COMMONWEALTH OF PENNSYLVANIA

A SPECIAL INVESTIGATION OF THE SALE OF THE PITTSBURGH STATE OFFICE BUILDING, ALLEGHENY COUNTY

AUGUST 2009

JACK WAGNER, AUDITOR GENERAL

PENNSYLVANIA DEPARTMENT OF THE AUDITOR GENERAL

August 27, 2009

The Honorable Edward G. Rendell
Governor
COMMONWEALTH OF PENNSYLVANIA
225 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Rendell:

This report contains the results of the Department of the Auditor General's special investigation into the sale of the Commonwealth of Pennsylvania's Pittsburgh State Office Building ("Building"). The investigation commenced in March 2009 and concluded in July 2009.

Despite a lack of cooperation with the investigation by the Pennsylvania Department of General Services ("DGS") and other Commonwealth agencies, we found:

- The Commonwealth will incur $54 million in unnecessary costs by selling the Pittsburgh State Office Building and moving 22 Commonwealth agencies into leased space throughout Allegheny and Westmoreland counties.

- DGS understated the full amount of rent to be paid by the Commonwealth when it reported that the average base rent for the three main leases is $11.16 per square foot. When additional charges to cover operational costs are included, the average cost to the Commonwealth is $25.75 per square foot over the terms of the three main leases.

- The Commonwealth sold the Pittsburgh State Office Building for only $4.6 million, roughly half of its appraised value, and the proceeds were reduced by over 67% to a net amount of less than $1.5 million.

- DGS limited the opportunity for input from Commonwealth officials, the public, and other interested parties by holding no public hearings on the sale of the Pittsburgh State Office Building. Although an informational meeting was held by a legislative committee, the meeting was held in Harrisburg on the day before the passage of the bill authorizing the sale of the Building and eleven other state properties.

The overall conclusion of this report is that, as a result of its disregard for the best interests of the Commonwealth and the taxpayers, DGS sold the Building for less than what it was worth so that it could proceed with new lease agreements, a decision that will ultimately cost the Commonwealth and the taxpayers almost the entire amount of money that DGS claims would be required to renovate the Building. This result should not be surprising, given that the sale of the Building occurred during the worst real estate market in recent history. In short, someone got a great deal on the sale of the Pittsburgh State Office Building, but it was not the taxpayers of the Commonwealth of Pennsylvania. Therefore, the Commonwealth should immediately cancel the sale of the Building and the new leases.

Unless DGS changes its course on these imprudent transactions, the Commonwealth and the taxpayers will suffer the financial consequences of the sale of the Building for decades to come. In addition, the residents of southwestern Pennsylvania, who have been able to access numerous state government offices in a single remarkable location for over a half-century – the dream of Pittsburgh Mayor, and later Pennsylvania Governor, David L. Lawrence – will suffer due to the inconvenience and confusion caused by the decentralization of those offices to multiple locations throughout two counties. Decentralization also adds cost and decreases efficiency in state government in attempting to discharge its responsibilities across multiple locations.

DGS was provided with a draft copy of this investigation report for its review and comment. DGS's response is included at the end of this report, followed by the Department's comments on that response. We are disappointed in both the tone and substance of DGS's response. DGS has chosen not to respond to our findings and recommendations, but rather to merely reiterate the positions that it had asserted previously in statements made in public and during the course of this investigation. DGS's determination to proceed with its fire sale of the Building at all costs is incomprehensible, but, unfortunately, the resulting lack of trust in government is not.

We urge DGS and the General Assembly to implement the recommendations made in this report. The Department of the Auditor General will follow up at the appropriate time to determine whether all of our recommendations have been implemented.

This report is public information, and its distribution is not limited. Additional copies may be obtained through our website, *www.auditorgen.state.pa.us*.

Sincerely,

/S/

JACK WAGNER
Auditor General

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EXECUTIVE SUMMARY

FINDINGS	RECOMMENDATIONS
FINDING I: The Commonwealth will incur $54 million in unnecessary costs by selling the Pittsburgh State Office Building and moving 22 Commonwealth agencies into leased space throughout Allegheny and Westmoreland counties.	We recommend that DGS immediately cancel the sale of the Building and the new leases. We recommend that DGS preserve Commonwealth-owned buildings by performing ongoing routine maintenance as needed. In all future decisions regarding sale versus repair of Commonwealth-owned buildings, we recommend that DGS prepare a financial analysis based on all known and foreseeable costs to be incurred and make the analysis available to Commonwealth officials and the public. We also recommend that DGS examine the long-term impact of such decisions beyond 10, 15, and 20 years.
FINDING II: DGS understated the full amount of rent to be paid by the Commonwealth when it reported that the average base rent for the three main leases is $11.16 per square foot. When additional charges to cover operational costs are included, the average cost to the Commonwealth is $25.75 per square foot over the terms of the three main leases.	We recommend that DGS immediately cancel the sale of the Building and the new leases. We recommend that DGS provide complete and accurate information to Commonwealth officials and the public so they can provide input and make better decisions about such transactions.

FINDING III: The Commonwealth sold the Pittsburgh State Office Building for only $4.6 million, roughly half of its appraised value, and the proceeds were reduced by over 67% to a net amount of less than $1.5 million.	We recommend that DGS immediately cancel the sale of the Building and the new leases. We also recommend that, when pursuing future sales of Commonwealth property that will result in the need to lease new space to house displaced agencies, DGS explore the possibility of combining the sale and leases into a single Solicitation for Proposals in order to maximize the financial value of the deal to the Commonwealth and taxpayers.
FINDING IV: DGS limited the opportunity for input from Commonwealth officials, the public, and other interested parties by holding no public hearings on the sale of the Pittsburgh State Office Building. Although an informational meeting was held by a legislative committee, the meeting was held in Harrisburg on the day before the passage of the bill authorizing the sale of the Building and eleven other state properties.	We recommend that DGS, when planning to dispose of Commonwealth real estate, advertise and hold public meetings in the vicinity of the real estate to be sold and provide Commonwealth officials and the public with complete and accurate financial data that they can use to evaluate the transaction. We recommend that the General Assembly enact legislation to require DGS to obtain meaningful input from the community most directly affected by the sale of state property. We also recommend that, before voting to authorize the sale of Commonwealth property, the General Assembly require complete and accurate information from the agency advocating disposal of the property and consider both the short-term and long-term implications of such action.

BACKGROUND AND INTRODUCTION

The Department of the Auditor General's Office of Special Investigations ("OSI") conducted this special investigation of the sale of the Pittsburgh State Office Building ("Building"). The investigation commenced in March 2009 and concluded in July 2009.

The investigation was conducted by interviewing representatives from the Pennsylvania Department of General Services ("DGS"), the landlords of the primary office space that the Commonwealth will be leasing to house the Commonwealth agencies currently occupying the Building, representatives of those agencies, the Commonwealth's real estate broker, the companies that placed the highest offer each time that DGS solicited proposals to purchase the Building, and several vendors hired by DGS to perform work related either to the Building or the sale of the Building.

Additionally, OSI reviewed numerous documents related to the sale of the Building and the leases for the new office space, including the proposal and lease documents, the legislation authorizing the sale of the Building, legislative discussions concerning the sale, studies commissioned by the Commonwealth prior to the sale, and data and information regarding the City of Pittsburgh's real estate market and economic development plans.

On July 24, 2009, DGS was provided with a draft copy of this report for its review and comment. We received DGS's response on August 14, 2009. DGS's response is included at the end of this report, followed by our comments on that response. We are disappointed in both the tone and substance of DGS's response. DGS has chosen not to respond to our findings and recommendations, but rather to merely reiterate the positions that it had asserted previously in statements made in public and during the course of this investigation.

As stated throughout this report, DGS and other Commonwealth agencies failed to cooperate fully with this investigation as follows:

- **Refused to provide:**
    - *Cost information related to the sale of the Philadelphia State Office Building and the related leases for new space to house the Commonwealth agencies displaced by the sale, including, but not limited to, moving, build-out arrangements, and consulting and security expenses.* Several budget estimates by DGS for the Pittsburgh State Office Building were based on the estimates for the Philadelphia building, so OSI wanted to analyze the Philadelphia data for any unknown or over budgeted costs that would affect Pittsburgh. OSI requested this information on April 6, 2009, April 7, 2009, and April 30, 2009. On May 21, 2009, DGS stated that this request was not relevant to the current investigation.

- *Any and all documentation concerning the Commonwealth's recent purchase of the City of Pittsburgh's Municipal Courts Building. This information would be used for a cost comparison with the Building.* OSI requested these documents on April 22, 2009. On May 8, 2009, DGS informed OSI that the purchase of the Pittsburgh Municipal Courts Building was not relevant to the scope of our inquiry.

- **Failed to provide:**[1]

  - *The reduction of operating costs to be recognized, if any, by moving into the new leased space. This reduction would include savings related to personnel not transferred to a new location.*

  - *Any and all lease agreements that DGS has entered into or will be entering into to house state employees displaced by the sale of the Building, as those leases would impose additional costs resulting from the sale of the Building.* OSI requested this information on April 6, 2009 and April 30, 2009. We received executed lease agreements for the three main leases on April 30, 2009. When the other leases were not forthcoming from DGS, we began requesting the documents directly from the agencies. Most agencies were cooperative and provided the information. The Department of Health did not provide the lease because it was not yet executed. The Department of Public Welfare ("DPW") refused to provide us with its leasing information, stating that the request needed to be made through DGS. On June 8, 2009, DGS informed OSI that it had notified other agencies that they should comply with our direct requests for documents and information. However, DPW still did not provide the material when OSI requested it after DPW was apparently informed by DGS to cooperate. DPW again referred us to DGS. OSI obtained the lease from the Pennsylvania Treasury Department.

  - *Contract and cost data pertaining to the contractors to be hired to assist with the move, including the information technology ("IT") consultant hired to design server rooms and evaluate IT requirements, the moving consultant hired to move the Building's tenants, and the furniture vendor hired to supply the office furniture for the leased office spaces.*

  - *The model that DGS used to explore the benefits of centralization versus decentralization of state government due to decentralizing state agencies in Pittsburgh, including trends that DGS has studied to show that decentralization is cost-effective, advances customer/public services, and is more efficient than centralized state government.*

[1] The "Failed to provide" category means that, although DGS told OSI that it would provide these documents and information, it neither provided them nor referred us to another agency; however, DGS did not outright deny us the records, as it did with regard to the requests listed under the "Refused to provide" category beginning on the previous page.

- *An explanation of how the cost of numerous server rooms, IT cabling, conference rooms, and common areas is more efficient than housing state employees in one building versus multiple leased buildings.*

▪ **Provided only after a significant time delay:**

- *Any and all documentation relating to the decision to sell the Building, including the role of the Office of the Budget ("OB") in the sale of the Building.* OSI requested this information from DGS on May 12, 2009. DGS provided the name of the appropriate OB contact person on June 8, 2009. We requested information from OB on June 9, 2009, but it was not received until July 16, 2009.

- *Information concerning the debt service related to the Building, as this should be deducted from the sale proceeds of the Building.* OSI requested this information on April 22, 2009. On May 8, 2009, DGS informed OSI that the requested information was available through OB, but did not provide the name of the appropriate OB contact person until June 8, 2009. OB provided this information to OSI on June 17, 2009.

- *The amount required to be paid from the sale proceeds of the Building to the U.S. Department of Labor ("U.S. DOL") relative to its equity interest in the Building.* OSI requested this information on May 12, 2009. DGS provided the name of the appropriate OB contact on June 8, 2009. OB provided this information to OSI on June 17, 2009.

- *Information documenting that the sale of the Building was approved by the General Assembly in 2007, after three public hearings and a public review of financial models as DGS stated publicly. This request included, but was not limited to, testimony and financial data.* OSI requested information on April 7, 2009. On May 8, 2009, DGS provided OSI with some data (included in the Appendices IX and X to this report) and suggested that OSI contact the House State Government Committee and the Senate State Government Committee, as well as the chief clerk of each body, for requested records. The results of our inquiries are detailed in Finding IV.

- *Contract between DGS and the architect hired to assist DGS and its real estate broker on the project.* OSI requested this contract on April 30, 2009. On May 21, 2009, DGS informed OSI that it was not in possession of the document, was working with its real estate broker to obtain it, and would provide a copy of the contract to OSI when available. DGS never provided the contract; OSI obtained it directly from the real estate broker on June 5, 2009.

Building History

Opened in 1957, the Pittsburgh State Office Building was the first office building outside of Harrisburg that had been built to centralize the numerous state government agencies scattered throughout a region of the Commonwealth. The 16-story structure cost $8 million to construct and was one of the focal points of Pittsburgh's rebuilding and modernization programs.[2] The Building consists of 274,308 square feet, excluding a 23,848-square-foot basement, and is located on a 1.258-acre irregularly shaped corner lot. Photographs of the Building are included in the appendix to this report.

Located at 300 Liberty Avenue, the Building is in the center of Pittsburgh's famous skyline at the tip of Pittsburgh's Golden Triangle. The Building provides easy access to Interstates 376 and 279 and is a short walk to many bus stops and the subway system operated by the Port Authority of Allegheny County. The Building sits across from beautiful Point State Park and its landmark fountain, making the location easily recognizable by taxpayers utilizing services provided by state government.[3]

Actual and Proposed Renovations to the Building

The last significant updates to the Building occurred between 1986 and 1988. These updates included replacement of the windows, the curtain wall system, and the roof; updating portions of the HVAC[4] system and the elevator system; and cosmetic upgrades to the lobby. The remaining components of the Building are largely original with minor alterations over time.[5] Some of the alterations would have been changes requested or made by specific agencies to their own office space.[6]

DGS considered renovating the Building several times since the renovations in the 1980s, as indicated in Table 1 on the following page. We present this detail as background information that supports the overall conclusion of this report that DGS should have renovated the Building instead of selling it and incurring the costs of leasing alternate office spaces for the displaced Commonwealth agencies and employees. We must also express our concern that, since at least 1997, DGS would allow Commonwealth employees, vendors, and the general public to work and conduct business in a building that DGS itself apparently believed failed to comply with building codes and basic safety standards. Of all of the proposed renovations listed in Table 1, the only

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[2] Margaret L. Chantler, "DPA Units in Allegheny Move into the New State Office Building," *Inside DPA*, Vol. 9, No. 2, April 1957, p. 2. "DPA" is an acronym for the Department of Public Assistance, the predecessor to the current Pennsylvania Department of Public Welfare.

[3] Solicitation for Proposals No. 94266, Pittsburgh State Office Building, Feb. 9, 2009.

[4] "HVAC" is an acronym for heating, ventilation, and air conditioning.

[5] *Appraisal of Real Estate, Pennsylvania State Office Building Pittsburgh Headquarters*, prepared by Barone, Murtha, Shonberg and White, Inc. for GVA Oxford, Sept. 19, 2006.

[6] Examples of alterations made by specific agencies include: the Pennsylvania Securities Commission had new furniture installed, some asbestos abatement to remove floor tile, carpet installation, and painting; the State Civil Service Commission had electrical upgrades in order to add more computer stations, and new carpet and paint; the Board of Probation and Parole had the 14th floor renovated to include several staff offices, conference rooms, and interview rooms.

work that was completed was the emergency replacement of the chillers (including related asbestos abatement) and electrical feeders in 2006.

Table 1
Summary of Various Proposed Renovation Projects to the Building, 1997-2009

Year	Prepared by	Work to be Performed	Cost Estimate
1997	DGS's Bureau of Engineering and Architecture	Renovations to meet building codes, handicapped standards, fire safety standards and more efficient HVAC standards and electrical standards, including, but not limited to: - Asbestos abatement - New HVAC/plumbing, sprinkler system/electrical - New carpet, ceilings, finishes - Upgrade of elevators - New sidewalks compliant with the Americans with Disabilities Act ("ADA") - Improve existing entrance - Provide handicapped access from main lobby to 1st floor.	$17,260,000
April 2004	Pittsburgh-based architectural firm	Building renovations, including miscellaneous life safety upgrades, ADA accessibility upgrades, security system, electric power distribution system, HVAC system, lighting, domestic and chilled water systems.	$14,610,000
Sept. 2004	Pittsburgh-based architectural firm (same firm as above)	Same as above, but smaller in scope so costs would be within the budgeted amount of $8,690,000.	$8,689,219
2006	DGS's Bureau of Engineering and Architecture	A comprehensive projection to make the Building energy-efficient and to fully renovate the Building to <u>extend its useful life for an additional 30 years</u>. Upgrades include: - Building exterior - New windows[7] and roof - Clean and seal marble portion of the Building's exterior - Replace all doors and hardware - New HVAC system - Asbestos abatement - New electrical systems - Life safety issues: sprinkler system for entire structure, new fire alarm system - Automated lighting control system - Security access controls - Soft costs	$62,764,069
2009	DGS's Bureau of Engineering and Architecture	Updated cost estimate of the 2006 comprehensive rehabilitation of the Building. The scope of work described above remained the same and would also <u>extend the Building's useful life for an additional 30 years</u>.	$64,235,102* (see next page)

[7] According to DGS's Bureau of Engineering and Architecture, the Building's windows were replaced as part of renovations in the 1980s and need to be replaced with technologically advanced windows to meet energy standards. The architectural firm that provided the 2004 cost estimates told OSI that the current windows do not reflect heat away from the building. The side of the building with the sun would be hot, while the other side would be cold, impacting the comfort level of the Building's tenants. Therefore, merely installing a new efficient heating and cooling system will not fix this problem and new windows would be necessary.

***The 2009 cost estimate is not inclusive of all costs to be incurred, such as bond amortization and moving expenses. According to the financial model prepared by OB, which used this $64.2 million figure, the present value cost to renovate and remain in the Building is approximately $138 million. A copy of the 2009 cost estimate is included in Appendix II to this report.*

As indicated in Table 1, the wide disparity in estimated renovation costs from a low of $8.6 million to a high of $64.2 million is due to significant differences in the scope of the work to be completed. According to the Director of DGS's Bureau of Engineering and Architecture ("Director"), the 2006 projection was to make the Building energy-efficient and to fully renovate and modernize the entire structure to the point where it would have a useful life of an additional 30 years, whereas the renovations proposed in 1997 and 2004 were spotty renovations to pieces and parts of the Building.

OSI observed that another difference between the cost estimates is the inclusion of soft costs, such as design and construction management. Soft costs were not included in the 1997 and 2004 cost projects. The 2006 proposal includes approximately $8 million in soft costs.

The Director of DGS's Bureau of Engineering and Architecture also told OSI:

- Renovations to the Building would extend its life for an additional 30 years.

- The 2006 cost estimate of $62.7 million was a preliminary budget estimate that originated from (1) conversations with the architect from the 2004 project and the building administrator for the Building, presumably to obtain the scope of work needed, and (2) the costs per square foot obtained from a construction industry publication.

- In his opinion, the number is reasonable.

- To fully renovate the Building, DGS would need to perform a comprehensive on-site evaluation of the Building.

- The individual who completed the price calculation in 2006 did not perform a site visit. (Again, OSI presumes that the scope of work was obtained through conversations with the building administrator and the architect for the 2004 project rather than a comprehensive on-site evaluation.)

When asked to what degree the proposed renovations would reduce operating costs, the Director stated that the DGS reports did not discuss the Building's operational efficiencies. He was unaware of DGS performing a study to specifically determine energy-efficiency savings on a newly renovated Building.

The Director said that he questioned whether the existing exterior envelope (the building façade) needed to be replaced along with replacing the windows or whether new glazing and caulking to seal around the openings of the existing windows would be adequate. In the Director's opinion:

- DGS may not have to re-skin the Building, but it would be good to do so.
- Some renovations may not be practical.
- The Building did need a new roof.
- DGS wanted the Building to be a livable space.
- Questions concerning whether to re-skin the Building or re-glaze the exterior envelope, and questions regarding gutting the Building to convert it into an open office space environment concept, could be raised. Not all of this work needs to be done.
- A $64 million renovation project could ultimately become a $45 million project.

In an interview with OSI, DGS's Deputy Secretary for Property Management ("Deputy Secretary") stated that it was his opinion that the challenge faced in renovating the Building was its aging infrastructure. The mechanical systems, such as the elevators, the roof, and the windows, all need to be replaced. During a discussion about the extent of renovations needed for the Building, he told OSI that he believed that the Building should be completely renovated and that partial renovations would not be practicable.

The Deputy Secretary did not provide a cost estimate or breakdown to OSI, explaining that the cost analysis was the responsibility of DGS's Bureau of Engineering and Architecture, which prepared the costs estimates referenced in Table 1.

When questioned concerning the routine maintenance performed on the Building, the Deputy Secretary stated that, due to a limited operating budget, maintenance issues have been deferred. Because there was no money to perform routine maintenance, the Building is now facing necessary capital improvements.

Despite the comment by the Deputy Secretary that funds were unavailable, the General Assembly had allocated $15,540,000 in capital budget funds for the renovations to the Building, as demonstrated in Table 2 below.

Table 2

Funding Available to Renovate the Pittsburgh State Office Building

Legislation	Authorized Amount
Act 74 of 1994:	
Renovation of the Building:	
Base Project Allocation	$4,260,000
Design and Contingencies	$852,000
Act 131 of 2002:	
Interior and exterior renovations to the Building:	
Base Project Allocation	$8,690,000
Design and Contingencies	$1,738,000
TOTAL	**$15,540,000**

However, none of this available funding was provided for renovations to the Building. These funds could have been used to upgrade the Building.

<u>Sale of the Building</u>

When DGS began exploring the sale of the Building in late 2005/early 2006, the land was assessed at $4,114,400 and the structure at $10,812,800, for a total of $14,927,200. The appraisal obtained by DGS opined that the market value of the entire property, as of August 2006, was $8,230,000.[8]

In July 2007, the General Assembly passed House Bill 1656, which became Act 54 of 2007 ("Act 54"), authorizing DGS to sell the Building, including both the structure and the land, through a public solicitation for proposals.

The initial Solicitation for Proposals occurred in April 2008. It is not clear why DGS waited almost a year to solicit proposals to purchase the Building. This solicitation resulted in two best and final offers.[9] The highest offer was submitted by The Buncher Company ("Buncher") of Pittsburgh for $4,507,000.[10] Buncher withdrew its proposal on February 6, 2009. A representative of Buncher told OSI that the company was never formally informed that it was the successful offeror. While waiting for DGS, Buncher officials began to conclude that the costs to renovate the Building would be too high and the local real estate market was not very good. With all of these factors considered, Buncher decided to withdraw its proposal and leave the project.

On February 26, 2009, DGS sent a letter to the President of Buncher acknowledging and accepting the company's withdrawal of its proposal. DGS returned Buncher's guarantee of $90,140. According to the Solicitation for Proposals issued by DGS and submitted by Buncher, the successful offeror would forfeit its guarantee if the successful offeror did not execute a purchase agreement. The Chief of the Land Management Division in DGS's Bureau of Real Estate told OSI that Buncher could withdraw from the sale of the Building without penalty because DGS and the company had never signed and executed such an agreement.

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[8] *See* footnote 5 and accompanying text. The price difference between the appraisal and the property tax assessment is primarily due to market conditions at the time that each occurred. The appraisal was in 2006 based on current market condition, building age, location, etc. The tax assessment appears to be based on the value of the building in 1990.

[9] "Best and final offer" is used in the competitive proposal process to indicate that no further negotiation on the amount or terms is possible. It is often issued in response to a request that the contracting agency sends to those offerors whose proposals are within a close range of one another.

[10] In addition to Buncher, three other firms had submitted proposals in response to the initial solicitation for proposals – McKnight Realty Partners LLC (Pittsburgh, Pennsylvania), Rexxhall Realty, LLC (New Rochelle, New York), and Millcraft Investments, Inc. (Canonsburg, Pennsylvania). Note that Millcraft is associated with both River Vue Associates LP (the ultimate winning offeror) and Piatt Place Downtown Pittsburgh, LP (one of the three main landlords for new space). As is a common practice in the real estate industry, River Vue and Piatt Place are single purpose entities each established with regard to a particular piece of real estate. DGS rejected the proposal from McKnight ($2.05 million) for being non-responsive due to lateness and gave the other three offerors the opportunity to submit a best and final offer. In response, Millcraft withdrew its proposal in order to focus on preparing Piatt Place for lease, Rexxhall increased its proposal from $1.5 million to $2.5 million, and Buncher kept its proposal at $4.5 million.

On February 9, 2009, DGS re-issued its Solicitation for Proposals with a stipulation that the minimum acceptable sale price was $4.5 million (the amount of the original offer). River Vue Associates, LP ("River Vue") was the only offeror to submit a complete proposal,[11] with a proposal of $4,611,000, just $111,000 over DGS's minimum price and $104,000 over Buncher's original offer. River Vue submitted its proposal on March 3, 2009.

The sales agreement for the Building was signed by the Governor on April 2, 2009, after the commencement of this special investigation, with settlement to occur no earlier than December 1, 2009 and no later than February 28, 2010. The gross sales price was $4,611,000. The agreement requires River Vue to provide, at no cost, access to the communications system on the roof of the Building, which is part of the Commonwealth's statewide emergency radio network.

Leases for New Office Space

At the same time that DGS was trying to sell the Building, it was soliciting proposals for commercial office space for the approximately 800 state employees and 22 agencies being displaced by the sale of the Building.[12] Prior to soliciting proposals for office space, DGS divided its space needs into three main groups: auditing and field employees, customer service employees, and general office employees.

DGS issued three separate Solicitations for Proposals, with each one tailored to meet the needs of an identified group. The term "main leases" used throughout this report will refer to these three leases.

DGS selected three main locations in downtown Pittsburgh to lease:

- 301 Fifth Avenue,[13] which is owned by Piatt Place Downtown Pittsburgh LP ("Piatt Place"). Piatt Place is related to River Vue, the ultimate purchaser of the Pittsburgh

[11] Two other firms also submitted proposals in response to the second solicitation for proposals -- Willner Realty and Development Company (Ardmore, Pennsylvania) and The Low Income Family Enrichment Corporation a/k/a The Life Foundation (Manhattan Beach, California). However, DGS rejected the proposal from Willner Realty ($2.4 million) for being non-responsive and rejected the proposal from The Life Foundation ($10 million with a 20-year lease of the Building back to the Commonwealth) for being late and not in conformance with the Solicitation for Proposals.

[12] DGS was unable to provide a definitive number of Commonwealth agencies currently located in the Building, so OSI used the best number available for the purpose of this report.

[13] The building at 301 Fifth Avenue in Pittsburgh (Piatt Place) is the former Lazarus Department Store. According to the Allegheny Institute ("When Does the Public Bailout of Lazarus Stop?" Feb. 18, 2008), it cost $78 million to build the store and parking garage, with public sources providing $48 million of the necessary funds. Sources of the funding included the Pittsburgh Development Fund, Parking Tax and Revenue bond, City funding, and a Tax Increment Financing package. The current owner has received $3.75 million in public funds from the city's Urban Redevelopment Authority ("URA"), to convert the building into office and retail space. The URA provided the funds through its Redevelopment Assistance Capital Program, Infrastructure Development Program Loan, and the Downtown Façade Restoration program. The Infrastructure Development Program is funded through the Pennsylvania Department of Community and Economic Development. Additionally, the current owner has received $7.3 million from a non-profit corporation organized by the Pennsylvania Housing Finance Agency for the condominiums added to the structure. The funding includes federal tax credits.

State Office Building. These two limited partnerships are separate legal entities, but they have the same partners in common;[14]

- 411 Seventh Avenue; and

- 11 Stanwix Street.

These three leases were all signed on April 3, 2009, the day after River Vue purchased the Building.[15]

In addition to these three main leases, four other leases were entered into for specific offices relocating from the Building:

- 233 West Otterman Street, Greensburg – Department of Health, Bureau of Community Health Systems, County/Municipal Health Departments;[16]

- 531 Penn Avenue, Pittsburgh – Office of Vocational Rehabilitation, Department of Labor and Industry;

- University of Pittsburgh Applied Research Center, Harmarville – Public Utility Commission, Bureau of Transportation and Safety;[17] and

- 2307-09 East Carson Street, Pittsburgh – Allegheny County Assistance Office, Department of Public Welfare.[18]

As indicated in Table 3 on the following page, the new leases being entered into will cost the Commonwealth, in the aggregate, at least $302 million over 30 years. Because DGS's Director of the Bureau of Engineering and Architecture had stated that the renovations would extend the life cycle of the Building for 30 years, we calculated the leasing costs over the same 30-year time period. In instances in which the existing lease did not extend to 30 years,

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[14] Both partnerships are affliated with Millcraft Investments, Inc., which submitted an offer, later withdrawn, in response to DGS's initial solicitation for proposals to purchase the Building. *See* footnote 10.

[15] The "commencement date" of each lease is essentially the earlier of (a) the substantial completion date following the issuance of a permanent certificate of occupancy necessary to enable the Commonwealth to fully occupy the entire premises and to conduct its governmental functions therein and complete the Commonwealth's Acceptance of Premises report, or (b) the date the Commonwealth first occupies any portion of the leased space with landlord's consent for the purpose of commencing therein the Commonwealth's governmental functions.

[16] The Department of Health did not provide OSI with a copy of the lease agreement, stating that the lease has not yet been executed. In order to calculate the costs of this lease, we assumed a five-year term and that the current lease amount stayed constant during that period. We believe that these assumptions are reasonable and provide for a conservative cost estimate.

[17] The Public Utility Commission is moving into existing office space and does not anticipate incurring any additional costs.

[18] As of the date of this report, DPW had not responded to our request for specific written information regarding this lease and other locations where DPW was relocating. Subsequently, DPW referred us to DGS for the requested information. However, DGS did not provide the information. OSI obtained a copy of the lease from the Pennsylvania Treasury Department.

including renewals, we applied the cost stipulations for previous renewals. We believe that this provided a reasonable and conservative estimate of the costs to be incurred.

Table 3

Aggregate Lease Cost for Space for Commonwealth Agencies Displaced by Sale of Building

Location	Total Lease Payments Based on 30 Years	Lease Terms – Informational Purposes Only[19]
301 Fifth Avenue, Pittsburgh (Piatt Place)	$164,691,122	Preliminary Period[20] – 6 months Lease – 20 years Renewal 1– 5 years Renewal 2 – the period remaining until the 30th anniversary date of the commencement of the renewal period.
411 Seventh Avenue, Pittsburgh	$40,457,490	Lease – 15 years Renewal 1 – 5 years Renewal 2 – 5 years
11 Stanwix Street, Pittsburgh	$58,761,825	Preliminary Period – 4 months Lease – 15 years Renewal 1 – 5 years Renewal 2 – 5 years
531 Penn Avenue, Pittsburgh	$17,702,084	Lease – 10 years Renewal 1 – 5 years Renewal 2 – 5 years
2307-09 East Carson Street, Pittsburgh	$20,520,320	Lease – 10 years Renewal 1 – 5 years
233 West Otterman Street, Greensburg	$243,540	Unknown because lease agreement is not finalized as of the date of this report.*****
TOTAL	**$302,376,381**	***Although the lease costs start lower in the initial years before increasing, the average cost per year over the entire 30 years would be approximately $10 million per year.***

<u>Note</u>: See footnote 17 regarding the cost of the seventh new lease.
*******In our calculation, we assumed a five-year term and also assumed that the current lease amount stayed constant during that period. We believe that these assumptions are reasonable and provide for a conservative cost estimate.*

Each main lease agreement states that the site will be "turn-key ready," meaning that the site will be ready for occupation. The space will have been designed, offices constructed, and furniture and fixtures installed. The costs incurred to make the offices ready for occupation, known as build-out costs, will initially be borne by the landlord but then recouped through the lease payments from the Commonwealth as part of a $10 per square foot allowance included in the base rent.[21] Table 3 reflects the $10 per square foot allowance because it was part of the lease costs negotiated by DGS. Any costs that DGS incurs above the allowance amount will be

[19] The annual lease payments for these properties, where known, are included in the appendix to this report.

[20] The preliminary period begins on the date the Commonwealth can first occupy the premises. During this period, the Commonwealth is paying reduced rent. According to the leases, the first year of the lease begins at the end of the preliminary period.

[21] Note that the allowance is different from the additional charges for operational costs that are also included in the monthly rent but separate from the base rent (see Finding II).

billed to the agencies located in the buildings, based upon the percentage of space each agency occupies.

The Deputy Director for DGS's Bureau of Real Estate stated that the allowance could be used to pay for:

- computer server rooms at each location;
- change orders;
- moving costs;
- security equipment;
- signage; and
- consultants, such as the architect that designs the furniture layout and the information technology specialists working on the computer needs.

The leases commence no later than 240 days after the date on which DGS and the landlords have approved documents required for construction work on the leased premises, but no sooner than July 1, 2009. Settlement on the sale of the Building must occur no earlier than December 1, 2009 and no later than February 28, 2010. Therefore, DGS may end up making payments to lease new space from Piatt Place and other landlords *before* it receives payment from Piatt Place's affiliated partnership (River Vue) for the sale of the Building.

Consequences

At least three groups will receive a financial benefit from the sale of the Building:

- Consultants and brokers retained by DGS and the landlords of the new office space to assist with the sale of the Building and the leasing of new space;

- The landlords who will receive over $302 million over the next 30 years; and

- The local government entities[22] that will receive additional tax revenues each year because the Building lost its tax-exempt status when it was sold by the Commonwealth. However, although DGS estimated those annual tax revenues at $500,000,[23] the amount will be substantially lower due to an expected property tax reassessment based on the Building's recent sale price of $4.6 million.

[22] The local government entities include the County of Allegheny, the City of Pittsburgh, and the School District of Pittsburgh.

[23] James P. Creedon, Secretary of the Pennsylvania Department of General Services, "Sold! The State Office Building was too costly to keep," *Pittsburgh Post-Gazette*, March 26, 2009 ("Creedon op/ed"). A copy, with our annotations, is included in the appendix to this report. It is followed by a copy of an op/ed piece by Auditor General Wagner ("Green Pennsylvania – We should make the state a showcase for green jobs and technology," *Pittsburgh Post-Gazette*, March 18, 2009), which proposed spending a small portion of the new federal stimulus funds for certain authorized "green" expenditures involved in the renovation of the Building.

As demonstrated in this report, unless DGS changes its course on these transactions, the Commonwealth and the taxpayers will suffer the financial consequences of the sale of the Building for decades to come. In addition, the residents of southwestern Pennsylvania, who have been able to access numerous state government offices in a single remarkable location for over a half-century – the dream of Pittsburgh Mayor, and later Pennsylvania Governor, David L. Lawrence – will suffer due to the inconvenience and confusion caused by the decentralization of those offices to multiple locations throughout two counties. Decentralization also adds cost and decreases efficiency in state government in attempting to discharge its responsibilities across multiple locations.

FINDINGS AND RECOMMENDATIONS

<u>FINDING I</u>: The Commonwealth will incur $54 million in unnecessary costs by selling the Pittsburgh State Office Building and moving 22 Commonwealth agencies into leased space throughout Allegheny and Westmoreland Counties.

DGS maintains that the sale of the Building will save the Commonwealth $14 million over 20 years. DGS bases this claim on a financial model that the Secretary of General Services ("DGS Secretary") offered to share with the Department of the Auditor General when the sale was announced.

However, in response to OSI's request for a copy of the financial model, DGS provided a draft of the financial model dated March 17, 2009. The Office of the Budget prepared the financial model almost two years <u>after</u> the legislature authorized DGS to sell the Building – but about one week before the publication of the DGS Secretary's op/ed piece attempting to justify the sale and leases.[24] Clearly, neither DGS nor the General Assembly could have used this document when considering the financial ramifications of the sale, as the document did not exist. There is no indication that DGS provided the legislature with any financial data regarding the cost ramification of selling the Building. However, the legislators may have seen or read media reports quoting a DGS spokesperson that the sale would save $54 million over 20 years.[25] We were not provided nor did we find any information to support such a claim.

We requested a finalized version of the financial model from both OB, which had prepared the document for DGS, and from DGS. OB told OSI that the draft model dated March 17, 2009 is the last version of the analysis that was prepared by OB.[26] We repeatedly requested a copy of the document used by DGS to support its claim that selling the Building would save $14 million over 20 years.[27] In response to each request, DGS either provided a copy of the draft document or referred us to it. There does not appear to be a final version of the document; according to DGS's response to this report, the draft dated March 17, 2009 is the "final draft."

[24] *See* Creedon op/ed.

[25] *See, e.g.,* KDKA-TV, "Pittsburgh's State Office Building To Be Sold," May 19, 2007, accessed at *www.kdka.com* on July 14, 2009.

[26] OB later emphasized in a memorandum to OSI that OB's role in the sale of the Building was limited to providing assistance with financial analysis and technical matters.

[27] *See* Creedon op/ed.

The draft financial model, summarized in Table 4, consists of a comparison of the calculated present values[28] of the cost of leasing space elsewhere and the cost of renovating the Building based on input assumptions provided by DGS. The model used DGS's 2009 estimate of $64.2 million for renovations that would extend the life of the Building for an additional 30 years (see Table 1).

Table 4
DGS's Draft Financial Model Results

Present Value Cost to Stay in the Building	$137,753,991
Less: Present Value Cost of Leasing Space Elsewhere	$124,271,869
Difference	$13,482,122

Note: Calculations are based on 20 years, 9 months (October 2009- June 2030).

We reviewed the draft financial model and found that it does not account for all costs to be incurred by the Commonwealth, nor does it account for all required reductions to the sales proceeds (discussed in Finding III). More importantly, the financial model is based on 20 years, yet the main leases are for terms greater than that and, according to DGS, the renovations of the Building would have extended the life of the Building for an additional 30 years.

Our approximation of the total costs to be incurred by the Commonwealth over 30 years is depicted in Table 5. Our approximation:

- does not include complete lease information for the new lease for the Department of Health because the agency would not release the information on the grounds that the lease was not finalized; [29]

- includes DGS's estimates for move-related expenses that are based on the estimates prepared for the Philadelphia State Office Building relocation (which, according to DGS's Deputy Director for the Bureau of Real Estate, is over budget); and

- includes our estimate of salary and benefit costs for DGS employees currently assigned to the Building and being transferred to one of the three locations. This estimate would include maintenance employees, janitorial staff, Capitol Police staff, and building administrators. DGS did not directly respond to our request for information as to whether or not all employees would be transferred. However, because the landlords of the new spaces are responsible for maintenance and janitorial services and because each of those new spaces has its own security system, it would appear that there is at least the possibility that the total current staff complement at the Building may not be transferred to the new locations. Therefore, we used 10 percent of current salary and benefits with an annual increase of 5 percent to calculate the DGS personnel costs associated with leasing the office space. We believe that these assumptions are reasonable for the

[28] "Present value" refers to the current worth of a future sum of money – in this case, the costs to be paid over 20 years.

[29] *See* footnote 16 and accompanying text.

purpose of providing a conservative cost estimate, and that salary and benefit costs need to be included in our total estimate of the cost of selling the Building and moving into new space because those personnel costs were included in OB's estimate of the cost of remaining in the Building. Our estimate is not based on any known facts regarding actual personnel transfers, and the actual costs may be higher.

Table 5
Total Costs to Sell the Building and Move into Leased Space for 30 Years

Expense Category		Costs of individual items in a category	Total costs per category
Brokerage Fees			$161,385
Repayment of Funds to U.S. Department of Labor			$1,244,970
Reports obtained prior to sale of the Building			
	Appraisal	$5,400	
	Tax & Economic Impact Reports	$10,000	
	Highest and Best Use Report	$34,784	
	Asbestos	$18,723	$68,907
Consultants related to leased spaces			
	Lami Grubb Architects, LP (Pittsburgh)[30]	$75,235	
	Ballard Spahr Andrews & Ingersoll, LLP (Phila.)[31]	$40,171	$115,406
Move-related expenses[32]			
	Furniture, Fixtures, and Equipment	$7,901,200	
	Moving Costs	$500,000	
	Information Technology and Telephone	$950,000	
	Facility Needs	$200,000	
	Relocation Consultant	$85,000	
	Security System	$500,000	$10,136,200
Leases:			
	301 Fifth Avenue, Pittsburgh (Piatt Place)	$164,691,122	
	411 Seventh Avenue, Pittsburgh	$40,457,490	
	11 Stanwix Street, Pittsburgh	$58,761,825	
	531 Penn Avenue, Pittsburgh	$17,702,084	
	2307-09 East Carson Street, Pittsburgh	$20,520,320	
	233 West Otterman Street, Greensburg[33]	$243,540	$302,376,381
Salary and benefits costs of DGS employees being transferred to one of the three main lease locations			$11,123,455
TOTAL			**$325,266,704**

As shown in Table 6, renovating the Building would save the Commonwealth $54 million dollars, recouping almost the entire cost of the renovations. This figure would be higher if more basic, and less expensive, renovations were pursued from the proposals listed in Table 1. Obviously, the cost of renovating the Building and *temporarily* leasing

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[30] Amount paid by DGS through its real estate broker to the architect as of June 5, 2009.

[31] We question the need for outside legal counsel when DGS routinely leases office space and should have the legal expertise in-house to execute a lease agreement. Per DGS, this cost may be reduced due to negotiations with the law firm.

[32] Estimates provided by DGS.

[33] The new lease was not executed as of June 19, 2009, so we based our calculation on the previous rental rate. We also used a five-year lease term.

space elsewhere during the renovations would be even more economical than the cost of selling the Building and *permanently* leasing space elsewhere.

Table 6
OSI's Financial Model Results

Present Value of Leasing Space Elsewhere*	$220,894,716
Less: Present Value Cost to Stay in the Building**	$166,202,659
Difference	$54,692,057

Note: OSI's calculations were based on 30 fiscal years beginning October 2009 and extending into the 31st fiscal year if necessary to complete the lease term, given DGS's statements that renovations to the Building would extend the useful life of the Building by an additional 30 years.
**Includes lease costs for all new leases, furniture expenses, moving costs, and the salaries and benefits of DGS employees transferred to the new locations. In contrast, OB's calculation of the present value of leasing space elsewhere is based only on the cost of the three main leases, not all seven leases, for 20 years (see Table 4).*
***Includes OB's calculation of the present value cost of staying in the Building for 20 years (see Table 4), plus OSI's calculation of the present value cost of staying in the Building for an additional 10 years, for a total of 30 years.*

Leasing costs are perpetual. When these leases expire, the Commonwealth will need to enter into new leases or renew the existing leases. In contrast, renovation costs (as opposed to operation and maintenance costs) are finite and are amortized over a fixed period of time. As demonstrated above, the costs to extend the life of the Building for a particular time period are significantly lower than the costs of selling the Building and leasing space elsewhere.

Conclusions and Recommendations:

Selling the Building is a financial detriment to the Commonwealth and its taxpayers. The Commonwealth will pay $54 million needlessly. It appears that DGS regarded the questionable $60-plus million in renovation costs as an unacceptable amount for just one building, but it failed to consider all of the foreseeable long-term costs associated with leasing other office space.

We recommend that DGS immediately cancel the sale of the Building and the new leases. The Building is a public asset owned and paid for by the taxpayers. The same taxpayers will pay dearly for decades to come if these transactions are not reversed.

We also recommend that DGS preserve Commonwealth-owned buildings by performing ongoing routine maintenance as needed. Minor investment with funds earmarked by the General Assembly in 1994 and 2002 would have dramatically improved the Building.

In all future decisions regarding sale versus repair of Commonwealth-owned buildings, we recommend that DGS prepare a financial analysis based on all known and foreseeable costs to be incurred and make the analysis available to Commonwealth officials and the public. We also recommend that DGS examine the long-term impact of such decisions beyond 10, 15, and 20 years.

<u>FINDING II</u>: **DGS understated the full amount of rent to be paid by the Commonwealth when it reported that the average base rent for the three main leases is $11.16 per square foot. When additional charges to cover operational costs are included, the average cost to the Commonwealth is $25.75 per square foot over the terms of the three main leases.**

On March 26, 2009, the DGS Secretary wrote, in a published newspaper op/ed piece: "I need to make sure taxpayers have a complete picture of the [sale of the Building] and its financial benefits." He also wrote that the Commonwealth "will move to more efficient space in three buildings with an average base rent of $11.16 per square foot."

The DGS Secretary's statement about the average base rent significantly understates the total amount of rent that the Commonwealth will pay. Each of the main lease agreements provides that the Commonwealth will pay the landlord "rent for the use and occupancy of the Premises," where rent is defined as a minimum annual rent (or base rent) and an additional charge for operational costs.[34]

Using the rates and square footage amounts set forth in the three main lease agreements, we calculated the cost of each lease for its lease term for comparison with the square footage cost figure referred to by the DGS Secretary. Costs include both the base rental rate and the operational costs. Based on the actual amount to be paid, the average annual lease cost per square foot for the three main leases is $25.75, not $11.16 as stated by the Secretary of DGS.

<u>Table 7</u>

Average Annual Lease Cost per Square Foot over Lease Terms for the Main Leases

Building	Square Footage	Total Cost Over Lease Term	Lease Term with Renewal(s)	Average Cost Per Square Foot Per Year
301 Fifth Avenue, Pittsburgh (Piatt Place)*	165,500 179,200	$6,831,288 $157,373,306	2 years, 5 months 28 years, 1 month	$17.08 $31.27
411 Seventh Avenue, Pittsburgh	45,288	$30,920,228	25 years	$27.31
11 Stanwix Street, Pittsburgh	64,687	$44,819,845	25 years, 4 months	$27.35
AVERAGE COST PER SQ. FT. PER YEAR				**$25.75**

***The lease agreement for 301 Fifth Avenue includes an increase in square footage to take effect no later than March 1, 2012.*

[34] Note that these additional charges for operational costs are different from the $10 per square foot allowance that is included in the base rent (see Introduction and Background).

As explained previously, offices from four Commonwealth agencies currently located in the Building – Department of Health, Department of Labor and Industry, Public Utility Commission, and Department of Public Welfare – are moving into locations other than the three main leases. DGS did not provide us with the total costs of these additional leased locations, despite several requests by OSI for the information. We also had difficulty obtaining the information directly from some of the lessee agencies because DGS originally instructed the agencies not to respond to our requests. However, using available information, we were able to project that the annual average lease cost per square foot is $23.87 when these additional locations are included in the calculation.

Table 8
Average Annual Lease Cost per Square Foot for All Leases

Building	Square Footage	Total Cost Over Lease Term	Lease Term with Renewal(s)	Average Cost Per Square Foot Per Year
301 Fifth Avenue, Pittsburgh (Piatt Place)*	165,500 179,200	$6,831,288 $157,373,306	2 years, 5 months 28 years, 1 month	$17.08 $31.27
411 Seventh Avenue, Pittsburgh	45,288	$30,920,228	25 years	$27.31
11 Stanwix Street, Pittsburgh	64,687	$44,819,845	25 years, 4 months	$27.35
531 Penn Avenue, Pittsburgh	23,557	$10,795,454	20 years	$22.91
2307-09 East Carson Street, Pittsburgh	22,498	$7,810,178	15 years	$23.14
233 West Otterman Street, Greensburg	2,700	$243,540	5 years	$18.04
AVERAGE COST PER SQ. FT. PER YEAR				**$23.87**

Note: See footnote 17 regarding the cost of the seventh new lease.
The lease agreement for 301 Fifth Avenue includes an increase in square footage to take effect no later than March 1, 2012.

Conclusions and Recommendation:

The statement in the DGS Secretary's op/ed piece about the base rental rate is disingenuous in that it does not provide the taxpayers with "a complete picture of the [sale of the Building] and its financial benefits." Most significantly, it fails to consider all of the new leases and it fails to consider the operational costs that will also be payable under the three main leases.

We have compiled a more complete picture of the total amount of public funds that the Commonwealth will be paying for all of the office space being leased to house the state agencies displaced by the sale of the Building.

The DGS Secretary has significantly understated the cost of leasing. The $14.59 per square foot difference between the base rent quoted in the editorial for the three main leases

($11.16) and the actual rental costs ($25.75) for those three leases represents an annual difference of $4 million dollars.

We recommend that DGS immediately cancel the sale of the Building and the new leases. We also recommend that DGS provide complete and accurate information to Commonwealth officials and the public so they can provide input and make better decisions about such transactions.

FINDING III: **The Commonwealth sold the Pittsburgh State Office Building for only $4.6 million, roughly half of its appraised value, and the proceeds were reduced by over 67% to a net amount of less than $1.5 million.**

In preparation for the sale of the Building, DGS obtained a real estate appraisal, from an independent company, on the value of the structure and the land. The value at September 19, 2006, was approximately $8 million.

DGS also obtain a "Highest and Best Use Analysis" for the Building.[35] OSI interviewed the president of the company that performed the analysis and issued its report dated October 23, 2006. He stated that it was a foregone conclusion that the Building would no longer be used by Commonwealth agencies and that the Building would be vacated. He also said that DGS employees told him it would cost $60 million to renovate the Building.

Newspaper articles published around the time that DGS advertised the Solicitation for Proposals quoted commercial real estate brokers and others as saying:

- "It's got a lot of upside, a lot of windows, a lot of glass. The visibility you can't beat. It's a rather prominent location."[36]
- "It's prime real estate at the gateway to the Golden Triangle…the occupancy rate at Gateway (Center) has always been strong."[37]
- Pittsburgh's central business district is a "hotbed of activity," and the Downtown office vacancy rate was 17.5 percent, one of its lowest rates in some time.[38]
- "As we sit right now, the Downtown office market is probably as strong as it's been in years, if perhaps not decades."[39]

As shown in Table 9 on the following page, buildings in downtown Pittsburgh that sold or were for sale between 2006 and 2009 include:

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[35] A "highest and best use analysis" is an economic evaluation of other uses of a property.

[36] Mark Belko, "State taking offers for its Downtown office building," *Pittsburgh Post-Gazette*, April 3, 2008.

[37] Craig Smith, "Rendell would sell state office building," *Pittsburgh Tribune-Review*, June 17, 2006.

[38] Mark Belko, "'Hotbed of activity' in Downtown real estate," *Pittsburgh Post-Gazette*, December 28, 2008.

[39] *Ibid*.

Table 9
Commercial Real Estate Transactions in Pittsburgh, 2006-2009

Building	Address	Square footage	Year	Dollar Amount
Reed Smith Building	435 Sixth Avenue, Pittsburgh	181,348	2007	$6.5 million
Union Trust Building	501 Grant Street, Pittsburgh	594,984	2008	$24 million
Municipal Courts Building	660 First Avenue, Pittsburgh	50,000	2008	$9 million estimated price*
Pittsburgh State Office Building	300 Liberty Avenue, Pittsburgh	274,000	2009	$4.6 million
Human Services Building	1 Smithfield Street, Pittsburgh	132,500 & Surface lot	2009	$13 million
Clark Building	717 Liberty Avenue, Pittsburgh	276,000	on sale as of April 22, 2009	$31.5 million asking price

Sources: Newspaper articles, tax assessment records, and real estate listings.
Sale not finalized as of Aug. 14, 2009, according to DGS.

Act 54 of 2007, which authorized the sale of the Pittsburgh State Office Building, also authorized DGS to sell the Philadelphia State Office Building. As indicated in Table 10, the Philadelphia State Office Building sold for five times the price of the Pittsburgh State Office Building despite similarities between the properties.

Table 10
Comparison of the Philadelphia and Pittsburgh State Office Buildings

Factor	Pittsburgh State Office Building	Philadelphia State Office Building
Year constructed (approx.)	1957	1960
Number of floors	16	19
Square footage	274,308	314,000
Acreage	1.2 acres	1.9 acres
Parking	None	On-site
Number of state employees	800	900
Appraised value	$8.2 million	$14.9 million
Value per tax assessment	$14.9 million	$4.7 million
Sales price	**$4.6 million**	**$25.2 million**
Month/year sold	April 2009	January 2008

Sources: Newspaper articles, tax assessment information from Allegheny and Philadelphia Counties, appraisal of the Pittsburgh Building dated Sept. 19, 2006. The appraised value for the Philadelphia State Office Building is the same as the certified market value for 2009 per the Philadelphia Board of Revenue and Taxation.

Act 54 required that all costs and fees incurred by DGS in selling the property and the amount of any outstanding Commonwealth debt related to the Building be paid from the proceeds of sale. **As indicated in Table 11 on the following page, those costs and fees totaled $3.1 million, or 67.66% of the gross sales price. Consequently, the net revenue actually**

generated from the sale of the Building was less than $1.5 million, a fact that DGS has failed to disclose to the taxpayers.

Table 11
Net Proceeds of Sale of Pittsburgh State Office Building

Gross Sale Price			**$4,611,000**
Less:	Brokerage Fees	$161,385	
	Repayment of Funds to U.S. Department of Labor*	$1,244,970	
	Repayment of Outstanding Debt**	$1,644,532	
	Reports obtained prior to sale of the Building:		
	Appraisal	$5,400	
	Economic & Tax Impact Reports	$10,000	
	Highest and Best Use Report	$34,784	
	Asbestos	$18,723	
			$3,119,794
NET PROCEEDS (to be deposited in the Commonwealth's General Fund per Act 54)			**$1,491,206**

***"Repayment of Funds to U.S. Department of Labor"** *represents repayment of the federal funds that the U.S. DOL had contributed to construct the Building in the 1950s in exchange for an equity ownership in the Building. The repayment amount is 27% of gross sale proceeds, the equity amount. The federal Workforce Investment Act of 1998, as amended, (29 U.S.C. § 2943(a)) transfers the U.S. DOL's share of the sale proceeds to the Pennsylvania Department of Labor and Industry to pay for expenses incurred by the agency for specific programs funded by the U.S. DOL.*

****"Repayment of Outstanding Debt"** *is the repayment of the unpaid debt that the Commonwealth has incurred on behalf of the Building. According to OB, the Commonwealth issued bonds from 1986 through 1988 to pay for renovations to the Building in 1986. Although this debt would have to be repaid regardless of whether or not the Building was sold, Act 54 explicitly requires that repayment be made from the sale proceeds.*

Conclusions and Recommendations:

DGS sold the Building for less than its appraised value, for less than the sale amounts of other commercial buildings located in Pittsburgh's central business district, and for significantly less than the sales price of the Philadelphia State Office Building. This result should not be surprising, given that the sale of the Pittsburgh State Office Building occurred during the worst real estate market in recent history. In contrast, as indicated in Table 10, the Philadelphia State Office Building was sold before the decline in the market.

It appears that DGS was not concerned about the sale price when making its decision to sell the Building. Had it not been a publicly known foregone conclusion that the Building would be sold, the winning offer may have been higher. Yet interested parties were able to submit lower priced offers because they knew the Commonwealth's minimum sales price and also knew that the Commonwealth was actively negotiating multiple leases throughout Allegheny and Westmoreland counties for agencies and employees expected to be displaced by the sale. There was little incentive for any prospective purchaser to submit a higher offer.

In December 2008, DGS issued a letter confirming preliminary approval of the lease with Piatt Place. Final approval of the lease was contingent upon a signed lease agreement. Although none of the lease agreements expressly provided that the leases were contingent upon the sale of the Building, DGS clearly anticipated that the Building would be sold. In fact, a DGS consultant told OSI that the sale was a "foregone conclusion" during the leasing process.

Based on the chronology, one could reasonably conclude that River Vue purchased the Building in April 2009 after the sale to the original purchaser fell through in order to ensure that the Commonwealth would continue to have a need to lease space from River Vue's affiliated partnership (Piatt Place) pursuant to the lease agreement that had already been preliminarily approved. River Vue was able to purchase the Building for less than one-third of its 2006 assessed value. Nothing in the sales agreement prohibits River Vue from selling the Building at a profit when the economy improves.

As a result of its disregard for the best interests of the Commonwealth and the taxpayers, DGS sold the Building for less than what it was worth, a decision that will ultimately cost the Commonwealth more than the cost of renovating the Building.

We recommend that DGS immediately cancel the sale of the Building and the new leases. We also recommend that, when pursuing future sales of Commonwealth property that will result in the need to lease new space to house displaced agencies, DGS explore the possibility of combining the sale and leases into a single Solicitation for Proposals in order to maximize the financial value of the deal to the Commonwealth and taxpayers.

FINDING IV: **DGS limited the opportunity for input from Commonwealth officials, the public, and other interested parties by holding no public hearings on the sale of the Pittsburgh State Office Building. Although an informational meeting was held by a legislative committee, the meeting was held in Harrisburg on the day before the passage of the bill authorizing the sale of the Building and eleven other state properties.**

Public Hearings

DGS has contended that the public had ample opportunity to provide input into the decision to sell the Building. In his March 26, 2009 op/ed piece, the DGS Secretary stated, "The sale was approved by the General Assembly in 2007 after three public hearings and a public review of financial models that showed taxpayers would benefit from selling the building." According to DGS representatives, the public hearings were legislative committee hearings held in Harrisburg. These meetings were advertised on the General Assembly's website.

As explained below, DGS did not hold any public hearings on the sale of the Building. There was a single informational meeting held, not by DGS, but by a legislative committee on the day before the bill authorizing the sale of the Building and eleven other state properties[40] was passed. There were no hearings advertised or held in the Pittsburgh area.

The history of House Bill 1656, which was amended by the Senate on July 14, 2007 to include the sale of the Building, reflects the following committee meetings during which public comment could be made:

- House of Representatives: State Government Committee, June 29, 2007
- House of Representatives: Appropriations Committee, July 6, 2007
- Senate: State Government Committee, July 10, 2007
- House of Representatives: State Government Committee, July 16, 2007

However, it is important to recognize that the bill before the House of Representatives and the Senate discussed during the first three meetings (June 29, July 6, and July 10) did not contain any language about the Building. The language was not even introduced until July 14, 2007.

An informational meeting was held by the House State Government Committee in Harrisburg on July 16, 2007, the day before the bill passed. During this meeting, which was the only meeting held after the proposed sale of the Building was added to the bill, the following occurred:

[40] The legislation covered eight tracts of land in Skippack Township, Montgomery County; one tract of land in Winslow Township, Jefferson County; one tract of land and an armory in the Borough of Mansfield, Tioga County; one tract of land and the state office building in Philadelphia; and one tract of land and the state office building in Pittsburgh.

> Rep. Michael O'Brien (D-Philadelphia) called the conveyance of land as [sic] an "abomination," explaining that "we know nothing about the sale of the state building in Pittsburgh."
>
> In response, Minority Chairman [Matthew] Baker [(R-Tioga)] stated that the Committee had in fact discussed the properties in Mansfield Township and related issues. Rep. O'Brien then withdrew his comments but added that the sale of the Pittsburgh State Office Building was not discussed. He implored the Chairman to proceed with caution and prudence when moving the legislation.
>
> Rep. Sean Ramaley (D-Beaver) asked if the state will have leases from private entities. As a former employee of the Department of Labor [and Industry], Rep. Ramaley said government agencies are moving out of state-owned buildings because they have not been maintained. [The representative for DGS] replied that DGS would like to see the projects receive approval, noting that [DGS had previously provided information to the House of Representative] for the land conveyances.[41]

The meeting summary does not reflect any public comments or discussion of any financial models. Furthermore, the information that DGS provided to the House of Representatives and the Senate does not include any financial data. Copies of the DGS documents are included in the appendix to this report.

Review Period

On July 14, 2007, during final Senate consideration of House Bill 1656 on land conveyances, Sen. Wayne Fontana (D-Allegheny) introduced an amendment authorizing the sale of the Building. The Senate voted to amend the bill without discussion and later passed the bill unanimously.

The amended bill was then returned to the House of Representatives for its concurrence. The House State Government Committee discussed the bill on July 16, 2007. During this meeting, Rep. Michael O'Brien (D-Philadelphia) stated, "we know nothing about the sale of the state building in Pittsburgh."

On the evening of July 17, 2007, the last day that the House was in session before its summer recess, House members were asked to pass House Bill 1656 as amended. It would be the last piece of legislation acted upon before recess. The appendix to this report includes a copy of the official transcript of relevant discussions by the House of Representatives.[42] The following is a summary of the proceedings.

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[41] Amy Richards, Pennsylvania Legislative Services, *PLS Committee News*, July 16, 2007. There is no official transcript of this meeting.

[42] Legislative Journal – House of Representatives, 2007-08 session, pp. 2185-89, July 17, 2007.

Prior to the vote on the bill, Rep. John Maher (R-Allegheny/Washington) asked that the bill be sent to the House Government Committee for discussion because there were a number of questions to be answered. The chair of the House Government Committee, Rep. Babette Josephs (D-Philadelphia) supported Rep. Maher's "motion to re-commit" the bill to the House State Government Committee because the committee "had no real idea" what two of the conveyances were. One conveyance was the Building. The motion failed by a vote of 55 to 145, with three excused votes.[43]

However, despite these concerns, the House of Representatives passed the bill that night on a vote of 152 to 48, with three excused votes, and sent it to the Governor for his signature.[44] He signed the bill into law as Act 54 of 2007 on July 25, 2007.

Conclusions and Recommendations:

The DGS Secretary misstated the facts when he reported that "the sale was approved by the General Assembly after three public hearings and a public review of financial models that showed taxpayers would benefit from selling the building." DGS officials perpetuated this misrepresentation by repeatedly asserting to OSI and others that three public meetings were held.

A meeting conducted to discuss a bill that does not contain language on the sale of the Building does not constitute a public meeting on the sale. It is difficult to comprehend how the public could have commented on something that did not yet even exist. Furthermore, rushing the amendment to sell the Building through the General Assembly to a vote calls into question whether the legislature (with the exception of a few legislators) considered, or was able to consider, the financial ramifications that selling the Building would have on state taxpayers. It appears that the General Assembly passed House Bill 1656, as amended, based solely on DGS's recommendation without the benefit of public input or meaningful financial analysis.

We recommend that DGS, when planning to dispose of Commonwealth real estate, advertise and hold public meetings in the vicinity of the real estate to be sold and provide Commonwealth officials and the public with complete and accurate financial data that they can use to evaluate the transaction. The General Assembly should enact legislation to require DGS to obtain meaningful input from the community most directly affected by the sale of state property.

We also recommend that, before voting to authorize the sale of Commonwealth property, the General Assembly require complete and accurate information from the agency advocating disposal of the property and consider both the short-term and long-term implications of such action.

[43] Ten legislators representing districts in Allegheny County voted for the motion to recommit.
[44] Nine legislators representing districts in Allegheny County voted against the bill.

APPENDICES TO REPORT

Appendix I: Photographs of the Pittsburgh State Office Building

The Pittsburgh State Office Building as viewed from street level. (Photo provided by GVA Oxford.)

The Pittsburgh State Office Building as viewed from Mt. Washington. (Photo provided by DGS.)

The Pittsburgh State Office Building with Point State Park in the foreground. (Photo provided by DGS.)

Appendix II: 2009 Renovation Cost Estimate

pennsylvania
DEPARTMENT OF GENERAL SERVICES

DESK MEMORANDUM

SUBJECT
Comprehensive Rehabilitation of
Pittsburgh State Office Building

TO	FROM
Secretary Creedon DGS	Gary R. Taylor, P.E., Director Engineering & Architecture
DATE April 3, 2009	DATE NEEDED

	PLEASE CALL:		APPROVAL		SEE ME
	RETURNED YOUR CALL		AS REQUESTED		COMMENT
	INFORMATION & FILE		PREPARE REPLY/REPORT		NOTE AND RETURN
	NECESSARY ACTION		SIGNATURE		

RECEIVED BY	DATE	TIME

ROUTE	INITIAL	DATE	ROUTE	INITIAL	DATE

MESSAGE:

I have attached the updated estimate for the comprehensive rehabilitation of the Pittsburgh State Office Building. This estimate updates costs from 2006 to now.

If you have any questions, please let me know.

Thank you.

Attachments
xc: Director's File

DEPT. OF GENERAL SERVICES
09 APR -3 PM 4:06

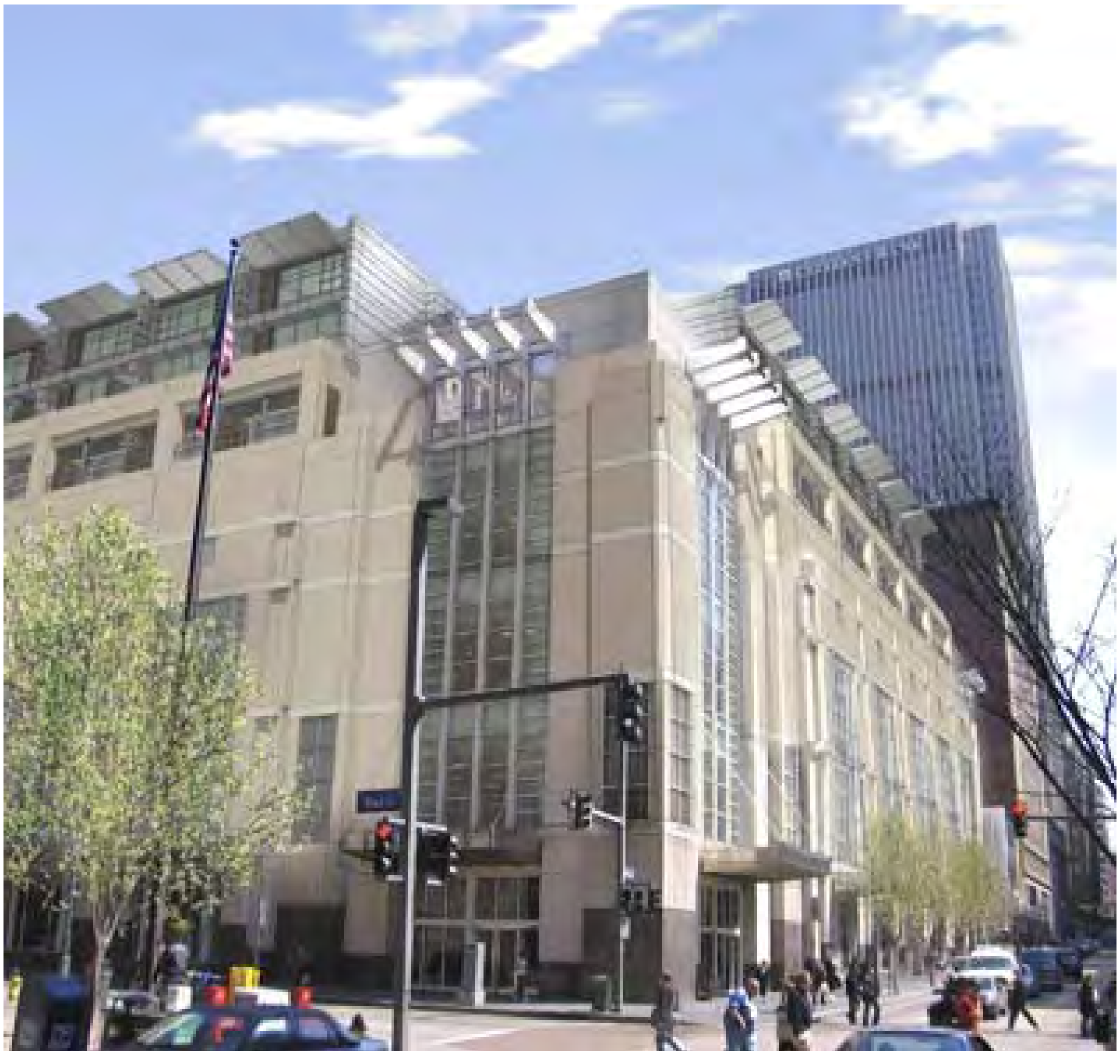
Comprehensive Rehabilitation of
Project: Pittsburgh State Office Building
Department of General Services
Pittsburgh, PA

C.S.I Component Summary (2006 cost data) **296,200** S.F. AIA AREA

CSI Division	Description	Conceptual Estimate	Per SF	$ %
1	General Conditions	$9,478,400.00	$32.00	21.84%
2	Site Work (w/ abatement allowance)	$740,500.00	$2.50	1.71%
3	Concrete Work	$370,250.00	$1.25	0.85%
4	Masonry Work	$444,300.00	$1.50	1.02%
5	Metals	$2,962,000.00	$10.00	6.83%
6	Woods & Plastics	$3,406,300.00	$11.50	7.85%
7	Thermal & Moisture Protection	$2,369,600.00	$8.00	5.46%
8	Doors & Windows	$2,962,000.00	$10.00	6.83%
9	Finishes	$5,924,000.00	$20.00	13.65%
10	Specialties	$592,400.00	$2.00	1.37%
11	Equipment	$296,200.00	$1.00	0.68%
12	Furnishings	$148,100.00	$0.50	0.34%
13	Special Construction	$296,200.00	$1.00	0.68%
14	Conveying Systems	$1,555,050.00	$5.25	3.58%
15	Mechanical Systems	$5,924,000.00	$20.00	13.65%
16	Electrical Systems	$5,924,000.00	$20.00	13.65%
	SubTotal	$43,393,300.00	$146.50	
	10% Construction Contingency	$4,339,330.00	$14.65	
	21% Escalation to Mid-point of Constr. (2012)	$9,112,593.00	$30.77	
	Total Construction Cost	**$56,845,223.00**		
	7% Design Services	$3,979,165.61		
	5% CM Services	$2,842,261.15		
	1% CA Services	$568,452.23		
	Total Soft Cost	**$7,389,878.99**		
	Total Project Cost	**$64,235,101.99**		

Act 131 of 2002 Funding	$ 10,428,000.00
Act 74 of 1994	$ 5,112,000.00
Total Existing Allocation	**$ 15,540,000.00**
Total Add'l. Funding Required	**$48,695,101.99**

Appendix III: Photograph and Summary of Aggregate Rent for 301 Fifth Avenue , Pittsburgh



(Photo provided by GVA Oxford.)

	301 Fifth Avenue		
Fiscal Year	Lease Cost	Operating Cost	Total Costs
2009-10	$376,926	$860,186	$1,237,112
2010-11	$1,549,080	$1,736,923	$3,286,003
2011-12	$1,752,974	$1,857,685	$3,610,659
2012-13	$1,946,112	$2,034,368	$3,980,480
2013-14	$1,946,112	$2,115,456	$4,061,568
2014-15	$1,946,112	$2,199,232	$4,145,344
2015-16	$1,946,112	$2,287,936	$4,234,048
2016-17	$1,946,112	$2,379,776	$4,325,888
2017-18	$1,946,112	$2,474,304	$4,420,416
2018-19	$1,946,112	$2,573,760	$4,519,872
2019-20	$1,946,112	$2,676,800	$4,622,912
2020-21	$1,946,112	$2,783,424	$4,729,536
2021-22	$1,946,112	$2,894,080	$4,840,192
2022-23	$1,946,112	$3,010,112	$4,956,224
2023-24	$1,946,112	$3,131,072	$5,077,184
2024-25	$1,946,112	$3,256,064	$5,202,176
2025-26	$1,946,112	$3,386,432	$5,332,544
2026-27	$1,946,112	$3,522,176	$5,468,288
2027-28	$1,946,112	$3,663,296	$5,609,408
2028-29	$1,946,112	$3,809,792	$5,755,904
2029-30	$1,946,112	$3,960,320	$5,906,432
2030-31	$1,960,708	$4,113,984	$6,074,692
2031-32	$2,019,529	$4,278,848	$6,298,377
2032-33	$2,080,115	$4,450,432	$6,530,547
2033-34	$2,142,518	$4,628,288	$6,770,806
2034-35	$2,190,366	$4,814,208	$7,004,574
2035-36	$2,206,794	$5,006,400	$7,213,194
2036-37	$2,272,998	$5,207,104	$7,480,102
2037-38	$2,341,188	$5,414,976	$7,756,164
2038-39	$2,411,423	$5,630,912	$8,042,335
2039-40	$1,848,957	$4,349,184	$6,198,141
Total			**$164,691,122**

Disparity with the total in the report is due to rounding.

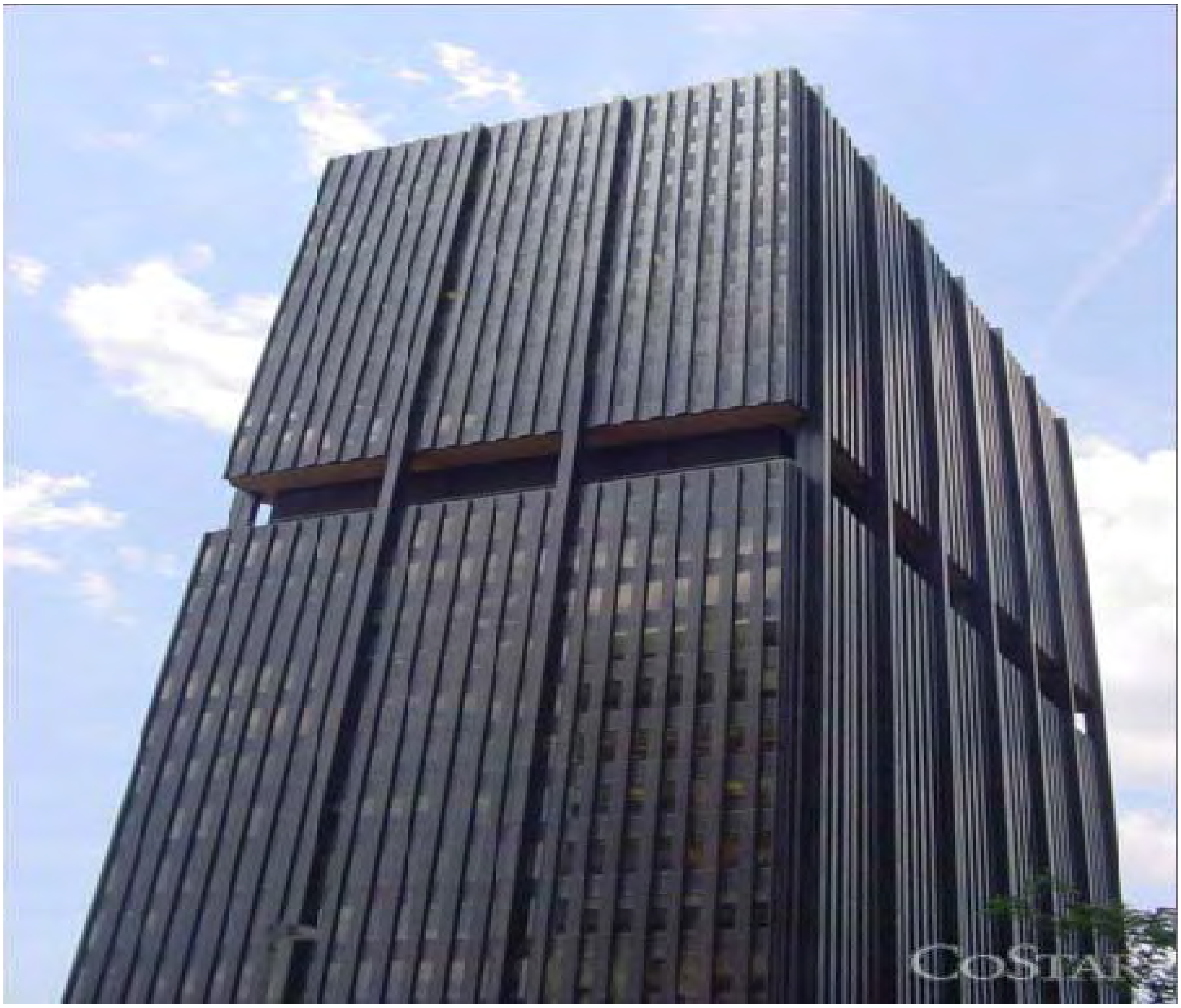
Appendix IV: Photograph and Summary of Aggregate Rent for 411 Seventh Avenue, Pittsburgh

(Photo provided by GVA Oxford.)

Fiscal Year	411 Seventh Avenue Lease Cost	Operating Cost	Total Costs
2009-10	$375,664	$303,656	$679,320
2010-11	$500,885	$417,102	$917,987
2011-12	$500,885	$433,746	$934,631
2012-13	$500,885	$451,182	$952,067
2013-14	$500,885	$469,184	$970,069
2014-15	$517,868	$487,978	$1,005,846
2015-16	$523,529	$507,339	$1,030,868
2016-17	$523,529	$527,492	$1,051,021
2017-18	$523,529	$548,891	$1,072,420
2018-19	$523,529	$570,629	$1,094,158
2019-20	$540,512	$593,386	$1,133,898
2020-21	$546,173	$617,162	$1,163,335
2021-22	$546,173	$641,844	$1,188,017
2022-23	$546,173	$667,772	$1,213,945
2023-24	$546,173	$694,378	$1,240,551
2024-25	$546,173	$722,117	$1,268,290
2025-26	$562,558	$750,875	$1,313,433
2026-27	$579,435	$780,878	$1,360,313
2027-28	$596,818	$812,240	$1,409,058
2028-29	$614,723	$844,961	$1,459,684
2029-30	$614,723	$878,823	$1,493,546
2030-31	$633,165	$913,976	$1,547,141
2031-32	$652,159	$950,535	$1,602,694
2032-33	$671,724	$988,556	$1,660,280
2033-34	$691,876	$1,028,098	$1,719,974
2034-35	$691,876	$1,069,222	$1,761,098
2035-36	$712,632	$1,111,991	$1,824,623
2036-37	$734,011	$1,156,471	$1,890,482
2037-38	$756,032	$1,202,730	$1,958,762
2038-39	$778,713	$1,250,839	$2,029,552
2039-40	$194,678	$315,746	$510,424
Total			**$40,457,487**

Disparity with the total in the report is due to rounding.

Appendix V: Photograph and Summary of Aggregate Rent for 11 Stanwix Street, Pittsburgh



(Photo provided by GVA Oxford.)

11 Stanwix Street			
Fiscal Year	Lease Cost	Operating Cost	Total Costs
2009-10	$263,546	$317,236	$580,782
2010-11	$595,767	$610,915	$1,206,682
2011-12	$642,396	$635,388	$1,277,784
2012-13	$707,676	$660,886	$1,368,562
2013-14	$707,676	$687,299	$1,394,975
2014-15	$721,152	$714,737	$1,435,889
2015-16	$740,019	$743,092	$1,483,111
2016-17	$740,019	$773,010	$1,513,029
2017-18	$740,019	$804,059	$1,544,078
2018-19	$740,019	$835,918	$1,575,937
2019-20	$753,496	$869,447	$1,622,943
2020-21	$772,363	$904,270	$1,676,633
2021-22	$772,363	$940,387	$1,712,750
2022-23	$772,363	$978,067	$1,750,430
2023-24	$772,363	$1,017,419	$1,789,782
2024-25	$772,363	$1,058,064	$1,830,427
2025-26	$795,534	$1,100,272	$1,895,806
2026-27	$819,400	$1,144,421	$1,963,821
2027-28	$843,982	$1,190,241	$2,034,223
2028-29	$869,301	$1,237,624	$2,106,925
2029-30	$869,301	$1,286,948	$2,156,249
2030-31	$895,380	$1,338,504	$2,233,884
2031-32	$922,242	$1,392,044	$2,314,286
2032-33	$949,909	$1,447,726	$2,397,635
2033-34	$978,406	$1,505,635	$2,484,041
2034-35	$978,406	$1,565,861	$2,544,267
2035-36	$1,007,758	$1,628,495	$2,636,253
2036-37	$1,037,991	$1,693,635	$2,731,626
2037-38	$1,069,131	$1,761,380	$2,830,511
2038-39	$1,101,205	$1,831,836	$2,933,041
2039-40	$642,369	$1,093,095	$1,735,464
Total			**$58,761,826**

Disparity with the total in the report is due to rounding.

Appendix VI: Summary of Aggregate Rent for 531 Penn Avenue, Pittsburgh

531 Penn Avenue			
Fiscal Year	Lease Cost	Operating Cost	Total Cost
2009-10	$226,383	$171,259	$397,642
2010-11	$226,383	$179,822	$406,205
2011-12	$226,383	$188,813	$415,196
2012-13	$226,383	$198,254	$424,637
2013-14	$226,383	$208,167	$434,550
2014-15	$226,383	$218,575	$444,958
2015-16	$226,383	$229,504	$455,887
2016-17	$226,383	$240,979	$467,362
2017-18	$259,127	$253,028	$512,155
2018-19	$259,127	$265,680	$524,807
2019-20	$259,127	$278,964	$538,091
2020-21	$259,127	$292,912	$552,039
2021-22	$259,127	$307,557	$566,684
2022-23	$282,684	$322,935	$605,619
2023-24	$282,684	$339,082	$621,766
2024-25	$282,684	$356,036	$638,720
2025-26	$282,684	$373,838	$656,522
2026-27	$282,684	$392,530	$675,214
2027-28	$306,241	$412,156	$718,397
2028-29	$306,241	$432,764	$739,005
2029-30	$306,241	$454,379	$760,620
2030-31	$306,241	$477,098	$783,339
2031-32	$306,241	$500,953	$807,194
2032-33	$329,798	$526,001	$855,799
2033-34	$329,798	$552,301	$882,099
2034-35	$329,798	$579,916	$909,714
2035-36	$329,798	$608,912	$938,710
2036-37	$329,798	$639,357	$969,155
Total			**$17,702,086**

Disparity with the total in the report is due to rounding.

Appendix VII: Summary of Aggregate Rent of 2307-09 East Carson Street, Pittsburgh

	2307-09 East Carson Street		
Fiscal Year	Lease Cost	Operating Cost	Total Costs
2009-10	$224,980	$134,801	$359,781
2010-11	$269,976	$168,501	$438,477
2011-12	$269,976	$176,926	$446,902
2012-13	$269,976	$185,772	$455,748
2013-14	$269,976	$195,061	$465,037
2014-15	$269,976	$204,814	$474,790
2015-16	$269,976	$215,054	$485,030
2016-17	$269,976	$225,807	$495,783
2017-18	$269,976	$237,097	$507,073
2018-19	$269,976	$248,952	$518,928
2019-20	$314,972	$261,400	$576,372
2020-21	$323,971	$274,470	$598,441
2021-22	$323,971	$288,193	$612,164
2022-23	$323,971	$302,603	$626,574
2023-24	$323,971	$317,733	$641,704
2024-25	$323,971	$333,620	$657,591
2025-26	$323,971	$350,301	$674,272
2026-27	$323,971	$367,816	$691,787
2027-28	$323,971	$386,207	$710,178
2028-29	$368,967	$405,517	$774,484
2029-30	$377,966	$425,793	$803,759
2030-31	$377,966	$447,082	$825,048
2031-32	$377,966	$469,436	$847,402
2032-33	$377,966	$492,908	$870,874
2033-34	$377,966	$517,554	$895,520
2034-35	$377,966	$543,431	$921,397
2035-36	$377,966	$570,603	$948,569
2036-37	$377,966	$599,133	$977,099
2037-38	$377,966	$629,090	$1,007,056
2038-39	$377,966	$660,544	$1,038,510
2039-40	$62,994	$110,971	$173,965
Total			**$20,520,315**

Disparity with the total in the report is due to rounding.

Appendix VIII: Secretary of General Services' op/ed piece on the sale of the Pittsburgh State Office Building, with the Department of the Auditor General's annotations

This op/ed piece is available online at www.post-gazette.com/pg/09085/958318-109.stm, *accessed Aug. 25, 2009. Key to the abbreviations used in our annotations: "F" followed by a number refers to a specific finding in this special investigation report; "I&B" refers to the introduction and background section of this report.*

Sold! The State Office Building was too costly to keep

By James P. Creedon

Pittsburgh Post-Gazette

Thursday, March 26, 2009

Over the last month there has been much discussion[45] about the sale of the Pittsburgh State Office Building. As the state completes the sale and moves to leased space,[46] I need to make sure taxpayers have a complete picture of the transaction and its financial benefits.[47]

The sale was approved by the General Assembly in 2007 after three public hearings[48] and a public review of financial models[49] that showed taxpayers would benefit from selling the building. Both city and county leaders[50] embraced the exciting opportunities that would lie

---

[45] There was limited opportunity for public discussion before the sale was authorized in 2007 (F4) or before DGS first solicited proposals to buy the Building in 2008 (I&B).

[46] But not necessarily in that order. Due to the timing of the leases and the sales closing, DGS may be making payments to lease new space from Piatt Place and other landlords even before it receives payment from Piatt Place's affiliated partnership (River Vue) for the sale of the Building (I&B).

[47] A "complete picture" would have included discussion of: the unnecessary costs to be incurred by these transactions (F1), the full amount of rent to be paid for all of the leases (F2), and the actual net proceeds to be received in the sale of the Building (F3) – none of which was presented in this op/ed or by DGS generally.

[48] DGS held no public hearings on the sale of the Building; a legislative committee held one informational meeting about the sale – on the day before the sale was authorized and only two days after language about this particular building was added to the authorizing legislation (F4).

[49] It is unclear what "public review" could have occurred, given that there was virtually no public discussion of the sale, there was no evidence of legislative discussion of financial models, and DGS provided no financial data to the General Assembly (F4). Furthermore, the "financial model" was a draft document prepared almost two years after the sale was authorized – but about one week before the publication of this op/ed piece (F1).

[50] Opportunity for input by the General Assembly and the public was limited. Private meetings with local officials and other insiders do not constitute a public discussion (F4).

ahead for future residential, hotel or office development as a result of the sale.[51] Just last week,[52] I met with the Allegheny County delegation in the state House. While I received many good, insightful questions, not a single legislator suggested that we not proceed.[53]

The taxpayers will save almost $14 million over 20 years[54] in maintenance and rehabilitation costs by selling the building and moving to leased space. We will receive $4.6 million[55] for the building. We will move to more efficient space in three buildings with an average base rent of $11.16 per square foot.[56] Rent for the first six months will be free in one of the locations.[57] We will avoid spending nearly $65 million to renovate the building.[58] Since the parcel will no longer be tax-exempt, the city, county and school district will receive about $500,000 in annual property taxes.[59]

---

[51] The "exciting opportunities" could include River Vue selling the Building at a profit when the real estate market improves, which it is permitted to do (F3).

[52] Why was there no such public meeting before the sale was authorized in 2007 (F4) or before DGS first solicited proposals to buy the Building in 2008 (I&B)? Again, opportunity for input was limited (F4).

[53] Several legislators from Allegheny County clearly had concerns when the bill authorizing the sale of the Building was pushed through the General Assembly in 2007, as demonstrated by their statements, desire to wait to proceed, and/or votes against the bill (F4).

[54] The $14 million figure cited by DGS is based on the draft financial model prepared almost two years after the sale was authorized – but about one week before the publication of this op/ed piece (F1). In actuality, selling the Building and leasing new space will cost the taxpayers over $54 million unnecessarily over 30 years (F1). The operative time period is 30 years, not 20 years, because DGS itself had sought cost estimates for renovations to extend the life of the Building by an additional 30 years (I&B).

[55] The net proceeds will be less than $1.5 million (F3).

[56] This figure fails to include additional operational charges in these three leases, which raise the actual cost to $25.75 per square foot. It also completely ignores the costs to be incurred for all of the other leases (F2). In addition, one wonders how the decentralization of 22 state agencies and 800 state employees from a single, easily accessible location in downtown Pittsburgh to seven different locations throughout two counties will be more "efficient" for either the providers or users of state government services (I&B).

[57] Over 30 years, the total cost of all of the leases is still $54 million higher than the total cost of staying in the Building and renovating it (F1).

[58] Not all of the renovations comprising this amount are necessary (I&B). Even using DGS's highest estimate of $64.2 million for renovations, the state still would have saved over $54 million in unnecessary costs by renovating the Building instead of selling it and leasing space elsewhere (F1).

[59] This amount will be substantially lower due to an expected property tax reassessment based on the low sale price (I&B).

The sale price was below our expectations,[60] but we are like the homeowner who may want $150,000 for his house but it has holes in the roof, a leaky basement and 30-year-old plumbing and electrical systems, which reduce the market price to $100,000.[61]

Auditor General Jack Wagner's suggestion that we wait for the economy to improve to get a better price is not based in reality.[62] Competitive proposals for the building were first received last spring -- long before the financial crisis had reached its current level.[63] We received four proposals,[64] but all the potential buyers told us they needed to take into account the deteriorated condition of the building.[65] It has asbestos, an old roof and old heating, ventilation and air-conditioning systems.[66] It needs to be gutted.[67] We accepted a proposal for $4.5 million.[68]

Unfortunately, that offer was withdrawn as the bidder further assessed the condition of the building and the risk of a weak economy.[69] We had another public competition for new proposals and received an offer that was even more than the original.[70]

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[60] The price should not have been surprising, given that the sale occurred during the worst real estate market in recent history (F3).

[61] The homeowner does not have access to $15.5 million in state capital budget funds for renovations. DGS failed to use such funds authorized by law in 1994 and 2002 (I&B).

[62] Our suggestion is based on several commercial real estate transactions that occurred in Pittsburgh before the downturn in the real estate market, as well as on the sale of the Philadelphia State Office Building for $25.2 million in January 2008 (F3).

[63] Given that the sale of the Building was authorized in July 2007, it is not clear why DGS waited until April 2008 to solicit proposals to buy the Building.

[64] DGS actually received a total of seven proposals over the course of two solicitations for proposals (I&B).

[65] It would have been in the buyers' interest to decrease the value of the Building in order to purchase it for as low a price as possible. It should have been in the interest of DGS, on behalf of the taxpayers, to obtain as high a price as possible. However, DGS sold the Building during the worst real estate market in recent history for a minimal net amount (F3).

[66] Even using DGS's highest estimate of $64.2 million for renovations, the state still would have saved $54 million in unnecessary costs by renovating Building instead of selling it and leasing space elsewhere (F1).

[67] DGS itself stated that the open-space environment may not be practical or necessary (I&B). Again, it would have been cheaper to renovate the Building instead of selling it and leasing space elsewhere (F1).

[68] When? DGS did not inform Buncher that it was the successful offeror before Buncher decided to withdraw its proposal (I&B), and, in its response, DGS stated that it never accepted the offer.

[69] The "weak economy" is precisely the reason why DGS should not have attempted to sell the Building when it did (F4).

[70] River Vue's offer was only $104,000 higher than the original offer by Buncher (I&B). More importantly, River Vue may have offered more had it not been a publicly known foregone conclusion that the Building would be sold and that DGS was willing to accept only $4.5 million

In a recent op-ed article ("Green Pennsylvania," March 18),[71] the auditor general argued that engineers told him the cost to renovate the building was less than $15 million.[72] However, engineers and architects in the Department of General Services' public works group have been evaluating the building for a few years.[73] A preliminary report estimated the cost to fix just the basic systems at $17.2 million.[74] An engineering review, updated just last week, indicated it would cost $64.2 million to renovate the building.[75] Costs would increase even further since we would have to move 800 employees out and back to the building during renovation while renting temporary office space.[76]

I agree with the auditor general that we need to be leaders in creating energy-efficient buildings and in supporting the green-building movement. A recent report by the National Governor's Association said that Pennsylvania, through the work of DGS, "is the model for energy management for the rest of the country."[77] We just received the Environmental Protection Agency's coveted energy-star rating for the Rachel Carson Building in Harrisburg.[78] We did this without spending nearly $65 million[79] and walking away from $14 million in savings[80] during difficult budget times.

The auditor general also suggests that we raid[81] the stimulus funds we will be getting from the federal government to renovate the Pittsburgh State Office Building. That would mean using

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to sell it and had the lease for space with River Vue's affiliated partnership, Piatt Place, not already been preliminarily approved (F3).

[71] Auditor General Wagner's op/ed piece is reproduced in the next appendix and is available online at *www.post-gazette.com/pg/09077/956294-109.stm*, accessed Aug. 25, 2009.

[72] This estimate of $14.6 million was provided for DGS in April 2004 by a Pittsburgh-based architectural firm (I&B).

[73] In some cases, the "evaluations" were based on conversations and without site visits (I&B).

[74] DGS should have considered such basic renovations (I&B), which would have made staying in the Building even more economical than selling it and leasing space elsewhere (F1).

[75] This figure, which was developed without a site visit, was the estimated cost of a comprehensive rehabilitation of the Building to extend its life for an additional 30 years, and DGS has admitted that the actual cost could be significantly less (I&B). Even based on this estimate, it still would be more economical to renovate the Building than to sell it and lease space elsewhere (F1).

[76] The cost of renovating the Building and temporarily leasing space elsewhere during the renovations still would have been more economical than selling the Building and permanently leasing space elsewhere (F1).

[77] We were unable to locate this quote or determine what specific DGS program was being recognized. The chair of the National Governors Association during 2008-09 was Governor Rendell.

[78] DGS could pursue the same designation for the Pittsburgh State Office Building.

[79] See our discussion of this figure in footnote 75.

[80] See our discussion of this figure in footnote 54.

[81] It is disingenuous to characterize our proposal as seeking to "raid" the federal stimulus funds received by the state. To the contrary, we proposed spending an insignificant portion of

almost 60 percent of the stimulus money for energy improvements[82] on just this one government building.[83] There would be less money for residential solar-power development, small-business energy-efficiency grants or development of wind power or alternative fuels that would reduce our dependence on foreign sources of energy.[84] Why would we turn our back on those solid investments to build a monument to big government?[85]

Certainly the renovation of the building would create jobs. But so, too, will the renovation, development and future use of the building by a private developer.[86] Renovation of the state's new leased space also will generate jobs.[87]

It makes much more economic sense to use the funds we otherwise would spend on renovating the State Office Building to invest in alternative energy, our state system of higher education or transportation infrastructure.[88] This would leverage the creation of far more jobs for the future than a short-term renovation project.[89]

A $14 million savings is significant.[90] So is adding a building to the region's tax rolls.[91] So is spurring private development in Pittsburgh's Downtown.[92] So is more efficient space for

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those funds for certain authorized "green" expenditures involved in the renovation of the Building, not for all renovations to the Building.

[82] It is unclear how DGS arrived at this figure. Regardless, again, we did not propose that the renovations to the Building should be funded entirely by federal stimulus funds.

[83] This "one government building" is state government's main location in southwestern Pennsylvania, houses 22 state agencies and 800 employees, and has served as a single convenient location for over a half-century.

[84] Again, basic renovations to the Building would not have required a significant amount of the new federal stimulus funds (I&B).

[85] The "monument," if one wishes to use that term, would be to smart, energy-efficient, cost-conscious, convenient, and transparent government, not "big" government. We note that similar plans have been reported to use a small amount of federal stimulus funds to make the City-County Building on Grant Street in Pittsburgh more environmentally friendly.

[86] DGS has failed to demonstrate that the economic impact of the jobs to be created by renovating the Building by a private developer would outweigh the economic impact of the jobs to be created by renovating the Building under the state's control, as well as the other intangible benefits of retaining the Building as a centralized location for state government services in southwestern Pennsylvania.

[87] DGS has failed to demonstrate that the economic impact of the jobs to be created by leasing space elsewhere for the state agencies and employees displaced by the sale of the Building would outweigh the economic impact of the jobs to be created by renovating the Building under the state's control, as well as the other intangible benefits of retaining the Building as a centralized location for state government services in southwestern Pennsylvania.

[88] See our discussion of this issue in footnotes 61, 74, and 81.

[89] Renovating the Building will save the state over $54 million in unnecessary costs that would be incurred by selling the Building and leasing space elsewhere (F1). These cost savings could be used to leverage the creation of significantly more jobs than the sale and leases.

[90] See our discussion of this figure in footnote 54.

commonwealth operations with rents below market rates.[93] So is avoiding almost $65 million in building upgrades.[94]

Armed with these facts, I am convinced, as are many others, that we are making the right decision in the best interest of the taxpayer.[95]

James P. Creedon is the secretary of the Pennsylvania Department of General Services (www.dgs.state.pa.us).

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[91] See our discussion of this issue in footnote 59.

[92] See our discussion of this issue in footnote 51.

[93] See our discussion of this issue in footnote 56.

[94] See our discussion of this figure in footnote 75.

[95] The "right decision" would have accounted for the unnecessary costs to be incurred by these transactions (F1), the full amount of rent to be paid for all of the leases (F2), and the actual net proceeds to be received in the sale of the Building (F3), and would have been arrived at after receiving input from state officials, the public, and other interested parties (F4).

Green Pennsylvania – We should make the state a showcase for green jobs and technology

By Jack Wagner

Pittsburgh Post-Gazette

Wednesday, March 18, 2009

The State Office Building in Pittsburgh is a gleaming, 16-story structure that occupies a prime site in the city's Golden Triangle near the entrance to Point State Park. Its offices provide sweeping views of the park and the confluence of the city's famed three rivers.

Yes, the 52-year-old building, a symbol of Pittsburgh's post-World War II renaissance, is showing signs of old age. Its elevators creak, there are some asbestos problems and it lacks a modern sprinkler system.

But what is the state's solution? Rather than invest in upgrades, it wants to unload the building at a fire-sale price of $4.5 million -- less than the value of the property alone.

The Department of General Services, the state agency that oversees commonwealth properties, estimates that it would need to invest $65 million over 20 years to update and maintain the State Office Building -- although engineers have told me it could be rehabbed for $12 million to $15 million.

If the State Office Building is sold, the DGS would decentralize the state's presence in Western Pennsylvania by relocating 800 state employees to at least three privately owned buildings -- saddling taxpayers with multimillion-dollar long-term lease obligations and forcing them to search the Internet to find new locations to do such everyday things as get a driver's license photo or have a question answered about state income taxes.

The moving costs and "buildout" expenses at the new locations would more than offset any profits from the sale, meaning that taxpayers would have to pay for the new leases. As the state's fiscal watchdog, I believe this a bad deal for taxpayers and for the commonwealth, which should not be selling a prime asset during the worst real-estate market in decades.

There is a better solution.

Let's make the State Office Building, and other state-owned properties, models for green technology. Such an initiative could create thousands of new, high-paying jobs at a time when jobs are desperately needed. It could help preserve valuable state-owned properties for generations to come. And greening the State Office Building would enhance Pittsburgh's reputation as an environmentally conscious city.

The federal stimulus plan recently signed by President Barack Obama contains more than $42 billion to spur energy-related investments. There is $5 billion to help low-income families make home improvements, $300 million for rebates to people who buy energy-efficient appliances and a 30-percent tax credit of up to $1,500 for people who purchase high-efficiency air conditioners and furnaces or take steps to insulate their homes or replace leaky windows.

Pennsylvania is expected to receive about $360 million for energy investments from the federal government through the State Energy Program and the Weatherization Assistance Program. Gov. Ed Rendell recently attended a summit in Philadelphia hosted by Vice President Joe Biden to promote green jobs in the commonwealth.

The federal stimulus package includes $500 million for a green-jobs training program. At the Philadelphia summit, Vice President Biden said that people now making $20 an hour could earn up to $50 per hour after green-jobs training. Other experts have estimated that green jobs will pay a 10 percent to 20 percent premium over similar work outside the field.

Pennsylvania should take a leadership role by turning Pittsburgh's State Office Building into one of the most energy-efficient buildings in the country. The state could install new efficient heating and electric systems, replace old doors and lights, possibly construct solar panels on the roof and otherwise make the building much more efficient and a source of pride for Western Pennsylvania. The state government could make this office building a model for how Pennsylvania families and businesses can save money on their energy bills.

Mr. Rendell has ordered that 20 percent of all energy used in Pennsylvania come from renewable sources by the end of next year. To reach that goal, we must work together.

I urge DGS Secretary James Creedon, who is in charge of selling the State Office Building as well as overseeing Pennsylvania's spending of federal stimulus money, to heed his boss' call. Let's help Pennsylvania reach its 2010 energy goal by making the State Office Building and other commonwealth properties showcases for green technology.

Jack Wagner is Pennsylvania's auditor general (www.auditorgen.state.pa.us).

Appendix IX: DGS Memorandum to the House of Representatives on Property Conveyance

DEPARTMENT OF GENERAL SERVICES
LEGISLATIVE BILL ANALYSIS
CONVEYANCE OF LAND

This memorandum is provided under the House of Representatives Rule 32.

Bill No:	HB 1656	**Printers Number:** 2341
Committee:	State Government	
Contact:	James P. Creedon Secretary for General Services	
Date:	July 15, 2007	

Section 1

Description of the Property and Improvements: The property consists of 8 tracts of land totaling approximately 0.5709-acres of land. Eleven temporary construction easements totaling approximately 1.2091-acres of land will also be conveyed. Both the 8 tracts of land to be conveyed in fee and the 11 temporary construction easements are currently a portion of Evansburg State Park, situate in Skippack Township, Montgomery County. The property is within the 44th Senatorial District and 70th Legislative District.

Grantor: Commonwealth of Pennsylvania, through the Department of General Services, with the approval of the Department of Conservation and Natural Resources and the Governor.

Grantee: Skippack Township.

Other Parties Benefiting: T.H. Properties

Consideration for Conveyance: Skippack Township will convey to the Commonwealth of Pennsylvania, for the benefit of Evansburg State Park, a 0.5418-acre parcel of property to replace those lands being conveyed.

Appraisal of the Property (valuation, liens and encumbrances): Independent appraisals were completed on the 8 tracts of land to be conveyed in fee and the 11 temporary construction easements. As of January 31, 2007, the total market value of the land and easements to be conveyed by the Commonwealth of Pennsylvania to Skippack Township total $66,075.00. An independent appraisal was also completed on the tract of land to be conveyed to the Commonwealth of Pennsylvania by Skippack Township. As of February 12, 2007, market value was determined to be $48,800.00.

Proposed use of the Property and Title Restrictions, Reversions: Skippack Township, through T.H. Properties, will utilize the property and temporary construction easements to make improvements to the intersection of Skippack Pike (SR 0073), Old Forty Foot Road (SR 1006), and Evansburg Road. T.H. Properties is developing a large tract of privately-owned land beyond the intersection and Skippack Township is requiring improvements to the intersection through T.H. Properties land development plan. Upon completion of the aforementioned highway improvements, the temporary construction easements will expire and control of these areas will revert to the Commonwealth of Pennsylvania.

The deed(s) from the Commonwealth of Pennsylvania to Skippack Township will include a restriction that prohibits any of the property from being utilized as a licensed gaming facility.

Position: The Department of General Services, Department of Conservation and Natural Resources and Department of Transportation support the proposed legislation.

Section 2

Description of the Property and Improvements: The property, known locally as the "Old Fire Tower", consists of approximately 1-acre of land, situate in the Winslow Township, Jefferson County. The property is within the 25th Senatorial District and 66th Legislative District.

Grantor: Commonwealth of Pennsylvania, through the Department of General Services with the approval of the Department of Conservation and Natural Resources.

Grantee: Jefferson County.

Other Parties Benefiting: None.

Consideration for Conveyance: $750.00.

Appraisal of the Property (valuation, liens and encumbrances): An independent appraisal, dated February 26, 2007, was performed on the subject property and fair market value was determined to be $750.00.

Proposed use of the Property and Title Restrictions, Reversions: The property will be used for the installation and operation of an emergency communications tower by Jefferson County. The deed of conveyance shall contain a restrictive covenant prohibiting the property from being utilized as a licensed gaming facility.

Position: The Department of General Services and the Department of Conservation and Natural Resources support this conveyance.

<u>Section 3</u>

Description of the Property and Improvements: The property consists of approximately 1.23 acres of land and building known as the "Mansfield Armory", situated in the Borough of Mansfield, Tioga County. The property is within the 25th Senatorial District and 68th Legislative District.

Grantor: Commonwealth of Pennsylvania, through the Department of General Services, with the approval of the Department of Military and Veterans' Affairs and the Governor.

Grantee: Borough of Mansfield.

Other Parties Benefiting: None.

Consideration for Conveyance: For fair market value, as determined by an independent appraisal.

Appraisal of the Property (valuation, liens and encumbrances): An appraisal, dated September 7, 2004, was performed on the subject property and fair market value was determined to be $180,000.00.

Proposed use of the Property and Title Restrictions, Reversions: The deed of conveyance will contain a restriction prohibiting any licensed gaming facilities on the property.

Position: The Department of General Services and the Department of Military and Veteran's Affairs support the proposed legislation.

Section 4

Description of the Property and Improvements: The property consists of approximately 1.26-acres of land and building known as the "Pittsburgh State Office Building", situated in the First and Second Wards of the City of Pittsburgh, County of Allegheny. The property is within the 42^{nd} Senatorial District and 19^{th} Legislative District.

Grantor: Commonwealth of Pennsylvania through the Department of General Services, with the approval of the Governor.

Grantee: To be selected through a public solicitation for proposals.

Other Parties Benefiting: None.

Consideration for Conveyance: To be determined through a public solicitation for proposals process.

Appraisal of the Property (valuation, liens and encumbrances): An appraisal, dated August 30, 2006, was performed on the subject property and fair market value was determined to be $8,230,000.00.

Proposed use of the Property and Title Restrictions, Reversions: The deed of conveyance will contain a restriction prohibiting any licensed gaming facilities on the property.

Position: The Department of General Services supports the proposed legislation.

Section 5

Description of the Property and Improvements: The property consists of approximately 1.89 acres of land and building known as the "Philadelphia State Office Building", situated in the Fifteenth Ward of the City of Philadelphia, County of Philadelphia. The property is within the 1st Senatorial District and 182nd Legislative District.

Grantor: Commonwealth of Pennsylvania through the Department of General Services, with the approval of the Governor.

Grantee: To be selected through a public solicitation for proposals.

Other Parties Benefiting: None.

Consideration for Conveyance: To be determined through a public solicitation for proposals process.

Appraisal of the Property (valuation, liens and encumbrances): An appraisal, dated October 13, 2004, was performed on the subject property and fair market value was determined to be $15,100,000.00.

Proposed use of the Property and Title Restrictions, Reversions: The deed of conveyance will contain a restriction prohibiting any licensed gaming facilities on the property.

Position: The Department of General Services supports the proposed legislation.

Appendix X: DGS Memorandum to the Senate on Property Conveyance

DEPARTMENT OF GENERAL SERVICES
LEGISLATIVE BILL ANALYSIS
CONVEYANCE OF LAND

This memorandum is provided under Senate Rule 13.

Bill No:	S. B. 962	**Printers Number:**	1156
Committee:	State Government		
Contact:	James P. Creedon Secretary for General Services		
Date:	June 13, 2007		

Description of the Property and Improvements: The property consists of approximately 1.26-acres of land and building known as the "Pittsburgh State Office Building", situated in the First and Second Wards of the City of Pittsburgh, County of Allegheny. The property is within the 42^{nd} Senatorial District and 19^{th} Legislative District.

Grantor: Commonwealth of Pennsylvania through the Department of General Services, with the approval of the Governor.

Grantee: To be selected through a public solicitation for proposals.

Other Parties Benefiting: None.

Consideration for Conveyance: To be determined through a public solicitation for proposals process.

Appraisal of the Property (valuation, liens and encumbrances): An appraisal, dated August 30, 2006, was performed on the subject property and fair market value was determined to be $8,230,000.00.

Proposed use of the Property and Title Restrictions, Reversions: The deed of conveyance will contain a restriction prohibiting any licensed gaming facilities on the property.

Position: The Department of General Services supports the proposed legislation.

Appendix XI: Discussion by the House of Representatives regarding passage of the bill authorizing the sale of the Pittsburgh State Office Building[96]

education; providing for continuing professional education for school or system leaders and for Pennsylvania school leadership standards; in pupils and attendance, further providing for school lunch and breakfast reimbursement; further providing for duties of Department of Education relating to school health services and for educational assistance program; in early learning programs, further providing for Head Start Supplemental Assistance Program; establishing the Pennsylvania Pre-K Counts Program; providing for distressed school districts and student attendance in other districts; in opportunities for educational excellence, for responsibilities of department and State Board of Education; in education empowerment provisions, providing for superintendent power to recommend dismissal; further providing for education empowerment districts and for boards of control for certain school districts; in community education councils, further providing for State funding; establishing the Pennsylvania Technical College Program; in educational improvement tax credit provisions, further providing for limitations; providing for funding for public libraries; in reimbursement by Commonwealth and between school districts, further providing for small district assistance; providing for basic education funding for 2006-2007 school year; further providing for payments on account of limited English proficiency programs, for payments to intermediate units, and for special education payments to school districts; providing for budget stabilization plan progress report; and further providing for payments on account of pupil transportation, for Commonwealth reimbursements for charter schools and cyber charter schools and for Pennsylvania accountability grants.

Whereupon, the Speaker, in the presence of the House, signed the same.

The SPEAKER. We have one more vote.

BILL ON CONCURRENCE IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **HB 1656, PN 2341**, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Department of Conservation and Natural Resources and the Governor, to grant and convey to Skippack Township certain lands situate in Skippack Township, Montgomery County, in exchange for Skippack Township granting and conveying certain lands to the Commonwealth to be added to those existing lands at Evansburg State Park; authorizing and directing the Department of General Services, with the approval of the Governor and the Department of Conservation and Natural Resources, to grant and convey to Jefferson County certain lands situate in Winslow Township, Jefferson County; authorizing and directing the Department of General Services, with the approval of the Governor and the Department of Military and Veterans Affairs, to grant and convey to the Borough of Mansfield certain lands situate in the Borough of Mansfield, Tioga County; authorizing the Department of General Services, with the approval of the Governor, to grant and convey, at a price to be determined through a public solicitation for proposals, certain lands, buildings and improvements situate in the First and Second Wards of the City of Pittsburgh, County of Allegheny, known as the Pittsburgh State Office Building; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey, at a price to be determined through a public solicitation for proposals, certain lands, buildings and improvements situate in the City and County of Philadelphia, known as the Philadelphia State Office Building.

On the question,
Will the House concur in Senate amendments?

The SPEAKER. The Chair recognizes Representative Josephs. Does the lady have amendments to this bill?

Ms. JOSEPHS. I am withdrawing the amendments, but I do want to have an opportunity to speak.

The SPEAKER. The lady is in order. The lady may make her remarks.

Ms. JOSEPHS. Not at this moment. Thank you.

The SPEAKER. The Chair thanks the lady.

On the question, will the House concur in the amendments made by the Senate?

Representative Moyer.

Mr. MOYER. Mr. Speaker, I rise to ask for a concurrence for my HB 1656, which was voted unanimously out of the State Government Committee and subsequently voted unanimously 198 to 0 here in the House and then voted unanimously again 50 to 0 in the Senate with four amendments, all land conveyances, Mr. Speaker, which include one in Winslow Township, Jefferson County; one in Mansfield Borough, Tioga County; one in Pittsburgh, the State Office Building; and one in Philadelphia, again the State Office Building.

Mr. Speaker, I would like to take this opportunity to thank the Governor's Office, the majority and the minority chairs for their support, along with Chairwoman Babette Josephs, Chairman Matt Baker, and Deputy Speaker Josh Shapiro.

Mr. Speaker, I respectfully ask my colleagues for concurrence on this legislation.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I want to compliment the gentleman, Mr. Moyer. He has really distinguished himself among the 50 new members this year, and this legislation is illustrative of that.

Unfortunately, the Senate slipped in two very significant conveyances into this bill – the State Office Building in Pittsburgh and the State Office Building in Philadelphia. Now, the State Office Building in Pittsburgh has been the focal point of State services in western Pennsylvania since its construction. It was renovated in 1989, soup to nuts, and it is my understanding that those bonds for the renovations have yet to be retired.

There are many questions involved with this, and in hopes of expediting our proceedings, I approached the chair of the State Government Committee, Ms. Josephs, with some background questions before and discovered she was as surprised as I that this would be there, and accordingly, those questions would need to be addressed here on the floor or alternately.

I would observe, Mr. Speaker, that we all have worked very, very hard in recent weeks, and I think those who are new to this chamber have learned a great deal about how hard legislators work on both sides of the aisle.

In the last 35 days I have been able to be at home just two nights, and I know I am not alone in that, but I thought it would be nice if we were able to conclude for the summer on an agreement where we might all come together, and in that spirit, Mr. Speaker, I am asking if the gentlelady, chair of the State Government Committee, would be prepared to answer a question?

The SPEAKER. The lady says she will stand for interrogation. The gentleman is in order.

Mr. MAHER. Thank you, Mr. Speaker.

Mr. Speaker, understanding that your committee has not had the ability to study these very significant conveyances of State office buildings in Philadelphia and Pittsburgh and

[96] Legislative Journal – House of Representatives, 2007-08 session, pp. 2185-89, July 17, 2007.

understanding the thoroughness that you like to attach to such matters, would you join me in a motion to recommit this bill to your committee so that we can all go home?

Ms. JOSEPHS. Yes, I would, but let me correct a misstatement. The two land conveyances – and this has nothing to do with the budget; it has nothing to do with riparian rights that we did not have a chance to discuss – are, as you mentioned, the one in Pittsburgh and the other one is a land conveyance in Jefferson County, but I would absolutely like to have an opportunity to bring those before my State Government Committee, and I do support your motion.

Mr. MAHER. Thank you, Mr. Speaker.

MOTION TO RECOMMIT

Mr. MAHER. Mr. Speaker, so as to save the members of this chamber the time that would be involved to research these questions here on the floor before we vote, I am going to move, so that we can all go home, that we recommit this bill to the State Government Committee and allow the chairman to study these questions and report back to us in the fall.

The SPEAKER. The gentleman, Mr. Maher, moves that HB 1656, PN 2341, be recommitted to the State Government Committee.

On the question,
Will the House agree to the motion?

The SPEAKER. On that motion, the Chair recognizes Representative Moyer.

Mr. MAHER. Thank you, Mr. Speaker.

Truly it pains me to have to do this just because— Oh, I am sorry.

The SPEAKER. The Chair recognized Representative Moyer.

Mr. MAHER. I am sorry, sir. I yield.

Mr. MOYER. Thank you, Mr. Speaker.

To my colleagues in the House, I worked very hard on this. This is my very first bill, and I am honored to have the Governor's support, the majority leader's support, the minority leaders support, and I urge a "no" vote on the recommittal.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Yes, I am truly sorry that I have to make the motion, because I am a big fan of Mr. Moyer's, and I know we all have ambitions to be in the exits shortly, but the thousands of people who work in the State Office Building in Pittsburgh, from Beaver County, from Butler County, from Washington County, from Armstrong County, from Indiana County, from Westmoreland County, they are all very concerned about what this means about their futures. This is not a throwaway, ha-ha funny issue to them, and I think it is quite appropriate at this point in time when the Governor and others have concerned State employees about their current circumstance in these last couple of weeks, that it would be a terrible thing for us to break for the summer putting them to worry about their future circumstance when we are unable to come about answers here on the floor.

So I hope you will join me in the recommittal, and if we fail on that, I will need to ascertain answers to a good number of questions, Mr. Speaker.

The SPEAKER. Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I also want to compliment the main sponsor of this bill for following the rules, but I want to say that this is another institutional question for me. We have moved a number of land conveyances to the Senate – one in Pine Township; one in Fayette County; two in Philadelphia; and as amendments, one in Bensalem and one in Bethlehem – but the Senate has not acted on any of these bills.

I have to say also that none of the amendments or the underlying bill that we are now discussing have anything to do with the budget or with riparian rights, but the Senate has not moved any bills that our House State Government Committee has sent to them. Instead of which, instead of which, they have put on Mr. Moyer's bill, the Moyer bill, four land conveyances, two of which we have discussed, but two of which we have no real idea from our committee what they are about. These two conveyances are in bill form in the House State Government Committee, and nobody from the other side of the aisle, from my side of the aisle, from the Senate, or from the administration has asked me to move them and yet these things are stuck on the Senate bill.

Several years ago we had this situation in Warren County. There was a lot of local opposition. We never had a chance to discuss the bill, and I think we made a very unwise choice there.

The gentleman from Jefferson County, the honorable leader of the minority, asked only a short time ago, and I paraphrase, where is the will of the House? Where is the will of the House? Are we supposed to be a coequal chamber, or should we just lie down, roll over, play doormat, and simply ask our Senator?

For the sake of the freshmen and the freshwomen who came here to reform the process – and I embrace, always have embraced reform and continue to do so – I ask everybody for a "yes" on the motion to recommit. Let us do that and go home.

Thank you, Mr. Speaker.

The SPEAKER. Representative Baker.

Mr. BAKER. Thank you, Mr. Speaker.

Mr. Speaker, I strongly rise to oppose this motion. With due respect to my colleagues, Ms. Josephs and Mr. Maher, this is a very important land conveyance legislation bill for the gentleman, Mr. Moyer. There are five such very important land conveyances in this bill. It passed unanimously in the Senate. The Governor strongly supports these conveyances. They are very, very easy land conveyances in terms of passage, and I just cannot see why we want to be obstructionists at this point. Let us move this bill along. We have plenty of time to deal with other issues of land conveyances in the future.

I really think we need to defeat this motion and get the bill passed and signed into law. The Governor, again, strongly supports it, the Department of Military and Veterans Affairs strongly supports it, DCNR (Department of Conservation and Natural Resources) strongly supports it, General Services strongly supports it. I do not see what the problem is. Let us oppose this motion to recommit.

Thank you very much.

The SPEAKER. Representative Clymer waives off.

Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I join my brother, Representative Maher, and my sister, Representative Josephs, in this motion to recommit.

I think the important question here in this motion is, how do we conduct business in this chamber? And in this era of reform, voting this now at the eleventh hour, voting major land transfers – two extremely valuable pieces of real estate and buildings in Philadelphia and Pittsburgh – without having gone through the committee process is really business as usual.

I think if we do this today, we are sending a message to the Senate that we are continuing to do business as usual. If we today say no to the Senate; no, you cannot place two, three, four land transfers in one of our very good bills, it may not happen next time, Mr. Speaker.

I am familiar with these transactions. Today is July 17. We are going to be back in 2 months, September 17. There is nothing here that is in a particular hurry that has to be done. I think the correct move is to air these out, use the committee process, and vote "yes" to recommit.

Thank you.

The SPEAKER. The minority leader, Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

I would just simply ask the members to oppose the motion to recommit, plain and simple. We are about to wrap up here, and that is what we need to do.

Thank you, Mr. Speaker.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Anytime I can help Sam Smith, I want to help Sam Smith. I agree.

The SPEAKER. Representative Josephs.

Ms. JOSEPHS. Anytime, anytime I can help John Maher, I want to help John Maher.

To quote the honorable minority leader, where is the will of the House? Where is the will of the House? Vote "yes." Thank you.

The SPEAKER. Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

This will be short since it is not primary, or secondary, and I just stand to support my colleague from Montgomery County and ask for a "no" vote. This came over on the 15th. There was an opportunity to have a State Government Committee meeting like was done in the past, and I urge a "no" vote. Thank you.

The SPEAKER. Those in favor of recommitting the bill to the State Government Committee will vote "aye"; those opposed, "no."

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS–55

Benninghoff	Gabig	McGeehan	Sabatina
Bennington	Gibbons	Melio	Schroder
Bishop	Harkins	Mustio	Smith, M.
Blackwell	Hornaman	O'Brien, M.	Taylor, J.
Boback	James	Oliver	Thomas
Buxton	Josephs	Pallone	Vitali
Carroll	Kenney	Parker	Wagner
Casorio	Kirkland	Payton	Walko
Curry	Kortz	Petrone	Waters
Denlinger	Lentz	Ramaley	Wheatley
Donatucci	Maher	Rapp	White
Everett	Mahoney	Readshaw	Williams
Fabrizio	Manderino	Roae	Youngblood
Freeman	Marshall	Roebuck	

NAYS–145

Adolph	Geist	Markosek	Ross
Argall	George	Marsico	Rubley
Baker	Gerber	McCall	Sainato
Barrar	Gergely	McI. Smith	Samuelson
Bastian	Gillespie	McIlhattan	Santoni
Bear	Gingrich	Mensch	Saylor
Belfanti	Godshall	Metcalfe	Scavello
Beyer	Goodman	Micozzie	Seip
Biancucci	Grell	Millard	Shapiro
Boyd	Grucela	Miller	Shimkus
Brennan	Haluska	Milne	Siptroth
Brooks	Hanna	Moul	Smith, K.
Caltagirone	Harhai	Moyer	Smith, S.
Cappelli	Harhart	Mundy	Solobay
Causer	Harper	Murt	Sonney
Civera	Harris	Myers	Staback
Clymer	Helm	Nailor	Stairs
Cohen	Hennessey	Nickol	Steil
Conklin	Hershey	O'Neill	Stern
Cox	Hess	Pashinski	Stevenson
Creighton	Hickernell	Payne	Sturla
Cruz	Hutchinson	Peifer	Surra
Cutler	Kauffman	Perry	Swanger
Daley	Keller, M.	Perzel	Taylor, R.
Dally	Keller, W.	Petrarca	True
DeLuca	Kessler	Petri	Turzai
DePasquale	Killion	Phillips	Vereb
DeWeese	King	Pickett	Vulakovich
DiGirolamo	Kotik	Preston	Wansacz
Eachus	Kula	Pyle	Watson
Ellis	Leach	Quigley	Wojnaroski
Evans, D.	Levdansky	Quinn	Yewcic
Evans, J.	Longietti	Raymond	Yudichak
Fairchild	Mackereth	Reed	
Fleck	Major	Reichley	O'Brien, D.,
Frankel	Mann	Rock	Speaker
Galloway	Mentzer	Rohrer	

NOT VOTING–0

EXCUSED–3

Costa	Dermody	Tangretti

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments?

The SPEAKER. Representative Maher.

Mr. MAHER. Mr. Speaker, I regret having to rise a second time, but that was the episode I was hoping to avoid, and I am hoping there is someone on that side of the aisle who is able to offer some information with respect to the amendment inserted by the Senate insofar as it relates to the State Office Building in Pittsburgh. I will try to ask the questions as quickly as possible, but I think the public deserves to understand what is happening here. Is there no one?

The SPEAKER. The Chair is looking for someone who is responding to the gentleman's request for interrogation.

MOTION FOR PREVIOUS QUESTION

The SPEAKER. Representative Oliver.

Mr. OLIVER. Mr. Speaker, I am rising for a motion.

The SPEAKER. The gentleman will state his motion.

Mr. OLIVER. Mr. Speaker, my motion is, I am calling for the previous question.

The SPEAKER. There is nothing before the House except the motion to move the previous question. Members will take their seats. This is not a debatable motion. The motion is not debatable.

The gentleman, Mr. Oliver, moves the previous question on HB 1656. Those who second this motion will rise and remain standing until their names are recorded. Twenty members are required. Members who support the motion to move the previous question will stand and be recognized: O'Neill, Gingrich, Vereb, Harper, True, Adolph, Dally, Boyd, Beyer, Causer, Mensch, Murt, Stairs, Moyer, Hershey, Mantz, Ross, Miller, Rubley, Saylor, Quinn, Denlinger.

The motion for the previous question, having been made and seconded, those in favor of the motion for the previous question will vote "aye"; those opposed, "no." An "aye" vote is a vote to end debate and will bring this House to an immediate vote.

On the question,
Will the House agree to the motion?

The following roll call was recorded:

YEAS–124

Adolph	George	McCall	Reed
Argall	Gerber	McGeehan	Rose
Baker	Gergely	McI. Smith	Ross
Barrar	Gingrich	McIlhattan	Rubley
Bastian	Godshall	Mensch	Saylor
Bear	Goodman	Micozzie	Scavello
Belfanti	Grucela	Miller	Shimkus
Benninghoff	Hanna	Milne	Siptroth
Bennington	Harhai	Moul	Smith, K.
Beyer	Harhart	Moyer	Smith, S.
Biancucci	Harkins	Mundy	Solobay
Bishop	Harper	Murt	Sonney
Boyd	Harris	Myers	Staback
Brennan	Hennessey	Nailor	Stairs
Buxton	Hershey	O'Neill	Sturla
Caltagirone	Hickernell	Oliver	Surra
Causer	James	Parker	True
Civera	Kessler	Pashinski	Turzai
Clymer	Killion	Peifer	Vereb
Conklin	Kirkland	Perzel	Wagner
Cruz	Kortz	Petrarca	Wansacz
Curry	Kotik	Petri	Waters
Cutler	Kula	Petrone	Watson
Dally	Leach	Pickett	Williams
Denlinger	Lentz	Preston	Wojnaroski
DiGirolamo	Levdansky	Pyle	Yewcic
Donatucci	Longietti	Quigley	Youngblood
Eachus	Mackereth	Quinn	Yudichak
Evans, D.	Major	Ramaley	
Fabrizio	Mann	Raymond	O'Brien, D.,
Frankel	Mantz	Readshaw	Speaker
Galloway	Markosek		

NAYS–76

Blackwell	Gabig	Marshall	Sainato
Boback	Geist	Marsico	Samuelson
Brooks	Gibbons	Melio	Santoni
Cappelli	Gillespie	Metcalfe	Schroder
Carroll	Grell	Millard	Seip
Casorio	Haluska	Mustio	Shapiro
Cohen	Helm	Nickol	Smith, M.
Cox	Hess	O'Brien, M.	Steil
Creighton	Hornaman	Pallone	Stern
Daley	Hutchinson	Payne	Stevenson
DeLuca	Josephs	Payton	Swanger
DePasquale	Kauffman	Perry	Taylor, J.
DeWeese	Keller, M.	Phillips	Taylor, R.
Ellis	Keller, W.	Rapp	Thomas
Evans, J.	Kenney	Reichley	Vitali
Everett	King	Rock	Vulakovich
Fairchild	Maher	Roebuck	Walko
Fleck	Mahoney	Rohrer	Wheatley
Freeman	Manderino	Sabatina	White

NOT VOTING–0

EXCUSED–3

Costa	Dermody	Tangretti

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House concur in Senate amendments?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS–152

Adolph	Fabrizio	Major	Reed
Argall	Fairchild	Mann	Rose
Baker	Fleck	Markosek	Rock
Barrar	Frankel	Marsico	Ross
Bastian	Freeman	McCall	Rubley
Bear	Galloway	McGeehan	Sainato
Belfanti	Geist	McI. Smith	Samuelson
Benninghoff	George	McIlhattan	Santoni
Bennington	Gerber	Mensch	Saylor
Beyer	Gergely	Micozzie	Scavello
Biancucci	Gillespie	Millard	Seip
Bishop	Gingrich	Miller	Shapiro
Blackwell	Godshall	Milne	Shimkus
Boyd	Grucela	Moul	Siptroth
Brennan	Haluska	Moyer	Smith, K.
Brooks	Harhai	Mundy	Smith, S.
Buxton	Harkins	Murt	Solobay
Caltagirone	Harper	Myers	Sonney
Cappelli	Harris	Nailor	Staback
Causer	Helm	Nickol	Stairs
Civera	Hennessey	O'Neill	Steil
Clymer	Hershey	Oliver	Stern
Cohen	Hess	Parker	Sturla
Conklin	Hickernell	Pashinski	Surra
Cox	Hutchinson	Payne	Taylor, J.
Creighton	James	Payton	Taylor, R.
Cruz	Keller, M.	Peifer	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Wagner
DePasquale	Killion	Phillips	Wansacz
DeWeese	King	Pickett	Waters
DiGirolamo	Kirkland	Preston	Watson
Donatucci	Kortz	Pyle	Yewcic
Eachus	Kotik	Quigley	Yudichak
Ellis	Leach	Quinn	

Evans, D.	Levdansky	Ramaley	O'Brien, D.,
Evans, J.	Longietti	Raymond	Speaker
Everett	Mackereth		

NAYS–48

Boback	Hornaman	Mustio	Smith, M.
Carroll	Josephs	O'Brien, M.	Stevenson
Casorio	Kauffman	Pallone	Swanger
Curry	Kula	Perry	Thomas
DeLuca	Lentz	Petrone	Vitali
Denlinger	Maher	Rapp	Vulakovich
Gabig	Mahoney	Readshaw	Walko
Gibbons	Manderino	Reichley	Wheatley
Goodman	Mantz	Roebuck	White
Grell	Marshall	Rohrer	Williams
Hanna	Melio	Sabatina	Wojnaroski
Harhart	Metcalfe	Schroder	Youngblood

NOT VOTING–0

EXCUSED–3

Costa	Dermody	Tangretti

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

STATEMENT BY MINORITY LEADER

The SPEAKER. Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Just very quickly, Mr. Speaker, I want to wish the members an enjoyable remainder of the summer as they go back home to work in their districts. Perhaps a few of you will find a day or two of vacation after this.

The SPEAKER. If the gentleman will suspend for one second.

The Chair will ask the members to please not leave for a moment.

Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Again, as the members go back to their districts to work in the district level and get to know what is going on after being gone for virtually a month and a half straight, I just want to wish them safe passage, but mostly, Mr. Speaker, I want to thank everyone on the floor. These are tough times. We have our disagreements and we get into fights and we argue, but at the end of the day, what makes this form of government we have the greatest in the world is that at the end of the day, we are able to shake hands and look at people when these transitions of power take place, and I think it is something that we can all be proud of. Even when the system is slow and torturous, it is something we can all be proud of, that we are a part of, and hopefully we serve our constituents well. God bless.

Thank you, Mr. Speaker.

STATEMENT BY MAJORITY LEADER

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Thank you very much.

Just a real quick echo of my good friend, Sam.

Two points: One, the freshman class on both sides of the aisle was stupendous, was exemplary, full of spirit, full of reform, full of joie de vivre. So I want to commend the freshman class.

Secondly, I want to commend the Speaker, the Speaker, who weathered many storms but his hair never got mussed up.

Now, I would like, speaking of freshman class, I would like Karen Boback of Luzerne County to receive the undivided attention for 38 seconds. We have already timed this little ditty. So please, I relinquish the microphone to my good friend, Karen Boback from Luzerne.

ANNOUNCEMENT BY MS. BOBACK

Ms. BOBACK. Thank you, Representative DeWeese.

We have something special on your way home. First of all, a brief introduction. My friend and your friend, Eddie, had a top-notch band in our area for over 20 years. His band released seven 45 singles. He sang with and backed up Chubby Checker, Mitch Ryder, Gary U.S. Bond, the Drifters, Dennis Yost and the Classics IV, Frankie Valle, to name just a few. His venue included colleges, clubs, high schools, Friday and Saturday night dances, entertaining thousands of teenagers. His band is still one of the most sought after groups in my area, and to sing our closing song for this session, it gives me great pleasure to introduce my friend and yours, State Representative Eddie Day Pashinski.

STATEMENT BY MR. PASHINSKI

Mr. PASHINSKI. Thank you. Thank you very much. Thank you, Representative Boback, and thank you all for staying.

This was the longest end I have ever experienced, waiting about 6 hours to sing this song, but I think that it is so appropriate for us to do this. I am not going to do an hour medley of the Four Tops or the Drifters.

I just want to say to all of you what an honor it is for me to be here as a State Representative in this historic hall. And I want to reflect back on the time when we first came here and Representative Katie True and former Representative Pete Wambach and the Bipartisan Committee brought all the freshmen together and taught us about civility, and I thought since we started the year with friendship and civility, there would be no better way to end it under those same circumstances.

At this time I would like all of you to join with me in paying tribute to this historic hall, to the people of Pennsylvania, and to America. Join me, please, in singing "God Bless America."

("God Bless America" was sung by Mr. Pashinski, along with members and staff.)

Mr. PASHINSKI. God bless you all. Thank you.

STATEMENT BY SPEAKER

The SPEAKER. The Chair would also like to thank all the members, the floor staff, and all the staff for their diligence and professionalism in carrying out their duties.

DEPARTMENT OF GENERAL SERVICES' RESPONSE TO DRAFT REPORT

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

OFFICE OF THE SECRETARY 717-787-5996

RECEIVED
AUDITOR GENERAL
2009 AUG 14 P 3:10
ADMINISTRATION

August 14, 2009

Mr. Robert F. Teplitz
Chief Counsel/Policy Director
Department of the Auditor General
229 Finance Building
Harrisburg, PA 17120

Dear Mr. Teplitz:

Thank you for giving us the opportunity to provide comment on the draft report regarding the sale of the Pittsburgh State Office Building. I also want to thank you for allowing us an additional week to provide you with our comments. The attachment to this letter provides specific comments, corrections and clarification to the draft report. However, please consider this letter as part of our comments and include it with any published material.

It had been our hope that, after hours of interviews, the review of documents and written answers to questions, given by our real estate, engineering, building management and finance professionals, that your office would have been able to develop a more complete understanding of this transaction. Your draft report appears to ignore all the information we provided which did not support what may have been a predetermined conclusion. After reading the draft report and our comments, I strongly feel that your team should regroup and meet with DGS staff again to attempt to develop a better understanding of this transaction and clarify many points in the draft report.

Specifically, let me comment on each of your findings:

Finding I. – Disagree. The Commonwealth will save almost $14 million by selling the building and moving to leased space. The savings will be realized by avoiding the expense of a disruptive renovation, continued maintenance of the building and by moving into cost-efficient leased office space. In addition, by allowing the building to be utilized for private development, the downtown business district will be enhanced and much-needed tax dollars will be provided to the city, county, and school district. Additionally, the downtown district will be further enhanced and stabilized by the Commonwealth leasing space in several different buildings.

Finding II. – Disagree. None of the facts presented by DGS were understated. The public was provided with clear and correct information regarding the first year base rental costs of each lease. Contrary to your position, our financial model accounts for all moving costs, build-out costs, operating expenses and rental costs incurred over the term of each lease. The results of our analysis that indicate a cost-savings of nearly $14 million by selling the building and moving into leased locations were indeed provided to the public accurately.

ROOM 515 NORTH OFFICE BUILDING, HARRISBURG, PENNSYLVANIA 17125

Additionally, we disagree with your statement that you have "compiled a more complete picture of the total amount of public funds that the Commonwealth will be paying for all of the office space being leased to house the state agencies displaced by the sale of the building." We have always worked with a complete set of facts regarding this transaction. We remain confident that the transaction will provide the best possible outcome for the taxpayers. Please review the attached document for details on the important facts that you have overlooked in reaching your conclusion.

Finding III. – Disagree. The attachment, prepared by our real estate staff and Oxford Development, addresses the issues of market value and your use of comparable transactions. It is unclear whether you sought input from an independent appraiser when developing this finding. It would have been helpful if your team had interviewed our appraiser when developing the draft report.

Finding IV. – Disagree. DGS did not limit public comment on this transaction. As early as 2004, DGS recognized that the cost to renovate this building was reaching a point where alternatives should be considered. As part of our regular capital planning process, it became apparent that funds to renovate the building would have to compete with funds needed for more important capital projects. These projects included, but certainly were not limited to, the construction of the Pennsylvania Judicial Center, various Department of Corrections projects, various flood control projects, upgrades to our State Parks, a continued investment in the State System of Higher Education system, and various projects at Penn State, Temple, Lincoln, and at the University of Pittsburgh. Capital funds, even though authorized by the legislature, need to be utilized in the most cost-effective manner.

Meetings were held with members of the Pittsburgh delegation to the General Assembly, the County Executive, the Mayor, and local economic officials, to discuss the sale of the building and the best possible way to maximize the opportunity to lease in the downtown district. The media covered the proposed sale throughout the entire process. Finally, the General Assembly authorized the sale in public session and after committee review in both Chambers.

I rely heavily on input from members of the General Assembly when developing real estate transactions in their districts. In this case, members helped to provide valuable input on such issues as potential reuses of the building, areas of the city to consider for the leased space, and how to involve the minority-and woman-owned business communities in the transaction. As the final parts of this transaction came together in March, I had the opportunity to meet with the Allegheny County delegation. I was also able to review our overall plan to proceed with the sale of the building and to enter into leases at three locations throughout the city. No member of the delegation voiced any objections to the plan.

It should be noted that the Auditor General's office fully participated in the planning process regarding moving your Pittsburgh office to leased space. We had no indication of concern from the Auditor General until the process was well underway and after much public discussion. If your staff is suggesting that local hearings should have been held, I suggest that you make that recommendation to the General Assembly as a requirement for future sales of Commonwealth property. DGS would not oppose such a requirement.

I also wish to address your comments on cooperation. I have noticed this as a common theme from the Auditor General's office when we object to inquiries that stretch beyond the defined scope of audits. We made all of the staff involved in this transaction available to your team. Your team spent hours interviewing real estate, building management and public works staff, as well as the real estate broker who handled this transaction. At all times, we provided documents you requested that were relevant to this transaction in a timely manner. I personally stopped in to meet your investigative staff during one of their many meetings in the DGS conference room. I asked them if they were receiving all of the information that they needed. The answer was "yes." If our cooperation was as poor as your team depicts in this report, I would have expected a letter or perhaps a phone call from your office to discuss any problems your team was experiencing.

Your team had a difficult challenge. If sufficient internal expertise for this report was not available to your staff, I had expected you to draw on independent external professionals to review all, or parts of, this complex transaction. Instead, the report seems to have presented facts designed to ensure that the report's conclusion supported the predetermined, publicly-stated opinion of your office.

I ask you to carefully review our attachment with the Auditor General prior to release of the final report. If you have any questions or wish to have a meeting to discuss this issue, please call me. Again, I suggest your team meet with those involved in this transaction at DGS to review the project again before issuing a final report.

Sincerely,

James P. Creedon
Secretary

Attachment

RESPONSE OF THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF GENERAL SERVICES TO THE AUDITOR GENERAL'S REPORT ON THE SPECIAL INVESTIGATION OF THE SALE OF THE PITTSBURGH STATE OFFICE BUILDING

I. Documents DGS Allegedly Refused to Provide:

Cost information related to the sale of the Philadelphia State Office Building and the related leases for new space to house the Commonwealth agencies displaced by the sale, including but not limited to moving, build-out arrangements, and consulting and security expenses. (Page 1)

DGS' Response: The Auditor General's request is beyond the specified scope of his investigation. Comparing the cost data related to the sale of the Philadelphia State Office Building to data for the sale of the Pittsburgh State Office Building is essentially an "apples to oranges" comparison. DGS warned the Auditor General that such a comparison would yield no reliable data. DGS explained the impossibilities of comparing two distinctive rental markets like Pittsburgh and Philadelphia. Moreover, the solicitations for the Philadelphia leases were based on a tenant improvement allowance, whereas the solicitations for the Pittsburgh leases were a "turn key" operation. Essentially, potential landlords were required to assume much more risk in the Pittsburgh solicitation, and the rental rates were affected accordingly. Requests of this nature suggest that the Auditor General's investigative team lacked sufficient understanding of real estate markets and leasing practices to conduct a reliable investigation.

Any and all documentation concerning the Commonwealth's recent purchase of the City of Pittsburgh's Municipal Courts Building. This information would be used for a cost comparison with the Building. (Page 1)

DGS' Response: As of this date, the Commonwealth has not finalized the purchase of the City of Pittsburgh's Municipal Courts Building, and no documentation should be provided since this is not a concluded transaction.

Furthermore, the Auditor General's request is beyond scope of the present investigation. Comparing the purchase of the City of Pittsburgh's Municipal Courts Building to the sale of the

Pittsburgh State Office Building is another "apples to oranges" comparison. DGS warned the Auditor General that such a comparison would yield no reliable data that could be objectively used in his report.

II. Documents DGS Allegedly Failed to Provide.

DGS' Response: DGS made every effort to provide the Auditor General with the documents he requested. In those instances where DGS did not possess the requested documents, it made every effort to refer the Auditor General to the agency that it believed had the documents. DGS did not advise other Commonwealth agencies to refuse to comply with the Auditor General's requests. In fact, on June 5, 2009 DGS affirmatively notified other Commonwealth agencies that the Auditor General was conducting an investigation into the sale of the Pittsburgh State Office Building, and advised each Commonwealth agency to make its own determination of what was necessary to comply with the Auditor General's requests.

III. Documents DGS Allegedly Provided After a Significant Time Delay.

DGS' Response: DGS feels that it was able to provide the Auditor General with all of the documents he requested within a reasonable amount of time.

Information concerning the debt service related to the Building, as this should be deducted from the sale proceeds of the Building. (Page 3)

DGS' Response: This documentation was provided to the Auditor General accompanied by a letter dated June 17, 2009. The Auditor General's report inaccurately indicates that this documentation was not received until June 30, 2009.

The amount required to be paid from the sale proceeds of the Building to the U.S. Department of Labor ("U.S. DOL") relative to its equity interest in the Building. (Page 3)

DGS' Response: This documentation was provided to the Auditor General accompanied by a letter dated June 17, 2009. The Auditor General's report inaccurately indicates that this documentation was not received until June 30, 2009.

VI. Building History.

DGS' Response: DGS does not object to the Auditor General's description of the Pittsburgh State Office Building.

V. Actual and Proposed Renovations to the Building.

The Director said that he questioned whether the existing exterior envelope (the building façade) needed to be replaced along with replacing the windows or whether new glazing and caulking to seal around the openings of the existing windows would be adequate. In the Director's opinion:

- *DGS may not have to re-skin the Building, but it would be good to do so.*
- *Some renovations may not be practical.*
- *The building did not need a new roof.*
- *DGS wanted the Building to be a livable space.*
- *Questions concerning whether to re-skin the Building or re-glaze the exterior envelope, and question regarding gutting the Building to convert it into an open office space environment concept, could be raised. Not all this work needs to be done.*
- *A $64 million renovation project could ultimately become a $45 million project.* (Page 6 – 7)

DGS' Response: This characterization of the statements made by the Director is misleading. The Director was responding to hypothetical questions proffered by the Auditor General's investigative team.

Table 2: Funding Available to Renovate the Pittsburgh State Office Building. (Page 7)

DGS' Response: A "Capital Budget Allocation" does not equate to "available funding." The "Authorized Amounts" represented in Table 2 were not available for a complete renovation of the Pittsburgh State Office Building. Act 74 of 1994 and Act 131 of 2002 made funds available to DGS to perform certain projects on the Pittsburgh State Office Building. A portion of the funds were used to perform two emergency capital projects. Even though the funds may have been released by the General Assembly, DGS will not use those funds until the Office of Budget has approved and released the funds for the completion of a specified project.

VI. Sale of the Building.

When DGS began exploring the sale of the Building in late 2005/early 2006, the land was assessed at $4,114,400 and the structure at $10,812,800, for a total of $14,927,200. The appraisal obtained by DGS opined that the market value of the entire property, as of August 2006, was $8,230,000.

DGS' Response: DGS considered selling the Pittsburgh State Office Building before 2005. DGS obtained the September 2006 Appraisal as part of its due diligence. The September 2006 Appraisal does not reflect the true market value of the Pittsburgh State Office Building. The September 2006 Appraisal did not take into consideration the costs associated with both environmental remediation and code compliance issues. These remediation and compliance costs greatly reduce the market value of the Pittsburgh State Office Building. True market value is only obtained when a property is placed on the open market for sale. In this case, the Pittsburgh State Office Building was placed on the market twice. The September 2006 Appraisal does not reflect the true market value of the Pittsburgh State Office Building. This fact was conveyed to the Auditor General's investigative team but is absent from the Auditor General's report.

While waiting to learn whether it was the successful offeror, Buncher officials began to conclude that the costs to renovate the Building would be too high and the local real estate market was not very good. With all of these factors considered, Buncher decided to withdraw its proposal and leave the project. On February 26, 2009, DGS sent a letter to the President of Buncher acknowledging and accepting the company's withdrawal of its proposal. DGS returned Buncher's guarantee of $90,140. According to the Solicitation for Proposals issued by DGS and submitted by Buncher, the successful offeror would forfeit its guarantee if the successful offeror did not execute a purchase agreement. The Chief of the Land Management Division in DGS's Bureau of Real Estate told OSI that Buncher could withdraw form the sale of the Building without penalty because DGS had never signed and executed such an agreement. (Page 8)

DGS' Response: Buncher withdrew its offer before DGS determined that it was the successful offeror. DGS had no legal authority to withhold Buncher's guarantee.

VII. Leases for New Office Space.

In addition to these three main leases, four other leases were entered into for specific office relocating from the Building:

- *233 West Otterman Street, Greensburg – Department of Health;*
- *531 Penn Avenue, Pittsburgh – Office of Vocational Rehabilitation, Department of Labor and Industry;*
- *University of Pittsburgh Applied Research Center, Harmarville – Public Utility Commission; and*
- *2307-09 East Carson Street, Pittsburgh – Allegheny County Assistance Office, Department of Public Welfare ("DPW").* (Page 10)

DGS' Response: The four leases referenced by the Auditor General are not related to the sale of the Pittsburgh State Office Building. The following explanation is provided for each those leases:

- 233 West Otterman Street, Greensburg: The Department of Health requested DGS' permission to relocate its state health center outside of the Pittsburgh area prior to DGS' determination to sell the Pittsburgh State Office Building. The Department of Health was interested in relocation because of confusion associated with their Pittsburgh State Office Building location.
- 531 Penn Avenue, Pittsburgh: DGS and the Department of Labor and Industry decided to relocate their Office of Vocational Rehabilitation prior to DGS' determination to sell the Pittsburgh State Office Building.
- University of Pittsburgh Applied Research Center, Harmarville: The Public Utility Commission, in a staff reduction and cost saving measure, asked to consolidate its office into an existing location prior to DGS' determination to sell the Pittsburgh State Office Building.

- *2307-09 East Carson Street, Pittsburgh*: County Assistance Offices are placed by the Department of Public Welfare in areas where they serve their clients. The County Assistance Office was only to be located in the Pittsburgh State Office Building on a temporary basis due to an expired lease. The County Assistance Office would have been moved to another location as soon as suitable leased property was located regardless of the status of the Pittsburgh State Office Building.

Table 3: TOTAL - $302,765,737 - Although the lease costs start lower in the initial years before increasing, the average cost per year over the entire 30 years would be approximately $10 million per year. (Page 11)

DGS' Response: The Auditor General's statement is misleading. All of the leases are for a term of no more than 20 years. The Auditor General's calculation also does not take into consideration the safeguards that DGS has negotiated into the leases. The leases require a mandatory readjustment for operating costs after 10 years. This safeguard will guarantee that the Commonwealth pays no more than its actual costs.

The $10 per square foot allowance will initially be provided by the landlord and recouped through lease payments. The repayment costs associated with the allowance are included in Table 3. Any costs that DGS incurs above the allowance amount will be billed to the agencies located in the buildings, based upon the percentage of space each agency occupies. (Page 12)

DGS' Response: The Auditor General's statement is misleading. The $10 per square foot allowance should not have been included in Table 3. The Auditor General implies that the $10 allowance is a separate source of funds which the landlords will be entitled to recoup above and beyond the rental rate. Contrary to the Auditor General's assertion, the $10 per square foot allowance is a portion of the build-out costs DGS negotiated with each landlord and is included in the rental rate. The landlords will receive no additional compensation for the $10 allowance because those costs have been included in the negotiated rental rates.

Consequences

- *The local government entities that [sic] will receive additional tax revenues each year because the Building lost its tax exempt status when it was sold by the Commonwealth. However, although DGS estimated those annual tax revenues at $500,000, the amount will be substantially lower due to an expected property tax reassessment based on the Building's recent sale price of $4.6 million.* (Page 12)

DGS' Response: Once the Pittsburgh State Office Building is renovated it will return to its currently assessed value or higher.

VIII. The Auditor General's Finding I.

However, in response to OSI's request for a copy of the financial model, DGS provided a draft of the financial model dated March 17, 2009. The Office of the Budget prepared the financial model almost two years after the legislature authorized DGS to sell the Building. Clearly, neither DGS nor the General Assembly could have used this document when considering the financial ramifications of the sale, as the document did not exist. There is no indication that DGS provided the legislature with any financial data regarding the cost ramification of selling the Building. (Page 13)

DGS' Response: The Auditor General's finding is incorrect. DGS advised the Auditor General that the Financial Model was revised several times over many years. An initial version of the Financial Model was available when the Secretary appeared before both the House State Government Committee and the Senate State Government Committee. In addition to discussing the initial version of the Financial Model before the House State Government Committee and the Senate State Government Committee, the Secretary also provided testimony and answered numerous questions regarding the sale of both the Philadelphia State Office Building and the Pittsburgh State Office Building.

We requested a finalized version of the financial model from both OB, which had prepared the document for DGS, and from DGS. OB told OSI that the draft model dated March 17, 2009 is the last version of the analysis prepared by OB. We repeatedly requested a copy of the document used by DGS to support its claim that selling the Building would save $14 million over 20 years. In response to each request, DGS either provided a copy of the draft document or referred us to it. There does not appear to be a final version of the document. (Page 13)

DGS' Response: The Auditor General is mistaken. The Financial Model dated March 17, 2009 is the final draft. The Financial Model was revised several times over many years until it eventually became the final draft on March 17, 2009. The $14 million in savings was generated and is represented in the March 17, 2009 Financial Model.

We reviewed the draft financial model and found that it does not account for all costs to be incurred by the Commonwealth. For example, as discussed in Finding III, the obligation to repay the U.S. Department of Labor is not included as a reduction to the sales proceeds. (Page 14)

DGS' Response: The Auditor General's statement is incorrect. DGS has no obligation to repay sale proceeds of the Pittsburgh State Office Building to the U.S. Department of Labor. Pursuant to Amended Section 193 of the *Workforce Investment Act of 1998*, DGS does not have to return the U.S. Department of Labor's investment in the Pittsburgh State Office Building. Rather, those funds will be used by the Pennsylvania Department of Labor and Industry to carry out eligible programs and activities.

Leasing costs are perpetual. When these leases expire the Commonwealth will need to enter into new leases or renew the existing leases. In contrast, renovation costs are finite and are amortized over a fixed period of time. (Page 16)

DGS' Response: This statement reveals a lack of understanding of real estate management and economics. While it may be true that leasing costs are perpetual, so are the operating and maintenance costs for an aging asset like the Pittsburgh State Office Building.

IX. The Auditor General's Finding II.

DGS understated the full amount of rent to be paid by the Commonwealth when it reported that the average base rent for the three main leases was $11.16 per square foot. When additional charges to cover operational costs are included, the average cost to the Commonwealth is $25.75 per square foot over the terms of the three main leases. (Page 17 – 19)

DGS' Response: DGS stands behind the Secretary's representation that the Commonwealth "will move to more efficient space in three buildings with an average base rent of $11.16 per square foot." The Secretary's comment demonstrates DGS' commitment to lower maintenance and operating costs of state government. The Commonwealth will incur operational costs no mater where its offices are located. By moving to efficient leased spaces, the Commonwealth will clearly save on maintenance and operational costs.

Table 7: Average Annual Lease Cost per Square Foot over Lease terms for the Main Leases. (Page 17)

DGS' Response: DGS fails to see how the Auditor General was able to calculate rent beyond the initial term of each of the leases. DGS notes that total rent payable under each lease is capped at a 4% annual increase. This fact is not reflected in the Auditor General's table. The 4% annual cap insures that DGS will not be exposed to increased utility, labor and/or insurance costs on a yearly basis.

X. The Auditor General's Finding III.

The Commonwealth sold the Pittsburgh State Office Building for only $4.6 million, roughly half of its appraised valued, and the proceeds were reduced by over 67% to a net amount of less than $1.5 million. (Page 20 – 23)

DGS' Response: The Auditor General's statement is misleading. As discussed above, the September 2006 Appraisal does not take into consideration the environmental issues that significantly affected the market value of the Pittsburgh State Office Building. True market value can only be obtained by placing a property on the open market. In this case, the true marked value of the Pittsburgh State Office Building was determined not only placing it on the open market on two separate occasions

Table 9: Commercial Real Estate Transactions in Pittsburgh, 2006-2009. (Page 21)

DGS' Response: The Auditor General's comparisons are misleading. The commercial real estate transactions used in Table 9 cannot be compared to the sale of the Pittsburgh State Office Building. For example, the sale of the Union Trust Building was the sale of a building located on historic Grant Street. In addition, the Union Trust Building also has more than twice the square footage of the Pittsburgh State Office Building. The sale of the Human Services Building was a sale/leaseback that included a large parking area easily developed in the future. The Clark Building is a completely renovated building that, as of this date, has yet to be sold for the asking price listed by the Auditor General. Comparing the transactions enumerated in Table 9 to the sale of the Pittsburgh State Office Building yields no reliable conclusions about the market value of the Building.

Table 10: Comparison of the Philadelphia and Pittsburgh State Office Buildings. (Page 21)

DGS' Response: The Auditor General's comparisons are misleading. The Philadelphia and Pittsburgh markets, demographics and populations are completely different. The two markets are too distinct to make the comparison that the Auditor General is attempting to make. The Auditor General has inaccurately reported that the Philadelphia State Office Building is a 250,000 square foot building. The Philadelphia State Office Building is actually a 314,000 square foot building. The Philadelphia State Office Building also has its own on-site parking. These are just a few of the difference in characteristics that make it impossible to compare the sale of the Philadelphia State Office Building to the sale of the Pittsburgh State Office Building.

DGS sold the Building for less than its appraised value, for less than the sale amounts of other commercial buildings located in Pittsburgh's central business district, and for significantly less than the sale price of the Philadelphia State Office Building. (Page 22)

DGS' Response: The Auditor General's statement is irrelevant and misleading. As discussed above, the September 2006 Appraisal does not take into consideration the environmental issues that significantly affected the value of the Pittsburgh State Office Building. True market value can only be obtained by placing a property for sale on the open market. The Pittsburgh State Office Building was placed on the market for sale on two separate occasions.

It appears that DGS was not concerned about the sale price when making its decision to sell the Building. Had it not been a publicly known foregone conclusion that the Building would be sold, the sale price may have been higher. (Page 22)

DGS' Response: DGS fails to see the reasoning behind this bizarre conclusion. DGS advertised and marketed the Pittsburgh State Office Building in order to receive the highest possible sale price. Potential bidders submitted their bids knowing that there were substantial renovation costs associated with the Building. The fact that DGS intended to sell the Pittsburgh State Office Building when it placed it on the market did not affect the value of the bids submitted.

X. The Auditor General's Finding IV.

DGS limited the opportunity for input from Commonwealth officials, the public, and other interested parties by holding no public hearings on the sale of the Pittsburgh State Office Building. Although an informational meeting was held by a legislative committee, the meeting was held in Harrisburg on the day before the passage of the bill authorizing the sale of the Building and eight other state properties. (Page 24 – 26)

DGS' Response: The Auditor General is incorrect when he states that DGS somehow "limited the opportunity for input" from the public regarding the sale of the Pittsburgh State Office Building. DGS has fully complied with all of the requirements that must be satisfied before the Commonwealth can sell real estate. In fact, DGS conducted informational meetings that were above and beyond those which were required. The Secretary held meetings to discuss the transaction attended by the Pittsburgh delegation to the General Assembly, the County Executive, the Mayor and several other prominent Pittsburgh area economic officials. The Secretary had the opportunity to present and discuss DGS' overall plan to proceed with the sale of Pittsburgh State Office Building at each meeting and received no objection from those in attendance. Finally, the General Assembly voted for and approved the sale of the Building during a public session following committee review by both Chambers. DGS did not limit the opportunity for input from the public and fully complied with all legal requirements for Commonwealth sale of real estate.

DEPARTMENT OF THE AUDITOR GENERAL'S COMMENTS ON THE DEPARTMENT OF GENERAL SERVICES' RESPONSE TO DRAFT REPORT

This special investigation was conducted by career professionals with a combined 79 years of investigative and auditing experience. The only instructions provided to the team were to review all available information regarding the sale and lease transactions and evaluate their impact on the taxpayers. Our independent and professional investigation concluded that someone got a great deal on the sale of the Pittsburgh State Office Building, but it was not the taxpayers of the Commonwealth of Pennsylvania. Nor was it the residents of southwestern Pennsylvania, whose convenient access to state government offices in a single remarkable location – the dream of Pittsburgh Mayor, and later Pennsylvania Governor, David L. Lawrence – will be sacrificed on the altar of decentralization. DGS's determination to proceed with its fire sale of the Building at all costs is incomprehensible, but, unfortunately, the resulting lack of trust in government is not.

The text of this public report does not differ materially from the draft report that was provided to DGS on July 24, 2009. However, minor changes have been made in order to clarify or expand upon issues raised by DGS's response. It is not necessary to meet again with DGS staff or to respond to each and every point in DGS's response. However, we wish to briefly address certain specific assertions made by DGS, as follows:

Introduction and Background

- Multiple letters and telephone calls between senior-level management of our respective agencies were required in order to resolve issues caused by DGS's failure to cooperate fully with this investigation.[97] In addition, all requests for documents and information were clearly within the scope of, and relevant to, this investigation.

- We asked the Director of DGS's Bureau of Engineering and Architecture direct questions, not "hypothetical" ones, about the extent of the renovations needed for the Building. His detailed answers are reflected in our report.

- The capital budget project funds that the General Assembly twice earmarked for renovations to the Building should have been used for that purpose. We did not recommend the diversion of funds intended for other worthy projects such as prisons, universities, or parks.
- The September 2006 appraisal of the Building states that its "intended use" was to "estimat[e] the market value of the property." If the appraisal was worthless, as DGS

[97] We have revised two of the dates in our list of documents and information that DGS and other agencies provided only after a significant time delay, but those revisions do not change our conclusion about the lack of cooperation with this investigation.

now suggests, we question why DGS used it to support the sale and why DGS now wants us to interview the appraiser.

- While moving some of the agencies from the Building may have been a possibility before the decision was made to sell the Building, the sale was clearly the impetus for the moves. Even if it were true that some of the new leases were not directly related to the sale, we would still have the same concerns about the effects of decentralizing state government offices.

- We agree that the $10 per square foot allowance is included in the base rent. Our calculations in Table 3 reflect the allowance because the allowance was part of the lease costs negotiated by DGS.

Finding I

- Regardless of how many versions of the financial model may have existed, DGS provided or referred to only one version during this investigation – the version dated March 17, 2009, almost two years after the General Assembly authorized the sale of the Building and about one week before the publication of the DGS Secretary's op/ed piece attempting to justify the sale and leases. Neither DGS nor the State Government committees of the House or Senate were able to provide us with a copy of the DGS Secretary's "testimony."

- If DGS believes that Pittsburgh's "downtown district will be...enhanced and stabilized" by moving 22 state agencies out of the Building, it is unclear why one of the leases is not in the city and another is not even in the same county.

Finding II

- While the "average base rent" for the three main leases may be $11.16 per square foot, such a statement willfully ignores the fact that the new leases require the Commonwealth to pay additional charges for operational cost and that, as a result, the average cost of those three leases is $25.75 per square foot.

- We calculated the costs of leasing alternate space over a time period of 30 years because DGS stated that the renovations under consideration would have extended the life of the Building for that period of time. We also used the same methodology used by the Office of the Budget in the financial model relied upon by DGS.

Finding III

- It is beyond dispute that DGS solicited offers for the Building almost a year after the sale was authorized by the General Assembly and during the worst real estate market in recent history and that, as a result, DGS sold the Building for less than its appraised value. It is also beyond dispute that only one-third of the proceeds can be used for discretionary spending, a fact which DGS has failed to disclose to the taxpayers.

- Data regarding the sales prices of other commercial buildings[98] is included, appropriately, for comparative purposes, both in terms of the sales prices and the effect of the timing of each sale on those prices.

- It is hardly "bizarre" to conclude that the sales price for the Building may have been higher if interested parties had not known both the minimum price that DGS was willing to accept and the fact that DGS was actively negotiating leases elsewhere. We reiterate our recommendation that, when pursuing future sales of Commonwealth property that will result in the need to lease new space to house displaced agencies, DGS should explore the possibility of combining the sale and leases into a single Solicitation for Proposals in order to maximize the financial value of the deal to the Commonwealth and taxpayers.

Finding IV

- DGS continues to mislead with regard to public input into the sale. None of the following constitutes a public discussion: private meetings with local officials and other insiders; an informational meeting held by a single legislative committee in Harrisburg on the day before the authorizing legislation was voted on, and only two days after language about this particular building was added to that legislation; or a rushed vote on that legislation on the last day before the summer recess (much like the controversial, and ultimately repealed, 2005 legislative pay raise).

- We are troubled by DGS's refusal to involve the public beyond the minimum – and essentially non-existent – requirements of current law. Accordingly, we have added a recommendation that the General Assembly should enact legislation to require DGS to obtain meaningful input from the community most directly affected by the sale of state property.

We urge DGS to reconsider its response to this report and, instead, accept the findings and work with the General Assembly to implement the recommendations. The Department of the Auditor General will follow up at the appropriate time to determine whether all of our recommendations have been implemented.

[98] We have revised Table 10 to reflect a square footage for the Philadelphia State Office Building of 314,000 rather than 250,000, but we note that the original figure used in our draft report was taken from a DGS press release ("Governor Rendell Announces Sale of Philadelphia State Office Building," Jan. 16, 2008).

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