BOARD OF REGENTS
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April 24, 2019 • 9:30 a.m.
Louisiana Purchase Room, Claiborne Building, Baton Rouge, LA

V. Reports & Recommendations

C. Facilities and Property

1. Consent Agenda

   A. Small Capital Projects Report

      i. LSU HSC-NO: MEB 3rd Floor Audio-Visual Faculty Training Center
      ii. LSU-S: Business Education Building 3rd Floor Renovation for Kinesiology and Public Health & Leadership Studies
      iii. LSU-S: New Soccer Building
      iv. SELU: Anzalone Hall Mechanical Systems Upgrade

2. BoR FY 2019-20 Capital Outlay Budget Recommendation Revision

3. Facilities & Property Policy Revision

4. Other Business

Executive Summary

Facilities and Property
April 24, 2019

C. 1. Consent Agenda (a. Small Capital Projects Report)

In accordance with the Facilities Policy, small capital project proposals are reviewed by staff and approved where appropriate, and thereafter, reported at the next meeting of the Facilities and Property Committee. Pursuant to R.S. 39:128, BoR staff may approve small capital projects internally ranging from $175,000 to $1,000,000 and report to the Board during a subsequent meeting.

Staff approved the following small capital projects since the previous report:

i. Louisiana State University Health Sciences Center – New Orleans: Medical Education Building 3rd Floor Audio-Visual Faculty Training Center – New Orleans, LA

This project will provide a faculty training center that offers access to current audio-visual teaching technologies. The renovated space will allow faculty to learn and successfully use high-tech audio-visual equipment for classes and teaching opportunities. The project scope involves the demolition of a small office suite containing two offices, one large open area, break area, and entry vestibule. New work includes construction of a new entry vestibule, a lecture recording room, a new office, and a large training room with a raised concrete slab. The existing electrical and mechanical utilities in the adjacent corridors and mechanical room will also be modified. The project renovates approximately 1,800 SF of space at a cost of $194.44/SF for a total construction cost of approximately $350,000. The project will be funded with self-generated revenues.

ii. Louisiana State University – Shreveport (LSU-S): Business Education Building 3rd Floor Renovation for Kinesiology, Public Health, & Leadership Studies – Shreveport, LA

LSU-S has had to hire additional faculty to teach online classes due to the increasing number of students taking online courses. There is a need for additional office space to house the new faculty members. The project scope involves the demolition of existing interior space on the 3rd floor of the Business Education Building and construction of new office space. The project includes new partitions, finishes, doors, ceilings, lighting, HVAC, and sprinkler system modifications. A portion of the corridor walls will also be refinished. The project renovates approximately 2,532 SF of space at a cost of $93.78/SF for a total construction cost of approximately $237,450. The project will be funded with tuition and fee revenues.

iii. Louisiana State University – Shreveport: New Soccer Building – Shreveport, LA

LSU-S reinstated men's and women's soccer back in the fall of 2017, and the coaches have been in temporary buildings that are in disrepair. The teams currently do not have locker nor team meeting rooms. This structure will provide office space for coaches, team meeting rooms, and locker rooms for both the men's and women's soccer teams. The new facility will be approximately 4,389 SF at a cost of $102.42/SF for a total construction cost of approximately $449,500. The project will be funded with auxiliary revenues.

iv. **Southeastern Louisiana University (SELU): Anzalone Hall Mechanical System Upgrade – Hammond, LA**

SELU's Anzalone Hall has had no significant upgrades since 1964. The installation of new mechanical systems will provide a more conducive learning environment for new and existing programs housed in the facility. The project scope includes replacing the current HVAC system, installation of a new ventilation system, new toilet fixtures, and electrical upgrades. The total project cost is approximately $900,000 and will be funded from private donations raised by SELU.

The Senior Staff recommends approval of the consent agenda for the small capital projects report as presented.

C. 2. BoR FY2019-20 Capital Outlay Budget Recommendation Revision

Two capital outlay projects require BoR approval for inclusion in the BoR's FY2019-20 Capital Outlay Budget Recommendation that was submitted on November 1, 2018. The first project relates to the development of Fletcher Technical Community College's (FTCC) Louisiana Marine and Petroleum Institute (LAMPI) site in Houma, Louisiana. The FY2019-20 request is for $3M to provide for the demolition of the existing LAMPI building, demolition and relocation of the maritime training fire field, utility relocation, and preliminary design work on a new maritime training facility. The LAMPI site also includes the new Louisiana Universities Marine Consortium (LUMCON) facility currently under design with construction anticipated to begin on that project in 2020. The BoR envisions the future of the Houma site as a center of maritime excellence based on a consortium of institutions from the Louisiana Community and Technical College System, the University of Louisiana System, and LUMCON. This capital outlay request will advance the goal of creating the center of excellence in the coming years.

The second capital outlay project addition involves the construction of a disaster shelter at the Southern University Agricultural Research and Extension Center (SUAREC) site located off Louisiana Highway 61. The Southern University System (SUS), working with the Governor's Office of Homeland Security and Emergency Preparedness (GOSHEP), the East Baton Rouge Parish Mayor-President's Office, and Louisiana's federal delegation are working to secure a commitment to construct a new disaster shelter on property owned by the SUAREC. SUS submitted preliminary programming information demonstrating the potential capacity of a shelter based on varying funding levels. This capital outlay request will allow for the state to provide funding to supplement any commitment secured from the federal partners.

The Senior Staff recommends approval of the addition of two projects to the Board of Regents FY2019-2020 Capital Outlay Budget Recommendation related to Fletcher Technical Community College's Maritime facility and Southern University Agricultural Research and Extension Center's Disaster Shelter.

C. 3. BoR Facilities and Property Policy Revision

The potential for receiving state capital outlay dollars for auxiliary type projects on higher education campuses has been dismal in recent years and Louisiana's institutions are moving away from conventional bond financed projects (traditional 3rd party projects) towards public-private partnership (P3) agreements for the construction of student housing, parking, and other institutional needs. P3 agreements provide our institutions greater flexibility when building, financing, and managing/operating new facilities.

Current BoR policy does not specifically address P3 agreements as they are being structured and proposed to the management boards for approval. Prior to this revision, P3 agreements were approved by the BoR under the provision of the policy related to 3rd party project agreements. The section of policy concerning 3rd party projects typically involves an agreement where the newly built facility is leased/leased-back to the institution and the debt service is the responsibility of the institution. The P3 agreements being proposed typically involve a private entity financing, constructing, and operating the new facility until the debt is satisfied at which point the facility normally reverts back to the institution. In most instances the institution does not incur debt associated with the P3 agreement as the private entity assumes that responsibility.

The current revision to the Facilities & Property (F&P) Policy includes a new section providing basic guidelines for institutions and management boards to follow when entering into P3 agreements and clarifies the role of the BoR in the approval process

The Senior Staff recommends approval of the revision to the Board of Regents Facilities & Property Policy to include a new section concerning public-private partnerships and related revisions.

VI. Other Business

Highlighted Portions Reflect Edits/Revision

1. 2. FACILITIES – REVISED EFFECTIVE April 24, 2019

1. 2. 1. Contents

1. 2. 1.	Contents
1. 2. 2.	Definitions
1. 2. 3.	Intent of the Facilities Policy
1. 2. 4.	Purpose of the Facilities Policy
1. 2. 5.	General Facilities Policy
1. 2. 6.	Submittal and Approval Process
1. 2. 7.	Emergency and Expedited Approval Procedure
1. 2. 8.	Maintenance Reserve Accounts (MRA)
1. 2. 9.	Facilities Master Planning
1. 2. 10.	Space Standards
1. 2. 11.	Feasibility Studies
1. 2. 12.	Capital Outlay Projects
1. 2. 13.	Small Capital Projects
1. 2. 14.	Minimum Construction Standards
1. 2. 15.	Act 959 of 2003 Projects
1. 2. 16.	Dormitories, Apartments, and Residence Halls
1. 2. 17.	Major Repairs and Re-roofing
1. 2. 18.	Performance-based Energy Efficiency Contracts
1. 2. 19.	Projects Utilizing Alternative Means of Financing
1. 2. 20.	Public-Private Partnerships
1. 2. 21.	Leases
1. 2. 22.	Condition Assessment
1. 2. 23.	Small Business Participation
1. 2. 24.	Naming of Buildings
1. 2. 25.	Land Acquisition Program

1. 2. 19. Projects Utilizing Alternative Means of Financing

This section establishes parameters and guidelines as well as suggested practices for Projects Utilizing Alternative Means of Financing. The BOR acknowledges the benefits of this method of obtaining needed facilities for an institution. Advantages include the ability to react to current needs without having to wait for entry into the annual capital outlay process and expedited project administration. Due to reduced public oversight, it is imperative that all involved take all necessary steps to ensure that the public institutions receive the same optimum value, benefit, and protection as with other methods of financing.

The BOR trusts that all applicable laws will be followed by the management boards. It is further confident that each system board will adhere to the provisions of all laws governing ethics of public officials as well as seek assistance from the Ethics Commission if necessary. The BOR believes that while it is necessary to recognize a private entity's non-public status, it is equally important to maintain public confidence in all of higher education's endeavors.

Projects utilizing alternative means of financing must be submitted to the BOR for review and approval before any contracts are executed (except as provided in section 1.2.6) or construction is initiated. BOR staff's review will consider appropriateness to the role, scope, and mission of the institution; compliance with the institution's master plan, budgetary impact including operational costs, and compliance with this BOR policy. If significant changes are made after the original approval is made, the BOR must be advised of these changes and those changes should be approved prior to work being done pursuant to those changes. A significant change would include a change that increases the total value of the project by 20% or more, changes the use of the proposed facility; or changes the parties involved in the project.

Projects performed utilizing alternative means of financing typically involve contractual agreements, cooperative endeavor agreements, or other legal instruments executed with a third party. The organization and activities of third parties are set forth in relevant law. Relevant law includes but is not necessarily limited to La. R. S. 17:3361 et. seq. and La. R. S. 17:3390.

Third party projects are typically structured such that the project site is leased to the third party by the management board, the third party is contractually bound to construct facilities in accordance with a plan, and then the completed facilities are returned to the institution for its use via additional lease, lease-back agreements, or donation. La. R.S. 17:3361 et. seq. and La. R.S. 17:3390 authorize these projects and govern their status. These projects are private and are not subject to public works administration. These statutes also address auditing and the classification of a third party's documents as public or non-public.

There are numerous variations of projects utilizing alternative means of financing, and the BOR encourages institutions to be creative in proposing such financing (**See Section 1.2.20**).

Documentation supporting such projects must include a comprehensive business plan. Business plans shall include project concept, structure of the project (relationship of the entities involved and probable contractual structure), justification of need, relationship to the institution's campus master plan, appropriateness to the role, scope, and mission of the institution, a business plan pro-forma, provisions for an MRA with MRA Use Schedule, and other relevant information.

Projects utilizing alternative means of financing must have project oversight by the institution and should have a qualified person specifically designated by the institution to oversee the work.

Auxiliary enterprise projects, as contrasted with academic and support projects shall be entirely self-supporting unless otherwise approved by the BOR.

In some instances the source of alternative means of financing is from state funds committed to the operating budget of the institution to pay for the leasing of facilities completed by the third party. When such financing occurs, a cooperative endeavor agreement or other legal instrument as may be appropriate must be executed between the State of Louisiana, the management board or other state entity and the third party making the funding of the lease an obligation of the state. It is recommended that any such agreement, contract or other document should contain a provision authorizing an audit of obligations contained therein.

Third party projects utilizing state line item appropriated funds for repayment shall be subject to additional project oversight. Facility Planning and Control section of the Division of Administration has agreed to provide this service, and the oversight shall be appropriate to the project. The review and oversight function performed by FP&C shall be conducted in a manner prescribed by them, and lacking that, the project shall not progress to the next step. Services of Facility Planning and Control may include on-site inspection by field engineers assigned to that region.

The BOR offers the following points as suggested practices that it believes should be utilized when engaging in this type of project. If suggested practices are not followed, project documentation should provide justification for not doing so:

- Project finances should be set up in such a way that, whenever feasible and appropriate, movable equipment, such as furniture, appliances, etc., is acquired by the third party, and architectural and engineering fees should not be applicable to such expenditures. However, in some instances where the services of interior design professionals are used, either as a consultant to the A/E professional or Design/Build team or a direct contract service of the third party, appropriate compensation may be incorporated into the contract.

- Institutions should use and document a competitive proposal process in obtaining the services of a design professional, contractor, and/or design-build team. Where an RFQ or RFP is used to select a design professional, contractor, and/or design-build team, solicitations for services must define the project concept, scope of work, probable site, preliminary budget, purpose of the project, standards to be met, timing of the project and criteria by which responses to the solicitation will be judged. The selection process should leave no doubt that the selection was competitive, fair, impartial and unbiased. At a minimum, such documentation should demonstrate that those selected are competent, experienced, reliable, financially sound and bondable and available for the project. Documentation should also include the scoring process by which one respondent was selected over the others.

- Submittals and/or presentations in response to solicitations for services are speculative in nature and are no guarantee of success. Respondents must accept the expense of such submittals as a cost of pursuing business. There should be no compensation to any respondent for such expenses.

- Contracts or other legal documents used in the project should include provisions addressing the disposition of the facility at the termination of the third party agreement.

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There should be provisions for control of the project by the institution and/or management board in the event of a default by the third party. If insisting on such a provision jeopardizes funding or the success of the project, then there should be provisions that restrict the use of the facility to ensure that it is either used for the same purpose or is compatible with the other university facilities and their occupants.

- Actual expenditures for the project including financing and the cost of selling bonds, legal fees, capitalized debt service, interest earnings, the activities of the third party, design fees, construction costs, movable equipment purchases, change orders, and any other costs should be reported to the designated system office quarterly or as needed for proper supervision of the project and its progress. All contracts, cooperative endeavor agreements or other legal instruments should include a requirement for documentation and reporting.

- Relevant relationships involved with these projects must be examined so as to avoid any possible conflicts of interests or the appearance of conflict. For example, if the third party has a board, an inquiry should be made as to whether or not any board member of the private entity will have an interest in the development or building of the facility.

1. 2. 20. Public-Private Partnerships (P3)

Public-Private Partnership (P3) arrangements are agreements entered into by a management board and/or institution with a private party for the purpose of erecting facilities and related improvements necessary and desirable to serve the needs and purposes of the institution. The private party under a P3 agreement will typically be responsible for the construction and capital financing of a facility. For the purposes of P3 agreements, a facility may be any building or other facility and related improvements constructed related to housing, transportation (including parking), healthcare, research or research-related activities, food service, retail sales, athletics, or student activities of the institution on the campus or on other real property directly owned by or under the jurisdiction of the management board, institution, and/or any support entity created under the provision of LA R.S. 17:3390.

The management board and/or institution shall ensure P3 agreements include the following:

- A plan with adequate safeguards in place to reasonably mitigate and manage foreseeable risk of future costs or service disruptions for the institution in the event of material default or cancellation of the P3. For example, restrictive covenants, recognition and subordination agreements, and/or recordation obligations, or other protections may reasonably protect the interests of the management board and/or institution in the facility, and if applicable, the real property owned or controlled by the management board, institution, or support entity on which the facility is located.

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- If the agreement includes operation and maintenance of the facility by the private party, maintenance, repair and replacement requirements for the facility and monitoring and remedial rights for the institution or support entity to ensure that the facility is properly maintained.

- The provision of an adequate reserve fund for expenses relating to maintenance and renewal or replacement, if applicable.

- A financing plan sufficient to determine the adequacy and expected type of revenues or assets to service the proposed debt or equity investment of the private party and related covenants or conditions. If the private party intends to use its own assets for the facility, sufficient information must be provided that substantiates the availability of the assets to be used for the facility (i.e. financial statements, etc.). For residence halls, parking facilities, and any other facility where students will be charged a fee for use or occupancy of the facility, an explanation of institutional involvement in establishing and overseeing the assessment of fees, a schedule detailing the proposed fees used to prepare pro-forma cash flows over the term of the P3 and methodology, limits, and approvals for, and circumstances that would allow, increases to such fees over the term.

- A description of any amounts to be paid to the private party by the management board, institution, and/or support entity, the purpose of the payment, and the timing and source(s) of revenues for such payment.

- If the private party assumes all associated debt for the facility, adequate safeguards in place to reasonably ensure that the institution's debt rating will not be adversely affected by the construction and operation of the facility.

- If applicable, a description of the method by which the private party proposes to secure the necessary property interests that are required for the facility.

- A plan for disposition of the facility at the end of the P3 agreement or in the event of early termination of the agreement.

All P3 projects shall be approved by the management board and BoR prior to entering into contracts or initiating construction.

<u>1. 2. 21.</u> <u>Leases</u>

In general, there are four types of leases, (1) the management board and/or institution leasing real estate it owns to others, (2) the management board and/or institution obtaining the use of real estate and improvements thereon that is owned by others, (3) the management board and/or institution leasing real estate it owns to a 3rd party with the intent that the 3rd

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party construct improvements thereon and then lease the completed facility and real estate back to the management board and/or institution for its use, and (4) the management board and/or institution leasing real estate it owns to a private party with the intent that the private party construct improvements thereon and the private party maintains and operates the facility until the debt service associated with the new facility has been satisfied. Leases impact Section 1.2.5 of this policy and may have budgetary impact as well.

With regard to leasing of real estate owned by the management board and/or institution, a management board may lease any property it owns to others, grant utility easements, grant oil, gas, and mineral related leases, and rights-of-ways without the approval of the BOR.

Where the leasing of real estate owned by the management board and/or institution to others has as its purpose the construction of facilities thereon and involves any of the third party or P3 arrangements as provided for in this policy, the leasing of such real estate shall be included in the financial package for such arrangements, and shall be subject to approval by the BOR.

In accordance with the provisions of La. R. S. 39:1641, management boards and institutions may lease real estate with improvements it may need without BOR approval if funding has been included in the operating budget for the institution.

The renewal of existing leases with the same terms as the original or previously approved lease may be renewed for an addition term with the same provisions without additional review and approval by the BOR.

Expenditures for the improvement and/or maintenance of leased facilities owned by others cannot come from state sources. Provisions for future improvements and maintenance of the facility must be built into the lease and the cost borne by the lessor.

Where required by law, leases under this section shall be reviewed and approved by the Office of Contract Review and lease section of Facility Planning and Control.