

DEPARTMENT OF GENERAL SERVICES
REAL ESTATE SERVICES DIVISION

BULLETIN

SUBJECT: Less Than Market Rent Leases for Broad Public Benefit	NUMBER: 18-06
	DATE ISSUED: July 12, 2018
	EXPIRES: Until rescinded
DISTRIBUTION: All Asset Management Branch Staff	ISSUING BRANCH: Asset Management Branch

BACKGROUND

Department of General Services' general authority to lease state-owned property to private parties is found in Government Code section 14670. The State Owned Leasing and Development (SOLD) is tasked with exercising that authority on behalf of the Director.

Statute requires that SOLD let these leases at Fair Market Value (FMV), with few exceptions. SOLD is tasked with establishing Fair Market Rent (FMR) for State Owned facilities/land lease agreements. FMR is a rental rate set commensurate with the FMV for the property, taking into consideration property constraints.

These are instances where the State is receiving a broad public benefit rather than, or in addition to, the benefit to the Agency of Jurisdiction. Unfortunately, this broad public benefit can be difficult to quantify in terms of value. When a lease is let to a governmental or non-profit entity, SOLD shall make a determination that such a broad public benefit exists and take said benefit into account when establishing the FMR.

For the purposes of leasing policy, the reduction in rental rate for broad public benefit is considered a subset of the In-Lieu Rent policy, which can be found in RESD Bulletin 18-05.

At no point shall the reduction of FMR for the provision of a broad public benefit exceed 50 percent of the FMR.

PURPOSE

This bulletin establishes guidelines and procedures for determining less than FMRs when there is a finding that a broad public benefit is being provided to the State.

PROCESS FOR ESTABLISHING LESS THAN FAIR MARKET RENTS

The following outlines the basic process steps:

1. Department of General Services (DGS) will first establish FMR by employing the following methods including however not limited to:
 - a. Valuation and site identification.
 - b. On site physical inspection.
 - c. Verify measurements and review photographs of site.
 - d. Research history regarding the property in question.
 - e. Market research analysis comparing site to comparable locations in the surrounding market.
 - f. The professional judgement of the leasing officer assigned to the project and/or DGS Real Property Services Section Appraisal Unit.
 - g. Constraints on the property that would limit utility or value. Examples include being located behind security, in rural or inaccessible locations, etc.

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2. If the Agency of Jurisdiction notifies SOLD that they believe that there is a public benefit to the state by virtue of the proposed lease, SOLD will validate that the lessee is a governmental or non-profit entity and review the proposed benefits to the state.
3. If, in the discretion of the Manager of SOLD, a broad public benefit exists, SOLD will work with the Agency of Jurisdiction to attempt to quantify the benefit. It is generally unlikely that broad public benefits will be able to be quantified. In such instances, SOLD will document the lease file to that effect.
4. SOLD will notify the Agency of Jurisdiction of the findings, and if the Agency of Jurisdiction is interested in reducing the proposed lessee's rent, said Agency shall provide a written request to SOLD. Such requests must be signed by an administrator.
5. If the rental reduction justification is approved by the SOLD Manager, SOLD will draft the lease rental clause to include a reduction up to 50% of the FMR. This rate will remain in force as long as the tenant is providing a broad public benefit identified in the justification. In the event the benefits are no longer being received by the public, the tenant will pay the established FMR.

Note: The rental reduction rate, not to exceed 50 percent shall be determined by the Manager of SOLD.

PROCESS OUTLINE FOR MONITORING LESS THAN FAIR MARKET RENT BENEFIT

Agency of Jurisdiction shall be responsible for monitoring the benefits received from the Lessee and in the event the benefits are no longer being received, Agency will immediately notify SOLD to issue a 30-Day Notice to revert the rent to the FMR already established in the lease document.



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REAL ESTATE SERVICES DIVISION

BULLETIN

SUBJECT: In-Lieu Rent	NUMBER: 18-05
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DISTRIBUTION: All Asset Management Branch Staff	ISSUING BRANCH: Asset Management Branch

BACKGROUND

Department of General Services' general authority to lease state-owned property to private parties is found in Government Code section 14670. The State Owned Leasing Division (SOLD) is tasked with exercising that authority on behalf of the Director.

Statute requires that SOLD let these leases at Fair Market Value (FMV), with few exceptions. However, statute does not require that compensation to the state for these leases be collected in the form of monthly rent. Agencies can receive quantifiable, in-kind benefits in lieu of a portion or all of the monthly rent that would otherwise be collected. These in-kind benefits are considered "In-Lieu Rent."

JUSTIFICATION FOR IN-LIEU RENTS

Effective immediately, client agencies requesting Department of General Services (DGS) leasing services must submit a written justification when seeking In-Lieu Rent as an option. The justification must outline the following:

1. The benefit the lessee (or potential lessees) will provide to the department. This could be direct or indirect benefit to the department, or to the constituency that the department serves. Examples include, but are not limited to:
 - a. A lessee maintaining a building or infrastructure that would otherwise be vacant and subject to warm shut down costs.
 - b. A lessee selling food or other basic services institutional staff that are unable to leave grounds.
 - c. A lessee providing counseling services to patients served by the department.
2. The quantifiable benefit provided by the lessee (or potential lessees). Departments must be able to substantiate their estimations of benefit.

Requests must be signed by a person authorized by the requesting department. At no time shall the person be less than a Staff Services Manager III or equivalent. Requests for In-Lieu Rents must be reviewed by the leasing officer assigned to the project and approved by the Chief of SOLD.

PROCESS OUTLINE FOR IN-LIEU RENTS

The practice of leasing State owned property with an in-lieu benefit will be processed as follows:

1. DGS will establish Fair Market Value by employing the following methods including, but not limited to:
 - a. Valuation problem identification.
 - b. A site visit(s).
 - c. Measurements and/or photographs.
 - d. Research regarding the property in question.
 - e. Market research analysis.

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- f. The professional judgement of the leasing officer assigned to the project and/or the Real Property Services Section.
2. The department having jurisdiction over the property submits a written request to SOLD requesting an In-Lieu Rent.
3. The leasing officer assigned to the project shall review the request and make a recommendation to Chief of SOLD. The Chief of SOLD shall review and deny or approve the request.
 - a. If the In-Lieu Rent request is approved, SOLD shall draft the lease rental clause pursuant to the attached lease agreement Exhibit "A".

TRACKING OF IN-LIEU BENEFITS

It shall be the responsibility of the department having jurisdiction over the leased property to:

1. Monitor the benefits received from the Lessee, and regularly evaluate whether the actual benefits received are commensurate with the rent reduction.
2. Notify SOLD immediately if the benefits are no longer received or severely diminished.
 - a. In the event the benefits are no longer being received, SOLD will issue a 30-Day Notice to revert the rent to the FMV rent already established in the lease document.



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TELECOMMUNICATIONS LEASE RATE GUIDELINES

Lease Number # L-

Leased Premises:

REO:

Date:

STEP ONE:

Review the request to determine the type of user:

- 1) Commercial Radio, Television, Cellular service where services are provided for resale (customer is charged in some manner, fees, rents, advertising, etc). Any non-governmental entity where services are not resold.
- 2) Public/Non-Commercial A Non-Commercial user must show a broad public benefit for leasing the space at a reduced rate. Services provided are not for resale:

2-way radio

Emergency service agencies
(DWR, Caltrans, CDF, CA Technology Agency - PSCO, Parks, Fish & Game, DOJ, Corrections, CYA, CHP, OES, National Guard, FBI, US Coast Guard, US Weather Service, USFS, local agencies providing emergency service)

or

Public service agencies which provide services to the broad, general public (State, Federal, local agencies and non-profit organizations)

STEP TWO:

Determine the type of lease:

1) Telecommunications Facility Lease

A) Space (land or rooftop) is leased to construct or install a telecommunications vault or equipment shelter to place equipment, antenna space (tower or pole or RF umbrella) and peripheral equipment (ac, generators, solar panels, propane tanks, batteries etc).











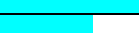






















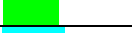






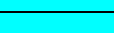

















B) Space in a State building or on rooftop with placement of Lessee's equipment in a rack or closet or small equipment cabinet.

2) Telecommunications Vault Lease

Rack and antenna space in the State's vault and tower. Vault Space (includes one rack space or any portion of a rack space) and tower/antenna space. Road maintenance, commercial and emergency power may be included or at an additional cost.

STEP THREE:


Use the U.S. Census Bureau California County Total Population data to determine the geographical location category:

County	Population	County	Population	County	Population
	1,647,704		154,697		733,709
	1,071		260,651		282,887
	37,383		17,410		764,797
	226,864		87,628		446,170
	45,171		268,672		1,919,402
	21,588		8,795		274,673
	1,135,127		13,981		179,631
	27,540		435,232		2,947
	185,625		142,166		43,603
	979,915		99,107		440,207
	28,085		3,172,532		503,070
	136,646		380,531		541,560
	180,883		18,627		96,651
	18,144		2,387,741		63,276
	884,788		1,514,460		12,782
	149,785		59,414		460,437
	64,116		2,140,096		53,804
	30,870		3,317,749		849,738
	10,137,915		870,887		215,802
					75,275


Source: US Census Bureau, 2016 Population Estimates Program

This chart can be viewed on the web @ <http://factfinder.census.gov> with additional city data.


Prime Urban
Category 1:

All prime urban areas within the Northern California counties of Alameda, Contra Costa, Marin, San Francisco, San Mateo and Santa Clara along with Los Angeles, Orange and San Diego counties. (Highlighted in )

Urban Category 2:

All areas defined as “urbanized” in 23 U.S.C. 101: “...an area with population of 50,000 or more designated by the Bureau of the Census...” (Highlighted in )

Rural Category 3:

Remaining areas. (Highlighted in )

STEP FOUR:

Determine the rent from the appropriate Commercial or Public/Noncommercial pricing guideline below based on type of lease.

TELECOM GROUND/FACILITY LEASE

Telecommunications Pricing Guideline – Public/Non-Commercial and Commercial

DEFINITIONS:

Macrocell: Facility with 9 or more antennas and/or fenced area with equipment building or concrete pad space and space required for the foundation of the monopole or tower, when combined exceeds 500 square feet, not to exceed 16 antennas or 2,500 square feet.

Minicell: Facility with 4 to 8 antennas and/or fenced area containing equipment building or concrete pad space and space required for the foundation of the monopole or tower, when combined is in excess of 300 square feet but less than 500 square feet.

Microcell: Facility with 1 to 3 antennas and/or fenced area with equipment building or concrete pad space and space required for the foundation of the monopole or tower, when combined is less than 300 square feet.

If the proposed facility exceeds one category by the number of antennas or the amount of square footage requested, the facility will be classified in the next higher category.

Carriers requesting a facility with more than 16 antennas or a fenced area exceeding 2,500 square feet must pay a higher rate than the pricing matrix dictates.

Adjustments in the rate, increase or decrease, whenever equipment area or the number of antennas changes (e.g. carrier removes one antenna from a total of 4, changing the site from a Minicell to a Microcell).

ANNUAL BASE FEE

	July 1, 2018	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022	July 1, 2023
MACROCELL						
Prime Urban	\$ 60,564	\$ 62,928	\$ 64,872	\$ 67,152	\$ 69,504	\$ 71,928
Urban	\$ 38,676	\$ 40,032	\$ 41,436	\$ 42,876	\$ 44,376	\$ 45,936
Rural	\$ 24,708	\$ 25,572	\$ 26,472	\$ 27,396	\$ 28,356	\$ 29,340
MINICELL						
Prime Urban	\$ 51,948	\$ 53,772	\$ 55,644	\$ 57,600	\$ 59,616	\$ 61,692
Urban	\$ 35,820	\$ 37,068	\$ 38,376	\$ 39,720	\$ 41,100	\$ 42,540
Rural	\$ 24,708	\$ 25,572	\$ 26,472	\$ 27,396	\$ 28,356	\$ 29,352
MICROCELL						
Prime Urban	\$ 43,284	\$ 44,796	\$ 46,368	\$ 47,988	\$ 49,668	\$ 51,408
Urban	\$ 28,644	\$ 29,652	\$ 30,684	\$ 31,764	\$ 32,868	\$ 34,020
Rural	\$ 21,096	\$ 21,840	\$ 22,596	\$ 23,388	\$ 24,204	\$ 25,056

Note: These are the Department of General Services telecommunication rate guidelines and are subject to change. Rates currently increase at a rate of 3.5% annually.

TELECOM VAULT LEASE

FY 2018-2019 ANNUAL FEES

VAULT RACK SPACE Per Rack (2' width x 2' depth, 7' height)

	Rural	Urban	Prime Urban
Public/Non-Commercial	\$4,847	\$6,806	\$10,721
Commercial	\$7,833	\$9,788	\$15,268

****Prices above do not include antennas. Add cost of antennas based on pricing below.**

ANTENNAS (Public/Non-Commercial and Commercial)

Exposed dipole antenna or panel antenna, YAGI \$1,059

Whip Antenna \$1,539

Microwave dishes

2' Diameter	\$ 358
3' Diameter	\$ 825
4' Diameter	\$ 1,448
6' Diameter	\$ 3,267
8' Diameter	\$ 5,804
10' Diameter	\$ 7,283

Transmitter/receiver power and connection to state-owned multi-coupler & combiner systems included in rack rent unless excessive.

Note: These are the Department of General Services telecommunication rate guidelines. Rates currently increase at a rate of 3.5% annually.