

Arizona Board of Regents





Commercial Real Estate

66-Month Followup of Report 19-115

The October 2019 Arizona Board of Regents (ABOR)—Commercial Real Estate performance audit was the first of 3 audit reports of ABOR we issued as part of its sunset review.¹ This performance audit found that 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. We made **17** recommendations to ABOR.

¹ The second performance audit found that universities had not consistently followed ABOR's guidelines governing university relationships with affiliated organizations, limiting full transparency and accountability for some university resources provided to and the benefits received from these organizations, nor did ABOR regularly receive information on affiliated organization activities. The third audit provided responses to the statutory sunset factors and found that ABOR could improve its effectiveness in some areas, including discussing the universities' significant risk areas and plans for addressing these risks. For more information on the other performance audits we issued as part of ABOR's sunset review, including any applicable followup reports, see [Report 21-103](#) and [Report 21-105](#).

ABOR’s status in implementing 17 recommendations

Implementation status		Number of recommendations
	Implemented	9 recommendations
	Partially implemented	3 recommendations
	Partially implemented; full implementation not yet applicable	3 recommendations
	Not implemented	2 recommendations

Unless otherwise directed by the Joint Legislative Audit Committee (JLAC), this report concludes our separate followup work on ABOR’s efforts to implement the recommendations from the October 2019 report. However, we made several recommendations to ABOR regarding its development, review, and oversight of commercial leases. Although ABOR has revised its commercial leasing policy and associated guidance consistent with our recommendations, it has not entered into a new lease agreement under the revised policy. As a result, we were unable to assess ABOR’s application of the revised policy and guidance. JLAC has directed our Office to conduct ABOR’s next sunset review, which is due October 1, 2026. If ABOR approves a new commercial lease agreement between now and our conducting the sunset review, we will assess its implementation of its revised commercial leasing policy and associated guidance as part of the sunset review.

Recommendations to ABOR

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

- 1. ABOR should 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.
- Status: **Partially implemented at 66 months; full implementation not yet applicable.**

As reported in our prior followups, ABOR revised its commercial leasing policy to

require master lease agreements to include measurable performance standards and a lease remedy in case the established performance standards are not met. It also developed guidance for the universities requiring them to describe how the performance standards align with the objective for entering into the agreement. However, as of May 2025, ABOR reported that it had not approved a new commercial lease agreement under the revised policy requirements. JLAC has directed our Office to conduct ABOR's sunset review, which is due October 1, 2026. Therefore, if ABOR approves a new commercial lease agreement between now and our conducting the sunset review, we will assess its implementation of its revised commercial leasing policy and associated guidance as part of the sunset review.

- 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 standards.

► Status: **Partially implemented at 66 months; full implementation not yet applicable.**

As reported in our prior followups, ABOR developed guidance for the universities on documenting how the proposed lease agreement aligns with ABOR's objective for entering commercial lease agreements, its economic costs and benefits to the university and the State, and its tax treatment and potential impact on other taxing jurisdictions. Additionally, the guidance includes instructions for the universities to report the assumptions and methodology used for each of these items. However, as of May 2025, ABOR had not approved a new commercial lease agreement developed under this guidance. As previously discussed JLAC, has directed our Office to conduct ABOR's sunset review, which is due October 1, 2026. Therefore, if ABOR approves a new commercial lease agreement between now and our conducting the sunset review, we will assess its implementation of its revised commercial leasing policy and associated guidance as part of the sunset review.

- 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.

► Status: **Partially implemented at 66 months.**

As reported in our 36-month followup, ABOR revised its commercial leasing policy and developed related guidance to require the universities to annually report on the performance standards included in their commercial lease agreements, including financial and nonfinancial benefits to the university. ABOR has developed written guidance for staff review of these reports and indicated that it would use these reports to also track and monitor ongoing approval and reporting requirements (see recommendation 4), require its designees to provide periodic reports detailing the fulfillment of their oversight duties (see recommendation 7), and track and act on its oversight responsibilities prescribed in master lease agreements (see recommendation 10). ABOR received annual commercial lease reports from all 3 State universities for 2023 and 2024 for staff review consistent with recommendations 4, 7, and 10, such as tracking and monitoring ongoing approval and reporting requirements, ensuring its designees fulfill their oversight duties, and tracking and acting on its oversight responsibilities. Additionally, ABOR provided evidence of its staff communicating with the universities and requesting information on various commercial lease reports to help ensure the universities complied with the reporting requirements. Finally, ABOR reviewed and discussed the universities' annual commercial lease reports at its September 2023 and 2024 public meetings. However, the 2023 and 2024 annual commercial lease report for 1 of 2 agreements that provided the lessee with a property tax benefit did not include a determination of the agreement's actual benefits and costs.² ABOR did not provide documentation demonstrating that it followed up with the university on the omission of this information from its report.

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.

► Status: **Partially implemented at 66 months; full implementation not yet applicable.**

As reported in our 36-month followup, ABOR has revised its commercial leasing policies to require the universities to justify policy waiver requests related to any lease proposal based on the criteria that the waiver be in the university's best interest and that it complies with applicable State laws; however, as of May 2025, ABOR reported that it had not approved a new commercial lease and would not have received a policy waiver request under the revised policy requirements. As previously discussed, JLAC has directed our Office to conduct ABOR's sunset review, which is due October 1, 2026. Therefore, if ABOR approves a new commercial lease agreement between now and our conducting the sunset review, we will assess its implementation of its revised commercial leasing policy and associated guidance as part of the sunset review.

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

² As of February 2019, 2 of the lease agreements—for the Marina Heights and Mirabella properties associated with Arizona State University—provided property tax benefits to the lessees.

► Status: **Not implemented.**

As reported in our prior followups, ABOR has not developed guidance on how the universities should determine fair market rental value for property it leases. Instead, ABOR's revised commercial leasing policy requires the universities to submit to it the valuation methodology for any proposed lease agreement, including any assumptions used, as part of the final lease approval process. However, without providing guidance that identifies appropriate methodologies, ABOR is at risk of receiving inconsistent information from the universities that does not allow it to assess whether the rental rate is set at fair market rental value.

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.

► Status: **Implemented at 66 months.**

See explanation for recommendation 1c.

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.

► Status: **Not implemented.**

As reported in our prior followups, ABOR revised its commercial leasing policy to require the universities to identify in any new commercial master lease agreements the process and requirements for tenants to enter into sublease agreements and developed guidance for its designees. However, ABOR's guidance does not require its designees to consider other requirements like those that ABOR considers for commercial leases, such as the anticipated tax impact on other taxing jurisdictions or expected economic financial and nonfinancial benefits and costs. ABOR reported that it does not plan to develop additional guidance for commercial development sublease agreements because it reviews and approves master lease agreements, which are subject to its leasing policy requirements for commercial leases. As a result, ABOR reported that it believes the requirement to ensure that sublease agreements align with master lease agreement objectives is sufficient for ensuring appropriate governance of its property. However, without additional guidance for commercial development sublease agreements, ABOR increases the risk that its property subleased through third parties is used inconsistent with its statutory authority to lease property to benefit Arizona and for the universities' use.

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.

► Status: **Partially implemented at 36 months.**

ABOR reported reviewing its existing master lease agreements and amended 3 of its 4 master lease agreements in April 2020 to require that it approve the terms and conditions of proposed subleases under the master lease agreements. However, it did not amend these 3 master lease agreements to include other approval requirements for

subleases that are similar to those that ABOR requires for commercial leases, such as requirements related to financial and nonfinancial benefits and costs (see explanation for recommendation 5). Additionally, ABOR reported determining that it could not further amend its master lease agreements unless a business reason arises or until the agreements expire on December 31, 2101 and July 31, 2113.

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

- 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.

► Status: **Implemented at 66 months.**

See explanation for recommendation 1c.

- 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.

► Status: **Partially implemented at 12 months.**

ABOR revised its commercial leasing policy to prohibit its designees from participating in governance responsibilities of a university-affiliated entity while at the same time fulfilling their ABOR-delegated responsibilities related to any new master lease with an affiliated entity. Additionally, ABOR amended its existing master lease agreements with the Campus Research Corporation (CRC) to prohibit its designee from serving as a CRC Board member. However, ABOR has not similarly amended its other existing master lease agreement with ASU Research Park, Inc. (ASURP). ABOR reported that it did not have a specific time frame for amending its existing ASURP master lease agreement to align with its revised policy, but it plans to work with Arizona State University to determine the optimal time frame to amend the master lease agreement.

- 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.

► Status: **Implemented at 12 months.**

During the audit, we found that the CRC had improperly advanced approximately \$3.9 million in proceeds generated from the Rita Road property for expenses at the Bridges property. In consultation with its legal counsel, ABOR did not take any action to address the prior improper advances. However, ABOR amended its 3 master lease agreements with the CRC to authorize the CRC to use revenues received from managing any ABOR property to manage and/or develop any other property the CRC leases from ABOR. As a result, as of July 2020, the CRC is authorized to advance future proceeds between the Rita Road property and the Bridges property.

- 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.
- ▶ Status: **Implemented at 66 months.**
- See explanation for recommendation 1c.
- 11.** ABOR should ensure its legal counsel works with the universities to review their classification of public records in accordance with public records laws.
- ▶ Status: **Implemented at 12 months.**
- ABOR's legal counsel and legal counsels from each of the 3 universities have established a work group that meets as needed to review classification of public records across the university system.
- 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.
- ▶ Status: **Implemented at 24 months.**
- As of October 2021, ABOR maintained as a public record the CRC's fiscal year 2022 budget. Additionally, as reported in the 12-month followup, ABOR amended its 3 master lease agreements with the CRC to no longer require it to provide subleases to ABOR's designee for review and approval. Instead, the amended master lease agreements state that ABOR's designee will review and approve a document that includes the basic terms and conditions (term sheet) for each of the CRC's proposed subleases. According to ABOR, the CRC provided 15 term sheets to its designee for review and approval between June 2020 and October 2021. ABOR maintained these 15 term sheets as public records.

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

- 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.
- ▶ Status: **Implemented at 36 months.**
- 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.
- ▶ Status: **Implemented at 36 months.**

- 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.

► Status: **Implemented at 66 months.**

As reported in our 36-month followup, ABOR has developed a geospatial information systems (GIS) database that included property listings and related information provided by the 3 State universities for properties owned by ABOR, including parcel numbers, description of the property, location, use restrictions, and current and planned uses. Additionally, ABOR developed and provided to the 3 universities written guidance instructing the universities to verify they have submitted a complete and accurate property listing to ABOR's GIS database every 6 months, including a requirement for the universities to reconcile property information with property records maintained in each Arizona county assessor's office. ABOR's guidance also requires ABOR staff to review a random sample of the property listings universities submit to verify the information's accuracy. ABOR staff have taken steps to verify information in university property listing databases, such as property identification, location, and description information, using a sample-based approach in line with ABOR's guidance, as required by its policy.