

# Guide to Leases and Use Agreements

Middle Tennessee State University  
Campus Planning / Construction Administration

2018

**Consists of these six parts:**

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**Solicitation Documents**

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**Authoritative References**

**Procedural Instructions**

**Administrative Forms**

**Special Alternative Agreement Forms**

**In addition, the following documents can be downloaded in their native Word™ and Excel™ formats for further use.**

	<b>Solicitation Documents</b>
L 00100	Advertisement for Lease Proposals
L 00450	Lease Proposal Quotation Form
L 00515	Lease Agreement form ( TBR institution is Lessee )
	<b>Administrative Forms</b>
L 30435	Certification of Funding for Lease Obligation
L 30563	F&A Space Action Request FA-0006
L 30565	F&A Office Space Requirements Analysis RSM-1A
L 30567	F&A Supplementary Data Questionnaire RSM-1B
L 30650	Proposal Analysis and Summary
L 30660	Enrollment History and Projection
	<b>Special Alternative Agreement Forms</b>
L 40501	Mutual Use Agreement
L 40503	Transient Use Agreement
L 40505	Tenant Use Agreement
L 40525	Lease Agreement form for TBR as Lessor

## STATE LAWS

### DIRECTLY AFFECTING MIDDLE TENNESSEE STATE UNIVERSITY LEASES

This is an informal list, compiled to assist administrators, and may not be all-inclusive.  
Do not rely on it for your legal needs. Consult an attorney.

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#### Particularly relevant to the State Building Commission

<b>4-15-101 to 107</b>	State Building Commission (overall)
<b>4-29-211</b>	State Building Commission termination
<b>12-2-112</b>	Disposal of Real Property
<b>12-2-114 and 115</b>	State Leases
<b>12-2-116</b>	Agreements for private development, construction, and operation
<b>12-4-101 to 114</b>	Public Contracts (General Provisions)
<b>12-4-201 to 208</b>	Public Contracts (Surety Bonds)
<b>62-2-107 et seq</b>	Use of Licensed Professionals for design work
<b>68-18-201 et seq</b>	Public Buildings Accessibility
<b>68-18-301 et seq</b>	Safety Glazing

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#### Particularly relevant to the Tennessee Board of Regents

<b>12-4-110(b)</b>	Section 12-4-110 on Public Contracts execution not applicable to SBC projects.
<b>12-4-110(a)</b>	Contracts for personal, professional, or consultant services must be executed by head of agency.
<b>12-4-110(a)(1)</b>	Contracts using multi-year appropriations must be approved by Comptroller.
<b>12-4-110(a)(4)</b>	Contracts subject to 12-4-109
<b>49-8-101(b)</b>	Government, management, and control vested in Board.
<b>49-8-111(b)</b>	Receipts from sale of institution land shall benefit the capital outlay fund of the institution. (Part (d)(1) of this Section allows Board to determine use of proceeds from sale of central office land.)
<b>49-8-114</b>	Universities and Community Colleges may set aside up to 10% of property and services procurement for small and minority business.
<b>49-8-203(a)(1)(C)</b>	Board empowered to approve capital budgets and otherwise set fiscal policy for its institutions
<b>49-8-203(a)(1)(E)</b>	Board generally responsible for operation of institutions, delegating to institution CEO necessary powers and duties.
<b>49-8-203(a)(3)</b>	Board empowered to erect and equip buildings.
<b>49-8-203(a)(4)</b>	Board granted “such other powers ... as are necessary” to carry out mandate similar and comparable to UT trustees.
<b>49-9-209(e)(1)</b>	UT Trustees empowered to promulgate “by-laws, rules and regulations for the government of the university and the promotion of education therein as in their opinion may be expedient or necessary”.

# STATE BUILDING COMMISSION POLICIES

RELEVANT TO MIDDLE TENNESSEE STATE UNIVERSITY LEASES

This is an informal list, compiled to assist administrators, and may not be all-inclusive.

## **Item 1** By-Laws

- I-3,C. Acquisition, Disposal, and Lease of Property
- V-2,C Executive Sub-Committee delegated authority

## **Item 2** Jurisdiction

- 2.01,B Leases which include construction
- 2.01,C Leases exceeding \$40,000 annually or 5 years term

## **Item 6** Design and Construction

- 6.02 Arrangement of office areas  
(open office landscaping promoted for office areas)

## **Item 7** Leases of Real Property

- 7.01 Advertisable leases
- 7.02 Leases with terms of one year or less
- 7.03 Lease amendments
- 7.04 Cancellation provision
- 7.05 Disposal by crop lease
- 7.06 Policy on certification of funds for leases
- 7.07 Evaluation of proposals

## **Item 8** Real Property Acquisition and Disposal

- 8.01 General acquisition and disposal
- 8.02 Disposal of interests other than fee simple

## APPLICABLE BOARD GOVERNANCE

Policies and guidelines can be viewed and printed at the MTSU internet website

Select the “Policies and Guidelines” link in the Home Page main menu.

Subject	TBR Policy or Guideline
Property Acquisition	Policy 4:02:09:00
Acquisition and Disposal of Real Property	Guideline B-025
Lease Procedures and Guidelines	Guideline B-026
Contracts and Agreements	Guideline G-030

## SYNOPSIS OF CHANGES FROM THE PREVIOUS EDITION

The Middle Tennessee State University Office of Campus Planning, endeavors to keep its standard documents abreast of the revisions issued by the Department of Finance and Administration Division of Capital Projects and Real Property Management, which is charged with oversight of lease processes for the State Building Commission.

### GENERAL REVISIONS

Footer style has been revised.

Outline paragraph numbering format has been made more consistent.

### 00100 ADVERTISEMENT FOR LEASE PROPOSALS

The caption of the last paragraph has been updated, and the paragraph should now identify not only the deadline for submission of proposals, but also the location.

### 00250 INSTRUCTIONS FOR SUBMISSION OF PROPOSALS

The most significant revision is in paragraph 8, with most others being minor and semantic:

1. Admonitions about costs and state intent are added.
2. Binding authority of proposal signer is simplified.
8. Schematic Floor Plan is noted as requiring follow-up with planner for implementation.

### 00255 CRITERIA FOR EVALUATION OF PROPOSALS

Subparagraph 3b is added clarifying the State's right to consider Exceptions and other variances. In F&A's 21-Sep-04 update, this was added to the Instructions for Submission of Proposal, and would have been a new subparagraph 4b in Section 00250 of this TBR version.

### 00450 LESSOR PROPOSAL QUOTATION FORM

Net rentable "area" changed to "space" in several places for semantic consistency.

Paragraph 2 revised to clarify that address used should be the 911 emergency response address.

Paragraph 4 for proposals A and B of base annual rent is unchanged; however, the 21-Sep-04 F&A version has a new "Proposal C" for a ten (10) year term, thus: Proposed base rental based upon the State waiving its right to cancel lease for a period of five (5) years except as provided in the TERMINATION FOR CAUSE and APPROPRIATIONS sections of the *Standard Form for Lease*; and, with the State reserving the right, after the fifth year of the lease term, to cancel the lease upon 180 days written notice to lessor, to be written into the TERMINATION FOR CONVENIENCE section of the *Standard Form for Lease*. Users can modify the Section to incorporate the option of Proposal C.

Subparagraph 5b revised to omit formerly standard 75 days for pre-occupancy alterations, and instead let proposer stipulate time needed for readying space to receive tenant.

Signature area has additional blanks for e-mail addresses.

#### **00455 LIST OF ENTITIES HAVING A FINANCIAL INTEREST**

Revised to no longer require classification of type of interest, but include a telephone number and (when interest is by a company) contact person name.

#### **00465 PROPOSAL BOND FORM**

Note added at bottom reminding of need for Power of Attorney.

#### **00475 PROPOSAL TERMS AND CONDITIONS**

Several changes are incorporated. The most significant revisions issued by F&A, numbered to correspond to the paragraphs of the Section, are:

4. Code compliance subject to state construction standards and Fire Marshal review.
6. Telephone service requires more conduit and junctions, and a service closet.
7. Identification of utility providers clarified as being through attachment of Section 01185.
11. Tenant development services subject to state construction standards and Fire Marshal review.

#### **00485 PROPOSAL SUPPLEMENT FOR OPTION TO PURCHASE**

*This is a new form.*

#### **00515 LEASE AGREEMENT FORM (when MTSU is Lessee)**

A new box for F&A administrative information is included in the top left of page 1.

In paragraph 4, added subparagraph (b) with terms of Automatic Deposits.

No change in paragraph 15; however, in the F&A version, two versions of paragraph 15 are provided, with the alternate version stipulating inclusion of items 1, 5, 7, and 8 in the text of subparagraph (a), check-boxes for optioning only items 2, 3, 4, and 6, and these additional subparagraphs:

However, the State will reimburse the Lessor annually for the cost of utilities associated with and properly allocable to the premises leased by the State in excess of \$1.40 per square foot. Lessor shall provide the State, on an annual basis at the end of each anniversary period of this Lease, a detailed list of costs subject to State reimbursement under this paragraph. Payment shall be made on the last day of the month following receipt of such list.

In order for any expenses to be reimbursable hereunder by the State, the costs incurred by the Lessor must have been reasonable and necessary as well as the costs being reasonable and actual. The Lessor shall maintain documentation for all charges against the State under this Lease. The books, records and documentation of the Lessor, insofar as they relate to reimbursement by the State for costs incurred, whether in whole or in part, shall be maintained in conformity with generally accepted accounting principles for a period of three (3) full years from the date of what amounts to the final payment under this Lease, and shall be subject to audit, at any reasonable time and upon reasonable notice by the Comptroller of the Treasury or his duly appointed representative or a licensed independent public accountant.

In paragraph 20, “handicapped accessibility codes” is replaced by “the Americans with Disabilities Act”.

A new Paragraph 24 is added addressing tax status of the Lessor.

**00525 LEASE AGREEMENT FORM (when MTSU is Lessor)**

Relocated as document 40525 to new section of Special Alternative Agreement Forms. See notes there regarding content changes.

**00535 AUTHENTICATION FORM FOR LEASE**

*no change in content*

**00543 ACH CREDITS FORM**

*no change in content*

**00545 SUBSTITUTE W-9 FORM**

*no change in content*

**01115 STANDARD SPECIFICATIONS FOR OFFICE SPACE**

Extensive changes issued by F&A are incorporated. Below, numbered to correspond to the paragraphs of the Section, are the most significant revisions:

3. Lighting expanded to specify acceptable florescent ballast and exterior lighting.
4. Electrical expanded with much greater detail on minimum capacities and circuitry
5. Floor Covering expanded regarding codes, installation, final cleaning, and replacement.
7. Restrooms expanded with greater detail in chart of minimum fixture counts, with distinct requirements for employee restrooms versus client restrooms, and final cleaning.
9. Window Coverings expanded with greater detail on windows added through Tenant Alterations, and interior windows.
13. Wall Finishes expanded with regard to Tenant Alterations.
14. Doors and Hardware expanded, particularly wit regard to Door Hardware.
15. Exits and Access expanded, particularly regarding exterior features at entrances.
18. Semantic revision regarding pest control.

**01135 STANDARD SPECIFICATION FOR EDUCATIONAL SPACE**

*Need one and don't have one.*

**01175 SUPPLEMENTARY BUILDING DESCRIPTION AND DATA SCHEDULE**

Under Zoning, added space to mark if zoning is incorrect but applied for.

Added spaces for indicating which utilities are individually metered.

**01185 UTILITY SERVICES FOR PROPOSED BUILDING**

In Section II, addresses re-captioned to reiterate need for the 911 emergency response address, and check-boxes added for indicating whether yard care furnished.

**01411 BUILDING CONSTRUCTION REGULATORY REQUIREMENTS**

Added, based on the Designers' Manual construction bidding documents Section 01411.

**20130 FLOW CHART OF LEASE APPROVAL PROCESS**

*no change in content*

**20230 CHECKLIST FOR PRE-REVIEW AND APPROVAL DOCUMENTS**

*no change in content*

**20340 OUTLINE OF GROUND LEASE BASIC PROVISIONS**

*no change in content*

**20450 ASSEMBLING A RFP FOR LEASE SPACE**

*This is a new document for which F&A issues no comparable standard.*

**20505 COMPLETING CONTINUING USE AGREEMENTS**

*This is a new document for which F&A issues no comparable standard.*

**20515 COMPLETING THE STANDARD LEASE FOR TBR INSTITUTION AS LESSEE**

Header instruction added dealing with new F&A administrative box and identification of preparer.

The instructions permit lease preparer to make signatures more specific in the final instrument.

**20525 COMPLETING THE STANDARD LEASE FOR TBR INSTITUTION AS LESSOR**

Header instruction added dealing with new F&A administrative box and identification of preparer.

Instructions for subparagraph 6a and paragraph 7 adjusted for change in format.

The instructions permit lease preparer to make signatures more specific in the final instrument.

**20670 PROGRAM DOCUMENTATION AND JUSTIFICATION SHEET**

*no change in content*

**30415 CONTRACT SUMMARY SHEET**

Deleted. Contact the MTSU department of Legal Services for the latest version.

**30435 CERTIFICATION OF FUNDING FOR LEASE OBLIGATIONS**

Name of Vice Chancellor updated.

**30563 F&A FORM FA-0006 SPACE ACTION REQUEST**

*no change in content*

**30565 F&A FORM RSM-1A OFFICE SPACE REQUIREMENTS ANALYSIS**

*no change in content*

**30567 F&A FORM RSM-1B SUPPLEMENTARY DATA QUESTIONNAIRE**

*no change in content*

**30650 PROPOSAL ANALYSIS SUMMARY**

*no change in content*

**30660 ENROLLMENT HISTORY AND PROJECTIONS**

*no change in content*

**40501 MUTUAL USE AGREEMENT (for reciprocal non-exclusive use)**

*This is a new form for which B&F issues no comparable standard.*

**40503 TRANSIENT USE AGREEMENT (for short-term and non-exclusive use)**

*This is a new form for which B&F issues no comparable standard.*

**40505 TENANT USE AGREEMENT (for lease-like arrangements)**

*This is a new form for which B&F issues no comparable standard.*

**40525 LEASE AGREEMENT FORM (when MTSU is Lessor)**

A new box for F&A administrative information is included in the top left of page 1.

In subparagraph 6a, on Termination for Convenience, the embedded blanks have been replaced with references to a table added below the subparagraph, to aide editing and readability.

In subparagraph 7, on Abandonment, the embedded blanks have been reduced from four to two, and replaced with references to a table added below the subparagraph, to aide editing and readability.

Signature blanks at the end have been made more generic. The instructions permit lease preparer to make signatures more specific in the final instrument.

**40703 STANDARD TERMS AND CONDITIONS FOR MUTUAL & TRANSIENT USE AGREEMENTS**

*This is a new form for which B&F issues no comparable standard. It is used with both documents 40501 and 40503, listed above.*

**40705 STANDARD TERMS AND CONDITIONS FOR TENANT USE AGREEMENT**

*This is a new form for which B&F issues no comparable standard. It is used with document 40505, listed above.*