



## Minnesota State Colleges and Universities System Procedures Chapter 6 – Facilities Management

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### Procedures 6.7.1 Acquisition and Disposition of Real Estate

**Part 1. General Information.** The State of Minnesota, by and through the Board of Trustees of Minnesota State Colleges and Universities (MnSCU), owns state college and university real estate. Board Policy 6.7, Real Estate Transactions, provides for a procedure to govern all acquisition and disposition of MnSCU real estate, regardless of funding source. The Carpentry program real estate acquisition and disposition process is governed by [Procedure 6.7.4, Carpentry Program Administration](#).

The Office of the Chancellor provides system-wide leadership of Minnesota State Colleges and Universities' real estate and advises campuses on all real estate management issues including tactics and strategies used in acquiring and disposing of real estate, leasing, and negotiating easements and permits. The Office of the Chancellor also has responsibility for the system's real estate inventory and mapping of real estate assets.

**Part 2. Acquiring Real Estate.** Board Policy 6.7 delegates authority to the Chancellor to review and approve all real estate transactions and includes the authority to execute and deliver all documents relating to the acquisition of real property. The Board of Trustees approval shall be required for the acquisition of real estate when campus operating funds are used and the purchase price equals or exceeds \$1,000,000 or 1% of the acquiring institution's fiscal year operating budget.

Real estate to be acquired using bond proceeds will not require additional Board approval if it was explicitly identified in the capital budget approved by the Board. Board approval shall be required if the terms and conditions differ materially from those presented during the capital budget review and approval process.

**Subpart A. Authority.** The Chancellor has delegated authority to the Vice-Chancellor-Chief Financial Officer for the approval authority of all real estate transactions and signature authority for all necessary transaction documents. All purchases of real estate shall require Vice Chancellor-Chief Financial Officer approval and signature of transaction documents or a delegation of authority from the Vice Chancellor-Chief Financial Officer to a MnSCU designee to sign such documents.

**Subpart B. Request to the Office of the Chancellor.** The campus begins the acquisition process by submitting a letter to the Office of the Chancellor. The letter shall include the following:

1. **Description of property. The property description shall include the following:**
  - a. a legal description of the property to be acquired;
  - b. a sketch or map depicting the real estate;

- c. any known or available information about buildings and improvements on the property ;
  - d. an owner's and encumbrances report describing any known or suspected encumbrances on the property such as utility easements or access rights; and
  - e. the size of the parcel and improvements.
2. **Sale Price.** Sale price and purchase price being discussed
  3. **Funding source.** Identify the anticipated source of funding for the purchase. If the campus anticipates using its operating funds to buy the property, state whether the expected purchase price would exceed 1% of the campus's fiscal year operating budget.
  4. **Master Plan confirmation.** Confirm whether the property to be acquired is part of the latest version of the campus's master plan, including the following:
    - a. reference to the relevant section(s) of the Master Plan identifying the acquisition parcel;
    - b. the master plan illustration showing the proposed acquisition and highlighting the property, and
    - c. if the acquisition was not included in the latest campus master plan, include a short explanation regarding the circumstances and rationale for the acquisition.
  5. **Planned use.** Identify the expected short- and long-term use(s) of the real estate by the campus (e.g., future parking, student housing, land banking for future campus expansion, etc.).
  6. **Campus Student Association consultation.** Proof that the campus's student association was consulted regarding the planned purchase of real estate in accordance with Procedure 2.3.1. [See Procedure 2.3.1 Student Involvement in Decision-Making.](#)
  7. **Environmental condition of property.** Identify general conditions of property, including whether Seller has provided any environmental reports about the property.
  8. **Other details.** Any other relevant details such as an expected closing date or any special circumstances pertaining to the property.

**Subpart C. Appraisals and Environmental Investigations.** The Office of the Chancellor shall review the information provided, and if appropriate, provide a notice to proceed with appraisal(s) and a Phase I environmental investigation.

1. **Obtaining a Real Estate Appraisal.** An appraisal shall be obtained from an independent real estate appraiser, preferably an appraiser with Members of Appraisal Institute (MAI) status, for every parcel to be acquired. The campus shall:
  - a. obtain at least two appraisals when the real estate value is anticipated to exceed \$1 million;
  - b. obtain at least one appraisal when the real estate value is anticipated to exceed \$40,000, but is less than \$1 million;
  - c. obtain at least one appraisal or use recent sale or appraisal data from similar properties when the value is anticipated to be less than \$40,000.
2. **Obtaining a Phase I Environmental Assessment.** The campus shall obtain a Phase I environmental assessment to evaluate the condition of the property to be acquired, including any buildings, structures or improvements on the property, prior to acquisition. If environmental contamination is suspected or identified, the campus

shall complete additional investigation, and may enter the property into a Minnesota Pollution Control Agency program for voluntary investigation and cleanup to obtain assurance letters limiting MnSCU's liability related to the real estate to be acquired.

The Office of the Chancellor maintains an Accelerated Master List of Environmental Consultants. Following the instructions set up for the list, consultants can be used for environmental investigation work expected to cost less than \$50,000.

The campus shall undertake additional investigations for all improved properties where typical environmental hazards are expected, including asbestos assessments, fuel tank evaluations, and other environmental conditions requiring special handling or disposal methods.

- 3. Obtain a Facilities Condition Assessment for Improved Property.** The campus shall obtain a Facilities Condition Assessment to determine the level deferred maintenance and renovation costs required to adapt the facility to an appropriate use.

**Subpart D. Prepare Purchase Agreement.** The Office of the Chancellor shall assist the campus in negotiating business terms for the transaction, and shall prepare and approve all purchase agreements. The purchase agreement shall be in a form acceptable to the Attorney General's Office. At a minimum, acquisitions shall be conditioned upon:

1. Marketable title satisfactory to the Office of the Chancellor
2. Acceptable environmental condition
3. Closing subject to funding availability
4. Legislative consultation as required by [Minn. Stat. § 136F.60](#)
5. Any required approvals by the Board of Trustees and the Office of the Chancellor.

**Subpart E. Evaluation and Investigation Period.** Upon finalizing the terms of the purchase agreement, the Vice Chancellor-Chief Financial Officer shall either sign the purchase agreement or delegate signature authority to an appropriate designee. After the agreement is signed, the campus shall initiate due diligence, which includes:

1. **Approvals.** Obtaining necessary administrative approvals.
2. **Title Work.** Providing the Chancellor with an abstract and a title commitment from a title insurance company for the real estate for review.
3. **Survey.** Providing an ALTA survey to the Chancellor identifying the real estate to be acquired, including the legal description, boundary lines, and all encumbrances or restrictions impacting the real estate.
4. **Environmental Investigations.** Providing the Chancellor with the environmental reports as may be required (such as a Phase II investigation, indoor air quality or asbestos evaluation)
5. **Legislative Consultation Letters Sent.** The Chancellor shall send legislative consultation letters advising the legislature of the acquisition, consistent with [Minn. Stat. § 136F.60](#).
6. **Any additional investigations or approvals,** as needed.

**Subpart F. Closing the Acquisition.** After all of the terms and conditions of the purchase agreement have been fulfilled, including receipt of the legislative consultation responses from the respective House and Senate committee leadership, either the Office of the

Chancellor or campus shall close the transaction, utilizing a local title insurance company for closing services. If the campus closes the transaction, they shall provide the Office of the Chancellor with copies of the deed, closing statement, title policy, survey, and any additional relevant documents. The Office of the Chancellor shall maintain and update the real estate inventory with the new acquisition and report the acquisition in its annual report to the Board of Trustees as required Board Policy 6.7.

**Part 3. Selling Real Estate.** Board Policy 6.7, Real Estate Transactions, requires Board of Trustee approval for all sales of real property valued at or greater than \$250,000. The Office of the Chancellor shall review and prepare each real estate disposition for Board consideration.

**Subpart A. Authority.** The Board of Trustees shall approve all sales of real estate valued at or greater than \$250,000. Easement grants shall be approved by the Office of the Chancellor. All sales of real estate shall require Vice Chancellor-Chief Financial Officer signature of transaction documents or a delegation of authority from the Vice Chancellor-Chief Financial Officer to a MnSCU designee to sign such documents. The Vice Chancellor-Chief Financial Officer shall sign all deeds for the sale of real estate.

**Subpart B. Identification of Real Estate as “Surplus”.** Before being offered for sale, real estate must be identified as “Surplus Real Estate” by the Office of the Chancellor.

**Subpart C. Obtain a Real Estate Appraisal.** Surplus Real Estate with an anticipated value of more than \$40,000 shall have a current appraisal from an independent real estate appraiser, preferably an appraiser with Member of Appraisal Institute status. Surplus Real Estate with an anticipated value of \$40,000 or less shall be valued through the use of an appraisal or recent sale or appraisal data from similar properties.

**Subpart D. Offer Surplus Real Estate to Local Governmental Entities.** MnSCU must offer the Surplus Real Estate to the city, county, town, school district, and any other local public body corporate (“Local Governmental Entities”) where the Surplus Real Estate is located before offering it for public sale. [See Minn. Stat. §136.60, Subd. 5](#). The Office of the Chancellor shall provide a written notice to the Local Governmental Entities, which then shall have two weeks from receipt of notice in which to express interest in acquiring the property. A Local Governmental Entity may purchase the Surplus Real Estate for no less than the appraised value plus costs incurred for appraisals and surveying.

**Subpart E. Public Sale Offering.** If Local Governmental Entities decline or fail to express interest in acquiring the Surplus Real Estate within two weeks after receipt of notification, then the property shall be offered to the public. Public sales shall be for no less than the appraised value plus costs incurred for surveying and appraisal reports.

- 1. Advertisement.** MnSCU shall advertise the real estate for sale at least once a week for four consecutive weeks in a legal newspaper and newspaper of general distribution in the city or county in which the Surplus Real Estate is situated.
- 2. No acceptable offers.** In the event that no acceptable offers are generated, MnSCU may hire a real estate broker to market the real estate, auction the property, reappraise the property or withdraw it from sale. The Surplus Real Estate may be sold to anyone agreeing to pay the appraised value plus costs.

**Subpart F. Acceptable Offer and Purchase Agreement.** Upon receipt of an acceptable offer, the Office of the Chancellor shall assist the campus in finalizing business terms and preparing a purchase agreement. A purchase agreement shall be in a form acceptable to the Attorney General's office for all sales. The terms of any sale shall include:

1. **Earnest Money.** Buyer shall submit at least 10% of the purchase price as earnest money.
2. **Payment Terms.** At the Buyer's option, Buyer may:
  - a. Pay the balance due at closing, or
  - b. Enter into a Contract for Deed for a term not to exceed five (5) years.
3. **Reservation of Minerals.** MnSCU reserves all minerals and mineral rights on all sales of Surplus Real Estate.
4. **Board of Trustees and Office of the Chancellor approval as a condition of closing.**
5. **Subject to Payoff of Bond-Financed properties.** The sale shall be conditioned on meeting the conditions of [Minn. Stat. §16A.695](#), regarding the payment of any and all share of state bonding monies used to acquire or improve the Surplus Real Estate.

**Subpart G. Sale Proceeds.** The Office of the Chancellor shall verify whether any state bonding monies remain outstanding on Surplus Real Estate for sale and ensure that bonding obligations are paid off at the time of closing consistent with [Minn. Stat. §16A.695](#). Sale proceeds, after expenses and bonding obligations are paid, are directed to the Board of Trustees for use in capital projects at the campus that was responsible for the management of the land.

**Subpart H. Board of Trustee Approval.** Upon execution of a purchase agreement, the sale shall be placed on the Finance and Facilities committee of the Board of Trustee agenda for consideration and approval.

**Part 4. Gift Real Estate.** The Board of Trustees, on behalf of MnSCU, may acquire real estate by gift, grant, bequest, devise or endowment. [Minn. Stat. §136F.80](#). Board Policy 7.7, Gift and Grants Acceptance, governs all acquisitions by gifts, grants, bequests, devises or endowments of real property and requires Board acceptance. All gifts, grants, bequests, devises or endowments must be consistent with the applicable college's, university's or system's mission.

Before acceptance of any gift of real estate, the Board shall have evidence that the property is in acceptable environmental condition, and the acceptance will not unnecessarily expose MnSCU to environmental liability, nor shall MnSCU accept real estate with outstanding debt.

- All taxes and special assessments constituting a lien on any real property received and accepted by the board under this section shall be paid in full before title is transferred to MnSCU. [Minn. Stat. §136F.80, Subd. 1.](#)
- The Office of the Chancellor shall obtain an environmental evaluation of donated property prior to Board consideration of acceptance.

**Part 5. Easements and Permits.** Minnesota Statutes §136F.60, Subd. 3 provides that the Board of Trustees may grant easements and permits on, over, under and across MnSCU-owned real estate

Board Policy 6.7, Real Estate Transactions, delegates authority to the Office of the Chancellor to review and approve all easements and permits.

**Subpart A. Definitions.**

1. **Easement.** An easement is a right given to individuals or entities other than the owner to use a property for a specific purpose. An easement can be granted by deed, by separate agreement, or by plat, and is often recorded in the county's land records. Easements are commonly granted for utility lines or roads.
2. **Permit.** A permit is typically for a shorter period of time than an easement, is for limited, non-exclusive uses, and is not meant to be recorded with the county recorder. Permits may be used in lieu of a lease or easement, where limited use of the real estate is needed (such as for temporary construction staging, telecommunications, geotechnical or environmental investigations).
3. **Termination provision.** MnSCU may terminate any easement or permit for any reason during the term of agreement upon providing 90 days notice to the easement or permit holder. This right to terminate shall be included in all agreements. [See Minn. Stat. §136F.60, subd. 3\(b\).](#)

**Subpart B. Authority.** The Chancellor has delegated authority to the Vice-Chancellor-Chief Financial Officer for the approval authority of all real estate transactions and signature authority for all necessary transaction documents. All real estate easements or permits shall require Vice Chancellor-Chief Financial Officer approval and signature of documents or the delegation of signature authority from the Vice Chancellor-Chief Financial Officer to a MnSCU designee to sign such documents.

**Subpart C. Requirements When an Easement or Permit is Requested to Use MnSCU real estate.** A party requesting an easement or permit should provide the following:

1. **Fee.** The campus or Office of the Chancellor may charge a one-time, non-refundable administrative fee to cover the cost of review of the easement or permit, including staff time, attorneys fees, and consultation with a surveyor or other professionals. The fee shall be based on reasonable expenses incurred.
2. **Survey.** A survey prepared by a registered land surveyor that identifies the area to be impacted by the easement or permit. At a minimum, the survey shall identify
  - a. The campus impacted,
  - b. Legal description of the easement or permit area(s), and
  - c. Acreage or square footage of the easement or permit area.

Complete legal descriptions shall be provided for all easements. The Office of the Chancellor may consult with a registered land surveyor to confirm the survey and legal description provided. The Office of the Chancellor may waive the survey requirement for permits, but a sketch that identifies the permit area is required.

**3. Valuation and Payment.**

- a. **Easement.** The recipient of an easement shall pay the fair market value for any easement granted, which shall be based on at least one current appraisal if the anticipated value is expected to exceed \$40,000. The appraisal should be no more than 6 months old. The campus may obtain its own appraisal.

- b. Permits. The recipient of a permit may be charged a permit fee.

**Subpart D. Acceptable Form.** The easement or permit shall be in a form acceptable to the Attorney General. MnSCU, as grantor, executes all easements and permits under the name of the corporate body: *The State of Minnesota, by and through its Board of Trustees of the Minnesota State Colleges and Universities.*

- 1. Description of purpose.** The grantee shall supply a description of purposes and planned use of the easement or permit (for example: *a 30' wide easement for the installation, repair, maintenance, and replacement of a 10" gas pipeline*).
- 2. Proceeds.** The campus responsible for the management of the property shall be the recipient of the net proceeds generated from an easement or permit.

**Part 6. Closing Activities.** The Office of the Chancellor and campus ensure that all relevant conditions outlined in the purchase agreement have been satisfied prior to closing, such as environmental investigations, surveys, title reviews, building evaluations, and necessary legislative, municipal and Board or Office of the Chancellor approvals.

The Office of the Chancellor may represent MnSCU at the closing of a purchase or sale of real estate. In coordination with the Attorney General, deeds and any supplemental documents are prepared. At Closing, the Office of the Chancellor verifies payment or receipt of sale proceeds, ensures payment of appropriate real estate taxes and special assessments due at closing, and ensures conveyance instruments are recorded.

Following the closing, the Office of the Chancellor ensures that the tax exempt status shall be properly reflected on the county tax records, which includes a Statement of Owner of Real Estate Claimed to be Exempt from Taxation. The Office of the Chancellor shall maintain a record of the yearly real estate transactions, and report completed transactions to the Board of Trustees on an annual basis.

**Part 7. Reporting Obligations.** When a campus closes a transaction, the campus shall provide the Office of the Chancellor with a copy of the deed, survey, closing statement and title documentation (either abstract, torrens certificate, title commitment or title policy).

**Part 8. Checklists.** Acquisition and disposition checklists are incorporated by reference.

- Real Property Conveyance (Sale) Checklist
- Real Property Acquisition (Purchase) Checklist

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*Approval Date: 11/18/05,*  
*Effective Date: 11/18/05,*

*Date and Subject of Revision:*

*08/03/06 - Amended procedure as a result of changes approved by the Board to corresponding policy 6.7, Real Estate Transactions. Amended Part 2, Subpart B, 1d to require an owner's and encumbrances report and 1e requires the description include improvements to the property. Amended Part 2, Subpart C to*

*include new number 3. Amended Part 3 to require Board approval for sales of property valued at or greater than \$250,000.*