency executes the OA, the ROI rate cannot later be appealed.
- Other components of Rent that are established on the basis of actual cost, e.g., amortization of TIs and PBS provided security charges, also cannot be appealed.
- The customer agency is required to compare its assigned space with other space in the surrounding community that:
 - Reflects the size of a typical market floor plate;
 - Is comparable in quality to the space provided by GSA;
 - Provides similar service levels as part of the charges;
 - Contains similar contractual terms, conditions, and escalation clauses; and
 - Represents a lease transaction completed at a similar point in time. The customer agency must use market data that was available when the Rent rate was determined for Rent Estimate purposes. Example: November 2003 (date of new appraisal or date of update to existing appraisal) market data for fiscal year 2006 rate. Based upon market data available in November 2003, the customer agency must project the Rent rate to October 2005 (fiscal year 2006 budget year). This may warrant escalation of the November 2003 market rate to October 2005.
- Data and supporting documentation from at least three comparable leases is required to obtain an indication of fair annual rental value and to demonstrate that the market rental value differs from the assessed charge. The most effective method to determine an indication of rental value is with an appraisal of the fair annual rental (FAR) for the subject property. While an appraisal is recommended, it is not required to appeal PBS's rent charge.

- **Federally Owned Space – Structured and Surface Parking Rate**

- When the structured or surface parking rate is established through appraisal, the appraised rate must exceed comparable commercial rates by at least 20 percent to be eligible for appeal.
- The customer agency is required to compare its assigned parking spaces with other parking spaces in the surrounding community that:
 - Are comparable in quality to the parking provided by GSA;

- Provides similar service levels as part of the charges;
- Contains similar contractual terms, conditions, and escalation clauses; and
- Represents a lease transaction completed at a similar point in time. The customer agency must use market data that was available when the parking rate was determined for Rent Estimate purposes.
- Data and supporting documentation from at least three comparable leases is required to obtain an indication of fair annual rental value and to demonstrate that the market rental value differs from the assessed charge. The most effective method to determine an indication of rental value is with an appraisal of the fair annual rental (FAR) for the subject property. While an appraisal is recommended, it is not required to appeal PBS's parking rate charge.
- A customer agency filing an appeal for a particular location or building must develop documentation supporting the appeal and file the appeal with the appropriate Regional Administrator. The GSA regional office will verify all pertinent information and documentation supporting the appeal. The GSA Regional Administrator will accept or deny the appeal and will notify the appealing agency of his or her ruling.
- The customer agency's headquarters level officials may file a further appeal with the Commissioner, Public Buildings Service, if equitable resolution has not been obtained from the initial appeal.
- A head of a customer agency may further appeal to the Administrator of the General Services Administration. Documentation of the procedures followed for prior resolution must accompany an appeal to the Administrator. Decisions made by the Administrator are final.

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