

Use of State Premises by Others

How are state interests protected when nonstate entities use state property? This is an important question agencies must ask themselves when determining if use of state premises can be granted. This document provides information for agencies when determining how to protect state premises and facilities when in use by others.

DAS's statewide policy on [Public Use of State Building Premises](#) outlines a very specific approval process. It also contains event forms for DAS-owned buildings and instructions for leasing these properties to others. These can be a template for agencies developing their agency processes.

Examples of properties, types of users and uses needing consideration include:

- Meetings hosted by state partners
- Public-welcomed events
- Other state agencies using a state agency-owned facility
- Employee-sponsored wellness activities ([Workplace Health/Wellness Programs](#))
- State properties held solely for use by others

If usage is approved, good stewardship of state assets can be achieved with an agreement establishing expectations and requirements for state premises being used.

Risks to Agencies

When agencies approve the use of their premises by others without agreements in place, they expose their agency to potential risks such as:

- Personal injury to public participants and employees
- Costs to repair or replace damaged state property
- Third-party damage
- Higher agency risk charges due to increased claims



Image from oregonstateparks.org

Insurance Coverage

Agencies have access to the state's [self-insurance policies](#) for most property damage as well as most liabilities caused by acts and omissions of their employees acting within the scope of their employment duties. Use agreements generally transfer financial responsibility of things outside of state responsibility to the user.

Best Practices

Completing an assessment can help determine if use by others fits within the risk. If so, DAS Risk Management's [Risk Assessment form](#) can be used and help inform decisions around formal risk transfer to users. It asks:

- What can go wrong?
- Who could be harmed?
- What would be the cost?
- What is the likelihood it will go wrong?
- What can be done to mitigate the likelihood something will go wrong?

If the requested Use by Others is permitted and approved, an [Event Application Form](#) and [Event Permit Form](#) is needed (like these DAS forms), which requires, among other things, the user to indemnify and hold the state harmless from the user's utilization of the premises.

Require the user's to have insurance. DAS RM's [Risk Assessment Tool](#) can help to determine the types and amounts of insurance outlined in the Event Application Form. Request a [Certificate of Insurance](#) as evidence the user has obtained the specified coverage. It is important to note that in cases where the state's Insurance Fund covers a loss, the state is obligated to seek recovery through available means under [ORS 278.052](#). Users lacking insurance may be held personally liable if their use of the premises is found the cause a loss covered by the state.

In situations where alcohol may be served or permitted on state premises during use by others, please refer to [DAS Risk Management's Alcohol Policy](#).

RiskWise



A Guide to Controlling Risk

Use of State Premises by Others

- Risks to Agencies
- Insurance Coverage
- Best Practices
- Privately Leased Property Considerations
- Responsibilities of the Lessor/Lessee

Privately Leased Property Considerations

In addition to already discussed practices, consider the following when choosing to let nonstate entities use properties leased by DAS, other state agencies, or properties leased to them.

CONTRACT—Does your lease agreement allow your agency to “sublet” the premises? Check your lease agreement before agreeing to allow any use. It may not be permitted.

RISKS—These uses create risk to your agency due to the state not being the property owner. Your goal is ensuring proper use, management, accountability, and compliance with relevant laws and regulations by the nonstate entity. These uses should be carefully considered and managed to reduce the agency’s risks.

The risks include those discussed on the front page of this

document as well as possible lease violations or early termination.

APPLICATION—DAS RM suggests agencies leasing space use DAS’s [Event Application Form](#) or create a similar agency developed form for nonstate entities to complete prior to allowing the use.

The application needs to include detail regarding the purpose of the event, length of time, participant number, and any special needs.

The application also needs to include any agency requirements such as off-limits areas, point of contact, costs (if any), set up/tear down times, video/filming restrictions, cancellation clause, vandalism, property damage and indemnity language as well as insurance for damage or injuries during the event.

INSURANCE—Along with the application, nonstate entities must provide proof of insurance coverage during the time the use takes place. Require proof of General Liability (at a minimum) of \$1 million before event take place.

Nonstate entities granted permission to use state leased properties must adhere to the terms and conditions specified in the application and agree to comply with all applicable laws, regulations, and policies governing the usage of the premises.



Responsibilities of the Lessor or Lessee

As a lessee considering letting others use the premises, consider the following important factors to ensure a smooth and mutually beneficial agreement and event:

1. Permission from Lessor — does lease allow use? Check lease and with landlord.
2. Insurance Coverage — ensure the correct type of insurance and limits. Get proof before the event.
3. Legal Liability—understand your legal responsibilities when allowing others to use the premises.

Use indemnity language to transfer the risks.

4. Permits and Regulations—require the event comply with all zoning, legal, and regulatory requirements.
5. Security and Safety—address potential safety hazards or concerns and provide guidelines for the nonstate entity to follow.
6. Respect Property—communicate rules related to equipment or property use, cleanliness, noise levels, and behavior.

As a lessor, when lessee allows others to use the premises, following concerns arise:

1. Liability—you could be liable for accidents, injuries, or damages occurring on the premises.
2. Property Damage—communicate to your lessee that they are responsible for repairs and restoration.
3. Comply with Lease Terms—ensure clear language on what is allowed and what is not.
4. Legal Compliance—confirm activities comply with regulations, zoning laws, and permit requirements.
5. Security and Safety—address security measures to protect premises and occupants.
6. Insurance Coverage—require evidence of insurance covering the activities on premises.

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We commit to be KNOWLEDGEABLE, RESPECTFUL AND RESPONSIVE in business and interactions.

<https://www.oregon.gov/das/Risk/Pages/index.aspx>