

University of Louisiana System

Title: IMMOVABLE PROPERTY

Effective Date: October 26, 2009

Cancellation: August 25, 2000

Chapter: Facilities Planning

Policy and Procedures Memorandum

This policy establishes general guidelines and procedures for the University of Louisiana System campuses to follow regarding the acquisition and disposition of immovable property including land, building facilities and mineral resources.

Louisiana Revised Statutes 17:3351 authorizes the Board of Supervisors for the University of Louisiana System to purchase, sell, and lease or otherwise acquire through donation, immovable property including buildings, land and minerals.

Dependent upon the action involved, additional approval from *the Board of Regents*, the Division of Administration (Office of Contractual Review, Office of Facilities Planning and Control and Office of State Purchasing), the Department of Natural Resources and the House and Senate Natural Resources Committees may also be required.

To provide direction and support for the implementation of this policy, System staff has developed a document entitled ***Immovable Property Guidelines (Attachment A)*** which contains basic administrative procedures and references for the campuses to follow. These guidelines identify the review, evaluation and approval steps required for Immovable Property actions.

Approval to vary from this process shall be obtained from System legal counsel and/or staff prior to the inception of the project. These guidelines are not intended to be all-inclusive so regular communication between the University, legal counsel and staff of the System is critical for a successful project

REPORTING REQUIREMENTS

An ***Annual Lease/Lease Purchase Summary Report*** listing all current leases including those involving Cooperative Endeavor Agreements, 501(c)3 contracts, etc. shall be submitted annually to the Board Office, Assistant Vice President for Facilities Planning. The report is due the first business day of August each year.

In accordance with *LA R.S. 39* and *41:13* all state agencies are required to list lands owned, leased, or rented with the Office of State Lands. Therefore, all acquisitions, dispositions, or other changes in ownership or control must be reported to the Division of Administration's Office of State Lands within thirty (30) days of the conclusion of the transaction.

Further, Institutions shall report all applicable inventory and utilization data to the Board of Regents, Office of Institutional Research for inclusion in their Facilities Inventory database within thirty (30) days of the conclusion of the transaction.

Institutions shall conduct Internal Audit Reviews of all lease agreements on a bi-annual basis.

Policy References:

Louisiana Revised Statutes
Department of Natural Resources / Mineral Board
Division of Administration / Office of Facility Planning and Control
Division of Administration / Office of Contractual Review

Institution as the LANDLORD

LA. R.S. 41:1211 et seq. gives the university the power of authority to enter into a lease of property, regardless of the amount of space, for a maximum of 10 years after proper public bid law procedures have been followed. The Chief Procurement Officer for each individual institution has the specific power of authority. Exceptions to *R.S. 41:1211* et seq. include:

LA R.S. 41:1291 states that institutions may lease property to other political subdivisions, state or federal agencies without bidding the lease provided that the University of Louisiana Board of Supervisors maintain mineral rights. *LA R.S. 41:1292* defines the requirements and parameters of these leases.

Cooperative Endeavor Agreements involving immovable property are business agreements. Institutions may enter into such agreements only if both parties are performing activities that achieve or promote the institution's mission. These agreements should be, primarily, business agreements with a lease contained within the business arrangement.

LA R.S. 17:3361 states that institutions may enter into leases where the tenant performs property improvements to the facility that achieves and further promotes the mission of the institution. There is no maximum or minimum on the dollar amount required for property improvements. This is usually used in the case of private or not-for-profit organizations such as 501(c)3's or Alumni Associations or Foundations. Therefore, these organizations must meet the definition described in *LA R.S. 17:33:90*.

The Institution as the TENANT:

LA R.S. 39:1643 states, if the square footage exceeds 5,000 square feet, the Louisiana Procurement Code's INVITATION TO BID (ITB) process must be followed. The ITB process is described in *LA R.S. 39:1594*, which does not limit any lease to 10 years. The ultimate authority is with the Chief Procurement Officer of each institution.

Review in process:

Vice Presidents for Business & Finance
Chief Officers for Facilities Planning and Operations
Legal Counsel

Distribution:

University Presidents
Vice Presidents for Business & Finance
Chief Officers for Facilities Planning and Operations

UNIVERSITY OF LOUISIANA SYSTEM IMMOVABLE PROPERTY GUIDELINES

This document provides general guidelines and basic administrative procedures for University personnel to follow with regard to the purchase, sale, and lease, or otherwise acquisition/disposition of immovable property including buildings, land and mineral resources. (See PPM FP-VI.IV.-1a for additional information)

Approval to vary from the processes delineated herein shall be obtained at the inception of the project from the General Counsel and the System Office staff.

These guidelines are not intended to be all-inclusive, so regular communications between the University and ULS staff are critical for a successful project.

I. DEFINITIONS

A. **Cooperative Endeavor Agreement:** a business agreement with a political subdivision, a state or federal agency through which both parties achieve or promote the institution's mission. These agreements should be, primarily, business agreements with a lease contained within the business arrangement.

B. **Easements, Servitudes and Rights of Way:** property which may be used by an entity other than the institution for a limited purpose, such as a right of passage.

C. **Immovable Property:** any permanent structure, land or building, including modular buildings or trailers.

D. **Lease:** a written agreement for use of land or building space for a specific period of time with the institutions, either as tenant or as landlord.

E. **Lease Purchase:** a written agreement for use of land or building space with the intent for future purchase by the university.

F. **Rental:** a temporary lease of space to the public, such as an auditorium, (not to exceed 90 days.)

II. ACTIONS

A. Routine Operating Leases

B. Mineral Leases

C. Easements, Servitudes and Rights-of-Way

D. Purchases of land or physical facilities

E. Sales and Donations of land or physical facilities

F. Cooperative Endeavor Agreements involving Immovable Property

G. Alternatively Financed Capital Projects

H. Demolition of Physical Facilities

III. LEASE EVALUATION CRITERIA

The following should be used to evaluate actions prior to proceeding with the acquisition and or disposition of immovable property.

A. University as the Tenant

In addition to documentation identified in these guidelines, the following information must be included in the request submitted to the Management Board for agenda consideration.

1. Terms, Conditions, and Costs

- a) What is the initial time period of the lease? Are there renewal options and, if so, for how long?
- b) Is the space required to support a new or existing program? Explain.
- c) How much square footage is included?
- d) What types of space exist, i.e., offices, classrooms, etc., is in the lease?
- e) If there is a floor plan or design, include in the report.
- f) How much does it cost? List the cost per square foot, annual cost, etc.
- g) When a University affiliated Foundation purchases property and leases it to the university for future purchase by the university, the documents required to effect this lease shall be in the form of a lease purchase, where applicable.
- h) When a private for-profit entity leases property to the university for future purchase by the university, the documents required to effect this lease shall be in the form of a lease purchase, where applicable.

2. Feasibility Analysis of Lease Versus Purchase or Build

For all leases that extend for five (5) or more years with or without an option to purchase:

- a) Conduct a Net Cash Flow Analysis to evaluate the merits and economical soundness of a lease versus purchase or build.
- b) Conduct a market study and feasibility analysis on costs per square foot, costs for renovation/conversion, movable equipment, operating and maintenance costs, custodial services, utilities, administrative services, etc.

3. Needs Assessment/Justification Statement

- a) Explain why a university program or function must be located off-campus. How does this benefit the university?
- b) Identify whether the program is permanent or temporary.
- c) Identify the source of program funds.
- d) Describe any terms or conditions/restrictions related to payment of the funds and occupancy of the facility or space.

B. University as Landlord

In addition to providing the contract/lease for review and approval, the following information must be included in the request submitted to the Management Board for agenda consideration.

1. Terms, Conditions, and Costs

- a) What is the initial time period of the lease? Are there renewal options and, if so, for how long?
- b) Is the space required to support a new or existing program? Explain.
- c) How much square footage is included?
- d) What types of space exist, i.e., offices, classrooms, etc., in the lease?
- e) If there is a floor plan or design, include in the report.
- f) How much does it cost? List the cost per square foot, annual cost, etc.

2. Needs Assessment/Justification Statement

- a) Identify the University program served, function and/or affiliation associated with the contract request.
- b) Explain why a non-university entity or program must be located on-campus. How does this benefit the university?
- c) Identify whether the program is permanent or temporary.
- d) Describe any terms or conditions/restrictions related to payment and occupancy of the facility or space.

IV. DOCUMENTATION REQUIREMENTS

Any purchase, lease purchase, sale or donation of land and/or physical facilities must be approved by the U.L. Management Board.

A. A written request to include action as an agenda item shall be submitted to the Board.

B. In addition to the evaluation criteria listed above the request shall include:

1. Letter outlining intent and purpose of the request
2. MAI appraisal
3. Regional location map
4. City location map
5. Property description
6. Property survey
7. Pictures
8. Phase I environmental assessment
9. Abstract of title and land
10. All future operational and maintenance costs (for purchase or donation of property only)

V. APPROVAL REQUIREMENTS

A. Routine Operating Leases

1. Leases of greater than 5,000 square feet
 - a) must first be approved by the UL Management Board;
 - b) require submission of a completed RL-2B Form to the State Office of Facility Planning and Control, Real Estate Leasing Section, for review, approval and execution;
 - c) must be publicly bid in accordance with *LA R.S. 39:1643*, unless exempted by law
2. Leases of less than 5,000 square feet
 - a) do not require UL Management Board approval;
 - b) requires submission of a completed RL-2A Form to the State Office of Facility Planning and Control, Real Estate Leasing Section, for review, approval and execution;
 - c) may be negotiated and executed by the president of the university pursuant to *LA R.S. 39:1643* with approval from the Office of Facility Planning and Control;
 - d) Require a copy of the executed lease shall be submitted to the System Office for their records.
3. Rentals of space for a period of not more than 90 days
 - a) do not require UL Management Board approval;
 - b) may be executed by the president of the university;
4. Lease extensions and renewals of documents previously approved **which have no significant changes (i.e. terms, conditions, costs)**
 - a) may be executed by the president of the university pursuant to law and approvals from the Office of Facility Planning and Control;
 - b) a copy of the executed extension/renewal shall be submitted to the System Office for their records.

B. Mineral Leases

1. Require Management Board approval.
 1. State Mineral Board is the exclusive body with the authority to lease for development and production of minerals, oil, and gas, any lands belonging to the State of Louisiana, or the title to which is in the public, including road beds, water bottoms, vacant state lands, and land adjudicated to the state at tax sale.
2. Follow the procedures set forth in La. R.S. 30:126 and 30:127 as would be required for the state to grant a mineral lease on its land and water bottoms.

3. Prepare and submit a packet containing all of the items set forth on the State Agency Lease Checklist found at <http://dnr.louisiana.gov/min/forms/state-agency-lease-approval-checklist.pdf> in accordance with the Mineral Board's Lease Sale Schedule. (see <http://dnr.louisiana.gov/MIN/min.asp>)

4. Revenues received as the result of Mineral leases shall be used in accordance with the provisions of *LA R.S. 17:3367*.

C. Easements, Servitudes, and Rights-of-Way

1. The UL Management Board has granted authority to the presidents of the colleges and universities within the University of Louisiana System the right to execute easements, servitudes, and rights-of-way pursuant to the law and approvals from the State Office of Facility Planning and Control.

2. Campus records shall contain justification for granting easements, servitudes, and rights-of-way and include sufficient documentation comprised of, but not limited to maps, plats, and surveys. The documentation shall also contain a legal description of the property and be must stamped and signed by a registered engineer licensed to practice in the State of Louisiana. All documents shall be prepared in accordance with statutory requirements.

3. The Facilities Office at each institution (i.e., the Office of Physical Plant, or Facilities Planning, etc.) shall maintain a current campus map of all campus utilities including easements, servitudes, rights-of-way, and other subdivisions of campus property to ensure the safe and orderly development of the physical campus.

D. Purchase of Land/Facilities

1. Request for Funding

To ensure the ULS Management Board is fully apprised of all property transactions, all campuses shall adhere to the Board of Regents Guidelines and protocols as well as the following when requesting General Obligation Bond or Self-Generated funding for the purpose of land acquisition.

a) Upcoming Budget Year Funding Request

1) Annual Capital Outlay requests should include (if available) specific prioritized land acquisition request.

2) The request should include details of the property and approximate cost.

3) All Capital Outlay requests shall be approved by the Management Board.

4) Once Regents has committed funding allocation, requests shall be submitted in accordance with these guidelines.

- b) Mid Year Funding Request
 - 1) Requests shall be submitted to the UL System Office in accordance with these guidelines.
 - 2) UL System Office will forward the request and accompanying documentation to the Board of Regents.

4. Expenditure of Funds

- a) From Board of Regents Allocation/Capital Outlay Appropriation
 - 1) Documentation should be submitted directly to the UL System Office.
 - 2) UL System Office will forward the documentation to the Board of Regents.
- b) From Self-Generated Revenues
 - 1) For projects in excess of \$500,000
 - (1) Written request should be submitted to the Board to include action as agenda item.
 - (2) Documentation should be submitted directly to the UL System Office.
 - 2) For projects between \$175,000 and \$500,000
 - (1) Written request should be submitted to the UL System staff and Board of Regents staff for approval.
 - (2) Documentation should be submitted directly to the UL System Office using the BOR small capital project form.

E. Sales/Donations of Land/Facilities

Public land and/or improvements may be sold either to the highest bidder at a public auction or to a specific buyer for no less than the appraised value. Proceeds from such sales shall only be used for capital improvements or other infrastructure matters unless otherwise approved by the Board.

1. Sale at Public Auction

- a) Written request to the Board;
- b) Letter identifying intent and justification for sale;
- c) Request to both the House and Senate Natural Resources Committee for approval along with the Board Resolution and Minutes approving sale;
- d) Upon approved by House and Senate Natural Resources Committees System, System Office staff will schedule the date of sale and submit the Legal Notice to required newspapers. Property is sold pursuant to public law.

2. Sale to Specific Buyer

- a) Written request to the Board;
- b) Letter identifying intent and justification for sale;
- c) Requires a Special Act of the Legislature which includes, but is not limited to, a description of the land, the appraised value, the proposed buyer and justification for sale to specific buyer versus public auction;
- d) System Office staff and Legal Counsel will draft and execute necessary sale documents.

3. Donation/Exchanges

- a) Pursuant to *LA Const. Art VII. Sec. 14*, property shall not be loaned, pledged or otherwise donated to any person or association public or private.
- b) Receipt of donated land must be approved by the management board. Requests shall be submitted to the UL System Office in accordance with *these guidelines* and should include annual operational and maintenance costs associated with the donation

F. Cooperative Endeavor Agreements

1. Requires Management Board approval.
2. Requires a BA-22 be sent to the Division of Administration's Office of Contractual Review for review and approval. For OCR guidelines and checklist see <http://www.doa.louisiana.gov/OCR/index.htm>.

G. Alternatively Financed Capital Improvement Projects

1. Any alternative financing arrangements that involve Immovable Property and/or change an institution's physical facilities shall be submitted for Management Board review and approval. These arrangements may include but are not limited to residential, foodservice, bookstores, and utilities (performance contracts).
2. For other 501(c)3 and Third Party Financing/Performance Contracts such as Ground and/or Facility Lease and Lease Back Agreements see **PPM (FP.VI-III-B-1 Alternatively Financed Capital Improvement Projects.)**

H. Demolition of Physical Facilities

No building or structure may be razed or demolished, unless all members of the legislature representing the district in which the building is located are notified of the request. (LA.RS.38:2212.2)

1. Written request to the Board;
2. Letter identifying justification for demolition;
3. Request must be submitted to the Division of Administration accompanied by ULS Board resolution.

VI. REPORTING REQUIREMENTS

A. An Annual Lease/Lease Purchase Summary Report listing all current leases including those involving Cooperative Endeavor Agreements, 501(c)3 contracts, etc. shall be reported annually to the System Office, Assistant Vice President for Facilities Planning. The report is due the first business day of August each year.

B. In accordance with LA R.S. 39 and 41:13 all state agencies are required to list lands owned, leased, or rented with the Office of State Lands. Therefore, all acquisitions, dispositions, or other changes in ownership or control must be reported to the Division of Administration's Office of State Lands within thirty (30) days of the conclusion of the transaction.

C. Institutions shall report all applicable inventory and utilization data to the Board of Regents, Office of Institutional Research for inclusion in their Facilities Inventory Database within thirty (30) days of the conclusion of the transaction.

D. Institutions shall conduct Internal Audit Reviews of all lease agreements on a bi-annual basis.

