

Real Estate & Leasing Policy

Subject: PHYSICAL PLANT

Policy: REAL ESTATE & LEASING

Revised: August 20, 2009; February 2012; August 2022

Effective date: August 31, 2005

Review date: August 2025

Responsible Party: Office of Legal Counsel, University Facilities Management (Real Estate)

100.00 INTRODUCTION AND PURPOSE: This policy governs the purchase, exchange, sale, leasing, sub-leasing, space use agreements, property management, lease administration and MOU's of real property for the University or Montana Agricultural Experiment Stations (MAES) from non-university landowners/lessors and the leasing or rental of property owned or controlled by the University to non-university users. For purposes of this policy, real property includes any interest in land, buildings, residences, office or laboratory space, storage space, water or mineral rights, inter-campus agreements and cell antennas.

200.00 LEASE BY THE UNIVERSITY or MAES FROM NON-UNIVERSITY LESSORS: Any request for new leasing or renting, or for the extension or renewal of an existing lease or rental, of real property for university purposes must be submitted and processed as follows:

210.00 New lease: A written request shall be submitted to the university Real Estate Manager by the requesting department head, principal investigator, director, dean or vice-president. The request should include a description of the property, an explanation of the need for the property, if modification or remodeling is necessary and how the lease and modifications will be funded. The Real Estate Manager shall lead university efforts on property vetting, valuation, and due diligence. Deans and vice-presidents will be responsible for reviewing new lease terms prior to signing.

220.00 Lease extension or renewal: Based on the individual lease language and timing pertaining to renewals, the Real Estate Manager shall track and procure authorization from the appropriate dean or vice president to proceed with a lease renewal negotiation.

230.00. Sub-lease: All sub-leases will be governed by the master lease agreement; therefore the Real Estate Manager and/or Legal Counsel will need to review each sub-lease prior to approval.

300.00 LEASE OF UNIVERSITY or MAES OWNED PROPERTY TO NON-UNIVERSITY LESSEES: Any proposal for leasing, or for the extension or renewal of a lease, of real property owned by the university or MAES to a non-university entity must be submitted and processed as follows:

310.00 New lease: A written request shall be submitted to the university Real Estate Manager by the requesting department head, principal investigator, director or dean through the direct line of administrative authority to the appropriate vice president or MAES Director.

320.00 Lease extension or renewal: Based on the individual lease language and timing pertaining to renewals, the Real Estate Manager shall track and procure authorization from the appropriate vice president or MAES director to proceed with a lease renewal negotiation.

330.00 Sub-lease: All sub-leases will be governed by the master lease agreement; therefore the Real Estate Manager and/or Legal Counsel will need to review each sub-lease prior to approval. In instances where the University is sub-letting a university-owned space to a non-university entity, a facility use agreement shall also accompany the sub-lease terms.

340.00 Cell site or antenna leases: New agreements, renewals and existing agreement administration shall be managed and tracked by the university Real Estate Manager and must be approved by the Technical Antenna Committee as well as University Facilities Planning Board (UFPB).

400.00 PURCHASE, EXCHANGE or SALE of REAL ESTATE PROPERTY: The University shall follow BOR Policy 1003.6 - Transfers of interest in real property when purchasing, exchanging or selling university-owned land. Only the BOR can authorize the sale, exchange or purchase of real estate. The Real Estate Manager, with the approval of the AVP of Facilities Management, may prepare documentation in support of real estate transactions for the benefit of the University.

500.00 EASEMENTS: The University shall follow BOR Policy 1003.6 - Transfers of interest in real property as it pertains to securing or granting easements for university-related business. The easement shall only be approved if the University or MAES receives fair value for the easement. Benefit to the affected campus may be considered when determining fair value. The Real Estate Manager shall secure valuations or other supporting documentation to determine fair market value.

600.00 EXECUTION and RECORD RETENTION:

610.00 New leases, subleases and MOU's shall be executed by the Vice President of Administration and Finance on behalf of the university or by the Vice President and Dean of the College of Agriculture on MAES owned property, after approval of the Board of Regents.

620.00. Lease renewals and lease extensions wherein there is no material change to deal terms except the base rental rate may be executed by the Associate Vice President of Facilities Management or the VP of Administration and Finance.

630.00. Executed lease documents shall be retained and administered by the university Real Estate Manager in University Facilities Management.

700.00 NEGOTIATION. Upon request for approval of the appropriate parties, the university Real Estate Manager, with the approval of the AVP of Facilities Management, will negotiate the terms of the lease to ensure fair market evaluation standards and adherence to university approved policies and obligations.

800.00 LEGAL REVIEW. Upon approval by the Real Estate Manager and appropriate vice president or MAES Director, and prior to Board of Regents submission, all real property lease documents shall be forwarded to the Office of Legal Counsel by the Real Estate Manager for final review and legal approval.

900.00 REGENTS APPROVAL. The University shall follow [BOR Policy 1003.6](#), when conveying all property. If the lease, sublease or lease amendment will exceed five years in duration; or if the total lease payments exceed \$25,000 per year, the agreement shall be submitted by the appropriate vice president or MAES Director before it is submitted to the Montana Board of Regents for approval.

1000.00 REAL PROPERTY LEASE MANAGEMENT AND ADMINISTRATION. For leases that involve a third party (non-university) either as Lessor or Lessee, the university Real Estate Manager shall manage the lease administration and typical operational matters such as vendor/service management, interfacing with a third party and property specific accounts payable and receivable. Additionally, and per the Space Management Policy, the Real Estate Manager shall act as Building Supervisor for the properties described in this section until a permanent Building Supervisor can be established.

1100.00 APPLICABILITY. This policy does not apply to agreements for rental of residence space to students by Residence Life; rental of individual storage units by departments or to short-term rentals of university facilities by Conference Services. Short-term rentals of university facilities for less than three months, including options to renew, shall be governed by the provisions of the [Facility Use Manual](#). A lease or rental of real property may only be entered into under the procedures outlined herein. Any lease or rental agreement not entered into under the procedures outlined in this policy shall be null and void and will not bind the university.

1110.00. All real estate agreements must follow the Contract Signing Policy of the University and where these two policies overlap, the more restrictive of the two shall apply for obtaining real estate and lease approvals.