

# Homeless Housing Placement Process Evaluation

New York City Housing Development Corporation

## Relevant Work Examples from HR&A Advisors

- [The Faith Communities for Just Reentry Policy Platform](#) that HR&A prepared for Trinity Wall Street Philanthropies
- [The United for Housing from the Ground Up Playbook](#) of housing recommendations for incoming Mayor in 2021, which HR&A prepared for the New York Housing Conference (please note this Playbook is only available online at the linked web address)
- A Playbook HR&A prepared for the NYC Department of Citywide Administrative Services to streamline and strengthen the DCAS Real Estate Services (RES) Unit's process for leasing privately-owned real estate on behalf of City agencies, from an agency's initial request to the successful execution of a lease.



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## **POLICY PLATFORM**

### **I. PROVIDE SAFETY FOR INCARCERATED INDIVIDUALS RELEASED DURING COVID-19.**

#### **PROVIDE IDENTIFICATION UPON RELEASE**

Service providers report that individuals are being released from Rikers Island without their personal belongings, including IDs; and many people lack valid identification to begin with. ID cards are critical for accessing housing and public benefits, and the lack of these documents can lead to further police abuse.

An executive order by Mayor Bill de Blasio or the Human Resources Administration (HRA) Commissioner Steve Banks, followed by interagency collaboration, could ensure that every person released from Rikers Island is equipped with IDNYC, Mayor de Blasio's signature municipal identification card program.

#### **EFFECTIVELY TRANSITION PEOPLE'S HEALTHCARE FROM RIKERS TO THEIR COMMUNITY**

Individuals have been released from Rikers Island without sufficient medication or immediate access to Medicaid coverage. Many service providers are unable to quickly access health records, rendering them unable to meet clients' needs, particularly for those who struggle with mental health issues and substance abuse.

Executive action by the Mayor and practice change at the Department of Correction (DOC) and Correctional Health Services (CHS) could ensure continuity of care between correctional and community settings. State departments may play a key role, too. Mayor Bill de Blasio, Department of Correction Commissioner Cynthia Brann, and Senior Vice President for Correctional Health Services Patsy Yang can make the healthcare transition smoother.

#### **PROVIDE EVERY INDIVIDUAL WITH COVID-19 TESTING AND VACCINE ACCESS**

The COVID-19 infection rate on Rikers Island has been several times higher than that in the whole of New York City, the epicenter of the pandemic. Like those living in other congregate settings, New Yorkers in our jails are at extraordinarily high risk for infection from COVID-19 because conditions do not allow for physical distancing. Additionally, the staff who work with them go home to their families, increasing the risk of spread.

Because they reside in close quarters with no way to physically distance, incarcerated New Yorkers and the staff who work with them should be prioritized for access to vaccination alongside other high-risk groups per federal CDC guidelines. These New Yorkers should also be guaranteed COVID-19 testing as part of the discharge process, allowing them to protect their families and communities.

While the Governor must approve access to vaccines, distributing tests and vaccines will require cooperation of City agencies and leadership from Mayor de Blasio.

## **II. UNLOCK HOUSING SUPPLY FOR JUSTICE-INVOLVED INDIVIDUALS AND THEIR FAMILIES.**

### **END NYCHA PERMANENT EXCLUSIONS**

The New York City Housing Authority, like many private landlords, discriminates against New Yorkers who have been involved with the criminal legal system. The administration of NYCHA, on behalf of the City of New York, has the power to deem NYCHA residents as “dangerous” and “undesirable,” leading to their permanent exclusion from their homes and to separation from their family members. NYCHA Permanent Exclusions, as this collection of policy is called, go beyond federal requirements of the Trump Administration by broadly removing individuals with any kind of criminal record and even residents who have been arrested and not convicted of a crime. By being evicted from their homes and separated from their families, this policy makes NYCHA residents homeless and creates the conditions for recidivism.

To ensure that justice-involved New Yorkers can stay in their homes, with their families, NYCHA should revise its guidance and stop prohibiting housing to individuals with any criminal record. Ending NYCHA Permanent Exclusion will require regulatory changes mandated by Vicki Been, Deputy Mayor of Housing and Economic Development, and/or Greg Russ, the chair of the housing authority.

### **INSTITUTIONALIZE NYCHA FAMILY REUNIFICATION PROGRAM**

NYCHA knows what it takes to break the cycle of incarceration to homelessness and recidivism. The NYCHA Family Reunification Program launched in 2013 as a pilot for individuals who are transitioning from jail and prison to connect them with support services related to education and employment. Since then, the program has successfully reunited over 100 families and serves as a source of critical information for justice-involved families as they navigate the transition. A 2017 study by the Vera Institute showed that 68% of program participants were reunited with at least one parent and 15% were reunited with their children. Nearly half of those surveyed said that they would be forced onto the streets, shelters, or three-quarters housing were it not for the program.

Currently this program is only supported by two staff across all NYCHA housing developments. It is time for this program to become an expanded, permanent fixture of the reentry system in NYCHA and support the reunification of families. The program has garnered unprecedented success and if it is brought to scale, it could reduce our growing homeless population. Vicki Been, the Deputy Mayor of Housing and Economic Development, should ensure that the NYCHA Family Reunification Program is scaled to be a permanent unit, and the City Council must allocate funding to expand service provision.

### **EXPAND WHO QUALIFIES FOR FEDERALLY FUNDED SUPPORTIVE HOUSING**

Individuals who are jailed for 90+ days do not meet the federal government’s definition for chronic homelessness, excluding them from federally funded supportive housing. Legislation from Congress and a new rule from the federal Department of Housing and Urban Development (HUD) would revise the criteria to expand housing opportunities for those who need support services.

The Mayor’s Office of Intergovernmental Affairs (MOIGA), led by Lydon Sleeper, can make this a priority for the City in Washington, D.C.

### **INCREASE THE SUPPLY AND VALUE OF HOUSING VOUCHERS + COMBAT LANDLORD DISCRIMINATION**

Advocates believe that the City continues to hold onto rental housing assistance vouchers during the COVID-19 crisis even though they could immediately secure permanent housing for people

experiencing housing insecurity. The City's own voucher program does not meet fair market value, rendering them useless for many.

Through executive action, Mayor Bill de Blasio can command several city agencies to make the vouchers available immediately and lengthen the time by which they must be used. The City Council, led by Speaker Corey Johnson, can pass legislation that increases voucher value and that bans property owners and their contractors from considering criminal records when leasing housing units. Council Member Stephen Levin is taking a leading role in fair chance housing legislation.

**ALLOCATE A PORTION OF CITY-FINANCED HOUSING TO JUSTICE-INVOLVED NEW YORKERS**

The NYC Department of Housing Preservation and Development (HPD) finances the development of affordable housing projects across the city, including on public land. HPD often sets aside a portion of the available housing units for certain populations like those residing in the local community, city employees, and New Yorkers with disabilities. The agency can similarly set aside a portion of affordable housing units for families with justice-involved members.

Mayor Bill de Blasio, Deputy Mayor Vicki Been, HPD Commissioner Louise Carroll, and Housing Development Corporation (HDC) Commissioner Eric Enderlin should act from the executive side. Robert Cornegy, Chair of the Committee on Housing and Buildings, can hold the administration accountable and support through legislation.

**CREATE NEW JUSTICE-INVOLVED SUPPORTIVE AND TRANSITIONAL HOUSING**

While the City has master-leased hotels to provide emergency housing for some released from jails, there is no pathway to permanent housing for these individuals. The Mayor and City Council can increase funding in the current fiscal year for developing transitional and permanent supportive housing. This could mean focusing on Justice-Involved Supportive Housing that avoids federal restrictions and moving up the allocation of \$25 million promised in the Close Rikers Points of Agreement from FY22.

Mayor Bill de Blasio, Deputy Mayor Vicki Been, and commissioners for housing, health, and social services must act from the executive side. In addition to City Council Speaker Corey Johnson, members such as Stephen Levin, Vanessa Gibson, Daniel Dromm, and Brad Lander have been vocal on the relevant spending issues.

**III. DEVELOP A COORDINATED REENTRY SYSTEM ACCOUNTABLE TO THE WELL-BEING OF EACH PERSON.**

No one agency or individual is accountable for leading reentry services nor held accountable to the outcomes of individuals once released from jail. Working in close collaboration with justice-involved individuals, advocates, and experts, the mayor can use his authority to create a unified re-entry system that coordinates the actions of the Department of Correction, Mayor's Office of Criminal Justice, Department of Health and Mental Hygiene, Department of Social Services, and Department of Housing Preservation and Development. The City Council can codify changes into law to outlast this administration.

Ultimately, the mayor must take a leading role in such interagency coordination. Codifying changes will need to involve chairs from the committees on public safety, criminal justice, and the justice system.



**DCAS RES**  
**Lease-In Playbook**  
July 16, 2019

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## Real Estate Services

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# Introduction

## Playbook Overview

This playbook outlines the DCAS Real Estate Services (RES) Unit's process for leasing privately-owned real estate on behalf of City agencies, from an agency's initial request to the successful execution of a lease.

It is both a training tool for new hires as well as an ongoing reference for RES employees, outlining official department policies and practices. Feel free to pull out or print any pages or sections you would like to keep at your desk for frequent reference or bring to meetings. The playbook should be a living resource, so please let your supervisor know if you have any recommendations for updates or additions. While this playbook focuses primarily on office space, most of the content applies to all uses.

This playbook is divided into three sections:

- **Introduction:** This first section describes RES and its units, the client and partner agencies involved in the lease-in process, and the composition of a typical project team.
- **Lease-In Process:** The middle section details the process RES follows from receiving a client agency's space request through executing a lease. The section begins with an overview flowchart that outlines the four *phases* of the lease-in process: (1) Space Request Intake & Review of Existing City Space; (2) Program & Site Selection; (3) Pre-Lease Design & Term Sheet Negotiation; and (4) Approvals & Lease Finalization. The overview flowchart is followed by four subsections, each detailing one of the four phases. Each phase's subsection has its own flowchart, which is followed by a text narrative of the individual *steps* within the phase.
- **Appendix:** Materials that support the lease-in process section include a *glossary* of key terms and acronyms, a *Lease Negotiation Guide* that elaborates on topics such as space measurements and operating expenses, *process documents* that provide more granular descriptions of certain steps, and *blank forms/templates* that should be used at specific points in the lease-in process.



**Playbook Tip:**

Not sure what a term means or what an acronym stands for? Check out the glossary in the playbook appendix.

# Introduction

## DCAS RES Lease-In Overview

### DCAS RES Mission and Objectives

Real Estate Services (RES) is one of 12 divisions of the Department of Citywide Administrative Services (DCAS), which provides shared services that support the operations of New York City government. RES is responsible for acquiring and leasing privately-owned space on behalf of the City's mayoral agencies, some elected officials, offices, boards, and commissions. In total, as of 2019, RES oversees a portfolio of over 22 million square feet of privately-owned leased space such as large spaces for hundreds of City agency employees, small community board offices throughout the five boroughs, garages, warehouses, and other spaces the City uses to serve the public

RES has a multifaceted mission that it fulfills by providing a range of services on behalf of client agencies:

- Securing the real estate that City agencies need to carry out their daily operations by developing program specifications; researching the market of available space; preparing test fits, preliminary plans and scopes of work for building and tenant space improvements; and overseeing construction, renovation, and relocations.
- Responsibly stewarding the City of New York's financial resources by negotiating lease terms with private landlords and obtaining approvals from the Office of Management and Budget (OMB) for all costs related to rent, operating expenses, real estate taxes, and tenant improvements.
- Ensuring that City tenancies support citywide and neighborhood planning goals, including supporting client agencies as they obtain land use approval from the City Planning Commission (CPC) and/or City Council.

### DCAS Lease-In Units

There are six units in RES, all of which are involved in the leasing of privately-owned space: Portfolio Planning & Management (PPM), Design & Project Management (D&PM), Leasing & Acquisitions (L&A), Planning & Dispositions (P&D), Financial Services, and the Real Estate Services Executive Unit. Representatives from each unit work together and with the client agency throughout the lease-in process. In addition, the DCAS Office of the General Counsel, Real Estate unit (OGC), works closely with RES on legal matters. Roles and responsibilities, as well as goals and metrics for each unit are detailed below.

**Portfolio Planning & Management (PPM)** is a strategic unit within RES charged with promoting the efficient utilization of the City's owned and leased space. PPM is composed of two groups, 1) the Space Management group, which catalogues and digitizes all of the City's existing space records and prepares new space surveys where none exist; and 2) the Client Agency Planning group, which evaluates new space requests. PPM is only active in Phase 1 of the lease-in process, during which the unit is responsible for the following:

- Processing and evaluating new space requests; and
- Analyzing the existing City-owned and leased space portfolio.



# Introduction

## DCAS RES Lease-In Overview

**Goal:** Avoid unnecessary spending of NYC tax revenues by maximizing the use of existing City-owned and leased space and minimizing the need for new leases of privately-owned space.

**Metric of Success:** Amount of savings that result from placing City agencies in existing City-owned and leased space rather than in new privately-owned space.

**Design & Project Management (D&PM)** is responsible for the program, plans, scopes of work, and renovations of City-leased space. D&PM is composed of three groups: project managers, engineers and cost estimators. In the lease-in process, D&PM responsibilities include the following:

- Space programming, test fits & preliminary design, i.e. analyzing client agency space needs and translating client agency operational needs into space needs;
- Developing test fits, preliminary plans, and scopes of work for the base building and tenant space;
- Estimating costs, verifying space measurements, and developing Not-to-Exceed budget parameters; and
- Reviewing and negotiating construction clauses or articles in term sheets and lease documents.

**Goal:** Create spaces that allow client agencies to effectively meet their missions to best serve New Yorkers, feel inviting to City employees and visitors (as appropriate), and are efficient and flexible, to make the best use of public resources as agency needs evolve over time.

**Metric of Success:** Number of projects completed in a year.

**Leasing & Acquisitions (L&A)** partners with D&PM to manage on all new leasing projects, from initial activation of a leasing project to successful execution of a lease. The L&A transaction manager is the primary contact for the Landlord and client agency, and works closely with internal stakeholders such as D&PM and OGC to move each project through the leasing process. The L&A transaction manager attends a variety of required public hearings, meetings with community boards, elected officials, and other stakeholders in order to secure mandated approvals to acquire space. In addition, the L&A transaction manager provides critical analytical and reporting deliverables to assist senior management in making strategic decisions related to the management of DCAS RES real estate portfolio. L&A responsibilities include the following:

- Managing the expectations of the client agency;
- Identifying potential sites;
- Negotiating business terms;
- Participating in public hearings;
- Providing analytical reporting;
- Obtaining budget approval from OMB; and
- Reviewing and executing leases.

# Introduction

## DCAS RES Lease-In Overview

**Goal:** Identify locations that meet the needs of the client agencies – as well as other fiscal and planning priorities – and negotiate terms that ensure responsible use of taxpayer dollars.

**Metric of Success:** Effective management of leasing process, successfully communicating and managing expectations of internal and external stakeholders, obtaining a cost-effective deal for the City, and meeting the client agency real estate needs with a deal.

**Financial Services’ Property Valuations Unit (PVU)** is responsible for completing the appraisal of the selected new lease site.

**Office of the General Counsel, Real Estate unit (OGC)** drafts each lease after the term sheet has been agreed upon and oversees the necessary legal approvals in Phase 4 of the lease-in process.

**Planning & Dispositions (P&D)** This team maintains the database of all City owned and leased properties, is co-applicant on all City ULURP applications and handles disposition transactions for all City property.

**Real Estate Services Executive Office** includes the Deputy Commissioner and Executive Directors of each of the five RES departments. This group provides analytics, direction, and oversight of the Real Estate Line of Service.

## Clients & Partners

In addition to RES staff, the lease-in process engages a range of other stakeholders including the client agency on behalf of whom the space is leased, the tenant representative who provides market insight and negotiation support, and a range of budget and oversight groups which review and ensure the lease is in alignment with the client agency’s needs, the City’s goals, and the public’s interest from a land use perspective

**Client Agencies** submit new space requests which may result from a legislative directive related to hiring needs, natural growth, reorganization or shrinking of the unit, expiration of their existing lease, new operational needs, concerns with existing building conditions or other reasons. Note that the term “client agency” is used in this playbook even if the client is an entity such as a community board, Office of Court Administration, or elected official, which is not technically a City agency.

**Tenant Representatives (TR)** are private commercial real estate brokers under contract with the City of New York, who support L&A and D&PM throughout Phases 2 and 3 for program/design, site selection, and term sheet negotiation, and are jointly overseen by both units. Most new leases and some renewals are supported by TRs. sheet negotiation, and are jointly overseen by both units. Most new leases and some renewals are supported by TRs.



**Playbook Tip:**

Any time you see an agency, office, unit, etc. in a small bubble, it indicates they are a partner at a given step in the process.

Ex. Client Agency

# Introduction

## DCAS RES Lease-In Overview

**Office of Management and Budget (OMB)** oversees the City's capital and expense budgets. They review and, as appropriate, approve projects at three points in the lease-in process:

- In Phase 1: conceptual approval of the agency space request to indicate that RES should begin working with the client agency to find a new space;
- In Phase 2: program/P&E approval to confirm the client agency headcount and program, and
- In Phase 3: budget approval of lease terms following the Acquisitions Review Committee (ARC) submission. After the OMB task force has reviewed the ARC submission, DCAS will receive approval for funding, rejection or a request for changes.

**Deputy Mayor of Operations (DMO)** is the Deputy Mayor to whom DCAS reports. In the lease-in process, the DMO reviews and approves the Green Light to move forward with a new acquisition and, along with the Budget Director of OMB, provides final signoff of all lease terms in advance of the Section 824 hearing.

**Department of City Planning (DCP)** is the City's land use agency which receives application submissions for City Charter Sections 195 and 197 (ULURP) for land use review. DCP then provides the calendar for the City Planning Commission hearings and approvals.

**City Planning Commission (CPC)** is a 13-member board appointed by the Mayor, Borough Presidents, and the Public Advocate. The CPC is responsible for reviewing and approving site selection of real property (owned or leased), through a process referred to as "Section 195" for office leases, and the Uniform Land Use Review Procedure (ULURP) for non-office leases.

**Law Department (Law Dept.)** led by the Corporation Counsel, represents the City, its agencies, the Mayor, and other elected officials in many legal matters. Law reviews all RES leases for approval as to form. Law does not review business or legal terms except to the extent that the terms are permitted and not prohibited as well as the inclusion of mandatory clauses.

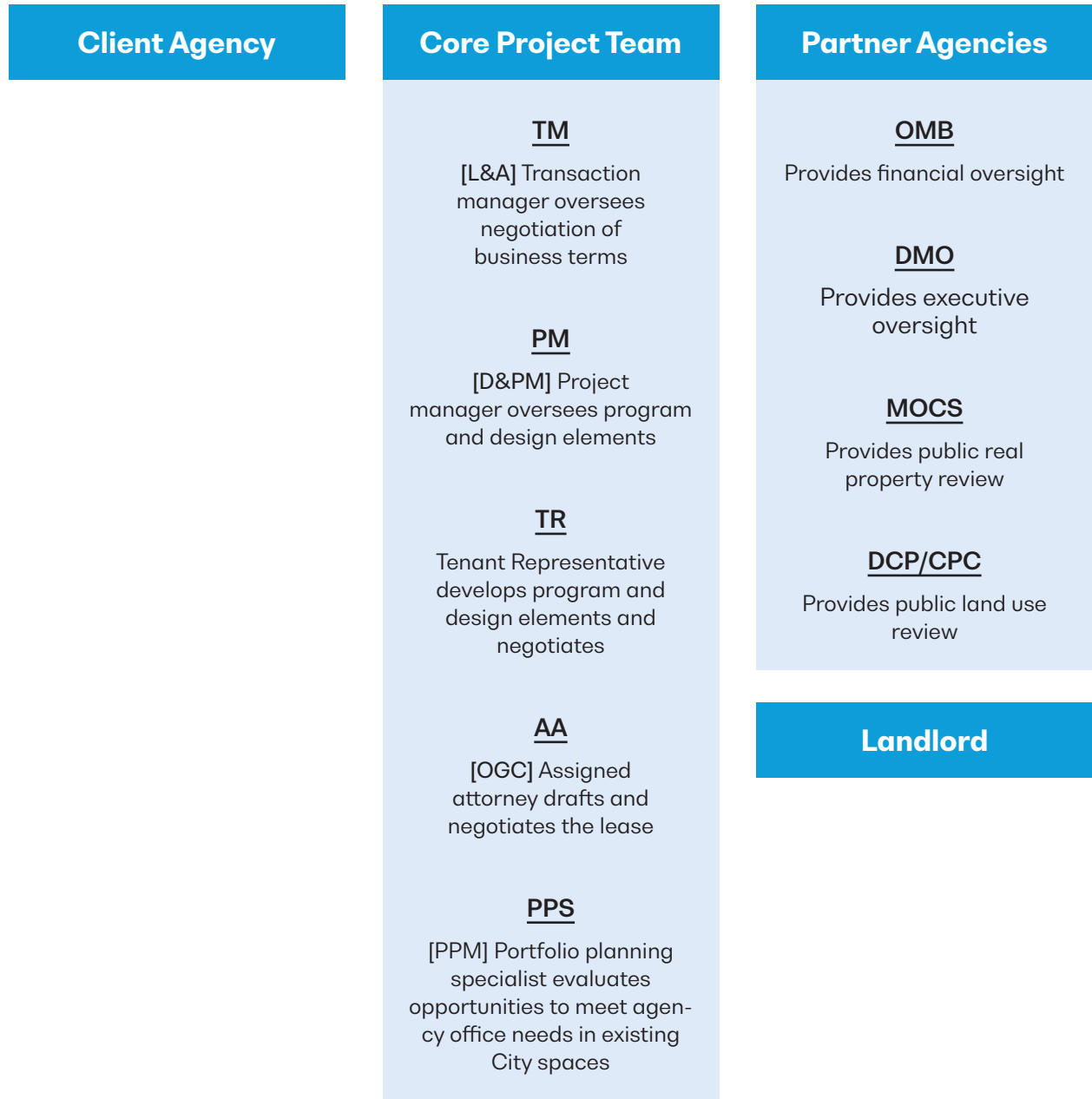
**Mayor's Office of Contract Services (MOCS)** oversees City procurement and other contracting issues. MOCS provides final signoff on each lease project from the Mayor. MOCS also oversees the Charter Section 824 public hearing process required for every lease. They provide final signoff on behalf of the Mayor's Office that the City Charter Section 824 hearing was held and that the acquisition may proceed.

# Introduction

## DCAS RES Lease-In Overview

### Typical Project Stakeholders

The graphic below illustrates a typical project team including the RES staff, clients and partners, needed to bring a lease from request to execution:



# Lease-In Process Overview

## PPM

## D&PM

## L&A

## OGC

### Phase 1

#### Space Request Intake & Review of Existing City Space

**Goal:** Determination regarding space need after conceptual approval from OMB; sign off on green light from City Hall to proceed

**Typical Duration:** 2 months

**Partners:** Client Agency  
OMB City Hall

**Deliverables:** Red/Green light form

### Phase 2

#### Programming & Site Selection

**Goal:** Identification of program needs and most suitable location (site)

**Deliverables:** P&Es, site selection, site report, base building scope of work scope

**Typical Duration:** 3-9 months

**Partners:** Client Agency  
OMB

### Phase 3

#### Pre-Lease Design & Term Sheet Negotiation

**Goal:** Signed Term Sheet

**Deliverables:** Term sheet, preliminary plan, scope of work, cost estimate and Not to Exceed, site measurements

**Typical Duration:** 4 months

**Partners:** Client Agency  
TR DCP

### Phase 4

#### Approval & Lease Finalization

**Goal:** Executed Lease

**Deliverables:** Appraisal; land use approval if necessary; OMB funding approval, approved Green light from DMO/OMB, 824 Real property hearing, executed lease

**Typical Duration:** 6 months

**Partners:** OMB CPC  
City Council Law Dept.  
MOCS



# Space Request Intake & Review of Existing City Space

2 Months

**Goal:** Determination regarding space need after conceptual approval from OMB; sign off on green light from City Hall to proceed

**Deliverables:** Red/Green light form

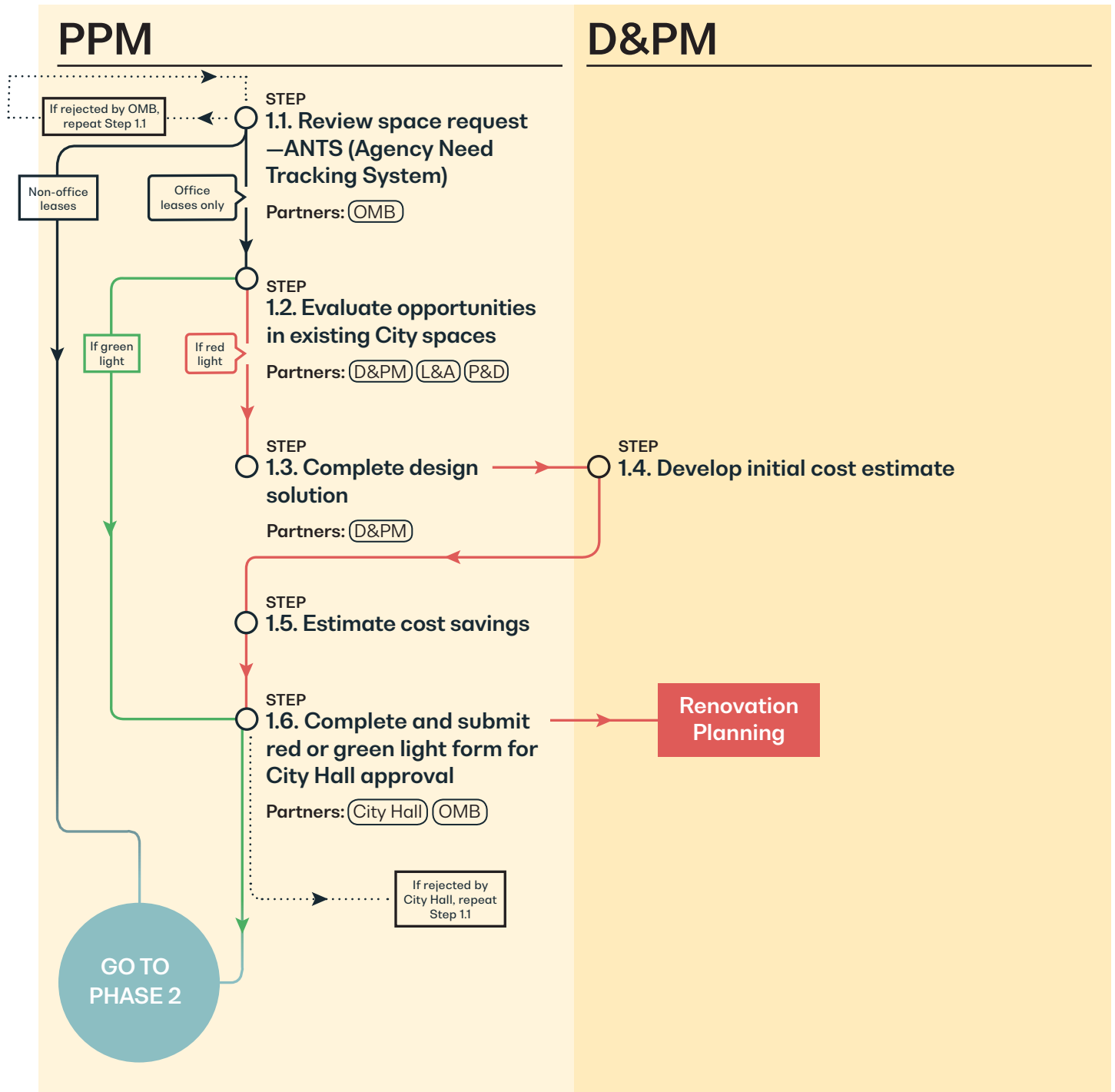
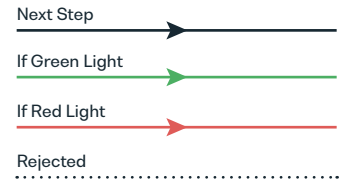
**Partners:** (Client Agency) (OMB) (City Hall)

# Phase 1:

## Space Request Intake & Review of Existing City Space

2 Months

Goal: City Hall Approval



# Phase 1:

## Space Request Intake & Review of Existing City Space

### Step 1.1. Review space request—ANTS (Agency Need Tracking System)

A client agency emails a new space request to DCAS and OMB simultaneously. The Director of Lease Enforcement and Administration inputs the request into IPIS, while the OMB task force reviews the reasonableness of the request. In order for projects to move forward, OMB must provide conceptual approval at this stage. If OMB grants conceptual approval to a new project, the OMB unit head sends a notification email to the Director of Lease Enforcement and Administration.

**DCAS Lead:** PPM

**Partners:** OMB

**Deliverables/ Signoffs:** OMB conceptual approval

**Estimated Timeline:** 1–6 months

**Relevant Materials:** New Space Request Form (for new space and renewals)

### What's Next?

If OMB denies the space request, the client agency must either accept OMB's denial or submit a new space request via ANTS to begin the process again (repeat **Step 1.1**).

If OMB provides conceptual **approval**, then:

- a) for **new office** space requests, PPM staff are assigned (go to **Step 1.2**); or
- b) for **non-office** space requests L&A and D&PM staff are assigned (go to **Step 2.1**)



### Generation of New Space Requests for Renewals

IPIS notifies the Director of Lease Enforcement and Administration when a client agency's lease is set to expire in 24 to 30 months. The Director of Lease Enforcement and Administration then contacts the client agency and asks them to submit a new lease request for renewals if the renewal is needed.



### OMB Conceptual Review Explained

OMB's review at this stage considers only the new space request form and if there is a need for space. Approval signals that OMB thinks there may be a need and allows the process to begin. This is the first of three approvals needed from OMB throughout the lease-in process.



# Phase 1:

## Space Request Intake & Review of Existing City Space

### Step 1.2. Evaluate opportunities in existing City spaces

The Executive Director of PPM assigns new office space requests to a portfolio planning specialist from PPM’s client agency planning group to evaluate whether a space request can be fulfilled by using existing City-owned or leased space. The portfolio planning specialist’s analysis includes the following steps:

- a) **Review client agency’s initial space request.**  
The portfolio planning specialist reviews the client agency’s new space request form.
- b) **Gather information and analyze existing City-owned and leased properties, specifically:**
  - i. *The client agency’s existing building.* The portfolio planning specialist gathers AutoCAD plans of the client agency’s existing space as well as other relevant building-related data points. The building level data points may include building occupancy (collected from stacking plans), a list of co-located agencies and non-agency tenants as well as floor plans for co-tenants, particularly on adjacent floors. The purpose of collecting information on the entire building is to allow the portfolio planning specialist to evaluate whether existing space within the building could be able to accommodate the client agency’s needs.
  - ii. *Other City-owned or leased properties.* After exploring the possibility of the current space and building to accommodate the client agency’s need, the portfolio planning specialist considers other City-owned or leased space, beginning with nearby properties then expanding to all City-owned or leased space, as the next option for relocation of the client agency. To do this, the portfolio planning specialist maps the geographic coordinates of the client agency’s existing location in GIS, then reviews the DCAS database of City-owned and leased properties, or the NYC Department of City Planning Capital Planning Platform to locate City facilities. Next, the portfolio planning specialist reviews NYC’s Zoning and Land Use Map (ZoLa) to understand the surrounding land uses. For sites that appear to meet the client agency’s criteria as set out in the new space request form, the portfolio planning specialist gathers floorplans and stacking plans as available to understand if the buildings have any underutilized space or whether existing tenant agencies are planning to vacate their space.
- c) **Engage client agency to establish goals and space needs:**
  - i. *Host a kickoff meeting.* The portfolio planning specialist hosts a kickoff meeting with the client agency’s point of contact indicated in the new space request form. The objective of the meeting is for the portfolio planning specialist and the client agency representative to discuss their respective goals and the client agency’s operational needs, especially those that are not met in the existing space. During this kickoff, the portfolio planning specialist should explain the RES lease-in process and the client agency’s role within the process.

**DCAS Lead:** PPM  
**Partners:** D&PM, L&A  
**Deliverables/ Signoffs:** Red light or green light recommendation  
**Estimated Timeline:** 1 month for conceptual approval  
**Relevant Materials:** Green Light and Red Light Forms, New Space Request Form, PPM Estimate Lease Cost Worksheet for Administrative Buildings, Process and Procedure Guidelines for New Needs Assessment

# Phase 1:

## Space Request Intake & Review of Existing City Space



### Agency Goals

During the kickoff meeting, the portfolio planning specialist should be transparent about PPM's goals, i.e. optimizing the utilization of City-owned and leased space and creating spaces that conform to citywide space planning initiatives and guidelines. The client agency's goals will be related to their operational needs.

- ii. *Lead a site visit to the client agency's current space.* The portfolio planning specialist walks through the client agency's current space to understand its current condition, the efficiency of the space and its workstations, and any challenges associated with the current space.



### Points of Contact

Coordinate with the DCAS Facilities Management team if it is a City-owned site, and with the client agency's building custodian if it is a City-leased site, in order to quickly schedule the site visit if the client agency is unable to do so. A conversation with the building custodian may also provide greater insight into upcoming tenant moves or planned renovations for the building that could enable the space to better accommodate the client agency.

- iii. *Lead a site visit to nearby City-owned or leased properties.* Similar to the client agency site visit, the portfolio planning specialist tours previously identified City-owned or leased buildings that meet the client agency's criteria to understand their potential to support the client agency's needs.
  - d) **Complete high-level test fit.** The portfolio planning specialist uses information collected at the site visits and kickoff meeting, the agency headcount, and the Space Standards for Baseline Programming and Planning to develop a series of test fits in AutoCAD. These test fits may include a combination of the agency's current space, space on adjacent floors, and space in other City-owned or leased properties.
  - e) **Prepare a draft green or red light recommendation.** If the client agency's need cannot be met in existing City-owned or leased space based on this initial analysis, then the portfolio planning specialist drafts a green light form. If the client agency's need can be met in existing City-owned or leased space, the portfolio planning specialist fleshes out the design solution in Step 1.3.



### Green Light Forms

Green light forms are only required for new office space, and not warehouse space. PPM's role in evaluating warehouse space is through encouraging agencies to move away from paper filing and on-site filing as a way to improve space efficiency.

- f) **Review and finalize findings with manager.** Once the portfolio planning specialist has assessed whether or not a design solution can be found within existing City-owned or leased space, they discuss findings and recommendations with their direct manager.

# Phase 1:

## Space Request Intake & Review of Existing City Space

### What's Next?

If PPM makes a **green light recommendation**, then the portfolio planning specialist completes the green light form and submits it to the RES Executive Office. The Executive Office then submits the green light recommendation to City Hall for approval (go to **Step 1.6**).

If PPM makes a **red light recommendation**, then the portfolio planning specialist completes the design solution (go to **Step 1.3**).

### Step 1.3. Complete design solution

The portfolio planning specialist completes the test fit AutoCAD drawings to show existing and proposed conditions, following the formatting rules described in the Process and Procedure Guidelines for New Needs Assessment document. Next, the portfolio planning specialist drafts a basic scope of work for the proposed program. Finally, the portfolio planning specialist develops a phasing plan that describes how the project may be delivered over time.

**DCAS Lead:** PPM  
**Partners:** D&PM  
**Deliverables/ Signoffs:** Existing and proposed plans, basic scope of work, phasing plan  
**Estimated Timeline:** 1 month  
**Relevant Materials:** Scope of Work Template, Process and Procedure Guidelines for New Needs Assessment, Phasing Plan Example

### What's Next?

Proceed to **Step 1.4**.



#### Phasing Plan Format

There is no set format for the phasing plan. Depending on the complexity of the project and number of phases required, the phasing plan may be drafted as a written narrative, a PowerPoint presentation, or a series of AutoCAD drawings.



#### Role of a Phasing Plan

The phasing plan has a significant impact on the cost estimation completed by D&PM in the next step

# Phase 1:

## Space Request Intake & Review of Existing City Space

### Step 1.4. Develop initial cost estimate

The portfolio planning specialist sends the AutoCAD drawings, PPM scope of work, and phasing plan to the D&PM Estimating Group. The senior cost estimator develops a construction cost estimate for the project.

#### What's Next?

Proceed to **Step 1.5**

**DCAS Lead:** D&PM

**Partners:** None

**Deliverables/ Signoffs:** Project cost estimate

**Estimated Timeline:** 1 week

**Relevant Materials:** Red Light Form, PPM Estimate Lease Cost Worksheet for Administrative Buildings Example

### Step 1.5. Estimate cost savings

The red light form requires an estimate of the avoided project costs. The portfolio planning specialist uses the PPM Estimate Lease Cost Worksheet for Administrative Buildings to produce the one-year and 20-year total cost estimates required for the red light form. While the worksheet itself includes several of the necessary assumptions for construction, furniture, information technology costs, and space efficiency, the portfolio planning specialist also gathers input from the L&A team on estimated rents per square foot for a building the client agency would otherwise have leased. Using this information, the portfolio planning specialist also estimates the cost savings realized by moving the client agency to a City-owned or leased space in place of a new lease for internal PPM record keeping. PPM then sends this form to OMB.

**DCAS Lead:** PPM

**Partners:** None

**Deliverables/ Signoffs:** Estimated cost savings

**Estimated Timeline:** 1 day

**Relevant Materials:** PPM Estimate Lease Cost Worksheet for Administrative Buildings Example

#### What's Next?

Proceed to **Step 1.6**

### Step 1.6. Complete and submit red or green light form for City Hall approval

The RES Deputy Commissioner sends the completed green light form to City Hall/DMO for approval. PPM then sends completed Red Light form to OMB.

**DCAS Lead:** PPM

**Partners:** City Hall, OMB, RES Executive Office

**Deliverables/ Signoffs:** Red light or green light form; signoff from City Hall

**Estimated Timeline:** 1-4 weeks

**Relevant Materials:** None

## Phase 1:

# Space Request Intake & Review of Existing City Space

### What's Next?

If City Hall **approves a green light**, move on to **Phase 2**.

If OMB **approves** funding for **a red light**, the project is assigned to either D&PM (for City-leased space) or Capital Construction & Technical Services (for City-owned space) for construction.

If City Hall **rejects** either the red or green light form, return to **Step 1.1**.



# Programming & Site Selection

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3–9 Months

**Goal:** Identification of program needs and most suitable location (site)

**Deliverables:** P&Es, site selection, site report, base building scope of work scope

**Partners:** Client Agency OMB

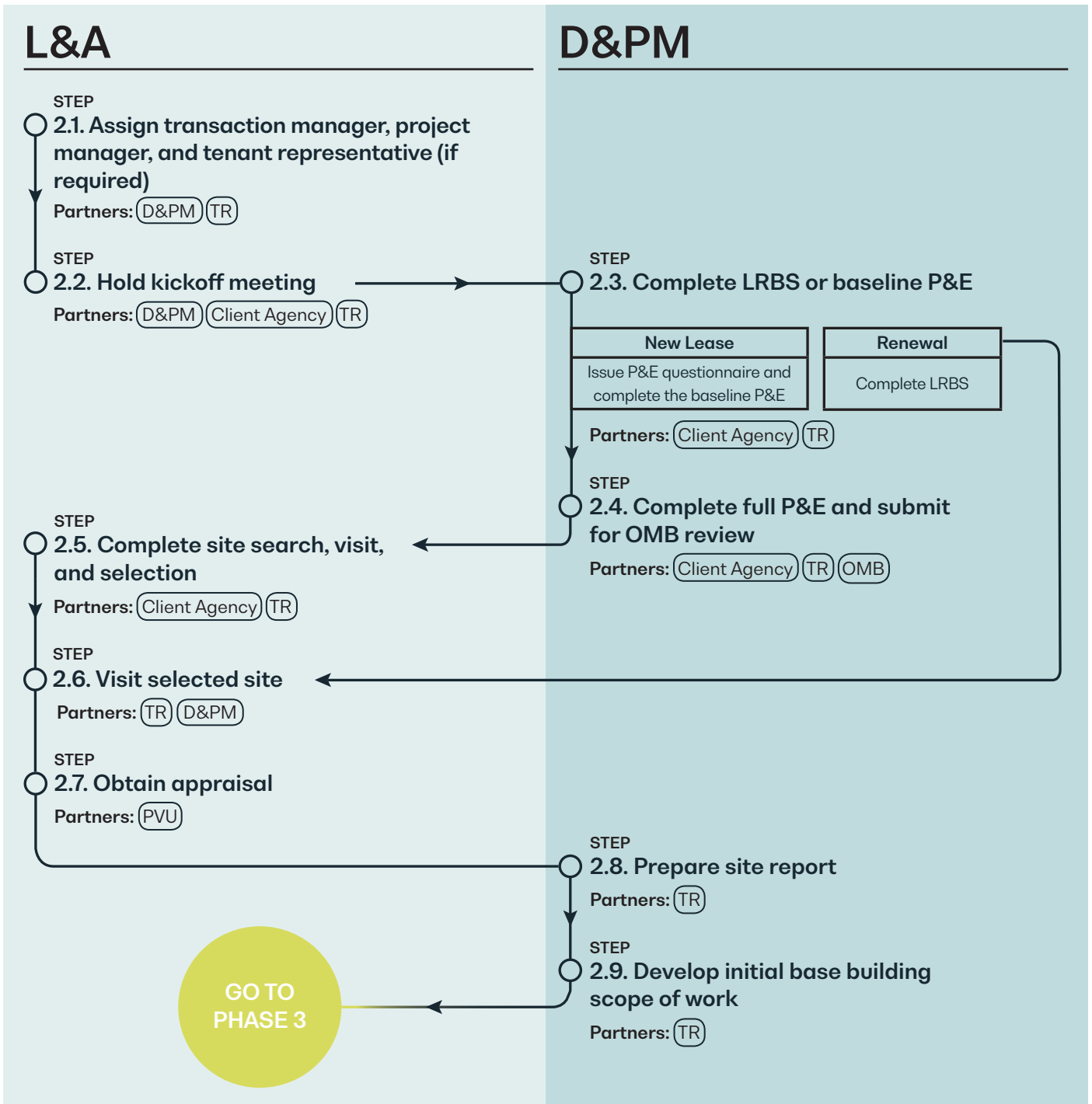
# Phase 2:

# Program & Site Selection

8 Months

Goal: Site Selection, Base Building Scope

Next Step →



# Phase 2:

## Program & Site Selection

### Step 2.1. Assign transaction manager, project manager, and tenant representative (if required)

The Executive Director of L&A assigns a transaction manager from L&A who then requests a project manager from D&PM. At this point, the Executive Director of L&A decides whether to assign the project to a tenant representative. Once a project manager is assigned, they also have the opportunity to request assignment to a tenant representative.

**DCAS Lead:** L&A  
**Partners:** D&PM, TR<sup>1</sup>  
**Deliverables/ Signoffs:** None  
**Estimated Timeline:** 3 weeks (1 week for assignment to transaction manager, 2 weeks for assignment to project manager)  
**Relevant Materials:** New Space Request Form

### What's Next?

Proceed to **Step 2.2**



#### Tenant Representatives Explained

The majority of new lease projects are assigned to a tenant representative. In this context, a tenant representative is a broker from a private company hired to represent DCAS and the client agency in the leasing process. As of 2019, DCAS holds contracts with CBRE and Cushman & Wakefield. When representing DCAS, the tenant representative enters into a commission agreement with the landlord, who agrees to pay the tenant representative a commission, calculated as a percentage of the negotiated base rent. The landlord must hold 20% of the tenant representative's commission in escrow until a DCAS financial appraisal establishes the market value range for the lease. If the appraised values range is lower than the actual rental agreement, then that 20% of the commission goes to the tenant (DCAS) as a rent credit.

### Step 2.2. Hold kickoff meeting

Once the project team has been assigned, the transaction manager sets up a kickoff meeting with the project manager, client agency, and tenant representative to discuss the lease-in process, role, goals, milestones, and timelines for each team member. Prior to the call, the project manager develops a milestone schedule for all D&PM tasks and the transaction manager develops a milestone schedule for L&A tasks to share with the project team during the kickoff meeting.

**DCAS Lead:** L&A  
**Partners:** D&PM, Client Agency, TR<sup>Error!</sup>  
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**Deliverables/ Signoffs:** Kickoff call, Leasing Process Schedule D&PM Milestone Schedule D&PM Milestone Schedule  
**Estimated Timeline:** 3 weeks  
**Relevant Materials:** New Space Request

<sup>1</sup> Nearly all new lease projects include a tenant representative. A project manager or transaction manager might want to bring on a tenant representative because the project is very large, the need is niche, the geographic restrictions make it difficult to find sites on the market, or in some way the request requires skills that DCAS doesn't have in house.



# Phase 2:

# Program & Site Selection

## What's Next?

Proceed to **Step 2.3**



### Key Questions for the Kickoff

While the project manager and tenant representative are responsible for programming, the transaction manager should also ensure they understand the client agency's operational need to inform the site search and term sheet negotiations. Within the client agency, a facilities manager will likely have the greatest insight into operational needs related to real estate, often in coordination with information technology (IT) and human resources (HR) staff. Key questions to address before or during a kickoff meeting include the following:

- **Location.** Does the agency have location constraints? If so, what is driving those constraints? Try to distinguish between preferences and true constraints.
- **Adjacencies.** Does the site need to be within a certain radius of other facilities, such as a courthouse? Should the site be distant from certain uses, such as schools?
- **Fair Share.** How can the facility advance the City's Fair Share goals, which call for all communities to have their fair share of municipal facilities such as schools, libraries, shelters, parks, prisons, and waste transfer stations?
- **Operations.** Does the agency have atypical operational requirements? Examples include showers, parking and loading, chemical storage, weapon storage, or operations outside of regular business hours.
- **Technology and Space Efficiency.** Are there technological trends, such as increased digitization of agency files or automation of agency processes that suggest changes in the agency's space needs?
- **Site Users.** Who will be using the site? Will it be open to the public? Are separate entrances needed for staff and visitors/clients?
- **Zoning.** What will be the space's use group according to the NYC Zoning Resolution, and its occupancy according to the NYC Building Code? (Example: should a Human Resources Administration space be considered a community facility use in Use Group 3 or 4, or an office use in Use Group 6?)
- **Priority & Time Sensitivity.** Is the space request tied to a public policy priority, or does it otherwise face any firm deadlines?

# Phase 2:

## Program & Site Selection

### Step 2.3. Complete LRBS or baseline P&E

Based on your specific request in this step, you will be directed towards different steps in this phase. Look below to see where you land in this process.

#### For a new lease, issue the P&E questionnaire and complete the baseline P&E

The project manager/tenant representative issues the full P&E questionnaire to the client agency and works closely with them to complete the form. The client agency collects information for the full P&E which includes all personnel and operational space needs, as well as parking requirements. While the client agency is completing the full P&E questionnaire, the project manager develops a baseline P&E outlining the square feet needed by the client agency according to DCAS space standards and based only on the client agency's headcount rather than other agency specific operational requirements. Once the baseline P&E is complete, the project manager notifies the transaction manager of this initial assessment of space needs so the transaction manager can begin considering potential sites.

### What's Next?

For a **new lease**, move on to **Step 2.4**.

For **renewal** of an existing lease, move on to **Step 2.6**.



#### What's A GIZMO?

The GIZMO is an online questionnaire that the tenant representative gives to the client agency to complete in order to communicate their space needs. The information collected from the GIZMO is used in drafting the P&E.



#### Square Foot Assumptions

The square feet needed by the client agency, and estimated in the baseline P&E, are typically the lowest possible estimate as they do not yet take into account the agency's operational needs. As the project manager understands these operational needs better and develops a more detailed P&E with the agency, the amount of square feet required by the client agency typically increases.

**DCAS Lead:** D&PM

**Partners:** Client Agency, TR<sup>2</sup>

**Deliverables/ Signoffs:** LRBS or baseline P&E

**Estimated Timeline:** 1 week

**Relevant Materials:** Lease Renewal Background Survey (LRBS) Form, Baseline P&E Form (AKA Space Needs Program - Common Space Summary), P&E Form (AKA Space Needs Program - Unit Summary), Space Standards for Baseline Programming and Planning Guide

#### For renewal of an existing lease, complete the LRBS form

The project manager/tenant representative issues the Lease Renewal Background Survey (LRBS) to the client agency and provides support in completing the form.

<sup>2</sup> For tenant representative projects, the tenant representative works with the client agency to complete the LRBS or P&E for project manager review and approval.

# Phase 2:

## Program & Site Selection



### Client Agency Coordination

This step requires close coordination between the project manager and the client agency to ensure the client agency fills out the basic information to complete the P&E. At this step, the project manager may face significant delays if the client agency does not prioritize gathering the information internally to complete the P&E questionnaire. A client agency may also be slow in completing the P&E because they are not familiar with the process and are not aware of the active participation that the remainder of the process post-OMB conceptual approval requires. To help mitigate these delays, it is important to follow up with the client agency regularly and set clear deadlines and expectations for completion. Beyond the need to get the required client agency information, close coordination and ongoing communication is also required to address the competing interests that can arise between the client agency's initial space request and the space program developed by the project manager based on the Space Standards for Baseline Programming and Planning Guide. Competing interests often result from the client agency wanting larger space or an alternative use than what is prescribed in the Space Standards. In cases where the differences cannot be worked out, the client agency can submit their request in writing to the

### Step 2.4. Complete full P&E and submit for OMB review

Once the client agency has collected all of the necessary information for the P&E, the project manager/tenant representative completes the form and obtains approval from the client agency for both the baseline P&E and the full P&E. This process of developing a full P&E is highly collaborative between the project manager and the client agency and may require several rounds of revisions. Once finalized, the project manager sends the P&E to OMB. OMB's review is an audit of the client agency's square footage needs and personnel headcount as described in the P&E.

**DCAS Lead:** D&PM

**Partners:** Client Agency, TR<sup>3</sup>, OMB

**Deliverables/ Signoffs:** Full P&E signoff from client agency and project manager, full P&E submission to OMB

**Estimated Timeline:** 3 months–1 year to complete the full P&E depending on project complexity

**Relevant Materials:** P&E Form (AKA Space Needs Program – Unit Summary), Space

### What's Next?

Proceed to **Step 2.5**



### OMB Approval

Often, OMB does not give explicit approval at this time. Typically, written approval from OMB is only communicated for very large projects. Instead, all projects that are not rejected continue on in the process.



### Client Agency Headcount

The greatest point of contention related to the P&Es is typically related to headcount. This is due to the fact that OMB has a headcount for each agency and unit in their internal system which they expect to match the records on the P&E. Any discrepancies need to be worked out at this stage.

<sup>3</sup> For tenant representative projects, the tenant representative works with the client agency to prepare the information for the P&E (GIZMO) for project manager review. The project manager then completes the full P&E and send to OMB.

# Phase 2:

## Program & Site Selection

### Step 2.5. Complete site search, visit, and selection

Using the approved headcount and space program of the client agency, the transaction manager/tenant representative begins their due diligence period which includes:

- a) **Market Scan:** The transaction manager carries out a scan of the target market area and specific land use to become more familiar with market trends (change in rents, stock, vacancy, new deliveries etc.), identify available sites, and identify benchmarks against which they evaluate the proposed site's competitiveness. Transaction managers can gather this information from two major sources:
  - i. *Costar.* CoStar is a subscription database that provides information on market trends and competitive market terms
  - ii. *Landlord/ Network outreach.* The transaction manager calls landlords and brokers in the industry to gather insight into additional spaces that are available or will become available in the necessary timeframe.
  - iii. *Tenant Representative (if applicable).*

**DCAS Lead:** L&A

**Partners:** TR<sup>4</sup>, Client Agency,

**Deliverables/ Signoffs:** Preferred site(s); signoff from client agency

**Estimated Timeline:** 4 months+ depending on client agency requirements and market availability

**Relevant Materials:** New Space Request Form, P&E Forms, Market Survey



#### CoStar Comps Search

To understand trends in the market over time, and to find comparable buildings today, consider using CoStar's submarket definitions, drawing a custom polygon, or defining a search radius to focus on specific geographies; continue to filter by specific building characteristics such as building age, building size, amount of parking, available contiguous square footage, asking rent etc. For projects with a tenant representative, this research helps the transaction manager curate the right list of sites for the client and ensure the broker is considering the best options reflecting competitive spaces on the market.



#### Client Agency Flexibility

There may not be any available sites that meet the client agency's initial criteria. In these cases, the transaction manager must work with the client agency to understand how they can alter their initial requirements to fit the market supply, or whether their needs are inflexible (as in the case of a community board which needs to be within a certain boundary).

<sup>4</sup> For tenant representative projects, the tenant representative carries out due diligence steps.

# Phase 2:

## Program & Site Selection



### Understanding the Comps

To ensure they are getting the best possible deal for the City, the transaction manager and tenant representative must have a deep understanding of the market and leases signed in comparable buildings to use as a benchmark. Key questions include:

- What is the quality of the building? What is the building layout?
- What are typical rents and operating expenses per SF in this particular area/neighborhood? What type of landlord does the building have (e.g. REIT, private equity, family company, institutional owner, etc.) and are they amenable to this use?
- Is the landlord receiving any sort of tax incentive/abatement and when will that expire?
- What are the other uses on the site/lot? What is the existing vacancy on the site/lot?
- What developments/uses are occurring in and around the area?
- What does it typically cost to outfit a space for each land use?
- Is the landlord planning any significant capital projects that might increase future operating costs or real estate tax payments by the City?
- What are some of the potentially challenging factors of the site (in a flood zone, ADA compliance, public transportation)

b) **Summary of sites:** The transaction manager filters available sites ahead of the client agency's review to ensure that the site options are appropriate for the agency's use, and could reasonably be approved by OMB in later stages.

c) **Site visit and selection:** The transaction manager accompanies the client agency on site visits and supports them in selecting final sites. Following the site visits, the client agency and transaction manager select up to three sites to move forward with. The transaction manager and/or tenant representative may then draft an RFP for the identified landlords to create a competitive market dynamic, explain the process of working with the City, and gauge their interest in working with the City. This is typically only necessary if we've never worked with a landlord before on any prior projects.



### What Will OMB Think?

OMB approved spaces are typically roughly market rate, class B or C, and don't represent an unreasonable upgrade from the client agency's current space, etc.

### What's Next?

Proceed to **Step 2.6**

# Phase 2:

## Program & Site Selection

### Step 2.6. Visit selected site

Once the client agency selects final candidate sites, the project manager/tenant representative and D&PM engineer visit the site with the transaction manager to collect information on current conditions, as listed in the Site Report Checklist. This information informs the project manager's site report, which is developed in Step 2.8.

**DCAS Lead:** L&A  
**Partners:** TR<sup>5</sup>, D&PM  
**Deliverables/ Signoffs:** None  
**Estimated Timeline:** 2 weeks  
**Relevant Materials:** Site Report Checklist, D&PM Milestone Schedule

### What's Next?

Proceed to **Step 2.7**

### Step 2.7. Obtain appraisal

Once the client agency has selected their preferred sites and the project manager/tenant representative has visited the site, the transaction manager sends a request for either a full or restricted appraisal to the Director of the Property Valuation Unit (PVU) along with all existing information and correspondence they have collected pertaining to the site including photos, maps, comparable properties developed as part of the site search process. The Director of PVU then assigns an appraiser and enters the request information (request date, appraiser name, assignment date, reviewer name) into IPIS. The appraiser identifies comparable sales and market trends using public and proprietary sources including CoStar, City of New York Department of Finance records and discussions with real estate brokers. The appraiser then conducts site visits of the client agency's selected sites as well as the comparable sites identified for the purpose of valuing this property. Once the first draft is completed, the assigned reviewer verifies the information in the report paying close attention to the accuracy and appropriateness of the comparable sales and methodology or adjustments made by the appraiser. Following the review, the appraiser incorporates any adjustments then sends the appraisal to the transaction manager electronically as a scanned copy with an original signature, while saving a second copy on the PVU internal server. Finally, the Director of PVU enters the appraisal completion date into IPIS. As IPIS is replaced with ARCHIBUS over time, these same processes will be implemented via the ARCHIBUS platform.

**DCAS Lead:** L&A  
**Partners:** PVU<sup>6</sup>  
**Deliverables/ Signoffs:** None  
**Estimated Timeline:** 6 weeks  
**Relevant Materials:** Procedure: Appraisals for City-owned and City-leased Property, Uniform Standards of Professional Appraisal Practice



#### Selecting an Appraisal Form

Typically, PVU develops restricted appraisals (rather than full narrative appraisals) as they are more concise and comprehensible for non-industry professionals.

### What's Next?

Proceed to **Step 2.8**.

<sup>5</sup> For tenant representative projects, the tenant representative conducts this site visit with the transaction manager and project manager (engineer is not required).

<sup>6</sup> While most appraisals requested in RES are completed in-house by PVU, RES can also leverage existing contracts, allowing PVU to bring in outside resources to conduct appraisals. In the event the appraisal is conducted by an outside partner, the PVU appraiser conducts an internal review of the outside appraisal prepared in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) Standard Rule 3.

# Phase 2:

## Program & Site Selection

### Step 2.8. Prepare site report

The project manager/tenant representative prepares the architecture and engineering site report. The purpose of this report is to document existing conditions and make initial base building scope of work recommendations to accommodate the proposed programmatic use. Through this initial assessment, the project manager/tenant representative will determine whether the site is suitable (or can be made suitable) from a technical perspective for the client agency's needs. The report itself identifies the internal and external conditions of the site, HVAC, life and safety code issues, fire safety/egress challenges and any deficiencies in code compliance such as ADA accessibility. In addition, this report must include digital pictures and other items as listed in the site report checklist.

If the project is a lease renewal, then the site plan allows the project manager to determine whether the existing space is still sufficient to meet the client agency's needs.

**DCAS Lead:** D&PM  
**Partners:** TR<sup>7</sup>  
**Deliverables/ Signoffs:** Site Report  
**Estimated Timeline:** 1–3 weeks  
**Relevant Materials:** Site Report Checklist, D&PM Milestone Schedule

### What's Next?

If the space can **no longer meet the client agency's needs**, the client agency must submit a new space request (return to **Step 1.1**).

Otherwise, proceed to **Step 2.9**.



### Certificate Of Occupancy

A Certificate of Occupancy (CO or C of O) is typically included in the site report. If it's not included, the transaction manager should ask the tenant representative for a copy. The transaction manager should also independently verify that the Zoning Resolution (ZR) allows the proposed use at the site, as there have been cases of COs that indicated, incorrectly, a certain use was permitted, while the use was in fact not allowed under zoning.

### Step 2.9. Develop initial base building scope of work

Based on the site report findings, the project manager/tenant representative develops a high-level base building scope of work outlining the improvements. The project manager then sends this scope of work to the transaction manager. The purpose of the initial base building scope of work is to support the transaction manager in beginning negotiations with the landlord.

**DCAS Lead:** D&PM  
**Partners:** TR<sup>8</sup>  
**Deliverables/ Signoffs:** Initial base building scope of work  
**Estimated Timeline:** 1–4 weeks  
**Relevant Materials:** Site Report Checklist, D&PM Milestone Schedule Milestone Schedule

<sup>7</sup> For tenant representative projects, the tenant representative prepares the site report for project manager review and approval.

<sup>8</sup> For tenant representative projects, the tenant representative prepares the base building scope of work for project manager review and approval and incorporates the base building scope of work directly into the term sheet.

# Phase 2:

## Program & Site Selection

### What's Next?

Proceed to **Step 3.1**



#### Scope Complexity

The length and detail of the initial scope of work varies based on the project. Smaller or less complex projects may require just a few bullet points while more complex projects may require a detailed write up.



#### Scope Expansion

This initial base building scope of work is typically expanded as the project manager refines the preliminary plan in Phase 3.





# Pre-Lease Design & Term Sheet Negotiation

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4 Months

**Goal:** Signed Term Sheet

**Deliverables:** Term sheet, preliminary plan, scope of work, cost estimate and Not to Exceed, site measurements

**Partners:** (Client Agency) (TR) (DCP)

# Phase 3:

## Pre-Lease Design & Term Sheet Negotiation

4 Months

Goal: Signed Term Sheet



### L&A

STEP  
○ 3.1. Negotiate leasing terms of term sheet  
Partners: (D&PM) (TR)

Step 3.1 is concurrent to Steps 3.2-3.6

STEP  
○ 3.7. Finalize and sign term sheet  
Partners: (D&PM) (TR)

GO TO PHASE 4

### D&PM

STEP  
○ 3.2. Prepare test fit and layout options  
Partners: (Client Agency) (TR)

STEP  
○ 3.3. Develop preliminary plan  
Partners: (Client Agency) (TR)

STEP  
○ 3.4. Measure the site  
Partners: (TR)

STEP  
○ 3.5. Finalize tenant and base building scope of work  
Partners: (Client Agency) (TR)

STEP  
○ 3.6. Develop a not to exceed amount  
Partners: (TR)

# Phase 3:

## Pre-Lease Design & Term Sheet Negotiation

### Step 3.1. Negotiate leasing terms of term sheet

The transaction manager/tenant representative issues a draft of the initial and subsequently full base building scope of work to the landlord, drafts a term sheet, and negotiates the term sheet. Throughout the negotiation process, the project manager reviews the term sheet with a focus on the scope of work and construction clauses.

**DCAS Lead:** L&A

**Partners:** D&PM, TR<sup>1</sup>

**Deliverables/ Signoffs:** Signed term sheet; signoff from client agency and project manager on preliminary plans and scopes of work

**Estimated Timeline:** 4 months

**Relevant Materials:** Term Sheet Template



Step 3.1 is concurrent to Steps 3.2–3.6.

### What's Next?

Proceed to **Step 3.7** once **Steps 3.2–3.6** are also complete.



L&A starts with Step 3.1, while D&PM starts with Step 3.2.



#### Lease Negotiation Guide

Refer to the Lease Negotiation Guide in the appendix for a detailed discussion of business terms.



#### Pros and Cons of Leasing to the City

There are advantages and disadvantages for a landlord when leasing space to the City of New York, and the tenant representative and transaction manager should be direct about each. The principle benefit of leasing to the City is that the City automatically and reliably pays rent on time and poses virtually no credit risk. However, landlords should also be aware that the City's processes for approving business terms, scopes of work, and leases are much slower than those of most private tenants. Some landlords are also reluctant to lease to public-facing agencies.



#### Foundational Market Research

Negotiations should build on a strong market analysis which includes the market trends and early comps pulled as part of the initial site search and should be supplemented by additional comps as needed.

<sup>1</sup> If a tenant representative project, tenant representative leads the negotiations.

# Phase 3:

## Pre-Lease Design & Term Sheet Negotiation

### Step 3.2 Prepare test fit and layout options

Using the information from the site report and P&E, the project manager/tenant representative performs a test fit and develops layout options which illustrate the circulation and preliminary furniture layout to ensure the space can accommodate the proposed use. The project manager works collaboratively with the client agency to iterate on the draft plans in order to ensure the client agency's needs are met. The client agency must give final approval of the test fit.

**DCAS Lead:** D&PM

**Partners:** Client Agency, TR<sup>2</sup>

**Deliverables/ Signoffs:** Test fit; signoff from client agency and project manager

**Estimated Timeline:** 6 weeks

**Relevant Materials:** D&PM Milestone Schedule

### What's Next?

Proceed to **Step 3.3**

### Step 3.3. Develop preliminary plan

The project manager/tenant representative develops a preliminary plan including power, A/V, security, and furniture, working with the client agency. The project manager and client agency then iterate on the plan until the client agency needs are met, at which point both the client agency and project manager must sign off on the preliminary plan before moving forward.

**DCAS Lead:** D&PM

**Partners:** Client Agency, TR<sup>3</sup>

**Deliverables/ Signoffs:** Preliminary plan; signoff from client agency and project manager

**Estimated Timeline:** 8 weeks+

**Relevant Materials:** Preliminary Plan Examples, D&PM Milestone Schedule Summary

### What's Next?

Proceed to **Step 3.4**

<sup>2</sup> If a tenant representative project, tenant representative produces materials and the project manager reviews and provides approval.

<sup>3</sup> If a tenant representative project, tenant representative works directly with the client agency to develop the preliminary plan. The project manager reviews the preliminary plan and provides approval.

# Phase 3:

## Pre-Lease Design & Term Sheet Negotiation

### Step 3.4. Measure the site

The project manager/tenant representative submits preliminary plans to the D&PM measurement group to calculate the rentable, usable and carpetable square footage. The D&PM director then signs off on site measurements, ensuring the site can support the proposed program, and sends the final numbers to the transaction manager.

↔ Step 3.4 is concurrent to Step 3.5

**DCAS Lead:** D&PM

**Partners:** TR<sup>4</sup>

**Deliverables/ Signoffs:** Site measurements; signoff from project manager and D&PM director

**Estimated Timeline:** 2 weeks (from the time the preliminary plans are signed off and the tenant representative's measurement report is received)

**Relevant Materials:** Measurement Guidelines, Measurement of Floor Plans, D&PM Milestone Schedule

### What's Next?

Proceed to **Step 3.6** once **3.5** is also complete



**Usable? Rentable? REBNY? BOMA?**

See the Lease Negotiation Guide in the Appendix for a guide to different measurements of square footage

### Step 3.5. Finalize tenant and base building scope of work

Using the site report, test fits, and preliminary plans the project manager/tenant representative develops a base building scope of work for all improvements to be paid for by the landlord, and a tenant scope of work for all improvements to be paid for by the City. The project manager, D&PM director, engineer, and client agency must sign off on final scopes of work before moving forward.

↔ Step 3.5 is concurrent to Step 3.4

**DCAS Lead:** D&PM

**Partners:** Client Agency, TR<sup>5</sup>

**Deliverables/ Signoffs:** Full tenant and base building scope of work; signoff from client agency, project manager, D&PM director and D&PM engineer

**Estimated Timeline:** 8 weeks+

**Relevant Materials:** Tenant and Base Building Scope of Work Templates and Examples, D&PM Milestone Schedule

### What's Next?

Proceed to **Step 3.6** once **3.4** is also complete

<sup>4</sup> If a tenant representative project, tenant representatives submit preliminary plans along with a Measurement Report for DPM Measurement Group verification.

<sup>5</sup> If a tenant representative project, tenant representative prepares the scope of work for project manager review.

## Phase 3:

# Pre-Lease Design & Term Sheet Negotiation

### Step 3.6. Develop a Not-to-Exceed (NTE) amount

Based on the scopes of work, the project manager/tenant representative works with the D&PM cost estimator to establish the Not-to-Exceed amount.

#### What's Next?

Proceed to **Step 3.7** once **3.1** is also complete

**DCAS Lead:** D&PM, L&A

**Partners:** TR<sup>6</sup>

**Deliverables/ Signoffs:** Not-to-exceed amount; signoff from the D&PM executive director

**Estimated Timeline:** 2 weeks

**Relevant Materials:** Not-to-Exceed Template, Scopes of Work (Base Building and Tenant), Tenant Representative's Cost Estimate, Measurements, Draft Term Sheet

### Step 3.7. Finalize and sign term sheet

The transaction manager ensures that the project manager has had the opportunity to review and comment on the term sheet. The transaction manager/tenant representative then collects the Landlord Disclosure and Doing Business Data Forms from the landlord and submits them to the Director of Lease Enforcement and Administration. Once all reviews and forms are finalized, and term sheet negotiations are complete, both the transaction manager and landlord sign the term sheet.

#### What's Next?

Proceed to **Step 4.1**

**DCAS Lead:** L&A

**Partners:** D&PM, TR<sup>7</sup>

**Deliverables/ Signoffs:** Final Term Sheet; signoff from transaction manager and landlord

**Estimated Timeline:** 6–8 weeks

**Relevant Materials:** Landlord Disclosure and Doing Business Data Forms

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<sup>6</sup>If a tenant representative project, the tenant representative develops a cost estimate for review and approval by the project manager. The project manager then sends the cost estimate to the D&PM cost estimator to develop the Not-to-Exceed amount.

<sup>7</sup>If a tenant representative project, the tenant representative works with the landlord to complete the required forms and submit them to the transaction manager.

# 4

## Approvals & Lease Finalization

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6 Months

**Goal:** Executed Lease

**Deliverables:** Appraisal, land use approval if necessary, OMB funding approval, approved green light from DMO/OMB, 824 Real property hearing, executed lease

**Partners:** (OMB) (CPC) (City Council) (Law Dept.) (MOCS)

# Phase 4:

## Approvals & Lease Finalization

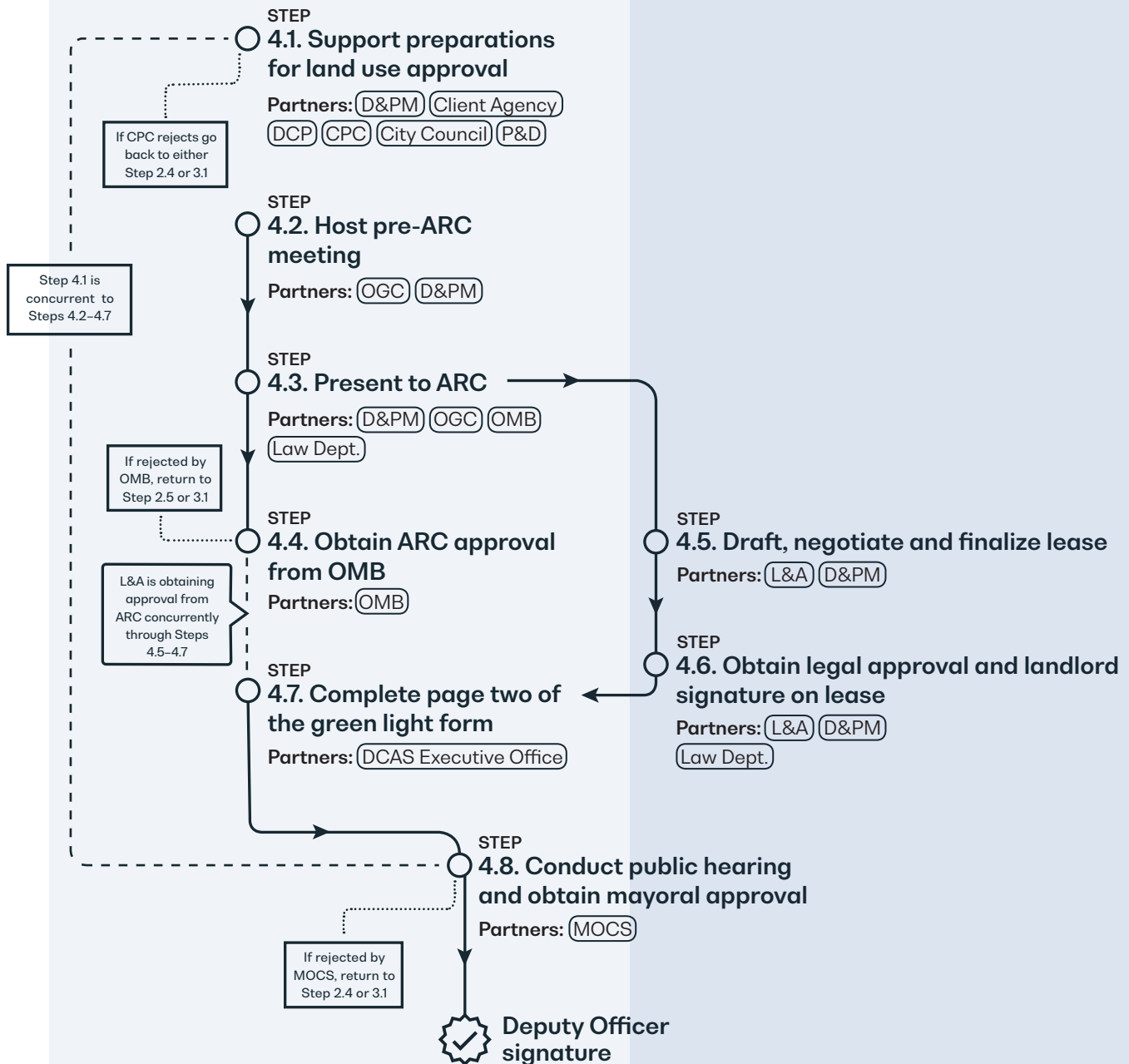
6 Months

Goal: Executed Lease



### L&A

### OGC





# Phase 4:

## Approvals & Lease Finalization

### Step 4.1. Support preparations for land use approval

The client agency prepares for the land use approval and reaches out to L&A and D&PM for any additional materials needed. The type of approval varies by lease type:

- a) **Office leases:** Section 195 of the New York City Charter dictates that acquisitions of office space or existing buildings for office use by the City, whether by purchase, condemnation, exchange or lease, are subject to approval by the City Planning Commission (CPC).
- b) **Non-office leases:** Section 197-c of the New York City Charter requires the use of the Uniform Land Use Review Process (ULURP). A ULURP is a public review process associated with land use and zoning laws which requires approval from both the City Planning Commission and City Council.

**DCAS Lead:** L&A

**Partners:** D&PM, Client Agency, DCP, CPC City Council, P&D

**Deliverables/ Signoffs:** ULURP or Section 195 hearing approval; approval vote from City Planning Commission and City Council (if a ULURP)

**Estimated Timeline:** 3 – 5 months (Section 195), 9 months-1 year (ULURP)

**Relevant Materials:** ULURP Process and Timeline

### What's Next?

If the lease is **rejected** by CPC, it returns to renegotiation of problematic lease term(s) (**Step 3.1**), or site selection (**Step 2.5**) depending on the reason the Term Sheet was rejected.

Otherwise, confirm that **Steps 4.4** through **4.7** are complete and then proceed to **Step 4.8**.

### Step 4.2. Host pre-ARC meeting

The transaction manager, project manager and attorney meet in advance of the Acquisitions Review Committee (ARC) meeting to review all of the materials in the ARC package (see ARC Checklist) and prepare answers to commonly asked questions. Following this session, the transaction manager revises the ARC package to incorporate team comments. One week in advance of the ARC meeting, the transaction manager submits the updated package for ARC to review in advance of the ARC meeting.

### What's Next?

Proceed to **Step 4.3**

**DCAS Lead:** L&A

**Partners:** OGC, D&PM

**Deliverables/ Signoffs:** Pre-ARC meeting

**Estimated Timeline:** Monthly

**Relevant Materials:** ARC Checklist: Lease Abstract, Memo for Calendar, Appraisal (if available, required for Tenant Rep projects), Map, Market Analysis (comps) Reports, Construction Cost Estimate (if applicable), Scope of Work (if applicable), Sq. Ft. Verification, Asbestos Report, Real Estate Tax (Finance Dept.) Check, Buildings Dept. Violations Check, Fire Dept. Violations Check, Landlord Disclosure Form (incl. Certificate of Good Standing), Vendex Check (if available)

## Phase 4:

# Approvals & Lease Finalization

### Step 4.3. Present to ARC

The ARC meeting includes OMB, the Law Department, and representatives from L&A, D&PM, OGC. The transaction manager presents the lease abstract and other ARC package materials to ARC and the team answers any questions that ARC poses. The DCAS team's goal for this meeting is for OMB to grant approval ("ARC approval") of project funding and lease terms.

**DCAS Lead:** L&A

**Partners:** D&PM, OGC, OMB, Law Dept.

**Deliverables/ Signoffs:** ARC meeting

**Estimated Timeline:** Monthly, one week post pre-ARC

**Relevant Materials:** None

### What's Next?

Proceed to **Steps 4.4 and 4.5.**

### Step 4.4. Obtain ARC approval from OMB

At or following the ARC meeting, OMB may grant approval of project funding and lease terms. If OMB rejects the lease, the transaction manager/tenant representative will need to renegotiate the lease terms.

**DCAS Lead:** L&A

**Partners:** OMB

**Deliverables/ Signoffs:** ARC approval, i.e. OMB approval of funding and lease terms

**Estimated Timeline:** 1–4 months

**Relevant Materials:** None



Step 4.4 is concurrent to Steps 4.5–4.7

### What's Next?

If project is **rejected** by OMB, return to either site selection (**Step 2.5**) or renegotiation of lease terms (**Step 3.1**).

Otherwise, proceed to **Step 4.8** once **Steps 4.1** through **4.7** are complete.

# Phase 4:

## Approvals & Lease Finalization

### Step 4.5. Draft, negotiate, and finalize lease

The project is assigned to an attorney within the DCAS Office of the General Counsel only after the project has a signed term sheet and lease abstract, and generally only after the site has completed land use approval. The assigned attorney drafts the lease based on the signed term sheet working closely with the transaction manager, project manager and landlord's attorney. The transaction manager helps translate all of the business terms from the signed term sheet and the project manager provides a review of Article 6 of the lease. Once the DCAS attorney and the landlord are in agreement on the lease language, the attorney obtains final signoffs from the project manager, D&PM Executive Director, transaction manager, L&A Executive Director, and DCAS Office of the General Counsel. The transaction manager also sends the Agency Approval Letter, the lease abstract, and calendar memo (prepared for the ARC package) to the client agency representative for their signature.

↔ Step 4.5 is concurrent with step 4.4.

#### What's Next?

Proceed to **Step 4.6**

### Step 4.6. Obtain legal approval and landlord signature on lease

The attorney sends the final lease to the Landlord for signature and then to the Law Department for review and approval as to form. The attorney then incorporates any changes requested by the Law Department and circulates the revised lease among the RES signatories (see Step 4.5) and the client agency to re-sign. The attorney discusses changes requested by the Law Department with the landlord and incorporates them into the lease for the landlord to sign.

↔ Step 4.6 is concurrent to Step 4.4

**DCAS Lead:** OGC

**Partners:** L&A, D&PM

**Deliverables/ Signoffs:** Final lease; signoff from project manager, D&PM Executive Director, transaction manager, L&A Executive Director, DCAS General Counsel's Office, landlord, and client agency

**Estimated Timeline:** Fastest deal was executed in 3 – 4 months, others may take years.

**Relevant Materials:** Agency Approval Letter Template



#### Lease Iteration

Negotiation of lease language is a highly iterative process, both internally among DCAS units, and externally with the landlord

**DCAS Lead:** OGC

**Partners:** L&A, D&PM, Law Dept.

**Deliverables/ Signoffs:** Final lease; signoff from Law Department

**Estimated Timeline:** 3 weeks

**Relevant Materials:** None

#### What's Next?

Proceed to **Step 4.7**

## Phase 4:

# Approvals & Lease Finalization

Step 4.7. Complete page two of the green light form

Prior to the Section 824 Real Property public hearing, the transaction manager completes the New Lease Request: Final Approval Form, also known as page two of the Green Light Form. In this form the transaction manager records a summary of the client agency's needs, details of the new lease such as head count, square footage, rent, costs, lease term and building class, a summary of sites considered for the client agency and their justification for selecting this particular site. This form must be submitted to and signed off by the OMB Budget Director and the Deputy Mayor for Operations.

**DCAS Lead:** L&A

**Partners:** DCAS Executive Office

**Deliverables/ Signoffs:** Page two of the green light form; signoff from Deputy Mayor for Operations and OMB Budget Director

**Estimated Timeline:** 1 day

**Relevant Materials:** New Lease Request: Final Approval Form (AKA page 2 of the Green Light Form)



Step 4.7 is concurrent to Step 4.4.

### What's Next?

Confirm that Steps 4.1 and 4.4 are also complete and then proceed to Step 4.8.



## Step 4.8. Conduct public hearing and obtain mayoral approval

Once the lease is signed by the Landlord and OMB approval is obtained, the transaction manager begins to prepare for the Section 824 hearing. First, the transaction manager updates the calendar memo to reflect any changes in the final terms of the lease. The transaction manager also prepares a cover letter for the attorney's review. Once the attorney has signed off on the cover letter and updated calendar memo, the transaction manager assembles the full Section 824 package and sends it to the Director of Lease Enforcement and Administration who obtains the Executive Director of L&A's signature and prepares the Notice of Public Hearing. Ten days after the public hearing, the transaction manager obtains the Mayoral Authorization Document (MAD) through the Mayor's Office of Contract Services (MOCS).

**DCAS Lead:** L&A, OGC

**Partners:** MOCS

**Deliverables/ Signoffs:** Executed lease; signoff from the mayor

**Estimated Timeline:** 30 days, Public Hearings occurs twice a month, except July and August (once), according to a schedule.

**Relevant Materials:** Calendar Memo Template, Section 824 Cover Letter Template

### What's Next?

Leases that **receive Mayoral approval** are **fully executed** via a signature from the Deputy Commissioner for Real Estate Services.

Leases that **do not receive mayoral approval** return to either site selection (**Step 2.4**) or renegotiation of lease terms (**Step 3.1**).



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# Appendix

## Lease Negotiation Guide

This section explains the lease terms that are most important for a transaction manager to understand. It also provides insights into typical landlord motivations in negotiating each term, DCAS’s own motivations, and the outcomes that DCAS prefers.

The lease terms in this section are divided into three groups; other lease terms are defined the Playbook Glossary.

**Group 1: Basic Terms.** Terms in this group are informed by market data and site characteristics, as well as generally accepted methodologies that can bring the tenant and landlord in fairly close alignment. While these terms are subject to negotiation, their parameters are fairly straightforward, and the transaction manager’s goal is typically to maximize or minimize a given variable. This group includes Premises, Term, and Rent.

**Group 2: Complex Terms.** In contrast to the most basic lease terms, the more complex terms in this group have no catch-all methodology for arriving at a consensus number, and require a transaction manager to carefully consider multiple dimensions. These terms entail many nuances, that, if not fully understood, can lead to disputes, overpayment, or other unfavorable outcomes. Skilled transaction managers prioritize these terms during negotiation. This group includes Use, Expenses and Alterations.

**Group 3: Bonus Terms.** Some terms vary greatly in importance from one lease to another depending on deal specifics. They tend to be complex, but may not be required in every lease. A transaction manager may negotiate these terms to ensure they are favorable to DCAS, but for many leases they may not be matters of priority. This group includes terms related to Expansion or Purchase.

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## Lease Negotiation Guide

### Group 1: Basic Terms

#### 1.1. Premises

The premises refer to the space that the tenant is leasing from the landlord, as described in the lease.

#### Square Footage

Occupancy costs are determined based on the rentable square feet (RSF) of the leased premises, which equals the usable square feet (USF) of the premises plus an approximation of the tenant's share of the building's common space. Therefore, the square footage calculation is a key factor setting costs. There are several types of square footage measurements:

- **Carpetable Square Feet (CSF):** This measurement standard is typically used by architects and refers to the total programmable area within the tenant's leased premises, i.e. where the workstations, offices, meeting rooms, closets, corridors, etc. will be. It does not include bathrooms in the building's core, or egress stairs, elevators, etc.
- **Usable Square Feet (USF):** The amount of space the tenant occupies. In NYC, landlords and tenants measure USF according to the standard set by the Real Estate Board of New York ("REBNY standard"), in which all area to the exterior of the building is considered usable, generally excluding common corridor areas, elevator shafts, stairwells, and mechanical space that serves the building. In most other cities, real estate professionals use the rules set by the Buildings Owners and Managers Association ("BOMA standard").
- **Rentable Square Feet (RSF):** The amount of space the tenant leases from the landlord, including all USF plus an approximation of the tenant's share of the building's common areas (lobbies, stairwells, and core spaces). In practice, the relationship between USF and RSF (called the "loss factor") is determined by the local real estate market and the use. In New York City, a typical loss factor for commercial buildings is 27%. The formula for loss factor ("LF") is:

$$LF = (RSF-USF)/RSF \quad \text{or} \quad RSF=USF/(1-LF) \quad \text{or} \quad USF=RSF \times (1-LF)$$

As an example, if a tenant is leasing a space with 73,000 USF and a 27% loss factor, the lease will list 100,000 RSF

In addition to these different types of square footage measurements, there are also two industry standards for measuring USF and RSF. While most of the country relies on the BOMA measurement system, in New York, landlords prefer to use the REBNY measurement system. The major differences between the BOMA and REBNY standards for the measurement of office space are (i) for USF, BOMA measures to the center of exterior walls while REBNY measures to the exterior of the building, and (ii) for RSF, BOMA adds certain spaces like restrooms and terraces to USF, while REBNY adds a loss factor that is determined by the market, rather than by measurement

**Typical Landlord Motivation:** Landlords are interested in larger measurements of USF and larger loss factors, each of which contributes to a larger RSF and potentially larger payments from the tenant. Landlords often "remeasure" spaces when they turn over in order to make sure they obtain the most favorable possible measurement – i.e. one office space that has 10,000 RSF may have a lease renewal with 11,000 RSF, even

# Appendix

## Lease Negotiation Guide

though the space itself has not changed at all. As mentioned above, loss factors are market-determined; they have also been growing over time.

**DCAS Motivation:** DCAS wants to be sure that all measurements of USF are accurate, that all costs calculated on the basis of square footage are clearly understood, and that the resulting costs are considered to be competitive within the given market. To ensure the accuracy of these numbers, DCAS always conducts its own space measurements rather than solely relying on the landlord's.

### 1.2. Term

#### Term

The amount of time for which the lease is in effect.

**Typical Landlord Motivation:** Most often the landlord is interested in agreeing to a longer term to make it easier for them to get financing. A longer lease term provides greater security and predictability for the landlord. In cases where the landlord is planning to overhaul or redevelop the building, their term motivations may differ.

**DCAS Motivation:** A longer lease term may allow DCAS to secure favorable lease terms now, mitigate market risks later such as significant rent increases, and avoid costs of moving or renewing the lease. On the other hand, shorter leases give the tenant greater flexibility to respond to changing staff needs. At the City, many of the client agencies are permanent departments which can reasonably support a 20-year lease agreement. However, some agencies have a short-term directive, which the client agency states in their P&E.

#### **DCAS Preferred Outcome:**

- First preference: A 20-year lease term, which is the longest possible term allowed under the New York City Charter.
- Second preference: Maximize the length of the lease term.

#### Rent Commencement Date

Date the tenant begins paying rent.

**Typical Landlord Motivation:** The landlord, already incurring costs whether or not there is a tenant reimbursing them, is eager to start the term and rent as soon as possible. As soon as the term begins, the tenant is responsible for insurance, indemnification, even in a free rent period.

**DCAS Motivation:** The client agency and DCAS want to move into the new space as quickly as possible (particularly if their previous lease is expiring). However, they do not want to begin obligations to the landlord before they can reasonably use both the private tenant space and common areas necessary to carry out their business functions.



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## Lease Negotiation Guide

### DCAS Preferred Outcome:

- Begin rent payments at the date of substantial completion as certified by DCAS, meaning that construction is complete to the point where the tenant can move in and commence occupancy

### Holdover

A holdover period commences when the tenant fails to vacate the leased premises at the end of the lease term and the landlord continues to accept rental payments. A holdover is a month-to-month arrangement, not an extension of the lease. The lease holdover clause outlines the special terms applied in these circumstances.

**Typical Landlord Motivation:** The landlord typically prefers all tenants to have a lease. Having holdover tenants hampers the landlord's ability to plan for the premises and creates greater risk for the landlord that the tenant may leave quickly and the landlord will be stuck paying for vacant space. As a result, landlords seek to charge a premium for tenants who stay past the expiration of their lease.

**DCAS Motivation:** While tenants always want to avoid going into a holdover period, which increases their rent payments, DCAS can take several months or even years to extend a renewal or new lease in an alternative building. As a result, holdover payments are a frequent reality for the City and so they are motivated to seek the most favorable terms possible (a.k.a. lowest increase in rent).

### DCAS Preferred Outcome:

- First preference: No rent penalty during the holdover period.
- Second preference: Keep the existing rent payment for two to three months, then introduce gradual step increases over six months to a maximum of 125%, or no more than 150%.

### Renewal Right

The tenant may have the option to renew the lease for a specified term and a specified number of times, typically with obligations agreed upon in the original lease.

**Typical Landlord Motivation:** Depending on the terms of the renewal, the landlord may be more or less in favor of including this clause. For example, if the renewal clause commits the tenant to paying fair market value at the time of renewal, then the landlord is likely to be in favor of the clause. However, if the tenant is looking to negotiate a discount in rent, of say 85% of fair market value, the landlord may prefer not to include the option and instead prefer to take the risk of searching for a new tenant and covering the costs of the vacant space in the interim.

**DCAS Motivation:** DCAS prefers multiple, long-term renewal options. The bargaining tool from the tenant's perspective is their ability to provide the landlord with certainty and consistent income rather than forcing the landlord to re-lease the space and risk a period of vacancy.

### DCAS Preferred Outcome:

- Inclusion of a renewal option at 85% – 95% of fair market value rent.

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## Lease Negotiation Guide

### Contraction and Termination Rights

The tenant may have the right to reduce the square footage leased by an agreed amount, or to end the lease before the end of the term, under certain specific circumstances.

**Typical Landlord Motivation:** Landlords want to minimize their risk of vacancy in the building, and therefore try to limit the conditions under which a tenant may contract or terminate the lease, or otherwise impose significant penalties for doing so. Typically, penalties are designed to help the landlord recoup unamortized costs related to the lease, such as any landlord contributions to tenant improvements or broker commissions.

**DCAS Motivation:** The contraction option is particularly valuable for DCAS when renting on behalf of client agencies with shorter-term or less consistent directives or staffing patterns because it reduces the risk that they will be saddled with lease payments on a space the client agency no longer needs. The termination right is always important no matter the tenant to allow even consistently staffed agencies to move if the space no longer works for them.

#### **DCAS Preferred Outcome:**

- Inclusion of contraction right and termination right.
- Minimal contraction/termination penalty.

## 1.3. Rent

### Base Rent

The amount paid by the tenant to lease the space from the landlord is known as the base rent. The amount paid in base rent often depends on the type of lease and other lease provisions.

- **Net Lease:** In a net lease, the landlord passes all operating expenses to the tenant. As a result, the base rent payment may be lower as more of the building costs are covered through operating cost payments.
- **Modified Gross Lease:** In a modified gross lease, the tenant pays the operating expenses above a threshold amount (the base year). As a result, the base rent payment may be higher because it must cover operating expenses.
- **Gross Lease:** In a true gross lease the landlord agrees to pay all expenses meaning that all operating costs are factored into the base rent (gross rent), and therefore the base rent is likely to be the highest. (See the Expenses section for more detail.)

Base rent similarly depends on other business terms of the lease driven up or down by additional landlord or tenant responsibilities

**Typical Landlord Motivation:** In general, the landlord is negotiating for the largest payout over the full term of the lease. This may come in the form of a higher base rent or alternatively in a greater share of expenses being passed through to the tenant.

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## Lease Negotiation Guide

**DCAS Motivation:** In direct contrast to the landlord, the tenant is negotiating for the lowest possible amount over the full term of the lease, whether that is through a lower base rent or lower share of expenses.

**DCAS Preferred Outcome:**

- Market-competitive rent.
- Typical DCAS leases are modified gross.

### Free Rent

Period of time following lease commencement date, when the lease is in effect and the tenant moves in but does not yet start paying base rent.

**Typical Landlord Motivation:** In a renter's market, landlords may offer a free rent period in order to attract tenants. Even while this means the landlord is foregoing rent payments, the tenant at this time does cover insurance and additional rent which, depending on the type of lease, includes items such as real estate taxes and operating expenses. Free rent periods also allow the landlord to lower the tenant's effective rent (total cost divided by total RSF per year) without lowering the rent for marketing purposes.

**DCAS Motivation:** Tenants are interested in free rent periods, which decrease their effective rent payments over the term of the lease. However, the extended timeframe DCAS requires in order to execute a lease and build out their space often reduces the landlord's likelihood of agreeing to a free rent period.

**DCAS Preferred Outcome:**

- Free rent period that results in market-competitive effective rent.

## Group 2: Complex Terms

### 2.1. Use

The lease specifies the uses that are allowed on the premises.

#### Assignment and Subletting

In the event that the intended use or client agency's needs change, the assignment and subletting clause describes when and to whom a tenant may assign or sublet their leasehold. An assignment involves a transfer of all of the tenant's interest while in a sublet the original tenant remains responsible.

**Typical Landlord Motivation:** Depending on the landlord, they may prefer to restrict the type of users in their building. For instance, the landlord may prefer office tenants as opposed to agencies that provide services or take appointments with specific visitors. In another example, the landlord may prohibit mayoral units or identify a small group of specific agencies permitted in the space.

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## Lease Negotiation Guide

**DCAS Motivation:** DCAS is interested in increasing the flexibility of their lease obligations, and therefore in their ability to fill the premises with any agency looking for space. DCAS would like to avoid notice requirements which sometimes accompany an assignment or sublet, and which trigger signatures and elongate their internal review process.

**DCAS Preferred Outcome:**

- First preference: Any agency, office, board or department of the City of New York may use the space.
- Second preference: Minimize restrictions on uses by identifying specific entities excluded from uses.

## 2.2. Expenses

All landlords incur a wide range of costs to operate, manage and maintain a building. In a true net lease, all of these costs are passed directly on to the tenant; in a true gross lease, costs are borne by the landlord and included in the gross rent; and in a modified gross lease, some costs are included in the base rent. In principle, it is reasonable for the tenant to reimburse the landlord for some share of the total costs for operating a building. However, there are also a variety of ways in which the expense clauses can be structured to allow the landlord to recoup their expenses and, in addition, extract additional profit from the tenant. It is therefore important that the tenant's representative carefully consider the expense clauses and prevent them from becoming an additional profit center for the landlord.

### Operating Expenses (OpEx) and Real Estate Taxes (RET)

Operating expenses are the costs incurred by the landlord to operate, manage and maintain the building. Tenants typically pay a pro-rata share of specific expense items agreed to in the lease. Real estate taxes are conceptually similar to other operating expenses, but are typically handled in a separate clause of the lease.

**Typical Landlord Motivation:** Landlords would like tenants to cover the largest possible share of operating costs to reduce the landlords' non-reimbursed expenses. This can be done by making the definition of operating expenses as broad and inclusive as possible. Furthermore, landlords may try to include provisions that allow the tenant's OpEx payments to exceed the landlord's actual costs for operating the space, thereby creating a profit center.

**DCAS Motivation:** As the tenant, DCAS is interested in minimizing the City's costs in three major ways:

- **Limiting the List:** Limiting the items included in the definition of operating expenses.
- **Getting the Base Year Right:** In a modified gross lease, ensuring that expenses in the base year defined in the lease are not artificially low, which would place a large burden on the tenant when there are large increases in expenses in subsequent years. Base year expenses may be artificially low for a few reasons:
  - ↳ **Leased versus Leasable Space:** When estimating the pro rata share of OpEx that will be paid for by the tenant, the ratio may be calculated as the tenant's occupied space over the current leased space or the total leasable space. The leased space is the currently occupied space whereas the leasable

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## Lease Negotiation Guide

space is the total rentable square footage in the building/building complex. The former transfers the risk of building vacancy to the tenant, while the latter leaves the risk with the landlord. Relatedly, on tax lots with multiple buildings, garages etc., the tenant must be careful to ensure they are only covering real estate taxes related to their specific building and are not, for instance, going to be responsible for improvements to the building or garage next door.

- ↳ **High Vacancy:** If the building has a low level of occupancy, it may signal that in future years as the landlord attempts to lease up the building, they may invest in building improvements that can drive up the assessed value and therefore the tax bill of the property. In this case the tenant may want to include a provision insisting the base year be based on 90% occupancy.
- ↳ **Building Incentives:** Some building owners receive time-limited property tax abatements or exemptions. If the base year falls within the abatement period, the tax bill will increase significantly in future years.
- **Maintaining the Right to Audit:** In order to ensure the tenant is paying an accurate share of expenses, the tenant seeks the right to audit the landlord.

In addition, the tenant typically wants to avoid paying a flat rate for escalation of operating expenses over the base year. For example, if the operating expense escalation rate in the lease is set at 5% per year, while actual operating expenses only increase by 3% per year, the landlord makes an additional 2% in profit. Any inflation adjustment should be compounded annually; more frequent compounding can lead to significantly higher costs over time.

### DCAS Preferred Outcome:

- Inclusion of right to audit.
- Actual escalations in operating expenses over the base year, not to exceed a 5% annual increase.

## Electricity

Building electricity may be configured in one of three ways:

- **Direct Metering:** In a direct-metered building, each individual tenant contracts directly with the third-party electrical provider and pays them. In this case there must be an existing or newly-installed electricity meter in the space.
- **Submetering:** In a submetered building, the landlord contracts directly with the electrical provider then bills the tenant for their cost.
- **Rent Inclusion:** In other cases, electricity may be included in the base rent as a fixed amount per square foot. A fixed fee is not directly dependent on the actual cost of electricity and typically includes some profit for the landlord.

**Typical Landlord Motivation:** In order to increase their profit, the landlord may be motivated to use submetering under which they may be able to include an administrative charge. With direct metering, as the bills are paid directly by the tenant, the landlord cannot take a cut. For rent inclusion, this may be more or less desirable for the landlord depending on the number negotiated in the base rent. If the number is consistently

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## Lease Negotiation Guide

higher than actual costs, rent inclusion is preferable; if the number is consistently lower than actual costs, rent inclusion is likely not preferable.

**DCAS Motivation:** The City receives discounts on electricity via the New York Power Authority (NYPA) and therefore receives a discount when they pay for electricity directly.

**DCAS Preferred Outcome:**

- First preference: Direct metering, if available.
- Second preference: If the building is not configured for direct metering, the transaction manager or tenant representative should consult with the DCAS Division of Energy Management to evaluate whether the long-term savings in electricity costs of direct metering outweigh the short-term capital costs to install the infrastructure needed for direct metering in the building.

### Landlord Services

In addition to electricity, the landlord is responsible for other services necessary to maintain the building. The principal items include fuel, water, maintenance of common areas, elevator service, heat, ventilation and air-conditioning (HVAC), and trash removal. Agreements regarding the hours of service provision (in particular, any tenant needs for after-hours services) are critical and can often have a significant impact on the cost of the lease.

**Typical Landlord Motivation:** Providing additional building services creates an additional cost for the landlord and some services may be difficult to scale down for a single tenant so the costs may be significant.

**DCAS Motivation:** Certain agencies and units require special services that may not typically be included in the lease (such as showers) or have uses outside of normal business hours. Due to these needs, DCAS as the tenant must clearly outline these needs and negotiate all service needs early on, trying to keep the costs as low as possible.

**DCAS Preferred Outcome:**

- To the extent possible, the base agreement should include all of the client agency's service needs during regular business hours, with minimal cost premiums for HVAC and other services after hours.

## 2.3. Alterations

There are two clauses in a typical lease that deal with alterations to the premises:

- **Alterations by Tenant:** This clause lists the type of alterations to the premises that require landlord approval, versus those that do not require landlord approval, and the ownership of that property.
- **Alterations and Improvements:** Also known internally at DCAS as Article 6, this clause outlines all work that will be done and the terms under which it will be completed. It includes both the base building scope of work and tenant scope of work.

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**Typical Landlord Motivation:** As the owner of the building, the landlord wants to have a say over any changes made to the building which could affect the future marketability of the space and the cost of re-altering the space for the next tenant.

**DCAS Motivation:** Alterations and improvements that are the responsibility of DCAS as the tenant are paid for via the City's capital funds, while rent payments are paid for using the City's expense budget. As there is typically a greater amount of funds available to DCAS through the capital budget, DCAS prefers to be responsible for the costs of alterations and improvements and therefore pay a correspondingly lesser amount in rent.

**DCAS Preferred Outcome:**

- Built-to-suit, rather than turnkey leases.

## Group 3: Bonus Terms

### 3.1. Expansion or Purchase

#### Expansion Option

The tenant may have the option to lease additional space in the building at a future date and at already agreed upon terms.

**Typical Landlord Motivation:** Generally, landlords prefer to give a tenant a right of first offer (see below) than an option, because an option gives the tenant more unilateral power to expand under specified terms. As a potential advantage for the landlord, an option to expand may help to fill vacant space in the building without needing to incur all the costs associated with finding a new tenant. On the other hand, it may lock the landlord into a deal with an existing tenant that is less lucrative than one they could make with a different prospective tenant – or by negotiating with a different tenant. This can be problematic for the landlord's ability to maximize future income streams, and to obtain financing based on those income streams. Landlords therefore want to limit the conditions under which the expansion option may be exercised by, for example, specifying that the tenant must exercise the right within a certain (typically short – e.g. six months) time of lease execution.

**DCAS Motivation:** The expansion option benefits DCAS by providing additional flexibility in the lease and allowing DCAS to add more space if the client agency grows, without committing to that additional space at the time of the lease. DCAS could also utilize vacant space in the building for other agencies that are looking for new space, reducing the amount of work needed for the site selection process and potentially gaining efficiencies of scale. However, the long timeframe needed to execute an agreement may preclude DCAS from being able to act on an expansion option; DCAS may not be able to meet the agreed-upon timeline required by the landlord, who is motivated to fill the space as quickly as possible.

# Appendix

## Lease Negotiation Guide

### DCAS Preferred Outcome:

- Inclusion of expansion option.
- Flexible conditions under which the option may be exercised.
- Favorable terms for the expansion space, mirroring the terms for the primary leased premises.
- Maximum advance notification of additional space in the building being made available.

### Right of First Refusal (ROFR)

If an existing tenant has the right of first refusal on its own leased space or another space, the landlord may enter into negotiations with any prospective tenant for the space; however, once the terms are negotiated, the landlord is obligated to disclose the terms to the existing tenant (i.e. the tenant with the ROFR), who then has a period of time to accept those terms or waive their rights to the space in question.

**Typical Landlord Motivation:** Landlords generally resist granting a right of first refusal; indeed, they are very rare. A landlord wants to ensure that the terms under which the tenant can trigger the right of first refusal do not deter other prospective tenants from entering into costly negotiations, since the prospective tenant could be replaced at the last moment. A landlord also wants to require the existing tenant to respond quickly so as not to push away prospective tenants who may need to move in on a tight timeline.

**DCAS Motivation:** Newly vacant space in an existing DCAS leased building may meet the needs of a growing client agency in the existing space, or alternatively the needs of another client agency seeking new space at the time. Exercising a right of first refusal could reduce the time needed for a typical site search. However, given the long timeframe required by DCAS to sign a lease, it may not be possible for DCAS to realistically meet the timeframe set out by the landlord in the lease.

### DCAS Preferred Outcome:

- Inclusion of right of first refusal.
- A review period that DCAS can realistically meet.

### Right of First Offer (ROFO)

If a tenant has a right of first offer on a space, the landlord must allow the tenant to make an offer to lease or purchase that space before entertaining offers from other potential tenants or buyers. However, this does not obligate the landlord to accept the tenant's offer. The details of the right of first offer are specified in the lease. Typically, a ROFO just means that the landlord will notify the tenant that a space is becoming available for lease.

**Typical Landlord Motivation:** Compared to an option or right of first refusal, the right of first offer is less onerous for the owner as the tenant simply has the ability to make a bid within a defined period of time, and the landlord is free to accept or reject the offer.



# Appendix

## Lease Negotiation Guide

**DCAS Motivation:** Motivations are similar to those for the expansion option. There may be special cases in which the City is particularly interested in a right of first offer to purchase a property. For example, the City has perpetual needs for certain hard-to-site uses, such as storing trucks in dense areas with high land values; the City therefore may be interested in purchasing a property used for truck storage if and when the property is put up for sale.

**DCAS Preferred Outcome:**

- Inclusion of a right of first offer to purchase a property, particularly for hard-to-site uses.
- Inclusion of right of first offer, as a next-best-alternative compared to an option or right of first offer.

# Appendix

## Glossary

Term	Definition
Acquisitions Review Committee (ARC)	This committee meets monthly to review proposed lease terms, scopes of work, and cost estimates as well as other materials RES includes in the ARC presentation package. ARC meetings are attended by representatives from OMB, the Law Department, as well as the L&A transaction managers, DCAS attorney, and D&PM project manager.
Agency Headcount	Number of current employees working at the client agency.
Agency Needs Tracking System (ANTS)	The system that DCAS and OMB use to track agency requests for space.
ANTS	See Agency Needs Tracking System
Appraisal	An estimate of the specified property's value as determined by an appraiser.
ARC	See Acquisitions Review Committee
Archibus	Software platform that helps property owners understand and manage their buildings. Once the City's implementation of Archibus is complete, it will contain detailed information, including CAD floorplans, for all City-owned and leased space.
Article 6 (Alterations and Improvements Clause)	this clause outlines all work that will be done to the space and the terms under which it will be completed. It includes both the base building scope of work and tenant scope of work. The clause also details the tenant's rights with respect to site alterations and construction. This may involve uninhibited alteration/construction, approval by the landlord before changes are made, or the inability to alter the land and any existing structures.
Assignment and Subletting	Clause describing when and to whom a tenant may assign or sublet their leasehold. An assignment involves a transfer of all of the tenant's interest while in a sublet, the original tenant remains responsible.
Audit	Examination of the landlord's books and records to verify the accuracy of all statements made by the landlord to the tenant. A tenant often wants to retain the right to audit the landlord's records pertaining to operating expenses, taxes, etc., to ensure that all costs passed on to the tenant are allowable according to the lease terms.
AutoCAD	Computer-aided design and drafting software.
Base Building Scope of Work	Detailed description of the portion of building improvements to be paid for by the landlord.
Base Year	In a modified gross lease, the landlord agrees to cover the amount of operating expenses incurred in the base year, i.e. base-year operating expenses are included in the base rent. In subsequent years, the tenant is responsible for any operating expenses above those incurred in the base year, according to a formula established in the lease.
Baseline P&E	A space plan developed by the D&PM project manager based only on the head count of the client agency. As a result, it typically represents a baseline estimate of square footage needed by the client agency, which most often increases as the client agency discusses their operational needs with the project manager in later design phases. This is developed while the client agency is still drafting their P&E, and is developed in order to allow the L&A transaction manager to begin looking for new space.

# Appendix

## Glossary

Term	Definition
BOMA Measurement, BOMA Standard	Industry floor measurement standards developed by the Building Owners and Managers Association International (BOMA). Not used in NYC, where REBNY standards are used. The major differences between the BOMA and REBNY standards for the measurement of office space are (a) for USF, BOMA measures to the center of exterior walls while REBNY measures to the exterior of the building, and (b) for RSF, BOMA adds certain spaces like restrooms and terraces to USF, while REBNY adds a loss factor that is determined by the market, rather than by measurement.
Broker Commission	See Tenant Representative Commission
CAM	See Common Area Maintenance
Capital Funds	City funds spent on capital projects, i.e. those with a value of \$35,000 or more and a useful life of at least 5 years, including construction and repairs as well as purchases of land, buildings, or equipment. The City typically finances capital projects through the sale of bonds. In the context of the RES lease-in process, funds for tenant fit-out are typically capital funds, while funds for paying rent are typically expense funds.
Carpetable Square Feet (CSF)	This measurement standard is typically used by architects and refers to the total programmable area within the tenant's leased premises, i.e. where the workstations, offices, meeting rooms, closets, corridors, etc. will be. It does not include bathrooms in the building's core, or egress stairs, elevators, etc.
Certificate of Occupancy (CO or C/O or C of O)	Issued by the NYC Department of Buildings (DOB), a document that states a building's permitted use(s) and/or occupancy. Must be updated for any change in use, egress or type of occupancy. A final CO or Temporary Certificate of Occupancy (TCO) is required before a building may be occupied. The building's current CO should be included in any site report.
City Planning Commission (CPC)	A 13-member board appointed by the Mayor, Borough Presidents and Public Advocate. The CPC is responsible for land use review, including City acquisition of real property by purchase or lease via Section 195 for office or ULURP for all other uses.
City-leased Properties	Properties owned by private landlords, leased by the City of New York.
City-owned Properties	Properties owned by the City of New York.
Client Agency	The agency on whose behalf DCAS is leasing space.
CO or C/O or C of O	See Certificate of Occupancy
Common Area Maintenance (CAM)	Expenses passed through to the tenant for maintaining areas of a property used in common by all occupants. Typically calculated based on each tenant's pro-rata share of the building's total RSF.
Common Areas	All areas neither leased or available for lease that are available for use by all tenants in the building or complex.
Condemnation	Lease clause describing what happens in the event that all or some of the property is taken by a public or quasi-public agency.
Construction Clause	See Article 6

# Appendix

## Glossary

Term	Definition
Consumer Price Index (CPI)	A common measure used to assess inflation, or changes in the cost of living. It is calculated as the change over time in the weighted average prices of an array of typically consumed goods and services.
Cost Estimation Group	Team within D&PM responsible for developing project cost estimates.
CPC	See City Planning Commission
CPI	See Consumer Price Index
CSF	See Carpetable Square Feet
D&PM	See Design & Project Management Unit
DCAS	See NYC Department of Citywide Administrative Services
DCP	See NYC Department of City Planning
Default Clause	Conditions under which the “Lessee” will be determined to have defaulted on the lease; often because of failure to remit “Rent.”
Demised Premises	The agreed upon area for which the lease is applicable. May also be referred to as premises, leased premises, or leased space.
Deputy Mayor for Operations (DMO)	Leads the Mayor’s Office of Operations, which manages and coordinates multiagency initiatives.
Design & Project Management Unit (D&PM)	RES unit that delivers comprehensive project management and design expertise to fulfill client agencies’ operational and space needs. D&PM is responsible for providing Project Management Services for the renovation of leased space including programming, preliminary design, scope of work development, cost estimating, space measurement verification and construction administration, and other services. D&PM assists the L&A staff in the site selection, evaluation and eventual negotiation of the alteration and improvement section of the term sheet and lease.
Direct Metered of Electricity	In a direct-metered building, each individual tenant contracts directly with the third-party electrical provider and pays them. In this case there must be an electricity meter already installed in the space.
DMO	See Deputy Mayor for Operations
Eminent Domain	The power of a government entity to expropriate private property for public use. The entity using this power is required to provide the property owner with just compensation.
Environmental Matters Clause	Clause outlining who is responsible, among the tenant and landlord for environmental matters, and under what conditions, should environmental issues arise.
Estoppel Certificate	Signed statement by a party certifying a lease is in force. A landlord may request that a tenant provide an estoppel certificate in support of a lender’s attempts to verify the property’s income.
Expense Funds	Funds for the City’s daily operations, financed by taxes and other city revenues in addition to state and federal funds, but not through bonds or other debt instruments. In the context of the RES lease-in process, funds for paying rent are typically expense funds, while funds for tenant fit-out are typically capital funds.
Fair Market Value (FMV)	The agreed upon market value of the premises; often used to calculate rent.
FDM	See First Deputy Mayor

# Appendix

## Glossary

Term	Definition
First Deputy Mayor (FDM)	Responsible for carrying out the Mayor's agenda.
FMV	See Fair Market Value
Force Majeure	Occurrences out of the party's control which excuse them of their obligations under the lease.
Full Narrative Appraisal	A full narrative appraisal is more detailed than a restricted appraisal and is usually composed for appraisers and property management professionals who are familiar with the appraisal process.
GIZMO	The GIZMO is an online questionnaire that the tenant representative and/or project manager gives the client agency to complete in order to communicate the client agency's space needs. The information collected from the GIZMO is used in drafting the P&E.
Green Light Form	Form completed by PPM in Phase 1 to signify a client agency's space needs can only be met with a new lease. The Final Approval Form, also known as Page 2 of the Green Light Form, is completed by L&A in Phase 4.
Gross Lease (vs. Net or Modified Gross Lease)	Requires a landlord to pay all operating costs, i.e. all operating costs are included in the rent. A true gross lease is rare, whereas a modified gross lease is fairly common.
Gross Square Feet (GSF)	Total square footage of a building, including all spaces used by a tenant and all spaces not used by a tenant (e.g. maintenance areas and building core).
GSF	See Gross Square Feet
Holdover Period	When the tenant fails to vacate the leased premises at the end of the lease term and the landlord continues to accept rental payments on a month-to-month basis without a long-term agreement. The lease holdover clause outlines the special terms applied in these circumstances, which often include a penalty or rent increase.
Insurance Requirements	The lease clause that specifies any insurance that is required. The City self-insures its leases, rather than contracting with a third-party insurer. The Law Department sets specific construction insurance requirements, which are non-negotiable.
Integrated Property Information System (IPIS)	RES database of City-owned and leased properties, used for property and transaction tracking and management.
IPIS	See Integrated Property Information System
L&A	See Leasing & Acquisitions Unit
Landlord (LL)	The lessor, i.e. the owner leasing the site to the tenant or lessee.
Landlord's Scope of Work	See Base Building Scope of Work
Lease Abstract	Short summary of the full lease.
Lease Negotiator	Another term for Transaction Manager.

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## Glossary

Term	Definition
Lease Renewal Background Survey (LRBS)	Survey completed by a client agency applying for a lease renewal.
Lease-in	The process of the leasing from the tenant's perspective, e.g., the City leasing space from a private landlord.
Lease-out	The process of the leasing from the landlord's perspective, e.g., the City leasing City-owned space to a private tenant.
Leased Space vs. Leasable Space	When estimating the pro rata share of expenses that will be paid for by the tenant, the share may be calculated as the amount of space leased to the tenant divided by either (a) the amount of space in the building that is currently leased or (b) the total amount of leaseable space in the building. The former transfers the risk of building vacancy to the tenant, while the latter leaves the risk with the landlord.
Leasing & Acquisitions Unit (L&A)	RES unit responsible for identifying and leasing private space on behalf of the City for Mayoral agencies and some elected officials. L&A's objective is to negotiate timely, cost-effective leases that satisfy the client agency's requirements, while also conforming to the City's requirements, policies and procedures
Lessee	The tenant, i.e. the entity leasing the site from the landlord or lessor.
Lessor	The landlord, i.e. the owner leasing the site to the tenant or lessee.
LF	See Loss Factor
LL	See Landlord
Loss Factor (LF)	The percentage difference between RSF and USF. Formula: $LF = (RSF - USF) / RSF$
LRBS	See Lease Renewal Background Survey
MAD	See Mayoral Authorization Document
Mayor's Office of Contract Services (MOCS)	Oversees City procurement and other contracting issues. MOCS provides final signoff on each lease project from the Mayor.
Mayoral Authorization Document (MAD)	Authorizing document that provides the mayor's signature for a lease.
MOCS	See Mayor's Office of Contract Services
Modified Gross Lease (vs. Net or Gross Lease)	Requires a landlord to pay all operating costs for a base year, i.e. the base-year operating costs are included in the base rent or base amount agreed to by the landlord and tenant. In subsequent years, the tenant is responsible for any operating expenses above those incurred in the base year, according to a formula established in the lease.
Net Lease (vs. Gross or Modified Gross Lease)	Requires the tenant to pay rent as well as expenses. Expenses are typically grouped into three categories -- maintenance, property taxes, and insurance -- and therefore a lease in which the tenant is required to pay all of these expenses are termed "triple-net" or "NNN."
Net Square Feet (NSF)	Area available for use by the tenant.
New Space Request Form	Form completed by client agencies seeking new, expanded or renewed space.

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## Glossary

Term	Definition
Not-to-Exceed Amount	Agreed upon dollar value in the lease document that the cost of the project will not exceed. Generally inclusive of design services and all construction related work.
NSF	See Net Square Feet
NYC Capital Planning Platform	Online mapping tool developed by DCP to visualize City-owned buildings among other things.
NYC Department of City Planning (DCP)	New York City's land use agency.
NYC Department of Citywide Administrative Services (DCAS)	Agency providing support for the operation of New York City government.
NYC Mayor's Office of Management and Budget (OMB)	New York City government's chief financial agency.
Office of the General Counsel, DCAS (OGC)	Oversee all legal affairs within DCAS.
OGC	See Office of the General Counsel, DCAS
OMB	See NYC Mayor's Office of Management and Budget
Operating Expenses (OpEx)	In multi-tenant office buildings, operating expenses are the costs incurred by the landlord to operate, manage and maintain the building. Typically, tenants pay a pro-rata share of specific expense items agreed to in the lease.
OpEx Cap	A Not-to-Exceed amount for operating expenses agreed to by both tenant and landlord specified in the lease. Alternatively, a cap on the rate of growth or escalation in operating expenses.
Options to Expand or Contract	Tenant has the option to expand into additional available space in the building or to shed part of its currently occupied space at a future date.
P&E	See Personnel & Equipment Form
Penalty	Terms, often financial, for allowing a default to occur or occur without remedy within the specified time period.
Permitted Transfers	Circumstances in which the tenant is allowed to freely transfer interest in the lease.
Personnel & Equipment Form (P&E)	A summary of all the spatial project requirements and the square footage required for each of them.
Portfolio Planning & Management Unit (PPM)	RES unit responsible for optimizing the ways the City uses its owned and leased spaces. PPM provides long-term strategic portfolio planning; catalogs City-owned and leased office space; maximizes utilization in owned space; and evaluates all office space requests to ensure a new private lease is truly necessary.

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## Glossary

Term	Definition
Portfolio planning specialist	PPM staff member from PPM's Client Agency Planning group assigned to a project.
PPM	See Portfolio Planning & Management Unit
Preliminary Plan	Detailed architectural layout of the proposed project that includes power/ data, A/V (audio/visual) and security requirements in addition to the space planning and furniture information already included on the test fit.
Project Manager	D&PM architect assigned to manage all program and design aspects of a project.
Project Team	RES staff and others assigned to each project; generally includes a portfolio planning specialist (during Phase 1 only), transaction manager, project manager, tenant representative and attorney.
Real Estate Services (RES)	DCAS Real Estate Services division.
REBNY Measurement, REBNY Standard	Industry floor measurement standards developed by the Real Estate Board of New York (REBNY), and used in NYC. The major differences between the BOMA and REBNY standards for the measurement of office space are (a) for USF, BOMA measures to the center of exterior walls while REBNY measures to the exterior of the building, and (b) for RSF, BOMA adds certain spaces like restrooms and terraces to USF, while REBNY adds a loss factor that is determined by the market, rather than by measurement.
Recapture	Clause giving the landlord the right to take back the leased premises under specified circumstances.
Red Light Form	Form completed by the PPM portfolio planning specialist in Phase 1 to signify that a space request can be accommodated within existing City-owned or leased property and therefore does not warrant a new lease.
Remedy	Conditions under which a Default can be cured, usually within a set period of time.
Renewal	Terms for renewal; could include automatic renewal upon lease expiry, the option to renew with new negotiations, or no option to renew.
Rent	The payment made by the tenant/lessee to the landlord/lessor for use space.
Rent Inclusion for Electricity	In other cases, electricity may be included in the base rent as a fixed amount per square foot. A fixed fee is not directly dependent on the actual cost and typically includes some profit for the landlord.
Rent Reset	The time interval at which the rent is reset. This can be tied to CPI or other inflationary indices, or a total reset of rent based on fair market value, a process similar to that for determining the initial rent.
Rentable Square feet (RSF)	Amount of space tenant leases from the landlord. In NYC, landlords and tenants measure USF according to the standard set by the Real Estate Board of New York ("REBNY standard"), and then apply a market-determined loss factor to calculate the RSF. Formula: $RSF = USF / (1 - LF)$
Repairs and Maintenance Clause	Assigns responsibility for repairs and maintenance to the "Lessor" and "Lessee" for the term of the lease.
RES	See Real Estate Services



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## Glossary

Term	Definition
Restricted Appraisal	Concise summary of the appraisal that is comprehensible to non-industry professionals. Less detailed than a full narrative appraisal.
Right of First Offer (ROFO)	If a tenant has a right of first offer on a space, the landlord must allow the tenant to make an offer to lease or purchase that space before entertaining offers from other potential tenants or buyers. However, this does not obligate the landlord to accept the tenant's offer. The details of the ROFO will be specified in the lease.
Right of First Refusal (ROFR)	If an existing tenant has the right of first refusal on a space, the landlord may enter into negotiations with any prospective tenant for the space; however, once the terms are negotiated, the landlord is obligated to disclose the terms to the existing tenant (i.e. the tenant with the ROFR), who then has a period of time to accept those terms or waive their rights to the space in question.
ROFO	See Right of First Offer
ROFR	See Right of First Refusal
RSF	See Rentable Square feet
Section 195	Section 195 of the New York City Charter dictates that acquisitions or leasing of office space by the City, whether by purchase, condemnation, exchange or lease, shall be subject to approval by the City Planning Commission.
Section 824	Pursuant to Section 824 of the New York City Charter, a public hearing must be held in order for the Mayor's Office to hear testimony regarding the leasing of Real Property by the City of New York. This hearing focuses on the business terms of the lease as land use testimonies are delivered beforehand at the ULURP or Section 195 hearings.
Security Deposit	A deposit to hold as collateral as part of the lease.
Shadow Space	Space that may be available for rent but is not being openly marketed by the owner.
Site Report	Engineering & architectural report of a proposed site, identifying the internal and external condition of premises, HVAC, Life & Safety Code issues, Fire Safety/Egress review, and deficiencies in Code Compliance (e.g. ADA Accessibility); includes a preliminary scope of work.
SOW	See Base Building Scope of Work, Tenant Scope of Work
Space Program	Another word for Baseline P&E.
Sublease	A lessee's renting out some or all of its leased space to another tenant (i.e. the sublessee or subtenant).
Submetered Electricity	In submetered buildings, the landlord contracts directly with the electrical provider then bills the tenant for their cost.
Subordination, Nondisturbance and Attornment Agreement (SNDA)	Agreement between the tenant and landlord that describes the relationship between the lease and any mortgage on the property. Typically, it specifies that the lease is subordinate to the mortgage; that the tenant may continue to occupy the leased premises even if the landlord is in default on the mortgage; and that the tenant will recognize any subsequent owner of the property as the landlord.
TCO	See Certificate of Occupancy
Tenant Alterations	Lease clause listing the types of alterations to the premises that require landlord approval and those that do not, and the ownership of property related to such alterations.

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## Glossary

Term	Definition
Tenant Improvement Allowance	Amount of money the landlord provides for the tenant to fit out and alter the leased premises.
Tenant Improvements (TI)	Customized alterations to the interior of the space to meet the needs of the specific tenant. Also see Tenant Scope of Work.
Tenant Not a Holdover	An agreement between the landlord and the City in which the landlord agrees to consider the City a tenant, and not a holdover, during the holdover period. This distinction is necessary in order to allow the City to continue paying rent to the landlord.
Tenant Representative (TR)	Commercial real estate broker supporting the needs of the tenant.
Tenant Representative Commission	Compensation that a tenant representative, or broker, receives for successfully finding the tenant a space to lease, license, or purchase. Typically calculated as a percentage of rent. According to the City's agreements with its tenant representatives, a tenant representative receives the commission from the landlord. The landlord must hold 20% of the tenant representatives commission in escrow until a DCAS financial appraisal establishes the market value range for the lease. If the appraised values range is lower than the actual rental agreement, then that 20% of the commission goes to the tenant as a rent credit.
Tenant Scope of Work	Detailed description of a portion of building improvements that will be paid for by the tenant.
Tenant's Operating Share	The share of the building's operating costs paid by the tenant based on the share of the building occupied by the tenant.
Term	The amount of time for which the lease is active; shorter lease lengths can allow flexibility to respond to market conditions, however the lessor may not be obligated to renew. Longer leases can increase predictability for both parties.
Term Sheet	Document outlining the terms and conditions of the lease.
Termination	The terms by which the landlord/lessor or tenant/lessee could terminate the lease in advance of the end of the agreed upon term. Often in the case that a default cannot be remedied, or based on the landlord's desire to maintain an option to end the lease ahead of the end of the term to use the premises for other purposes.
Test Fit	Space planning drawing intended to illustrate the circulation (hallways) and preliminary furniture layout to ensure the space can accommodate the proposed use.
TI	See Tenant Improvements
TR	See Tenant Representative
Transaction Manager	L&A staff member responsible for managing a lease project. Formerly known as a lease negotiator.
Turnkey	Situations in which the landlord completes the full build out of the space with no improvements required of the tenant.
ULURP	See Uniform Land Use Review Procedure
Uniform Land Use Review Procedure (ULURP)	Public review process associated with land use and zoning laws. The City Charter requires the use of ULURP for most land uses actions, except for the acquisition of office space for City use (see Section 195).

# Appendix

## Glossary

Term	Definition
Usable Square Feet (USF)	The amount of space the tenant occupies. In NYC, landlords and tenants measure USF according to the standard set by the Real Estate Board of New York ("REBNY standard"), in which all area to the exterior of the building is considered usable, less common corridor areas, elevator shafts, stairwells, and mechanical spaces that serve the building. Elsewhere, real estate professionals use the rules set by the Buildings Owners and Managers Association ("BOMA standard"). The loss factor (LF) determines the relationship between RSF and USF. Formula: $USF = RSF \times (1 - LF)$
Use	The activities that are permissible on the leased premises.
Use Group	Per the DCP website: "Uses that have similar functional characteristics and/or nuisance impacts and are generally compatible with each other are listed in one or more of 18 groups that are categorized as residential uses (Use Groups 1–2), community facility uses (Use Groups 3–4), retail and service uses (Use Groups 5–9), regional commercial centers/amusement uses (Use Groups 10–12), waterfront/recreation uses (Use Groups 13–15), heavy automotive uses (Use Group 16) and industrial uses (Use Groups 17–18). Use group charts can be found in Chapter 2 of Articles II, III and IV of the Zoning Resolution. "
USF	See Usable Square Feet
ZoLa: NYC Zoning and Land use map	DCP's user-friendly map of zoning and land use across NYC.
Zoning Resolution (ZR)	The legal document that regulates the use, density, and shape of development in NYC.
ZR	See Zoning Resolution

