**To**: Karla Mongeon-Stewart, Vice President for Finance and Operations/COO

**From**: Click here to enter text.

**Date:** Click here to enter text.

**RE**: Lease Agreement

**Brief summary of lease agreement**: Click here to enter text.

The attached lease agreement has been reviewed and meets the following criteria (**check all that apply**):

Lease meets policy criteria under [SBHE policy 804](https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EThxCjnOWv9NlVgjFhA-SY4B1JwrcF50lnQUr90fqKsUSg?e=b4s3RK): Equipment and Other Leases.[[1]](#endnote-1)

Lease meets policy criteria under [SBHE policy 909](https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EakUL0OjXgZInVbbBniE6DcB0LFJgXweTUEzAhy2QhCq4Q?e=sgliOT): Real Property Leases.[[2]](#endnote-2)

Lease is categorized as:

Short-Term[[3]](#endnote-3) or  Long-Term[[4]](#endnote-4)

Lease has been submitted to and reviewed by legal counsel, and document has been revised as directed by legal counsel. (Required prior to submitting to VPFO; attach documentation from legal counsel showing document was reviewed.)

Lease has been reviewed by/with appropriate dean/AVP.(Required prior to submitting to VPFO; attach documentation from dean/AVP showing document was reviewed.)

Lease or rental is for a term of more than one year, and the real property is owned by UND.[[5]](#endnote-5)

Lease includes a restriction prohibiting the lessee from making material alterations or improvements on or to the leased property without prior written authorization of the institution. **(Statement required in agreement.)**

Lease is not for the purpose of sparring or wrestling exhibitions except in compliance with NDCC chapter 53-01. **(If applicable, statement required in agreement.)**

Lease does not exceed ten years when concerning agriculture land which reserve rent or service and leases of revenue producing buildings.

Lease is limited to a term of not more than ten years and includes a clause permitting termination by the institution upon sixty days’ written notice for cafes, restaurants or other concessions contracts. **(If applicable, statement required in agreement.)**

Lease requiring expenditure of public funds by UND is limited to the current biennium for which funds have been appropriated or includes a termination clause permitting termination at the end of the biennium if appropriated or other available funds are insufficient to continue the lease payments. **(If applicable, statement required in agreement.)**

Lease or rental entered by UND provides for total payments by UND of $750,000 or more (includes lease, rental, interest, and all other payments over the lease/rental term).[[6]](#endnote-6)

Lease or rental is for a term of five or more years, and the real property is owned by another entity.[[7]](#endnote-7)

Acquisition results from a lease agreement or other debt financing arrangement (see NDUS 804(5)[[8]](#endnote-8)). Attach OMB lease vs purchase cost/benefit analysis [form](https://ndgov.sharepoint.com/sites/TeamND/SitePages/Lease-vs-Purchase-Analysis.aspx).

1. SBHE 804: Equipment and Other Property

   Defined as equipment and other non-real property (property that is movable and is not affixed to or associated with the land and/or buildings).

   Requires chancellor approval if lease/rental (including interest and all other payments over the term over the lease) by UND provides for total payments by UND of $750,000 or more. There is no stipulation on lease duration.

   For more information see [SBHE policy 804](https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EThxCjnOWv9NlVgjFhA-SY4B1JwrcF50lnQUr90fqKsUSg?e=b4s3RK) and [NDUS procedure 804](https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/ET4HWUVoB3RBhTfHqdJ0LGMBt21I3jqv1NaKZgUs4WOP3g?e=zv2nx2). [↑](#endnote-ref-1)
2. SBHE 909: Real Property

   Defined as land and buildings or other structures attached or affixed to the land, including attached and integrated equipment, anything growing on the land, including crops, and mineral interests.

   Requires chancellor approval if lease/rental is for a term of more than one year and the real property is owned by SBHE or UND.

   Requires chancellor approval if lease/rental by UND provides for total payments by UND of $750,000 or more.

   Requires chancellor approval if lease/rental term is five years or more.

   For more information see [SBHE policy 909](https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EakUL0OjXgZInVbbBniE6DcB0LFJgXweTUEzAhy2QhCq4Q?e=sgliOT). [↑](#endnote-ref-2)
3. Short-Term – A lease whose term is twelve months or less. [↑](#endnote-ref-3)
4. Long-Term – A lease whose term is greater than twelve months. There are two types of long-term leases:

   Leases that do not transfer ownership.

   Leases that transfer ownership. [↑](#endnote-ref-4)
5. Requires chancellor approval. [↑](#endnote-ref-5)
6. Requires chancellor approval. [↑](#endnote-ref-6)
7. Requires chancellor approval.

   In all instances where chancellor approval is required, the chancellor may, in their discretion, submit a lease to the Board for Board consideration and approval in lieu of chancellor approval. [↑](#endnote-ref-7)
8. NDUS 804(5) – Before acquisition of an asset or non-capitalizable equipment as the result of a lease agreement or other debt financing arrangement, the responsible NDUS institution or entity official shall, unless the decision is dictated by funding limitations, prepare a written analysis documenting the decision to acquire the use of the asset, and file it with the lease agreement or other document setting forth the terms of the agreement. NDUS institutions or entities should use the state Office of Management and Budget (OMB)'s lease vs purchase cost/benefit analysis form. If the decision is dictated by funding limitations, the official shall document those limitations. [↑](#endnote-ref-8)