

# EAST CAROLINA UNIVERSITY

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## Transition to Increased Real Property Acquisition Flexibility for ECU Physicians Practice Plan



**BRODY**  
SCHOOL *of* MEDICINE

Approved by:  
East Carolina University Board of Trustees  
December 15, 2006

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I. POLICY OVERVIEW

## I. POLICY OVERVIEW

### A. INTRODUCTION

Within the authorization of the North Carolina General Statute Section 116-40.6(d), the Medical Faculty Practice Plan Board of Directors' (ECU Physicians Board, hereafter) policy recommendations adopted by the East Carolina University (ECU) Board of Trustees on December 15, 2006 the establishment of a structure and process that addresses the acquisition or disposition of real property, by purchase, gift, lease, or rental for the ECU Brody School of Medicine (BSOM) Medical Faculty Practice Plan (the Practice Plan, hereafter), its operating units, and its affiliates. The property acquisition and disposition structure and process shall comply with all applicable local, state, and federal laws and regulations, and will function in a manner consistent with the values of fairness, openness, and ethical business practices as set forth in the BSOM at ECU Code of Conduct.

For purposes of this property acquisition and disposition structure and process, the ECU Physicians Board grouped all property transactions into one of the following three categories:

- Acquisition of space by lease.
- Acquisition of real property other than lease.
- Disposition of real property.

Property transactions for acquisition of leased space will be further defined as either "strategic" or "routine" space. As described in subsequent sections of this document, this classification will dictate which structure and process to follow. In short, those transactions falling into the "strategic" category will enable ECU Physicians to take full advantage of opportunities of strategic importance, such as the creation or expansion of clinical programs, alliances, affiliations, acquisitions, and joint ventures, which would further the tax-exempt mission of the Practice Plan. In addition, this category includes the ability to negotiate directly with owners for site-specific locations when advertisement for space needs would prematurely disclose competitive information about an opportunity of strategic importance in accordance with the North Carolina General Statute Section 116-40.6(d). Every effort to obtain competitive and equivalent proposals shall be made, and those efforts and rationale for strategic approach shall be reported to the Board of Trustees for transactions in excess of \$25,000. Acquisition of routine space and property transactions for real property other than lease are subject to the existing policies and regulations of the North Carolina State Property Office (SPO) (ECU approval process described herein).

Property transactions for acquisition or disposition of space by lease shall follow the policies and procedures developed by ECU in accordance with the North Carolina General Statute Section 116-40.6(d), which provides for greater flexibility compared to the standard SPO-governed process. Property transactions for real property other than by lease shall follow the existing policies and procedures set by the SPO once the necessary approvals are obtained as described herein.

B. POLICY RECOMMENDATIONS

1. The Practice Plan will utilize a single Property Office to administer the program for the acquisition, management, and disposal of real property of ECU Physicians, its operating units, and its affiliates.
2. The Property Review Committee (PRC) of BSOM will oversee the acquisition, management, and disposal of real property of ECU Physicians, its operating units, and affiliates, and will set priorities, establish standards, and provide direction for systemwide real property acquisition and disposition activities.
3. ECU Physicians will lease “routine” space for administrative, office, and storage purposes utilizing a formal, advertised, sealed bid process.
4. ECU Physicians, its operating units, and its affiliates will acquire site-specific “strategic” space by lease necessary and appropriate to take full advantage of opportunities of strategic importance, such as the creation or expansion of clinical programs, alliances, affiliations, acquisitions, and joint ventures.

C. MOTION

Approve the recommended policies of the ECU Physicians Board to enable compliance with, and the utilization of, property acquisition flexibility for the Practice Plan as permitted in the North Carolina General Statute Section 116-40.6(d) as it pertains to the acquisition or disposition of space by lease. The acquisition or disposition of real property by means other than lease shall adhere to the policies and procedures of the North Carolina SPO as described in the North Carolina General Statute Chapter 143, Article 36 and Chapter 146.

II. PROPERTY OFFICE

## II. PROPERTY OFFICE

### A. POLICY

The Practice Plan will utilize the university's existing Property Office, which resides in the ECU Division of Administration and Finance, to administer the program for the acquisition (by purchase, gift, lease, or rental), management, and disposal of real property of the Practice Plan, its operating units, and its affiliates. The Associate Vice Chancellor of Business Services will serve as the director of the Property Office and will have an indirect reporting line to the Dean of BSOM. This reporting relationship will ensure that the Property Office receives direction from and is responsive to the facility needs of ECU Physicians.

### B. PROCEDURE

1. Under the supervision of the director, the Property Office will have the following responsibilities:
  - Acquisition by lease and purchase of all routine space (i.e., administrative, office, and storage space) for ECU Physicians, its operating units, and its affiliates.
  - Acquisition by lease and purchase of all strategic space for ECU Physicians, its operating units, and its affiliates.
  - Disposition of real property.
  - Establishment and enforcement of procedures that strictly adhere to the policy in accordance with the North Carolina General Statute 116-40.6(d), which allows for increased flexibility for acquisition or disposition of real property by lease. Likewise, establish and enforce procedures that strictly adhere to the North Carolina General Statute Chapter 143, Article 36 and Chapter 146 for acquisition or disposition of real property by means other than lease.
  - Establishment and enforcement of the specifications for the acquisition of real property.
  - Lease and purchase agreement negotiation.
  - Review of real property acquisition practices to ensure compliance with operating rules and procedures established by the Property Office, through the authorization of the ECU Board of Trustees.

- Ensuring that all applicable building, life, and safety codes are met and all property is properly insured with assistance from the Department of Environmental Health and Safety.
2. The Property Office will develop a comprehensive set of specifications that are intended for the acquisition and disposition of all real property by lease for use by ECU Physicians, its operating units, and its affiliates. All proposed acquisitions or dispositions by means other than lease will be transferred to and managed by the SPO.
  3. The director of the Property Office will be advised by the PRC and work under the direction of the Dean of BSOM or designated executive of ECU Physicians (i.e., Medical Director and/or Executive Director) concerning real property acquisition and disposition activities related to ECU Physicians.
  4. Through its Property Office, the Practice Plan shall retain, on an as-needed basis, the services of a real estate attorney(s), appraisal firm(s), and/or environmental review firm(s) identified by the SPO, to assist with the acquisition of real property by means other than lease. The university attorney shall prepare or oversee the preparation of all agreements/contracts related to the acquisition of real property by lease in accordance with ECU contract policies in the event that such policies are approved by the ECU Board of Trustees and implemented.
  5. The Property Office will ensure that all applicable North Carolina building code, ADA, fire and safety, and insurance requirements are met prior to the execution of lease agreements. The Property Office will be responsible for coordinating a safety inspection by ECU Environmental Health and Safety prior to occupancy and providing a completed copy of the fire and safety report to the Department of Insurance.

C. RESPONSIBLE UNIT

Property Office

Reviewed and revised as necessary: December 2006.



III. PROPERTY REVIEW COMMITTEE

### III. PROPERTY REVIEW COMMITTEE

#### A. POLICY

The PRC of ECU Physicians will oversee the acquisition, management, and disposition of real property of the Practice Plan, its operating units, and its affiliates, and will set priorities, establish standards, and provide direction for real property acquisition and disposition activities for the practice plan.

#### B. PROCEDURE

1. The PRC will comprise the following seven members:

- Medical Director, ECU Physicians (Chair of the PRC).
- One member appointed by ECU Physicians Board, based on a slate of two or more persons recommended to the ECU Physicians Board by the PRC.
- Director of the Property Office.
- Chief Financial Officer (CFO), BSOM.
- Director of Planning and Partnerships, BSOM.
- Director of Nursing Services, ECU Physicians
- Executive Director, ECU Physicians
- ECU Chief Legal Counsel (adviser to committee).

Others involved in facility planning for BSOM and ECU Physicians, including members of ECU Physicians Administration, may attend meetings and serve as resources to the committee as deemed necessary by the committee chairperson and approved by the Dean.

2. The committee will review all bids received for property acquisitions involving leases of strategic and routine space, perform due diligence functions for strategic and routine property acquisitions by lease, and make recommendations to the Dean of BSOM.
3. The committee will develop standards for the acquisition and disposition of real property by lease in order to ensure consistency, standardization, and the most advantageous location for the operations of ECU Physicians.

4. The committee will evaluate on a case-by-case basis the acquisition or disposition of space by means other than lease on behalf of ECU Physicians, its operating units, and its affiliates. Each evaluation will be based on economic and competitive factors to include acquisition feasibility, cost analysis, fair market value (FMV), and the existence of joint venture opportunities. All such transactions shall be conducted under the direction of the SPO.
5. The committee will develop a process for addressing the concerns of property owners with regard to compliance with contractual terms, and for the formal sealed and informal bid processes by which the Practice Plan will lease strategic and routine space.

C. RESPONSIBLE UNIT

PRC

Reviewed and revised as necessary: December 2006.

IV. ACQUISITION OF SPACE BY LEASE

#### IV. ACQUISITION OF SPACE BY LEASE

##### A. POLICY

ECU Physicians, its operating units, and its affiliates may acquire space by lease contingent upon full compliance with applicable procedures and required approvals described herein as well as other relevant processes documented and maintained by the Property Office. Transactions will be classified into two categories: strategic and routine. This designation will determine which structured process and procedures must be followed for acquisition of respective space.

1. *Strategic Space* – ECU Physicians will acquire, by lease, site-specific space necessary and appropriate to take full advantage of opportunities of strategic importance, such as the creation of clinical programs, alliances, affiliations, acquisitions, and joint ventures, utilizing an informal bid process developed by the Property Office.
2. *Routine Space* – ECU Physicians will acquire space by lease for administrative, office, and/or storage purposes utilizing a formal, advertised, sealed bid process.

##### B. GENERAL PROVISIONS AND APPROVAL OVERVIEW

1. All transactions must be reviewed by the PRC.
2. All lease proposals must be endorsed by the Dean of BSOM.
3. Any proposed transaction requiring approval by the ECU Board of Trustees must be pre-approved by the Chancellor of ECU or his/her designee via the Vice Chancellor of Administration and Finance.
4. All property instruments must be prepared by, or under the supervision of, the university attorney.

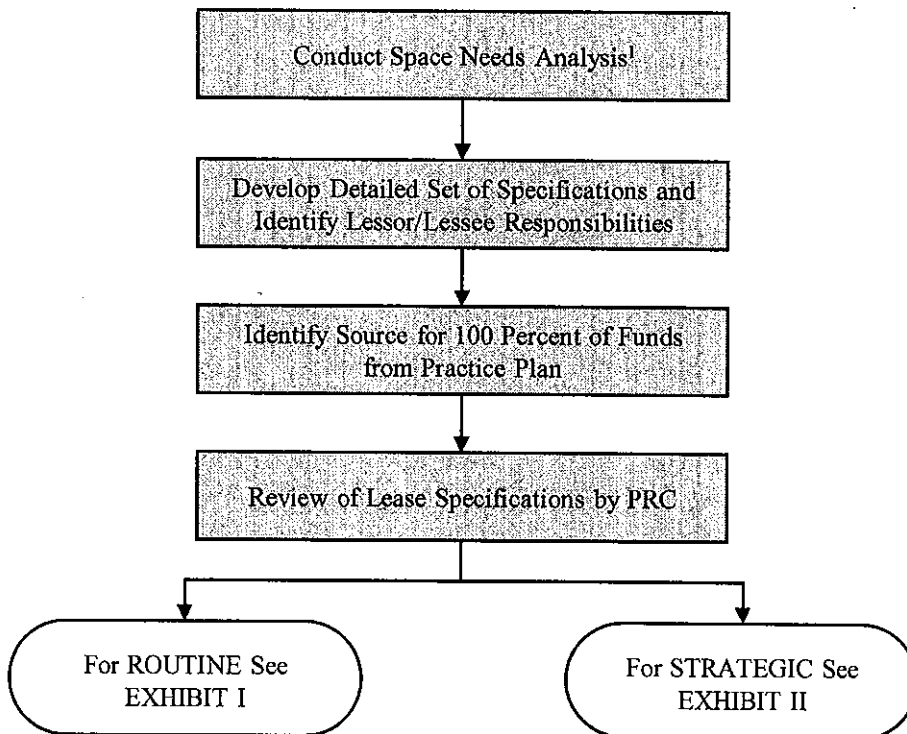
The table below summarizes the required clearances for real property by lease regardless of strategic or routine designation.

Property Interest	Consideration	Lease Term	Highest Level of Approval Required
Lease	Less than \$25,000 in annual rent.	Less than or equal to 3 years.	ECU Chancellor.
	Less than \$25,000 in annual rent.	Greater than 3 years.	ECU Board of Trustees.
	Greater than \$25,000 in annual rent.		

C. PROCEDURES FOR PREPARATION OF LEASE SPECIFICATIONS

As illustrated in the figure below and specified in the subsequent text, a specific set of procedures must be followed once the Property Office has tentatively identified that the acquisition of strategic or routine space is needed for purposes of ECU Physicians, and the PRC and university attorney are notified of such need.

**Identification of Space Need and Preparation of Lease Specifications**



<sup>1</sup> Director of Property Office with assistance from Campus Space Planning.

1. The director of the Property Office shall have a space analysis performed with the assistance of Campus Space Planning.
  - An updated organizational chart for those housed in the facility shall support the request for strategic space.
  - Space analysis for routine space shall be based on need, and an organizational chart is not required.
2. A detailed set of specifications shall be developed under the guidance of the director of the Property Office to address all facility requirements. Lessor and lessee responsibilities shall be identified in specific detail.
3. A source of funds from the Practice Plan must be identified and secured for 100 percent of the required funding for the term of the proposed lease. Funds utilized under this policy must be in strict compliance with state statute.
4. The lease specifications shall be reviewed by the PRC prior to obtaining bids or informal proposals.

D. PROCEDURES FOR ACQUISITION OF ROUTINE SPACE BY LEASE

As graphically depicted in EXHIBIT I, the following are procedures for acquisition of routine space by lease by the Practice Plan:

1. For leases not more than \$25,000 per year and not exceeding a 3-year term, informal, written proposals may be obtained using the Practice Plan bid documents, detailing the terms and conditions of the proposal.
  - Once the best-value proposal is selected with input from the PRC and endorsed by the Dean of BSOM, a lease will be prepared by the university attorney for execution. The lease agreement will incorporate all terms and conditions of the bid document into the lease agreement.
  - The Chancellor or designee will execute the lease agreement, and it will be retained in the property file.

2. For leases not more than \$25,000 per year and exceeding a 3-year term, and leases for more than \$25,000 per year for any term, formal, advertised, written proposals shall be obtained.
  - The Property Office shall place a public advertisement in the legal notice section of a newspaper of general circulation in the county where the lease shall be located.
  - The advertisement shall run for at least 5 consecutive days and shall provide that proposals will be received for at least 7 days from the date of the last advertisement in the Property Office at a specified date and time.
  - In the event that no proposal or no acceptable proposal is received after advertising pursuant to the above, the Property Office may negotiate in the open market for the leasing of property.<sup>1</sup>
  - Once the best-value proposal is selected with input from the PRC, it shall be endorsed by the Dean of BSOM.
  - The proposal shall be approved by the ECU Board of Trustees via a request to the Vice Chancellor of Administration and Finance for submittal to the Chancellor.
  - The lease shall be prepared by the university attorney and will specifically reference the terms and conditions of the bid/proposal.
  - The transaction will be promptly reported to the Governor and Council of State.
  - In the event that the lowest-cost proposal is not selected, a detailed justification shall be provided and submitted to the PRC, ECU Board of Trustees, Governor, and Council of State.

E. PROCEDURES FOR ACQUISITION OF STRATEGIC SPACE BY LEASE

As graphically depicted in EXHIBIT II, the following are procedures for acquisition of strategic space by lease by the Practice Plan:

1. For leases not more than \$25,000 per year and not exceeding a 3-year term, informal, written proposals may be obtained using the Practice Plan bid documents, detailing the terms and conditions of the proposal.
  - The best-value proposal will be selected with input from the PRC.

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<sup>1</sup> Proposals are not required for property owned by government agencies or leased to other government agencies. All other procedures of Section IV.D of this document apply.



- Endorsement will be obtained by the Dean of BSOM.
  - The university attorney will prepare a lease for execution. The lease agreement will incorporate all terms and conditions of the bid document into the lease agreement.
  - The Chancellor or designee will execute the lease agreement, and it will be retained in the property file.
2. For leases not more than \$25,000 per year and exceeding a 3-year term, and leases for more than \$25,000 per year for any term, informal, written proposals shall be obtained.
- No advertising of proposals is required, but every reasonable effort shall be made to promote competitive proposals.
  - In the event that competitive proposals cannot be obtained due to the strategic nature of the acquisition, the Property Office shall negotiate in the open market in accordance with the facility specifications, and those specifications shall become part of the lease agreement.<sup>2</sup>
  - The best-value proposal will be selected with input from the PRC.
  - Endorsement will be obtained by the Dean of BSOM.
  - The proposal shall be approved by the ECU Board of Trustees via a request to the Vice Chancellor of Administration and Finance for submittal to the Chancellor.
  - The university attorney will prepare a lease for execution. The lease agreement will incorporate all terms and conditions of the bid document into the lease agreement.
  - The Chancellor or designee will execute the lease agreement and it will be retained in the property file.
  - All transactions shall be promptly reported to the Governor and Council of State once executed.
  - If competitive proposals cannot be obtained and negotiated in the open market, a written justification for the strategic method shall be prepared and submitted to the PRC, Dean of BSOM, Board of Trustees, Governor, and Council of State.

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<sup>2</sup> Informal proposals are not required for property owned by government agencies or leased to other government agencies. All other procedures in Section IV.D of this document apply.

V. ACQUISITION OF REAL PROPERTY OTHER THAN VIA LEASE

V. ACQUISITION OF REAL PROPERTY OTHER THAN VIA LEASE

A. POLICY

ECU Physicians, its operating units, and its affiliates may acquire real property other than via lease, including but not limited to fee-simple, easement, right-of-way, or gift, through the existing SPO-governed structure and process contingent upon full compliance with applicable procedures and required approvals described herein as well as other relevant processes documented and maintained by the Property Office.

B. GENERAL PROVISIONS AND APPROVAL OVERVIEW

1. All proposed property transactions must be reviewed by the PRC.
2. All proposals must be subsequently endorsed by the Dean of BSOM.
3. All policies and procedures related to the acquisition of real property by means other than lease shall default to the policies and procedures set by the SPO as described in the North Carolina General Statute Chapter 132, Article 36 and Chapter 146.
4. Any acquisition of real property other than lease, regardless of amount or term, must be approved by the ECU Board of Trustees with preapproval obtained by the Chancellor of ECU or his/her designee via the Vice Chancellor of Administration and Finance.
5. Subsequent to obtaining necessary ECU approvals, all proposed transactions shall be approved by the Board of Governors, Joint Commission on Governmental Operations, and Council of State, as may be required.

C. PROCEDURE

Once the director of the Property Office identifies the need to acquire space for ECU Physicians, and subsequent to the examination of the proposed acquisition of real property other than lease (e.g., fee simple, easement, license) with input from the PRC, the following procedures shall be performed:

1. The director of the Property Office will work in conjunction with the PRC to identify property to be acquired.

2. Once property is approved by the PRC, the director of the Property Office shall follow SPO policies and procedures as described in the North Carolina General Statute Chapter 143, Article 36.
3. If deemed appropriate by the PRC, a space analysis shall be performed under the supervision of the director of the Property Office to determine whether the facility is adequate relative to the space need identified.
4. Inspection by ECU's Department of Environmental Health and Safety and ECU Facilities Services should be performed prior to purchase negotiations and prior to a purchase option agreement to quantify any building deficiencies.
5. The SPO will obtain, as deemed necessary, a fair market appraisal and an environmental report, and will negotiate a purchase option agreement contingent upon approval of the Dean of BSOM, ECU Board of Trustees, Board of Governors, Joint Commission on Governmental Operations, and Council of State, as may be required. Any request to the ECU Board of Trustees must be preapproved by the Chancellor or his designee via the Vice Chancellor of Administration and Finance.
6. The SPO will coordinate all property closings and title requirements with the Office of the Attorney General.
7. Practice Plan funding must be identified prior to a purchase option agreement. Funds to be utilized must be in strict compliance with all relevant state statutes.
8. The seller must pay all property taxes due up to the date of closing. It is recommended that the Practice Plan pay the remainder of property taxes due for the balance of the tax year.
9. The Property Office shall ensure that property is properly zoned and annexed if necessary.

VI. DISPOSITION OF REAL PROPERTY

## VI. DISPOSITION OF REAL PROPERTY

### A. POLICY

ECU Physicians, its operating units, and its affiliates may dispose of real property by, but not only by, sale, lease, easement, right-of-way, or license, contingent upon full compliance with applicable procedures and required approvals described herein as well as other relevant processes documented and maintained by the Property Office.

### B. PROCEDURES FOR DISPOSITION OF REAL PROPERTY BY LEASE

As graphically depicted in EXHIBIT III, the procedures for the disposition of real property by lease by ECU Physicians shall include the following:

1. Any proposed disposition of real property by lease shall be identified by the director of the Property Office and reviewed by the PRC.
2. The proposed disposition of real property by lease must be endorsed by the Dean of BSOM and approved by the Chancellor or designee via the Vice Chancellor of Administration and Finance and the Board of Trustees.
3. All documents related to disposition of property by lease shall be performed by or under the direction of the university attorney.
4. Any disposition of real property by lease shall be at or above FMV supported by a comparable market analysis of lease rates. In the event that property is leased out at below FMV, a justification must be provided and reviewed by the PRC.<sup>3</sup>
5. The disposition of real property by lease shall be reported to the Governor and Council of State.

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<sup>3</sup> Leasing below FMV to a public entity is permissible. Leasing below FMV to a private nonprofit, if deemed in the consideration of public service and warranted, is permissible. It is encouraged that in the case that a private, nonprofit entity engages in some for-profit activities, the amount of the lease or rent shall not be less than the FMV of the property multiplied by the percentage of the total activities of the private nonprofit that are for profit.

C. PROCEDURES FOR DISPOSITION OF REAL PROPERTY OTHER THAN BY LEASE

As graphically depicted in EXHIBIT III, the procedures for the disposition of real property *other than* by lease by the Practice Plan shall include the following:

1. Any proposed disposition of real property, other than via lease, shall be identified by the director of the Property Office and reviewed by the PRC.
2. The proposed disposition of real property, other than via lease, must be endorsed by the Dean of BSOM and approved by the Chancellor or designee via the Vice Chancellor of Administration and Finance and the Board of Trustees, Board of Governors, Joint Commission on Governmental Operations, and Council of State.
3. All such transactions may not be executed under the delegated authority granted to the Property Office and must be handled by the SPO and follow policy and procedures as described in the North Carolina General Statute Chapter 143, Article 36.
4. All closing and other related recording documents shall be performed by the Office of the Attorney General via the SPO.

VII. OTHER PROVISIONS



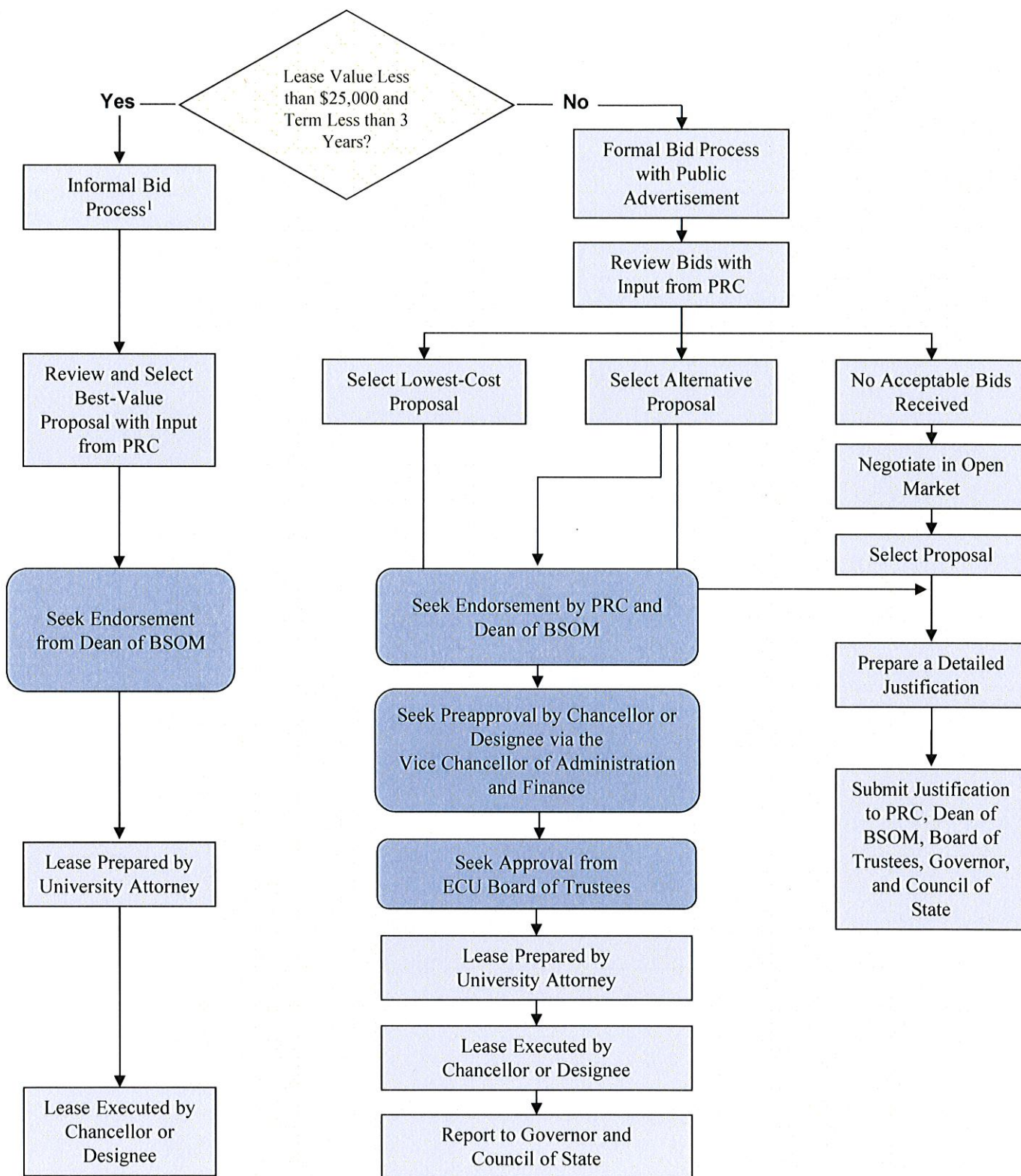
## VII. OTHER PROVISIONS

### Policy

Miscellaneous provisions related to the delegated authority of the Practice Plan and Property Office include:

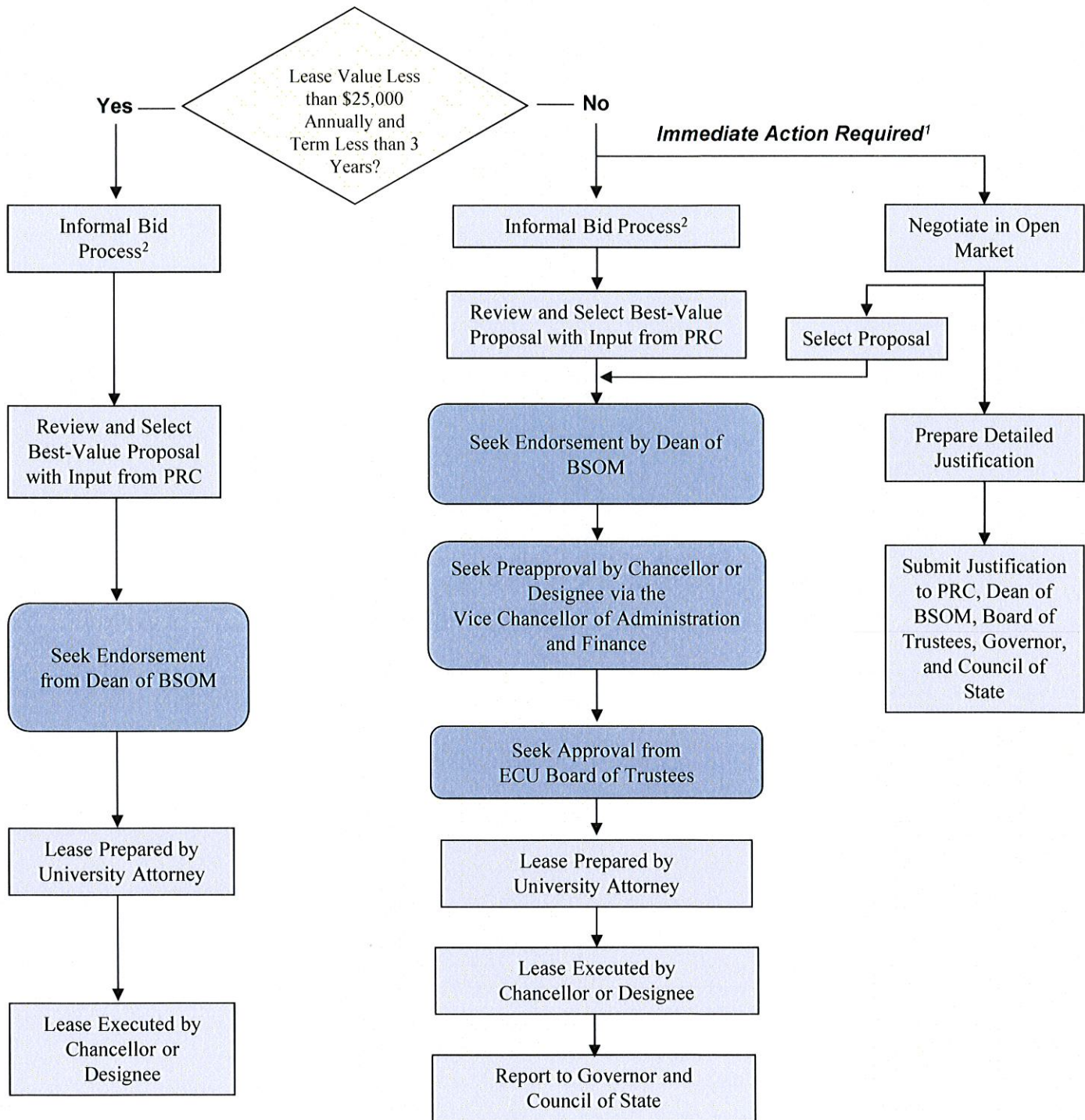
1. The Practice Plan may exercise procedures granted through delegated authority in accordance with the North Carolina General Statute Section 116-40.6(d) for acquisition or disposition of real property by lease only. All other real property acquisitions or dispositions shall be via the SPO in accordance with the North Carolina General Statute Chapter 143, Article 36 and Chapter 146.
2. The flexibility policy does not allow the Board of Trustees to encumber real property.
3. All property transactions must be reviewed by the PRC for BSOM and the Dean of BSOM, and all requests to the ECU Board of Trustees must be preapproved by the Chancellor or designee via the Vice Chancellor of Administration and Finance.
4. All lease documents must be prepared to form, approved by the university attorney's office, and must include all necessary Stark II and Health Insurance Portability and Accountability Act of 1996 (HIPAA) language.
5. All lease agreements shall be in the name of BSOM, ECU, and the State of North Carolina.
6. Bids are not required for acquisition or disposition by lease for properties owned by government agencies or leased to other government agencies. All other leasing procedures apply.
7. Practice Plan funding must be identified prior to obtaining approvals required for leasing. Funds utilized under this policy must be in strict compliance with state statutes. All leases must be paid 100 percent by Practice Plan funds to qualify for the flexibility described herein.
8. Where BSOM is the lessee, leasehold improvements should not be made to the lessor's property unless demonstrated to be in the best interest of BSOM.

**ACQUISITION OF ROUTINE SPACE BY LEASE**



<sup>1</sup> Informal bid process will be defined and documented by ECU Physicians Property Office. Informal proposals are not required for property owned by government agencies or leased to other government agencies.

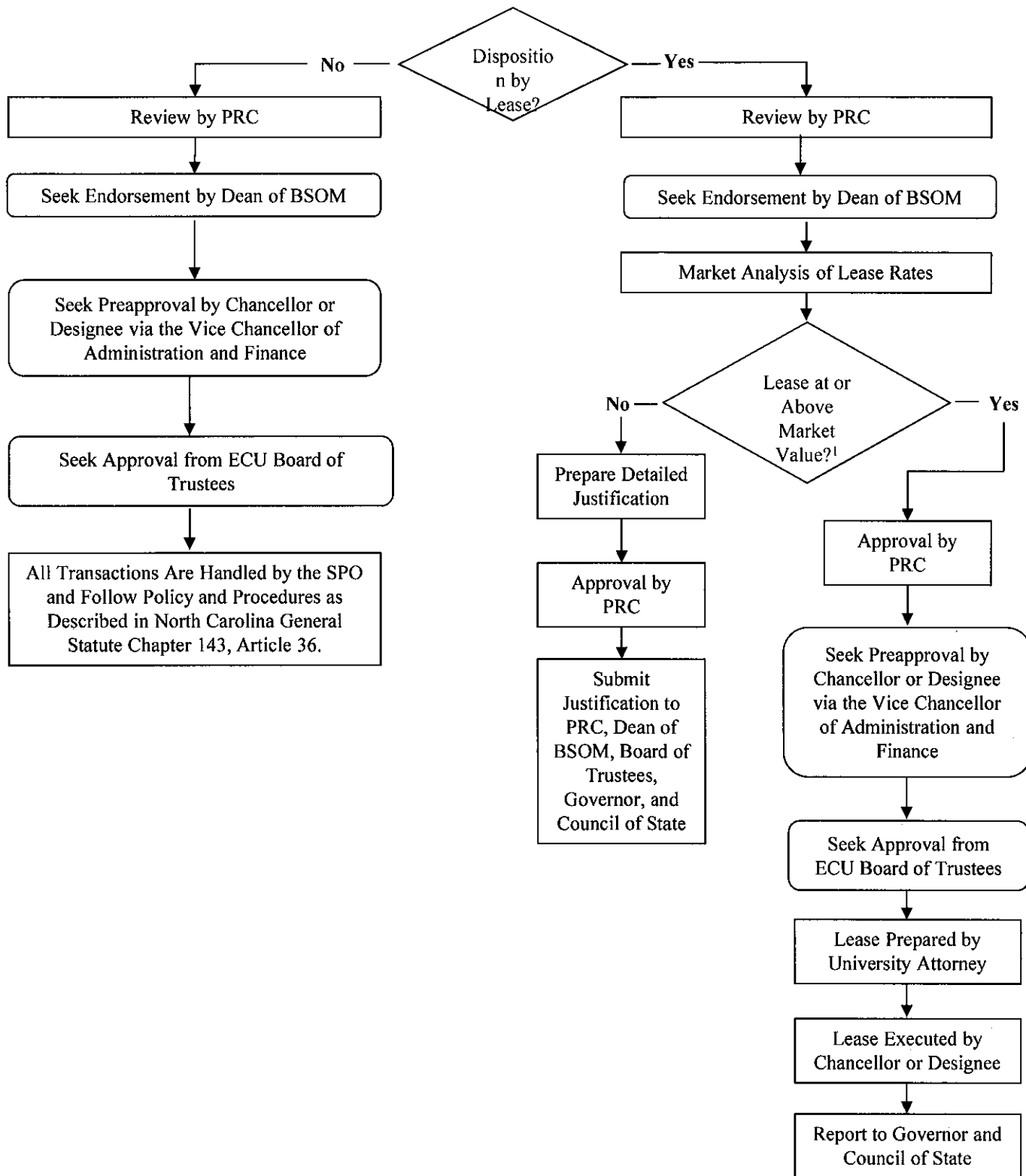
**ACQUISITION OF STRATEGIC SPACE BY LEASE**



<sup>1</sup> Informal bid process to be clarified and documented by ECU Property Office/ECU Physicians. Informal proposals are not required for property owned by government agencies or leased to other government agencies.

<sup>2</sup> Every reasonable effort should be made to promote competitive proposals, but immediate action may be required given the strategic nature of acquisition.

**DISPOSITION OF REAL PROPERTY**



<sup>1</sup> Property may be leased below FMV in certain circumstances (i.e., for consideration of public service, a nonprofit entity, etc.).