



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

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TO: Daniel Mathews
Commissioner
Public Buildings Service (P)

FROM: Paula N. Denman *Paula N. Denman*
Regional Inspector General for Auditing
Greater Southwest Region Audit Office (JA-7)

SUBJECT: PBS Did Not Administer a Tulsa, Oklahoma Lease in Accordance
with Policy, Resulting in Unfit Conditions

We are writing to inform you of a situation with a lease in Tulsa, Oklahoma. We are concerned that PBS officials in the Greater Southwest Region have not held the lessor of the Eton Square Office Centre (Eton Square) accountable for roof maintenance and repair issues affecting the government tenant, the Internal Revenue Service (IRS). The building's roof has leaked on multiple occasions over the 13 months since the IRS took occupancy of the building in July 2016. Although GSA personnel have issued numerous notices about the leaks to the lessor, GSA has failed to enforce compliance with the lease maintenance and repair requirements. In addition, we are concerned that in an August 8, 2017 letter to the IRS Commissioner, the GSA Acting Administrator stated that the roof had been replaced; when in fact the roof has not been replaced.

In a May 17, 2017, letter to the Inspector General, U.S. Senator James Lankford requested that this office review complaints made by IRS employees in Tulsa, Oklahoma, regarding workplace conditions in GSA leased space at Eton Square. Two of the complaints concerned roof leaks and mold.

GSA currently leases 19,963 square feet of office space at Eton Square under Lease Number GS-07P-LOK17299. Annual rent is \$404,051. The lease was signed on April 1, 2015, and the IRS moved into the building on July 11, 2016.

Section 3.11 of the lease states:

The Building in which the Premises are located shall be designed, built and maintained in good condition and in accordance with the Lease requirements.

Section 6.11(A) of the lease states:

The Lessor is responsible for the total maintenance and repair of the leased premises. All equipment and systems shall be maintained to provide reliable, energy-efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt.

From the time the IRS moved into the office space in July 2016, through August 2017, PBS personnel and IRS employees observed leaks in the building. During our site visit in June 2017, we also observed evidence of leaks. Although PBS personnel have issued several Notices of Non-Compliance and Deficiency Reports to the lessor regarding the leaky roof, the leaks have not yet been cured.

The first notice was issued on August 16, 2016, based on an on-site inspection by a PBS Property Manager. That notice informed the lessor of roof leaks and gave the lessor a deadline of September 19, 2016 to correct the leaks. A subsequent amendment to the lease executed on August 26, 2016 stated that in the event of any failure by the lessor to cure the deficiencies identified in the August 16, 2016 notice, PBS would perform the work and deduct the amounts from the rent. The amendment stated that no extensions would be granted of the deadline to correct the leaks.

Despite this statement that there would be no extensions of the deadline to correct the leaks, over the past year the PBS contracting officer has given multiple additional notices to the lessor about the roof leaks and the lessor's ineffective efforts to repair them. For example:

- In December 2016, the PBS contracting officer notified the lessor that the removal of wallpaper and carpet had exposed mold and that the roof leaks had to be stopped before mold remediation could begin.
- In January 2017, the PBS contracting officer notified the lessor that roof repairs had not stopped the leaks; and reiterated that the suspected mold could not be remediated until after the leaks are repaired.
- In April 2017, the PBS contracting officer notified the lessor of new roof leaks, and that gutter leaks need attention.

Most recently, in an August 21, 2017 letter, the PBS contracting officer informed the lessor that the leaks breach the lease requirements. The PBS contracting officer also stated that the lessor's continued failure to take action to make the building watertight constitutes a deficiency under the lease clauses and caused PBS to procure a roof assessment. According to the roof assessment report, dated August 25, 2017, the repair work to the roof thus far has been of poor quality and the roof is at the end of its useful life and needs to be replaced.

In the August 21, 2017 letter, the PBS contracting officer requested that the lessor provide a detailed plan and schedule to repair the building to prevent leaks from

occurring through the end of the lease. The PBS contracting officer stated that if the lessor fails to submit an acceptable plan within 10 business days of the receipt of the August 21, 2017 letter, PBS may terminate the lease for default. This notice was the first to state that the lease may be terminated for default. The lessor submitted a draft plan to the PBS contracting officer on September 5, 2017. According to the draft plan, all repairs will be completed by January 5, 2018. The contracting officer is in the process of reviewing the plan.

Meanwhile, GSA has incurred over \$71,000 in costs associated with its efforts to address the mold and roof leaks, including for the roof assessment described above, an indoor environmental assessment, and mold assessment and encapsulation.¹ By letter dated August 4, 2017, the PBS contracting officer notified the lessor that these costs would be deducted from the rent in six monthly increments beginning September 1, 2017. We confirmed that PBS deducted the first increment of \$11,877.09 from the rent on September 5, 2017.

In addition, the IRS has requested that GSA terminate the lease. In a letter dated July 6, 2017, to the GSA Acting Administrator, the IRS Commissioner stated that the IRS has been extremely patient in allowing GSA to work through the cure process; but has been met with constant delays and unfilled promises by the lessor. The IRS Commissioner requested that GSA terminate the lease for default and relocate the IRS as soon as possible. In his August 8, 2017, response to the IRS Commissioner, the GSA Acting Administrator stated that GSA has been working extensively with the lessor and that the lessor “has replaced the roof and gutter system at the facility.” The Acting Administrator also stated that there is a plan for mold remediation and that GSA will provide temporary space for IRS employees who need to be relocated during the remediation. However, despite these assurances, as of August 31, 2017, the roof has not been replaced and the roof assessment report GSA commissioned stated that the repairs to date have been ineffective.

The building is currently for sale. It is imperative that Greater Southwest Region PBS Regional Commissioner enforce the terms of the lease and take immediate action to provide appropriate work space for the tenant. To date, the action taken has been limited: the lease has not been terminated, the repairs made have not stopped the roof from leaking, IRS employees are still housed in the space, and the rent is still being paid.

A full audit into the lease award and administration continues, but we wanted to make you aware of this concern immediately. This audit is being managed out of the Greater Southwest Region Audit Office, and conducted by the individuals listed below:

¹ The mold assessment, conducted by the Federal Occupational Health Service, found mold in the hallways and in the IRS office space. PBS hired a contractor to mitigate the mold temporarily by applying a paint-type product to encapsulate the mold until the leaks could be corrected. The PBS contracting officer determined that the final mold remediation will be performed after the building is leak-free.

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