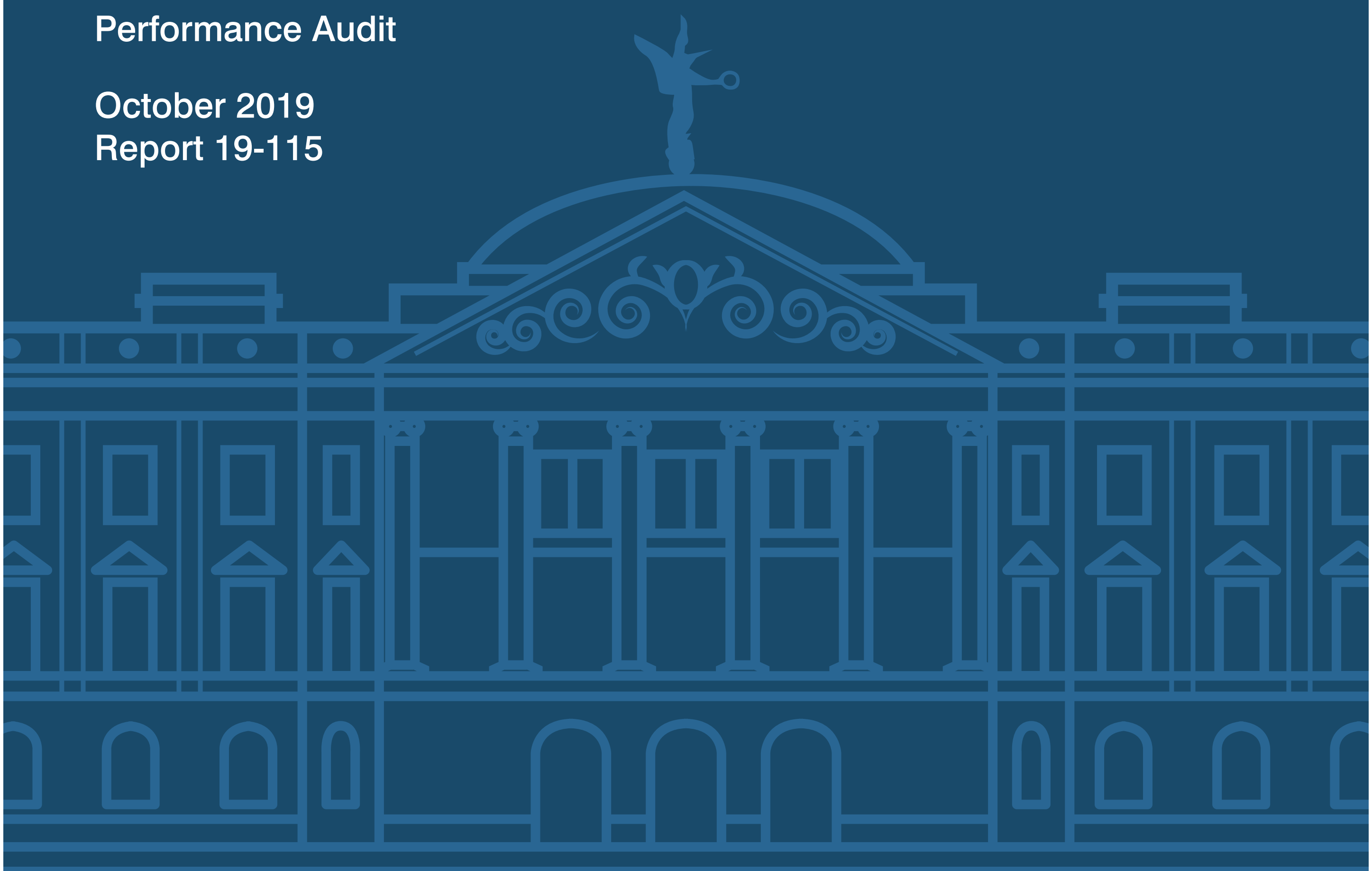
Arizona Board of Regents
Commercial Real Estate

ABOR lacks comprehensive property information and guidance to implement real estate policies, and operation of some ABOR property lacked oversight and accountability



Performance Audit

October 2019
Report 19-115

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General

ARIZONA Auditor General
Making a Positive Difference

The Arizona Office of the Auditor General's mission is to provide independent and impartial information and specific recommendations to improve the operations of State and local government entities. To this end, the Office provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits and special reviews of school districts, State agencies, and the programs they administer.

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October 15, 2019

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Dr. Larry Penley, Chair
Arizona Board of Regents

Transmitted herewith is a report of the Auditor General, *A Performance Audit of the Arizona Board of Regents—Commercial Real Estate*. This report is in response to a September 19, 2018, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Board of Regents agrees with all the findings and plans to implement all the recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Lindsey Perry, CPA, CFE
Auditor General

cc: Mr. John Arnold, Executive Director
Arizona Board of Regents

Arizona Board of Regents members

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Performance Audit
Report Highlights
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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.

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INTRODUCTION

The Office of the Auditor General has released the first in a series of performance audit reports of the Arizona Board of Regents (ABOR). This report focused on commercial real estate developments on ABOR's property.[1] Specifically, we assessed ABOR's oversight of commercial real estate properties, including the adequacy of its real estate policies and guidance, the administration of its commercial lease agreements, and the management of its properties. A final report will provide responses to the statutory sunset factors.

ABOR is responsible for governing State universities

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). Article XI, §5, of the Arizona Constitution created ABOR. Arizona Revised Statutes (A.R.S.) §15-1626 authorizes ABOR to exercise the powers necessary for the effective governance and administration of the universities, including adopting and authorizing each university to adopt regulations, policies, rules, or other measures deemed necessary for the universities' administration and

Key real estate terms

Acre—43,560 square feet.

Base rent—A set amount used as a minimum rent, typically with provisions for increasing the rent over the term of the lease.

Capital projects—Buildings, structures, facilities, infrastructure, and areas constructed, renovated, or improved for the use or benefit of ABOR, the universities under its jurisdiction, and/or the State.

Commercial lease—Leases for which a majority of business conducted at the property, calculated either by lease revenues generated or by allocation of square footage, is anticipated to come from a nonuniversity population.

Development agreement—An agreement by a developer typically with a public entity that establishes the developer's responsibilities for a capital project, including project phases, provision of public and private facilities, and improvements and any other mutually agreed to terms and requirements.

Fair market value—The monetary lease rate or sale price that a property would generate in a competitive and open market.

Improvement—Any building, structure, bridge, parking facility, public facility, fence, gate, wall, landscaping, or other object constituting a physical addition to real property, or any part of such an addition.

Lease agreement—A contractual agreement by which an owner of real property (lessor) gives the right of possession to another individual or entity (lessee) for a specified period of time (term) and for a specified consideration (rent).

Master lease agreement—A primary lease that controls subsequent subleases and may govern more property than subsequent subleases.

Real property—Land and, typically, the affixed improvements.

Source: Auditor General staff analysis of ABOR policy and information from Institutional Real Estate, Inc., and the American Planning Association.

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1 In January 2019, during the audit, the Arizona Attorney General's Office filed a lawsuit against ABOR regarding one of its commercial real estate developments, a proposed hotel and conference center in the City of Tempe. ABOR filed several motions to dismiss the lawsuit. In July 2019, the presiding superior court judge ruled in favor of ABOR on most of these motions. However, the order denied one of ABOR's motions and it will be subject to further discovery and litigation. See State of Arizona, ex rel. Mark Brnovich, Attorney General v. Arizona Board of Regents, TX2019-000011 (Arizona Superior Court, Arizona Tax Court).

governance. ABOR consists of 12 members, including the Governor, the Superintendent of Public Instruction, and 10 members that the Governor appoints.[2]

Statute authorizes ABOR to own and lease property on behalf of the universities

A.R.S. §15-1625(B)(4) authorizes ABOR to purchase, receive, hold, sell, and lease property for the benefit of Arizona and for the universities' use. As a result, ABOR is the responsible party for all real estate agreements and transactions and owns and leases all properties for and in use by ASU, NAU, and UA. ABOR has maintained and updated policies since the late 1980s governing purchases, sales, leasing, and development of its property regarding real estate transactions that require its review and approval. Consistent with A.R.S. §15-1626(A), these policies also delegate authority to the universities to enter into agreements under ABOR's name without ABOR's approval for transactions that meet the criteria outlined in ABOR policy (see textbox).[3] Although the universities may conduct some capital projects and real estate transactions without ABOR's approval, this audit report focused on ABOR's oversight of the universities' commercial real estate transactions. Therefore, capital projects and real estate transactions that ABOR policy authorizes the universities to conduct without ABOR's approval were not included in this audit's scope.

Real estate transactions that the universities may conduct without ABOR's approval[1]

The universities may enter into agreements under ABOR's name for:

- Purchases less than $500,000 if the property is located within the university's planning boundary, as defined by the university's master plan, as approved by ABOR, that outlines future land use and development.[2]
- Sales if the property is anticipated to be worth less than $250,000.
- Leases as the lessor if the lease term is 120 months or less, the annual base lease amount is $1 million or less, and the rental rate meets or exceeds fair market rental value.[3]
- Leases as the lessee if the lease term is 60 months or less, lease term renewal options do not exceed 60 months, the annual base lease amount is $1 million or less, the rental rate does not exceed fair market rental value, and the university has money available to pay the lease rental rate.[3]
- Capital development projects with an estimated total project cost of less than $10 million. However, if the university plans to partner with another entity—such as other governmental entities or development groups—for project financing or ownership, the project would require ABOR's review and approval.

1 ABOR policy requires the universities to annually report to ABOR on the status of all capital projects and all property purchases, sales, and leases conducted within the fiscal year, including those that did not require ABOR's review and approval.

2 ABOR policy requires the universities to create master plans to guide the development and planned use of ABOR's property for the university campuses and other large parcels of property outside campus boundaries. Approximately every 5 years, the universities should review and update their master plans and present them to ABOR for review and approval. ABOR must also approve any significant changes to a university's master plan—such as a change to a planned use of property—that occur between the 5-year update intervals.

3 ABOR policy does not define fair market rental value, nor has it established guidance on how universities should determine fair market rental value (See Finding 1, page 10, for more information).

Source: Auditor General staff review of ABOR policies.

2 Two of the 10 ABOR members are student members. Each year, the Governor designates a university on a rotating basis to submit a list of nominees for student members. The designated university's associated student organization selects 3 nominees through a majority vote of its governing body. The Governor considers the 3 nominees when appointing the student members.

3 A.R.S. §15-1626(A)(1) authorizes ABOR to delegate any of its administrative and governance authorities to the university presidents or the presidents' designees.

Some ABOR property is used for commercial purposes

ABOR has approved the following commercial uses of its property by entering into commercial leases as defined by ABOR policy (see Appendix A, pages a-1 through a-4, for illustrations of these properties' locations):[4]

- **Research parks—**Pursuant to A.R.S. §§15-1636 and 35-701, ABOR may designate land it owns as a research park and require that leases for real property in a designated research park prohibit unlimited manufacturing on site.[5] Statute authorizes ABOR to own and lease back buildings, or other improvements, constructed on research park land for statutorily permitted uses (see textbox). According to ABOR documents, the purpose of establishing research parks is to promote research, encourage research collaboration between the universities and businesses, and provide financial support for the universities. ABOR has designated some of its property as research parks for ASU and UA, as explained below:
    - **ASU Research Park, Tempe—**In 1983, ABOR designated its property at Elliot and Price Roads in the City of Tempe as a research park.[6] ASU refers to the property as the ASU Research Park. ABOR leases this property to Arizona State University Research Park, Inc., a nonprofit corporation that subleases the property to tenants and manages the research park. As of March 2019, ASU reported that the property consisted of nearly 282 acres. See Appendix B, pages b-1 through b-2, for a list of ASU Research Park tenants as of May 2019.
    - **UA Research Park, Tucson—**In 1994, ABOR acquired property from IBM Corporation near Rita Road and Interstate 10, southeast of the City of Tucson. Although UA refers to this entire property as UA Tech Park at Rita Road (Rita Road), only a portion of this property is designated as the UA Research Park.[7] As of March 2019, UA reported that the property consisted of approximately 1,260 acres, and as of May 2019, UA reported that 358 acres had been designated as a research park. ABOR leases most of the property to the Campus Research Corporation (CRC), a nonprofit corporation that assists UA in the operation and leasing of properties at Rita Road. Specifically, the CRC manages and operates the research park, including subleasing research park property to tenants. See Appendix B, page b-2, for a list of UA Research Park tenants as of May 2019, and see Finding 2, pages 15 through 20, for additional information about ABOR's oversight of master lease agreements with the CRC.

Permitted uses of research park property

Leases in designated research parks initiated after July 31,1996, must restrict the use of improvements in research parks to the following activities:

- Laboratories, offices, and other facilities for research and development.
- Production of products pursuant to research activities.
- Pilot plants.
- Regional or national headquarters of organizations engaged in research and development.
- Education or training facilities.
- Operations or facilities to support any permitted use, including power plants, wastewater treatment facilities, and commercial services.

Source: Auditor General staff review of A.R.S. §15-1636 and Laws 1996, Ch. 349, which established statutorily permitted uses of research park property.

- **Athletic facilities districts (AFD)—**An AFD is a special taxing district established on ABOR property that allows a university to commercially develop and lease property within the AFD to generate revenue to pay for construction and maintenance of university athletic facilities. Laws 2010, Ch. 140, authorized counties with a

4 As discussed on page 1, ABOR policy defines commercial leases as those for which a majority of business conducted at the property, calculated either by lease revenues generated or by allocation of square footage, is anticipated to come from a nonuniversity population.

5 Statute does not further define "unlimited manufacturing."

6 ASU used the property as an experimental farm prior to its designation as a research park.

7 According to ABOR documents and as reported by UA, the developed portion of the area outside the designated research park zone includes solar panels, a K-12 school, a water facility, and a surveillance tower for the U.S. Department of Homeland Security. Additional planned uses for this property include commercial development (see textbox, page 5, for more information).

State-supported university to establish a single AFD within the boundaries of ABOR property. Once an AFD is established, the county and ABOR are required to establish an AFD board of directors for the AFD's financial administration. As part of its financial administration responsibilities, an AFD board of directors must assess and collect payments in lieu of taxes from parties that have entered into commercial lease agreements with ABOR for property within an AFD. The assessment amount must be based on the property value, as assessed by the same method used by the county assessor, and the rate shall not exceed the real property tax rates for the area in which the property is located. The AFD board of directors may use the collected assessment revenues to finance, construct, furnish, maintain, and improve intercollegiate athletic facilities located on ABOR property.

In November 2011, at the request of ABOR on behalf of ASU, Maricopa County established a 330-acre AFD located in Tempe called the ASU Athletic Facilities District. ASU's plans to commercially develop the AFD include approximately 8 million square feet of mixed-use development, including office, retail, hospitality, and residential spaces, that it will lease to private parties to generate revenue for university athletic facilities. As of June 30, 2019, the ASU Athletic Facilities District board of directors reported that it had not yet generated any revenue. As of June 2019, ABOR reported that no other Arizona county had established an AFD within the boundaries of ABOR property.

- **Other commercial developments—**ABOR has leased some property outside of designated research parks and AFDs for commercial purposes and reported that it has done so to generate additional revenue for the universities. According to ABOR, it has entered into lease agreements for these properties pursuant to its general authority to lease property for the benefit of Arizona and for the use of the universities as authorized by A.R.S. §15-1625(B)(4). For example, ABOR has entered into long-term lease agreements and development agreements on behalf of the universities to allow private parties to use its property for the development of hotels and conference centers, office buildings, and residential space, in exchange for lease revenues to be paid to the universities. For more information on these specific agreements, see textbox, pages 4 through 6. The universities have also advertised ABOR property as being available for commercial development. For example, as of June 2019, ASU's website indicated that approximately 360 acres of vacant property on its Polytechnic and West campuses were available for commercial development.

Approved commercial developments on ABOR property, by university[1]

ASU

Marina Heights office complex, Tempe—In 2000, ASU issued a request for proposals (RFP) to develop approximately 26 acres of ABOR property south of Tempe Town Lake. ASU selected and entered into a memorandum of understanding with SunCor Development Company (SunCor). However, due to changing market conditions and the bankruptcy of SunCor, ASU delayed development plans until after SunCor transferred its rights to lease the property to developer RP HFL, LLC. In January 2013, ASU amended an existing development agreement for the property with the City of Tempe to include RP HFL, LLC, and RP HFL, LLC, later partially assigned its rights to lease 20.28 acres of the property to S/R Marina Heights, LLC. In August 2013, ABOR entered into a 99-year lease agreement for 20.28 acres of the property with S/R Marina Heights, LLC, for the development of high-density office and commercial space. ASU reported that, as of March 2019, RP HFL, LLC, has the option to lease the remaining 5.5 acres of the property.

Marina Heights, Tempe
Photo source: Auditor General staff

ASU continued

Mirabella senior living community, Tempe—In the early 2000s, ASU planned to create an Arts and Business Gateway District (arts district) on the southeast corner of Mill Avenue and University Drive in Tempe, which would have incorporated academic and commercial space. The development plans for the property later included only commercial development, but these plans were never finalized because of financing issues. In June 2016, ASU requested that ABOR authorize it to lease a portion of the property previously planned for the arts district to the ASU Foundation to develop a continuing care senior-living community and lifelong learning center called Mirabella.[2] In December 2017, ABOR entered into a 99-year lease agreement for 1.89 acres of property with Mirabella at ASU, INC., a nonprofit created by an affiliate of the ASU Foundation and Pacific Retirement Services, Inc. to operate Mirabella.

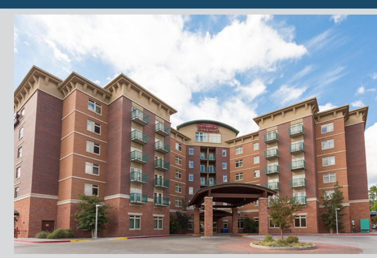
Rendering of Mirabella, Tempe
Photo source: ASU

Omni Hotel, Tempe—In 2015, ASU reported that it privately requested proposals from 3 developers to develop a hotel and conference center on ABOR property, and it selected Omni Tempe, LLC.[3] In November 2016, ABOR also approved ASU's request to lease approximately 1.6 acres of property previously planned for the arts district to Omni Tempe, LLC, for a term of 60 years to develop a 330-room hotel and a 30,000 square foot conference center. In February 2018, ABOR entered into an agreement with Omni Tempe, LLC, that provides Omni Tempe, LLC, the exclusive option to lease the property for a limited period of time. However, as of March 2019, Omni Tempe, LLC, had not exercised its option to lease the property from ABOR.

Rendering of Omni Hotel, Tempe
Photo source: ASU

NAU

Drury Inn, Flagstaff—In March 2005, NAU issued an RFP to develop a hotel on approximately 1.75 acres of property on its Flagstaff campus. Drury Southwest Flagstaff, LLC, was the only company to respond to the RFP and proposed the development of a 150-room hotel contingent on NAU's development of a conference center and parking structure on adjacent property. In May 2006, after approving NAU's development of the conference center and parking structure, ABOR signed a 30-year lease with Drury Southwest Flagstaff, LLC.



Drury Inn, Flagstaff
Photo source: Drury Hotels

UA

The Village, Tucson—As previously discussed (see page 3), the Rita Road property consists of approximately 1,260 acres, a portion of which is planned for a commercial development called The Village. Since July 2009, ABOR has leased most of the property to the CRC, which operates and subleases the property. The CRC has selected Bourn Companies, LLC, to assist in planning, designing, financing, and developing The Village, an approximately 175-acre, mixed-use development that will include residential, retail, commercial, and hotel uses. As of March 2019, the CRC had not signed a development agreement with Bourn Companies, LLC.

Rendering of The Village, southeast of Tucson
Photo source: UA

UA continued

UA Tech Park at the Bridges, Tucson—In 2007, ABOR acquired approximately 54 acres near 36th Street and Kino Parkway in Tucson on behalf of UA to develop a new technology park, separate from the UA Tech Park at Rita Road, that would house technology, research, and academic organizations.[4] In July 2009, ABOR entered into a master lease for the property with the CRC with a termination date in 2082. In June 2014, ABOR approved a lease amendment to include an additional 11.4 acres of land ABOR had acquired at the property and to extend the lease termination to 2113. The CRC is responsible for subleasing the property to develop a tech park. Development plans for the property include commercial office and laboratory space, a hotel and conference center, and potential classroom, office, or recreational facilities for university use. The CRC selected Boyer Company to design and construct the first building, and as of February 2019, the CRC and Boyer Company were negotiating a development agreement.

UA Tech Park at the Bridges, Tucson
Photo source: UA

[1] These properties represent the significant commercial leases and/or proposed commercial leases on ABOR property reported by the universities as of March 2019. Because ABOR does not maintain a comprehensive listing of its properties, including current and/or planned use (see Finding 3, pages 21 through 24), this list may not be complete.

[2] The ASU Foundation is a nonprofit, nongovernmental organization that raises and invests private contributions to ASU.

[3] ASU did not provide documentation of the 3 privately requested proposals.

[4] As of February 2019, UA reported that it does not plan to designate any property at the UA Tech Park at the Bridges as a research park, as defined by A.R.S. §35-701.

Source: Auditor General staff analysis of ABOR, university, and university-affiliate documentation.

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 has approved some commercial lease agreements that provide property tax benefits to lessees and has revised its leasing policy to require consideration of tax and economic impacts for future commercial leases

As discussed in the Introduction, statute authorizes ABOR to lease its property to benefit Arizona and for the universities' use, and ABOR has maintained and updated policies governing real estate transactions (real estate policies) since the late 1980s. As of March 2019, ABOR has entered into several commercial lease agreements, reviewed its real estate policies, and revised its real estate policy related to commercial lease agreements (leasing policy). Specifically:

- **ABOR approved commercial lease agreements that generate revenue for universities, and some provide 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, office buildings, and residential use or a mixture of these uses (see the Introduction, pages 4 through 6, for more information on these properties).[8] The lease agreements for these commercially developed properties include provisions for the lessees to provide revenue to the universities through rental payments and/or additional lessee payments (see Appendix C, pages c-1 through c-4, for more information on lease agreement terms).

  Additionally, as of February 2019, 2 of the lease agreements—for the Marina Heights and Mirabella properties associated with ASU—provide property tax benefits to the lessees. Specifically, these lease agreements transfer ownership of improvements the lessees construct on the properties to ABOR, which provides the lessees property tax benefits because ABOR's ownership results in a property tax exemption for these improvements. For example, in tax year 2018, the Marina Heights lessee received the benefit of ABOR's property tax exemption for its privately constructed improvements that were assessed a full cash value of more than $591 million. Instead, beginning in 2024, the Marina Heights lessee will make annual payments to ASU of approximately $1.5 million, increasing to approximately $4.4 million in 2027 and thereafter. Conversely, some other lease agreements ABOR approved do not provide this benefit and result in lessees paying property taxes for improvements constructed on ABOR property. For example, under the terms of the lease agreement for the Drury Inn property associated with NAU, the lessee has retained ownership of the improvements. As a result, this lessee has paid more than $1.4 million in personal property taxes on its

[8] A.R.S. §15-1625 (B)(4).

privately owned improvements for tax years 2009 through 2018 (see textbox for detailed information on the personal property taxes that the lessee paid in 2018).[9]

- **ABOR subcommittee adopted principles for university development of ABOR property—**In November 2017, ABOR initiated a review of its real estate policies, which resulted in ABOR establishing a University Property Oversight Subcommittee (subcommittee).[10] ABOR charged the subcommittee with developing recommendations for policy revisions or further defining ABOR's governance of university real estate transactions. The subcommittee held its first meeting in February 2018. The subcommittee developed a policy position and principles for ABOR's governance of university development of ABOR property, which ABOR approved in September 2018. These principles emphasize that university development of ABOR property should maximize benefit to and advance the mission of the university and should not be solely for the purpose of abating taxes for private entities.

2018 personal property taxes lessee paid for Drury Inn improvements

Full cash value		Assessment ratio for commercial personal property		Assessed value
$8,510,880	x	18%	=	$1,531,958

Assessed value		Combined tax rate for local taxing jurisdictions[1]		Personal property taxes paid
$1,531,958	x	9.102%	=	$139,439

[1] The tax rate presented is the combined primary and secondary property tax rates for Coconino County tax area 0150 where the Drury Inn improvements are located.

Source: Auditor General staff analysis of Coconino County Assessor and Treasurer records and A.R.S. §§42-12001 and 42-15001.

- **Consultant reviewed ABOR's real estate policies and identified areas for improvement—**To help meet its charge, the subcommittee contracted with a private real estate consultant to review ABOR's real estate policies, industry best practices, and the practices of other university oversight systems. In November 2018, the consultant provided a report to ABOR summarizing its findings and potential solutions to address several identified areas needing improvement, including:
    - **Lack of policies specific to commercial projects—**To address this issue, the consultant proposed that ABOR adopt a separate set of policies that include requirements for reviewing market assumptions, budgeted costs, project timelines, and projected returns for commercial real estate projects.
    - **Limited oversight and reporting structure and reactive asset management—**The consultant proposed multiple potential solutions to address these issues, including that ABOR hire additional staff with real estate expertise or use a third-party firm to actively oversee and manage its real estate portfolio and/or implement a standardized asset management system to enable ongoing oversight and required standardized reporting for commercial real estate projects (see textbox, page 9, for examples of standardized reporting).
    - **Lack of real estate expertise—**To address this issue, the consultant proposed that ABOR hire additional real estate staff to assist with ABOR's oversight of university real estate projects and to facilitate communication between the universities and ABOR.
- **ABOR revised leasing policy to require consideration of tax and economic impacts and ongoing reporting for commercial lease agreements—**In December 2018, ABOR approved revisions to its leasing policy—a component of its real estate policies—to include new requirements for commercial

[9] The Drury's privately owned improvements constructed on tax-exempt public land were classified as improvements on possessory rights (IPRs), pursuant to A.R.S. §42-19003. The Coconino County Assessor assessed tax on the improvement's value, excluding the value of the tax-exempt land, and entered it on the personal property tax roll. Effective August 27, 2019, Laws 2019, Ch. 249, defines all privately owned residential, commercial, and industrial buildings located on government property as possessory improvements and allows them to be placed on the real property tax roll.

[10] Prior to March 22, 2018, the subcommittee's name was the Real Estate Subcommittee.

lease agreements.[11] The revised policy requires the universities to provide information to ABOR documenting the proposed lease agreement's economic benefits to the university and Arizona, including the tax treatment of the real property and proposed improvements, its property tax impact on other taxing jurisdictions, and how it furthers the university's institutional mission. Additionally, the policy revisions require the universities to annually report to ABOR the status of long-term commercial lease agreements, including providing updates on financial information relative to the lease agreement terms—such as revenue generated—and the universities' intended use of the lease revenue. As of March 2019, none of the universities had presented a commercial long-term lease agreement proposal to ABOR that would be subject to review and approval under the revised policy.

Examples of standardized reporting provided by consultant

- Monthly occupancy report detailing information such as tenant names and rent escalation schedules.
- Quarterly performance report that compares key performance metrics against targets.
- Quarterly leasing report that tracks leasing progress, including relevant vacant space, proposed lease terms, and transaction stages of various projects.
- Quarterly update call to review recent reporting and discuss new developments.
- Annual discussion and analysis report detailing investment results, current financial condition, and future financial projections.

Source: Auditor General staff analysis of consultant report provided to ABOR.

Prior to implementing the revised leasing policy, ABOR did not require public review of economic benefits, tax treatment, or tax impacts when approving commercial leases. Although not required, during its public review for 2 of the 6 commercial developments discussed in the Introduction (see pages 4 through 6), ABOR received general statements of the proposals' expected economic benefits but did not receive an analysis to support those statements. For example, despite ASU stating that the Marina Heights development would provide revenue to the State and local municipalities and employment opportunities for students, it could not provide an economic benefits analysis to support this statement.

We identified 2 issues with ABOR's implementation of its real estate policies that may limit its ability to demonstrate how each commercial lease agreement aligns with its statutory authority to lease property to benefit Arizona and for the universities' use. Specifically: (1) ABOR lacks written guidance and other processes for implementing its real estate policies, increasing the risk of not ensuring appropriate use of public resources leased to private parties and (2) ABOR's lack of written guidance for the approval of commercial sublease agreements under its master lease agreements increases the risk that subleased property is used inconsistent with statute.

Issue 1: ABOR lacks written guidance and other processes for implementing its real estate policies, increasing the risk of not ensuring appropriate use of public resources leased to private parties

Despite revising its leasing policy, ABOR lacks written guidance and other processes to effectively implement it and other real estate policies

Although commercial lease proposals that ABOR reviews after January 2019 will be subject to its revised leasing policy requirements, there is a risk that for future commercial leases ABOR may inadequately demonstrate how these leases will align with its statutory authority to lease property to benefit Arizona and for the universities' use. Four factors contribute to this risk:

[11] ABOR policy defines commercial lease agreements as lease agreements for which a majority of business conducted at the property, calculated either by lease revenues generated or by allocation of square footage, is anticipated to come from a nonuniversity population.

- **ABOR has not clearly defined leasing policy requirements or issued written guidance for universities to follow—**Lack of definitions and written guidance for implementing leasing policy requirements may limit ABOR's ability to demonstrate how its commercial lease agreements are aligned with its statutory authority to lease property to benefit Arizona and for the universities' use.[12] For example, although ABOR revised its leasing policy to include new approval and reporting requirements, it has not developed written guidance that the universities must follow for documenting the economic and tax impact considerations required by its policy or specifying the information this documentation should include. As a result, the universities may conduct analyses of these considerations that do not provide sufficient or consistent information to ABOR or that inadequately evaluate the public costs and benefits of proposed commercial leases. Without high-quality and consistent analyses of the considerations required by its leasing policy for each proposed commercial lease, ABOR could approve commercial lease agreements that allow a public resource to be used primarily for private benefit.

- **ABOR lacks written guidance on how universities should document justification for policy waiver requests—**ABOR's real estate policies allow it to waive any of its real estate policy requirements upon request by a university. However, ABOR's policy does not prescribe criteria for the appropriate use of the waiver, nor has it developed written guidance explaining how the universities should document justification for waiver requests. Without both established criteria and written guidance on how universities should document justification for waiver requests, ABOR risks receiving inconsistent information from the universities and waiving real estate policy requirements designed to help ensure that ABOR's property is used to benefit Arizona and the universities.

- **ABOR lacks written guidance on how universities should determine fair market rental value—**ABOR's real estate policies require lease rental rates to reflect fair market rental value. However, ABOR has not developed written guidance on how the universities should determine fair market rental value for a property, such as through a process similar to a property appraisal or valuation. For example, ABOR policy requires the universities to obtain recent appraisals prior to a sale, purchase, or exchange of property to determine the property's current market value. Without written guidance on how the universities should determine fair market rental value, ABOR risks receiving inconsistent information from the universities to evaluate whether a proposed commercial lease agreement provides the maximum benefit for the university and the State and does not use a public resource primarily for private benefit.

- **ABOR lacks a process to ensure universities comply with ongoing approval and reporting requirements—**ABOR's leasing policy requires it to approve amendments to previously approved lease agreements, and, as discussed on pages 8 through 9, it also requires ongoing reporting on commercial lease agreements. However, ABOR has not established a process to help it ensure that the universities comply with ongoing approval, reporting, or assessment requirements for approved lease agreements and that the universities provide the appropriate information to ABOR related to these requirements. Instead, it relies on informal communication between ABOR staff and the universities to ensure the universities comply with these requirements. For the 5 commercial lease agreements we reviewed, ABOR could not provide evidence that it had approved all the subsequent amendments for 2 of the lease agreements. Lacking a process for tracking and monitoring ongoing approval of lease amendments and that reporting requirements are consistently met may limit ABOR's ability to provide continued oversight, such as reviewing the potential effect of amendments to previously approved lease agreements or continuing to assess whether a lease agreement ensures that its property is not used primarily for private benefit.

[12] ABOR has established a policy manual that includes additional written guidance for some of its policies that the universities must follow when implementing these policies. For example, the policy manual includes university enrollment reporting policies and related guidance that the universities must follow to uniformly classify and count students to meet the policy's reporting requirements.

Agreements that use public resources to provide benefits for private entities should be monitored and evaluated

Guidance issued by the Government Finance Officers Association (GFOA) and The Pew Charitable Trusts (Pew) recommend that public entities that intend to use tax incentives that provide benefits to private entities through the use of their resources—such as the entity's property-tax-exempt status—should establish policies to help ensure appropriate use of public resources, compliance with laws, consistent administration of agreements, and transparency.[13,14] Although public entities typically use tax incentives—including tax credits, exemptions, and deductions—as a tool to promote economic development within their jurisdictions, use of such tax incentives is not limited to economic development purposes. For example, as discussed on pages 7 through 8, ABOR has provided the incentive of property tax benefits to private parties through some of its commercial lease agreements in exchange for additional revenue for the universities. Whether the tax incentives are provided for economic development purposes or to generate additional revenue, it is prudent for tax incentive use practices to include:

- **Objectives and performance standards—**The GFOA recommends that policies for using and administering agreements that provide tax benefits to nongovernmental entities define the objectives that the public entity intends to achieve through tax benefit agreements. An example of an objective could be generating additional revenue to supplement the university's existing revenue sources.[15] Additionally, these policies should require that each agreement include measurable performance standards that are related to the entities' objectives for entering such agreements. Examples of measurable performance standards could include targets for businesses located on the property to provide student internships or collaborate on university research projects. The policies should outline a process through which the public entity can take action if the objectives or standards of the agreement are not met. For example, agreements that provide tax benefits should include provisions allowing public entities to recover the cost of the tax benefit if the private entity receiving the benefit does not meet the performance standards.[16]

- **Defined evaluation processes—**The GFOA recommends establishing a process for evaluating tax incentive proposals that includes the following activities:

    - An assessment of how the proposal aligns with the entity's goals and objectives for such agreements.[17]

    - A comparison of the costs and benefits of the proposal, including the financial and nonfinancial costs and benefits.[18] This comparison should consider the following aspects of the expected costs and benefits:[19]

        - **Timing of expected costs and benefits—**For example, if a public entity expects to receive the benefit of revenue payments over the course of a 99-year lease agreement, payments received near the end of the agreement will have a lower monetary value than those received at the beginning of the agreement if they were not adjusted for inflation over time or adjusted to account for increasing land value over time.

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[13] Government Finance Officers Association (GFOA). (2017a). *Establishing an economic development incentive policy*. Retrieved 5/6/2019 from https://www.gfoa.org/establishing-economic-development-incentive-policy. The GFOA is an association that represents more than 20,000 public finance officials from federal, state/provincial, and local governments with the mission of advancing excellence in state and local government financial management.

[14] The Pew Charitable Trusts. (2017). *How states are improving tax incentives for jobs and growth: A national assessment of evaluation practices*. Philadelphia, PA. The Pew Charitable Trusts is a nonprofit organization with the mission of improving public policy by conducting research and providing data on topics such as environmental, health, state, and consumer policy initiatives.

[15] ABOR's leasing policy states that the objective of entering into commercial lease agreements is to optimize the value of the property to the university and to enhance the institutional mission of the university.

[16] GFOA, 2017a.

[17] GFOA, 2017a.

[18] GFOA, 2017a.

[19] GFOA. (2017b). *Evaluating and selecting economic development projects*. Retrieved 5/6/2019 from https://www.gfoa.org/evaluating-and-selecting-economic-development-projects.

- **Likelihood that expected costs and benefits will occur—**There is a risk that some costs and benefits outlined in a proposal will not be realized. For example, an agreement could include benefits to the university such as additional rent payments based on increasing lessee revenue projections or the creation of a certain number of opportunities for student internships or employment for university graduates that may not meet performance standards specified in the agreement. The cost-benefit comparison should account for the probability that the costs or benefits may not be realized.

- **Multijurisdictional impact of expected costs and benefits—**For example, a proposed agreement could generate a benefit for one jurisdiction that results in a potential cost or loss of benefit for another jurisdiction—such as new commercial development that contributes to a university's recruitment appeal but that increases the burden on a local jurisdiction's infrastructure and other services, including water service and fire departments.

○ An evaluation of the proposal's impact on the potential tax revenue for other taxing jurisdictions, such as increased sales tax revenue as a result of the development or provisions that allow new developments to be exempt from local property taxes.[20] For example, tax incentive evaluators often estimate the indirect economic benefits of an agreement, such as revenue from individual and corporate income taxes or sales taxes. However, Pew found that high-quality evaluations also explain the assumptions and limitations used when estimating these indirect economic benefits, such as disclosing whether alternative evaluation methods provide higher or lower estimates of indirect economic benefits and justifying which method is most appropriate for the circumstances.[21]

Additionally, Pew recommends that impartial, nonpartisan evaluators with experience in program evaluation and economic impact analyses conduct these evaluations.[22]

- **Ongoing evaluation requirements—**The GFOA recommends that policies require each agreement receiving a tax benefit to be periodically evaluated to ensure the performance standards are being met and to determine the agreement's actual costs and benefits.[23] The public entity's need for updated information and the evaluators' capacity should determine the ongoing evaluation schedule. For example, for a program in Maryland, evaluators calculated both the benefits of the tax credit program and the negative effects of forgone tax revenue on other government programs. The evaluators determined that the negative effects of reduced government spending outweighed the benefits produced by the tax credit program and recommended ending the program.[24] GFOA recommends that the results of these periodic evaluations be made public to the appropriate jurisdictions, stakeholders, and citizens.[25]

Recommendations

ABOR should:

1. Develop and implement written guidance for the universities to follow regarding commercial lease agreements that:

    a. Requires each agreement to include measurable performance standards related to its policy objective for entering the agreement and a process through which ABOR may take action if a private entity receiving a benefit through an agreement does not meet the performance standards.

[20] GFOA, 2017a.

[21] The Pew Charitable Trusts, 2017.

[22] The Pew Charitable Trusts, 2017.

[23] GFOA. (2015). *Monitoring economic development performance*. Retrieved 5/6/2019 from https://www.gfoa.org/monitoring-economic-development-performance-1.

[24] The Pew Charitable Trusts, 2017.

[25] GFOA, 2015.

b. Outlines a process for complying with ABOR's policy requirement to document the proposed lease agreement's economic benefits, tax treatment of the real property and proposed improvements and its impact on other taxing jurisdictions, and how it furthers the university's institutional mission, including:

- An assessment of how the proposal aligns with ABOR's objectives for such agreements.
- A comparison of the costs and benefits of the proposed agreement that identifies its financial and nonfinancial costs and benefits.
- An assessment of the proposal's impact on the tax base and potential tax revenue for other taxing jurisdictions.
- An explanation of any assumptions used in the evaluation, such as those used to develop estimates of indirect economic benefits and the limitations of the results.

c. Requires that each agreement receiving a tax benefit be periodically evaluated, on a schedule determined by ABOR's need for updated information and the evaluator's capacity, to ensure the private entity receiving the benefit is meeting the agreement's performance standards and to determine the agreement's actual benefits and costs.

2. Develop and implement criteria on the appropriate use of the real estate policy requirement waiver and written guidance for the universities on how they should document justification for policy waiver requests.
3. Develop and implement written guidance for the universities on how to determine fair market rental value for property it leases.
4. Develop and implement a process to track and monitor ongoing approval and reporting requirements to help ensure the universities comply with the requirements.

ABOR response: As outlined in its **response**, ABOR agrees with the finding and will implement the recommendations.

Issue 2: ABOR's lack of written guidance for the approval of commercial sublease agreements under its master lease agreements increases the risk that subleased property is used inconsistent with statute

ABOR has approved master lease agreements with third parties affiliated with the universities for property at ASU and UA that delegate ABOR's authority to approve sublease agreements to ABOR's designee at the university. These master lease agreements allow third parties to sublease ABOR property for commercial development. However, although ABOR has revised its leasing policy to assess and consider the various factors discussed on pages 8 through 9, this policy does not apply to sublease agreements for commercial development executed by third parties under the master lease agreements. Additionally, ABOR has not developed any written guidance for its designees to similarly assess commercial development sublease agreements they approve.[26]

This lack of written guidance increases the risk that ABOR property subleased through third parties is used inconsistent with its statutory authority to lease property to benefit Arizona and for the universities' use. For example, in July 2009, ABOR entered into a master lease agreement with a third party, the CRC, to commercially develop and manage ABOR property at the UA Tech Park at the Bridges (Bridges) in Tucson (see the Introduction, page 6, for a description of this property). This agreement allows the CRC to sublease ABOR property and authorizes the UA president, on behalf of ABOR, to consent to the CRC sublease agreements but does not

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[26] As discussed on page 2, ABOR policy requires it to approve leases that meet the following criteria: the lease term exceeds 120 months, the annual base lease amount exceeds $1 million, or the rental rate is less than fair market rental value.

outline any specific assessments or considerations of the factors required by ABOR's leasing policy that the UA president should make when consenting to sublease agreements. As a result, the CRC could sublease the entire property at the Bridges, which consists of more than 60 acres of ABOR property, for commercial development without ABOR or its designee considering the economic and tax impact of the sublease agreement or how it contributes to UA's institutional mission.

Recommendations

ABOR should:

5. Develop and implement written guidance similar to its leasing policy requirements for commercial leases that its designees should follow when approving commercial development sublease agreements under its master lease agreements.

6. Review existing master lease agreements and determine if they can be amended to include approval requirements that are consistent with its new guidance on master lease agreements and amend them accordingly.

   ABOR response: As outlined in its **response**, ABOR agrees with the finding and will implement the recommendations.

FINDING 2

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 the CRC through several agreements

> **Affiliated organization—**A legally separate nonprofit corporation that holds economic resources and carries out activities primarily in support of the universities.
>
> Source: Auditor General staff analysis of ABOR policies and guidelines.

ABOR has entered into 3 master lease agreements with the CRC, a nonprofit, nongovernmental affiliated organization of UA (see textbox) to operate, manage, and sublease properties ABOR owns on behalf of UA. Specifically, ABOR has entered into a master lease agreement with the CRC for its property at the Bridges and 2 separate master lease agreements with the CRC for most of its Rita Road property. ABOR has designated a portion of the Rita Road property as a research park, which restricts this designated portion of the property to statutorily permitted uses.[27] The 3 master lease agreements authorize the UA president to act as ABOR's designee to oversee and enforce compliance with the requirements of the master lease agreements with the CRC.

We identified 2 issues related to ABOR's oversight of its property leased to the CRC. Specifically: (1) ABOR and UA did not adhere to master lease requirements, resulting in the inappropriate use of $3.9 million and inadequate oversight of master lease agreements and (2) ABOR failed to publicly account for official activities related to CRC agreements, limiting public transparency and assurance that public resources were used appropriately.

Issue 1: ABOR and UA did not adhere to master lease requirements, resulting in the inappropriate use of $3.9 million and inadequate oversight of master lease agreements

UA did not adhere to master lease requirements, resulting in the CRC spending millions of dollars without written approval and inappropriately using $3.9 million

ABOR's 3 master lease agreements require the UA president, on behalf of ABOR, to review and approve the CRC's annual budget and provide written consent for the CRC's retention of any proceeds generated at the

[27] See Introduction, page 3, for more information on research parks and the Rita Road property and see Introduction, page 6, for more information on the Bridges property.

property for allowable expenses.[28] We requested that UA provide documentation of the UA president's budget approval and written consent of the CRC's retention of proceeds for fiscal years 2017 through 2019. Although the UA president reported that he approved the budget for fiscal year 2019, he did not retain documentation of the approval. Further, UA could not demonstrate that the UA president had approved the CRC's budget for fiscal years 2017 and 2018 and reported that the UA president did not provide written consent for the CRC's retention of proceeds during these 3 years. Specifically:

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

- **CRC spent millions of dollars without receiving required approvals—**The CRC's projected expenses are included in its annual budget, which was not approved in writing by the UA president in fiscal years 2017 through 2019. As a result, the CRC spent approximately $11 million and $12.5 million in fiscal years 2017 and 2018, respectively, and will spend an estimated $14.6 million in fiscal year 2019 without receiving the UA president's written approval. Based on our review of the CRC's fiscal years 2017 and 2018 financial statements and the fiscal year 2019 budget, examples of expenses included approximately $5.4 million for personnel services; $1.2 million for meetings, memberships, and business expenses; $371,000 for travel and automobile; and $272,000 for office supplies and other miscellaneous expenses.[29]

- **CRC retained all proceeds and used them for its own purposes rather than paying rent to UA—** All 3 master lease agreements require the CRC to pay rent to UA consisting of its annual net proceeds—gross revenue less amounts to be retained for authorized allowable expenses—from operating each of the properties. However, the CRC did not budget for rent payments to UA in fiscal years 2017 through 2019, nor did it make rent payments to UA in fiscal years 2017 and 2018 for any of the 3 leased properties.[30,31] Instead, in fiscal years 2017 and 2018, the CRC improperly advanced approximately $1 million in proceeds from the Rita Road property to the Bridges property, rather than paying these monies to UA as rent (see next bullet for more information). UA reported that the CRC's most recent rent payment to UA was $400,000 in fiscal year 2014.

- **CRC inappropriately advanced $3.9 million to the Bridges property and circumvented ABOR policy—**As of June 30, 2018, the CRC had inappropriately advanced approximately $3.9 million in proceeds generated from the Rita Road property for expenses at the Bridges property, including the $1 million in fiscal years 2017 and 2018 previously discussed. However, this advance payment:

    - **Violated the 2 master lease agreements for the Rita Road property—**The 2 master lease agreements state that any retained proceeds must be used for expenses for the property from which the proceeds were generated. Therefore, the advance payment of proceeds from the Rita Road property to the Bridges property violated the master lease agreements.

    - **Circumvented ABOR policy—**If UA intended to use its monies for development at the Bridges property, including any rental payments it received from the CRC for the Rita Road property, it would have had to receive ABOR approval under ABOR's capital development policy, as illustrated in Figure 1, page 17.[32]

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[28] Allowable expenses vary by master lease agreement. One of the agreements for the Rita Road property identifies allowable expenses as improvement and operation expenses related to the property. The second agreement for the Rita Road property and the agreement for the Bridges property identify allowable expenses as improvement, operation, and development expenses of the respective properties.

[29] The CRC's expenses include expenses for the Rita Road property, the Bridges property, and the UA Center for Innovation—a business incubator located within the Rita Road property that is a subsidiary of the CRC.

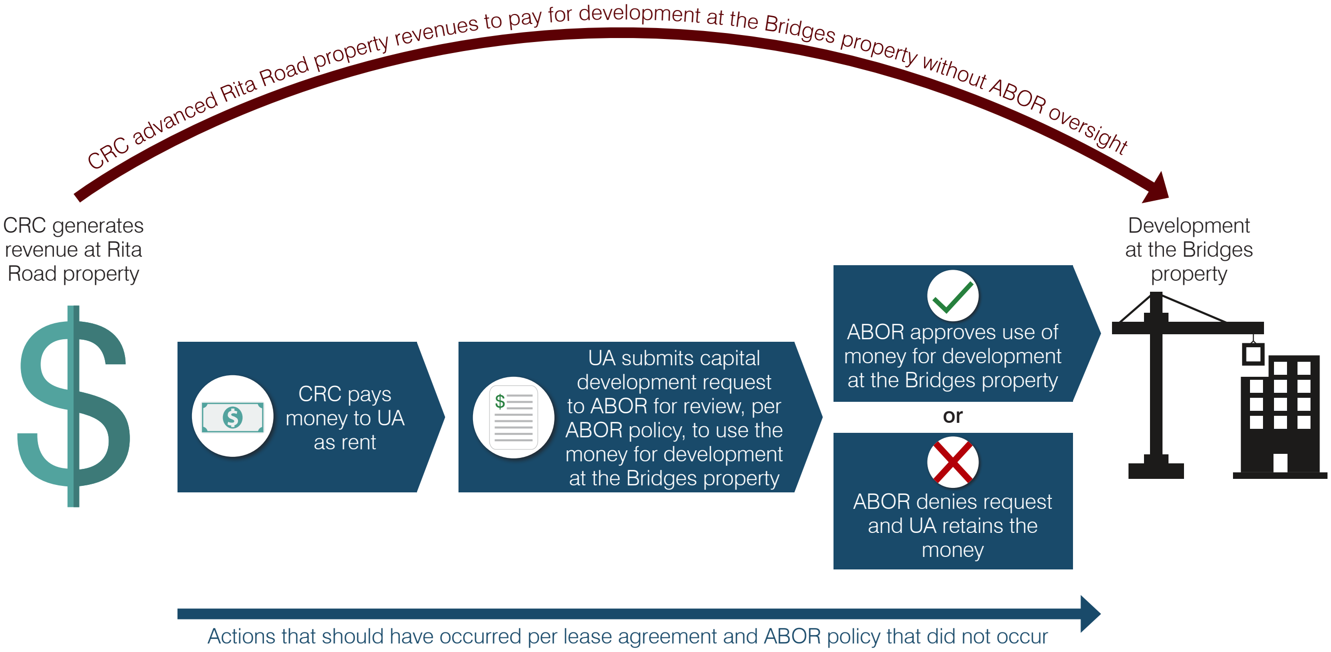
[30] As of June 2019, UA's financial statements for fiscal year 2019 were not available for review.

[31] Allowable expenses, as defined in the master lease agreements, may include reserves for contingencies and future expenditures.

[32] ABOR's policy on capital developments requires ABOR's review and approval of capital projects for which ABOR shares control, financing, or ownership of the development with third parties.

Figure 1

CRC advanced monies generated at Rita Road property to pay for development expenses at the Bridges property, bypassing ABOR's capital development policies and its approval for use of monies



Source: Auditor General staff analysis of the CRC's financial statements, UA documents, ABOR master lease agreements, and ABOR policies and guidelines.

This policy includes a requirement that ABOR review and approve funding for capital developments on ABOR property encompassing a review of fiscal impact, financing plans, and project-budget estimates. As a result, any proceeds generated from the Rita Road property that the CRC spent without authority for developing the Bridges property circumvented ABOR's policy and, thus, effectively removed ABOR from its oversight role for capital development on its property.[33]

- **CRC comingled proceeds from 2 different master lease agreements—**Although the CRC's audited financial statements report Rita Road property proceeds and expenses, the financial statements do not separately report the proceeds generated by and expenses for each of the 2 master lease agreements as required by the master lease agreements. As a result, ABOR cannot determine if the proceeds were appropriately used.[34]

Contrary to master lease agreements, UA relied on CRC board of directors' approval, and ABOR did not ensure UA properly oversaw CRC's compliance with reporting requirements

As previously discussed, UA could not demonstrate that the UA president had approved the CRC's budget.[35] Instead, UA reported that the CRC's board of directors, which includes UA and ABOR appointees, reviewed and

[33] Because UA did not submit a capital development plan for the Bridges property that would have included financial and budget information, we cannot determine how much of the $3.9 million advanced to the Bridges property was used for development expenses that should have been approved by ABOR in accordance with its capital development policy.

[34] The CRC's audited financial statements separately report activities for the Bridges property, which allowed us to identify the advancement of $3.9 million from the Rita Road property to the Bridges property.

[35] According to the UA president, he reviewed the fiscal year 2019 budget but did not retain documentation of this review.

approved the CRC's annual budgets.[36] However, ABOR's 3 master lease agreements require the UA president, on behalf of ABOR, to review and approve the CRC's annual budget, and provide written consent for the CRC's retention of proceeds, as opposed to the CRC's board of directors. The UA president was a member of the CRC board of directors in fiscal year 2018 and was present at the June 2018 CRC board of directors meeting during which the CRC board of directors approved the CRC's fiscal year 2019 budget. However, the CRC meeting minutes indicate that when approving the budget, the UA president's attendance was as a member of the CRC board of directors and not ABOR's designee. The UA president may have faced difficulty simultaneously acting on the CRC's behalf as a CRC board member while at the same time overseeing the master lease agreements as ABOR's designee. As of August 2019, the UA president no longer serves as a member of the CRC board of directors.

Conversely, ASU managed a similar agreement more effectively. Specifically, ABOR has entered into a master lease agreement with ASU Research Park, Inc. (ASURP), an affiliated organization of ASU, to manage and sublease the ASU research park. ASURP must pay rent to ASU consisting of its annual net proceeds—gross revenue less amounts to be retained for authorized allowable expenses. Similar to ABOR's agreements with the CRC, the master lease agreement with ASURP authorizes the ASU president to act as ABOR's designee to approve ASURP's budget and provide written consent for ASURP's retention of proceeds for allowable expenses. We determined that ASURP made rent payments of approximately $2.8 million to ASU in fiscal year 2017, and $3.1 million in fiscal year 2018, and estimates a rental payment of approximately $3.5 million in fiscal year 2019. Additionally, the ASU president approved ASURP's budgets prepared for fiscal years 2017 through 2019, including written consent for the retention of proceeds for allowable expenses. Further, as of June 2019, the ASU president was not a member of ASURP's board of directors.

Additionally, all 3 of ABOR's master lease agreements with the CRC require the CRC to annually provide its budgets and financial statements to the ABOR executive director. These reports could help inform ABOR's oversight decisions regarding the CRC's operation and management of ABOR property. However, as of March 2019, ABOR could provide only 1 of the CRC's financial statements for fiscal years 2016 through 2018 and could not provide any of the CRC's annual budgets for the same time frame. As a result, the documents were not available for ABOR's or its staff's review, thereby preventing ABOR from discussing and taking any public action it deemed necessary based on the information in the documents. ABOR staff reported that they could not identify a reason why they had not received the missing reports.

Recommendations

ABOR should:

7. Develop and implement a process to help ensure its designees fulfill the oversight duties delegated to them, such as conducting periodic monitoring or requiring designees to provide periodic reports or documentation detailing the fulfillment of their oversight duties.
8. Develop and implement policies that prohibit a university president and/or their designee who has been delegated oversight responsibilities for any real estate agreement with a third party from also participating in governance and/or operational responsibilities related to that third party.
9. Work with its legal counsel to determine whether any actions should be taken to address the improper advances from the Rita Road property to the Bridges property.
10. Develop and implement procedures to track and act on its oversight responsibilities prescribed in master lease agreements, such as ensuring it receives and appropriately reviews annual reports if the CRC does not provide them in accordance with master lease agreements.

    ABOR response: As outlined in its **response**, ABOR agrees with the finding and will implement the recommendations.

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[36] The CRC is managed by a board of directors that, according to its bylaws, consists of 13 members: 4 appointed by the UA president, 2 appointed by the ABOR chair—1 of whom must be a regent or a former regent who served after January 1, 2004—and 7 elected at-large by the incumbent directors.

Issue 2: ABOR failed to publicly account for official activities related to CRC agreements, limiting public transparency and assurance that public resources were used appropriately

Contrary to State public records laws, UA failed to retain records of its public activities related to overseeing ABOR's master lease agreements with the CRC

State public records laws require ABOR and its employees to maintain records that are reasonably necessary to provide an accurate accounting of their official activities.[37,38] Such records should also be open to the public for inspection, and ABOR is required to secure, protect, and preserve public records from deterioration, mutilation, loss, or destruction and retain them according to schedules established by Arizona State Library, Archives and Public Records.

Contrary to these laws, UA failed to account for its public activities related to overseeing ABOR's master lease agreements with the CRC. Specifically:

- **UA did not retain CRC sublease agreements after UA presidents' review and approval, thus limiting public assurance that ABOR's property was used appropriately—**ABOR's 3 master lease agreements with the CRC require the UA president to provide written consent for sublease agreements between the CRC and its tenants.[39] We requested a sample of CRC sublease agreements for 5 of the Rita Road property tenants from UA and were advised that UA did not have copies of the agreements.[40] After we made multiple requests for this documentation, UA obtained the subleases from the CRC and provided us with copies.

  When we requested the sublease agreements, UA reported that these agreements are private documents of the CRC and its tenants, and thus, UA did not consider them to be public records that needed to be retained. Further, UA reported that some sublease agreement provisions may contain information that the CRC and its tenants consider to be confidential and/or proprietary. 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.[41] In addition, there are methods for protecting confidential information within public documents. Specifically, according to the Arizona Office of the Attorney General's *Arizona Agency Handbook*, when confidential and public information are commingled in a single document, a copy of the document may be made available for public inspection with the confidential material excised.[42]

  UA's failure to retain the sublease agreements for the Rita Road property, which include subleases for tenants in an ABOR-designated research park, is inconsistent with Arizona public records law and prevents ABOR and the public from being able to assess that research park tenants have agreed to use subleased property

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[37] A.R.S. §§39-101 through 39-161.

[38] Arizona Attorney General. (2018). *Arizona Agency Handbook*. Retrieved on 4/11/19 from https://www.azag.gov/outreach/publications/agency-handbook.

[39] See Appendix B, page b-2, for UA Research Park tenants to which the CRC subleased designated research park property. Any tenants outside the designated area are not included in the appendix.

[40] We selected a judgmental sample of sublease agreements for 5 of the 22 tenants at the Rita Road property as of February 2019. As of February 2019, UA reported that the CRC had not entered any sublease agreements for the Bridges property.

[41] The sublease agreements we reviewed included signatures from 4 different UA presidents between 1999 and 2017.

[42] *Arizona Agency Handbook*, 2018.

within the research park for statutorily permitted uses (see Introduction, page 3, for more information on statutorily permitted uses of research park property).

- **UA did not have public record of UA president overseeing CRC master lease agreements—**As discussed in Issue 1 (see pages 15 through 18), the CRC's board of directors approved its own budget, and the UA president did not provide written consent for the CRC's retention of proceeds nor written approval of the CRC budget in his official capacity as ABOR's designee. Therefore, the approval of the CRC's budget and retention of proceeds were shielded from the public because the evidence of their approval remained the property of the CRC, a nonpublic entity. As a result, ABOR could not publicly account for the management of its property.

ASU manages similar agreement with ASU affiliate more transparently

As previously discussed on page 18, ABOR has also entered into a master lease agreement with ASURP, an affiliated organization of ASU, for the ASU Research Park. The master lease agreement with ASURP authorizes the ASU president to act as ABOR's designee to provide written consent for sublease agreements between ASURP and its tenants, approve ASURP's budget, and provide written consent for ASURP's retention of proceeds for allowable expenses. We requested a sample of 3 ASU Research Park sublease agreements and found that ASU had appropriately retained the sublease agreements after approving them.[43] Further, we determined that ASU retained evidence of approval of ASURP's budgets prepared for fiscal years 2017 through 2019, including its retention of proceeds and evidence of the ASU president's approval.

Figure 2
Comparison of ASU's and UA's retention of documents related to master lease agreement oversight

	ASU	UA
Written consent for subleases	✓	✗
Approval of lessee's budget	✓	✗
Written consent for lessee's retention of proceeds	✓	✗

Source: Auditor General staff analysis of ASU documents and interviews with UA staff.

Recommendations

ABOR should:

11. Ensure its legal counsel works with the universities to review their classification of public records in accordance with public records laws.

12. Comply with public records laws by maintaining records that are reasonably necessary to provide an accurate accounting of its official activities, such as those described in its master lease agreements.

    ABOR response: As outlined in its **response**, ABOR agrees with the finding and will implement the recommendations.

[43] We requested a judgmental sample of subleases for 3 of the 26 tenants at the ASU Research Park as of March 2019.

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

ABOR lacks complete list of its properties and their uses

As discussed in the Introduction (see pages 1 through 6), ABOR is responsible for purchasing, selling, leasing, and holding—or owning—property to benefit Arizona and for the universities' use. However, as of May 2019, ABOR did not maintain a list of properties that it owns (property listing), including land and improvements. Using information we obtained and compiled by searching records from all 15 Arizona county assessors' offices, supplemented with records from some county treasurers' offices, we identified 1,127 parcels in Arizona potentially owned by ABOR for use by the State's universities. These parcels totaled approximately 11,194 acres and were located in 12 of Arizona's 15 counties.[44] See Figure 3, page 22, for information on the number of acres ABOR owns in each Arizona county, and Appendix D, pages d-1 through d-12, for a list of the ABOR properties we identified, by county.

Although ABOR does not maintain a listing of property it owns, ABOR policy requires the universities to maintain some information on the ABOR properties they use.[45] To compare the university information to the information we obtained and compiled from county records, we asked the 3 universities for listings of all properties ABOR owns on their behalf, including each individual property's parcel number, address, acreage, property use, and date and method of acquisition for each individual property; name of lessee(s) for any leased properties; and date commercial or mixed-use property was developed. We received property listings from NAU and UA; however, we did not receive a listing from ASU. ASU reported that, although it maintains an inventory of all university facilities and real property that includes the requested information in several datasets, it does not maintain a single listing that includes all of the information we requested, and that it would take several months to compile a single listing of all its properties with the requested information. Instead, we agreed that ASU would provide a listing including the requested information for all its commercial properties, and it did so.

We compared the universities' listings we received to the listing we compiled and found:[46]

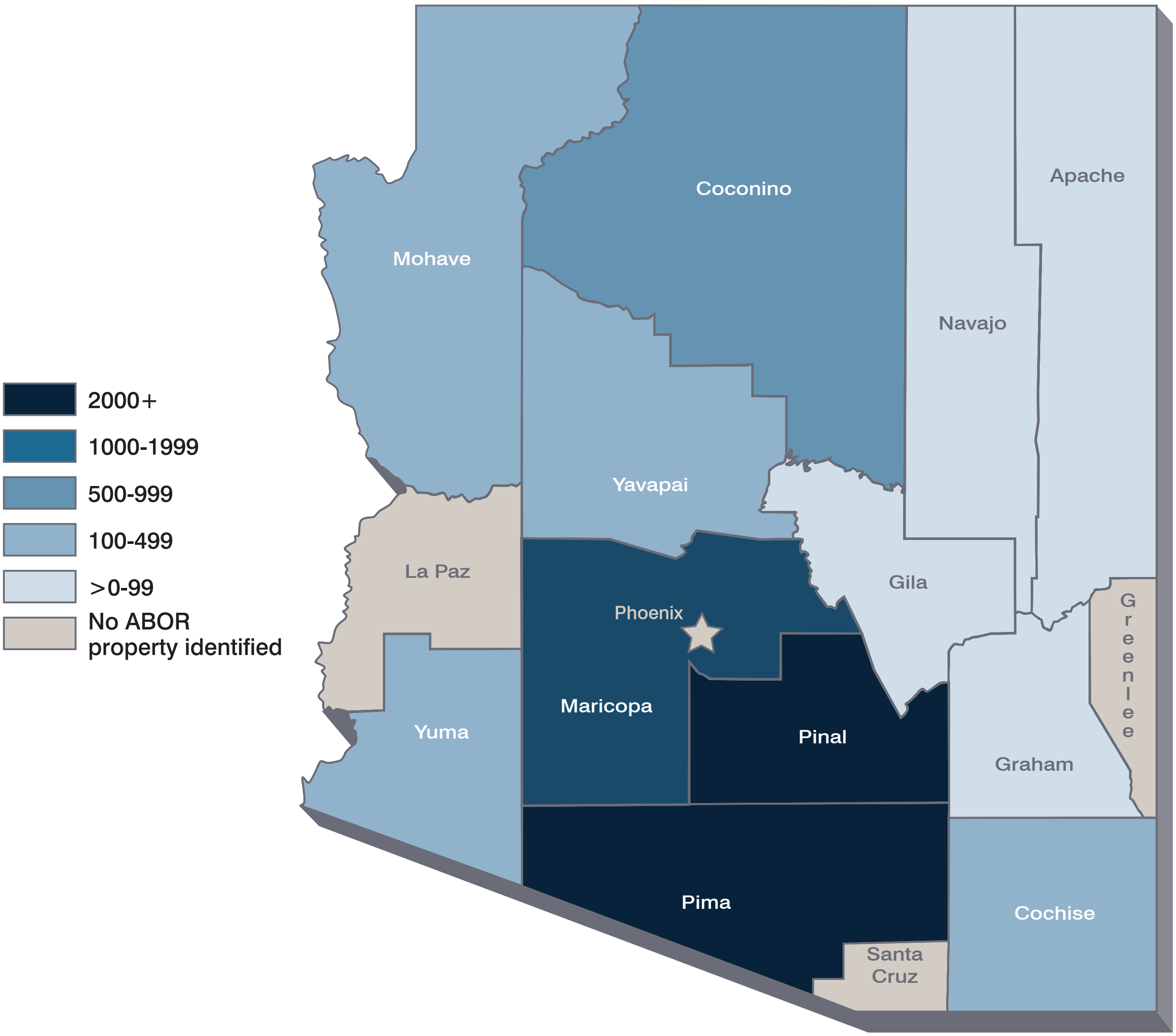
- **NAU's listing did not include all ABOR properties and included property for which ABOR's ownership is not clearly documented—**NAU's property listing included most of the information we requested for the 84 properties it listed. However, it did not include a parcel totaling approximately 23 acres that, according to

[44] To compile a list of ABOR property, we queried each county assessor's database by property owner using multiple variations of Arizona Board of Regents and the universities' names and, as necessary, supplemented these queries with information obtained through the county treasurers' databases. We determined that the county assessors' and treasurers' records provided a reasonable source of public information to compare against ABOR and university records. However, the list we compiled is unaudited and may not be a complete and accurate representation of all ABOR property. For example, our search may not have identified parcels with misspellings or alternative ownership names. Specifically, in August 2019, ASU reported that ABOR owns 2 parcels that were not included in our list for which the Maricopa County Assessor listed the owner as Arizona State Teachers College.

[45] ABOR policy requires each university to annually complete and submit to ABOR a capital improvement plan that includes a building inventory, lease report, land report, capital project status report, and other information.

[46] This comparison did not include property that ABOR may own in other states on behalf of the universities.

Figure 3
Acres of ABOR property in Arizona, by county
As of February 2019
(Unaudited)



Source: Auditor General staff analysis of Arizona county assessors' and treasurers' databases.

county assessor records, ABOR owns. Additionally, it included nearly 8 acres of property that, according to county assessor records, the State of Arizona owns, not ABOR. Further, as of September 2019, neither ABOR nor NAU had documentation identifying ABOR as the legal owner of this property.

- **UA's listing included properties owned by other parties and lacked complete information for some properties—**UA's property listing generally included the information we requested for the 774 properties it listed. However, it included 255 acres of property ABOR never owned and nearly 83 acres that ABOR had sold. Additionally, it described a parcel of property as land, but it did not include information indicating that the land is developed and in use by a third party.[47] Further, although UA's property listing included 1,260 acres at the Rita Road property, it did not include information to identify the portion of that property that ABOR had designated as a research park, which is subject to restricted uses as specified in statute (see Introduction, page 3, for more information about research parks). Finally, when comparing UA's listing of 774 properties to our listing compiled from county assessors' and treasurers' records, we identified several differences between the 2 listings, such as differences in parcel number information, that prevented us from assessing ABOR ownership of all properties on UA's listing. As a result, UA's listing may contain additional issues that could impact ABOR's property management.

- **ASU's commercial listing was consistent with county records—**ASU's commercial listing included the information we requested for the 66 properties it listed, and it was generally consistent with our listing compiled from county assessors' and treasurers' records. However, as previously discussed, ASU was not able to provide a single listing of all of its properties with the requested information. Thus, our analysis was limited to ASU's listing of commercial properties, which includes only a portion of ABOR properties ASU uses.

Additionally, the listings the universities provided did not include all property we identified from county assessors' and treasurers' records. Specifically, our listing included 1,127 unique parcels, whereas the universities' listings included 924 unique parcels. Therefore, absent additional information on these parcels, we were unable to review or assess more than 200 additional properties that ABOR may own.

Despite university processes for real estate transactions, ABOR's lack of comprehensive property information limits its ability to oversee and manage its property

The universities have developed processes for mitigating the risks of inaccurate property ownership information for property sales and leases. For example, all 3 universities contract with title companies to provide title reports for some property purchases. However, despite these processes, in September 2010, ABOR approved a building renovation at NAU on a portion of the 8 acres previously discussed for which neither ABOR nor NAU could produce deeds, titles, or other ownership documents. NAU reported that it did not assess ownership of the property prior to renovating this building because the property had existing university buildings dating back to 1914. By relying on university information that does not definitively demonstrate its ownership of property, ABOR risks approving developments and using public monies on land it does not own.

In addition, each university's processes are limited to the property ABOR owns for the respective university's use, hampering ABOR's ability to independently consider all of its property when reviewing proposed real estate transactions. For example, ABOR reported that each university consults its own property records when entering real estate transactions, such as property acquisitions and development agreements with third parties. However, this approach does not account for the availability of all ABOR property. Specifically, by not having complete and accurate information about all the property it owns, ABOR could approve a purchase of property when it already owns property that is available for the proposed use.

ABOR relied on universities to maintain property listings without providing sufficient guidance

Although ABOR policy requires the universities to maintain information on the ABOR properties they use, prior to our request for the universities' property listings, it had not developed guidance for developing and maintaining property listings or specifying the information on its properties that should be maintained, such as location, use restrictions, and current/planned uses. The State of Arizona Accounting Manual (SAAM) provides guidance that could help ABOR develop such policies and guidance. For example, the SAAM includes policies and procedures for the information that State agencies should maintain for safekeeping and accounting of capital assets and other

[47] We confirmed with staff at the Pima County Assessor's Office that 0.37 acres of property identified as "land" on UA's property listing had been commercially developed and includes a gas station and convenience store on the premises.

resources that represent a material investment, including parcel numbers, description of the property, location, and method of acquisition.[48] Further, the SAAM states that capital assets or resources that cannot be physically tagged should be assigned a property number and should contain sufficient information to unambiguously identify the property.

ABOR began working with universities to develop complete property listings in January 2019

During the audit, in January 2019, ABOR staff reported to ABOR that they were working with the universities to develop complete property listings of ABOR property, including providing each university with a property listing template to complete. The template includes information such as the property parcel number, location, size, value, method and date of acquisition, use/planned use, and if applicable, lessee and improvement information. ABOR staff reported that they expect the universities to complete developing these property listings by fall 2019. According to ABOR staff, they plan to collect and retain the listings prepared by each university once they are completed; will update them in conjunction with property sales, purchases, and other activities; and may conduct periodic reviews to ensure the lists are updated.

Recommendations

ABOR should:

13. Develop and implement policies and/or written guidance for developing and regularly updating property listings, including clearly identifying the property information that should be maintained in the listings, such as parcel numbers, description of the property, location, use restrictions, and current and planned uses.

14. Continue with its efforts to develop a complete and accurate property listing of all ABOR properties using information compiled by the universities, containing all land and improvements, with sufficient information to allow it to oversee the universities' use of its property, including unique property identification, location, use restrictions, and current and planned use.

15. Develop and implement procedures to verify property ownership and the accuracy of information in the property listings, such as working with the county assessors' and recorders' offices to verify property ownership. These procedures could include a risk-based approach and sampling methods for performing this verification work, as appropriate.

ABOR response: As outlined in its **response**, ABOR agrees with the finding and will implement the recommendations.

[48] Auditor General staff review of SAAM 2535-4 and 2535-8.1.

Auditor General makes 15 recommendations to ABOR

ABOR should:

1. Develop and implement written guidance for the universities to follow regarding commercial lease agreements that:

    a. Requires each agreement to include measurable performance standards related to its policy objective for entering the agreement and a process through which ABOR may take action if a private entity receiving a benefit through an agreement does not meet the performance standards.

    b. Outlines a process for complying with ABOR's policy requirement to document the proposed lease agreement's economic benefits, tax treatment of the real property and proposed improvements and its impact on other taxing jurisdictions, and how it furthers the university's institutional mission, including:

    - An assessment of how the proposal aligns with ABOR's objectives for such agreements.
    - A comparison of the costs and benefits of the proposed agreement that identifies its financial and nonfinancial costs and benefits.
    - An assessment of the proposal's impact on the tax base and potential tax revenue for other taxing jurisdictions.
    - An explanation of any assumptions used in the evaluation, such as those used to develop estimates of indirect economic benefits and the limitations of the results.

    c. Requires that each agreement receiving a tax benefit be periodically evaluated, on a schedule determined by ABOR's need for updated information and the evaluator's capacity, to ensure the private entity receiving the benefit is meeting the agreement's performance standards and to determine the agreement's actual benefits and costs (see Finding 1, pages 7 through 13, for more information).

2. Develop and implement criteria on the appropriate use of the real estate policy requirement waiver and written guidance for the universities on how they should document justification for policy waiver requests (see Finding 1, pages 7 through 13, for more information).

3. Develop and implement written guidance for the universities on how to determine fair market rental value for property it leases (see Finding 1, pages 7 through 13, for more information).

4. Develop and implement a process to track and monitor ongoing approval and reporting requirements to help ensure the universities comply with the requirements (see Finding 1, pages 7 through 13, for more information).

5. Develop and implement written guidance similar to its leasing policy requirements for commercial leases that its designees should follow when approving commercial development sublease agreements under its master lease agreements (see Finding 1, pages 13 through 14, for more information).

6. Review existing master lease agreements and determine if they can be amended to include approval requirements that are consistent with its new guidance on master lease agreements and amend them accordingly (see Finding 1, pages 13 through 14, for more information).

7. Develop and implement a process to help ensure its designees fulfill the oversight duties delegated to them, such as conducting periodic monitoring or requiring designees to provide periodic reports or documentation detailing the fulfillment of their oversight duties (see Finding 2, pages 15 through 18, for more information).

8. Develop and implement policies that prohibit a university president and/or their designee who has been delegated oversight responsibilities for any real estate agreement with a third party from also participating in governance and/or operational responsibilities related to that third party (see Finding 2, pages 15 through 18, for more information).

9. Work with its legal counsel to determine whether any actions should be taken to address the improper advances from the Rita Road property to the Bridges property (see Finding 2, pages 15 through 18, for more information).

10. Develop and implement procedures to track and act on its oversight responsibilities prescribed in master lease agreements, such as ensuring it receives and appropriately reviews annual reports if the CRC does not provide them in accordance with master lease agreements (see Finding 2, pages 15 through 18, for more information).

11. Ensure its legal counsel works with the universities to review their classification of public records in accordance with public records laws (see Finding 2, pages 19 through 20, for more information).

12. Comply with public records laws by maintaining records that are reasonably necessary to provide an accurate accounting of its official activities, such as those described in its master lease agreements (see Finding 2, pages 19 through 20, for more information).

13. Develop and implement policies and/or written guidance for developing and regularly updating property listings, including clearly identifying the property information that should be maintained in the listings, such as parcel numbers, description of the property, location, use restrictions, and current and planned uses (see Finding 3, pages 21 through 24, for more information).

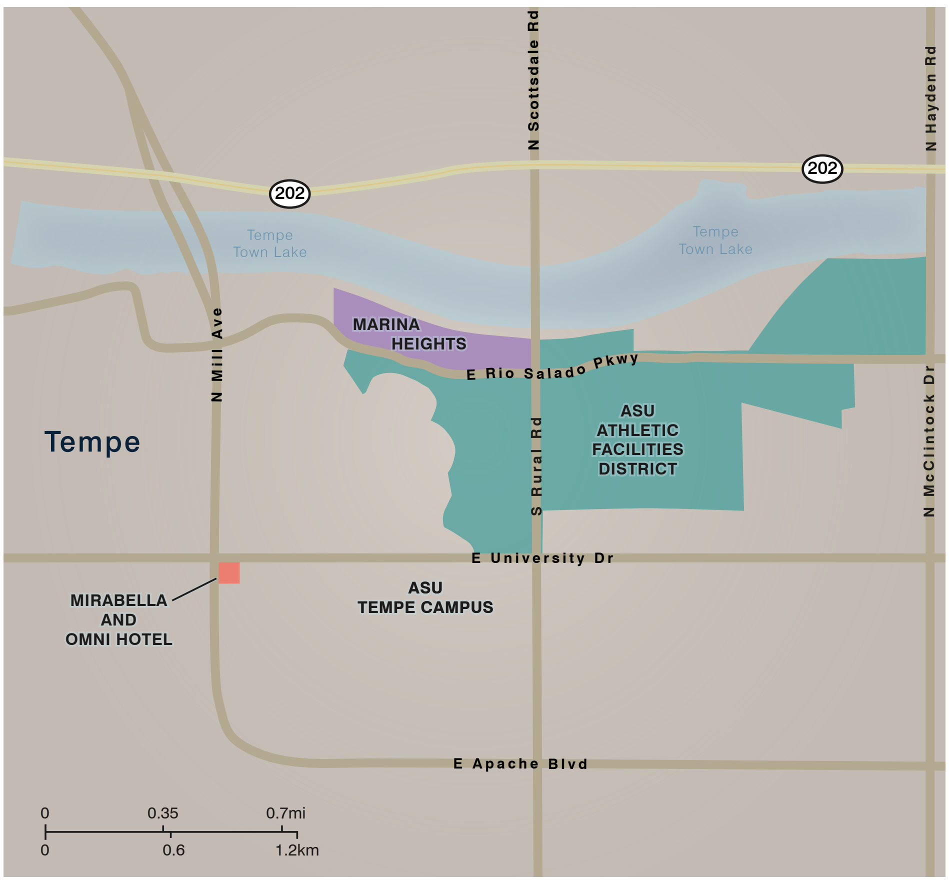
14. Continue with its efforts to develop a complete and accurate property listing of all ABOR properties using information compiled by the universities, containing all land and improvements, with sufficient information to allow it to oversee the universities' use of its property, including unique property identification, location, use restrictions, and current and planned use (see Finding 3, pages 21 through 24, for more information).

15. Develop and implement procedures to verify property ownership and the accuracy of information in the property listings, such as working with the county assessors' and recorders' offices to verify property ownership. These procedures could include a risk-based approach and sampling methods for performing this verification work, as appropriate (see Finding 3, pages 21 through 24, for more information).

Locations of ABOR property used for commercial purposes

As discussed in the Introduction (see pages 3 through 4), ABOR has approved the use of its property for commercial purposes. Figures 4 through 7 illustrate the location of the following properties: (1) Marina Heights, an office complex, (2) Mirabella, a senior living community, (3) Omni Hotel, (4) the ASU Athletic Facilities District, (5) ASU Research Park, (6) Drury Inn, (7) UA Tech Park at the Bridges (Bridges), a mixed-use development including commercial and hospitality space, and (8) UA Tech Park at Rita Road (Rita Road), including the UA Research Park and The Village, a mixed-use development including residential, retail, and hotel space.[49]

Figure 4
Marina Heights, Mirabella, Omni Hotel, and ASU Athletic Facilities District
As of July 2019



Source: Auditor General staff reproduction of AZGEO Clearinghouse Map Viewer and Maricopa County Assessor maps and review of ABOR documents and ASU documents. See Appendix E, page e-2, footnote 57, for additional information about AZGEO Clearinghouse.

[49] These commercial properties represent the significant commercial leases and/or proposed commercial leases on ABOR property the universities reported as of March 2019. Because ABOR does not maintain a comprehensive listing of its properties, including current and/or planned use (see Finding 3, pages 21 through 24), this list may not be complete.

Figure 5
ASU Research Park
As of July 2019

Source: Auditor General staff reproduction of AZGEO Clearinghouse Map Viewer and ASURP map.

Figure 6
Drury Inn
As of July 2019

Source: Auditor General staff reproduction of AZGEO Clearinghouse map and review of ABOR documents.

Figure 7
Bridges and Rita Road[1]
As of July 2019

1 Rita Road includes The Village and the UA Research Park.

Source: Auditor General staff reproduction of the AZGEO Clearinghouse Map Viewer and Pima County Assessor maps and review of UA documents.

APPENDIX B

Research park tenants

As discussed in the Introduction (see page 3), ABOR has designated property as research parks for ASU and UA. This appendix presents the tenants and their subtenants, as applicable, located within ABOR-designated research parks as of May 2019, as reported by ASU and UA.

Table 1
Research park tenants, by research park and lease date[1]
As of May 2019
(Unaudited)

Leases entered before July 31, 1996	Leases entered after July 31, 1996[2]
ASU Research Park tenants[3]	
• Biddulph-Peoria, LLC and its subtenants: ○ ConneXion ○ Titan Formwork Systems, LLC ○ Intersil Communications ○ Cypress Semiconductor Corp. ○ Nexnet Partners ○ Diversant, LLC ○ Quantenna Communications, Inc. ○ Ethoca Inc. ○ Marreel / Slater Insurance, LLC ○ ITA Group Inc. ○ ASE Group Inc. • Digital Arizona Research Park II, LLC and its subtenant: ○ Cyxtera Communications, LLC • EDJ Leasing Co., L.P. and its subtenant: ○ Edward Jones Investments • FTA Civic LLC and FTB Civic LLC and its subtenants: ○ Solvay (aka Cytec) ○ Linear Technology ○ Viasat Inc. • Iridium Satellite LLC and its subtenant: ○ Iridium Communications Inc. • Salt River Project and its subtenant: ○ Clemans Substation • SSR III Capital Group, LLC and its subtenant: ○ Peoples Mortgage Company	• 2010 E. Centennial Owner, LLC • Arizona State University Nanotechnology Research, LLC and its subtenant: ○ ABOR, acting for and on behalf of ASU • AVASU (AZ) LLC and its subtenant: ○ Tech Data Corporation • Bright Horizons Children's Center, Inc. • DCII-2005 East Technology Circle, LLC and subtenant: ○ Ensono, Inc. • EDJ Leasing Co., L.P and its subtenant: ○ Edward Jones Investments • Edward D. Jones & Co., L.P. and its subtenant: ○ Edward Jones Investments • ET Tempe, LLC and its subtenant: ○ Go Daddy Operating Company, LLC • EVCC, LLC and its subtenant: ○ Arizona Oncology • Founders Fund III, LLC and its subtenant: ○ Amkor Technology, Inc. • GPT TPG South River Parkway Owner, LLC and subtenants: ○ Nexus ○ Amazon.com, Inc. • Lexington Tempe, L.P. and its subtenant: ○ Versum Materials • North Central Association, Commission on Accreditation and School Improvement

Table 1 continued

Leases entered before July 31, 1996	Leases entered after July 31, 1996
ASU Research Park tenants continued	

• Verizon Wireless (VAW), LLC
• Walgreens Healthcare Plus, Inc.
	• Pivotal 650-1 California St., LLC and its subtenant:
	  ○ Viasat Inc.
	• Reproductive Medical Institute LLC and its subtenants:
	  ○ Advanced Vein Institute of Arizona, LLC
	  ○ Physicians Research Group, LLC
	  ○ Thermo Fisher/Intrinsic Bioprobes, Inc.
	  ○ Doctors Outpatient Surgical Center LLC
	  ○ Fertility Treatment Center, P.C.
	• Tempe Building, LLC and its subtenant:
	  ○ US Foods, Inc.
	• W. Tempe, L.L.C. and its subtenants:
	  ○ Iridium Communications Inc.
	  ○ ManpowerGroup
	  ○ KinetX Aerospace, Inc.
	  ○ Visual Vault LLC
	• WERM, Holdings Inc. and its subtenant:
	  ○ Phoenix Analysis and Design Technologies, Inc.

UA Research Park tenants	
• International Business Machines Corporation	• AAA Arizona, Inc. • Ascensus, Inc. • Citicorp Credit Services, Inc. (USA) • Cleveland Electric Laboratories CO, Inc. • CTech Force Support, LLC • Darling Geomatics • Coherent, Inc. • NP Photonics, Inc. • Oracle America, Inc. • Raytheon Company • Siemens Corporation • United HealthCare Services • Verizon Wireless (VAW), LLC • VoiceRiver, Inc.

[1] Some tenants have entered into multiple lease agreements for research park property and, thus, are presented in the table separately for each lease agreement.

[2] Leases entered into after July 31,1996, must restrict the use of improvements in research parks to the permitted uses outlined in A.R.S. §15-1636. These statutorily permitted uses include regional or national headquarters of organizations engaged in research and laboratories, offices, and other facilities for research and development.

[3] ASURP tenants are listed based on their lease effective date and may include subtenants that leased property after the main tenant's lease effective date.

Source: Auditor General staff compilation of the listings of tenants and their subtenants in the research parks as of May 2019, as reported by ASU and UA.

Terms of commercial leases on ABOR property

We reviewed commercial lease agreements approved by ABOR and entered into between 2006 and 2016 for the following 5 properties: (1) Drury Inn, (2) Marina Heights, (3) UA Tech Park at the Bridges (Bridges), (4) The Village, and (5) Mirabella. This appendix presents each lease agreement's terms that provide a financial or nonfinancial benefit to the university engaged in the agreement and the terms that affect the local jurisdictions in which the property is located.

Table 2
Terms of commercial leases, by property
As of February 2019

Drury Inn	
Lessee:	Drury Southwest Flagstaff, LLC
Approximate location:	W. Butler Ave. and S. Milton Rd. in Flagstaff
Property acreage:	1.77
Lease term:	May 19, 2006 to May 19, 2036, with option to extend lease up to 30 years
Lease terms that benefit the university:	Lessee pays NAU annual minimum base rent of $60,000 and additional annual rent calculated as a percentage of lessee's gross revenue according to the following schedule:[1] **Percentage rent**[2] 3% of revenue between $0 and $3,000,000 3.5% of revenue between $3,000,000.01 and $5,000,000 4% of revenue in excess of $5,000,000 Lessee and NAU shall develop and implement an internship program to provide work and learning opportunities for NAU students at the hotel.[3]
Lease terms that affect local jurisdictions:	Lessee retains ownership of improvements constructed on the property.[4]
Marina Heights	
Lessee:	S/R Marina Heights, LLC
Approximate location:	E. Rio Salado Pkwy. and S. Rural Rd. in Tempe
Property acreage:	20.28
Lease term:	August 16, 2013 to August 16, 2112, with option to extend the lease for a term of 25-99 years

Table 2 continued

Marina Heights continued	
Lease terms that benefit the university:	Lessee pays ASU prepaid rent of $30,905,569.[5] Commencing on the 8th anniversary of the certificate of occupancy, lessee shall make annual payments to ASU according to the following schedule: $1 per square foot of gross building space for office buildings with 1 floor above ground. $1.25 per square foot of gross building space for office buildings with more than 1 but less than 8 floors above ground. $1.75 per square feet of gross building space for office buildings with 8 floors or more above ground. $1.50 per square foot of retail building space, including space that is devoted to the sale of tangible personal property, restaurants, health clubs, hair salons, dry cleaners, travel agencies, and other retail services. $1.50 per square foot of hotel or motel building space. $0.75 per square foot of warehouse or industrial building space. $100 per parking space located in a parking garage or deck. $1.00 per square foot of all other vertical improvements not included in the above descriptions.[6] In addition to these payments, the lessee shall make an annual rent payment of $1.00 to ASU.[7]
Lease terms that affect local jurisdictions:	Ownership of improvements the lessee constructed on the property automatically transfers to ASU once constructed, and the improvements become part of the property leased back to the lessee in the lease agreement.[8,9] Beginning on the certificate of occupancy date, the lessee pays the City of Tempe annual payments as defined in the Amended and Restated Development Agreement as $150,000 for the 11-acre parcel and $250,000 for the 15-acre parcel.[10]
Bridges	
Lessee:	Campus Research Corporation
Approximate location:	S. Kino Pkwy. and E. 36th St. in Tucson
Property acreage:	65.88
Lease term:	July 15, 2009 to July 31, 2113
Lease terms that benefit the university:	Lessee pays UA prepaid basic rent of $1.00 annually for the lease term.[11] Lessee pays UA additional annual rent equal to its net proceeds from the development and operation of the property for the preceding year.[12]
Lease terms that affect local jurisdictions:	Not applicable[13]

Table 2 continued

The Village	
Lessee:	Campus Research Corporation
Approximate location:	S. Kolb Rd. and Interstate 10 southeast of Tucson
Property acreage:	175 acres of the approximately 805 acres are planned for The Village.
Lease term:	July 15, 2009 to July 31, 2113
Lease terms that benefit the university:	Lessee pays UA prepaid basic rent of $1.00 annually for the lease term.[11] Lessee pays UA additional annual rent equal to its net proceeds from developing and operating the property for the preceding year.[14]
Lease terms that affect local jurisdictions:	Not applicable[15]
Mirabella	
Lessee:	Mirabella at ASU, INC.
Approximate location:	S. Mill Ave. and E. University Dr. in Tempe
Property acreage:	1.89
Lease term:	December 20, 2017 to December 31, 2116
Lease terms that benefit the university:	Lessee pays ASU prepaid rent in the amount of $7,011,414.[16] Lessee pays ASU semi-annual payments in lieu of tax (PILOT) according to the following: • From the date rent begins to the 8th anniversary of that date, the PILOT amount shall be equal to the amount that the lessee would pay in property taxes if the property were subject to property tax multiplied by the occupancy rate of the independent living units for the preceding 6-month period.[17] • From the 8th anniversary of the date rent began through the remainder of the lease term, the PILOT amount shall equal the amount that the lessee would pay in property taxes if the property were subject to property tax.
Lease terms that affect local jurisdictions:	Ownership of improvements the lessee constructed on the property automatically transfers to ASU once constructed, and the improvements become part of the property leased back to the lessee in the lease agreement.[8,18]

1 The rental payment for fiscal year 2018 was approximately $191,700.

2 At the beginning of the 6th full lease year and every 5th year thereafter, the base rent amount and the revenue brackets shall be increased by a factor equal to 75 percent of the percentage increase in the consumer price index from the beginning to the end of the preceding 5-year period.

3 NAU reported that since the hotel was built, students have interned at the Drury Inn and that between the fall of 2016 and spring of 2019, 6 students had participated in internships. However, as of February 2019, NAU was in the process of developing a formal internship program with the hotel.

4 Improvements constructed on State land are classified as improvements on possessory rights (IPRs), pursuant to A.R.S. §42-19003. IPRs are assessed tax on the value of the improvement, excluding the value of the tax-exempt land, and entered on the personal property tax roll. For tax year 2018, Drury Southwest Flagstaff, LLC paid $139,438.80 in personal property taxes to the local taxing jurisdictions.

5 ASU received the prepaid rent for the Marina Heights property in fiscal year 2014.

Table 2 continued

[6] According to the terms of the lease agreement, the lessee payments will begin in 2024 for the first improvements constructed on the property and are scheduled to increase through 2027 when payments for the last improvements constructed begin. Based on the square footage and use of the improvements, we determined that the annual lessee payments will be approximately:

- $1,570,496 in 2024.
- $3,862,629 in 2025.
- $4,364,008 in 2026.
- $4,375,033 in 2027 and thereafter.

[7] The annual $1.00 rent payment will begin in 2024 at the same time the lessee payments begin.

[8] Improvements ABOR owns are exempt from property taxes.

[9] Construction was completed for the last improvement built on the property in March 2017 when the certificate of occupancy was issued.

[10] The 20.28 acres of property leased includes all of the 11-acre parcel and only 63.7 percent of the 15-acre parcel, so according to the terms of the Amended and Restated Development Agreement, the maximum city payment under this lease equals $309,250. ASU reported that, as of March 2019, RP HFL, LLC, has the option to lease the remaining 5.5 acres of the property.

[11] We could not determine that UA received the prepaid basic rent due to the immaterial dollar amount and unavailability of detailed financial records from fiscal years 2010 and 2014.

[12] As of February 2019, the lessee had not yet subleased the property for development, and based on a review of the lessee's financial statement for fiscal year 2018, we determined the lessee did not have any net revenues.

[13] The CRC is the property's master lessee and is responsible for subleasing the property for development. As of February 2019, the CRC remained in negotiations with the sublessee that will develop the property, and sublease agreements had not been finalized. The sublease agreements could potentially contain provisions that impact local jurisdictions. For example, the CRC reported it intends for the sublessee to construct and retain ownership of improvements, which could allow the improvements to be classified as IPRs and taxed as personal property.

[14] The lessee did not separately track the proceeds generated under each of the 2 master lease agreements for the property, so we cannot determine if the lessee generated proceeds under this master lease agreement.

[15] The CRC is the property's master lessee and is responsible for subleasing the property for commercial development. As of March 2019, the CRC remained in negotiations with the developer. Sublease agreements between the CRC and the developer could potentially contain provisions that affect ownership of improvements and tax treatment constructed on the property, which could impact local jurisdictions (see Footnote 13 above for an example).

[16] ASU received the prepaid rent for the Mirabella property in fiscal year 2018.

[17] As of July 2019, Mirabella is under construction and expected to be completed in 2020. Until construction is completed, the occupancy rate of the independent living units will be 0 percent, so the PILOT payment will be $0.

[18] Construction for Mirabella is expected to be completed in 2020.

Source: Auditor General staff analysis of ABOR lease agreements.

ABOR properties

As discussed in Finding 3 (see page 21 through 24), using information available through the assessors' and treasurers' offices of Arizona's counties, we identified 1,127 parcels in Arizona that are owned by ABOR on behalf of the universities, totaling 11,194 acres. See Table 3 below for a list of ABOR properties by county.

Table 3
ABOR properties in Arizona, by county[1]
As of February 2019
(Unaudited)

Apache County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
102-25-020A	1.00	212-10-006	40.00	-	-
Apache County total: 2 parcels, 41.00 acres					

Cochise County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
101-34-00905	2.09	203-42-004A5	0.17	302-10-07408	1.10
101-34-11509	2.06	203-42-00509	0.17	302-27-01507	0.32
101-35-11409	2.06	203-42-00602	0.17	303-06-00504	14.73
101-37-08906	2.07	203-42-01508	0.20	303-33-13104	0.10
101-37-11508	2.07	203-42-01601	0.17	303-33-35003	0.16
105-46-001H6	4.33	203-42-01807	0.17	303-45-00600	20.02
106-22-08402	0.68	203-42-01900	0.17	305-21-00604	0.07
106-47-014B0	6.14	203-42-02507	0.23	401-21-11302	5.05
107-16-011J7	4.18	203-42-03207	0.26	407-74-19207	0.20
109-18-00307	0.69	203-42-03506	0.16	407-77-28606	0.22
112-48-00607	0.17	203-42-04505	0.19	407-77-28709	0.22
112-48-02904	0.14	203-42-06503	0.17	410-21-002C6	3.10
203-31-05904	0.03	203-42-09005	0.19	607-02-00105	34.90
203-37-00804	0.16	203-42-09902	0.21	607-02-00208	20.70
203-42-00107	0.23	203-42-15109	0.24	607-03-00108	57.70
203-42-00200	0.17	208-78-01807	0.10	609-12-02209	12.30
203-42-00303	0.17	302-07-02508	0.41	-	-
203-42-00406	0.17	302-10-06007	0.17	-	-
Cochise County total: 52 parcels, 202.05 acres					

Table 3 continued

Coconino County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
100-39-001-D	0.02	103-10-017	0.10	103-18-007-B	0.91
100-39-001-H	0.08	103-10-018	0.14	103-19-001B	6.31
100-39-004-C	0.86	103-10-019	0.16	103-19-001-T	1.01
100-39-007B	0.29	103-10-020	0.16	103-19-011	7.99
103-02-010	0.49	103-10-021	0.16	103-19-012	1.01
103-02-011-B	1.88	103-10-022	0.16	103-22-001	0.46
103-04-003	4.21	103-10-023	0.16	103-22-002-B	0.37
103-04-004B	1.53	103-10-024	0.08	103-22-003-A	2.01
103-04-004E	0.23	103-10-025	0.08	103-22-004-R	0.11
103-04-004-H	0.38	103-11-003	0.13	103-24-002-M	0.11
103-04-006-C	0.49	103-11-004	0.13	103-24-005-K	2.87
103-04-006-E	0.06	103-11-013-A	0.17	103-24-006-A	2.72
103-04-014-A	5.20	103-11-013-B	0.05	103-24-007-D	1.24
103-04-015	0.92	103-11-014	0.14	103-24-015	1.57
103-04-023	1.38	103-11-015-A	0.46	103-25-001-D	136.40
103-05-002	43.24	103-11-017	0.16	103-25-003-B	7.98
103-05-003	77.85	103-11-018	0.12	103-25-003-C	1.98
103-06-010	0.08	103-11-019	0.12	103-25-003-E	7.22
103-06-011	0.15	103-11-020	0.15	103-25-004-C	7.71
103-06-012	0.15	103-11-021-A	0.13	103-26-001-B	31.40
103-06-013	0.15	103-11-021-B	0.10	103-26-002-C	103.39
103-06-014	0.38	103-11-022	0.15	104-02-064	0.12
103-06-015	1.03	103-11-023	0.10	104-14-002-C	156.01
103-06-017B	0.37	103-11-024	0.05	203-17-006-B	6.98
103-10-002	0.16	103-11-025	1.53	203-17-006-D	6.01
103-10-007	0.16	103-16-014	1.68	203-35-001-E	23.02
103-10-013	0.16	103-18-001	80.00	402-21-002-C	41.71
103-10-014	0.16	103-18-004B	1.00	402-21-002-F	2.05
103-10-015	0.16	103-18-004-D	13.98	-	-
103-10-016	0.24	103-18-005-B	6.32	-	-
Coconino County total: 88 parcels, 811.08 acres					

Gila County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
303-01-003	29.40	303-05-158A	7.69	-	-
Gila County total: 2 parcels, 37.09 acres					

Table 3 continued

Graham County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
103-32-055A	0.30	106-31-035	13.93	-	-
Graham County total: 2 parcels, 14.23 acres					

Greenlee County
No ABOR properties were identified in Greenlee County.

La Paz County
No ABOR properties were identified in La Paz County.

Maricopa County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
111-42-064B	0.16	132-27-089A	0.14	133-11-006B	0.83
111-42-075A	0.16	132-27-089B	0.72	133-13-004	4.62
111-42-077A	0.16	132-27-090	0.14	133-13-005	4.62
111-42-079A	0.16	132-27-091	0.14	133-13-006	7.39
111-42-081A	0.16	132-27-092	0.14	133-13-007A	5.09
111-42-083	0.16	132-27-093	0.14	133-13-010F	2.38
111-42-085	0.16	132-27-094	0.07	133-13-010G	0.34
111-42-138	0.47	132-27-095	0.12	133-13-010H	0.17
111-44-104	0.14	132-27-096	0.19	133-13-013	0.16
111-44-105	0.14	132-27-097	0.14	133-13-015A	0.53
111-44-106	0.14	132-27-098	0.14	133-13-017A	0.12
111-44-107	0.14	132-27-099	0.14	133-13-018A	0.19
111-44-108	0.14	132-27-100	0.10	133-13-019A	0.55
111-44-109	0.14	132-27-101	0.18	133-13-020	0.60
111-44-110	0.12	132-27-102	0.14	133-13-023	0.13
111-44-111	0.12	132-27-103	0.14	133-13-024A	0.35
111-44-112	0.12	132-27-104	0.14	133-13-025A	0.39
111-44-113	0.12	132-27-105	0.06	133-13-026B	0.23
111-44-114	0.12	132-27-106	0.11	133-13-026C	3.42
111-44-115	0.12	132-27-155	2.50	133-13-028A	2.80
111-46-081A	0.17	132-27-156	0.59	133-14-005A	0.30
111-46-151A	0.88	132-30-723	0.67	133-14-006A	0.30
112-02-115	0.16	132-31-004B	5.82	133-14-007A	0.30
112-02-116	0.17	132-32-003F	0.06	133-14-008A	0.30
112-02-117	0.16	132-32-003G	13.71	133-14-009B	0.30
112-02-118	0.16	132-32-004B	19.26	133-14-010B	0.29
112-02-119	0.16	132-32-004E	1.01	133-14-011B	0.30
112-29-089	3.84	132-32-004F	24.29	133-14-012B	0.31

Table 3 continued

Maricopa County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
112-29-095	0.20	132-33-001B	25.49	133-14-022B	0.39
112-31-086F	0.22	132-33-001E	1.28	133-14-023B	0.20
112-32-065B	0.14	132-34-003G	40.29	133-14-024B	0.30
116-33-048A	0.12	132-34-003R	50.84	133-14-025B	0.30
116-33-050A	0.17	132-34-003X	2.13	133-14-026B	0.30
116-33-051A	0.17	132-34-003Y	23.38	133-14-027B	0.30
116-33-052A	0.17	132-34-004	12.07	133-14-028B	0.30
116-33-053A	0.17	132-43-002	9.99	133-14-029B	0.29
116-33-054A	0.17	132-43-003	1.52	133-21-001K	1.34
116-33-055A	0.17	132-44-001A	33.80	174-65-011R	0.80
116-33-056A	0.17	132-48-001B	12.31	174-65-016D	0.32
116-33-114	1.30	132-48-007C	9.54	174-65-016F	0.53
116-37-002	0.08	132-48-014B	2.51	207-43-001A	295.89
116-37-003	0.07	132-48-107B	0.50	301-53-305	10.10
116-37-004	0.07	132-48-108B	0.22	301-53-306	1.90
123-06-027A	0.86	132-48-111E	0.74	301-53-307	4.32
123-56-011B	1.26	132-49-001A	6.78	301-53-308	5.26
123-56-014	5.56	132-49-044B	3.81	301-53-309	12.46
132-04-002F	22.51	132-49-056A	6.36	301-53-310	4.25
132-23-003	5.50	132-49-078B	0.28	301-53-311	2.57
132-23-004	3.05	132-49-079B	3.89	301-53-312	17.81
132-23-005	0.73	132-49-103A	1.89	301-53-313	10.31
132-23-006	0.92	132-49-117	19.48	301-53-314	11.26
132-23-007	0.72	132-50-006C	1.32	301-53-315	9.08
132-23-008	2.44	132-50-013C	0.72	301-53-316	16.48
132-23-009	0.16	132-50-015D	1.38	301-53-317	4.16
132-23-010	0.17	132-50-017B	5.43	301-53-318	13.64
132-23-011	20.28	132-50-023A	0.27	301-53-319	7.09
132-24-001C	64.59	132-50-024	0.26	301-53-320	7.92
132-24-002	0.20	132-50-028	1.25	301-53-321	6.05
132-24-004A	9.00	132-50-032F	0.20	301-53-322	2.00
132-25-001D	0.94	132-50-032G	0.50	301-53-323	6.68
132-25-008G	15.04	132-50-032H	0.42	301-53-324	3.93
132-25-019D	0.28	132-50-037	0.09	301-53-325	9.51
132-25-020A	0.86	132-50-038	0.19	301-53-326	10.90
132-25-021E	8.23	132-50-039A	5.55	301-53-327	9.63
132-25-037	2.46	132-50-501	1.49	301-53-328	17.02
132-25-038	2.90	132-51-001E	0.00	301-53-329	7.26
132-25-039	2.75	132-51-003C	7.88	301-53-330	2.31

Table 3 continued

Maricopa County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
132-25-040	6.77	132-51-056B	12.77	301-53-331	5.46
132-25-041	1.91	132-51-108C	0.98	301-53-332	17.89
132-25-042	1.97	132-51-108D	0.98	301-53-333	1.65
132-26-010A	1.29	132-51-109	0.70	301-53-334	2.81
132-26-034A	2.38	132-51-110C	0.53	301-53-335	2.10
132-26-035	0.20	132-51-110D	0.34	301-53-336	1.56
132-26-036	0.08	132-51-110E	0.15	301-53-337	1.19
132-26-051A	1.19	132-51-111A	0.98	301-53-338	1.32
132-26-052A	0.71	132-51-112A	0.92	301-53-339	6.47
132-26-052B	0.08	132-51-113A	0.79	301-53-340	12.73
132-26-060A	1.29	132-51-116B	1.12	301-53-341	12.39
132-26-069C	1.26	132-51-118A	0.29	301-53-342	0.60
132-26-078A	0.86	132-51-119	0.22	301-53-343	0.79
132-26-089A	0.95	132-51-120	0.10	301-53-344	1.38
132-26-099A	1.16	132-73-072D	4.37	301-53-345	0.21
132-26-100	6.13	132-73-540	1.69	304-17-208A	0.33
132-27-012A	0.37	132-73-541	0.98	304-37-001G	46.84
132-27-013	0.37	132-99-001D	1.09	304-37-001L	6.13
132-27-014	0.73	133-10-033	0.34	304-37-001N	43.68
132-27-015A	0.18	133-10-037A	0.31	304-50-003J	56.74
132-27-016	0.37	133-10-062	1.51	304-50-003K	0.27
132-27-017	0.22	133-10-063	4.63	304-50-003N	420.15
132-27-018	0.24	133-11-001A	1.89	-	-
Maricopa County total: 269 parcels, 1,814.19 acres					

Mohave County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
109-23-001	1.42	317-17-039	10.00	321-03-224	0.06
210-37-021	10.00	317-20-018	5.00	321-03-287	0.17
210-37-051	10.00	317-20-0810	5.00	326-12-115	10.00
215-05-032	2.35	317-46-015	4.70	340-23-024	10.00
215-06-217	2.35	317-46-096	4.70	340-24-027	5.00
317-06-348	10.00	319-04-012F	5.00	351-11-089A	35.00
Mohave County total: 18 parcels, 130.75 acres					

Navajo County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
104-32-006	30.37	-	-	-	-
Navajo County total: 1 parcel, 30.37 acres					

Table 3 continued

Pima County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
107-01-011A	7.20	123-17-0130	0.09	124-03-1930	0.20
107-02-001D	8.98	123-17-0140	0.09	124-03-1940	0.19
107-02-002A	16.62	123-17-0150	0.09	124-03-1950	0.03
107-02-0050	39.62	123-17-016A	0.13	124-03-1960	0.22
107-03-1600	3.32	123-17-0170	0.11	124-03-1970	0.22
108-21-033D	76.01	123-17-0180	0.09	124-03-1980	0.15
108-25-011D	1.07	123-17-0190	0.15	124-03-199A	0.30
108-25-016B	18.44	123-17-0200	0.17	124-03-2010	0.15
108-25-017C	47.83	123-17-021B	0.21	124-03-2020	0.15
110-10-024G	6.16	123-17-022A	0.27	124-03-2030	0.13
112-02-0010	4.43	123-17-023A	0.20	124-03-2040	0.09
112-02-027A	6.00	123-17-024A	0.20	124-03-205A	0.37
112-02-028A	4.67	123-17-025B	0.62	124-03-2060	0.09
112-02-029A	4.58	123-17-026A	0.25	124-03-207B	0.07
112-02-030A	4.52	123-17-027A	0.29	124-03-207C	0.07
112-02-031A	4.79	123-17-0280	0.14	124-03-2120	0.21
112-02-032A	4.80	123-17-0290	0.22	124-03-2130	0.21
114-19-014A	18.81	123-17-0300	0.14	124-03-2140	0.21
114-19-019A	20.01	123-17-031A	0.25	124-03-2150	0.15
114-19-0200	39.98	123-17-0320	0.14	124-03-2160	0.15
114-39-124B	0.95	123-17-033A	0.13	124-03-2170	0.15
114-45-2650	13.06	123-17-034B	0.32	124-03-2180	0.13
114-49-0120	0.30	123-17-035A	0.19	124-03-2190	0.13
115-04-516B	0.06	123-17-036A	0.39	124-03-2200	0.12
115-04-5370	0.21	123-17-037A	0.20	124-03-2210	0.15
115-04-5800	0.19	123-17-038A	0.20	124-03-2220	0.15
115-04-5810	0.19	123-17-039A	0.20	124-03-2830	0.18
115-04-5820	0.14	123-17-040A	0.20	124-03-2840	0.18
115-04-5830	0.06	123-17-044B	1.07	124-04-003B	0.37
115-04-5850	0.10	123-17-050A	0.18	124-04-015C	0.78
115-04-5860	0.17	123-17-051A	1.35	124-04-020A	0.17
115-04-5870	0.17	123-17-059A	0.23	124-04-021A	0.17
115-04-5880	0.12	123-17-060B	0.40	124-04-022C	0.31
115-04-5890	0.22	123-17-061A	0.26	124-04-032C	0.48
115-04-5900	0.44	123-17-0620	0.22	124-04-037C	0.06
115-04-5920	0.22	123-17-0630	0.26	124-04-040C	1.73
115-04-5930	0.20	123-17-064A	0.28	124-04-046A	0.05
115-04-5940	0.15	123-17-0670	0.15	124-04-051A	1.28
115-04-5950	0.03	123-17-0680	0.15	124-04-063A	0.71

Table 3 continued

Pima County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
115-04-597B	0.03	123-17-0690	0.15	124-04-0670	0.35
115-04-599A	0.26	123-17-0700	0.22	124-04-068A	0.36
115-04-600B	1.15	123-17-0710	0.11	124-04-075A	1.25
115-07-3210	1.72	123-17-0720	0.11	124-04-0760	0.62
115-07-336A	1.23	123-17-0730	0.11	124-04-086D	16.41
115-17-0290	1.27	123-17-0740	0.11	124-04-087A	0.10
116-15-088C	4.94	123-17-0750	0.19	124-04-0990	0.90
116-15-089B	1.17	123-17-0760	0.19	124-05-0480	1.08
116-15-089D	0.04	123-17-0770	0.15	124-05-058A	0.30
116-15-090B	0.03	123-17-0780	0.15	124-05-064A	3.00
116-15-0910	0.58	123-17-0790	0.15	124-05-065A	3.63
116-15-092A	0.42	123-17-0800	0.14	124-05-1250	0.22
116-15-092B	0.35	123-17-0810	0.16	124-05-1270	0.22
116-15-0930	1.93	123-17-0820	0.22	124-05-1280	0.22
116-15-190D	3.10	123-17-0830	0.22	124-05-1290	0.22
116-15-1930	80.00	123-17-0840	0.22	124-05-1300	0.22
116-16-2170	0.10	123-17-0850	0.22	124-05-1310	0.09
116-16-218A	0.08	123-17-0860	0.11	124-05-1320	0.17
116-16-219B	0.02	123-17-0870	0.11	124-05-1330	0.17
116-16-225B	0.09	123-17-0880	0.09	124-05-1340	1.73
116-19-007A	0.23	123-17-0890	0.13	124-05-1350	0.15
116-19-0080	0.24	123-17-0900	0.15	124-05-1360	0.07
116-19-009B	0.05	123-17-0910	0.21	124-05-1370	0.22
116-19-0100	0.14	123-17-0920	0.15	124-05-1380	0.22
116-19-0110	0.07	123-17-0930	0.15	124-05-139A	0.30
116-19-018B	0.39	123-17-094A	0.19	124-05-146A	1.59
116-24-1060	4.02	123-17-094B	0.18	124-05-1520	0.07
117-04-1830	0.57	123-17-0950	0.31	124-05-1530	0.14
117-04-1840	0.04	123-17-0960	0.21	124-05-1600	0.09
117-04-195A	0.09	123-17-0970	0.23	124-05-1610	0.11
117-10-001C	2.13	123-17-0980	0.21	124-05-1620	0.11
117-10-137B	2.50	123-17-0990	0.15	124-05-1630	0.11
117-10-1610	0.22	123-17-1000	0.15	124-05-1640	0.22
119-41-0920	0.08	123-17-1010	0.15	124-05-1650	0.22
121-03-0130	0.05	123-17-1020	0.22	124-05-169A	0.23
121-03-0140	0.04	123-17-1030	0.22	124-05-1700	0.07
123-06-030A	0.11	123-17-1040	0.15	124-05-1710	0.14
123-06-0400	0.05	123-17-105A	1.60	124-05-1720	0.22
123-06-0410	0.09	123-17-1060	0.15	124-05-1730	0.11

Table 3 continued

Pima County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
123-06-045A	0.07	123-17-1070	0.15	124-05-1740	0.11
123-06-0520	0.08	123-17-1080	0.15	124-05-1750	0.22
123-06-0590	0.07	123-17-1090	0.15	124-05-1850	0.14
123-10-001C	11.14	123-17-1100	0.15	124-05-1860	0.16
123-10-001D	0.09	123-17-1110	0.22	124-05-1870	0.22
123-10-0260	0.18	123-17-1120	0.22	124-05-1880	0.22
123-10-027A	0.05	123-17-1130	0.22	124-05-1890	0.10
123-10-027B	0.30	123-17-1140	0.22	124-05-1900	0.11
123-10-029A	0.44	123-17-115A	0.22	124-05-1910	0.22
123-10-035B	2.00	123-17-116A	0.23	124-05-1920	0.14
123-10-0390	0.58	123-17-1170	0.11	124-05-1930	0.15
123-11-0160	0.15	123-17-1180	0.12	124-05-1940	0.15
123-11-0170	0.15	123-17-119A	0.05	124-05-1950	0.22
123-11-0200	0.20	123-17-119B	0.04	124-05-1960	0.22
123-15-1470	1.38	123-17-1200	0.12	124-05-1970	0.22
123-15-1480	0.14	123-17-1210	0.22	124-05-1980	0.22
123-15-1490	0.18	123-17-1220	0.22	124-05-2000	0.03
123-15-1500	0.09	123-17-1230	0.22	124-05-2010	0.03
123-15-1520	0.14	123-17-1240	0.22	124-05-2020	0.13
123-15-1540	0.14	123-17-1250	0.25	124-05-2030	0.22
123-15-1550	0.14	123-17-1260	0.20	124-05-2090	0.04
123-15-156A	0.28	123-17-127B	0.22	124-05-224A	0.22
123-16-0140	0.14	123-17-128A	0.23	124-05-273A	0.04
123-16-0150	0.28	123-17-129A	0.28	124-05-273B	0.05
123-16-016A	0.28	123-17-130A	0.21	124-05-274A	0.17
123-16-0180	0.17	123-17-131A	0.20	124-05-2760	0.07
123-16-0190	0.17	123-17-132A	0.15	124-05-277A	0.13
123-16-0200	0.21	123-17-1330	0.20	124-05-2800	0.13
123-16-0210	0.14	123-17-134A	0.16	124-05-2810	0.13
123-16-0220	0.34	123-17-1350	0.27	124-05-2820	0.13
123-16-0240	0.17	123-17-1360	0.14	124-05-2830	0.13
123-16-0250	0.17	123-17-137A	0.35	124-05-2840	0.13
123-16-0260	0.17	123-17-1380	0.19	124-05-2860	0.11
123-16-0270	0.17	123-17-1390	0.19	124-05-2870	0.15
123-16-028C	0.34	123-17-1400	0.19	124-05-2880	0.13
123-16-030A	1.38	123-17-1630	0.16	124-05-2890	0.13
123-16-030B	0.40	123-17-1700	0.16	124-05-2900	0.13
123-16-032A	0.18	123-17-1730	0.16	124-05-2910	0.02
123-16-0330	0.19	123-17-1740	0.16	124-05-2920	0.11

Table 3 continued

Pima County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
123-16-0360	0.19	123-17-1770	0.16	124-05-2930	0.14
123-16-0370	0.19	123-17-1780	0.16	124-05-2940	0.13
123-16-038A	0.23	123-17-1790	0.16	124-06-0500	0.17
123-16-0460	0.15	123-17-1800	0.16	124-06-053A	0.34
123-16-0470	0.15	123-17-1810	0.16	124-06-123D	0.08
123-16-0480	0.15	123-17-1820	0.13	124-06-2680	0.02
123-16-0490	0.22	123-17-1840	0.13	124-06-2690	0.01
123-16-0500	0.22	123-17-1850	0.12	124-06-2700	0.01
123-16-0550	0.11	123-17-1860	0.16	124-06-2710	0.01
123-16-0560	0.11	123-17-1870	0.16	124-06-2720	0.02
123-16-0570	0.06	123-17-1880	0.16	124-06-2730	0.09
123-16-0580	0.11	123-17-1890	0.16	124-06-2740	0.01
123-16-0590	0.22	123-17-1900	0.25	124-08-0210	0.13
123-16-0600	0.22	123-17-1910	0.20	124-08-0260	0.13
123-16-0610	0.22	123-17-1920	0.20	124-08-0270	0.16
123-16-0620	0.10	123-17-1930	0.16	124-08-0300	0.15
123-16-0630	0.11	123-17-1940	0.16	124-08-0400	0.17
123-16-0640	0.11	123-17-1950	0.33	124-08-0410	0.16
123-16-0650	0.11	123-17-1960	0.16	124-08-0420	0.13
123-16-0670	0.17	123-17-1970	0.16	124-08-083A	0.92
123-16-0680	0.10	123-17-198A	0.33	124-08-093A	0.69
123-16-0690	0.22	123-17-201H	0.61	124-08-0970	0.17
123-16-070A	0.14	123-17-201K	0.86	124-08-1060	0.24
123-16-071A	0.30	123-17-252A	2.30	124-08-1080	0.17
123-16-0720	0.22	123-17-3010	0.51	124-08-1120	0.17
123-16-0730	0.11	123-17-3020	0.55	124-08-241D	7.57
123-16-0740	0.11	123-17-3030	1.06	124-11-009B	0.24
123-16-0750	0.11	123-17-3040	0.14	124-11-010B	0.25
123-16-0760	0.10	123-17-3050	0.14	124-11-011B	0.33
123-16-0770	0.14	123-17-3060	0.15	124-14-023B	1.53
123-16-0780	0.14	123-17-3070	0.14	125-06-0030	0.36
123-16-0790	0.09	123-17-3080	0.08	125-07-593A	0.13
123-16-0800	0.09	123-17-3090	0.11	125-07-5940	0.14
123-16-0820	0.22	123-18-001A	3.29	125-07-5950	0.14
123-16-0830	0.22	123-18-0150	0.17	125-07-5960	0.14
123-16-0840	0.22	123-18-0160	0.17	125-07-5970	0.14
123-16-0850	0.20	123-18-0170	0.17	125-07-598A	0.14
123-16-0860	0.25	123-18-0180	0.17	125-11-247C	2.48
123-16-0870	0.21	123-18-0190	0.17	129-01-0010	22.00

Table 3 continued

Pima County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
123-16-0880	0.15	123-18-0200	0.17	129-01-0430	0.48
123-16-0890	0.15	123-18-021A	0.72	130-06-0070	0.45
123-16-0900	0.15	123-18-0280	0.23	130-13-0260	0.54
123-16-0910	0.24	123-18-0290	0.24	130-13-0270	0.35
123-16-092A	0.16	123-18-0300	0.24	130-13-0280	0.45
123-16-0930	0.15	123-18-0310	0.23	130-13-0290	0.36
123-16-094A	0.20	123-18-032D	0.21	130-13-054C	0.38
123-16-0950	0.15	123-18-040D	0.24	130-13-0550	0.08
123-16-0960	0.22	123-18-069C	3.76	130-13-074A	6.84
123-16-0970	0.22	123-18-081A	0.08	132-13-034D	53.50
123-16-0980	0.22	123-18-0820	0.24	132-13-0770	11.38
123-16-0990	0.22	123-18-0830	0.24	132-13-0810	3.65
123-16-1000	0.22	123-18-0840	0.24	138-15-008D	10.94
123-16-1030	0.14	123-18-0850	0.16	138-16-001E	9.33
123-16-104A	0.42	123-18-0860	0.17	141-10-008A	9.64
123-16-106B	2.50	123-18-0870	0.17	141-21-006C	0.90
123-16-1190	0.26	123-18-0880	0.17	141-22-004C	12.86
123-16-1200	0.17	123-18-0890	0.17	141-22-004T	123.99
123-16-1210	0.45	123-18-090A	0.33	141-22-004U	355.61
123-16-1230	0.22	123-18-0920	0.08	141-22-004V	5.08
123-16-1240	0.22	123-18-0930	0.19	141-22-0340	751.94
123-16-1250	0.22	123-18-0940	0.03	205-14-727A	1.22
123-16-1260	0.14	124-01-001E	0.65	205-14-7280	0.20
123-16-127B	0.40	124-01-001F	18.14	205-28-007B	368.37
123-16-1280	0.12	124-01-001G	5.24	209-16-006F	65.49
123-16-129B	0.15	124-01-001H	179.97	209-17-003B	42.87
123-16-131A	0.08	124-01-004A	0.20	209-17-003C	564.89
123-16-132A	0.08	124-01-006A	0.12	209-20-003B	29.67
123-16-1330	0.08	124-01-007A	0.08	209-20-003C	570.87
123-16-134A	0.09	124-01-0120	0.15	210-14-001C	141.33
123-16-135A	0.15	124-01-0130	0.18	212-06-073K	38.95
123-16-1360	0.27	124-01-0140	0.19	214-54-022B	8.00
123-16-137A	1.06	124-02-026B	0.04	214-54-0350	9.50
123-16-139B	0.79	124-02-034E	0.19	214-54-0370	10.00
123-16-1410	0.22	124-02-035A	0.11	214-54-044B	5.00
123-16-1420	0.22	124-02-0360	0.13	214-54-0460	120.00
123-16-1430	0.22	124-02-037A	0.09	214-54-0470	5.00
123-16-1440	0.22	124-02-038B	0.30	214-54-0480	199.50
123-16-148A	0.16	124-02-040A	0.19	220-10-013B	4.63

Table 3 continued

Pima County continued					
Parcel	Acres	Parcel	Acres	Parcel	Acres
123-16-149B	0.16	124-02-041A	0.23	221-04-0250	14.69
123-16-150A	0.32	124-02-0510	0.18	222-42-4260	0.34
123-16-152A	0.16	124-02-0530	0.35	222-51-0040	0.14
123-16-153A	0.16	124-02-0540	0.18	302-21-0020	20.61
123-16-154A	0.11	124-02-0550	0.13	302-21-0030	20.61
123-16-155A	0.15	124-02-0560	0.11	302-21-0040	20.61
123-16-1560	0.05	124-02-0570	0.15	302-21-0050	20.61
123-16-1570	0.06	124-02-076A	0.49	302-21-0060	20.61
123-16-158A	0.10	124-02-0790	0.04	302-21-0070	20.61
123-16-159A	0.10	124-02-0800	0.11	302-21-0080	20.61
123-16-160B	0.13	124-02-0810	0.24	302-21-0090	20.61
123-17-001A	0.20	124-02-0810	0.24	302-21-0100	20.61
123-17-002A	0.20	124-02-083F	0.84	302-21-0110	20.61
123-17-003A	0.28	124-02-0900	0.14	302-21-0120	20.61
123-17-0040	0.11	124-02-0910	0.14	302-21-0130	20.61
123-17-005A	0.16	124-02-0920	0.14	302-21-0140	20.60
123-17-0060	0.15	124-02-093B	0.78	302-23-0010	20.66
123-17-0070	0.17	124-03-160C	0.84	302-23-0030	20.38
123-17-0080	0.44	124-03-163C	0.25	303-24-0050	20.66
123-17-009A	0.14	124-03-173B	0.14	303-24-0060	20.66
123-17-010A	0.13	124-03-184A	0.30	303-24-0120	14.46
123-17-0110	0.09	124-03-1910	0.22	303-24-0130	20.66
123-17-0120	0.09	124-03-1920	0.02	303-27-001A	16.56
Pima County total: 654 parcels, 4,822.68 acres					

Pinal County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
205-14-0010	0.25	305-31-031G	0.71	409-26-004D	0.32
205-14-0030	0.32	305-31-031H	0.24	502-03-0010	320.00
305-03-005B	5.00	305-31-031J	11.71	502-03-0020	320.00
305-03-007B	5.00	305-31-031K	2.95	502-03-0030	320.00
305-03-009A	23.42	305-31-031M	0.11	502-03-0040	640.00
305-03-009B	616.58	305-35-0050	100.51	502-03-0050	160.00
305-03-0100	3.03	305-35-008A	160.00	502-03-017A	160.00
305-31-031C	22.47	407-05-0100	0.16	502-03-017B	160.00
305-31-031E	0.73	407-11-5890	0.15	511-63-0110	0.41
Pinal County total: 27 parcels, 3,034.07 acres					

Table 3 continued

Santa Cruz County
No ABOR properties were identified in Santa Cruz County.

Yavapai County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
401-02-014U	53.54	407-32-026B	14.00	407-32-026F	19.90
403-15-003M	3.92	407-32-026C	3.82	407-32-027E	0.14
407-32-024N	0.02	407-32-026D	3.84	500-29-338	0.38
407-32-026A	0.13	407-32-026E	3.85	-	-
Yavapai County total: 11 parcels, 103.54 acres					

Yuma County					
Parcel	Acres	Parcel	Acres	Parcel	Acres
179-27-007	153.18	-	-	-	-
Yuma County total: 1 parcel, 153.18 acres					

All counties total: 1,127 parcels, 11,194.23 acres

[1] To compile a list of ABOR property, we queried each county assessor's database by property owner using multiple variations of Arizona Board of Regents and the universities' names and, as necessary, supplemented these queries with information obtained through the county treasurers' databases. We determined that the county assessors' and treasurers' records provided a reasonable source of public information to compare against ABOR and university records. However, the list we compiled is unaudited and may not be a complete and accurate representation of all ABOR property. For example, our search may not have identified parcels with misspellings or alternative ownership names. Specifically, in August 2019, ASU reported that ABOR owns 2 parcels that were not included in our list for which the Maricopa County Assessor listed the owner as Arizona State Teachers College.

Source: Auditor General staff analysis of Arizona county assessors' and treasurers' databases.

Objectives, scope, and methodology

The Office of the Auditor General has conducted this performance audit of ABOR pursuant to a September 19, 2018, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §41-2951 et seq. This report is the first in a series of reports on ABOR and addresses commercial real estate development on ABOR's property.

We used various methods to study the issues addressed in this performance audit, including reviewing the Arizona Constitution, applicable statutes, and session laws; reviewing information on ABOR's website such as policies and guidelines, meeting agendas, and meeting minutes; and interviewing ABOR members and staff, university staff, and Arizona county assessor's and treasurer's office staff. In addition, we used the following specific methods to meet the audit objectives:

- To identify ABOR property in Arizona used for commercial development or planned for commercial development, we reviewed property information provided by the universities in conjunction with university master land use plans to determine the use or planned use of the property.
- To evaluate ABOR's oversight of commercial developments located outside athletic facilities districts or designated research parks, we:
  - Assessed oversight requirements and controls in ABOR's real estate policies against best practices recommended by the Government Finance Officers Association and the Pew Charitable Trusts.[50,51,52,53]
  - Reviewed ABOR's review and approval actions documented in ABOR meeting agendas and meeting minutes relating to the proposed lease agreements for 6 ABOR properties reported by the universities as being used or planned to be used for a commercial purpose, as of March 2019, and assessed ABOR's compliance with its policies. We also reviewed the contractual agreements for these 6 properties—including development agreements, lease agreements, or option to lease agreements—and assessed ABOR's compliance with the terms of the agreements.
- To evaluate ABOR's oversight of its master lease agreements, we reviewed all 3 master lease agreements with the CRC and the only master lease agreement with ASURP, including amendments to these agreements. We assessed whether ABOR adhered to the oversight requirements in the master lease agreements and public records and records retention laws, when applicable, by:
  - Reviewing the CRC's and ASURP's fiscal years 2017 and 2018 audited financial statements and fiscal years 2017 through 2019 budgets.

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[50] GFOA. (2017a). *Establishing an economic development incentive policy*. Retrieved 5/6/2019 from https://www.gfoa.org/establishing-economic-development-incentive-policy.

[51] GFOA. (2017b). *Evaluating and selecting economic development projects*. Retrieved 5/6/2019 from https://www.gfoa.org/evaluating-and-selecting-economic-development-projects.

[52] GFOA. (2015). *Monitoring economic development performance*. Retrieved 5/6/2019 from https://www.gfoa.org/monitoring-economic-development-performance-1.

[53] The Pew Charitable Trusts. (2017). *How states are improving tax incentives for jobs and growth: A national assessment of evaluation practices*. Philadelphia, PA.

- Reviewing a judgmentally selected sample of sublease agreements for 5 of the 22 CRC tenants, as of February 2019, and for 3 of the 26 ASURP tenants, as of March 2019, to determine whether they contained a university president's signature on behalf of ABOR.
- Reviewing the *Arizona Agency Handbook* and documents from the Arizona State Library, Archives and Public Records to identify applicable public records and records retention requirements.[54]

- To evaluate whether the universities maintained complete, accurate, and sufficient information on the ABOR property they use, we compiled a listing of property potentially owned by ABOR for use by the universities by querying all 15 Arizona county assessors' databases by property owner using multiple variations of Arizona Board of Regents and the universities' names and, as necessary, supplementing these queries with information obtained through the county treasurers' databases. We compared this listing to property information obtained from each university to identify and research any differences, and we assessed the property information maintained by the universities using guidance provided in the *State of Arizona Accounting Manual* (SAAM).[55,56]

- To obtain additional information for the introduction, we reviewed documents relating to the ASU Athletic Facilities District, including a resolution from the Maricopa County Board of Supervisors, an intergovernmental agreement between Maricopa County and ABOR, and written communication from the ASU Athletics Facilities District. We also reviewed court documents related to a lawsuit filed by the Arizona Attorney General's Office against ABOR in the matter of *State of Arizona, ex rel. Mark Brnovich, Attorney General v. Arizona Board of Regents*, TX2019-000011 (Arizona Superior Court, Arizona Tax Court).

- To develop the maps of the properties used for commercial purposes included in Appendix A, we:
  - Identified the location and boundaries of each property by reviewing university documents, descriptions of the property in ABOR lease agreements, and parcel information from the applicable county assessor's website.
  - Identified major roads, geographical features, and highways from area maps obtained from AZGEO Clearinghouse's Map Viewer.[57]

- Our work on internal controls included reviewing ABOR's policies and, where applicable, testing its compliance with these policies; testing ABOR's compliance with statutory and contractual requirements; and reviewing ABOR's process for safeguarding its real property assets and resources. Computerized system information was not significant to our objectives; therefore, we did not conduct test work on information system controls. We reported our conclusions on these internal controls in Findings 1 through 3.

We conducted this performance audit of ABOR in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We express our appreciation to ABOR, ABOR's Executive Director and staff, and university staff for their cooperation and assistance throughout the audit.

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[54] *Arizona Agency Handbook*, 2018.

[55] To compile a list of ABOR property, we queried each county assessor's database by property owner using multiple variations of Arizona Board of Regents and the universities' names and, as necessary, supplemented these queries with information obtained through the county treasurers' databases. We determined that the county assessors' and treasurers' records provided a reasonable source of public information to compare against ABOR and university records. However, the list we compiled is unaudited and may not be a complete and accurate representation of all ABOR property. For example, our search may not have identified parcels with misspellings or alternative ownership names. Specifically, in August 2019, ASU reported that ABOR owns 2 parcels that were not included in our list for which the Maricopa County Assessor listed the owner as Arizona State Teachers College.

[56] SAAM 2535-4 and 2535-8.1.

[57] The AZGEO Clearinghouse is an Arizona Geographic Information Council initiative maintained and hosted by the Arizona State Land Department.

Auditor General's comments on ABOR's response

We appreciate ABOR's response. However, ABOR has included certain statements in its response that necessitate the following comments and clarifications.

1. ABOR makes the following statement related to Finding 1 (see ABOR's response, page 1):

   "The Auditor General has determined that additional written guidance is warranted to implement ABOR's real estate policies and that a lack of such guidance increases the risk of inappropriate use of public resources leased to private parties. However, as the Auditor General acknowledges, no lease transactions have been submitted to ABOR since its policies have been updated to address commercial real estate transactions. The policies as revised became effective in December 2018. Thus, this finding is based on speculation regarding how effectively ABOR will exercise its governance responsibilities in the future when implementing the recently revised policies. The revised policies include requirements that will allow ABOR to obtain the information necessary for it to make decisions regarding specific commercial real estate transactions and ensure appropriate governance."

   Although it is accurate that, as of March 2019, no lease transactions have been submitted to ABOR for its review since it revised its leasing policy, our review of ABOR's real estate policies, including its revised leasing policy, identified internal control deficiencies that could jeopardize ABOR's consistent application and implementation of these policies. Specifically, Finding 1 describes 4 areas of internal control risk we identified related to ABOR's implementation of its real estate policies that increase its risk of not ensuring the appropriate use of public resources leased to private parties. Absent additional procedures and/or written guidance to help ensure the consistent application and implementation of ABOR's real estate policies, those risks would continue to exist. Thus, the finding is not speculative but forward-looking because it includes recommendations that address these risks, strengthen ABOR's controls around its real estate policies and practices, and help ensure the appropriate use of public resources leased to private parties (see Finding 1, recommendations 1 through 5, pages 12 through 14).

2. ABOR makes the following statement related to Finding 1 (see ABOR's response page 2):

   "Because the Auditor General could not identify a policy structure specific to higher education against which to compare ABOR's policies, the Auditor General instead adopted model policies articulated by the Government Finance Officers Association (GFOA) and the Pew Charitable Trusts designed for state and local governments engaged in economic development activities. The title of the cited GFOA policy is "Establishing an Economic Development Incentive Policy." The Auditor General's reliance on this standard is misplaced.

   The inappropriate application of the selected standard creates two main flaws in the report. First, the report equates granting a tax benefit to private entities in exchange for an undefined benefit, such as economic development, with generating additional lease revenue by monetizing the university tax status. Economic development outcomes, such as new jobs, are difficult to track and source. The recommendations outlined in the report, such as clear performance standards and tracking mechanisms, are designed for municipalities engaged in economic development to help them better track the economic performance of tax incentive programs. ABOR engages in no such programs. Thus, the recommendations do not directly apply to ABOR leases, which are simple to track and enforce.

Second, the GFOA and Pew guidelines assume economic growth is the objective of land development. ABOR's stated objective for commercial land development is to "optimize the value of the property to the university and enhance the institutional mission of the university" (ABOR policy 7-207 B.1.A). Recommendations that apply to land development for economic growth, such as clearly defined guidelines on how to calculate economic benefits, will not necessarily apply to all ABOR leases."

a. Although we did not identify a higher education real estate policy structure against which to compare ABOR's real estate policies, the GFOA and Pew criteria cited in the report is relevant to ABOR's commercial real estate activities because it provides useful and applicable guidance for ensuring the appropriate use of public resources for private benefit. ABOR's use of its tax-exempt status to attract private entities to develop its property for the purpose of generating additional revenue for the universities constitutes a use of public resources to incentivize private development for the universities' benefit and is similar to government entities using their taxing authorities and other public resources to incentivize private economic development. Thus, the GFOA and Pew criteria apply to ABOR's activities. According to GFOA, there is often a substantial risk with the use of such incentives. GFOA recommends that public entities develop policies guiding their use of incentives to help mitigate the risk of incentives' misuse and to help ensure that public resources are directed to the highest and best use.[1] Therefore, we recommended that ABOR develop written guidance for its leasing policy that aligns with the GFOA guidance.

   Additionally, although ABOR states that the GFOA and Pew criteria do not apply to its practice of generating additional lease revenue by monetizing its tax-exempt status, the criteria are applicable to ABOR's activities because they include guidance on assessing the impacts of using tax incentives on other taxing jurisdictions. Specifically, as discussed in Finding 1 on pages 7 through 8, ABOR has approved commercial lease agreements that convey ownership of privately constructed improvements from the lessee to ABOR to ensure that the improvements are exempt from property tax. This conveyance of property ownership uses ABOR's tax-exempt status to provide a benefit to a private entity. Although these commercial lease agreements benefit ABOR by requiring the lessees to make additional payments to the universities, the agreements may present a cost to the local taxing jurisdictions that would have collected property tax on the lessee's improvements had the lessee retained ownership of the improvements under the lease agreement. ABOR has revised its leasing policy to require a review of the property tax impacts on other taxing jurisdictions for commercial lease agreements, and the GFOA and Pew criteria provide guidance on conducting this type of assessment. Therefore, it would be prudent for ABOR to align its practices with the guidance issued by GFOA and Pew to help ensure that the use of its property and its tax-exempt status through commercial lease agreements to provide incentives for private development is the highest and best use of public resources for the State.

   Finally, ABOR states that our recommendations are "designed for municipalities engaged in economic development" and thus do not apply to it because it does not engage in economic development activities. However, as discussed in Finding 1 (see page 9), the universities have in some cases included statements about proposed lease agreements' expected economic benefits in their public proposals to ABOR for its review and approval, but they have not assessed, evaluated, or tracked these expected outcomes. For example, during ABOR's review of the proposed lease agreement for Marina Heights, ASU reported that the development would provide revenue to the State and local municipalities and employment opportunities for students. However, ASU did not provide ABOR an economic benefits analysis to support this statement. In addition, ABOR's revised leasing policy requires the universities to document each proposed commercial lease agreement's economic benefits to the universities and the State (see below for more information). Therefore, despite ABOR's assertion, the GFOA and Pew guidance related to evaluating and tracking economic benefits is applicable to ABOR's activities.

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[1] Government Finance Officers Association (GFOA). (2017a). *Establishing an economic development incentive policy*. Retrieved 5/6/2019 from https://gfoa.org/establishing-economic-development-incentive-policy.

b. ABOR indicates in its response that recommendations that apply to land development for economic growth, such as clearly defined guidelines on how to calculate economic benefits, will not necessarily apply to all ABOR leases. However, ABOR's revised leasing policy requires the universities to document the economic benefits to the universities and the State for all proposed commercial lease agreements. Therefore, ABOR's statement in its response contradicts its own policy requirement. In addition, despite this policy requirement, ABOR has not issued written guidance that the universities must follow for documenting the economic benefits, which may lead to ABOR receiving inconsistent or insufficient information for its consideration (see Finding 1, page 10).

3. ABOR makes the following statement related to Finding 1 (see ABOR's response page 2):

"Finally, recommendation 1a requires the inclusion of specific performance standards in each lease agreement and remedies should these standards not be met. ABOR lease agreements include performance standards and remedies. This recommendation is once again based on GFOA guidance to local municipalities providing tax incentives for economic development. Recommendations that are generally not applicable to ABOR transactions."

As discussed in Finding 1 on page 11, GFOA recommends that for each development project agreement, public entities establish measurable performance standards related to defined objectives for using tax incentives, including a process through which the public entity can take action if the performance standards are not met. Although ABOR's commercial lease agreements include typical contractual provisions that require the lessee to make rent and/or additional payments to the universities, the agreements do not include other measurable performance standards related to ABOR's objective to use commercial lease agreements to optimize the value of the property to the university and to enhance the institutional mission of the university. For example, as reported in Finding 1 on page 9, during ABOR's public review of the Marina Heights development, ASU reported that the development would provide employment opportunities for students. The inclusion of this information in ASU's proposal is consistent with ABOR's current policy requirement to demonstrate how lease agreements will enhance the institutional mission of the university. However, the Marina Heights lease agreement does not include a measurable performance standard regarding ASU student employment opportunities, nor does it include any actions ABOR could take if this performance standard was not met. ABOR policy requires that commercial lease agreements optimize the value of ABOR property to the university and enhance the institutional mission of the university. Therefore, we recommended that ABOR develop and implement written guidance for the universities to follow that requires each agreement to include measurable performance standards related to its policy objective for entering the agreement and a process through which ABOR may take action if a private entity receiving a benefit through an agreement does not meet the performance standards (see Finding 1, page 12).

4. In its explanation to Finding 1, recommendation 1a, ABOR indicated the following (see ABOR's response page 4):

"Finding 1 and the related recommendations (recommendations 1-5), ask the Arizona Board of Regents (ABOR) to add clarifying guidance to its recently established commercial real estate policies. While the ABOR will implement the recommendations, please see the general concerns about the audit approach outlined in the agency cover letter. Please also note, the Auditor General found no examples of inappropriate use of public resources leased to private parties. The report only suggests additional guidance will strengthen the already robust governance structure."

a. A robust governance structure should be capable of functioning without failure under a wide range of conditions. However, as reported in Finding 1, pages 7 through 14, we identified several internal control deficiencies that indicate ABOR's governance structure for commercial real estate development is not as robust as it should be and could jeopardize ABOR's consistent application and implementation of its real estate policies, including its revised leasing policy. These deficiencies and the absence of procedures and/or written guidance to mitigate the risk these deficiencies pose actually serve to weaken ABOR's governance in this area. As such, we made several recommendations to strengthen

ABOR's controls over its real estate activities (see Finding 1, recommendations 1 through 5, pages 12 through 14).

b. It is misleading to state that we found no examples of inappropriate use of public resources leased to private parties. Specifically, as reported in Finding 1 on page 9, as of March 2019, none of the universities had presented a long-term, commercial lease agreement proposal to ABOR for its review and approval since it revised its leasing policy. Thus, there were no agreements executed under ABOR's revised leasing policy for us to review.

5. In its explanation to Finding 1, recommendation 4, ABOR indicated the following (see ABOR's response page 5):

"ABOR currently has approval and reporting processes in place, including the following: ABOR Policy 2-207 (A) states that "All lease agreements and amendments of lease agreements of real property. . . shall be reviewed by the Finance, Capital and Resources Committee and approved by the board before becoming effective" except for those leases exempted under the policy because they fall under certain thresholds established by the policy. ABOR Policy 2-207(B)(3) requires the universities to report at least annually "on the status of all executed long-term leases subject to subsection B, and the performance of such long-term leases. The report shall include timelines and financial information relative to the terms of executed agreements, the intended use of any revenue received by the university, and other information as coordinated with the executive director of the board." ABOR Policy 2-207(C) requires that "All leases entered into shall be reported to the board office annually in accordance with procedure developed by the executive director.""

Although ABOR has established ongoing reporting and approval requirements as stated above, it does not have a process in place to help it ensure that the universities comply with ongoing approval, reporting, or assessment requirements for approved lease agreements, including any lease amendments. Instead, as reported in Finding 1 on page 10, ABOR has relied on informal communication between ABOR staff and the universities to ensure the universities comply with these requirements and has not ensured that the universities consistently complied with these requirements. For example, ABOR could not provide evidence that it had reviewed and approved all the subsequent amendments for 2 of the 5 lease agreements we reviewed. Therefore, we recommended that ABOR develop and implement a process to help track and monitor ongoing approval and reporting requirements in order to provide continued oversight of its lease agreements (see Finding 1, recommendation 4, page 13).

ABOR RESPONSE

ARIZONA BOARD OF REGENTS
ASU ◆ NAU ◆ UA

October 11, 2019

Ms. Lindsey Perry, Auditor General
Arizona Office of the Auditor General
2910 North 44th Street,
Suite 410 Phoenix, Arizona 85018

Auditor General Perry,

Thank you for the opportunity to respond to your audit on the Arizona Board of Regents' real estate policies. ABOR appreciates the role that the Auditor General plays in reviewing and advising ABOR and the universities and compliments you and your team for your professionalism and diligence in undertaking this complex audit.

While ABOR will implement the audit recommendations, some additional explanation is required. Prior to the audit, ABOR took a number of steps to establish robust oversight of commercial real estate activity. ABOR established a property oversight subcommittee, contracted with a third-party professional to review ABOR's real estate governance structure and survey best real-estate practices at other universities and university systems across the country, adopted governance principles and established a thorough set of policies to govern commercial real estate activity. Those policies set forth the expectations for the universities regarding commercial real estate transactions requiring board approval.

The Auditor General has determined that additional written guidance is warranted to implement ABOR's real estate policies and that a lack of such guidance increases the risk of inappropriate use of public resources leased to private parties. However, as the Auditor General acknowledges, no lease transactions have been submitted to ABOR since its policies have been updated to address commercial real estate transactions. The policies as revised became effective in December 2018. Thus, this finding is based on speculation regarding how effectively ABOR will exercise its governance responsibilities in the future when implementing the recently revised policies. The revised policies include requirements that will allow ABOR to obtain the information necessary for it to make decisions regarding specific commercial real estate transactions and ensure appropriate governance.

ABOR is confident that its policy strikes the appropriate balance between articulating the considerations it will employ in making decisions and retaining the flexibility necessary to permit the universities to propose a variety of projects that support their institutional missions and address those considerations. ABOR's confidence in this regard is supported by the fact that it already engages in numerous processes to define the missions of the universities, receive reports regarding

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their progress in meeting ABOR-defined goals, and obtain information regarding capital planning and real property leasing. See, e.g., ABOR Policies 7-104, 7-105, 7-106, and 7-107.

The long-term leasing activity on which the Auditor General has focused takes place in the overall context of the regular direction and oversight ABOR provides to the universities regarding their institutional missions and goals, giving ABOR the background necessary to critically evaluate the information the universities will submit under revised policy 7-207.

The report also fails to note that while many universities and university systems across the country engage in commercial real estate activity, the Auditor General was unable to identify any other state with a similarly well-defined policy structure, and it may be that ABOR's commercial lease policy is the only one currently developed and in place, essentially making ABOR the model and best practice in the United States.

Because the Auditor General could not identify a policy structure specific to higher education against which to compare ABOR's policies, the Auditor General instead adopted model policies articulated by the Government Finance Officers Association (GFOA) and the Pew Charitable Trusts designed for state and local governments engaged in economic development activities. The title of the cited GFOA policy is "Establishing an Economic Development Incentive Policy." The Auditor General's reliance on this standard is misplaced.

The inappropriate application of the selected standard creates two main flaws in the report. First, the report equates granting a tax benefit to private entities in exchange for an undefined benefit, such as economic development, with generating additional lease revenue by monetizing the university tax status. Economic development outcomes, such as new jobs, are difficult to track and source. The recommendations outlined in the report, such as clear performance standards and tracking mechanisms, are designed for municipalities engaged in economic development to help them better track the economic performance of tax incentive programs. ABOR engages in no such programs. Thus, the recommendations do not directly apply to ABOR leases, which are simple to track and enforce.

Second, the GFOA and Pew guidelines assume economic growth is the objective of land development. ABOR's stated objective for commercial land development is to "optimize the value of the property to the university and enhance the institutional mission of the university" (ABOR policy 7-207 B.1.A). Recommendations that apply to land development for economic growth, such as clearly defined guidelines on how to calculate economic benefits, will not necessarily apply to all ABOR leases.

Finally, recommendation 1a requires the inclusion of specific performance standards in each lease agreement and remedies should these standards not be met. ABOR lease agreements include performance standards and remedies. This recommendation is once again based on GFOA guidance to local municipalities providing tax incentives for economic development. Recommendations that are generally not applicable to ABOR transactions.

To help the reader better understand the context of the report, we have included ABOR's policies pertaining to leases of real property as an attachment to this response. (See Exhibit A). We have also included a list of all policies referenced in ABOR's response (See Exhibit B).

Once again, we appreciate the partnership we have enjoyed throughout this audit process.

Sincerely,

John Arnold
Arizona Board of Regents

Attachments

Finding 1: 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

Recommendation 1: ABOR should develop and implement written guidance for the universities to follow regarding commercial lease agreements that:

Recommendation 1a: Requires each agreement to include measurable performance standards related to its policy objective for entering the agreement and a process through which ABOR may take action if a private entity receiving a benefit through an agreement does not meet the performance standards.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation Finding 1 and the related recommendations (recommendations 1-5), ask the Arizona Board of Regents (ABOR) to add clarifying guidance to its recently established commercial real estate policies. While the ABOR will implement the recommendations, please see the general concerns about the audit approach outlined in the agency cover letter. Please also note, the Auditor General found **no** examples of inappropriate use of public resources leased to private parties. The report only suggests additional guidance will strengthen the already robust governance structure.

Recommendation 1b: Outlines a process for complying with ABOR's policy requirement to document the proposed lease agreement's economic benefits, tax treatment of the real property and proposed improvements and its impact on other taxing jurisdictions, and how it furthers the university's institutional mission, including:

- An assessment of how the proposal aligns with ABOR's objectives for such agreements.
- A comparison of the costs and benefits of the proposed agreement that identifies its financial and nonfinancial costs and benefits.
- An assessment of the proposal's impact on the tax base and potential tax revenue for other taxing jurisdictions.
- An explanation of any assumptions used in the evaluation, such as those used to develop estimates of indirect economic benefits and the limitations of the results.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 1c: Requires that each agreement receiving a tax benefit be periodically evaluated, on a schedule determined by ABOR's need for updated information and the evaluator's capacity, to ensure the private entity receiving the benefit is meeting the agreement's performance standards and to determine the agreement's actual benefits and costs.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ABOR policy 7-207.B.3 already provides that each university must annually report on the status and performance of all executed long-term leases that are commercial in nature. In implementing this recommendation, ABOR will develop additional guidance as to the elements of the required annual reports.

Recommendation 2: ABOR should develop and implement criteria on the appropriate use of the real estate policy requirement waiver and written guidance for the universities on how they should document justification for policy waiver requests.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 3: ABOR should develop and implement written guidance for the universities on how to determine fair market rental value for property it leases.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 4: ABOR should develop and implement a process to track and monitor ongoing approval and reporting requirements to help ensure the universities comply with the requirements.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ABOR currently has approval and reporting processes in place, including the following:
ABOR Policy 2-207 (A) states that “All lease agreements and amendments of lease agreements of real property. . . shall be reviewed by the Finance, Capital and Resources Committee and approved by the board before becoming effective” except for those leases exempted under the policy because they fall under certain thresholds established by the policy. ABOR Policy 2-207(B)(3) requires the universities to report at least annually “on the status of all executed long-term leases subject to subsection B, and the performance of such long-term leases. The report shall include timelines and financial information relative to the terms of executed agreements, the intended use of any revenue received by the university, and other information as coordinated with the executive director of the board.” ABOR Policy 2-207(C) requires that “All leases entered into shall be reported to the board office annually in accordance with procedure developed by the executive director.”

Recommendation 5: ABOR should develop and implement written guidance similar to its leasing policy requirements for commercial leases that its designees should follow when approving commercial development sublease agreements under its master lease agreements.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation:

Recommendation 6: ABOR should review existing master lease agreements and determine if they can be amended to include approval requirements that are consistent with its new guidance on master lease agreements and amend them accordingly.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: As noted in the report, ABOR uses master lease agreements that allow lessees to enter into subleases. ABOR will implement Recommendation 6 by including additional details governing the sublease process in the master lease agreements. This recommendation is not intended to require ABOR to approve each sublease.

Finding 2: Operation of some ABOR property has lacked oversight and accountability, resulting in inappropriate use of proceeds and limited transparency

Recommendation 7: ABOR should develop and implement a process to help ensure its designees fulfill the oversight duties delegated to them, such as conducting periodic monitoring or requiring designees to provide periodic reports or documentation detailing the fulfillment of their oversight duties.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: As noted in the report, the UA tech park was established over 25 years ago. Like many organizations, CRC has adjusted its business practices over that time and, as the Auditor General noted, its recent practices do not strictly adhere to the requirements of the master lease agreements. ABOR, in conjunction with the University of Arizona and the CRC, will undertake a review and modernize the requirements of the master lease agreements to meet the desired outcomes of the relevant leases.

Recommendation 8: ABOR should develop and implement policies that prohibit a university president and/or their designee who has been delegated oversight responsibilities for any real estate agreement with a third party from also participating in governance and/or operational responsibilities related to that third party.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation:

For true unaffiliated third parties, ABOR complies with conflict of interest statutes. For related entities, university employees can and should participate in governance and/or operation in order to provide oversight and safeguard ABOR's interests. Forbidding university employees from serving on the board of a related entity, such as a research park for example, would deprive ABOR of a meaningful opportunity to ensure the entity complies with contractual requirements and acts consistently with university interests. ABOR's understanding of this recommendation is that it is limited to specific, formal, written delegated authority to university presidents or other university officers regarding ABOR oversight responsibilities. As long a separation of official duties exists between governance of related entities and ABOR oversight, university officers may serve on related entity boards.

Recommendation 9: ABOR should work with its legal counsel to determine whether any actions should be taken to address the improper advances from the Rita Road property to the Bridges property.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 10: ABOR should develop and implement procedures to track and act on its oversight responsibilities prescribed in master lease agreements, such as ensuring it receives and appropriately reviews annual reports if the CRC does not provide them in accordance with master lease agreements.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 11: ABOR should ensure its legal counsel works with the universities to review their classification of public records in accordance with public records laws.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 12: ABOR should comply with public records laws by maintaining records that are reasonably necessary to provide an accurate accounting of its official activities, such as those described in its master lease agreements.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Finding 3: ABOR lacks comprehensive property information to independently oversee and manage the use of its property

Recommendation 13: ABOR should develop and implement policies and/or written guidance for developing and regularly updating property listings, including clearly identifying the property information that should be maintained in the listings, such as parcel numbers, description of the property, location, use restrictions, and current and planned uses.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 14: ABOR should continue with its efforts to develop a complete and accurate property listing of all ABOR properties using information compiled by the universities, containing all land and improvements, with sufficient information to allow it to oversee the universities' use of its property, including unique property identification, location, use restrictions, and current and planned use.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Recommendation 15: ABOR should develop and implement procedures to verify property ownership and the accuracy of information in the property listings, such as working with the county assessors' and recorders' offices to verify property ownership. These procedures could include a risk-based approach and sampling methods for performing this verification work, as appropriate.

ABOR Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Click to enter explanation.

Exhibit A
to
Arizona Board of Regents' Response to the Auditor General's
Performance Audit Regarding Commercial Real Estate

Policy Number: 7-207	Policy Name: Leases of Real Property
Policy Revision Dates: 12/2018, 9/18, 4/18 (effective 7/1/18), 6/09, 6/05, 4/99 (Previous 7-306 Leases of Real Property 1/94, 3/92, 9/90, 1/88 - 7-403 Lease-Back Agreements)	Page 1

7-207 Leases of Real Property

A. All lease agreements and amendments of lease agreements of real property, including lease agreements in connection with any development of capital projects, as defined in board policy 7-102(B)(3) shall be reviewed by the Finance, Capital and Resources Committee and approved by the board before becoming effective, except as provided below:

1. A university may enter into a lease or lease amendments as Landlord or Lessor without board approval (except for use of athletic facilities by professional teams), provided all of the following criteria are met:

   a. The lease term including all renewals shall not exceed 120 months;

   b. The annual base lease amount does not exceed $1,000,000; and

   c. The rental rate meets or exceeds the fair rental value of the property.

2. A university may enter into leases or lease amendments as tenant or lessee without board approval provided all of the following criteria are met:

   a. The original lease term shall not exceed a total of 60 months;

   b. Renewal options in total shall not exceed an additional 60 months;

   c. The total annual base lease amount does not exceed $1,000,000;

   d. The rental rate does not exceed fair rental value; and

   e. Funds are available.

B. A university may seek board approval for a long-term lease that is commercial in nature. Such leases are subject to the following additional considerations:

1. When considering a long-term lease described in subsection B:

a. Such long-term leases of university property should, to the extent possible, optimize the value of the property to the university and enhance the institutional mission of the university.

b. The university should use financial transactions (whether sale, lease, sale-leaseback or other means) that support the needs of the university to facilitate development of university property.

c. In general, when a transaction is commercial in nature, the university should consider long-term leases over the sale of university property unless the university can demonstrate to the board that a sale will provide a greater long-term benefit.

d. Universities shall not engage in long-term leases that are commercial in nature if the primary purpose is to remove private land or real property improvements from property tax rolls.

e. The university shall document the economic benefits to the university and the state of each such long-term lease, including the university's understanding of the tax treatment of the real property and proposed improvements, and shall document how such long-term lease furthers the institutional mission of the university.

f. Board review of proposed long-term leases that are commercial in nature shall include a review of any payment to the university in lieu of taxes, the property tax impacts on other taxing jurisdictions, and any service agreements, including payments, with relevant governmental entities.

g. Board review of proposed long-term leases will include a review of appropriate community outreach and coordination with community partners and relevant governmental entities.

2. All long-term leases and agreements described in subsection B shall be non-binding until reviewed by the Finance, Capital and Resources Committee and approved by the board as follows, and as applicable, reports may be given in executive session:

a. Notification. The university shall report to the Finance, Capital and Resources Committee chair and vice-chair and the board office on its intent to solicit proposals or to enter into transactions with possible partners for long-term leases on university property that will be commercial in nature. The report shall include the preliminary development concept associated with the long-term lease.

b. Preliminary Presentation of Lease. Following entering into a letter of intent or other agreement to provide exclusive rights under a long-term lease that is anticipated to be commercial in nature, a university shall present its preliminary lease plan to the Finance, Capital and Resources Committee. The presentation shall include the following elements, as appropriate to the scope and structure of the transaction:

i. Conformance with the principles and requirements outlined in subsection B, paragraph 1.

ii. Preliminary transaction timing and project schedules.

iii. Preliminary financial terms and conditions, including income and cost estimates, as applicable.

iv. Other information as coordinated with the executive director of the board.

c. Final Lease Approval. After the completion of due diligence, the university shall request a final review of the long-term lease that is commercial in nature from the Finance, Capital and Resources Committee and approval of such lease from the board. The final lease plan submitted to the committee and the board shall include the following elements, as appropriate:

i. Conformance with the principles and requirements outlined in subsection B, paragraph 1.

ii. Terms and conditions of the long-term lease, including any considerations regarding any future transfer or sale of the lease or leasehold interest.

iii. Market analysis.

iv. Risk assessment.

v. Information related to agreements with other jurisdictions.

vi. Other information as coordinated with the executive director of the board.

3. Ongoing Monitoring and Reporting. At a time agreed to by the executive director of the board, the university shall at least annually report on the status of all executed long-term leases subject to subsection B, and the performance of such long-term leases. The report shall include timelines and financial information relative to the terms of executed agreements, the intended use of any revenue received by the university, and other information as coordinated with the executive director of the board.

C. All leases entered into shall be reported to the board office annually in accordance with procedures developed by the executive director of the board.

D. For the purposes of this policy:

1. "Commercial in Nature" means that a majority of business, calculated either by lease revenues generated or by allocation of square footage, conducted at the leased property is anticipated to come from the non-university population.

2. "Long-Term Lease" means a lease of land or real property improvements with a term that exceeds 120 months.

3. “University Property” means property, the title of which is owned and held by the Arizona Board of Regents.

Exhibit B
to
Arizona Board of Regents' Response to the Auditor General's
Performance Audit Regarding Commercial Real Estate

Policies cited in the ABOR Response include the following:

ABOR Policy 7-104: Strategic Planning

https://public.azregents.edu/Policy%20Manual/7-104-Strategic%20Planning.pdf

ABOR Policy 7-105: Master Plans

https://public.azregents.edu/Policy%20Manual/7-105-Master%20Plans.pdf

ABOR Policy 7-106: Annual Capital Improvement Plans

https://public.azregents.edu/Policy%20Manual/7-106-Annual%20Capital%20Improvement%20Plans.pdf

ABOR Policy 7-107: Capital Development Plan

https://public.azregents.edu/Policy%20Manual/7-107-Capital%20Development%20Plan.pdf

ABOR Policy 7-207: Leases of Real Property

https://public.azregents.edu/Policy%20Manual/7-207-Leases%20of%20Real%20Property.pdf

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