

Arizona Board of Regents Commercial Real Estate

CONCLUSION: The Arizona Board of Regents (ABOR) is the governing body of the State's 3 universities—Arizona State University (ASU), Northern Arizona University (NAU), and the University of Arizona (UA). Statute authorizes ABOR to own and lease its property for the benefit of the State and for the universities' use, and it has approved leases for commercial purposes. However, ABOR's lack of written guidance for implementing its real estate policies and approving commercial subleases increases the risk of inappropriate use of public resources leased to private parties. Also, the operation of some ABOR property lacked oversight and accountability, resulting in the inappropriate use of proceeds and limited transparency. Finally, ABOR lacks a complete property listing and other property management information, limiting its ability to oversee and manage its property.

ABOR's lack of written guidance for implementing its real estate policies and approving commercial subleases increases the risk of inappropriate use of public resources leased to private parties

Background: ABOR approved commercial lease agreements that generate revenue for universities, some providing property tax benefits to lessees—Under its statutory authority to lease property, ABOR has approved long-term lease agreements on behalf of each of the universities for commercial development of ABOR property, including for hotels and office buildings. These commercial lease agreements include provisions for the lessees to provide rental revenue and/or additional lessee payments to the universities. Additionally, some of these commercial lease agreements provide property tax benefits to the lessee by transferring ownership of improvements the lessees constructed on the properties to ABOR, which is tax exempt, and instead require the lessees to make additional payments to the university. Conversely, some other lease agreements do not provide this benefit and result in lessees paying property taxes for improvements the lessees constructed on ABOR property.

Despite policy revisions, ABOR's lack of written guidance for implementing its real estate policies increases risk of inappropriate use of public resources—Although ABOR revised its real estate policy for commercial leases to include new requirements for commercial lease agreements, such as documenting proposed agreements' economic benefits to the university and Arizona and the proposed improvements' tax treatment, it lacks written guidance for implementing its real estate policies, increasing the risk of not ensuring that use of its property benefits Arizona and the universities. For example, ABOR lacks written guidance on how the universities should document economic and tax impact considerations required by its policy. Thus, the universities may provide ABOR with insufficient or inconsistent analyses of these considerations and ABOR risks approving commercial lease agreements that allow a public resource to be used primarily for private benefit.



ABOR's revised policy requires consideration of economic and tax impacts but lacks written guidance on conducting the analyses

ABOR lacks written guidance for the approval of commercial sublease agreements, increasing the risk that subleased property is used inconsistent with statute—ABOR has approved master lease agreements with third parties that delegate its authority to approve sublease agreements for commercial development of its property to its designee at the university. However, although ABOR has revised its leasing policy to assess and consider additional factors for commercial lease agreements, this policy does not apply to commercial sublease agreements executed by third parties under the master lease agreements. Additionally, ABOR lacks written guidance for its designees to similarly assess commercial sublease agreements they approve, increasing the risk that subleased property is used inconsistent with its statutory mandate to lease property to benefit Arizona and for the universities' use.

Recommendation

ABOR should develop and implement written guidance for implementing its real estate policies and for its designees' approval of commercial sublease agreements under its master lease agreements.

Operation of some ABOR property has lacked oversight and accountability, resulting in inappropriate use of proceeds and limited transparency

Background: ABOR has leased property to UA-affiliated organization—ABOR has entered into 3 master lease agreements with Campus Research Corporation (CRC), a nonprofit, nongovernmental organization affiliated with UA to operate, manage, and sublease ABOR properties. The agreements authorize the UA president to act as ABOR's designee to oversee the master lease agreements, including approving the CRC's subleases and annual budget.

UA did not adhere to master lease requirements, resulting in unapproved and inappropriate spending—UA could not demonstrate that the UA president had provided written approval of CRC's budget, and instead, UA relied on the CRC's board of directors to approve its own budget. As a result, the CRC spent an estimated \$38.1 million without written approval. Additionally, contrary to the master lease agreements, the CRC inappropriately advanced \$3.9 million generated at one property to another property, including approximately \$1 million that the CRC advanced to the other property in fiscal years 2017 and 2018 instead of paying rent to UA.



CRC spent an estimated **\$38.1 million** in 3 years without the UA president's written approval

Contrary to public records laws, UA failed to retain records of its public activities related to overseeing ABOR's master lease agreements with the CRC—UA did not retain CRC sublease agreements after UA presidents' review and approval, limiting public assurance that ABOR's property was used appropriately. UA reported that these agreements are private documents of the CRC and its tenants, and thus, did not consider them to be public records. However, UA presidents signed these sublease agreements as part of their official duties, and as a result, the sublease agreements are public records that UA should have retained and made available for public inspection. Additionally, because UA relied on the CRC board of directors to approve its own budget, the CRC's budget approval for the 3 years we reviewed was shielded from the public because the evidence of budget approval remained the property of the CRC, a nonpublic entity. As a result, ABOR could not publicly account for the management of its property.

Recommendations

ABOR should develop and implement a process to help ensure its designees fulfill their oversight duties and it should comply with public records laws.

ABOR lacks comprehensive property information to independently oversee and manage the use of its property

As of May 2019, ABOR did not maintain a complete list of all property that it owns, although its policy requires the universities to maintain some information on ABOR properties they use. We reviewed Arizona county assessors' and treasurers' records and identified 1,127 parcels in Arizona potentially owned by ABOR and compared this information to property listings the universities provided. We found that NAU's listing did not include a 23-acre parcel listed on county assessor records as ABOR-owned and included 8 acres of property for which it could not demonstrate ABOR's ownership; UA's listing included 255 acres of property ABOR never owned and nearly 83 acres that ABOR had sold; and ASU's listing was limited to its commercial properties, which is only a portion of ABOR properties ASU uses. Although the universities have developed processes for mitigating the risks of inaccurate property ownership information, ABOR's lack of comprehensive property information limits its ability to oversee and manage the use of its property.

Recommendations

ABOR should develop and implement policies and/or written guidance for developing and regularly updating university property listings, including the information that should be maintained for proper management and oversight; develop a comprehensive property listing of all its properties; and develop procedures to verify property ownership and accuracy of information.