

HICR

52

HOUSE COMMITTEE REPORT

File

(11)

Date Referred: February 28, 1990

FURTHER REFERRALS:

Date of Committee Action: 3/20/90

The FINANCE Committee considered:

HCR 52

HOUSE CONC. RES., NO. 52 STATE LEASING OF SPACE

Relating to the leasing of space by the state.

RECOMMENDATIONS:

- be replaced with CS HCR 52 (FIN) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact Leg. Affairs Agency fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING: (Check approp. column)

Do Not Pass No Rec Amend

| | | | | |
|--------------------------------|------------------------------|--|-------------------------------------|--|
| <u>Ronald J. Larson</u> LARSON | <u>Dir. Schultz</u> Shultz | | <input checked="" type="checkbox"/> | |
| <u>Lay Brown</u> BROWN | <u>Alvin Rieger</u> RIEGER | | <input checked="" type="checkbox"/> | |
| <u>Koponen</u> KOPONEN | <u>James Hoffman</u> HOFFMAN | | <input checked="" type="checkbox"/> | |
| <u>Ulmer</u> Ulmer | | | | |
| <u>Barnes</u> BARNES | | | | |
| <u>Phillips</u> PHILLIPS | | | | |
| <u>Wallis</u> WALLIS | | | | |
| <u>Swackhamer</u> SWACKHAMER | | | | |

Laura Hoffman Hoffman
Chairman's Signature
Ronald J. Larson LARSON

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to the leasing of space ...
and establishing the State Lease Task Force.
Sponsor: Representative Ulmer
Requestor: House Finance

Affected Agency: Legislative Affairs Agency
BRU: Legislative Operating Budget
Components: Legislative Operating Budget

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

| OPERATING | FY91 | FY92 | FY93 | FY94 | FY95 | FY96 |
|------------------------|------------|----------|----------|----------|----------|----------|
| Personal Services | 0 | 0 | 0 | 0 | 0 | 0 |
| Travel | 6.6 | 0 | 0 | 0 | 0 | 0 |
| Contractual | 0 | 0 | 0 | 0 | 0 | 0 |
| Supplies | 0 | 0 | 0 | 0 | 0 | 0 |
| Equipment | 0 | 0 | 0 | 0 | 0 | 0 |
| Land & Structures | 0 | 0 | 0 | 0 | 0 | 0 |
| Grants, Claims | 0 | 0 | 0 | 0 | 0 | 0 |
| Miscellaneous | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 6.6 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

FUNDING: (THOUSANDS OF DOLLARS)

| | | | | | | |
|--------------|------------|----------|----------|----------|----------|----------|
| General Fund | 6.6 | 0 | 0 | 0 | 0 | 0 |
| Federal Fund | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 6.6 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

CSHCR 52 (Finance) establishes the State Lease Task Force comprised of 13 members. Administrative and legal services of the Legislative Affairs Agency shall be made available to the Task Force. The following is requested to adequately support the Task Force:

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 3/19/90

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren Endicott

Date: 3/19/90

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL NOTE: CSHCR 52

Travel:

It is anticipated there will be 2 meetings of the Task Force. It is assumed that travel expenses of the 4 Legislators will be absorbed within the existing Legislative Budget and the 2 Representatives from the Executive Branch and 1 Representative from the University will be absorbed within their respective budgets.

2 meetings x 6 public members at 2 days each

airfare - 2 meetings x 6 members = 12 airfares

12 airfares x \$390 = \$4,680

per diem - 2 meetings x 6 members = 12

12 x 2 days per diem = 24

24 x \$80 =

\$1,920

\$6,600

Advertising of public notices, printing of the report, supplies, equipment, etc. will be absorbed within the existing Legislative Operating Budget.

Original sponsor(s): REP. ULMER

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE CONCURRENT RESOLUTION NO. 52 (Finance)

3 - IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Relating to the leasing of space by the
6 state and establishing the State Lease
7 Task Force.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS the state leases office space in over 60 communities through-
10 out the state, and the purpose of these offices is to provide services to
11 the public; and

12 WHEREAS the state's presence in these offices affects the business
13 environment in the communities, and the design of these offices affects
14 employee efficiency and morale as well as the cost of the leases; and

15 WHEREAS the state should be a responsible citizen in the communities
16 and not cause the construction of buildings that are below the prevailing
17 standard for commercial structures in the communities; and

18 WHEREAS the competitive sealed proposal process makes it possible to
19 consider several appropriate attributes in addition to the cost of a lease,
20 including the total life-cycle costs for maintenance and operations,
21 functionality, public convenience, design, appearance, and location of the
22 leased building; and

23 WHEREAS a comprehensive review is needed of the issues raised in this
24 resolution relating to the leasing of space by the state in order to deter-
25 mine how the state may achieve the goals proposed by resolves one through
26 four of this resolution;

27 BE IT RESOLVED that the Alaska State Legislature respectfully requests
28 the governor to direct the Department of Administration to seek lease space
29 that not only accommodates the state's mission but is also compatible with

1 representative from the Department of Transportation and Public Facilities,
2 one representative from the Department of Administration, and one represen-
3 tative from the University of Alaska; and be it

4 FURTHER RESOLVED that the terms of the task force members shall begin
5 July 1, 1990, and that the task force shall terminate January 22, 1991; and
6 be it

7 FURTHER RESOLVED that the task force shall submit a report of its
8 findings and recommendations to the governor and the legislature by
9 January 21, 1991; and be it

10 FURTHER RESOLVED that the administrative and legal services of the
11 Legislative Affairs Agency shall be made available to the task force.

12 COPIES of this resolution shall be sent to the Honorable Frank Baxter,
13 commissioner of administration; the Honorable Mark S. Hickey, commissioner
14 of transportation and public facilities; to the Honorable Donald O'Dowd,
15 President of the University of Alaska; and to Ray Price, Executive Director
16 of the Alaska State Housing Authority.

1 the communities' concerns, including planning, zoning, and design regula-
2 tions where they exist; and be it

3 FURTHER RESOLVED that the Alaska State Legislature encourages state
4 agencies to avoid leasing practices that would cause the construction of
5 substandard commercial structures or structures that will be substandard in
6 appearance and features when compared to prevailing building practices and
7 design, but nothing in this resolution shall be construed as encouraging
8 new construction or favoring new construction over the leasing of existing
9 space; and be it

10 FURTHER RESOLVED that the Alaska State Legislature encourages state
11 agencies to utilize the competitive sealed proposal process for the acqui-
12 sition of leased space when the lease exceeds 10,000 square feet or a term
13 of five years; and be it

14 FURTHER RESOLVED that the competitive sealed proposal process used to
15 lease office space for the state should consider the total life-cycle cost
16 to the state of the building to be leased as calculated over the term of
17 the lease using a discounted present value analysis, and including mainte-
18 nance and operations, functionality, public convenience, design, and ap-
19 pearance; and be it

20 FURTHER RESOLVED that a State Lease Task Force is established to study
21 the issues raised by the goals set out in the previous resolves in order to
22 determine the best methods for achieving these goals; and be it

23 FURTHER RESOLVED that the task force shall consist of nine persons
24 appointed by the governor, two representatives appointed by the speaker of
25 the state house of representatives, and two senators appointed by the
26 president of the state senate; and be it

27 FURTHER RESOLVED that the members of the task force appointed by the
28 governor shall include two engineers licensed under AS 08.48, two archi-
29 tects licensed under AS 08.48, two representatives of local government, one

~~ADPT-UC~~

AMENDMENT # 2

3/20/90

By Rieger

To CSHCR 52 (F.m)

Page 2, Lines 4 and 5

delete "that will not compete well for private sector
tenants when the state lease ends, or structures
that would be substandard" inserted

Page 2, Line 14, after "leased"

add ^{or} "when calculated over the term of the lease using
a discounted present value analysis, and"

Page 2, Line 13, after "cost"

insert: "to the state"

NOTE: Pen comments indicate technical
changes made by legal drafter

adopt. U.C.
3/20/90

AMENDMENT # 3

CSHCR 52 (Fin)

By Rieyer

Page 2, line ~~8~~⁷, after "design;"

insert " ^{but} however, nothing in this resolution shall be construed as encouraging new construction or favoring new construction over ^{the} lease of existing space; "

NOTE: PEN NOTES indicate technical changes made ~~to~~ by legal drafter

App
Adopted U.C.
3/20/90

Amendment #4

by Phillip

To: CSHCR #52 (Finance)

Page 1, Line 13

Delete "host community"; Add "communities".

Page 1, Line 15

Delete "host community"; Add "communities".

Page 1, Line 17,

Delete "host community"; Add "communities"

Page 2, Line 1,

Delete "host community"; Add "communities"

~~Page 2, Line 1,~~

~~After "regulations", Add "where they exist,"~~



Department of Transportation and Public Facilities

POSITION PAPER

Bill No: HCR 52

Approved: Mark S. Hickey *MSH*
Commissioner

Title: Relating to the leasing of space by the state.

Date: February 27, 1990

The department is supportive of House Concurrent Resolution No 52. We believe it will assist in providing office space for state functions which are efficient and compatible with the fabric of the surrounding community. It should also result in leases that are more reflective of local communities desires.

While the responsibility for leasing space is held by the Department of Administration, our department is willing to offer professional architectural and engineering guidance concerning design criteria that would assist in the bidding for lease space.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF ADMINISTRATION

P.O. BOX C
JUNEAU, ALASKA 99811

DIVISION OF GENERAL SERVICES AND SUPPLY

March 9, 1990

The Honorable Ramona Barnes
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Barnes:

Deputy Commissioner Amy Kyle of the Department of Environmental Conservation passed on your question regarding the lease of office space for their headquarters in Juneau.

An Invitation to Bid was issued, opened and awarded. The low bidder is now pursuing a financial approach which would involve the City of Kasaan issuing some sort of debt to finance the cost of construction. Apparently, Kasaan would eventually become the owner of the building. This financing structure would allow the use of tax exempt financing and hence provide a lower construction cost and a lower cost to the State. Since we are not accustomed to this form of financing, and since it would require the State's approval of the process, we are reviewing it.

We would be happy to address any further questions on this subject.

Sincerely,



Robert J. Link
Director

RJL/tlc

cc: Frank S. Baxter
Commissioner
Department of Administration

Amy D. Kyle
Deputy Commissioner
Department of Environmental Conservation

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

TO: Rep. Hoffman and Rep. Larson, Co-chairs
Members
House Finance Committee

FROM: Rep. Fran Ulmer

DATE: March 20, 1990

RE: HCR 52 relating to state leases

State agencies and municipalities have recently turned to the capital lease process as a means of acquiring badly needed new facilities. One reason for this is the unwillingness of the legislature to appropriate funds for the state office buildings in the capital budget. These facilities are designed, constructed, financed and often operated by the successful bidder. The building is essentially purchased by the state on the "installment plan" utilizing funds from the agency's operating budget. At the conclusion of the term of the lease, which may be 20 years or more, ownership of the facility usually reverts to the state, often after payment of a final lump sum.

A major problem with this process is that it lacks virtually all of the controls normally placed on development of new public facilities. The bids are usually awarded only on the basis of lowest rental cost and do not necessarily take into consideration building standards of the host community, the long term maintenance and operations costs or the functional needs of the agency.

HCR 52 requests that when the state enters into capital lease contracts, it consider a variety of factors in addition to price,

House Finance Committee
March 20, 1990
Page 2

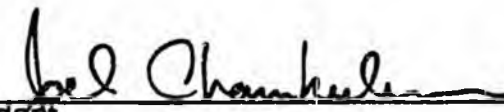
including functionality, public convenience, design and appearance be taken into consideration.

A Finance CS has been prepared which would create a State Lease Task Force comprised of architects, engineers, representatives of local government and state agencies who have leasing responsibilities, as well as two representatives of the House and two from the Senate. Formation of the Task Force was requested by members of the Alaska Professional Design Council, to work on solutions to the problems created by current state leasing policies. The Task Force members will report to the legislature on their findings and recommendations by January 21, 1991.

**RESOLUTION
STATE BUILDING LEASE PROCEDURES**

- Whereas, the Alaska Chapter of the American Institute of Architects promotes quality design and construction practices throughout the State, and
- Whereas, the Department of Administration, other State agencies and other political subdivisions for the State of Alaska have been procuring new building space through a process which solicits bids for lease space normally resulting in new construction, and
- Whereas, the contractor with the lowest lease price and cheapest cost will be the successful bidder for such State space, and
- Whereas, this process is not required to consider the quality of building design, site design, regional planning, construction quality, or operation and maintenance costs, and
- Whereas, such omission harms the long term interest of the State and the affected communities because of the low quality design, planning and construction which inevitably occurs,
- Therefore, be it resolved that the Alaska Chapter of the American Institute of Architects, strongly urges that the Governor's Office and Department of Administration revise this bid process to include qualitative criteria for design, site planning, interior amenity, and maintenance and operation costs so that the State agencies and communities affected receive building projects with acceptable design and construction quality.

Unanimously adopted this date, November 10, 1989.



President



Secretary



Alaska Designs

Volume 12, No. 11, December 1989

The Official Newsletter of the Alaska Professional Design Council

Acquisition of State Facilities Via Capital Lease

by Jack Wolever, AIA

Given current political and economic environments, most state agencies find it almost impossible to obtain funding for needed facilities through capital appropriations. The conventional process of constructing new state buildings -- an appropriation from the legislature, selection of architects and engineers, programming and design, competitive bids, and construction -- is simply no longer accessible to most state agencies because of economic or political constraints.

Several state agencies have turned to the capital lease process as a means of acquiring new facilities. These facilities are designed, constructed, financed, and often operated and maintained by the successful bidder. The building is essentially purchased by the agency on the "installment plan" utilizing funds from the agency operating budget. At the conclusion of the term of the lease, the facility ownership usually reverts to the state, often after payment of a final lump sum amount to the bidder. The capital lease process is made possible because many agencies have accommodated space needs over the years through rental of increasing amounts of office space which is frequently scattered throughout a community. Consolidation of rental space and agency functions increase the buying power and the efficiency of the agency -- powerful arguments for capital lease facility acquisition.

It is critical, however, that those individuals responsible for facility acquisition and management ensure that buildings acquired via capital lease are good investments for the state. Buildings which are functionally unreliable or unsuccessful are frustrating to the personnel who utilize them. Buildings which are poorly designed and constructed are expensive to operate and maintain and can have such a short useful life span that they are of little value at the conclusion of the term of lease when ownership is transferred to the state. It is the responsibility of an agency's facilities management group to ensure that such problems do not compromise the acquisition of a new building.

A publication entitled Design/Build/Bid Considerations for Participants was prepared in 1986 by an ad-hoc committee of Alaskan architects, engineers, contractors, and facility planning experts to inform public sector building owners about the process of acquiring facilities through design/build/bid. The process described differs from the capital lease process currently utilized by the state in several very important areas.

Critical to the success of a design/build/bid project is preparation of a detailed facility program describing the functional needs of the agency, and performance specifications describing a minimum level of quality for building components and systems. Equally important is preparation of a format for evaluating bidder's proposals in order to obtain from each bidder a design for the best possible building that can be provided within the limits defined by the performance specifications and the project budget.

Having participated in numerous design/build/bid public works projects in Alaska and California, it has been my experience that a consultant with experience in preparing D/B/B RFPs is needed to prepare the program, performance specifications, and evaluation format. With regard to evaluation of proposals, this typically involves both objective judgements, such as awarding points for exceeding minimum energy performance standards, and subjective judgements, such as awarding points for quality of architectural design and site planning functionality. Project cost can be dealt with by either establishing a price to be paid and allowing the bidders to provide the best facility achievable within that constraint, or by allowing the cost to be another variable in the evaluation format.

State agencies that are normally in the business of leasing facilities lack the professional expertise required to prepare a D/B/B RFP, and lack that same expertise required to evaluate a D/B/B proposal with regard to both technical criteria and design criteria. The State Department of Administration is the entity that has been responsible for capital lease building acquisitions for other state agencies. The DOA track record has been dismal, producing buildings which are largely unsuccessful because of failings in the RFP utilized by DOA. The community of Juneau has seen protests sent directly from the planning commission to the Governor about conspicuous failures of capital lease building projects initiated by the DOA's Division of General Services and Supplies which is unable to differentiate between a D/B/B project and an ordinary lease for office space. Therefore, it is necessary for the Alaskan consulting community to acquire the expertise to provide state agencies with the services needed to organize and execute a successful D/B/B project.

In summary, the capital lease process is currently the only practical means available to most state agencies for obtaining new facilities. In order to ensure that agency funds are invested in a responsible manner, it is imperative that state agencies utilize a process structured to produce buildings that are functionally responsive to the needs of the occupants, are economical to operate and maintain, and are humane and productive environments for the individuals who work there. In

addition, those building projects must complement and enhance the community in which they are placed -- the buildings must be good neighbors rather than centers of controversy over planning and design issues. It is incumbent on the Alaskan design community to recognize the need for D/B/B services and to be able to provide those services to state agencies. It is incumbent on the state to recognize the failings of its' process and its' products, and to obtain the necessary expertise required to develop successful capital lease building projects.