

41.01 Real Property

Approved December 5, 2008 (MO 395-2008)

Revised September 25, 2009 (MO 215-2009)

Revised May 4, 2012 (MO -2012)

Next Scheduled Review: May 4, 2014



Policy Statement

The Board of Regents (board) of The Texas A&M University System (system) shall have the sole and exclusive management and control of all real property and real property interests. All real property, including leasehold and mineral interests, shall be held in the name of the board.

Reason for Policy

This policy governs the acquisition, disposal, management and leasing of real property.

Procedures and Responsibilities

1. GENERAL PROVISIONS

- 1.1 Delegation of Authority. Except as otherwise provided in this policy, the board delegates to the chancellor authority to manage and maintain all real property owned or controlled by the board. The chancellor is granted authority to execute and deliver, on behalf of the board, all contracts, agreements, closing documents, deeds, assignments, leases, easements, permits, licenses, listing agreements, division orders and all other documents necessary to carry out the powers granted to the chancellor by this policy, and to perform other specific real property transactions authorized by the board.

Any authority delegated to the chancellor in this policy may be further delegated by the chancellor in writing.

- 1.2 Responsibility for Care, Maintenance and Safekeeping. The chancellor is responsible for ensuring the care, maintenance and safekeeping of all real property. The chancellor may delegate these responsibilities to member chief executive officers (CEOs) or an employee or department of the member. Any such delegations must be in writing.

- 1.3 Regulations. The chancellor shall establish regulations implementing this policy.

2. ACQUISITION OF REAL PROPERTY

- 2.1 Except as provided in Sections 2.2 and 2.3, all acquisitions of real property, including through the power of eminent domain under Section 85.32 of the *Texas Education Code*, must be approved by the board.
- 2.2 Following a due diligence review by the System Real Estate Office (SREO), gifts and bequests of real property, including mineral interests, may be accepted by a member CEO on behalf of the board in accordance with System Policy 21.05, *Gifts, Donations, Grants and Endowments*, and this policy. Unless waived by the Office of General Counsel (OGC):
 - (a) the due diligence review must include an environmental site assessment, a survey, a property condition inspection and an examination of title; and
 - (b) an owner's policy of title insurance covering the real property gift or bequest must be obtained in an amount determined by the SREO.
- 2.3 The chancellor shall have authority to approve acquisitions, other than through the power of eminent domain, in which the consideration payable by the system or its member, exclusive of closing costs, is \$1,000,000 or less.

3. DISPOSITION OF REAL PROPERTY

All dispositions of fee title to real property must be approved by the board.

4. LEASE OF REAL PROPERTY

- 4.1 All leases of real property to third parties having a term that exceeds five (5) years must be approved by the board. Renewal periods that may be exercised in the sole discretion of the third-party tenant shall be included in computing the term of the lease. The chancellor is delegated authority to approve all other leases of real property to third parties.
- 4.2 All leases of real property from third parties for the benefit of the system or a member must be approved by the board if **either**
 - (a) the term of the lease, including renewal periods, exceeds ten (10) years; or
 - (b) the total consideration payable by the system or member for the term of the lease, including renewal periods, exceeds \$1,000,000.

The chancellor is delegated authority to approve all other leases of real property from third parties. The term "total consideration" shall mean all rent, tenant improvement costs and other expenses payable by the system or a member, the amounts of which can be determined at the inception of the lease term, including base rent, security deposits and common area maintenance and other charges, but excluding the costs of insurance, taxes and maintenance under a "triple net" lease and rent escalations, unless the amount of those costs and/or rent escalations can be determined at the inception of the lease.

5. MINERAL LEASES

- 5.1 Process. Real property may be leased for oil, gas, sulphur, mineral ore and other mineral development by public auction, sealed bid or negotiated agreement.
- 5.2 Delegation. The board delegates to the chancellor authority to approve mineral leases having:
- (a) a primary term of three (3) years or less;
 - (b) a royalty of at least 25%; **and**
 - (c) a drilling requirement during the primary term.

The board also delegates to the chancellor authority to approve those mineral leases in which the board does not own or control the executive rights.

All other mineral leases must be approved by the board.

6. EASEMENTS

- 6.1 Granting of Easements. The board must approve easements on real property granted for highway or roadway purposes having an indefinite term. The chancellor shall have authority to approve all other easements over, across or under real property, provided that the term of the easement does not exceed ten (10) years. The chancellor shall periodically publish a schedule of fees to be charged for easements over, across or under real property. The chancellor shall have the right, in the public interest, to waive fees for easements granted to governmental entities. Easements on real property may not exceed ten (10) years, except those granted for highway or roadway purposes which may be indefinite.
- 6.2 Easements from Third Parties. The board must approve easements over, across or under real property owned by third parties and benefiting the system or a member if the consideration payable to the third party exceeds \$300,000.
- 6.3 Conservation Easements. Neither the system nor a member shall be the holder of a conservation easement as defined in Section 183.001 of the *Texas Natural Resources Code* without first obtaining approval of the board.

7. APPRAISALS

Acquisitions of title to real property must be supported by current appraisal reports in accordance with the rules of the Texas Higher Education Coordinating Board. All transfers of fee title to real property must be supported by an appraisal prepared in accordance with regulations promulgated by the chancellor.

8. INCOME FROM REAL PROPERTY

- 8.1 Revenues from Real Property Acquired Other Than by Gift or Bequest. Unless otherwise directed by the board, by law or by an intrasystem agreement between or among members, and except as set forth in Sections 8.2 and 8.3, all sale proceeds, rents, fees and other income from the sale, lease or use of real property, and all surface damages paid by mineral lessees (other than damages to crops or other property of a

tenant) shall be credited to the account of the member to which the property has been assigned.

8.2 Revenues from Real Property Acquired by Gift or Bequest. Unless otherwise directed by the donor, all sale proceeds, rents, fees, royalties, bonuses, damage recoveries and other income from the sale, lease or use of real property or mineral interests acquired by gift or bequest, shall be credited to the account of the member designated as the donee of the gift or bequest; provided that, if the board or the system is designated as the donee, the board shall determine the disposition of all revenues.

8.3 Mineral Revenues from State Land. In accordance with Section 85.70 of the *Texas Education Code*:

8.3.1 Except as provided in Section 8.3.2, all income received from mineral leases on real property that was acquired by any means other than gift or bequest will be deposited into The Texas A&M University System Special Mineral Investment Fund. Income from this fund shall be deposited to the credit of The Texas A&M University System Special Mineral Income Fund and is appropriated by the legislature exclusively for the system and expended under the direction of the board for the general use of any member.

8.3.2 All income received from mineral leases on real property that was acquired for the use of Texas A&M University-Kingsville and its divisions will be deposited into the Texas A&M University-Kingsville Special Mineral Investment Fund to be used exclusively for Texas A&M University-Kingsville and its branches and divisions.

9. PRIVATIZED HOUSING

Unless waived by the chancellor, prior to submitting a student housing construction project to the board for approval as a system project, a member must undertake a procurement process to identify a potential private partner/developer to design, construct and operate the project under a ground lease. All privatized student housing ground leases must be prepared or reviewed and approved by the OGC for legal sufficiency.

10. REPORTING

The chancellor shall report to the board on a quarterly basis all acquisitions approved by the chancellor or designee under the authority of Section 2.3 of this policy and all leases of real property from third parties approved by the chancellor or designee under the authority of Section 4.2 of this policy in which the total consideration payable by the system or member exceeds \$300,000.

Related Statutes, Policies, or Requirements

[Texas Education Code § 85.25](#)

[Texas Education Code § 85.26](#)

[Texas Education Code § 85.32](#)

[Texas Education Code § 85.51](#)

[Texas Education Code § 85.70](#)

[Texas Natural Resources Code § 183.001](#)

[19 Texas Administrative Code, Chapter 17](#)

[System Policy 21.05, Gifts, Donations, Grants and Endowments](#)

The December 2008 version of this system policy supersedes:

System Policy 41.01, *Real Property Gift and Bequest Acceptance*

System Policy 41.02, *Real Property Purchase*

System Policy 41.03, *Real Property Condemnation*

System Policy 41.04, *Real Property Classification*

System Policy 41.05, *Real Property Management Policy*

System Policy 41.06, *Mineral Lease Property*

System Policy 41.07, *Real Property Disposition*

System Policy 41.08, *Administration of Real Estate Office*

System Policy 41.09, *Privatization of On-Campus Housing Facilities by Third Parties*

Contact Office

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