



Office of Audits  
Office of Inspector General  
U.S. General Services Administration

# PBS's Leasing for the Eton Square Office Centre Was Not Effective or Compliant With Policies

Report Number A170091/P/7/R18001  
June 6, 2018

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## ***Executive Summary***

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### **PBS's Leasing for the Eton Square Office Centre Was Not Effective or Compliant With Policies**

Report Number A170091/P/7/R18001

June 6, 2018

#### **Why We Performed This Audit**

We performed a limited scope audit of GSA's Public Buildings Service's (PBS's) leasing process for the Eton Square Office Centre (Eton Square) building in Tulsa, Oklahoma. In a letter dated May 17, 2017, U.S. Senator James Lankford requested that our office review complaints from Internal Revenue Service (IRS) employees related to the building and assess the circumstances surrounding PBS's process for entering into the Eton Square lease. The complaints included employee health and safety concerns about mold contamination, roof and window leaks, and lack of access for people with disabilities. We initiated this audit to determine the effectiveness of PBS's leasing process for the Eton Square lease and whether PBS complied with its leasing policies and procedures.

#### **What We Found**

PBS did not effectively fulfill its leasing responsibilities at the Eton Square building. Specifically, although PBS officials were aware before executing the lease that the building's roof leaked, they did not incorporate terms and conditions into the lease to ensure that the lessor followed through on its assertion that it would replace the roof prior to occupancy. As a result, despite recurring water leaks and mold problems in the building, PBS lacked the ability to compel the lessor to replace the roof and was ultimately forced to terminate the lease at a cost of \$974,000 to taxpayers.

In addition, PBS personnel did not follow the PBS policies and procedures to identify and address accessibility deficiencies in the Eton Square building. Consequently, the leased space did not comply with federal accessibility requirements and people with disabilities were unable to easily access the leased space.

#### **What We Recommend**

We recommend that the PBS Deputy Regional Commissioner for the Greater Southwest Region implement controls to ensure that:

1. Necessary building improvements, as identified during market survey tours, are discussed during negotiations and incorporated into terms and conditions of future leases to ensure the lessor resolves the issues and makes those improvements prior to occupancy.
2. PBS employees follow the PBS *Leasing Desk Guide* procedures pertaining to accessibility requirements for potential and selected lease properties.

In its response to our report, PBS agreed with our recommendations but disagreed with certain report statements. We made minor adjustments to the report based on the information provided by PBS; however, those revisions did not affect our findings and conclusions.

While PBS concurred with Recommendation 2, it disagreed with our statements in **Finding 2** that it: (1) did not comply with its leasing policies and procedures to ensure that the building met statutory accessibility requirements prior to occupancy, and (2) failed to assess the building's compliance with accessibility requirements during the final acceptance inspection. However, PBS's comments do not show that it fulfilled its responsibilities or that the building met accessibility requirements. As such, we stand by our conclusions in the finding.

PBS's comments can be found in their entirety in **Appendix B**. PBS's response included four attachments; however, we did not include those attachments due to the volume of the documentation. We will make the attachments available upon request.

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## ***Introduction***

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We performed a limited scope audit of the Public Buildings Service's (PBS's) leasing process for the Eton Square Office Centre (Eton Square) building in Tulsa, Oklahoma, which PBS leased for the Internal Revenue Service (IRS).

### **Purpose**

In a letter dated May 17, 2017, U.S. Senator James Lankford requested that our office review IRS employees' complaints related to the building and assess the circumstances surrounding PBS's process for entering into the Eton Square lease. The complaints included employee health and safety concerns about mold contamination, roof and window leaks, and accessibility for people with disabilities.

### **Objectives**

Our objectives were to determine the effectiveness of PBS's leasing process for the Eton Square lease and whether PBS complied with its leasing policies and procedures.

See **Appendix A** – Scope and Methodology for additional details.

### **Background**

#### **Pre-Lease Process**

On March 7, 2013, the IRS submitted a request to PBS for office space necessary to house approximately 110 employees and visitors in Tulsa, Oklahoma. In response, PBS posted an advertisement on November 6, 2013, for leased space in Tulsa, Oklahoma. As a result of the advertisement, PBS identified seven potential offerors and conducted market survey tours of their associated buildings. According to the PBS *Leasing Desk Guide*, the market survey is a critical leasing process step used to determine if potential properties satisfy the lease requirements.<sup>1</sup>

PBS uses its Market Survey Report to summarize the condition of all buildings surveyed and whether the buildings meet a requesting agency's requirements. These reports are prepared using PBS's *Lease Market Survey for Existing Building* (market survey) form. The market survey form is used to document the characteristics of each building inspected and includes a "Decision Section" where PBS and the client agency representative indicate whether the building will or will not be solicited. A solicitation decision means PBS and the client agency determined that the building meets or is capable of meeting the Solicitation for Offer and Request for Lease Proposal standards. A non-solicitation decision means PBS and the client

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<sup>1</sup> PBS's *Leasing Desk Guide* contains policies and procedures that govern its lease process relative to real property. The PBS *Leasing Desk Guide* applies to all PBS personnel engaged in the acquisition and administration of lease contracts.

agency determined that the building is not capable of meeting the Lease Proposal standards for reasons that PBS specifies.

PBS conducted market surveys for the IRS space between December 2013 and March 2014. As a result of these surveys, PBS rejected four of the seven buildings. Two of the four buildings had evidence of roof leaks and were in what PBS considered to be an unprofessional location. Another building also had evidence of roof leaks and multiple building code violations. The fourth building was rejected because the ceiling height did not meet the lease requirements. During the Eton Square market survey tour, the PBS property manager observed evidence of widespread roof leaks such as damaged ceiling tiles. However, according to the PBS property manager, the Eton Square building was not rejected because the offeror's representative stated that the roof would be replaced.

PBS sent Requests for Proposal for Eton Square and the remaining two buildings and received proposals from two of the three offerors. In July 2014, one of the two offerors withdrew its proposal, leaving only Eton Square for consideration. On September 19, 2014, PBS concluded that the proposal for the Eton Square building was technically compliant and the negotiated rental rate significantly below market.

### **Lease Award and Building Issues**

On April 1, 2015, PBS entered into a lease with U.S. Acquisition Property XIII, LLC (lessor), for 19,963 of the 40,442 square feet in Eton Square. PBS accepted the space for move-in on July 7, 2016.

IRS and PBS officials identified numerous issues with the building from the time the IRS moved into the Eton Square office space in July 2016 through August 2017. These issues included noncompliance with statutory accessibility requirements. The building's elevator was not operational when the IRS moved in, creating an impediment to disabled persons until the elevator became operational in September 2016. In addition, in January 2017, PBS received a letter from the United States Access Board outlining a complaint alleging that the Eton Square main entrance ramp and door did not comply with the Architectural Barriers Act Accessibility Standard (ABAAS). ABAAS requires that ramps and doors to buildings and facilities designed, built, altered, or leased with federal funds meet certain measurements. PBS took corrective actions that brought the entrance ramp and door into compliance in April 2017.

Other issues pertained to recurring roof and window leaks and resulting mold contamination. Between July 2016 and August 2017, PBS officials issued several Notices of Non-Compliance and Deficiency Reports to the lessor regarding the roof leaks. The lessor performed roof and window repairs, but leaks continued to occur. During this time, PBS took steps to remediate the mold contamination by encapsulating it and performing air quality sampling. However, PBS did not remove the mold because it first wanted to ensure that the lessor resolved the roof leaks to prevent recurring mold contamination.

In August 2017, an independent consulting firm hired by PBS provided the results of its limited envelope study designed to examine the building exterior for the source of the water leaks. The study concluded that the complete roof system needed to be replaced.<sup>2</sup> In an August 21, 2017, letter, the PBS contracting officer requested that the lessor provide a detailed plan and schedule to correct the leaks in accordance with the study.

### **Office of Inspector General Audit Memorandum**

Our office raised concerns regarding the lease for the Eton Square building in an audit memorandum to the PBS Commissioner dated September 8, 2017. In that memorandum, we noted that PBS officials in the Greater Southwest Region did not hold the Eton Square lessor accountable for the lease maintenance and repair requirements. Furthermore, we expressed concerns regarding a statement in an August 8, 2017, letter from the GSA Acting Administrator to the IRS Commissioner. In that letter, the GSA Acting Administrator stated that the Eton Square roof had been replaced when in fact it had not.

### **Lease Termination**

GSA continued to work with the lessor after receiving our audit memorandum. The lessor submitted three plans to PBS in response to the August 21, 2017, letter; however, PBS found that these plans fell short of the study's recommendations for several reasons.<sup>3</sup> These reasons included, but were not limited to, an unreasonable completion time, inadequate on-site quality assurance, and the planned performance of critical repairs at the end of the project. Upon the lessor's continued refusal to provide an acceptable plan, PBS decided a mutual lease termination would be in the best interest of the government. On October 5, 2017, the PBS contracting officer and the lessor signed the Lease Amendment to terminate the lease. To settle the lease termination, the government paid the lessor \$974,000 with a move-out date of January 31, 2018.<sup>4</sup>

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<sup>2</sup> PBS determined that the roof replacement, as recommended by the study, would cost over \$2 million.

<sup>3</sup> The dates of the plans were August 31, 2017; September 5, 2017; and September 13, 2017. The first two plans were drafts.

<sup>4</sup> PBS paid \$674,000 of the \$974,000 and the IRS paid the remainder from monies that were set aside to repay the lessor for tenant improvements that were made prior to move-in.

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## Results

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PBS did not effectively fulfill its leasing responsibilities at the Eton Square building. Specifically, although PBS officials were aware before executing the lease that the building's roof leaked, they did not incorporate terms and conditions into the lease to ensure that the lessor resolve the problem prior to occupancy. As a result, despite recurring water leaks and mold problems in the building, PBS lacked the ability to compel the lessor to replace the roof and was ultimately forced to terminate the lease at a cost of \$974,000 to taxpayers.

In addition, PBS did not identify and address accessibility deficiencies in the Eton Square building prior to lease award and occupancy. PBS did not follow its policies and procedures to ensure that the Eton Square building met federal requirements for building accessibility prior to occupancy. Consequently, the leased space did not comply with federal accessibility requirements and people with disabilities were unable to easily access the leased space.

**Finding 1 – PBS did not take the steps needed to ensure the lessor replaced the roof prior to leasing space at the Eton Square building and, after recurring water leaks and mold problems, had to terminate the lease at a cost of \$974,000.**

PBS was aware of deficiencies in the Eton Square building's roof that resulted in damage from water infiltration but did not take the steps needed to ensure the lessor resolved the problem prior to occupying the space. The lessor's representative had stated during the market survey tour that the roof would be replaced prior to occupancy; however, PBS did not add the roof replacement as an additional term and condition of the lease. Without this requirement, PBS had limited recourse to hold the lessor accountable for replacing the roof and stopping the recurring leaks. Ultimately, PBS had to terminate the lease at a cost of \$974,000.

While PBS officials observed evidence of widespread roof leaks such as damaged ceiling tiles during the December 2013 market survey tour, they did not record this information on the market survey form. The form signed by the PBS and the IRS representatives stated that the Eton Square building "will be solicited." According to the PBS property manager who was present at the Eton Square market survey, the PBS project manager instructed the other participants that:

[W]e could only note how the building did not meet requirements. Anything that can be fixed could not be listed to eliminate the building [from consideration]. The broker and the contracting folks restricted comments to how [the building] did not meet requirements. Therefore, leaking roof, floor plans, building lack of housekeeping or maintenance in common areas should not be noted.

However, the *PBS Leasing Desk Guide* requires that PBS officials document the building's features observed during the market survey tour, including whether the building meets (or can be altered to meet) the requirements of the client agency.

The *PBS Leasing Desk Guide* also requires that the PBS leasing specialist or broker, if applicable, include information on the building's age and condition in the Market Survey Report submitted to the PBS leasing contracting officer. However, the PBS broker did not record the condition of the Eton Square roof and the offeror's assertion that it would be replaced in the Market Survey Report the broker submitted to the leasing contracting officer.

The failure to document the Eton Square roof deficiencies and the lessor representative's assurance that the roof would be replaced deprived the PBS leasing contracting officer of information he needed to take appropriate steps to protect GSA, the tenant, and the taxpayer. Without this information, the PBS leasing contracting officer neither addressed the roof replacement during lease negotiations nor incorporated roof replacement into the Eton Square lease terms and conditions. As a result, the lessor was only required to make roof repairs when water leakage occurred after building occupancy. These repairs were unsuccessful, resulting in recurring leaks and mold contamination, as well as health and safety concerns among the IRS employees who occupied the space.

PBS contracted for a limited envelope study, which confirmed that the entire roof needed to be replaced. As a result of the study, PBS requested that the lessor provide a roof replacement plan. The lessor submitted several plans; however, PBS found that these plans were only minimally acceptable. PBS, in consultation with the Greater Southwest Region's Office of General Counsel, subsequently moved to terminate the lease. However, its range of options for doing so was limited for two reasons.

First, PBS could not terminate the lease for default because the lease terms and conditions did not expressly require the lessor to replace the Eton Square building's roof. Accordingly, PBS concluded that the litigation and financial risk of taking this action was impractical. Second, PBS could not terminate the lease for convenience because of the lease's termination rights clause. This clause precluded PBS from terminating the lease for convenience until after the initial 5-year lease term expired in July 2021. Left without these two, potentially more cost effective options, PBS chose to mutually terminate the lease for the Eton Square building at a cost to the government of over \$974,000.

During our audit, PBS officials in the Greater Southwest Region acknowledged that they should have made the roof replacement a lease obligation by obtaining the lessor's written agreement. This would have obligated the lessor to replace the roof prior to occupancy and potentially prevented further water intrusion and mold contamination problems. It also would have positioned PBS to take actions to protect the health and safety of the IRS tenants and save taxpayer dollars.

## **Finding 2 – PBS did not identify and address accessibility deficiencies in the Eton Square building prior to lease award and occupancy.**

PBS did not comply with its leasing policies and procedures to ensure that the building met statutory accessibility requirements prior to occupancy. According to the PBS *Leasing Desk Guide*, leasing specialists and construction control representatives should ensure potential and selected lease properties are accessible and meet ABAAS requirements. However, PBS officials did not fulfill this task. As a result, the leased space did not meet federal requirements and people with disabilities were unable to easily access the IRS space.

The Eton Square building's main entrance ramp and entrance door were not compliant with ABAAS measurements at the time of occupancy. The main entrance ramp and entrance door did not comply with ABAAS measurements until about 8 months after the IRS moved into the building. In addition, the lower level was not easily accessible until 2 months after the IRS moved in, which was when the elevator was completely installed and operational.

These issues should have been identified and addressed prior to occupying the space. The PBS *Leasing Desk Guide* states that PBS personnel should verify ABAAS compliance prior to: (1) lease award during the market survey tour, and (2) occupancy during the final acceptance inspection. ABAAS compliance includes ramps, entrances, and elevators. However, PBS's market survey and final acceptance inspection failed to identify the accessibility issues, as discussed below.

### **Market Survey**

PBS did not assess the building's compliance with accessibility requirements during the market survey. Normally, PBS uses the market survey form to capture building information and help leasing specialists identify accessibility deficiencies in areas such as entrances, toilet rooms, and drinking fountains. According to the PBS *Leasing Desk Guide*, PBS may send a market survey form for completion to all potential offerors before the actual physical market survey tour. If potential offerors do not return the form or fail to complete it in its entirety, the PBS *Leasing Desk Guide* requires that the leasing specialist fill in missing information as appropriate during the market survey tour.

In this case, the representative for the Eton Square building returned the market survey form to PBS without completing the accessibility section. However, the PBS leasing specialist did not complete the accessibility section of the market survey form as required. The PBS leasing specialist told us that she was not aware of the PBS *Leasing Desk Guide* requirement to fill in the incomplete information. If the leasing specialist had completed the form, she would have identified the main entrance ramp and door deficiencies prior to building occupancy and could have taken appropriate measures to address these deficiencies.

## Final Acceptance Inspection

PBS personnel also failed to assess the building's compliance with accessibility requirements during the final acceptance inspection. The PBS *Leasing Desk Guide* requires that PBS personnel look for ABAAS compliance during the final acceptance inspection. This includes entrances, ramps, and elevators. However, during the final building acceptance inspection at the Eton Square building, the PBS construction control representative did not inspect the building's main entrance.

The PBS construction control representative stated that ABAAS requirements are supposed to be incorporated into the architectural drawings for tenant improvement areas, and his responsibility was limited to ensuring that improvement areas in the architectural drawings were ABAAS compliant. He stated that he did not inspect the main entrance because it was not in the architectural drawings as part of the tenant improvement area. However, in accordance with the PBS *Leasing Desk Guide*, PBS personnel should have reviewed the main entrance for compliance with ABAAS requirements during the final acceptance inspection.

Furthermore, PBS accepted the building for occupancy on July 7, 2016, knowing that the Eton Square elevator was not operational. The PBS *Leasing Desk Guide* specifically states that:

Before GSA can accept the space, it must be "substantially complete."  
This means that all work necessary for the Government's **access**,  
occupancy, use, and enjoyment has been completed, except for minor  
matters that do not interfere with **access**, occupancy, use, or enjoyment.  
[emphasis added]

After occupancy, PBS amended the lease on August 26, 2016, to require the lessor to resolve the elevator deficiency by September 19, 2016. PBS officials told us that IRS insisted on moving into the building without an operational elevator; however, IRS officials disputed this assertion. PBS officials could not provide correspondence or other supporting documentation to support their claims. Regardless, in accordance with the PBS *Leasing Desk Guide*, PBS should not have allowed occupancy until the elevator was operational. Without an operational elevator, the lower level was not accessible to people with disabilities. For instance, an IRS employee with a walking disability was unable to access the lower level floor to seek safety during a tornado warning.<sup>5</sup>

As the landlord for the civilian federal government, PBS must follow its policies and procedures to ensure that leased facilities are accessible before accepting space for agency occupancy.

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<sup>5</sup> The building has two floors and a split-level parking lot. The employee parked in the lot that was accessible on the second floor. During the tornado warning, the employee was unable to take the stairs to the safety zone on the first floor.

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## Conclusion

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PBS did not effectively fulfill its leasing responsibilities for the Eton Square building. Although PBS was aware that the building's roof was inadequate to prevent leaks, it did not incorporate terms and conditions into the lease to ensure that the lessor followed through with its assertion to replace the roof. As a result, PBS did not have the necessary flexibility to require the lessor to replace the roof leading the government to pay \$974,000 to terminate the lease. PBS also did not follow its *Leasing Desk Guide* policies and procedures to ensure that accessibility deficiencies in the Eton Square building were addressed prior to occupancy. Consequently, people with disabilities were unable to easily access the leased space.

PBS has taken certain measures to address some of the deficiencies identified in this report. For instance, in March 2017, PBS prepared a lessons learned presentation, which stressed, among other things, the importance of obtaining lessor's assertions in writing. The presentation was shared with the senior PBS leadership team, Service Center Division personnel, and all regional employees in the leasing division. While this is a positive first step, additional action is necessary to ensure that PBS fulfills its lease award and administration responsibilities. Specifically, PBS should develop and implement controls to ensure that lessors are held to necessary building improvements and PBS staff adhere to leasing policies and procedures, such as those governing accessibility requirements.

## Recommendations

We recommend that the PBS Deputy Regional Commissioner for the Greater Southwest Region implement controls to ensure that:

1. Necessary building improvements, as identified during market survey tours, are discussed during negotiations and incorporated into terms and conditions of future leases to ensure the lessor resolves the issues and makes those improvements prior to occupancy.
2. PBS employees follow the PBS Leasing Desk Guide procedures pertaining to accessibility requirements for potential and selected lease properties.

## GSA Comments

In its response to our report, PBS agreed with our recommendations but disagreed with certain report statements. While we made minor adjustments to the report based on the information provided by PBS; however, those revisions did not affect our findings and conclusions.

While PBS concurred with Recommendation 2, it disagreed with our statements in *Finding 2* that it: (1) did not comply with its leasing policies and procedures to ensure that the building met statutory accessibility requirements prior to occupancy, and (2) failed to assess the building's compliance with accessibility requirements during the final acceptance inspection. PBS asserted that it relied on the lessor's representation that the

space met all requirements of the lease, including applicable accessibility requirements. PBS also asserted that the lessor’s compliance with the lease terms is “confirmed by the PBS policy-compliant space inspection, and receipt of a certificate of occupancy provided by the local municipality.” For the reasons detailed below, we disagree with PBS’s assertions.

Notwithstanding that the lessor’s representations with respect to the building’s accessibility were inaccurate, the PBS *Leasing Desk Guide* does not allow PBS to rely on such representations as the basis for determining compliance with lease requirements, including those governing accessibility. Rather, PBS is required to assess accessibility and note deficiencies prior to lease award. As noted in our report, this did not occur. After the lease was awarded, PBS personnel did not inspect the building’s main entrance ramp and entrance door to confirm whether it complied with accessibility requirements. Furthermore, the local municipality’s certificate of occupancy inspection was also inadequate to determine compliance, because it did not include an evaluation of building accessibility.

PBS’s comments can be found in their entirety in **Appendix B**. PBS’s response included four attachments; however, we did not include those attachments due to the volume of the documentation. We will make the attachments available upon request.

### **Audit Team**

This audit was managed by the Greater Southwest Region Audit Office and conducted by the individuals listed below:

Paula Denman	Regional Inspector General for Auditing
Charles Harris	Audit Manager
Hector Molina-Rodriguez	Auditor-In-Charge
Keith Migneault	Auditor
Temeka Watson	Management Analyst

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## ***Appendix A – Scope and Methodology***

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We initiated this limited scope audit as a result of a congressional request from U.S. Senator James Lankford. Our audit focused on determining whether PBS complied with its leasing policies and procedures for the IRS lease at the Eton Square building.

To accomplish our objectives, we:

- Reviewed GSA policies, procedures, and guidance related to the leasing and cure processes;
- Reviewed ABAAS requirements;
- Reviewed Request for Lease Proposal 3OK0120, the full service lease (GS-07P-LOK17299), and applicable supplemental lease documents;
- Visited the Eton Square building to assess the conditions of the property;
- Interviewed PBS and IRS officials, IRS employees, and the lessor’s officials and representatives;
- Reviewed emails and other written communications between the lessor, IRS officials and employees, and PBS officials;
- Reviewed indoor quality and environmental reports;
- Participated in and documented weekly status conference calls between PBS and the IRS;
- Reviewed the roof study report commissioned by PBS; and
- Reviewed the mutual termination documentation and buyout amount determination and approval.

We conducted the audit between May 2017 and December 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### **Internal Controls**

Our assessment of internal controls was limited to those necessary to address the objectives of the audit.

## Appendix B – GSA Comments<sup>6</sup>



GSA Greater Southwest Region

May 18, 2018

MEMORANDUM FOR PAULA DENMAN  
REGIONAL INSPECTOR GENERAL FOR AUDITING  
GREATER SOUTHWEST REGION AUDIT OFFICE (JA-7)

THRU: DANIEL W. MATHEWS  
COMMISSIONER  
PUBLIC BUILDINGS SERVICE (P)

FROM: JAMES L. FERRACCI  
ACTING REGIONAL COMMISSIONER  
GREATER SOUTHWEST REGION (R7)  
PUBLIC BUILDINGS SERVICE

SUBJECT: Draft Report - *PBS's Leasing for the Eton Square Office Center Was Not Effective or Compliant with Polices*, A170091-3

This memorandum is in response to the Draft Audit Report entitled: *PBS's Leasing for the Eton Square Office Center Was Not Effective or Compliant with Polices* (A170091-3); dated March 9, 2018.

**The report identified two recommendations that the PBS Greater Southwest Region implement controls to ensure that:**

1. Necessary building improvements, as identified during market survey tours, are discussed during negotiations and incorporated into terms and conditions of future leases to ensure the lessor resolves the issues and makes those improvements prior to occupancy.
2. PBS employees follow the PBS Leasing Desk Guide procedures pertaining to accessibility requirements for potential and selected lease properties.

**The following is PBS's response to these recommendations:**

**Recommendation 1 - Necessary building improvements, as identified during market survey tours, are discussed during negotiations and incorporated into terms and conditions of future leases to ensure the lessor resolves the issues and makes those improvements prior to occupancy.**

PBS concurs with this recommendation.

Concerning the reference on page 5 of the Report to a termination for convenience clause in the contract, PBS does not include a termination for convenience clause in

<sup>6</sup> PBS's response included four attachments; however, we did not include those attachments due to the volume of the documentation. We will make the attachments available upon request.

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## Appendix B – GSA Comments (cont.)

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any of its leases. The lack of a termination for convenience clause is a matter of PBS business practice: including a termination for convenience clause in PBS leases could only be done at significant cost to the Government.

Concerning the reference to termination for default on page 5 of the Report, PBS took steps towards termination for default. After a detailed review of litigation risks and possible outcomes, PBS and the lessor mutually agreed upon a lease termination buyout.

**Recommendation 2 - PBS employees follow the PBS Leasing Desk Guide procedures pertaining to accessibility requirements for potential and selected lease properties.**

GSA concurs with this recommendation.

PBS does not agree with the statement on page 2 of the Report that in January 2017, PBS received a letter dated December 21, 2016, from the United States Access Board (USAB) stating that the Eton Square main entrance ramp and door did not comply with the Architectural Barriers Act Accessibility Standard (ABAAS). This letter reflected a complaint filed with the USAB and forwarded to PBS (Attachment 1). The letter did not reach any conclusions of noncompliance, but outlined specific complaint allegations: "1. Door – Clearance on exterior doors is less than 32 inches. 2. Ramps – Ramp for lower level parking lot to exterior door has a rise of over 6 inches, no handrails on either side, no level resting areas, concrete surface has numerous large cracks. 3. Entrances – First and second level entrances from the parking lots are not compliant, not wide enough, no electric openers." The lessor addressed all three of the items presented in the USAB letter.

PBS does not agree with the statements on pages 6 and 7 of the Report that state PBS did not comply with its leasing policies and procedures to ensure that the building met statutory accessibility requirements prior to occupancy; and PBS failed to assess the building's compliance with accessibility requirements during the final acceptance inspection. General Services Acquisition Manual 570.111 Inspection and acceptance states that "before accepting leased space, the Contracting Officer must verify that the space complies with the Government's requirements and specifications and document this in an inspection report" (Attachment 2). The GSA Leasing Desk Guide (Chapter 2 - Part 7: Construction Phase, 6. Acceptance Inspection, c. Inspection and Acceptance) (Attachment 3), states that conducting the inspection involves walking around the interior space, common areas and exterior. By signing the lease and initialing every page of the lease contract, the lessor represents that the space meets all accessibility codes as well as all other requirements of the lease. This information is what the Contracting Officer relies upon prior to awarding a lease contract. This compliance is confirmed by the PBS policy-compliant space inspection, and receipt of a certificate of occupancy provided by the local municipality (Attachment 4).

819 Taylor Street  
Fort Worth, TX 76102  
[www.gsa.gov](http://www.gsa.gov)

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## ***Appendix B – GSA Comments (cont.)***

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Thank you for the opportunity to comment on this report. Should you have any questions, please contact James Ferracci, Acting Regional Commissioner, at (817) 978-2522.

Attachments (4)

819 Taylor Street  
Fort Worth, TX 76102  
[www.gsa.gov](http://www.gsa.gov)

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## ***Appendix C – Report Distribution***

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GSA Administrator (A)

Commissioner (P)

Deputy Commissioner (P)

Chief of Staff (P)

Regional Administrator (7A)

Deputy Regional Commissioner (7P1)

Regional Counsel (LD7)

Chief Administrative Services Officer (H)

Audit Management Division (H1EB)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)