

[Minor revision: April 18, 2012]



Angelo State University
Operating Policy and Procedure

OP 40.11: Lease, Purchase, or Sale of Real Estate

DATE: April 18, 2012

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish a standard policy for leasing, purchasing, or selling real estate, mini warehouses, storage space, office space, etc. under the name of Angelo State University.

REVIEW: This OP will be reviewed in April of even-numbered years by the director of facilities planning and construction with recommended revisions forwarded through the vice president for finance and administration to the president by May 15 of the same year.

POLICY/PROCEDURE

1. No department, person or organization may lease, purchase, or sale real property under the name of Angelo State University, except as authorized through the proper administrative channels and approved by the president. This includes mini warehouse, storage space, office space, etc. All proposed leases, purchases or acquisitions should be requested through the Facilities Planning and Construction department, which will review the request and submit to administration for approval. Funding for the lease, purchase or acquisition must be provided with this request.

The following rules or laws are applicable to Real Estate transactions.

REAL ESTATE LAWS

Laws and Rules applicable to real estate transactions of Angelo State University (Member, Texas Tech University System) are listed and briefly summarized below.

Laws:

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended – Federal act of public law which provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

Texas Constitution, Article III, § 51 – This provision prohibits the state from making gifts to individuals or corporations. This provision has been interpreted by the Texas Attorney General to prohibit below market sales or leases of state owned property unless the sale or lease serves a public purpose appropriate to the function of the state agency, adequate consideration flows to the state agency, and sufficient controls are in place to ensure that the public purpose is met.

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Texas Education Code § 51.9045 – This statute prohibits an institution of higher education from using eminent domain to acquire land to be used for a lodging facility or for parking or a parking structure intended to be used in connection with the lodging facility. “Lodging Facility” is defined to exclude a dormitory or other student housing.

Texas Education Code § 55.11 – This statute gives the governing board of each institution of higher education the authority to acquire property for the institution.

Texas Education Code § 61.0572 – This statute gives authority to the Texas Higher Education Coordinating Board to approve acquisitions of real property for university purposes.

Texas Education Code § 95.21 – This statute provides general authority to the Board of Regents to manage the institutions within the Texas Tech University System and authorizes the Board to delegate authority.

Texas Education Code § 95.30 – This statute gives authority to the Board of Regents to acquire property by eminent domain for carrying out the mission of the Texas Tech University.

Texas Education Code § 95.31 – This statute gives authority to the Board of Regents to acquire land, including improvements thereupon, needed for proper operation of a system university. The acquisition may be by grant, purchase, lease, exchange, gift, devise, or by condemnation.

Texas Education Code § 95.33 – The statute gives authority to the Board of Regents to manage the lands of the Texas Tech University System.

Texas Education Code § 95.34 – This statute authorizes the Board of Regents to accept donations, gifts, grants, and endowments for the universities within the Texas Tech University System.

Texas Government Code Ch 2167 – This chapter authorizes delegation of authority for space leasing to institutions of higher education and directly authorizes institutions of higher education to lease space for classroom and instructional space.

Texas Government Code § 2204.003 – This statute authorizes institutions of higher education to accept gifts of real property and requires that the acquisition be consistent with Texas Higher Education Coordinating Board rules and regulations.

Texas Government Code § 2206.001 – This statute prohibits a governmental entity from acquiring property by eminent domain if the taking (1) confers a private benefit on a particular private party through the use of the property, (2) is for a public use that is a pretext for conferring such a private benefit, or (3) is from economic development purposes. These prohibitions do not apply to the acquisition of property by eminent domain for certain specified exceptions.

Rules:

19 Tex. Admin Code §§ 17.1 – 17.52 – These administrative rules were adopted by the Texas Higher Education Coordinating Board pursuant to Tex. Ed. Code § 61.02