



TRANSMITTAL LETTER

The University of North Carolina
General Administration

Transmittal Number 87
September 30, 2013

THIS LETTER TRANSMITS CHANGES TO THE *UNC POLICY MANUAL*

300.2.14[R]

Regulations for Deferred Compensation for Chancellors

These Regulations were adopted by President Ross on September 3, 2013 and are attached herein.

Please contact UNC General Administration Legal Affairs Division at 919-962-4588 if you have any questions pertaining to this document.

600.1.3.1[R]

Regulations for Acquisition and Disposition of Real Property by Lease

These Regulations were amended and approved by President Ross on September 24, 2013 and are attached herein.

A redline version for these regulations is not provided; however, please see the attached explanation for the amendment.

Please contact UNC General Administration Finance Division at 919-962-4605 if you have questions pertaining to the above Regulations.

The online version of the *UNC Policy Manual* can be accessed at the link below:

<https://www.northcarolina.edu/policy/index.php>

Regulations for Deferred Compensation for Chancellors

The Board of Governors, pursuant to its authority to fix the compensation of the chancellors of the constituent institutions,¹ has authorized the participation of each chancellor in deferred compensation in the form of annual contributions to a qualified retirement plan to encourage the chancellors' continued service to their respective institutions and The University of North Carolina. Contributions may be made only upon the recommendation of the President, subject to final review and approval by the Committee on Personnel and Tenure. Contributions shall not exceed ten percent (10%) of base salary paid in any year and must derive solely from non-state funding sources. Any campus that seeks to make contributions on behalf of its chancellor shall deliver a written request through the Board of Trustees to the President that describes its proposal for funding the contributions in accordance with the following requirements:

1. The request must identify and describe in detail the source(s) of funds from which the contributions will be made;
2. The request must state that the funds for the contributions will not, under any circumstances, originate from state funds or tuition revenues;
3. The request must specify the amount of the proposed contributions as a percentage of annual base salary, not to exceed 10 percent (10%);
4. The request must state that any contribution is voluntary, and that contributions may be suspended or discontinued at the discretion of the Board of Governors or the Board of Trustees;
5. The request must acknowledge that the contributions shall not be made in any year in which the funds identified and described by the campus are insufficient to support the contribution; and
6. The request must specify the vesting period that will apply to the contributions.

¹N.C. Gen. Stat. § 116-11(4); Section 500 B of *The Code* of The University of North Carolina.

Regulations for Acquisition and Disposition of Real Property by Lease

I. General

A. A source of funds must be identified and secured for 100 percent (100%) of the required funding for the term of the proposed acquisition by lease. Funds must be used in strict compliance with state statute.

B. Model lease documents consistent with N.C. Gen. Stat. § 116-31.12 shall be used for delegated transactions. Completed lease documents must be reviewed and approved by the constituent institution’s attorney.

C. The functional composition of the campus property review committee shall be proposed by the constituent institution, approved by UNC General Administration and appointed by the chancellor. Changes to the approved functional composition shall be approved by UNC General Administration.

D. The campus property review committee, the vice chancellor for business affairs, the chancellor or designee, the president or designee, and the Board of Governors shall approve all transactions according to the appropriate delegation as described below.

Required Clearances for the Acquisition and Disposition of Real Property by Lease Transactions using Delegated Authority									
Annual Rent	Term	Campus Property Review Committee	Vice Chancellor Business Affairs	Chancellor or designee	Board of Trustees	President or designee	Board of Governors	Department of Administration	Council of State
≤\$350,000	≤10 years	X	X	X					
\$350,001 - \$1,000,000	≤10 years	X	X	X	X				
>\$1,000,000	≤10 years	X	X	X	X	X			
any amount	>10 years				X		X	X	X

E. An acquisition lease shall be classified as routine or as strategic, with the prior approval of UNC General Administration.

F. All lease agreements shall be in the name of the constituent institution or the University of North Carolina.

G. The availability of funds clause is required in all acquisition leases. This clause shall not be invoked without the written permission of the president.

H. A lease produced under this delegation, whether acquisition or disposition, shall be reported by the campus property officer to the Secretary of Administration, with copy to the leasing and space planning manager in the State Property Office, and UNC General Administration within thirty (30) calendar days of the lease being fully executed.

II. The Campus Property Review Committee Shall Have the Following Responsibilities:

A. Approve delegated transactions and set priorities, establish standards, and provide direction for delegated activities.

B. Review the space needs analysis and lease specifications for a delegated transaction.

C. Review lease proposals submitted to and/or negotiated by the campus property office.

- D. Review lease transactions to ensure compliance with established procedures and protocols.
 - E. 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 chief operating officer at UNC General Administration.
 - F. Review requests to enter less than fair market value disposition leases as defined herein. If the committee concurs with the request, the committee chair shall provide written rationale and request approval to lease at less than fair market value from the chief operating officer at UNC General Administration.
- III. The Campus Property Officer and the Campus Property Office Shall Have the Following Responsibilities:
- A. Establish and enforce procedures that ensure delegated transactions are executed in accordance with the N.C. Gen. Stat. § 116-31.12, with Policy 600.1.3.1, and with these regulations.
 - B. Establish and enforce procedures that ensure transactions shall be executed in accordance with space standards established by the institution and UNC General Administration.
 - C. Develop a comprehensive set of specifications to be used for delegated activities.
 - D. Secure, in accordance with applicable state law and regulation, the technical and professional services needed to assist with the delegated transaction.
 - E. Perform a space analysis 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.
 - F. 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.
 - G. Negotiate leases.
 - H. Conduct an internal review of acquisition and disposition by lease practices to ensure compliance with these regulations and to incorporate best practices.
 - I. 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.
 - J. Coordinate with North Carolina Department of Insurance to ensure that property acquired or disposed of under the constituent institution's delegated authority is properly insured.
 - K. Coordinate with the campus attorney's office to ensure complete legal review of all agreements, leases or contracts related to the delegated transaction.
 - L. Report the transaction to the Secretary of Administration and UNC General Administration within thirty (30) calendar days of the lease being fully executed.
- IV. The Acquisition by Lease Process
- A. Routine Lease. The constituent institution 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 proposal process may be used if the annual cost of the lease is \$50,000 or less.

1. For leases that have an annual cost of no more than \$50,000 per year, informal, written proposals may be obtained using a process that details the terms and conditions of the proposed lease.
 - a. Once the proposal is selected, approved by the property review committee, and approved by the chancellor or designee, a lease shall be prepared.
 - b. The prepared lease shall be reviewed and approved by the campus attorney.
 - c. The chancellor or designee shall execute the lease, and the original fully executed lease shall be retained by the campus property office.
 - d. The transaction shall be reported to UNC General Administration and the Secretary of Administration within thirty (30) calendar days of the lease being fully executed.
2. For leases that have an annual cost of more than \$50,000 per year, formal, advertised, written proposals shall be obtained.
 - a. The campus property office shall place a public advertisement in the legal notice section of a newspaper of general circulation in the county where the lease shall be located and in other public electronic media available to the campus or UNC General Administration.
 - b. The advertisement shall run for at least five (5) consecutive days and shall provide that proposals shall be received in the campus property office 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.
 - c. In the event that no acceptable proposals are received, the campus property office may negotiate in the open market for the needed lease. Once negotiated, the proposal and detailed justification is submitted to the campus property review committee and the UNC General Administration property officer for approval.
 - d. Once approved, a lease shall be prepared.
 - e. The prepared lease shall be reviewed and approved by the campus or a UNC General Administration attorney.
 - f. The campus property office shall seek the approval of the chancellor or designee.
 - g. If the lease cost and term are not within the delegation set by the board of trustees of the constituent institution, the campus property office shall seek approval of the proposed lease by the board of trustees via a request by the vice chancellor for business affairs.
 - h. The chancellor or designee shall execute the lease and the fully executed lease shall be retained by the campus property office.
 - i. The transaction shall be reported to UNC General Administration and the Secretary of Administration within thirty (30) calendar days of the lease being fully executed.

B. Strategic Lease. The constituent institution 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 the constituent institution or the university. The

strategic lease process may commence only with the prior approval of the campus property review committee and UNC General Administration.

1. The requesting entity 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 campus property review committee, the chancellor, and the chief operating officer, and General Administration. At a minimum, the justification shall include the following:
 - a. The specific reason that needed space cannot be obtained utilizing the routine competitive lease process.
 - b. 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 the university.
 - c. Evidence that the constituent institution has sought consultation with the 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.
2. The campus property office shall obtain written proposals that detail the terms and conditions of the proposed lease.
 - a. Once the proposal is selected, approved by the campus property review committee, the chancellor and the board of trustees, a lease shall be prepared.
 - b. The prepared lease shall be reviewed and approved by the campus or a UNC General Administration attorney.
 - c. The chancellor or designee shall execute the lease, and the original fully executed lease shall be retained by the campus property office.
 - d. The transaction shall be reported to UNC General Administration and the Secretary of Administration within thirty (30) calendar days of the lease being fully executed.

V. The Disposition by Lease Process

A. General. The constituent institution may dispose of real property by lease contingent upon full compliance with applicable procedures and required approvals described herein as well as other relevant processes not inconsistent with these regulations.

B. Procedures

1. Any proposed disposition of real property by lease shall be identified by the campus property officer and reviewed by the campus property review committee. At a minimum, any proposal for disposition by lease shall contain the following:
 - a. A written justification that details the reason(s) for leasing the space to an external lessee.
 - b. A description of any improvements or alterations (if any) to be made to the leased space at the request of the potential lessee.
2. The proposed disposition of real property by lease must be endorsed by the chancellor or designee and the board of trustees of the constituent institution.
3. 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:

- a. 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;
 - (1) It is permissible to lease campus real property to a public entity for less than FMV.
 - (2) It is permissible to lease campus real property to a private not-for-profit entity for less than FMV.
 - (3) It is **not** permissible to lease campus real property to a private for-profit entity for less than FMV.
 - b. Preapproval by campus property review committee;
 - c. Preapproval by the chancellor or designee; and
 - d. Preapproval by UNC General Administration's chief operating officer or designee.
4. Once required approvals and clearances have been obtained from the campus property review committee, the chancellor, the board of trustees, the president, and the Board of Governors, as appropriate, a lease shall be prepared.
 5. The prepared lease shall be reviewed and approved by the campus or a UNC General Administration attorney.
 6. The transaction shall be reported to UNC General Administration 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.

September 30, 2013

Explanation of Amendments to 600.1.3.1[R], *Regulations for Acquisition and Disposition of Real Property by Lease* see UNC Policy Manual
<http://www.northcarolina.edu/policy/index.php>

By: Brooks Skinner, Associate Vice President for Legal Affairs, UNC General Administration

Session Law 2007-322 authorized the Board of Governors of the University of North Carolina to authorize the constituent institutions and the General Administration to acquire real property by lease if the lease is for a term of not more than 10 years. The Board of Governors adopted Policy 600.1.3.1 in January, 2011. The implementing regulations 600.1.3.1[R] were adopted by the President in May, 2011.

Session Law 2012-142 amended North Carolina General Statute Section 116-31.12 to give the Board of Governors of the University of North Carolina the authority to authorize the constituent institutions and the General Administration of the University of North Carolina to dispose of, as well as acquire, real property by lease if the lease is for a term of not more than 10 years.

The Board of Governors amended UNC Policy 600.1.3.1 and UNC Policy 200.6 in October 2012 to make the policies consistent with G.S. 116-31.12 as rewritten.

The proposed amendment to regulation 600.1.3.1[R] amends the previous regulation to add procedures for the disposition of real property by General Administration and the institutions that have been delegated this authority by the Board of Governors consistent with the statutory change.

The proposed amendment also adjusts the required clearances table on page 1 to reflect new thresholds for annual rent approval. Further, and consistent with the Board policy and the statute, The Board of Governors is no longer required to approve any leases for ten years or less.

An additional line has been added to the required clearances table to clarify that all leases for a term of greater than 10 years must be approved by the Board of Governors, the Department of Administration, and the Council of State.