

STRICKEN END OF YEAR
AMENDED COPY AS OF 6/12/2009

Intro. Res. No. 1107-2009
Introduced by Legislator Romaine

Laid on Table 2/3/2009

**RESOLUTION NO. -2009, TO ENHANCE EFFICIENCY IN
THE SELECTION AND LEASING PROCESS FOR COUNTY
BUILDINGS**

WHEREAS, the Suffolk County Comptroller conducted an audit of Suffolk County's operating leases for buildings and office space (Report No. 2008-07), which was issued December 22, 2008; and

WHEREAS, the audit could not determine if formal procedures relative to the selection of space to lease offices and other purposes existed and were consistently followed; and

WHEREAS, the audit indicated that the process of selecting space to lease was not adequately documented, lacked transparency, and had significant flaws; and

WHEREAS, the audit stated that the space selection process lacked adequate centralized oversight; responsibility for various aspects of the process was spread among three County departments; and

WHEREAS, the audit pointed out that the space selection process may not have always adequately considered the variable costs associated with each lease arrangement, such as whether related costs such as property taxes, utilities, maintenance construction costs, etc. would be the responsibility of the County or the landlord; and

WHEREAS, the audit further indicated that internal control weaknesses in the processing of lease-related expenses may have resulted in unnecessary costs being incurred by the County; and

WHEREAS, the audit further stated that the Department of Public Works' procedures for reviewing and approving construction costs, which are based on negotiated estimates and included in many monthly lease payments, may not have been adequate to prevent significant overpayments to landlords; and

WHEREAS, the audit further pointed out that twenty-four of fifty-three lease agreements reviewed (45%) did not contain a provision requiring the contractor/vendor to submit a Contractor's/Vendor's Public Disclosure Statement prior to being awarded a contract; and

WHEREAS, several lease agreements lacked sufficient relevant information in the payment provisions and on the landlord/tenant responsibility sheet to ensure that the lease payments were proper; and

WHEREAS, twenty-five percent (25%) of the lease files examined by this audit did not contain the Contractor/Vendor Public Disclosure Statement required by the lease agreement and Section A5-7 of the Suffolk County Administrative Code; and

WHEREAS, Certificates of Occupancy and/or other documentation supporting satisfactory completion of construction/build out associated with certain leases could not be provided by the Department of Public Works; now, therefore be it

1st RESOLVED, that the database used for tracking the status of leased sites shall include or provide links to, information regarding the process of locating potential sites, site inspections, rental surveys, and justification for the selected site. The County department(s) responsible for the site selection and leasing process shall have the responsibility to initiate document retention relevant to the space selection process and shall provide the Space Management and Steering Committee (SMSC) all necessary documents to ensure sufficient information is available for the selection and approval process; and be it further

2nd RESOLVED, that the County's process for leasing space in excess of 10,000 square feet shall be by a bid or a Request for Proposals (RFP) process that is adequately advertised to provide the County with an opportunity to obtain leased space at competitive prices in a transparent environment; and be it further

3rd RESOLVED, that prospective landlords will be required to submit a statement summarizing the total estimated cost to the County including all related costs, such as property taxes, utilities, etc., that are to be assumed by the County; and be it further

4th RESOLVED, that the County Department of Public Works is authorized, empowered, and directed to institute and strictly enforce a policy whereby all lease-related payments, such as utilities, that are designated as the County's responsibility, must be supported by a written agreement in order for payments to be processed; and be it further

5th RESOLVED, that the County Department of Public Works is authorized, empowered, and directed to perform a review during the first year of a lease and periodically thereafter, but no less frequently than once every three years, for the purpose of verifying that the County is not paying for services or providing services, such as maintenance/cleaning, that are designated as the landlord's responsibility; and be it further

6th RESOLVED, County Department of Public Works is authorized, empowered ,and directed to, within thirty days (30) of the adoption of this resolution, develop a procedure for certification of square footage. Such procedure will be filed with the County Comptroller's Office; and be it further

7th RESOLVED, a committee is hereby established consisting of the Presiding Officer, the leader of the minority caucus, and the Director of the Budget Review, to adopt formal policies governing various aspects of lease agreements for Legislative offices, such as the maximum size and cost of offices, location of offices, and construction costs associated with leases; and be it further

8th RESOLVED, that lease payments shall not be made based on verbal agreements. Payment of utility bills shall only be processed for which the County's responsibility to do so is established pursuant to formal contract amendments; and be it further

9th RESOLVED, that Space Management Steering Committee, in conjunction with the County Department of Public Works is authorized, empowered, and directed to develop a formal policy that addresses retroactive lease payments; the policy shall identify those situations

in which retroactive lease payments are permissible and shall also establish time and monetary limits for holdover leases; and be it further

10th RESOLVED, that all lease agreements contain a provision requiring the landlord to submit on an annual basis a verified public disclosure statement pursuant to Section A5-7 of Suffolk County Administrative Code; and be it further

11th RESOLVED, that the County Department of Public Works is authorized, empowered, and directed to request verified public disclosure statements from all landlords on an annual basis. DPW staff shall review the statements for completeness and file a copy of the statement with each lease agreement; the original disclosure statements shall be forwarded to the Department of Audit and Control. Lease payments shall be withheld for any landlord that fails to submit the required statement; and be it further

12th RESOLVED, that the County Department of Public Works is authorized, empowered, and directed to request insurance certificates from landlords on an annual basis. Payments shall be withheld from landlords who fail to submit the required insurance certificates. Copies of the insurance certificates shall be sent to the County's Insurance and Risk Management Unit for their assessment of the landlords' compliance with the insurance requirement contained in the lease agreements; and be it further

13th RESOLVED, that the County Department of Public Works is authorized, empowered, and directed to develop a written certification for the acceptance of construction build-outs. Payments to the landlord for construction/build-out should be contingent upon the receipt of the acceptance certification and the Certificate of Occupancy; and be it further

14th RESOLVED, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: