Operations and Procedures Manual

Additional Delegated Authority
For
Real Property Transactions

Western Carolina University

Property Acquisition and Leasing Office
Cullowhee, North Carolina

April 2019
Table of Contents

1. Introduction

2. The Property Acquisition and Leasing Office

3. The Property Review Committee

4. Operations and Procedures
   4.1 General Requirements for All Real Property Transactions
   4.2 General Requirements for Lease Transactions Using Additional Delegated Authority
   4.3 The Acquisition by Lease Process
      4.3.1 Acquisition by Lease – Routine Leases
         4.3.1a Informal Lease Procedures
         4.3.1b Formal Lease Procedures
      4.3.2 Acquisition by Lease – Strategic Leases
   4.4 The Disposition by Lease Process
1. Introduction

Operating within the authorization of the N.C. General Statute 116-31.12, other North Carolina law, and Section 600.1.3 of the UNC Policy Manual, Western Carolina University (hereafter WCU or the University) has established for the benefit of its divisions, departments, and affiliates this Operations and Procedures Manual for Additional Delegated Authority for Real Property Transactions. In this process, the University will comply with all applicable local, state, and federal laws and regulations as well as University of North Carolina policies and regulations and Western Carolina University policies, regulations, and practices, and will function in a manner consistent with the mission, core values, and guiding principles of the University.

2. The Property Acquisition and Leasing Office

The Property Acquisition and Leasing Office (PALO), which operates within the Division of Administration and Finance, will oversee and administer the additional delegated authority program for Western Carolina University, its divisions and departments, and its affiliates. The director of the Property Acquisition and Leasing Office, who serves under the Vice Chancellor for Administration and Finance, will be designated as the University’s Property Officer.

As per the UNC Policy Manual 600.1.3(R), the Campus Property Officer and Campus Property Office shall have the following responsibilities:

- Establish and enforce procedures that ensure additional delegated transactions are approved and executed in accordance with the N.C. General Statute §116-31.12, with Section 600.1.3 of the UNC Policy Manual, and with these regulations.
- Establish and enforce procedures that ensure transactions shall be approved and executed in accordance with space standards established by the University and UNC System Office.
- Develop a comprehensive set of specifications to be used for additional delegated authority activities.
- Secure, in accordance with applicable state law and regulation, the technical and professional services needed to assist with the additional delegated authority transactions.
- Perform a space analysis for each proposed lease consistent with the University of North Carolina Space Planning Standards which were prepared in October 1998 and using an updated organizational chart for those to be housed in the space.
- Develop a detailed set of specifications that addresses all lease requirements including detailed lessor and lessee responsibilities and report the specifications to the campus Property Review Committee prior to obtaining proposals.
- Negotiate leases.
- Conduct an internal review of acquisition and disposition by lease practices to ensure compliance with these regulations and best industry practices.
- Schedule and coordinate a building code/occupancy inspection by the Department of Insurance or other code enforcement official certified by the North Carolina Code
Officials Qualification Board to ensure that the proposed lease shall provide space that is in compliance with applicable local, state, and federal codes.

- Coordinate with the North Carolina Department of Insurance (NCDOI) to ensure that property acquired or disposed of under the University’s delegated authority is properly insured.
- Coordinate with the University’s General Counsel to ensure complete legal review of all agreements, leases or contracts related to delegated transactions.

3. The Property Review Committee

The University has established a Property Review Committee (PRC). The PRC has oversight of the acquisition and disposition of real property by lease for Western Carolina University, its divisions and departments, and its affiliates. Additionally, the PRC has the responsibility to set priorities, establish and maintain standards, and provide overall direction for related leasing transactions falling within additional delegated authority.

The PRC is appointed by the Chancellor and requires approval by the UNC System Office delegated authority assessment team.

The PRC at WCU is comprised of the following staff positions:

- Provost
- Vice Chancellor for Administration and Finance
- Vice Chancellor for Student Affairs
- Chief of Staff
- General Counsel
- Associate Vice Chancellor for Facilities
- Associate Vice Chancellor for Campus Services
- Assistant Vice Chancellor for Institutional Planning and Effectiveness
- University Property Officer

On an as needed basis, staff members from other University departments may participate in meetings or be used as resources to the committee as deemed necessary by the committee chairperson.

Any substantial changes in the Property Review Committee membership must be reported to the UNC System Office.

As per Section 600.1.3(R) of the UNC Policy Manual the Property Review Committee shall have the following responsibilities:

- Approve delegated transactions and set priorities, establish standards, and provide direction for delegated activities.
• Review the space needs analysis and lease specifications for an additional delegated authority transaction.
• Review lease proposals submitted to and/or negotiated by the PALO.
• Review lease transactions to ensure compliance with established procedures and protocols.
• Review requests to enter strategic acquisition leases as defined herein. If the committee concurs with the request, the committee chairperson shall provide written rationale and request approval to classify the lease as strategic from the Senior Vice President for Finance and Administration at the UNC System Office.
• Review requests to enter less than fair market value disposition leases as defined herein. If the committee concurs with the request, the committee chairperson shall provide written rationale and request approval to classify the lease as strategic from the Senior Vice President for Finance and Administration at the UNC System Office.

4. Operations and Procedures

4.1 General Requirements for All Real Property Transactions:

• University of North Carolina System Office finance staff shall be copied on all requests for approval of real property transactions submitted to officials or agencies external to the University System.
• All real property transactions that require approval beyond the campus level are to be initiated by submission of the Form PO-1 for acquisitions and the Form PO-2 for dispositions to the State Property Office.
• Leases not exceeding $12,000 annual rental or three years in term (including renewal) may be undertaken, subject to any required authorizations, without the necessity of advertising for the required premises.
• Institutions may not lease premises from a non-state agency without first determining that there are no state-owned or state-leased premises that would be suitable for the need; institutions may not lease premises to a non-state agency without first determining that no other state agency needs to lease those premises.
• Copies of all real property instruments must be filed with the Department of Administration. Every six months the institution is to make a report to the Department of Administration on the status of all leases. The procedure for this report is prescribed by the Department of Administration.
• All instruments involving acquisition or disposition of an interest in real property are entered into on behalf of the State of North Carolina, regardless of whether executed by the Governor, President, Chancellor, or other official.
• No permanent improvements on leased premises may be made without the prior approval of the Department of Administration.
• Dispositions at less than fair market value are subject to the constraints of NC General Statute 146-29.1.
• These procedures pertain to real property transactions of Western Carolina University, but they do not govern transactions with non-state agencies by the Board of Trustees of the Endowment Fund of WCU, organized pursuant to NC General Statute 116-36.

REQUIRED AUTHORIZATIONS FOR ACQUISITION OR DISPOSITION OF AN INTEREST IN REAL PROPERTY OTHER THAN A LEASE:

<table>
<thead>
<tr>
<th>Value</th>
<th>Chief Financial Officer</th>
<th>Chancellor</th>
<th>Board of Trustees</th>
<th>President or Designee</th>
<th>Board of Governors</th>
<th>State Property Office</th>
<th>Governor and Council of State</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – 999,999</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>$1,000,000 – 1,249,999</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>$1,250,000 or more</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Note: An instrument involving acquisition or disposition of a fee simple interest or easement shall be executed by the Governor in accordance with G.S. 146-74, et seq. instruments granting revocable, non-transferable, time-limited licenses to use real property for specific purposes may be executed by the Chancellor, or their Designee, pursuant to applicable WCU policies.

4.2 General Requirements for Lease Transactions Using Additional Delegated Authority:

• A source of funds must be identified and secured for 100 percent of the required funding for the term of the proposed acquisition by lease. Funds must be used in strict compliance with state statute.
• The PALO will ask the requesting division, department or unit for the source of funding. Funding will be reviewed and approved by the Vice Chancellor for Administration and Finance.
• Model lease documents consistent with G.S. 116-31.12 shall be used for delegated transactions. Completed lease documents must be reviewed and approved by WCU’s Office of General Counsel.
• The Property Review Committee, the Vice Chancellor for Administration and Finance, the Chancellor or Designee, the President or Designee, and the Board of Governors shall approve all transactions according to the appropriate delegation as shown in the table labeled “Required Authorizations for Acquisition or Disposition of Real Property by Lease” in “Transactions Using Additional Delegated Authority”.
• An acquisition lease shall be classified as routine or strategic, with the prior approval of the UNC System Office.
• All lease agreements shall be in the name of Western Carolina University or the University of North Carolina.
• The availability of funds clause is required in all acquisition leases. This clause shall not be invoked without the written permission of the President.
• A lease produced under this delegation, whether acquisition or disposition, shall be reported by the PALO to the Secretary of Administration, with copy to the Leasing and
Space Planning Manager in the State Property Office, and the UNC System Office within 30 calendar days of the lease being fully executed.

4.3 The Acquisition by Lease Process

The University, its divisions, departments, and its affiliates, may acquire and dispose of real property by lease contingent on full compliance with established procedures and the required approvals, as well as any other relevant processes documented and maintained by the Property Acquisition and Leasing Office.

The two types of lease acquisition transactions under additional delegated authority are:
- Routine
- Strategic

The type of lease will determine which processes and procedures must be followed for the acquisition of the space. The table shown below summarizes the required approvals for real property by lease regardless of whether the type is routine or strategic.

**REQUIRED AUTHORIZATIONS FOR ACQUISITION OR DISPOSITION OF REAL PROPERTY BY LEASE**

<table>
<thead>
<tr>
<th>Annual Value</th>
<th>Term (including Renewal)</th>
<th>Chief Financial Officer</th>
<th>Chancellor or Designee</th>
<th>Board of Trustees</th>
<th>President or Designee</th>
<th>Board of Governors</th>
<th>State Property Office</th>
<th>Governor and Council of State</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – 749,999</td>
<td>≤ 10 Years</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$750,000 – 999,999</td>
<td>≤ 10 Years</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,000,000 or more</td>
<td>≤ 10 Years</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$0 or more</td>
<td>&gt; 10 Years</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Note: An instrument involving acquisition or disposition of real property by lease using additional delegated authority authorized by WCU’s Board of Trustees shall be executed by the Chancellor or Designee. An instrument involving acquisition or disposition of real property by lease using additional delegated authority authorized by the President or the Board of Governors shall be executed by the President or Designee.

4.3.1 Acquisition by Lease – Routine Leases

The University shall acquire space by lease for routine administrative, office, laboratory and/or storage space utilizing a formal, advertised, sealed proposal process if the annual cost of the lease is greater than $50,000. An informal process may be used if the annual cost of the lease is $50,000 or less.
4.3.1a Informal Lease Procedures

For leases that have an annual cost of no more than $50,000 per year, the following informal, written proposal process detailing the terms and conditions of the proposed lease may be used. The following informal lease procedures shall be used:

- Once the proposal is selected, approved by the PRC, and approved by the Chancellor or Designee, a lease shall be prepared.
- The prepared lease shall be reviewed and approved by the University’s General Counsel.
- The Chancellor or Designee shall execute the lease, and the original fully executed lease will be retained by the Property Acquisition and Leasing office.
- The transaction shall be reported to UNC System Office and the Secretary of Administration within thirty (30) calendar days of the lease being fully executed.

4.3.1b Formal Lease Procedures

For leases that have an annual cost of more than $50,000 per year, the following formal, advertised, written proposal process shall be used:

- The PALO shall place a public advertisement in the legal notice section of a newspaper of general circulation in the county where the lease will be located and in other public electronic media available to the campus or UNC System Office.
- The advertisement shall run for at least five (5) consecutive days and shall provide that proposals shall be received in the PALO at a specified time and on a date that is no less than five (5) days beyond the last day the lease is publicly advertised.
- In the event that no acceptable proposals are received, the PALO may negotiate in the open market for the needed lease. Once negotiated, the proposal and detailed justification is submitted to the PRC and the UNC System Property Officer for approval.
- Once approved, a lease shall be prepared.
- The prepared lease shall be reviewed and approved by the University’s General Counsel or a UNC System Office attorney.
- The PALO will seek the approval of the Chancellor or Designee.
- If the lease cost and term are not within the delegation set by the Board of Trustees at WCU, the PALO shall seek the approval of the proposed lease by the Board of Trustees via a request by the Vice Chancellor for Administration and Finance.
- The Chancellor or Designee shall execute the lease and the original fully executed lease will be retained by the PALO.
- The transaction shall be reported to UNC System Office and the Secretary of Administration within thirty (30) calendar days of the full execution of the lease.
4.3.2 Acquisition by Lease – Strategic Leases

The University may acquire space by lease for strategic, unique or site-specific space that is necessary and appropriate to take full advantage of opportunities of strategic importance to WCU or the University of North Carolina.

The strategic lease process may begin ONLY with the prior approval of the PRC and the UNC System Office.

- The requesting WCU division, department, or affiliate shall provide a detailed written justification that shall include the specific reasons for seeking to acquire by lease strategic, unique or site-specific space. The justification shall be submitted to and approval shall be obtained from the PRC, the Chancellor, and the Senior Vice President for Administration and Finance, and the UNC System Office.
- At a minimum, the justification shall include the following:
  - The specific reason that needed space cannot be obtained utilizing the routine competitive lease process.
  - A description of the methodology used and the analysis performed to determine that acquiring the required space outside of the routine lease process is in the best interest of WCU.
  - Evidence that the University has consulted with the N.C. Department of Administration (State Property Office) together with any other available resources to gather information that may be relevant to making an informed decision on the special nature of the proposed acquisition.
- The University’s PALO shall obtain written proposals that detail the terms and conditions of the proposed lease.
- Once the proposal is selected, approved by the PRC, the Chancellor, and the University’s Board of Trustees, a lease shall be prepared.
- The prepared lease shall be reviewed and approved by the University’s General Counsel or a UNC System Office attorney.
- The Chancellor or Designee shall execute the lease, and the original fully executed lease shall be retained by the PALO.
- The transaction shall be reported to the UNC System Office and the Secretary of Administration within thirty (30) calendar days of the lease being fully executed.

4.4 The Disposition by Lease Process

WCU may dispose of real property by lease contingent on full compliance with applicable procedures and requirements described herein, as well as other relevant processes not inconsistent with these procedures:

- Any proposed disposition of real property by lease shall be identified by the University’s Property Officer and reviewed by the PRC.
At a minimum, any proposal for disposition by lease shall contain the following:
- A written justification that details the reason(s) for leasing space to an external lessee.
- A description of any improvements or alterations (if any) to be made to the leased space at the request of the potential lessee.

The proposed disposition of real property by lease must be endorsed by the Chancellor or Designee and the University’s Board of Trustees.

Any disposition of real property by lease shall be at or above fair market values (FMV) supported by a comparable market analysis of lease rates.

Any disposition of real property by lease at less than FMV shall require at a minimum:
- Written justification that contains a description of the methodology used and the analysis performed to determine that disposition of the specific space or property by lease at less than FMV is in the best interest of the University.
- It is permissible to lease campus real property to a public entity for less than FMV.
- It is permissible to lease campus real property to a private not-for-profit entity for less than FMV.

Preapproval is required by the PRC, the Chancellor or Designee, and UNC System Office Senior Vice President for Finance and Administration or Designee.

Once required approvals and authorizations have been obtained from the University’s PRC, the Chancellor, the University’s Board of Trustees, the President, and the Board of Governors, as appropriate, a lease shall be prepared.

The prepared lease shall be reviewed and approved by the University’s General Counsel or a UNC System Office attorney.

The transaction shall be reported to UNC System Office and the Secretary of Administration, with copy to the Leasing and Space Planning Manager in the State Property Office within thirty (30) calendar days of the lease being fully executed.