

**BROOME COUNTY
DEPARTMENT OF
AUDIT AND CONTROL**

LEASED SPACE-SQUARE FOOTAGE AUDIT

December 2004

Alex J. McLaughlin, Comptroller

December 31, 2004

Jeffrey P. Kraham, County Executive:

The Department of Audit and Control has audited the County's Leased Space. The principle objectives were to ensure that the amount of square footage that the County is being charged for under certain lease agreements is accurate and that other specific obligations of the landlord are being met.

The audit was conducted in accordance with generally accepted auditing standards. Such standards require that the Department of Audit and Control plan and perform the audit to adequately assess the accuracy of the financial records and adequacy of the internal controls, and that we examine, on a test basis, sufficient, competent and relevant evidence to afford a reasonable basis for our conclusions.

Based on the results of our examination, except for the instance noted herein, it is our opinion that the County is being charged accurately for square footage. However, the County should be more insistent that the various Landlords meet the agreed upon obligations of their respective contracts.

Sincerely,

Alex J. McLaughlin
Comptroller

cc: Daniel A Schofield, Chairman of the Legislature
Members of the Legislature
Louis P. Augostini, Clerk of the Legislature
William M. Barber, Commissioner of Public Works
Arthur R. Johnson, Commissioner of Social Services and Mental Health
Claudia A. Edwards, Director of Public Health
Richard D. Lindhorst, Director of Employment and Training
David Nemec, Director of Probation

Background:

The objective of our audit was to reasonably ensure that the amount of square footage that Broome County is being charged for under certain (building) lease agreements is accurate. Also, our purpose was to ensure that the lessors (landlords) are meeting the specific obligations detailed in the lease agreements.

Initially, we obtained a list of nine (9) building leases. From that list, we selected four (4) building leases for analysis. The four (4) leases selected for analysis were buildings leased by the Department of Social Services, the Health Department, the Office of Employment and Training, and the Probation Department. These four (4) departments lease almost 176,000 square feet at a cost of \$1,488,778 for 2004.

We reviewed the leases for specific value adding responsibilities of the landlords, the amount and timing of lease payments, and other lease provisions (options to discontinue the lease, options to deduct rent for repairs, etc...).

We contacted peer counties (Albany, Dutchess, Oneida, Onondaga, Niagara, and Ulster) and discussed their practices related to leased property.

Finally, we visited the leased buildings for the purpose of verifying the accuracy of the square footage and to observe whether agreed upon renovations, repairs, and improvements either had been or are being addressed.

AUDIT FINDINGS, RECOMMENDATIONS AND RESPONSES

FINDING 1: OFFICE OF EMPLOYMENT AND TRAINING PAYS FOR OFFICE SPACE THAT IS UNUSABLE

During the course of our audit, it was brought to our attention that for the past 17 months the 'Job Club' room (255 sq ft) has been unusable.

The Office of Employment and Training (OET) is up to date in payment of contract 1073-123 with Courterback Development, LLC, which includes the 'Job Club' room.

Section 6 (c) states:

"Lessor agrees, during the term of this Lease, to repair all structural defects in the roof, floor and/or structural bearing walls not only in the demised Premises but throughout the building..."

The room has been rendered unusable due to a leak in the roof and the collapsing of the ceiling.

OET has paid \$3,955.73 for a room it has not used in 17 months.

RECOMMENDATIONS:

We recommend that the County seek reimbursement for the amount overpaid. We also recommend that the County insist Courterback Development, LLC make the necessary repairs to the room to comply with the contract 1073-123 section 6 (c). We also recommend that the contract be amended to include a clause that states that if the Lessor is responsible for the repairs and does not repair things promptly then the Lessee may make the repairs and take a credit against future rent.

MANAGEMENT RESPONSE:

Management was provided with an opportunity to comment on this report, but did not.

FINDING 2: HEALTH DEPARTMENT OVERPAYING FOR STORAGE SPACE

During the course of our audit, we discovered that the Health Department was paying for 800 square feet of storage space, but in actuality it only measured 437 square feet.

In Contract 10-704 Article 1.5, 2.1 and Exhibit B the Floor Space is said to be 38,428 square feet which includes 800 square feet of storage space in an adjacent building.

The makeshift space was never verified for exact square feet.

The Health Department has been paying for 800 square feet of storage since January 1, 2000; therefore they have overpaid \$14,641.

RECOMMENDATIONS:

We recommend that the County recover the \$14,641 from 225 Front St., LTD. We also recommend that the contract be amended to reflect the proper amount of storage space that is being occupied by the Health Department.

MANAGEMENT RESPONSE:

Management was provided with an opportunity to comment on this report, but did not.

FINDING 3: LUMP SUM LEASE PAYMENTS ARE NOT COST EFFECTIVE

During the course of our audit, we examined the amount and timing of the lease payments. We also discussed, among other things, the timing of the lease payments with several of our peer counties (Albany, Dutchess, Oneida, Onondoga, Niagara and Ulster). The best practice was to make monthly payments to landlords. In contrast, we noted that three(3) of (4) four Broome County lease agreements require payments to be made in a lump sum at the beginning of the year. Paying monthly rents in a lump sum payment at the beginning of the year without adjustment is not cost effective.

Based on the time value of money, there is a considerable cost when lump sum

payments are made at the beginning of the year. For the three (3) leases mentioned above, making monthly payments instead of annual payments over the lease terms would result in savings in excess of \$125,000 (assuming a modest 2% return on Broome County investments). Moreover, paying an entire year's rent in one lump sum at the beginning of the year can be a disincentive for Lessors to promptly make repairs and improvements.

RECOMMENDATION:

We recommend that future lease agreements and any extensions of the current leases require payments to be made on a monthly basis.

MANAGEMENT RESPONSE:

Management was provided with an opportunity to comment on this report, but did not.

FINDING 4: LEASE RENOVATIONS ARE INCOMPLETE

During the course of our audit, we physically observed the condition of several buildings Broome County is leasing. The Probation Department lease specifies, among other things, a new HVAC system and working elevators for both the Forensic Unit and the Probation Department. However, since the inception of the lease (November 2001), the Elevator for the Forensic unit has not been operational. Additionally, only 4 of 17 air conditioning units have been replaced since the inception of the lease. In consideration of the fact that it has been almost three (3) years since the initial lease payment was made, the delay in completing these renovations is unreasonable.

Broome County has been and is currently paying to lease a building that has not been renovated to the agreed upon condition.

RECOMMENDATION:

We recommend that the appropriate Broome County personnel notify the Lessor in writing specifying the obligations the Lessor has failed to perform, and that future lease payments or a reasonable portion thereof be withheld until the specified renovations are completed.

MANAGEMENT RESPONSE:

Management was provided with an opportunity to comment on this report, but did not.

FINDING 5: COUNTY DOES NOT HAVE WRITTEN POLICIES AND PROCEDURES FOR MANAGING LEASES

During the course of our audit, we noted that the County does not have formal written policies or procedures describing what the various process elements are related to property leases, who should be responsible for them and how they should be executed.

For example, there are several ways in which to measure square footage. The County should specify, formally, which is the acceptable methodology for County leases, who should measure, what records regarding verification are maintained, for how long, etc. Additionally, there needs to be some formal assignment of responsibility to follow up on performance and/or renovation requirements placed on landlords.

Written policies and procedures would provide guidance to help ensure that all required steps are properly executed.

RECOMMENDATION:

We recommend that the County prepare, implement and maintain written policies and procedures for managing leases.

MANAGEMENT RESPONSE:

Management was provided with an opportunity to comment on this report, but did not.