

CF OPERATING PROCEDURE
NO. 70-8

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, November 17, 2008

Facilities Acquisition and Management

MANAGEMENT OF REAL PROPERTY
(LAND AND IMPROVEMENTS THEREON)
LEASED TO THE DEPARTMENT BY THE BOARD OF TRUSTEES OF THE
INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

1. Purpose. This operating procedure establishes Department policy and procedures for the management of state-owned real property (land and improvements thereon) leased to the Department by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and assigns responsibilities for administration of these matters within the Department.
2. Scope. This operating procedure is applicable to all Department organization entities and all real property (land and improvements thereon) leased to the Department by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board).
3. General. With few exceptions, the Department operated state-owned buildings and improvements are located on real property (land) that is owned and recorded in the name of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board). The Department of Environmental Protection's Division of State Lands (DSL) is responsible for the administration of these state-owned real properties (land and improvements thereon) for the Board. The Board is composed of the governor and members of the state cabinet. The Board (lessor) leases state-owned lands occupied by the Department (lessee) for public use purposes specified in each numbered lease agreement between the Board and the Department. The Department may, with the concurrence of the Board, grant subleases, easements and rights-of-way provided such authority is granted in the lease by the Board.
4. Definitions.
 - a. Department Real Property (Management of Land and Improvements) Coordinator. Staff director, office of Department's general services (ASG).
 - b. Circuit/Region or Headquarters Real Property (Management of Land and Improvements) Coordinator. The regional director for administrative services in each circuit/region and the staff director of the office of design and construction (ASGDC) for headquarters.
 - c. Lease Agreement. A legal document for the lease of certain lands and improvements thereon between the Board (lessor) and the Department (lessee), as executed by the Board and the Department's secretary, or in his absence the acting secretary.
 - d. Sublease Agreement. A legal document for the sublease of certain lands and improvements thereon between the Department (sublessor) and the second party to the sublease (sublessee), as executed by the Department's secretary, or in his absence the acting secretary and the duly authorized representative of the second party, and with consent of the Board.

This operating procedure supersedes CFOP 70-8 dated May 1, 1998.

OPR: ASGDC

DISTRIBUTION: X: OSES; OSLs; ASG; ASGDC; Regional Directors; Region/Circuit Mental Health Treatment Facilities.

e. Easements and Rights-of-way. A legal document for the sublease of rights-of-way for roadways, drainage structures and ways, underground and overhead utilities and for access and egress, as executed by the Department secretary or in his absence, the acting secretary and the duly authorized representative of the second party, and with consent of the Board.

f. Legal and Authorized Use of State-owned Lands and Improvements Thereon. The public use purposes specified in a lease agreement between the Board and the Department.

g. Unauthorized Use of State-owned Lands and Improvements Thereon. Uses not authorized in a lease agreement between the Board and the Department.

5. References.

- a. Chapter 253, Florida Statutes, State Lands.
- b. Section 253.025, Florida Statutes, Acquisition of State Lands.
- c. Title 18, Florida Administrative Code.
- d. Existing lease agreements between the Board (lessor) and the Department (lessee).
- e. Existing sublease agreements between the Department (sublessor) and the second party (sublessee) to each sublease agreement.

6. Actions Requiring Written Notification to and Right of Rejection by the Board (Lessor) Prior to Implementation.

- a. Easements and rights-of-way.
- b. Sublease agreements.
- c. Uses not in conformity with or not contemplated in the original lease agreement or amendments thereto.
- d. Closure of a Department facility.

7. Responsibilities. Occupation and use by other state agencies, county or city governments and private entities, incorporated or not, of property leased to the Department shall not be allowed without a properly executed sublease (by Department secretary and the Board). Such sublease shall include indemnification and full responsibilities for providing insurance coverage assigned to the Department and the Board. Failure to provide and maintain this documentation will be grounds for termination of subleases, easements and rights-of-way.

a. Assistant Secretary for Administration (AS).

(1) Provide liaison and coordination between the Department and Board (DSL) on all matters related to state-owned real property (land and improvements thereon).

(2) Provide technical assistance to other assistant secretaries and circuit/regions with respect to lease agreements, real property and the improvements thereon and Department actions that impact on these matters.

(3) Transmit to the Board through DSL all requests received from other assistant secretaries and circuit/regions that require notification to and rights of rejection by the Board (subleases, rights-of-way, easements and uses not in conformity with a lease).

(4) Insure that all real property legal documents, such as lease agreements, subleases, easements, and rights-of-way receive the signature of the Department secretary, or in his absence the acting secretary.

b. Regional Director.

(1) Each regional director is responsible for compliance with the terms and conditions of leases with the Board for facilities under their jurisdiction.

(2) Each regional director will monitor all Department facilities within the circuit/region and report any uses not in compliance with the letter of the sublease, easement or right-of-way, as it pertains to public purposes set forth in the lease. The report shall be directed to the appropriate assistant secretary for proper action.

(3) Within 90 calendar days from the date the secretary approves a plan to phase-out a facility program or operation, the affected regional director will submit recommendations to the appropriate assistant secretary for alternate use of the real property (land and improvements thereon) that is to be phased-out or vacated.

(4) Easements, rights-of-way, sublease agreements and uses not in conformity with a lease require written notification to and right of rejection by the Board prior to the effective dates and implementation. Requests, accompanied by legal documentation, to effect these actions must be submitted to the appropriate assistant secretary simultaneously for review and concurrence prior to making a commitment.

c. Other Assistant Secretaries.

(1) Upon review and concurrence of requests from regional directors for easements, rights-of-way, sublease agreements and uses not in conformity with a lease agreement, submit the requested actions to the assistant secretary for administration (AS, ASGDC) for appropriate processing to the Board through DSL.

(2) Submit the following additional items to AS for information or as appropriate for notification to the Board through DSL:

(a) Within 20 calendar days from approval date, a copy of any plan approved by the secretary to phase-out a facility program or operation.

(b) Within 20 calendar days from approval date, a copy of any plan approved by the secretary to terminate a lease agreement with the Board (release of real property to the Board).

(c) Within 20 calendar days from approval date, a copy of any plan approved by the secretary for alternative use of real property being vacated.

(3) Coordinate with the assistant secretary for administration (AS) to conduct a survey with assistant secretaries of the various programs and regional directors to determine possible alternate uses for real property being vacated. The survey must be completed within 120 calendar days from the date the secretary approves the phase-out of a facility program or operation.

(4) Within 30 calendar days from the survey completion date, submit to the secretary for approval a plan for alternate use of the property being vacated, or a recommendation to release the property to the Board (termination of the lease agreement).

8. Phase-out and Closure, or Alternate Uses of Real Property Leased from the Board. When the Department or the Legislature determines that a program or operation located on real property leased from the Board is no longer required, the leased property can be released to the Board or consideration can be given to possible alternate uses by other Department programs or operations. When a determination is made to phase-out a program or operation, consideration will be given to possible alternate uses of the property prior to release of the property to the Board.

9. Property Matters That Should be Considered by Department Staff When a Determination is Made to Phase-out a Program or Operation.

a. Alternate uses of the real property should be made a prime consideration and a determination should be made as soon as possible.

b. If alternate use of the real property is to be made, a plan should be developed to provide security and maintenance of buildings and mechanical equipment during the interim period. This consideration may require preparation of a budget request and appropriate funding. This consideration may also require the preparation of a fixed capital outlay budget request for planning and renovation of existing building(s) to meet the needs of the alternate uses planned.

c. Tangible personal property purchased with federal funds in the custody of a program or operation that is to be phased-out may require special approval from the funding agency prior to transfer and use by other Department entities (see CFOP 80-2). Upon request, the office of general services (ASG) will provide technical assistance to effect these transactions.

d. If the Department does not plan to utilize the real property (land and improvements thereon) and it is to be released to the Board (DSL) (termination of the lease agreement):

(1) All tangible personal property should be removed from the real property location.

(2) Improvements located on the real property (land), such as moveable buildings, trailers/modular buildings and mechanical equipment can be removed from the site with notification or approval from the Board (DSL), as appropriate pursuant to the lease agreement.

e. The Department does not own the real property (land) and, therefore, cannot dispose of it.

f. If the lease agreement is terminated and the real property is released to the Board, the Department's interest in the real property ceases and administration of all matters related to the real property becomes the responsibility of DSL for the Board.

10. Records and Files for Lease Agreements Between the Department and the Board (DSL). The office of general services (ASG), the regional director for administrative services and the office of design and construction (ASGDC) are the designated real property coordinators within the Department and will maintain records and files as follows:

a. ASG will maintain a current separate master file for each lease agreement between the Board (DSL) and the Department.

b. Each regional director and ASGDC will maintain a current separate master file for each lease agreement between the Board (DSL) and the Department within their respective entity.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

MELISSA P. JAACKS
Assistant Secretary for
Administration

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure has been updated to reflect the Department's current organizational structure.