State of Washington

Real Estate Policies Study

In-State Survey Results Report

Section 1085 of the Enacted 2013–15 Capital Budget
(Engrossed Substitute Senate Bill 5035)

Office of Financial Management
Facilities Oversight
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TABLE OF CONTENTS

SUMMARY

Section 1085 of the enacted 2013–15 capital budget (Engrossed Substitute Senate Bill 5035) requires the Office of Financial Management (OFM) to review and recommend real estate policies related to lease renewals, requests for proposals, cancellation clauses, backfill policies and other related items. The study must document improvements to the state's real estate policies that ensure that cancellation clauses are used in a financially advantageous way and renewal practices minimize unnecessary relocation costs.

To make informed recommendations, OFM conducted four online surveys. Each survey addressed a specific real estate activity from the legislative proviso: backfill, cancellation clauses, lease renewals and solicitations. State agencies, boards, commissions, departments and institutions, as well as private sector brokers, property managers and building owners, provided 125 survey responses. State agency participation rates were high, representing at least two-thirds of the responses to each survey. On the other hand, private sector response rates were low, ranging from 35 percent on the lease renewal survey to just 5 percent on the solicitations survey.

In addition to responding to specific questions, survey responses:

- Offer ideas on how existing policies and procedures could be improved.
- Indicate where opinions of public and private sector respondents align and diverge.
- Identify where stakeholder understanding of existing policies or procedures was strong, weak or uncertain.

The surveys indicate stakeholder agreement that:

- The state should post real estate policies and procedures on its website if they are not currently posted.
- Priorities for state-owned space in the backfill policy should be reconsidered.
- Lease renewal and solicitation processes should be streamlined to enhance customer service to agencies and collaboration with lessors.

The surveys indicate disagreement among stakeholders on whether:

- The state should have a cancellation clause policy.
- Thurston County should have real estate policies that are different from those for the rest of the state.

The surveys indicate stakeholder uncertainty about:

- Whether the state should have a policy for partial cancellation of leases.
- Whether private brokers should be engaged to conduct lease renewal activities.
- Individual steps and tasks in lease renewal and solicitation processes.

Responses to these surveys, in addition to the results of the recent national survey, forum feedback and other related research, will be used to inform the analysis and recommendations in the Real Estate Policies Study.

SURVEY OVERVIEW

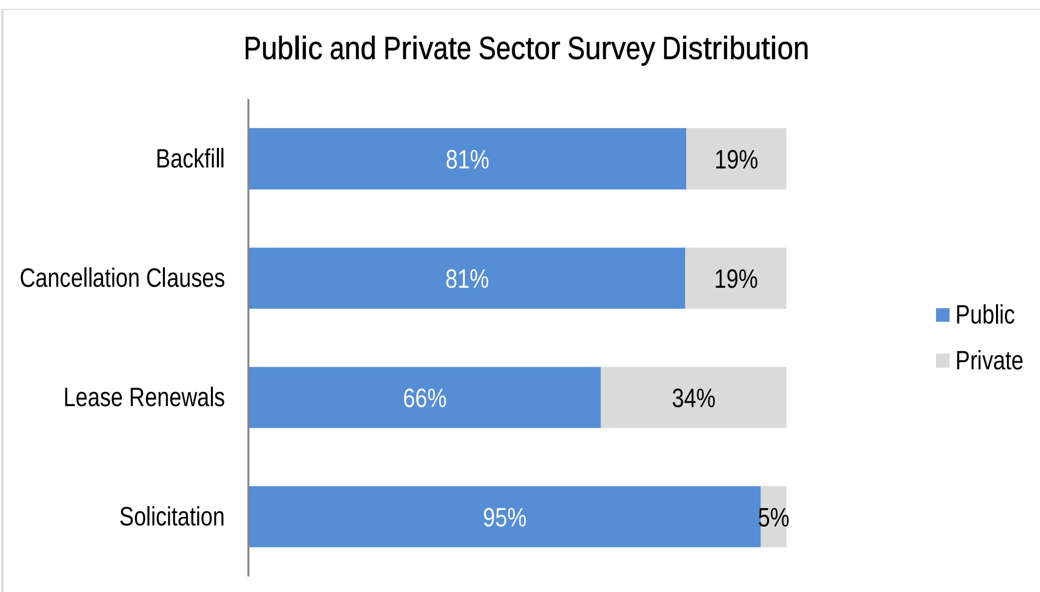
The Real Estate Policies Study used surveys to engage stakeholders. Four surveys were developed by a team composed of OFM and Department of Enterprise Services (DES) staff using SurveyMonkey™. The surveys were conducted over an eight-week period in early 2014 to elicit feedback on current policies and practices of the state as defined by DES, as highlighted in the following table.

Survey Title	Dates Posted	# of Responses
Backfill	Jan. 17 – March 30, 2014	43
Cancellation Clauses	Jan. 23 – March 30, 2014	32
Lease Renewal	Feb. 14 – March 30, 2014	29
Solicitations	March 14 – March 30, 2014	21

Demographic of Respondents and Response Distribution

Demographic information was gathered to discern areas where there is consensus, disagreement or uncertainty about a real estate policy or procedure in a specific stakeholder group or based on a specific role.

The average public sector response rate across all surveys was 81 percent compared to a private sector average response rate of 19 percent. The chart below illustrates public and private sector response distribution on each survey:



Each survey asked participants to identify their role in facilities management. The most frequently cited role was facilities manager. Other roles included facilities planner, leasing manager, agency director or senior manager, property manager, real estate broker and real estate developer. Among those with lower survey participation rates were management analysts and tenant agencies. Survey response rate by state agencies with leased facilities ranges from 50 to 28 percent of all state agencies.

Survey Results – Backfill

Current Backfill Policy

Backfill is the act of filling a vacant space previously occupied by one tenant with another tenant. The state has two backfill policies developed and published by the Department of Enterprise Services (DES). Policy 126: Establishing Priorities for Leasing Space relates to the process and order for backfilling space which applies statewide. Policy 125: Priority Leasing in Thurston County provides lessors with a priority for backfilling space.

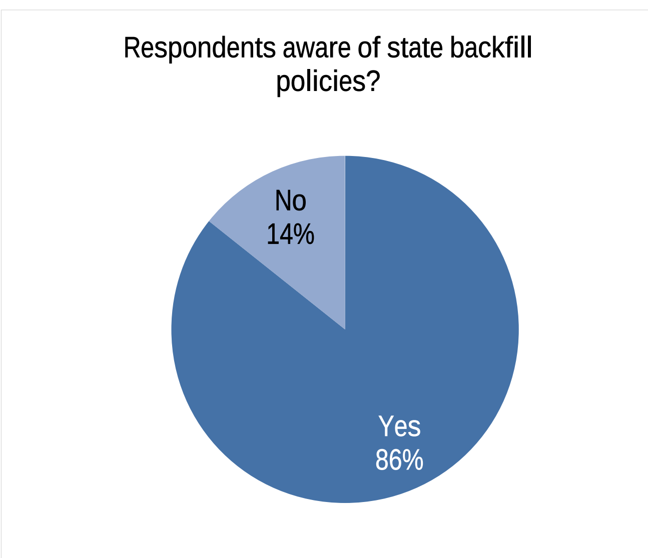
DES priorities for backfilling space are in this order: A) space owned by DES; B) space owned by other state agencies, boards, commissions and departments; C) privately owned vacant space still under lease to other state agencies, boards, commissions and departments; and D) space that is vacant as a result of a major consolidation and where such vacancy creates an adverse economic impact on the local community and multiple lessors. Part D applies only to Thurston County.

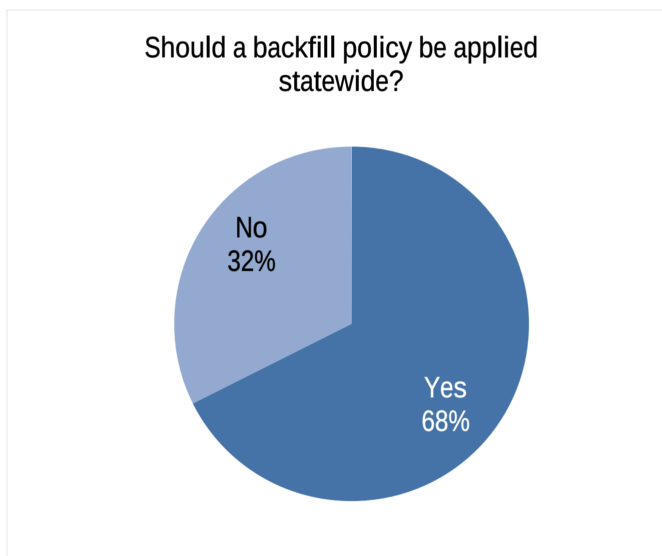
After these categories have been considered and the requesting agency has provided a compelling reason for not backfilling available space, then privately owned space available to be leased may be considered.

Present backfill policies do not take into consideration space condition or whether the agency holding space has debt service obligations for that space.

Backfill Survey Responses

Overall, 85 percent of survey respondents are aware that DES has backfill policies. The following chart illustrates that 68 percent of survey respondents believe that a backfill policy should be applied statewide.

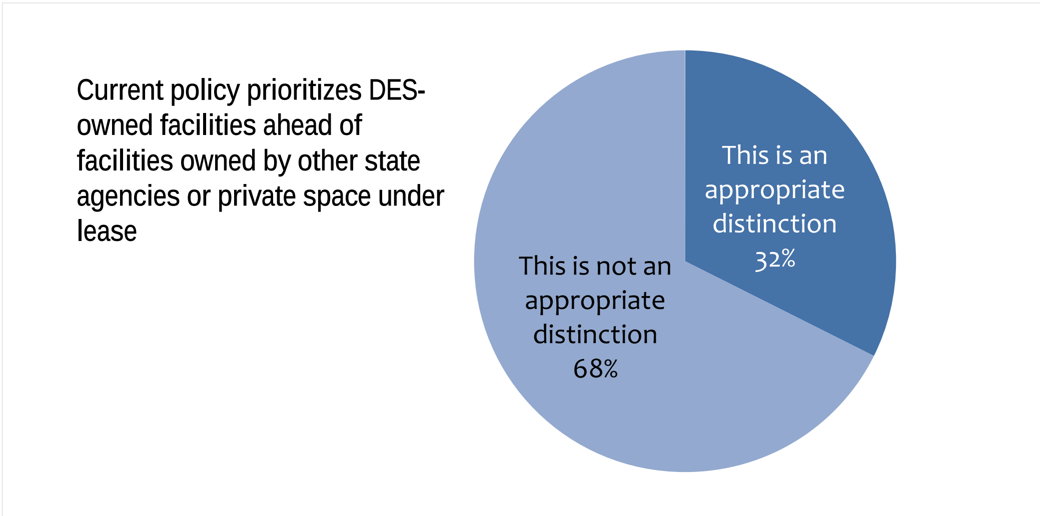




The concept of applying a backfill policy statewide rather than focusing it on facilities in Thurston County drew a variety of responses, from recognition that opportunities to backfill vary according to geographic location, to assertions that Thurston County, as the seat of state government, needs a different backfill protocol. Other respondents acknowledge that backfilling is a tool for collocation of agencies and that the quality of facilities available for backfill should be a factor in decision-making.

Survey respondents commented on both the approach to evaluating backfill options and the criteria themselves. Respondents expressed a need to more closely consider how the backfill space meets their current business needs, the condition of the facility or space, and individual agency economic constraints.

About one-third of survey respondents believe that the current ranking of space for backfill is correct.



Stakeholder comments reinforced the survey results above. The comments also expanded on concerns raised in response to previous questions that the policy does not consider the appropriate criteria: Stakeholders suggested the following criteria when evaluating a backfill:

- Cost effectiveness for the agency
- Comparison to the private marketplace
- Building condition/quality
- State obligation, debt-service obligation, and overall cost to the state
- Program/space efficiency
- Transportation costs
- Unique business needs such as loading docks or parking

Some respondents suggested that DES should not be the organization responsible for writing and maintaining the policy. Other respondents suggested that DES should not maintain a policy that sets an expectation that the state will reoccupy space that was previously occupied by the state.

Survey respondents were asked to rank, in order of priority, factors that should be part of a backfill policy. The highest-ranking category was suitability of space, followed by condition of space. Other factors listed in order of priority include geographic location, facility ownership and compatibility of uses. Lowest-ranking factors were whether space is in a preferred leasing area and debt service obligations of a facility.

Survey respondents provided recent examples, within the past four years, of successful applications of backfilling:

- "Department of Health consolidated programs resulting in one floor of a building under lease for five more years becoming vacant. OFM/DES found a subunit of Department of Social and Human Services Child Support whose lease was about to expire and instead of renewing it, they moved into our vacant space."
- "Washington State Department of Transportation is working with Office of Administrative Hearings OAH and Liquor Control Board for backfilling space in the southwest region WSDOT facility by the summer of 2014. We also worked with DSHS to backfill some leased space at the Olympia HOV CV2 space."
- "2012 DES consolidation was a good example of redistribution to ensure lease obligations were met."
- "Department of Licensing backfilling DSHS in Newport, Utilities and Transportation Commission backfilling Commerce in Seattle, Washington State Patrol backfilling WSDOT in Spokane."

Respondents provided examples of unsuccessful applications of backfilling. One example from 2011 speaks to the condition of space as a factor in backfill decisions:

> "The Department of Early Learning was moved from Lacey into the old DIS building in Olympia. The building is old; the HVAC is causing health issues for staff and DEL had outgrown the building by the time were moved into it. But it was determined we would go here because there was a lease on the building. It is not a site the state should continue to lease; it is old, environmentally inefficient, and too small for the agency. We are now housed in two separate buildings."

Other examples speak to locations not being suitable for agency service delivery and to incompatibility of uses when two agencies with different missions were collocated through a backfill.

Respondents provided examples that highlight the interplay among leasing tactics, backfill and collocation:

- "In Pasco our agency was forced to relocate from an existing facility we had occupied for 14 years to vacant space under DES contract. The contract expired 14 months after we relocated. Then, DES was unable to find cost-effective replacement space."
- "We had a sublease for approximately 2,000 SF that a subtenant vacated early. We request that it be on the backfill list where it sat for just shy of four years. Eventually we removed it from the backfill list and used it for agency space needs."

One survey respondent commented that backfill space frequently requires improvements to satisfy the requirements of an agency:

> "Often when exploring these concepts the necessary funding for building a space out to meet program needs is unavailable or difficult to attain. In a leased facility the lessor is responsible to provide a baseline amount of build-out to the tenants. These costs are factored into the lease rate. In the state-owned facilities these costs are not, and are carried by the programs which typically do not have a budget for the needed level of one-time costs."

The survey also asked respondents to list compelling reasons for not backfilling space. Condition of available space was ranked highest by 90 percent of survey respondents. The complete ranking of reasons for not backfilling a space is listed below.

Compelling reasons for not backfilling space:
Condition of available space (90%)
Location of available facility (86%)
Lease term – cost (86%)
Square footage of available space (76%)
Configuration of available space (67%)
Anticipated long-term use (45%)
Lease term – no cancellation clause (35%)

One respondent indicated that one factor alone is not enough to determine whether backfilling a space is appropriate. Multiple factors, such as the total cost to the agency, including relocation and improvement costs, should be considered. Excessive energy use or indoor air quality issues are other factors. One respondent suggested lessor history of addressing maintenance issues as a factor. For many survey participants, the location of available space needs should complement the agency mission and service delivery objectives.

Survey respondents provided some examples and scenarios where backfill may be perceived as an unnecessary relocation of an agency or program:

- "If an agency was forced to assume an available backfill property that wasn't appropriate for their anticipated long-term use, or growth."
- "At times agencies are asked to relocate more when they were not interested in doing so or it greatly changes the outcome of a desired move from one scope to another."
- "Tacoma example: DES space was four times higher than private sector space. DES was unable to negotiate a lower rate or provide additional funding to cover the excessive leasing costs."
- "If moving isn't the agency's idea, they may feel the relocation was unnecessary. The answer is a better relationship between agency facility managers and OFM and DES and perhaps an incentive for the inconvenience of moving."
- "The objective seems to be to reduce square footage at ANY cost. Moving offices repeatedly is disruptive and wasteful."

When asked to rank the advantages of backfill, the majority of respondents maintain that backfill: 1) facilitates collocation and consolidation of state agencies; 2) promotes the effective use of financial resources; 3) promotes the effective use of physical resources; and 4) is useful if the policy and procedures are clearly defined. Few respondents from the public or private sectors consider backfill as a tactic that adds uncertainty for private brokers and real estate developers, or that backfill policies are unnecessary in the public sector.

Agreement that a backfill policy could contribute to leasing activities that would be financially advantageous to the state is tempered by concerns that a policy be flexible enough to allow for individual circumstances of an agency and its need for and use of a facility.

When asked if there was one modification that could be made to the existing policy, respondents offered these suggestions:

- Implement the policy consistently.
- Let agencies work together to evaluate backfill options that work for them without the involvement of DES.
- Clarify that quality space and quality lessors receive consideration in the process.
- Apply a mandatory backfill analysis to every lease transaction.
- Allow the condition of the facility to be a factor in whether or not it is backfilled.
- Find a way to make the cost for backfill space consistent with fair market value.
- Consider the state's obligation.
- Replace the policy with guidance.
- Adopt a broader vision and work to understand the needs of the agencies.

Survey Results – Cancellation Clauses

Current Cancellation Clause Policy

Cancellation clauses are terms in lease agreements used to terminate a lease or downsize the footprint of an agency in leased space. Cancellation clauses take a variety of forms which can be general or specific, such as the ability to cancel all or part of a lease due to non-appropriation or the opportunity to collocate.

The state does not have real estate policies or guidelines for cancellation of leases. The state's practice is to include cancellation clauses in certain leases to address specific needs such as the loss of federal program funding. The in-state cancellation clause survey asked questions similar to those on the national survey to solicit comments for partial cancellations, non-appropriation language and cancellation to take advantage of an opportunity to collocate.

Cancellation Clause Survey Responses

The survey asked respondents to describe their understanding of the current definition, purpose and application of cancellation clauses. Below is a summary of the responses:

Current definition:
Most respondents provided a common definition of cancellation clause consistent with the description provided above. Respondents acknowledged the state's current practice of having a variety of cancellation clauses. Variations included whether or not there was a monetary penalty, who has the authority to cancel, and whether or not a termination date is included.

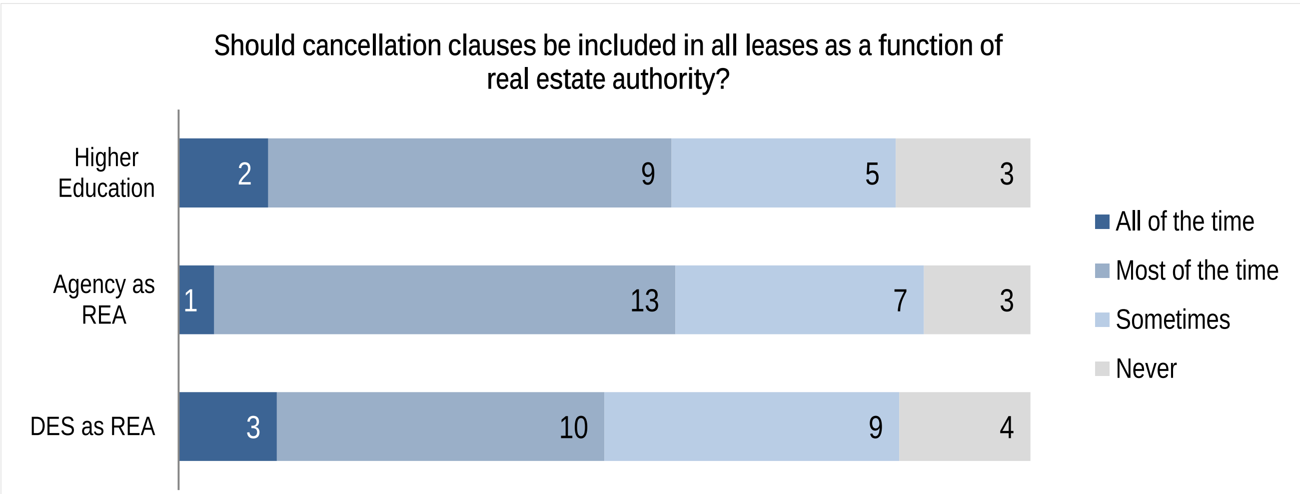
Purpose:
Respondent provided a variety of purposes for cancellation clauses:

- Being strategic in leasing
- Providing flexibility
- Respond to decreased funding
- Respond to changing program needs
- Allow the state to vacate a building in poor condition
- Allow both parties to exit the lease for any reason

Application:
There appears to be general consensus amongst agency respondents that cancellation clauses should apply when it facilitates vacating all or a portion of a space that the state no longer needs. Private sector stakeholders described a broader application where either party could cancel the lease.

State law grants a variety of agencies real estate authority (REA) including: 1) DES; 2) state agencies leasing through statutory exemption or delegation from DES; and 3) higher education. The survey asked a question about cancellation using data from the 2013 Facilities Inventory System report. That report states that 31 percent of leases administered by DES, 60 percent of leases administered by state agencies and 10 percent of leases administered by higher education contain cancellation clauses.

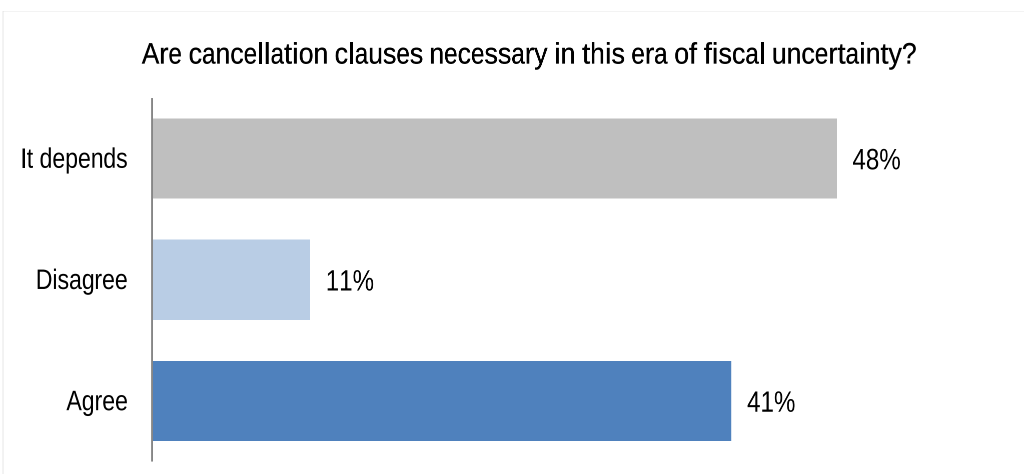
This survey asked whether cancellation clauses should be a required condition on all state leases:



When asked whether there are circumstances where leases must contain cancellation clauses, 82 percent of respondents replied that there are; 18 percent replied that there were not. Lack of control over program funding, such as federal funding of operations and programs at the Employment Security Department, was a common response.

Survey respondents ranked fund source, fund availability and legislative intent as the primary factors for including cancellation clauses in leases, followed by lease term and anticipated collocation/relocation. Square footage and lease cost were not cited as compelling factors for including cancellation clauses in facilities leases.

The majority of respondents stated that applying cancellation clauses in an era of fiscally constrained resources may be necessary but depends upon the specific circumstances of an agency or program.



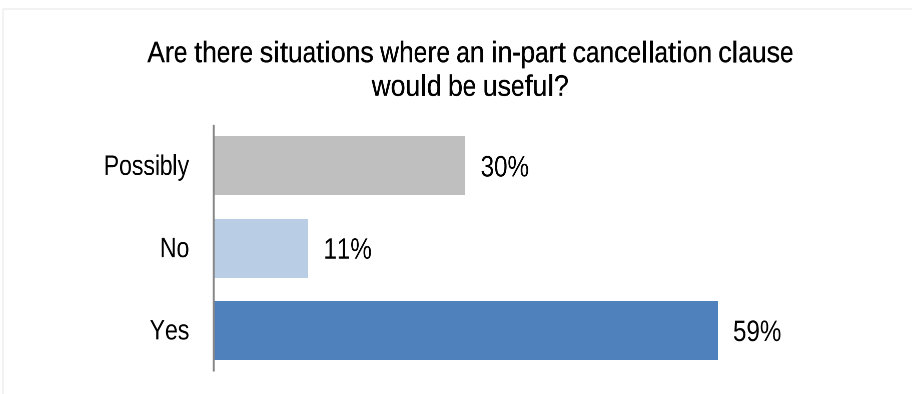
One survey respondent wrote:

> "Cancellation clauses have a value and they cost agencies money. You can arrange cancellation clauses to have buyouts and other methods to avoid harming the value of the lease. My experience has been that cancellation options are rarely used, even through difficult times, and the extra expense and increased lease rates in markets are not worth the extra expense unless you are fairly sure you will exercise the option. More effective use of facilities and collocations of underutilized facilities as the leases are expiring is a preferred practice."

While this respondent raises the possibility of cancellation clauses being correlated with collocations, 37 percent of respondents said that the relationship is rarely realized, 44 percent said that the correlation plays out some of the time and 15 percent said that individual circumstances affect the ability to achieve a collocation by exercising a cancellation clause. One respondent wrote that it does not happen as a standard practice, but when planned, cancellation clauses can be a tool for collocation of agencies.

When the survey asked respondents if they knew of a situation where a cancellation clause has resulted in the unnecessary relocation of a state agency or program, 100 percent could not recall such a circumstance. One respondent wrote, "Moves are costly and disruptive. Cancellation clauses should be used judiciously."

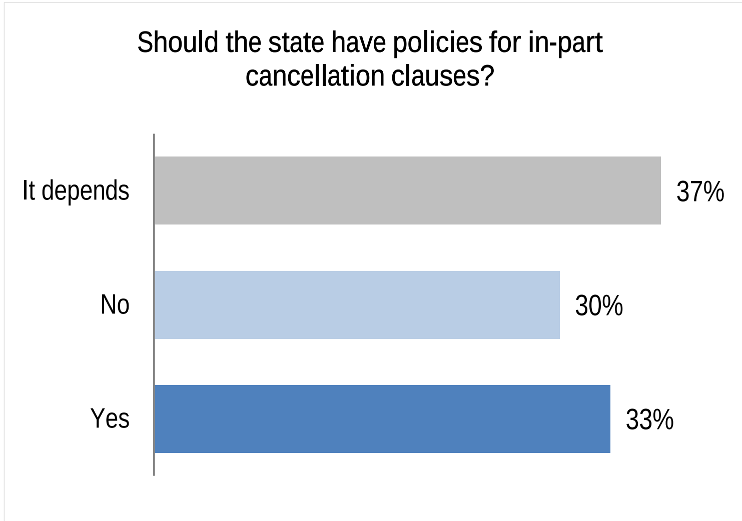
The survey asked a series of questions about partial cancellation of leases. One question explained that partial cancellation provides for vacating square footage to keep from paying for unneeded space and then asked if there are situations where a partial, or "in-part" cancellation clause would be useful. As indicated in the following chart, more than half of survey respondents indicated that in-part cancellations could be useful:



This question generated a number of comments from respondents, including:

- "We have a current example where our agency is evaluating a function that may be eliminated. If it is eliminated, we will want to vacate the space for that unit. We have requested DES include a partial cancellation."
- "This would be useful when there is knowledge of a group such as a project office slowly transitioning to a smaller footprint."
- "We have used these when we have a planned downsize."
- "As an agency that receives 98 percent of federal funds and those funds are on the decline, the agency is losing staff/resources which drive the need to give up space during lease terms."

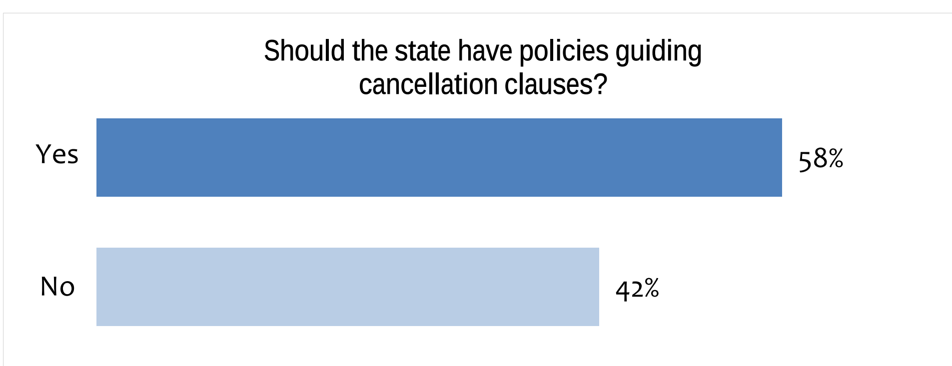
When asked if the state should have policies for in-part cancellation clauses, respondents were cautious. As indicated in the chart below, 37 percent responded that it depends on how applied, 33 percent responded "yes" and 30 percent responded "no":



Several respondents agreed that a single policy approach would not be advantageous, but offered comments that suggest that there should be acknowledgement, guidance and examples of how different clauses should be applied.

When asked if a cancellation policy could be financially advantageous to the state, 81 percent of respondents answered "yes"; 19 percent said "no." The survey asked respondents to list what a policy guiding the application of cancellation clauses would contain. Suggestions included a tool to evaluate cost/benefit of exercising a cancellation; guidance on how to articulate the business need for a cancellation; lease size and value considerations; ways to address or consider how cancellation clauses are exercised when lease rates are inflated because of building owner concern; standards for providing notice to a lessor; a point of contact to guide an agency through the steps of cancelling a lease; and guidance on how and when a partial cancellation is put into effect or waived.

When asked if the state should have a policy guiding lease cancellations, the following graphic illustrates that more than half of respondents replied that it should:



Survey respondents suggested the following concepts for consideration:

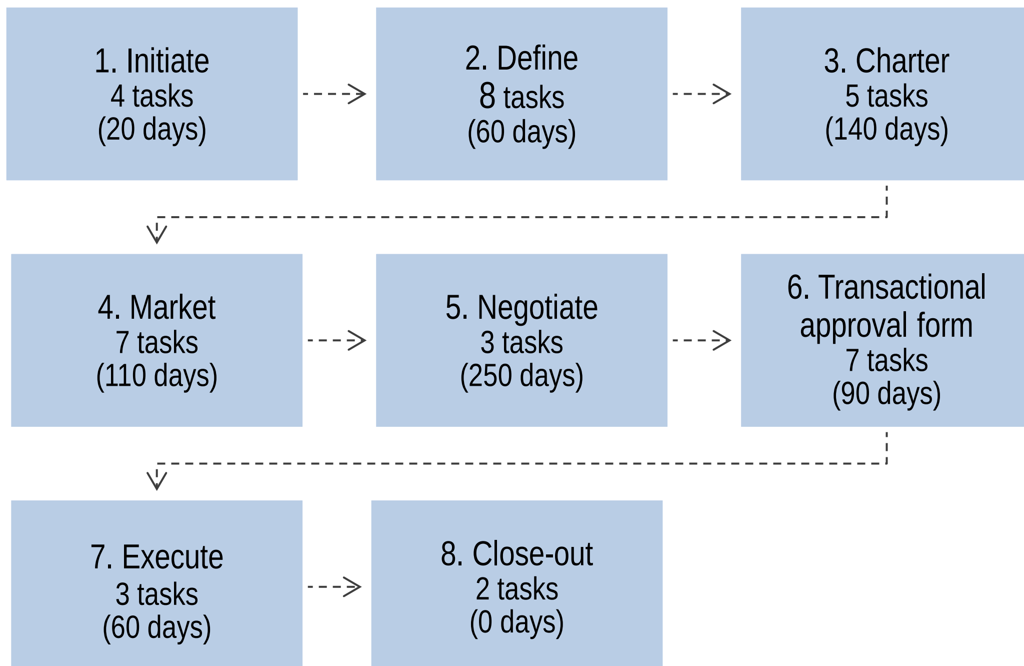
- Cancellation clauses may increase costs to the state.
- Lessors are concerned about the state abusing its ability to cancel a lease.
- Agencies see this as a responsible tool for stewardship of large portfolios.
- When cancellation clauses are for the benefit for the lessor, the clause needs to provide an adequate period for the agency to relocate.
- DES staff need training on how and when to ask for cancellation clauses.

Survey Results – Lease Renewal

Current Lease Renewal Policy

Washington does not have a lease renewal policy. Therefore, the lease renewal survey addressed the DES lease renewal process. DES, higher education and agencies with delegated real estate authority have procedures guiding lease renewals.

DES's renewal transaction process workflow was recently revised in January 2013. This new 24-month process identifies project scope, budget and timeline in a more consistent, transparent and collaborative manner with state agencies. The process occurs across eight phases with 35 tasks, as illustrated in this flowchart:



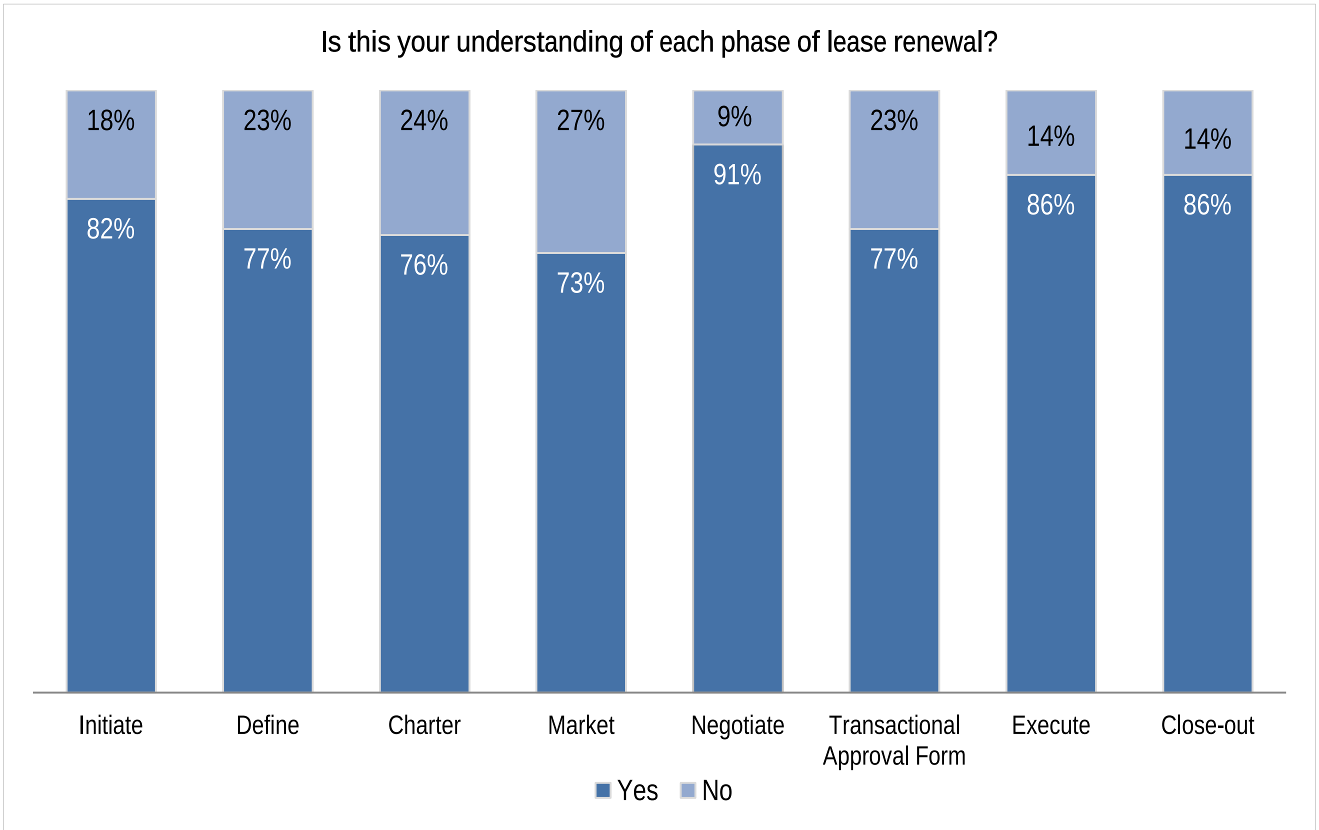
Below is a summary of the primary objective of each phase.

1. *Initiate:* DES prepares for the transaction and contacts the agency, OFM and other relevant stakeholders to initiate the renewal process.
2. *Define:* DES, in cooperation with agency tenants, conducts the define meetings and begins to identify and confirm critical needs, constraints, budget and other project requirements.
3. *Charter:* Memorialize key data from the define meeting in a framework for the transaction.
4. *Market:* Seek market data for comparison and negotiation purposes using comparable leases.
5. *Negotiate:* Negotiate and finalize agreed-upon lease terms with the lessor.
6. *Transaction Approval Form (TAF):* DES uses the TAF to verify that key terms from the charter were satisfied, and drafts the initial lease containing final terms of the negotiations. Where necessary, this includes approval by OFM.
7. *Execute:* DES executes the lease agreement between the state and the landlord.
8. *Close-out:* DES closes out the lease renewal transaction, verifies the financial model using the TAF which confirms that key terms from the charter have been met to the agency's satisfaction.

Stakeholders are still being educated about this new process. Survey questions were designed to gauge current awareness and familiarity with this new work flow.

Lease Renewal Survey Responses

The survey asked respondents to comment on their understanding of and experience with the lease renewal process with questions specific to each phase in that process. The chart below indicates the level of understanding for each phase of the lease renewal process.

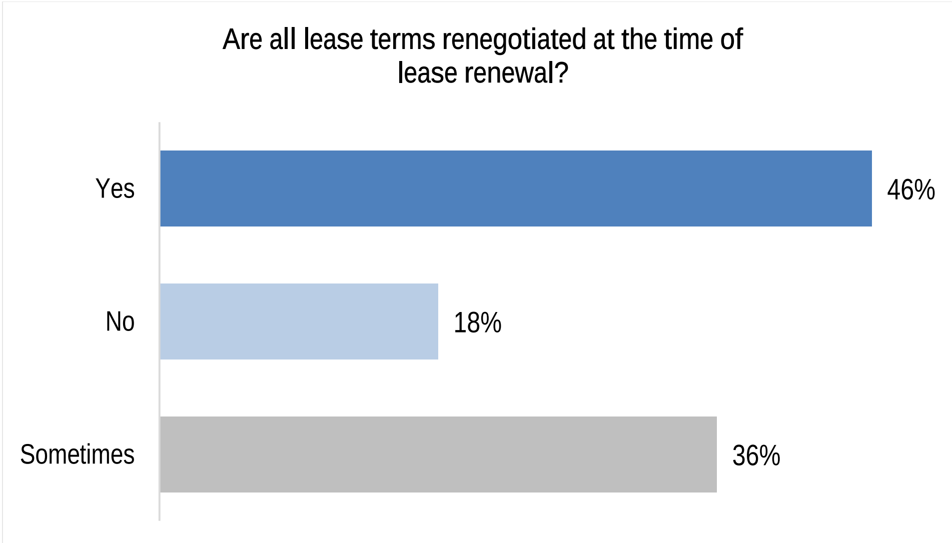


Many respondents provided comments on the individual steps in the process. While the level of understanding of each phase appears strong from the statistics above comments suggest that:

- Stakeholders are confused about the process and the individual phases.
- New terminology, such as "transactional approval form", is not commonly understood.
- Some state agencies are concerned that DES is too focused on process and not focused enough on state agency needs.
- Some stakeholders are concerned that the process has long periods without activity after the process has begun.
- Some state agencies are concerned that the process described above is not being consistently implemented by DES.

When asked about the furthest step in the new renewal process an agency or landlord has worked with the RES unit of DES, the majority, 32 percent, indicate they have not worked through the process, while 27 percent indicated reaching the closeout phase and 18 percent indicated achieving the charter phase.

The following chart indicates responses to a question about which terms are renegotiated at the time of lease renewal:



Respondent's comments suggest that many terms are standard in a lease renewal and may not require negotiations during a renewal.

Respondents were asked to indicate which terms are typically negotiated with a lease renewal. As indicated in the following table, the proposed rental rate was cited most frequently, followed by lease term and the scope of deferred maintenance.

Terms typically negotiated at lease renewal

Term	Survey response rate
Proposed lease rate	95%
Lease term (duration)	91%
Scope of deferred maintenance	81%
All alterations and tenant improvements	67%
Option providing for cancellation	62%
Repair and maintenance obligations	57%
Tenant improvements (if any)	52%
Cancellation	48%
Square footage	43%
Partially serviced operating expenses	38%
Fully serviced operating expenses	33%
Lease options/right of first refusal to lease additional	29%
Assignment and subleasing rights	19%
Possession timeline and terms	19%
Purchase options or right of first refusal	14%
Triple net operation expenses	10%

As the proviso language directed OFM to discern whether lease renegotiations had resulted in relocations of agencies to different facilities, the survey asked participants to comment on this issue. Only 13 respondents chose to answer this question. Eight respondents, or 62 percent, indicated that a renewal negotiation resulted in agency relocation, while three respondents or 23 percent, indicated this has not taken place, and two respondents, or 16 percent, were not sure if it had.

Agencies provided these comments:

- "Agency relocated when the building could not meet energy standards without significant upgrades."
- "Lease renewal negotiations for one office failed with the building owner offered unacceptable terms for deferred maintenance schedule to bring the building up to 2005 LSR standards."
- "The building owner did not want to continue to lease as they had a different plan for their building."
- "Lessor's rate was higher than the market value and he would not budge."
- "No agreement could be reached on renewal terms."

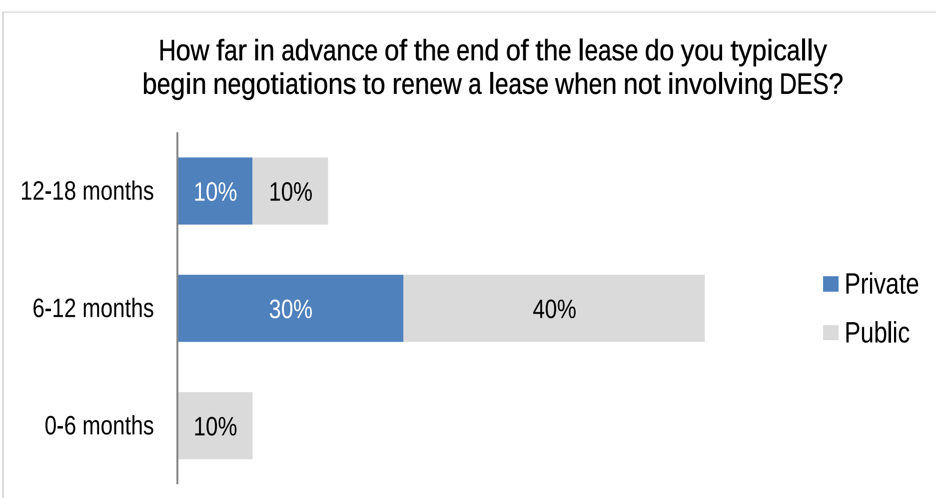
The survey asked private sector building owners if a lease renewal negotiation ever resulted in a state agency initiating relocation to a different facility. Of those who responded, eight private sector respondents, 80 percent, indicated that it had not. One private sector respondent, representing 10 percent of those who answered this question, was not sure if this circumstance had occurred. Another indicated that it had. One building owner clarified that the agency relocated to another of its owned facilities.

When asked if relocations resulting from lease renegotiations added one-time or ongoing facilities costs for agencies, 67 percent replied that they experienced added one-time costs while the remaining respondents experienced added ongoing costs or no additional costs.

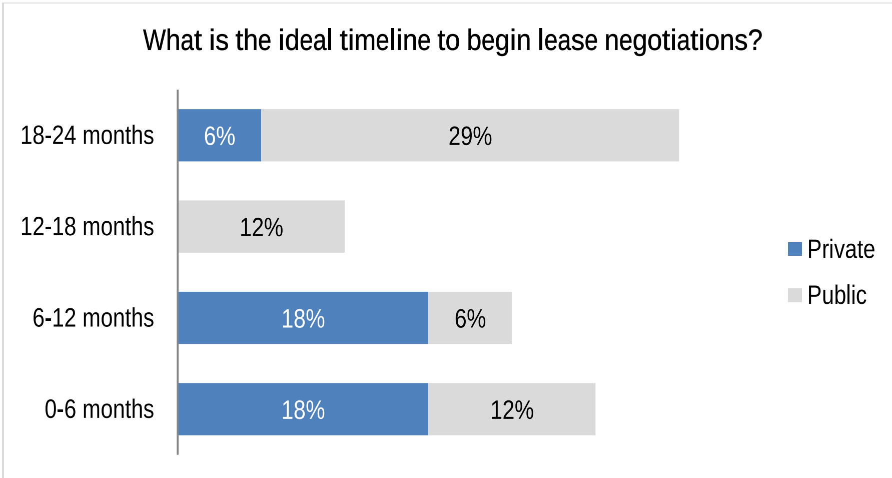
Respondents offered these clarifying comments:

- "There were one-time costs associated with the move, but those costs were largely offset by the savings in rent, space efficiencies, and improved landlord performance."
- "One-time costs associated with physical relocation and a slightly increased lease rate."

The survey asked a question of private brokers or agencies with separate authority to negotiate leases about how far in advance of a lease expiration date they typically begin renewal negotiations. The responses are illustrated on the following chart:



Another question asked all respondents to indicate their ideal timeline to negotiate a lease renewal. These responses are summarized in the chart below.



The survey asked respondents to indicate which factors would be useful to lease renewals. Consistent lease renewal processes received the most responses at 87 percent followed by early consultation with agencies to more clearly understand business needs at 60 percent. The following table illustrates all responses:

Which would be useful to lease renewals? (check any box that applies)

Concept	Response Rate
Consistent lease renewal processes	86%
Early consultation to more clearly understand agency business needs	59%
Easy access to policies, forms and procedures online	50%
Documentation of decisions and outcomes	36%
A clear mandate to contain state agency facility costs	14%

Survey respondents were asked to provide one policy change for lease renewal that could contribute to being able to negotiate favorable terms and conditions for leased facilities. Suggestions included:

- Create stronger lease language to hold lessors accountable for deferred maintenance work in leases.
- Implement the lease renewal process, led by DES, more consistently and timely.
- Set more consistent expectations for lessors about terms, rate, and building conditions.
- Review how the state applies RCW 43.82.010(5) because of concerns that the state does not have building alternatives at larger square footages which reduces DES's negotiating leverage.
- Provide leasing agents more flexibility to negotiate the best deal for the state by reducing the forms and process required.
- Negotiate with our current landlord first as long as the space meets the agency's needs.
- Renew all leases six-months prior to lease expiration.
- Provide one point of contact from DES to assist agencies with planning their facility needs based on staffing levels, program needs, location, etc.

SURVEY RESULTS – SOLICITATIONS

Current Solicitations Policy

DES uses a solicitation process to acquire new privately owned space for leasing to state agencies. According to Policy-120, DES separates solicitations into "small space requests" for less than 5,000 square feet and "regular space requests" for greater than 5,000 square feet. A different solicitation tool may be used for each category. The most common tools are:

1. **Requests for proposals (RFP):** a formal document or package of documents to elicit competitive bids or proposals from possible vendors. They are advertised in print media and on the DES website. Solicitations proceed in this sequence unless there is a waiver of the process or the RFP is being issued in Thurston County: a) existing space, b) space under construction and c) planned space. A formal site selection and evaluation process is required.

If an RFP for existing space produces no acceptable proposals, DES may: a) re-advertise for existing space, b) conduct a market search to secure existing space or c) with the written approval of the real estate services manager or designee, advertise for space under construction or planned space.

2. **Market search:** a physical search of the area specified in the original advertisement and/or in the agency's program requirements, as well as contact with building owners, lessors, developers and real estate brokers by the project team (DES and agency). When a suitable space has been located, the project team evaluates the site. No formal site selection and evaluation process is required.

The policy allows for the waiver of the solicitation process when an existing lease space is increased by less than 50 percent or 5,001 square feet, whichever is greater. Finally, in Thurston County, existing space, space under construction and planned space may be solicited concurrently. DES considers requests for waivers to solicit for all space types outside of Thurston County on a case-by-case basis.

Solicitation Survey Responses

The first set of questions on the survey focused on DES Policy 120: Seeking Space to Lease, the formal policy related to the solicitation process. There are seven elements to this policy. When asked if familiar with the policy, 65 percent of respondents said they are, 29 percent said they are not and 6 percent said they are uncertain. The following table lists respondent understanding of each element of the solicitation policy.

Respondents were asked to indicate their level of understanding of the seven components the existing policy. The majority of respondents had a strong or general understanding of the following components of the policy.

- Initial solicitations are for existing space only
- Market search is conducted for space under 5,000 square feet
- Advertisement is conducted for space of 5,000 square feet
- If the solicitation produces no acceptable proposals, the state may seek space that is planned or under construction
- Seeking space in Thurston County must comply with the requirements of the Thurston County Preferred Leasing Areas Policy

Over 35% of respondents indicated limited or no understanding of the following components of the policy.

- DES may waive any of these requirements when it is deemed to be in the best interest of the state
- An advertisement is not required when an existing lease space is increased by less than 50 percent or 5,001 square feet, whichever is greater

The survey also asked participants to indicate their agreement with these same seven components of the solicitation policy.

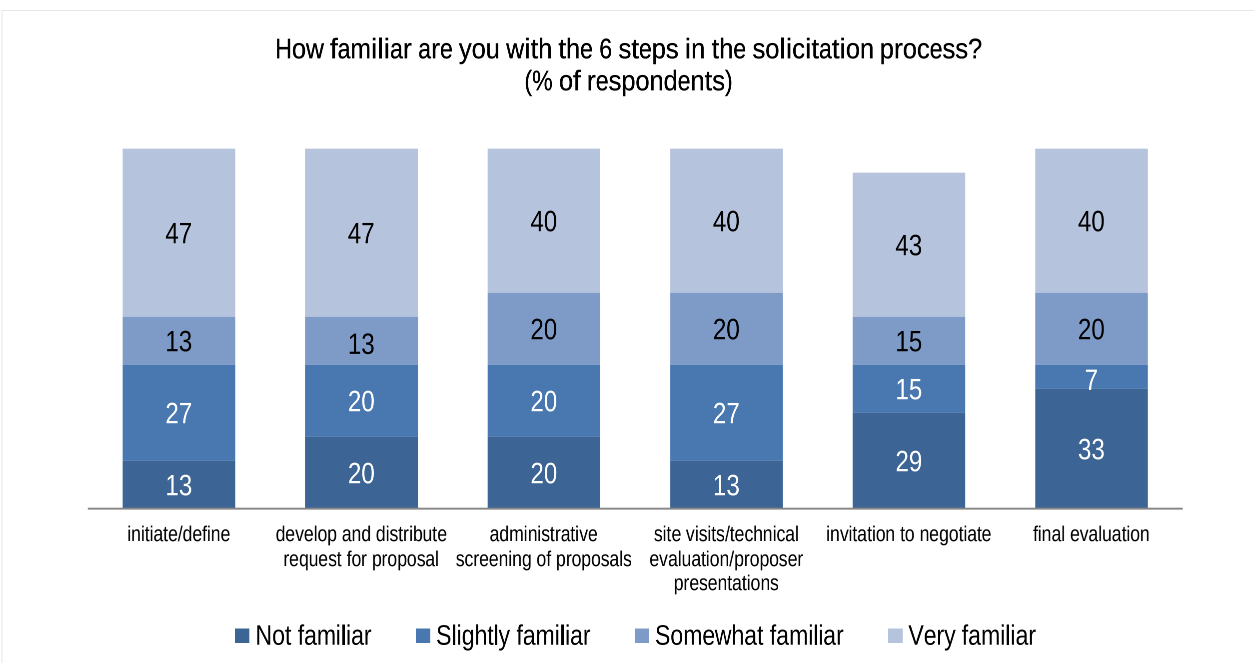
The majority of respondents indicated agreements with the following components of the policy:

- Market search is conducted for space under 5,000 square feet.
- Advertisement is conducted for space of 5,000 square feet.
- If the solicitation produces no acceptable proposals, the state may seek space that is planned or under construction.
- DES may waive any of these requirements when it is deemed to be in the best interest of the state.
- An advertisement is not required when an existing lease space is increased by less than 50 percent or 5,001 square feet, whichever is greater.

Less than 40% of respondents indicated agreement with the following components of the policy.

- Seeking space in Thurston County must comply with the requirements of the Thurston County Preferred Leasing Areas Policy.
- Initial solicitations are for existing space only.

Questions then shifted to the six steps in the solicitation process. In response to the first question, 71 percent of respondents indicated awareness of the process. Another question asked respondents to rank their familiarity with each of the six steps from very familiar to not familiar. The results of this question are provided on the following page.



The solicitation process uses 13 evaluative criteria. Survey respondents were asked to rank these criteria from most to least important. Suitability for program operations was ranked highest by 71 percent of respondents and existing buildings was ranked lowest by 29 percent of respondents. Cost and location ranked second-highest and third-highest, respectively.

A number of respondents indicated that some criteria are of equal importance. For one, Americans with Disabilities Act considerations are equal to IT and location. For another, cost and suitability for program operations weigh equally. A third expressed that suitability for program operations, location, major building systems and IT support/systems were of equal importance, and for a fourth, location, adjacency, proximity, high-performance buildings and major building systems ranked as equally important.

One survey participant added, "Yes, if the building systems, building envelop, and IT support systems don't meet a certain minimum level then truly they won't be suitable for program operations because we won't have an overall building condition that supports an effective work environment."

When asked if they had comments, questions or concerns about the six-step solicitation process, responses suggest:

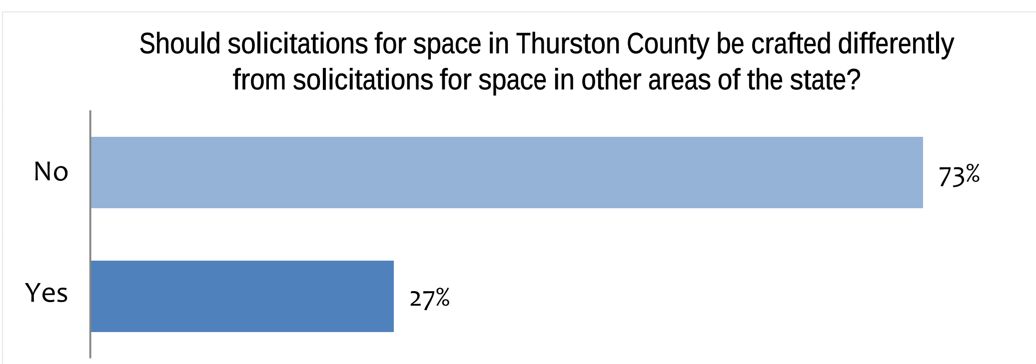
- Stakeholders are still learning about the new process.
- Some stakeholders believe the evaluation process and criteria are ambiguous and inconsistently applied.
- Some state agencies are concerns about consistent communication from DES during the process.
- Some state agencies are concerned about DES's ability to negotiate a lease within program budgets.
- Stakeholders have difficulty locating the policy and procedures on the DES website.

One respondent indicated that:

> "When started timely (which is a responsibility of the requesting agency) the process works well and we are typically able to find a good building that meets most necessary criteria. Markets, timeliness, and inventory have more impact on the results than the process."

When asked if leasing policies for Thurston County should be different from policies guiding solicitations for space in other counties, 41 percent of respondents replied that policies for Thurston County should be different, 36 percent replied that they should not be different and 24 percent were unsure.

When asked if solicitations for space in Thurston County should be crafted differently from solicitation for space in other parts of the state, responses were as displayed below.



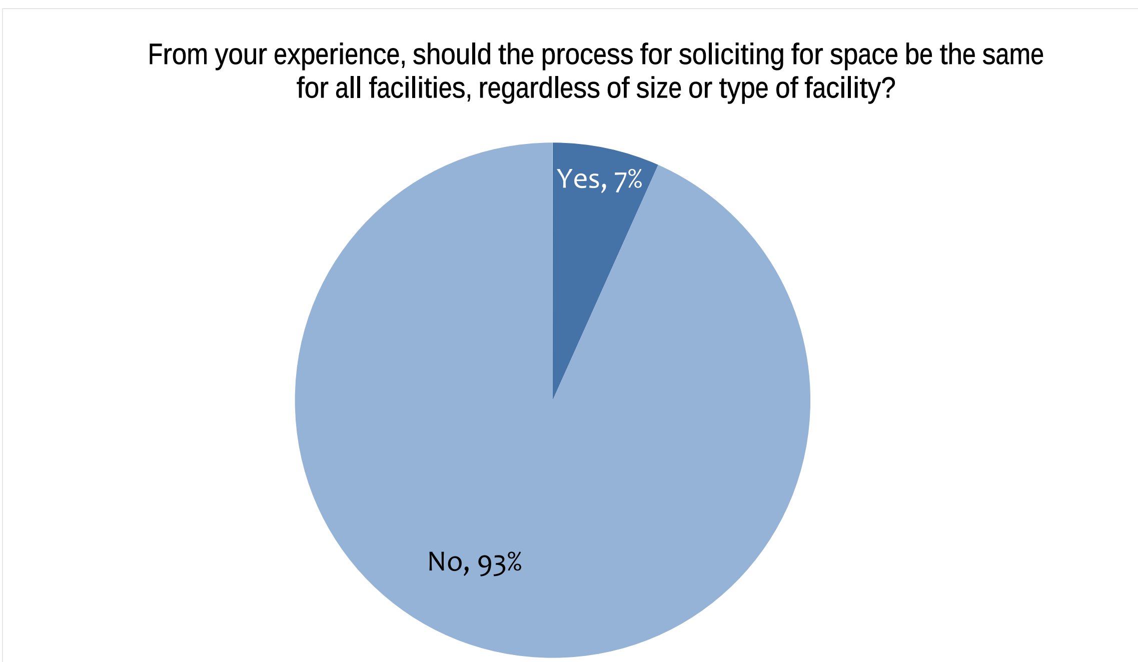
When asked what policy change DES could make to the solicitation policy, respondents offered these suggestions:

- Streamline the process.
- Define the process and consistently apply the process, particularly the evaluation phase.
- Evaluate new and existing space simultaneously.
- Reduce the number of DES staff involved in the process.
- The cost of tenant improvements and long-term savings as a result of energy efficiency should be factored into the selection process.

When asked how DES could improve the solicitation for space process, participants offered these suggestions:

- Reduce the rigor for bidders in this process- stakeholders indicate some of the up-front requirements preclude landlords for participating.
- Align the business needs with the RFP.
- Use the space request to determine the questions on the lease proposal form and base the evaluation on the responses.
- Standardize communication protocols within the process.
- Identify additional ways to notify and increase participation from prospective bidders.
- Provide the agency with more control over the written RFP and scoring formula.
- DES should charge for services rendered rather than the commission rate.

As indicated on the following chart, a majority of respondents said that the soliciting-for-space process should not be the same for all facilities.



As follow-up, the survey asked participants to list factors that could trigger the use of a different solicitation process. Responses suggested that factors should include:

- Size of space
- Type of space
- Unique security or space requirements

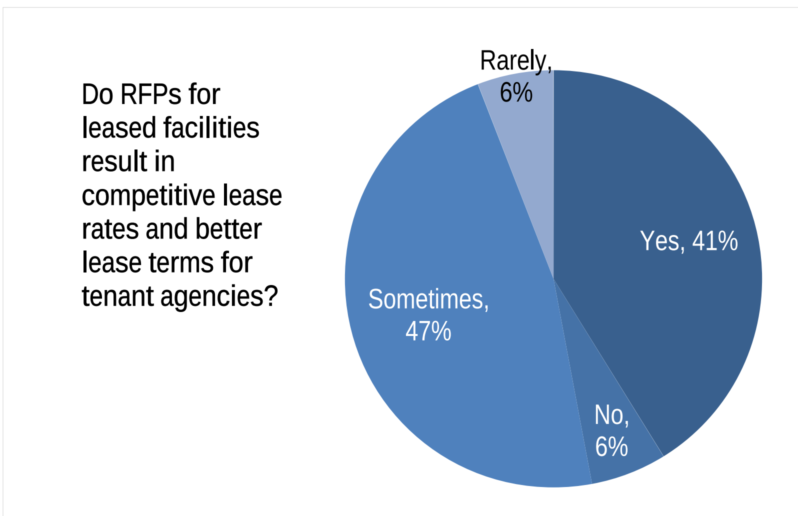
- Risk level of the project
- When the space is needed
- Funding/budget the agency has to support the project

One respondent indicates that:

> "The current process is good and has worked well for many years. The process was revamped a few years ago because of some concerns/misunderstandings about the process. For larger facilities there are requirements in the Leased Space Requirements that kick in at certain square foot sizes. As an agency, we have a lot of space to mold the solicitation to meet specific needs for a specific program or location. It does take an understanding on the part of the agency to understand and clearly define the primary parameters for any given solicitation."

The survey asked participants to rank factors that correlate most strongly with securing favorable lease rates and terms. Market analysis had the strongest correlation, with 42 percent. Factors having a correlation most of the time included site visits and technical evaluations with potential lessors. Factors having a correlation some of the time were posting solicitations online, posting evaluation criteria online and hosting a pre-bid/pre-proposal conference. Requests for qualifications did not have a strong correlation with lease rates and terms.

When asked whether RFPs for leased facilities result in competitive lease rates and better lease terms for tenant agencies, most respondents answered yes or some of the time. This graph illustrates the findings and is followed by several comments.



One question asked about how and when risk should be assessed during the solicitation process. Some responses were that the assessment should occur early in the solicitation process, that it should involve key business units and leadership with consideration of the long-term strategy for the agency, and that the budget, scope and timeline should be evaluated before any solicitation process is pursued. Strong collaboration among the agency, OFM and DES was suggested by a respondent. Another mentioned that a risk assessment is relevant and should be applied during all stages of a solicitation.

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