



Office of Space Utilization & Analysis Policy & Procedure #8

TITLE: PROCEDURES FOR SUBLEASING OF STATE OWNED PROPERTY

OBJECTIVE AND PURPOSE: To establish guidelines and criteria for subleasing state-owned property for the purpose of constructing facilities, to outline the minimum provisions that must be included in the sublease agreement, and to define the elements that should be included in a request for proposal for lease- purchasing a facility.

APPROVAL REQUIREMENTS All sub-leases of state-owned land shall require Board of Trustees (BOT) approval. A prior “conditional approval” is required by the Planning and Development Committee.

RESPONSIBILITY **ACTION**

REQUESTOR

- ◆ Determine the need to sublease the land and submit a request through the University Architect and Vice President including a Comprehensive study containing the following elements:
 - a. The relationship of the facility to the mission and academic goals of the institution;
 - b. The contribution the facility will make to the educational growth or satisfaction of student needs (statement of benefit to the university);
 - c. The degree to which a proposed facility is consistent with the goals of the institution, including an evaluation of the program to be housed, the specific academic needs to be served, and the contribution to the overall institutional mission;
 - d. The economic factors supporting the decision to grant a sublease to obtain a facility, such as the savings to be realized by the state;
 - e. The source of state funds that will be used to administer and operate the facility, as well as a copy of the legislative authorization to use general revenue funds for this purpose (if applicable); and,
 - f. The life cycle analysis conducted for the proposed facility.

OFFICE OF THE UNIVERSITY ARCHITECT & VP

- ◆ Obtain conditional approval from BOT
- ◆ Once conditional approval is obtained forward copy of the Comprehensive study to the Office of Space Utilization & Analysis (OSUA) to initiate submittal process.
- ◆ If terms of Sublease is greater than three (3) years, obtain at least one property appraisal by an appraiser approved pursuant to F.S. 253.025(6)(b).
- ◆ In conjunction with FAU General Counsel, develop a Sublease Agreement incorporating the terms and conditions required by Florida Atlantic University’s Board of Trustees (BOT) and the Board of Trustees of the Internal Improvement Trust Fund (BOTIITF) and the Department of Environmental Protection (DEP), and the policies

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APPROVED:	Vice President	Associate V.P.	Director

and procedures of the Florida Atlantic University Board of Trustees (BOT), as outlined below:

- a. The sublease shall contain the requirements of the FAU construction program, including: procedures, rules, and FAU Cost Containment Guidelines.
- b. The sublease shall comply with all applicable codes, i.e.: Florida Building Codes, NFPA Codes, State Fire Marshal requirements. The sublease shall contain a provision for the BOT to refuse construction work of a lower standard;
- c. The sublease shall conform to the current University Master Plan;
- d. The sublease shall provide for the sub lessee to follow the FAU architect/engineer selection procedures, including the FAU Professional Services Guide, FAU Cost Containment Guidelines, FAU permitting procedures and Bonding and Insurance Requirements.
- e. The sub lessee shall be required to furnish an affidavit from the architect or engineer of record and the contractor stating that no asbestos or lead based paint products were used (new construction) or found (existing building) in the facility;
- f. The sublease shall include insurance requirements for the construction period and for the term of the lease;
- g. The sublease shall contain a provision for monetary compensation, based on the status of the sub lessee (not-for-profit, for-profit or direct support organization);
- h. The term of the sublease, which cannot exceed 39 years or the term of the lease the BOT has with the BOTIITF, shall be included in the sublease;
- i. The sublease shall require the sub lessee to obtain all applicable tax certificates and exemptions and submit proof of such;
- j. The sublease will include a provision for the sub lessee to indemnify and hold harmless the Board of Education (BOE), the Florida Atlantic University, the BOT and the BOTIITF;
- k. The sublease must contain a provision for title to the facility to vest with the state upon completion of construction or expiration/termination of the sublease; or, if applicable, the sublease may include a requirement that the sub lessee remove the improvements and return the property to usable condition upon termination/expiration of the sublease and,
- l. The sublease will include all applicable provisions of Chancellor's Memorandum CM-B-01.00-02/97, Contracts and Agreements.

**OFFICE OF THE
ASSOCIATE VICE
PRESIDENT**

- ◆ Simultaneously to the development of the Sublease, if required, develop a Facilities Program, in accordance with University program guidelines. Submit completed plan to OSUA.

REQUESTOR

- ◆ Simultaneously to the development of the Sublease Agreement and Facilities Program, develop a Financial Plan which shall address operating costs associated with the increased cost for maintenance, parking, security, utilities, etc. If the facility to be constructed is to be revenue producing, a budget and operating statement must be provided (This may be included in the Comprehensive plan).

OSUA

- ◆ Obtain two (2) certified surveys that comply with the minimum technical standards required by the Department of Environmental Protection.
- ◆ Prior to submission to the BOT and the FAU President, the comprehensive study and proposed Sublease Agreement shall be reviewed and approved by the following University departments: Facilities Planning, Office of General Counsel, Academic Affairs, Student Affairs, and Physical Plant

- ◆ Upon review and approval of the various FAU departments prepare the submittal, to include The Comprehensive Plan, Financial Plan, proposed Sublease Agreement and Facilities Program

PURCHASING

- ◆ In the event the university determines that it would be cost effective for a private developer to construct a facility on state-owned property, ownership to which would come to the state through a lease- purchase arrangement, the university shall issue a request for proposal or invitation to bid upon approval by the BOT. The proposal/bid should include the following information:
 - a. The proposed scope of the project, based on the comprehensive plan;
 - b. The proposed Sublease Agreement;
 - c. The terms and conditions required by the State of Florida, as enumerated in Chancellor's Memorandum CM-B-01.00-02/97, Contracts and Agreements; and,
 - d. The requirements of the SUS construction program relating to the competitive selection of an architect/engineer and contractor.
- ◆ Prior to the release of the proposal, the proposal document must be reviewed and approved by the appropriate university departments and forwarded to the BOT for review. The proposal should then be advertised in a newspaper with a circulation of not less than 100,000 and in the Florida Administrative Weekly. Proposals shall be received and evaluated by the university in a manner consistent with Florida Statutes and competitive practices and the recommended award shall be forwarded to the Board Office for appropriate action by the BOE.

REFERENCES

- ◆ Chancellor's Memorandum: CM-B-10.00-02/97, and Chapter 253 and Sections 1001.74, 1013.15, 1013.171 F.S.