OP 72.07: Leasing Land, Space, and Facilities

DATE: April 27, 2021

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish guidelines for leasing space to ensure compliance with state law.

REVIEW: This OP will be reviewed in February of even-numbered years by the Chief Procurement Officer (CPO) with substantive revisions forwarded to the Senior Vice President for Administration & Finance and Chief Financial Officer.

POLICY/PROCEDURE

1. Policy

Leases that will be paid in full from institutional funds or state-appropriated funds shall be entered into through current Texas Tech Procurement Services policies and procedures. Refer to OP 72.02, Contracting Procedures, and OP 72.09, Procurement of Goods and Services.

2. Leasing Criteria

a. Leased space and associated facilities must comply with Texas Accessibility Standards (TAS), permitting accessibility for aged, disabled, and mobility-impaired persons unless they are not used by the public or if it is improbable that aged or disabled persons will be employed to work in them because of the physical requirements of the work done therein (Article 9102, T.C.S.). The Texas Department of Licensing and Regulation (TDLR) must approve any request for an exemption from compliance with these accessibility standards. Texas Tech University does not have the authority to waive this requirement.

b. Each facility that is leased that exceeds $14,000 annually, without regard to the funding source, must be submitted to the TDLR before occupancy on the Architectural Barriers Lease Evaluation form and submitted with the required application fee. The CPO can assist in filing with the TDLR (Attachment B).

c. The Board of Regents must approve any lease with a lease term greater than four years that cannot be canceled without cause in 120 days or less, in compliance with Section 07.12, Regents’ Rules.

3. Leasing Procedures

a. Requests for leased space and facilities must be submitted to the CPO on a Lease Request Form (see Attachment A).
b. A copy of the *Lease Request Form* will be submitted to the Space Allocation Committee (SAC). If the SAC cannot find suitable space in another Texas Tech University-owned facility, the SAC will notify the CPO, and the procurement process provided for in OP 72.09, *Procurement of Goods and Services*, must be followed.

c. Each request must be approved by the appropriate divisional vice chancellor or vice president and the Provost for any academic unit requesting the lease.

d. Before finalizing the lease, the SAC shall review and approve the lease. Upon approval, the CPO will route the lease for the appropriate signature approval.

e. Annual expenses for the leases must be encumbered at the beginning of each fiscal year. A requisition must be submitted annually in TechBuy to encumber funds for the lease. Subsequent encumbrances should be submitted in TechBuy at least 60 days before the end of each fiscal year.

f. Call the Section Manager of Strategic Acquisition or Section Administrator of Strategic Acquisition (806.742.3844) for assistance on leasing space and facilities.

4. **Leasing Space from another Governmental Entity**

Space may be leased:

a. Through an interagency contract from another state agency or quasi-governmental agency; or

b. Through a negotiated contract from:

   (1) The federal government; or

   (2) A political subdivision including a county, municipality, school district, water or irrigation district, hospital district, council of governments, or regional planning commission;

5. **Leasing Space from a Private Source**

a. Space may be leased from a private source in compliance with OP 72.09, *Procurement of Goods and Services*, through:

   (1) Competitive bidding; or

   (2) Competitive sealed proposals.

b. Leases must use one of the two listed procurement methods if the lease space does not qualify under section 4 of this OP and the annual lease amount will be greater than $50,000.

6. **Contract Administration**

a. The TDLR strictly enforces accessibility standards. Enforcement actions that might be taken include cancellation of existing lease contracts, mandatory relocation of an activity from space currently occupied, filing suits against lessors, and other actions of a similar nature.
b. It is the responsibility of the administrator responsible for use of the leased space to ensure that the lessor adheres to all contract specifications, especially those regarding accessibility. The responsible administrator shall notify the CPO as soon as possible if any leased space does not meet contract standards.

c. The department will work with Procurement Services to execute a lease that includes the standard requirements established by the Office of the General Counsel.

Attachment A: Lease Request Form

Attachment B: TDLR Architectural Barriers Lease Evaluation