

TEXAS HIGHER EDUCATION COORDINATING BOARD

COMMITTEE ON INNOVATION, DATA, AND EDUCATIONAL ANALYTICS

1200 E. Anderson Lane
Austin, Texas 78752
Board Room

Live Broadcast available at: <https://www.highered.texas.gov>

CHAIR
S. Javaid Anwar

VICE CHAIR
Welcome W. Wilson, Jr.

Fred Faris, III, O.D.
Ricky A. Raven
R. Sam Torn
Donna N. Williams

Matthew B. Smith,
Student Representative, Ex-Officio

October 20, 2021
9:00 a.m.

This meeting is conducted in person or via video-conference pursuant to Tex. Gov't Code §551.127. A quorum of the Board may be present in the Board Room, which is open to the public.

AGENDA

PUBLIC TESTIMONY: The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the board of the Texas Higher Education Coordinating Board (Board) after staff has presented the item, or any other time as determined by the presiding chair. For procedures on testifying, please go to <http://www.highered.texas.gov/public-testimony>.

- I. Welcome and committee chair's meeting overview
- II. Consideration of approval of the minutes from the July 21, 2021, meeting of the Committee on Innovation, Data, and Educational Analytics
- III. Public testimony on agenda items relating to the Committee on Innovation, Data, and Educational Analytics
- IV. Consideration of approval of the consent calendar
- V. Matters relating to the Committee on Innovation, Data, and Educational Analytics
 - A. *60x30TX* Data Insight: Preliminary headcount for fall 2021
 - B. Update on Data Modernization Initiative
 - C. Update on Formula Funding Advisory Committees
 - D. Consideration of approving replacement of a member on the General Academic Institutions Formula Funding Advisory Committee and a member on the Health-Related Institutions Formula Funding Advisory Committee for the 2024-2025 biennium
 - E. Review of facilities projects that were submitted to the Coordinating Board, pursuant to Texas Education Code, Sections 61.0572 and 61.058

Note: Highlighted items in gray are on the consent calendar.

Committee on Innovation, Data, and Educational Analytics

F. Consideration of adopting the "Report on Student Financial Aid in Texas Higher Education, Fiscal Year 2020" (General Appropriations Act, Senate Bill 1, Article III, Section 24, 87th Texas Legislature)

G. Consideration of approving the appointment of members to the Financial Aid Advisory Committee

H. Proposed rules

(1) Consideration of the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 17, Subchapters A-F, I, K, and L, concerning Resource Planning and the possible adoption of new rules in Chapter 17 of Board rules concerning changes to the administration of Facilities Audit, Facilities Inventory, Energy Savings Performance Contracts, Board Reports, Institutional Reporting on facilities programs, and the organization of the aforementioned programs

VI. Adjournment

NOTE: Because the Board members who attend the committee meeting may create a quorum of the full Board, the meeting of the Committee on Innovation, Data, and Educational Analytics is also being posted as a meeting of the full Board. Only assigned committee members act upon any item before the Committee on Innovation, Data, and Educational Analytics at this meeting.

Weapons Prohibited: Pursuant to Penal Code § 46.03(a)(14) a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon listed in Section 46.05 in the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to Chapter 551, Government Code, and if the entity provided notice as required by that chapter.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM I

Welcome and committee chair's meeting overview

Mr. S. Javaid Anwar, Chair of the Committee on Innovation, Data, and Educational Analytics, will provide the committee an overview of the items on the agenda.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM II

Consideration of approval of the minutes from the July 21, 2021, meeting of the Committee on Innovation, Data, and Educational Analytics

RECOMMENDATION: Approval

TEXAS HIGHER EDUCATION COORDINATING BOARD

MINUTES

Committee on Innovation, Data, and Educational Analytics

Via Live Broadcast

July 21, 2021, 9:00 a.m.

DRAFT Minutes

The Texas Higher Education Coordinating Board *Committee on Innovation, Data, and Educational Analytics* convened via Zoom at 9:03 a.m. on July 21, 2021, with the following members present: Welcome W. Wilson, Jr., Vice Chair; Ricky A. Raven; R. Sam Torn; Donna N. Williams; Matthew B. Smith, Student Representative, Ex-Officio; and Fred Farias, III, O.D. S. Javaid Anwar, Chair, was not in attendance.

Other Board members present: Emma Schwartz

The meeting is available at the following link: <http://www.thecb.state.tx.us/apps/Events/>

AGENDA ITEM	ACTION
I. Welcome and Committee Chair's meeting overview	<p>Dr. Fred Farias began the meeting and announced his appointment as chairman of the Texas Higher Education Coordinating Board. Before the meeting was called to order, he announced the appointment of the new student representative, Mr. Matthew Smith. Additionally, he announced his appointment as a voting member of the standing committees due to two vacant Board member positions to establish a quorum for agenda items that require a vote. He then turned the meeting over to Mr. Welcome W. Wilson, Jr., Vice Chair. Mr. S. Javaid Anwar, Chair, was not in attendance.</p> <p>Mr. Wilson, Vice Chair, called the meeting of the Committee on Innovation, Data, and Educational Analytics to order at 9:03 a.m. and announced the meeting was being held via live broadcast. Mr. Wilson established that a quorum was met.</p>
II. Consideration of approval of the minutes from the April 21, 2021, meeting of the Committee on Innovation, Data, and Educational Analytics	<p>On motion by Ms. Donna Williams, seconded by Dr. Farias, the committee approved this item with all members voting in favor.</p>
III. Public testimony on agenda items relating to the Committee on Innovation, Data, and Educational Analytics	<p>Mr. Wilson stated there was no public testimony.</p>

<p>IV. Consideration of approval of the consent calendar</p>	<p>Mr. Wilson stated items on the consent calendar would have three votes: one on the contracts and grants funded by the Governor’s Emergency Education Relief (GEER) fund, one on the non-rule items, and one on the rules. No items were added or removed.</p> <p>On motion by Ms. Williams, seconded by Mr. Raven, the committee approved the contract and grant GEER-related agenda items V-D (2)-(10) with all members voting in favor.</p> <p>On motion by Dr. Farias, seconded by Mr. Raven, the committee approved the non-rule agenda items V-E and V-G through V-I with all members voting in favor.</p> <p>On motion by Mr. Torn, seconded by Ms. Williams, the committee approved the rule agenda items V-J (1)-(4) with all members voting in favor.</p>
<p>V. Matters relating to the Committee on Innovation, Data, and Educational Analytics</p> <p>A. <i>60x30TX</i> Data Insight: Update on progress toward <i>60x30TX</i> goals</p> <p>B. Consideration and approval of the <i>60x30TX</i> progress report</p> <p>C. Update on Data Modernization Initiative</p> <p>D. Proposed Contract and Grant Approval:</p> <p>(1) Consideration and possible action to solicit and/or enter into technology services contracts, totaling up to \$1.5 million, to support creation and implementation of the student/public portal in furtherance of both the GradTX 2.0 initiative, associated labor market tool and other future agency initiatives, to be funded by federal Wagner-Peyser 7(b) funds granted to the Texas Higher</p>	<p>Ms. Lori Fey, Deputy Commissioner for Data Analytics and Innovation, provided a presentation and was available to answer questions.</p> <p>This item was for information only.</p> <p>Ms. Lori Fey, Deputy Commissioner for Data Analytics and Innovation, provided a presentation and was available to answer questions.</p> <p>On motion by Dr. Farias, seconded by Mr. Raven, the committee approved this item with all members voting in favor.</p> <p>Ms. Lori Fey, Deputy Commissioner for Data Analytics and Innovation, provided a presentation and was available to answer questions.</p> <p>This item was for information only.</p> <p>Ms. Tiffani Tatum, Director for Strategic Initiatives, provided a presentation and was available to answer questions.</p> <p>On motion by Ms. Williams, seconded by Mr. Raven, the committee approved the motion with all members voting in favor.</p>

Education Coordinating Board by the Texas Workforce Commission

(2) Consideration and possible action to approve the solicitation and/or procurement of contracts or award of grants using up to \$4 million in Governor's Emergency Education Relief (GEER) funds to expand outreach and engagement of adult learners statewide to meet workforce demands through the GradTX 2.0 project

(3) Consideration and possible action to approve the solicitation and/or procurement of contracts or award of grants using up to \$600,000 in Governor's Emergency Education Relief (GEER) funds to support institution grants, marketing campaigns and the design development of the *My Texas Future* student portal in support of the GradTX 2.0 project

(4) Consideration and possible action to solicit and enter into contracts or award grants, totaling up to \$10 million, to support the *My Texas Future* initiative, providing comprehensive advising resources and supports to students and adult learners statewide, to be funded by the Governor's Emergency Education Relief (GEER) fund

(5) Consideration and possible action to enter into interagency contracts or grant agreements with Texas public universities, totaling up to \$9 million, relating to the issuance of funds for transfer grants, to be funded by the Governor's Emergency Education Relief (GEER) Fund

(6) Consideration and possible action to solicit and/or enter into contracts and award grants, totaling up to \$8 million, to design and implement user interfaces and support institutions to implement or enhance learning analytics and systems and to support connecting to the agency's new data pipeline, to be funded by the Governor's Emergency Education Relief (GEER) Fund

(7) Consideration and possible action to approve the solicitation and/or procurement of contracts, interagency contracts, or award of grants using up to \$5 million in Governor's Emergency Education Relief (GEER) funds to establish a centralized credential repository in partnership with Texas Workforce Investment Council and Texas Workforce Commission

This item was approved on the consent calendar.

This item was approved on the consent calendar.

This item was approved on the consent calendar.

This item was approved on the consent calendar.

This item was approved on the consent calendar.

This item was approved on the consent calendar.

<p>(8) Consideration and possible action to solicit and/or enter into contracts, totaling up to \$1 million, to support development and implementation of secure progress to credential dashboards for institutional use, to be funded by the Governor's Emergency Education Relief (GEER) Fund</p>	<p>This item was approved on the consent calendar.</p>
<p>(9) Consideration and possible action to solicit and/or enter into contracts, totaling less than \$1 million, for the selection of a vendor to design and implement user interfaces and related services required for a centralized grant system, to be funded by the Governor's Emergency Education Relief (GEER) Fund</p>	<p>This item was approved on the consent calendar.</p>
<p>(10) Consideration and possible action to solicit and/or enter into contracts and award grants, totaling up to \$700,000, to support technical analyses as input to deliberations of the Texas Commission on Community College Finance and Community and Technical Colleges Formula Advisory Committee, to be funded by the Governor's Emergency Education Relief (GEER) Fund</p>	<p>This item was approved on the consent calendar.</p>
<p>E. Consideration of adopting the recommendation relating to approval of the nominated members of the Formula Funding Advisory Committee for the 2024-2025 biennium</p>	<p>This item was approved on the consent calendar.</p>
<p>F. Consideration of adopting the recommendation-relating to the certification of gifts that are fundable through the Texas Research Incentive Program (TRIP) for emerging research universities</p>	<p>Ms. Emily Cormier, Assistant Commissioner for Funding, provided a presentation and was available to answer questions.</p> <p>On motion by Mr. Torn, seconded by Dr. Farias, the committee approved the motion with all members voting in favor.</p>
<p>G. Consideration of adopting the recommendation relating to approval of the Facilities Audit Report</p>	<p>This item was approved on the consent calendar.</p>
<p>H. Review of facilities projects that were submitted to the Coordinating Board, pursuant to Texas Education Code, Sections 61.0572 and 61.058</p>	<p>This item was approved on the consent calendar.</p>
<p>I. Consideration of adopting the TEXAS Grant Program report (Texas Education Code, Section 56.311(c-1))</p>	<p>This item was approved on the consent calendar.</p>
<p>J. Proposed Rules</p> <p>(1) Consideration of adopting proposed amendments to Chapter 1, Subchapter J,</p>	<p>This item was approved on the consent calendar.</p>

<p>Sections 1.151 and 1.152 of Board rules, concerning the Financial Aid Advisory Committee</p> <p>(2) Consideration of adopting the proposed repeal of Chapter 22, Subchapter AA, Sections 22.729-22.736 of Board rules, concerning the Kenneth H. Ashworth Fellowship Program</p> <p>(3) Consideration of adopting the proposed amendments to Chapter 22, Subchapter C, Section 22.53 of Board rules, concerning the Repayment of Loans</p> <p>(4) Consideration of adopting the proposed repeal of Chapter 22, Subchapter M, Section 22.265 of Board rules, concerning the Authority to Transfer Funds</p>	<p>This item was approved on the consent calendar.</p> <p>This item was approved on the consent calendar.</p> <p>This item was approved on the consent calendar.</p>
<p>VII. Adjournment</p>	<p>On motion by Ms. Williams, seconded by Mr. Raven, the committee approved this item with all members present voting in favor.</p> <p>The meeting adjourned at 10:17 a.m.</p>

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM III

Public testimony on agenda items relating to the Committee on Innovation, Data, and Educational Analytics

RECOMMENDATION: No action required

Background Information:

The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the Board after staff has presented the item, or at any other time as determined by the presiding chair.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM IV

Consideration of approval of the consent calendar

RECOMMENDATION: Approval

Background Information:

To save institutions time and travel costs to attend the Committee on Innovation, Data, and Educational Analytics meetings in Austin, the committee has a consent calendar for items that are noncontroversial. Any item can be removed from the consent calendar by a committee member.

Consent Calendar

V. Matters relating to the Committee on Innovation, Data, and Educational Analytics

- D. Consideration of approving the recommendation to replace a member on the General Academic Institutions Formula Funding Advisory Committee and a member on the Health-Related Institutions Formula Funding Advisory Committee for the 2024-2025 biennium
- E. Review of facilities projects that were submitted to the Coordinating Board, pursuant to Texas Education Code, Sections 61.0572 and 61.058
- G. Consideration of approving the appointment of members to the Financial Aid Advisory Committee

AGENDA ITEM V-A

60x30TX Data Insight: Preliminary headcount for fall 2021

RECOMMENDATION: No action required

Background Information:

Information about enrollment trends is fundamental to higher education planning and is particularly important during times of change or disruption. The fall 2021 data will inform the board of the Texas Higher Education Coordinating Board (THECB) on how current public health, economic, and other developments tied to the COVID-19 pandemic may have impacted fall higher education enrollments. The data also provide information about a key factor related to *60x30TX*—the number of potential completers institutions are currently serving. In addition, preliminary enrollment data may provide insight into the impact of legislative or policy-based actions.

Each fall, institutions submit preliminary enrollment data to the THECB based on the 12th class day enrollment. In the past, the data have varied from 0-6% when final enrollment data are certified.

Ms. Lori Fey, Deputy Commissioner for Data Analytics and Innovation, will provide a brief presentation and be available to answer questions.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM V-B

Update on Data Modernization Initiative

RECOMMENDATION: No action required

Background Information:

At the July 2021 meeting, Texas Higher Education Coordinating Board (THECB) staff reviewed the status of the Data Modernization Initiative, an effort to inform the design of a modern data infrastructure to facilitate improved insight and actionable data for THECB stakeholders. The Data Modernization Initiative includes three related and interdependent work streams, each of which is supported by consulting experts as noted below:

- Technical and data architecture and implementation – Multiple vendors
- Data governance – Nancy Smith, PhD.
- Website organization and upgrades – Mighty Citizen

Ms. Lori Fey, Deputy Commissioner for Data Analytics and Innovation, will provide a brief update presentation and be available to answer questions.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM V-C

Update on Formula Funding Advisory Committees

RECOMMENDATION: No action required

Background Information:

Texas Education Code, Section 61.059(b) requires the Texas Higher Education Coordinating Board (THECB) to “devise, establish, and periodically review and revise formulas for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature for all institutions of higher education...In carrying out its duties under this section, the board shall employ an ongoing process of committee review and expert testimony and analysis.”

To assist in this process, there are three Formula Advisory Committees (FACs) established each summer of odd-numbered years to prepare recommendations to the board of the THECB (Board): the General Academic Institutions Formula Advisory Committee, the Community and Technical Colleges Formula Advisory Committee, and the Health-Related Institutions Formula Advisory Committee. The Board approved new members of the committees at its July 2021 meeting, and the Commissioner of Higher Education presented his charges at the first meeting of each of the committees in August.

The committees typically meet monthly between August and December. The committees will present their recommendations to the commissioner in spring 2022 and recommendations will be brought to the Board at the April Board meeting. Final recommendations are statutorily required to be provided to the Legislative Budget Board and governor’s office by June 1, 2022.

Ms. Emily Cormier, Assistant Commissioner for Funding, will provide a brief presentation and will be available to answer questions.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM V-D

Consideration of approving the recommendation to replace a member on the General Academic Institutions Formula Funding Advisory Committee and a member on the Health-Related Institutions Formula Funding Advisory Committee for the 2024-2025 biennium

RECOMMENDATION: Approval

Background Information:

Texas Education Code, Section 61.059(b) requires the Texas Higher Education Coordinating Board (THECB) to "devise, establish, and periodically review and revise formulas for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature for all institutions of higher education, including the funding of postsecondary vocational-technical programs." To assist in this process, there are three advisory committees established each summer of odd-numbered years to prepare recommendations to the board of the THECB (Board).

Members of the formula advisory committees were approved at the Board meeting on July 22, 2021. Since that time, Stephen F. Austin State University and The University of Texas Rio Grande Valley School of Medicine have informed the THECB that the representative from each institution to the General Academic Institution Formula Advisory Committee and Health-Related Institution Formula Advisory Committee, respectively, will be unable to serve. The institutions have each nominated a replacement to their respective committee.

- Stephen F. Austin State University has nominated Ms. Judith Kruwell, Interim Vice President for Finance and Administration, to replace Dr. Danny Gallant on the General Academic Institutions Formula Advisory Committee, with a term ending on June 1, 2022.
- The University of Texas Rio Grande Valley School of Medicine has nominated Mr. Michael Mueller, Senior Vice President for Finance and Planning, to replace Mr. Rick Anderson on the Health-Related Institutions Formula Advisory Committee, with a term ending on June 1, 2022.

THECB staff recommend these nominations for approval to the General Academic Formula Advisory Committee and Health-Related Institutions Formula Advisory Committee.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM V-E

Review of facilities projects submitted to the Coordinating Board, pursuant to Texas Education Code, Sections 61.0572 and 61.058

RECOMMENDATION: No action required

Background Information:

The Texas Higher Education Coordinating Board (THECB) has the authority to require that institutions report certain capital projects to the THECB, and THECB staff continue to review the projects. Additional information can be provided upon request for projects that do not meet one or more standards. The board of the THECB must notify the governor, lieutenant governor, speaker of the House, the governing board of the institution, and Legislative Budget Board on all projects that do not meet standards. These materials serve as that notification.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Reviewed Projects

Institution Project Name	Project Number	Project Cost	Standard Met - Yes/No			
			Space Usage ¹	Space Need	Cost	Building Efficiency
Stephen F. Austin State University <i>Construct Addition and Renovate Griffith Fine Arts</i>	003624-19-001	\$50,000,000	No ²	Yes	Yes	Yes

¹ THECB is using fall 2019 space usage efficiency standards to evaluate projects. THECB did not produce updated space usage efficiency calculations in fall 2020 due to institutional modifications related to social distancing and other operational changes for the COVID-19 pandemic.

² The institution does not meet the space standard for overall space usage efficiency; however, the institution reports that some office spaces in this building need to be reconfigured to classroom and laboratory space to meet the needs of a growing fine arts program.

Guidelines Used for Capital Project Reviews

Project Type	Space Usage	Space Need	Cost	Building Efficiency
New Construction and Addition	Space Usage Efficiency (SUE) score of: <ul style="list-style-type: none"> • 75 points in the classroom score for classroom-type facilities • 75 points in the class laboratory score for lab-type facilities • 150 points overall for all others 	Does not create nor add to a surplus as predicted in the space projection model	Does not exceed the annually published cost standard	The ratio of net assignable square feet (NASF) to gross square feet (GSF) shall not exceed: <ul style="list-style-type: none"> • Classroom and general – 0.60 • Office – 0.65 • Clinical, diagnostic support labs, and technical research – 0.50 For parking structures: <ul style="list-style-type: none"> • Automobile – 400 SF per space • Boathouses – 500 SF per space • Airplanes – 3,000 SF per space
Repair and Renovation (including repairs and renovations as part of a real property purchase)	Not applicable	Does not create nor add to a surplus as predicted in the space projection model	Does not exceed the annually published cost standard	Does not reduce existing ratio of NASF to GSF more than ten percent
Real Property Purchases	Not applicable	Does not create nor add to a surplus as predicted in the space projection model	Should not exceed the higher of two appraisals. If the cost exceeds this amount, institution must demonstrate the need to purchase at the higher price.	Not applicable

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM V-F

Consideration of adopting the "Report on Student Financial Aid in Texas Higher Education, Fiscal Year 2020" (General Appropriations Act, Senate Bill 1, Article III, Section 24, 87th Texas Legislature)

RECOMMENDATION: Approval

Background Information:

General Appropriations Act, Senate Bill 1, Article III, Section 24, 87th Texas Legislature, directs the Texas Higher Education Coordinating Board (THECB) to prepare an annual report concerning student financial aid at Texas public and independent institutions of higher education. Following adoption by the board of the THECB, the report will be forwarded to the Legislative Budget Board no later than November 1, 2021. The report provides a summary of the financial aid provided to students in Texas.

Dr. Charles W. Contéro-Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, will be available to answer questions.

Committee on Innovation, Data, and Educational Analytics

AGENDA ITEM V-G

Consideration of approving the appointment of members of the Financial Aid Advisory Committee

RECOMMENDATION: Appoint Members

Background Information:

In accordance with Texas Education Code, Section 61.0776, and Texas Government Code, Section 2110.0012, the Financial Aid Advisory Committee (FAAC) was created to make recommendations regarding the development, implementation, and evaluation of state financial aid programs for college students. To strengthen student access to higher education, the committee also advises the board of the Texas Higher Education Coordinating Board regarding strategies for communicating financial aid information to students, parents, secondary school counselors, and others.

The FAAC consists of individuals representing public and private institutions of higher education, public school counselors, and other stakeholders. All members of the advisory committee have student financial aid, admissions, or enrollment background experience. The FAAC meets quarterly, and most members serve for a term of three years.

The appointments are needed to replace outgoing members whose terms have expired and to expand representation within certain institutional sectors and geographic regions. Agency staff and the FAAC Chair, Vice Chair, and Past Chair reviewed the nominations submitted by institutional chancellors and presidents and other stakeholders. A list of the candidates recommended for appointment to the FAAC appears on the following page.

Dr. Charles W. Contéro-Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, will be available to answer questions.

Recommended new Financial Aid Advisory Committee members:

Jackie Adler
Executive Director of Financial Aid
Texas State Technical College
(Term ending 2024)

Cecelia Jones
Director of Financial Aid
Jarvis Christian College
(Term ending 2024)

Melet Leafgreen
Director of Financial Aid
University of Texas Southwestern Medical Center
(Term ending 2024)

Sal Ramirez
College and Career Readiness Coordinator
El Paso ISD/Transmountain Early College High School
(Term ending 2024)

Joseph Ruiz
Director of Financial Aid
Del Mar College
(Term ending 2023, to serve the remainder of unexpired term due to Johanna Baley vacating her position on the committee.)

Tevian Sides
Director of Financial Aid
Western Texas College
(Term ending 2024)

Gilbert Zavala
Vice President
Austin Chamber of Commerce
(Term ending 2024)

Robert Merino
President-Elect
TASFAA
(Nominated for a one-year term as the TASFAA representative.)

AGENDA ITEM V-H (1)

Consideration of the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 17, Subchapters A-F, I, K, and L, concerning Resource Planning and the possible adoption of new rules in Chapter 17 of Board rules concerning changes to the administration of Facilities Audit, Facilities Inventory, Energy Savings Performance Contracts, Board Reports, Institutional Reporting on facilities programs, and the organization of the aforementioned programs

RECOMMENDATION: Approval

Background Information:

Texas Higher Education Coordinating Board (THECB) staff proposes to repeal and replace Chapter 17. The new Chapter 17 would be reorganized and clarified to reduce administrative burden for both the THECB and institutions in relation to facilities programs. Throughout the proposed rule, there would be changes to reflect that the agency is exercising its discretion to no longer review and instead only collect data on certain facilities projects. Under the reformed rules, facilities standards would be a tool for institutions instead of factors that will be reviewed by the THECB. While institutions would still submit their board of regents certification forms at the start of the project, project applications will not be submitted until the project is complete. This change would also eliminate the need for the Annual Project Tracking Report.

In addition, the revised Chapter 17 rules would:

- establish that authorized assistant commissioners and standing committees of the THECB, instead of specific ones, may approve Energy Savings Performance Contracts;
- clarify language regarding contract term start dates for the purposes of Energy Savings Performance Contract approvals;
- remove standards for facilities that are not Education and General (E&G) facilities;
- rename various reports and definitions according to current naming conventions;
- extend the timing of appraisal validity and remove a provision related to property acquisitions at Texas State Technical College System that was dependent upon a section of the Texas Education Code that has been repealed;
- update the process for facilities audits, specifically regarding the peer review team audits, institutional and agency responsibilities, and the option for self-audits; and
- make numerous typographical, grammatical, and organizational changes to improve the clarity and structure of Chapter 17.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: August 20, 2021.

The 30-day comment period with the *Texas Register* ended on: September 19, 2021.

No comments have been received regarding this rule.

The amendments have been prepared in the following format:

- New language is in lowercase, underlined, and shaded.
- Deleted language is bracketed and struck through.
- When new language replaces deleted language, the new language precedes the deleted language.

CHAPTER 17 RESOURCE PLANNING

SUBCHAPTER A, GENERAL PROVISIONS

Sections

§17.1. Purpose and Scope.§17.2. Authority.§17.3. Definitions.§17.1. Purpose and Scope.

(a) The purpose of this chapter is to provide guidance to the public and to public institutions of higher education regarding reporting of facilities project data to the Board, standards for new construction, repair and renovation projects, property acquisitions, or lease-purchase arrangements as authorized by law.

(b) This chapter establishes rules and an approval process for energy savings performance contracts.

(c) This chapter establishes rules for facilities audits.

(d) This chapter establishes guidelines for certain institutional reports to the Board and the Board's reports.

(e) This chapter does not apply to facilities used exclusively for auxiliary enterprise.

§17.2. Authority.

(a) Texas Education Code, §61.0572, requires the Board to assure the efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments.

(b) Texas Education Code, §61.058, authorizes the Board to review new construction and repair and renovation projects as well as purchases of improved real property at institutions. Standards used in review must be adopted using negotiated rulemaking.

(c) Texas Education Code, §61.0583, requires the Board to conduct a comprehensive audit of all educational and general facilities.

(d) Texas Education Code, §51.927, authorizes the Board to establish guidelines and an approval process for awarding energy savings performance contracts.

§17.3. Definitions.

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Acquisition--To come into possession or control of real property or facilities. This includes the acceptance, purchase, lease-purchase, transfer, or exchange of land or facilities.

(2) Academic Facilities--Facilities used for primary instruction, research, and public service functions of the institution. Academic facilities typically would include classrooms, libraries, administrative and faculty offices, and student and research laboratories.

(3) Addition--Expansion or extension of an existing facility that increases its size or capacity.

(4) Assignable Area of a Building--The sum of all areas within the interior walls of rooms on all floors of a building assigned to, or available for assignment to, an occupant or use, excluding unassigned space. This is also referred to as net assignable square feet (NASF).

(5) Athletic Facilities--Facilities used for athletic programs, including intercollegiate athletics, intramural athletics, and athletically oriented academic programs.

(6) Auditorium or Assembly--A room, hall, or building designed and equipped for the assembly of large groups for such events as dramatic and musical productions, devotional activities, livestock judging, faculty/staff meetings, or commencement. Included are theaters, concert halls, arenas, chapels, and livestock judging pavilions. Assembly facilities may also serve instructional purposes to a minor or incidental extent.

(7) Auxiliary Enterprise Buildings or Space--Income-generating structures and space such as dormitories, cafeterias, student union buildings, stadiums, athletic facilities, housing or boarding facilities used by a fraternity, sorority, or private club, and alumni centers used solely for those purposes. Auxiliary space is not supported by State appropriations.

(8) Board or Coordinating Board--The Texas Higher Education Coordinating Board members and the agency staff.

(9) Building--A structure with at least two walls for permanent or temporary shelter of persons, animals (excluding animal caging equipment), plants, materials, or equipment that is attached to a foundation, roofed, serviced by a utility (exclusive of lighting), is a source of maintenance and repair activities, and is under the control or jurisdiction of the institution's governing board, regardless of its location.

(10) Building Replacement Estimate Report--A report that provides an overall estimate of the campus' buildings replacement cost. The Board produces this report to aid institutions in reporting their deferred maintenance needs as a percentage of the total campus' replacement value.

(11) Educational and General (E&G) Building Replacement Estimate--A comparative indicator of the relative condition of facilities calculated by dividing the deferred

maintenance backlog by the current Building Replacement Estimate. This may be calculated for an individual building, group of buildings, or an entire campus.

(12) Institution-Wide Building Replacement Estimate--The institution-wide relative value of an institution's facilities, as determined annually by the Board. The method of calculation is based on approved Board project costs. Building Replacement Estimates are calculated for Educational and General space and Institution-Wide space. A 25 percent add-on is included to account for the cost of necessary infrastructure. These are NOT to be used for insurance purposes.

(13) Campus Condition Report--A report outlining facility maintenance needs in the areas of deferred maintenance and critical deferred maintenance.

(14) Campus Master Plan--A detailed long-range plan of institutional physical plant needs, including facilities construction and/or development, land acquisitions, and campus facilities infrastructure; the plan provides long-range and strategic analyses and facilities development guidelines.

(15) Certification--Institutional attestation of reports or other submissions as being true or as represented.

(16) Classroom--A room used for scheduled classes. These rooms may be called lecture rooms, lecture-demonstration rooms, seminar rooms, or general-purpose classrooms. A classroom may contain multimedia or telecommunications equipment, such as those used for distance learning. A classroom may be furnished with special equipment (e.g., globes, maps, pianos) appropriate to a specific area of study. A classroom does not include conference rooms, meeting rooms, auditoriums, or class laboratories.

(17) Class Laboratory--A room used primarily by regularly scheduled classes that require special-purpose equipment for student participation, experimentation, observation, or practice in a field of study. Class laboratories may be referred to as teaching laboratories, instructional shops, computer laboratories, drafting rooms, band rooms, choral rooms, group studios. Laboratories that serve as individual or independent study rooms are not included.

(18) Clinical Facility--A facility often associated with a hospital or medical school that is devoted to the diagnosis and care of patients in the instruction of health professions and allied health professions; medical instruction may be conducted, and patients may be examined and discussed. Clinical facilities include, but are not limited to, patient examination rooms, testing rooms, and consultation rooms.

(19) Committee--The members of the Board appointed to consider facility-related issues.

(20) Commissioner--The chief executive officer of the Texas Higher Education Coordinating Board agency.

(21) Cost--The portion of the total project costs that are reported by the institution as being for the actual cost of construction, repair/renovation, or the actual purchase price

for improved real property purchases. Not included are costs associated with site acquisition (for construction projects), closing costs (for improved real property purchases) fixed equipment, site development, furniture and moveable equipment, construction services, life safety compliance, professional services fees, demolition costs, eminent domain costs, environmental development, or contingency amounts.

(22) Critical Deferred Maintenance--Any deferred maintenance that if not corrected in the current budget cycle places its building occupants at risk of harm or the facility at risk of not fulfilling its functions.

(23) Deferred Maintenance--The accumulation of facility components in need of repair or replacement brought about by age, use, or damage, for which remedies are postponed or considered backlogged, that is necessary to maintain and extend the life of a facility. This includes repairs postponed due to funding limitations.

(24) Education and General (E&G) Space--Space used for teaching, research, or the preservation of knowledge, including the proportional share used for those activities in any building or facility used jointly with auxiliary enterprise, or space that is permanently unassigned. E&G space may be supported by state appropriations.

(25) E&G Cost-- $E\&G\ Space / Total\ Space \times Cost$. The costs associated with the E&G space included in a project. This is determined by dividing the E&G assignable square feet by the total project assignable square feet and then multiplying the result by the cost.

(26) Efficiency--The proportion of the gross square feet that can be assigned. This is determined by dividing the net assignable square feet by the gross square feet.

(27) Energy Systems--Infrastructure in a building that includes facility electric, gas, heating, ventilation, air conditioning, and water systems.

(28) Energy Savings Performance Contract--A contract for energy or water conservation measures to reduce energy or water consumption or operating costs of institutional facilities in which the estimated savings in utility costs resulting from the conservation measures is guaranteed to offset the cost of the measures over a specified period.

(29) Facilities Audit--Comprehensive review of institutional facility development, planning activities, and reports.

(30) Facilities Inventory--A collection of building and room records that reflects institutional space and how it is being used. The records contain codes that are uniformly defined by the Board and the United States Department of Education and reported by the institutions on an ongoing basis to reflect a current facilities inventory. The facilities inventory includes a record of property owned by or under the control of the institution.

(31) Capital Expenditure Plan (MP1)--A detailed formulation of institutional programs to address repairs, renovations, deferred maintenance, critical deferred maintenance, facilities construction, demolition, property acquisitions, or infrastructure.

(32) Gift--A donation or bequest of money or another tangible item, a pledge of a contribution, or the acquisition of real property or facilities at no cost to the state or to the institution. It may also represent a method of finance for a project.

(33) Gross Square Feet (GSF)--The sum of all square feet of floor areas within the outside faces of a building's exterior walls. This includes the areas, finished and unfinished, on all floors of an enclosed structure, i.e., within the environmentally controlled envelope, for all stories or areas which have floor surfaces.

(34) Improved Real Property--Real property on which there are buildings or facilities.

(35) Information Resource Project--Projects related to the purchase or lease-purchase of computer equipment, purchase of computer software, purchase or lease-purchase of telephones, telephone systems, and other telecommunications and video-teleconferencing equipment.

(36) Infrastructure--The basic physical structures needed for the operation of a campus to include roads, water supply, sewers, power grids, telecommunications, and so forth. Systems within five feet of a building are considered building systems and are not infrastructure.

(37) Institution or institution of higher education--A Texas public institution of higher education as defined in Texas Education Code, §61.003(8), except a community/junior college.

(38) Legislative Authority--Specific statutory authorization.

(39) Lease--A contract by which real estate, equipment, or facilities are conveyed for a specified term and for a specified rent. Includes the transfer of the right to possession and use of goods for a term in return for consideration. Unless the context clearly indicates otherwise, the term includes a sublease.

(40) Lease-Purchase--A lease project that includes the acquisition of real property by purchase, gift, or any other voluntary transaction at some future time.

(41) Mixed Use--Facilities that have a mixture of uses. These may include facilities that are E&G and non-E&G.

(42) Net Assignable Square Feet (NASF)--The sum of all areas within the interior walls of rooms on all floors of a building assigned to, or available for assignment to, an occupant or use, excluding unassigned areas. NASF includes auxiliary space and E&G space.

(43) New Construction--The creation of a new building or facility, the addition to an existing building or facility, or new infrastructure that does not currently exist on campus. New construction would add gross square footage to an institution's existing space.

(44) Parking Structure--A facility or garage used for housing or storing vehicles. Included are garages, boathouses, airport hangars, and similar buildings. Barns or similar field buildings that house farm implements and surface parking lots are not included.

(45) Phased Project--A project that has more than one part, each one having fixed beginning and ending dates, specified cost estimates, and scope. Phased projects consider future phase needs in the project plan; each phase is able to stand alone as an individual project.

(46) Project--The process that includes the construction, repair, renovation, addition, alteration of a campus, building, or facility, or its infrastructure, or the acquisition of real property.

(47) Project Review--The process used by the Board and Board staff to determine whether the project meets Board adopted standards for cost, efficiency, space need and space use.

(48) Purchase--The acquisition of and interest in real property in exchange for valuable consideration.

(49) Real Property--Land with or without improvements such as buildings.

(50) Repair and Renovation (R&R)--Construction upgrades to an existing building, facility, or infrastructure that currently exists on campus; this includes the finish-out of shell space. R&R may add E&G NASF space.

(51) Research Facility--A facility used primarily for experimentation, investigation, or training in research methods, professional research and observation, or a structured creative activity within a specific program. Included are laboratories used for experiments or testing in support of instructional, research, or public service activities.

(52) Shell Space--An area within a building with an unfinished interior designed to be converted into usable space at a later date.

(53) Space Need--The result of the comparison of an institution's actual space to the predicted need as calculated by the Board's Space Projection Model.

(54) Space Use--The determination of the efficiency of use in existing facilities as determined by institutional performance on accepted measures.

(55) Standard--Basis, criteria, or benchmark used for evaluating the merits of a project request or an institutional comparison to a benchmark.

(56) Technical Research Building--Space used for research, testing, and training in a mechanical or scientific field. Special equipment is required for staff and/or student experimentation or observation. Included are specialized laboratories for new technologies that have stringent environmental controls on air quality, temperature,

vibration, and humidity. Facilities generally include space for specialized technologies, semiconductors, biotechnology, advanced materials, quantum computing and advanced manufacturing quantum computing technology, nanoscale measurement tools, integrated microchip-level technologies for measuring individual biological molecules, and experiments in nanoscale disciplines.

(57) Tuition Revenue Bonds Project--A project for which an institution has legislative authority to finance a construction or land acquisition project as provided for in Texas Education Code, §§55.01 - 55.25.

(58) Unimproved Real Property--Real property on which there are no buildings or facilities.

(59) University System--The association of one or more public senior colleges or universities, medical or dental units, or other agencies of higher education under the policy direction of a single governing board.

SUBCHAPTER A, GENERAL PROVISIONS

Sections

~~§17.1. Purpose and Scope.~~

~~[The purpose of this chapter is to provide guidance to the public and to public institutions of higher education regarding review of construction projects, repair and renovation projects, property acquisitions, or lease purchase arrangements as authorized by law.]~~

~~§17.2. Authority.~~

~~[Texas Education Code, §61.0572, requires the Board to assure the efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments. Texas Education Code, §61.058, authorizes the Board to review new construction and repair and rehabilitation of buildings and facilities at institutions. Texas Education Code, §61.0583, requires the Board to conduct a comprehensive audit of all educational and general facilities. Texas Education Code, §51.927, authorizes the Board to establish guidelines and an approval process for awarding energy savings performance contracts.]~~

~~§17.3. Definitions.~~

~~[The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:~~

~~–(1) Acquisition--To come into possession or control of real property or facilities. This includes the acceptance, purchase, lease purchase, transfer, or exchange of land or facilities.~~

~~–(2) Academic Facilities--Facilities used for primary instruction, research, and public service functions of the institution. Academic facilities typically would include classrooms, libraries, administrative and faculty offices, and student and research laboratories.~~

- ~~–(3) Addition–Expansion or extension of an existing facility that increases its size or capacity.~~
- ~~–(4) Assignable Area of a Building–The sum of all areas within the interior walls of rooms on all floors of a building assigned to, or available for assignment to, an occupant or use, excluding unassigned space. This is also referred to as net assignable square feet (NASF).~~
- ~~–(5) Athletic Facilities–Facilities used for athletic programs, including intercollegiate athletics, intramural athletics, and athletically-oriented academic programs.~~
- ~~–(6) Auditorium or Assembly–A room, hall, or building designed and equipped for the assembly of large groups for such events as dramatic and musical productions, devotional activities, livestock judging, faculty/staff meetings, or commencement. Included are theaters, concert halls, arenas, chapels and livestock judging pavilions. Assembly facilities may also serve instructional purposes to a minor or incidental extent.~~
- ~~–(7) Auxiliary Enterprise Buildings or Space–Income-generating structures and space such as dormitories, cafeterias, student union buildings, stadiums, athletic facilities, housing or boarding facilities used by a fraternity, sorority, or private club, and alumni centers used solely for those purposes. Auxiliary space is not supported by State appropriations.~~
- ~~–(8) Board or Coordinating Board–The Texas Higher Education Coordinating Board members and the agency.~~
- ~~–(9) Building–A structure with at least two walls for permanent or temporary shelter of persons, animals (excluding animal caging equipment), plants, materials, or equipment that is attached to a foundation, roofed, serviced by a utility (exclusive of lighting), is a source of maintenance and repair activities, and is under the control or jurisdiction of the institution's governing board, regardless of its location.~~
- ~~–(10) Campus Condition Index (CCI)–A comparative indicator of the relative condition of facilities calculated by dividing the deferred maintenance backlog by the current Campus Condition Index Value. This may be calculated for an individual building, group of buildings, or an entire campus.~~
- ~~–(11) Campus Condition Index Value (CCIV)–The institution-wide relative value of an institution's facilities, as determined annually by the Board. The method of calculation is based on approved Board project costs. Campus Condition Index Values are calculated for Educational and General (EGCCIV) space and Institution-Wide (IWCCIV) space. A 25 percent add-on is included to account for the cost of necessary infrastructure. These are NOT to be used for insurance purposes.~~
- ~~–(12) Campus Condition Report–A report outlining facility maintenance needs in the areas of deferred maintenance and critical deferred maintenance.~~
- ~~–(13) Campus Master Plan–A detailed long-range plan of institutional physical plant needs, including facilities construction and/or development, land acquisitions, and campus facilities infrastructure; the plan provides long-range and strategic analyses and facilities development guidelines.~~
- ~~–(14) Certification–Institutional attestation of reports or other submissions as being true or as represented.~~
- ~~–(15) Classroom–A room used for scheduled classes. These rooms may be called lecture rooms, lecture demonstration rooms, seminar rooms, or general purpose classrooms. A classroom may contain multimedia or telecommunications equipment, such as those used for distance learning. A classroom may be furnished with special equipment (e.g., globes, maps, pianos) appropriate to a specific area of study. A~~

~~classroom does not include conference rooms, meeting rooms, auditoriums, or class laboratories.~~

~~–(16) Class Laboratory—A room used primarily by regularly scheduled classes that require special-purpose equipment for student participation, experimentation, observation, or practice in a field of study. Class laboratories may be referred to as teaching laboratories, instructional shops, computer laboratories, drafting rooms, band rooms, choral rooms, group studios. Laboratories that serve as individual or independent study rooms are not included.~~

~~–(17) Clinical Facility—A facility often associated with a hospital or medical school that is devoted to the diagnosis and care of patients in the instruction of health professions and allied health professions; medical instruction may be conducted, and patients may be examined and discussed. Clinical facilities include, but are not limited to, patient examination rooms, testing rooms, and consultation rooms.~~

~~–(18) Committee—The members of the Board appointed to consider facility-related issues.~~

~~–(19) Commissioner—The chief executive officer of the Texas Higher Education Coordinating Board.~~

~~–(20) Cost—The portion of the total project costs that are reported by the institution as being for the actual cost of construction, repair/renovation, or the actual purchase price for improved real property purchases. Not included are costs associated with site acquisition (for construction projects), closing costs (for improved real property purchases) fixed equipment, site development, furniture and moveable equipment, construction services, life safety compliance, professional services fees, demolition costs, eminent domain costs, environmental development, or contingency amounts.~~

~~–(21) Critical Deferred Maintenance—Any deferred maintenance that if not corrected in the current budget cycle places its building occupants at risk of harm or the facility at risk of not fulfilling its functions.~~

~~–(22) Deferred Maintenance—The accumulation of facility components in need of repair or replacement brought about by age, use, or damage, for which remedies are postponed or considered backlogged, that is necessary to maintain and extend the life of a facility. This includes repairs postponed due to funding limitations.~~

~~–(23) Education and General (E&G Space)—Space used for teaching, research, or the preservation of knowledge, including the proportional share used for those activities in any building or facility used jointly with auxiliary enterprise, or space that is permanently unassigned. E&G space may be supported by state appropriations.~~

~~–(24) E&G Cost—E&G Space/Total Space x Cost. The costs associated with the E&G space included in a project. This is determined by dividing the E&G assignable square feet by the total project assignable square feet and then multiplying the result by the cost.~~

~~–(25) Efficiency—The proportion of the gross square feet that can be assigned. This is determined by dividing the net assignable square feet by the gross square feet.~~

~~–(26) Energy Systems—Infrastructure in a building that includes facility electric, gas, heating, ventilation, air conditioning, and water systems.~~

~~–(27) Energy Savings Performance Contract—A contract for energy or water conservation measures to reduce energy or water consumption or operating costs of institutional facilities in which the estimated savings in utility costs resulting from the conservation measures is guaranteed to offset the cost of the measures over a specified period.~~

- ~~–(28) Facilities Audit—Comprehensive review of institutional facility development, planning activities, and reports.~~
- ~~–(29) Facilities Inventory—A collection of building and room records that reflects institutional space and how it is being used. The records contain codes that are uniformly defined by the Board and the United States Department of Education and reported by the institutions on an ongoing basis to reflect a current facilities inventory. The facilities inventory includes a record of property owned by or under the control of the institution.~~
- ~~–(30) Facilities Development Plan (MP1)—A detailed formulation of institutional programs to address repairs, renovations, deferred maintenance, critical deferred maintenance, facilities construction, demolition, property acquisitions, or infrastructure.~~
- ~~–(31) Gift—A donation or bequest of money or another tangible item, a pledge of a contribution, or the acquisition of real property or facilities at no cost to the state or to the institution. It may also represent a method of finance for a project.~~
- ~~–(32) Gross Square Feet (GSF)—The sum of all square feet of floor areas within the outside faces of a building's exterior walls. This includes the areas, finished and unfinished, on all floors of an enclosed structure, i.e., within the environmentally controlled envelope, for all stories or areas which have floor surfaces.~~
- ~~–(33) Improved Real Property—Real property on which there are buildings or facilities.~~
- ~~–(34) Information Resource Project—Projects related to the purchase or lease-purchase of computer equipment, purchase of computer software, purchase or lease-purchase of telephones, telephone systems, and other telecommunications and video-conferencing equipment.~~
- ~~–(35) Infrastructure—The basic physical structures needed for the operation of a campus to include roads, water supply, sewers, power grids, telecommunications, and so forth. Systems within five feet of a building are considered building systems and are not infrastructure.~~
- ~~–(36) Institution or institution of higher education—A Texas public institution of higher education as defined in Texas Education Code, §61.003(8), except a community/junior college.~~
- ~~–(37) Legislative Authority—Specific statutory authorization.~~
- ~~–(38) Lease—A contract by which real estate, equipment, or facilities are conveyed for a specified term and for a specified rent. Includes the transfer of the right to possession and use of goods for a term in return for consideration. Unless the context clearly indicates otherwise, the term includes a sublease.~~
- ~~–(39) Lease-Purchase—A lease project that includes the acquisition of real property by purchase, gift, or any other voluntary transaction at some future time.~~
- ~~–(40) Mixed Use—Facilities that have a mixture of uses. These may include facilities that are E&G and non-E&G.~~
- ~~–(41) Net Assignable Square Feet (NASF)—The sum of all areas within the interior walls of rooms on all floors of a building assigned to, or available for assignment to, an occupant or use, excluding unassigned areas. NASF includes auxiliary space and E&G space.~~
- ~~–(42) New Construction—The creation of a new building or facility, the addition to an existing building or facility, or new infrastructure that does not currently exist on campus. New construction would add gross square footage to an institution's existing space.~~

- (43) Parking Structure—A facility or garage used for housing or storing vehicles. Included are garages, boathouses, airport hangars, and similar buildings. Barns or similar field buildings that house farm implements and surface parking lots are not included.
- (44) Phased Project—A project that has more than one part, each one having fixed beginning and ending dates, specified cost estimates, and scope. Phased projects consider future phase needs in the project plan; each phase is able to stand alone as an individual project.
- (45) Project—The process that includes the construction, repair, renovation, addition, alteration of a campus, building, or facility, or its infrastructure, or the acquisition of real property.
- (46) Project Review—The process used by the Board and Board staff to determine whether the project meets Board adopted standards for cost, efficiency, space need and space use.
- (47) Purchase—The acquisition of and interest in real property in exchange for valuable consideration.
- (48) Real Property—Land with or without improvements such as buildings.
- (49) Repair and Renovation (R&R)—Construction upgrades to an existing building, facility, or infrastructure that currently exists on campus; this includes the finish-out of shell space. R&R may add E&G NASF space.
- (50) Research Facility—A facility used primarily for experimentation, investigation, or training in research methods, professional research and observation, or a structured creative activity within a specific program. Included are laboratories used for experiments or testing in support of instructional, research, or public service activities.
- (51) Shell Space—An area within a building with an unfinished interior designed to be converted into usable space at a later date.
- (52) Space Need—The result of the comparison of an institution's actual space to the predicted need as calculated by the Board's Space Projection Model.
- (53) Space Use—The determination of the efficiency of use in existing facilities as determined by institutional performance on accepted measures.
- (54) Standard—Basis, criteria, or benchmark used for evaluating the merits of a project request or an institutional comparison to a benchmark.
- (55) Technical Research Building—Space used for research, testing, and training in a mechanical or scientific field. Special equipment is required for staff and/or student experimentation or observation. Included are specialized laboratories for new technologies that have stringent environmental controls on air quality, temperature, vibration, and humidity. Facilities generally include space for specialized technologies, semiconductors, biotechnology, advanced materials, quantum computing and advanced manufacturing quantum computing technology, nanoscale measurement tools, integrated microchip level technologies for measuring individual biological molecules, and experiments in nanoscale disciplines.
- (56) Tracking Report—Institutional reports indicating the status of submitted projects and projects to be submitted.
- (57) Tuition Revenue Bonds Project—A project for which an institution has legislative authority to finance a construction or land acquisition project as provided for in Texas Education Code, §§55.01—55.25.
- (58) Unimproved Real Property—Real property on which there are no buildings or facilities.

~~–(59) University System—The association of one or more public senior colleges or universities, medical or dental units, or other agencies of higher education under the policy direction of a single governing board.]~~

SUBCHAPTER B, REPORTING REQUIREMENTS

Sections

§17.20.Facility Projects to Be Submitted to the Board.

§17.21.Submission Procedures.

§17.20.Facility Projects to Be Submitted to the Board.

(a) Institutions shall submit data on the following projects to the Board:

(1) New construction of building and facilities and/or additions to buildings and facilities having an E&G project cost of \$10 million or greater;

(2) Repair and renovation projects for buildings and facilities having an E&G project cost of \$10 million or greater;

(3) Improved real property purchases that the institution intends to include in the E&G buildings and facilities inventory if the purchase price is more than \$1,000,000;

(4) Energy Savings Performance Contract projects; and

(5) Projects financed by tuition revenue bonds pursuant to Education Code §61.0572 and §61.058.

(b) Projects not specifically described in this rule, including but not limited to the following types of projects, are EXEMPT from Board submission:

(1) Projects at The University of Texas at Austin, Texas A&M University, and Prairie View A&M University financed more than 50 percent with Permanent University Fund bond proceeds or Available University Fund funds;

(2) New Construction, repair, or rehabilitation of privately-owned buildings and facilities on land leased from an institution if the new construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution;

(3) Gifts, grants, or lease-purchase arrangements intended for clinical or research facilities;

(4) New construction, repair, or rehabilitation projects to be undertaken pursuant to specific legislative authority;

(5) Lease of property or facilities;

(6) Acquisitions of unimproved real property;

(7) Acquisitions of improved real property that the institution does not intend to include in its E&G buildings and facilities inventory;

(8) New Construction, repair, renovation, or acquisition of buildings and facilities that are to be used exclusively for auxiliary enterprises and will not require appropriations from the legislature for operations, maintenance, or repair; and

(9) All gifts and grants of improved real property.

§17.21.Submission Procedures.

Institutions shall submit the following materials to the Board:

(1) a signed Board of Regents Certification form certifying that the institution's Board of Regents or its delegated authority has approved the project and that the project complies with applicable state and federal requirements as listed on the form shall be submitted to the Board before the start of the project.

(2) Institutions shall submit a completed project application electronically through the Board's website once completed project costs are known, but no later than 90 days after the project has been added to the Facilities Inventory.

(3) For Real Property Purchase Projects, in addition to paragraphs (1) and (2) of this section, institutions shall submit appraisals in accordance with the below:

(A) An institution shall provide two current appraisal reports providing a current value of the property. The most recent appraisal of the local property tax appraisal district may be used for one of these reports.

(B) Appraisals shall be considered current if the appraisal was completed no more than two years prior to the date the project application is submitted to the Coordinating Board.

(4) Appraiser Credentials. Any appraisal report provided to the Board under this section shall certify that the appraiser(s) meets one of the following requirements:

(A) Is designated an Accredited Senior Appraiser by the American Society of Appraisers (A.S.A.) with the professional designation in real estate;

(B) Is a member of the Appraisal Institute designated M.A.I. by the Appraisal Institute and is experienced in the valuation and evaluation of commercial, industrial, residential, and other types of properties, and who advise clients on real estate investment decisions;

(C) Is a member of the Appraisal Institute designated S.R.P.A. and is experienced in the valuation of commercial, industrial, residential, and other types of property;

(D) Is a member of the Appraisal Institute designated S.R.A. and is a real estate solutions provider who is experienced in the analysis and valuation of residential real property;

(E) Is a senior member of the National Association of Independent Fee Appraisers designated IFAS;

(F) Is an appraiser-counselor member of the National Association of Independent Fee Appraisers designated IFAC;

(G) Is a licensee of the Texas Appraiser Licensing and Certification Board in good standing and certified or licensed at the appropriate level for the project and must comply with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser must also state that they have the knowledge and experience to complete the assignment competently; or

(H) Is a member of the American Society of Farm Managers and Rural Appraisers (ASFMRA) designated as an Appraisal Rural Appraiser, or ARA, who is experienced to value rural property matters as they relate to rural property acquisitions, dispositions or condemnation needs.

SUBCHAPTER B, BOARD APPROVAL

Sections

~~§17.10. Board Review.~~

~~[The Board may review the following projects or phase of a project at institutions of higher education for E&G space:~~

- ~~—(1) New construction of building and facilities and/or additions to buildings and facilities having an E&G project cost of \$10 million or greater;~~
- ~~—(2) Repair and renovation projects for buildings and facilities having a an E&G project cost of \$10 million or greater;~~
- ~~—(3) Improved real property purchases that the institution intends to include in the E&G buildings and facilities inventory if the purchase price is more than \$1,000,000;~~
- ~~—(4) Energy Savings Performance Contract projects; and~~
- ~~—(5) Projects financed by tuition revenue bonds pursuant to TEC §61.0572 and §61.058.]~~

~~§17.11. Projects Exempt from Board Review.~~

~~[Projects not specifically described in §17.10 of this title (relating to Board Review), including but not limited to the following types of projects are exempt from Board review:~~

- ~~–(1) Projects at The University of Texas at Austin, Texas A&M University, and Prairie View A&M University financed more than 50 percent with Permanent University Fund bond proceeds or Available University Fund funds;~~
- ~~–(2) New Construction, repair, or rehabilitation of privately owned buildings and facilities on land leased from an institution if the new construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution;~~
- ~~–(3) Gifts, grants, or lease purchase arrangements intended for clinical or research facilities;~~
- ~~–(4) New construction, repair, or rehabilitation projects to be undertaken pursuant to specific legislative authority;~~
- ~~–(5) Lease of property or facilities;~~
- ~~–(6) Acquisitions of unimproved real property;~~
- ~~–(7) Acquisitions of improved real property that the institution does not intend to include in its E&G buildings and facilities inventory;~~
- ~~–(8) New Construction, repair, renovation, or acquisition of buildings and facilities that are to be used exclusively for auxiliary enterprises and will not require appropriations from the legislature for operations, maintenance, or repair; and~~
- ~~–(9) All gifts and grants of improved real property.]~~

~~§17.12. Delegation of Approval Authority.~~

~~[(a) Assistant Commissioner. The Board authorizes the Assistant Commissioner for Strategic Planning and Funding to approve the following types of energy savings performance contracts, upon certification of authority by the proposing institution's governing board that the project meets all of the specified Board standards and statutory requirements:~~

- ~~–(1) Less than \$20 million in cost with a contract term of ten or fewer years; and~~
- ~~–(2) \$10 million or less in cost with a contract term greater than 10 years but less than or equal to 15 years~~

~~(b) Committee on Affordability, Accountability and Planning. The Board authorizes the Committee to approve the following types of energy savings performance contracts, upon certification of authority by the proposing institution's governing board that the project meets all of the specified Board standards and statutory requirements:~~

- ~~–(1) Greater than \$20 million in cost with a contract term of 15 or fewer years; and~~
- ~~–(2) Greater than \$10 million but less than or equal to \$20 million in cost with a contract term of greater than ten years but less than 20 years.~~
- ~~–(3) \$10 million or less in cost with a contract term of greater than 15 years.~~

~~(c) Board. The following types of energy savings performance contracts shall be considered for approval by the Board. Contracts with a project cost of greater than \$20 million and a contract term greater than 15 years.~~

~~(d) Any project that is not approved by a delegated party is immediately referred to the next higher level approval authority.~~

~~(e) The Assistant Commissioner may refer projects to the Committee for review.~~

~~(f) Decisions of the Assistant Commissioner may be appealed to the Committee. Decisions of the Committee may be appealed to the Board.]~~

~~§17.13. Review Considerations.~~

~~[(a) The Board shall consider cost factors, efficiency, space need, and space use.
 (b) The Board shall consider the extent to which each of the standards outlined in §§17.30, 17.40, 17.50 and 17.51 of this title (relating to Rules Applying to New Construction and Addition Projects, Repair and Renovation Projects, and Improved Real Property Purchase Projects) have been met.]~~

SUBCHAPTER C, APPLICATION PROCEDURES

Sections

§17.21. Application Procedures.

~~[(a) Institutions shall submit projects for Board review on forms specified by the Board. The project application shall be submitted electronically.
 (b) Institutions shall submit the following materials for the consideration of projects:
 –(1) a completed project review application submitted electronically through the Board's website;
 –(2) a signed Board of Regents Certification form certifying that the institution's Board of Regents or its delegated authority has approved the project and if the Board of Regents or delegated authority's approval is dated more than two years prior to the date of the project application, the institution shall submit a certification from an appropriate executive officer that the Board of Regent's approval remains in effect;
 –(3) a signed verification of compliance with applicable state and or federal requirements; and
 –(4) any other documentation or information the institution believes will assist in the review of the project.
 (c) Project review schedule:
 –(1) Projects may be submitted at any time following Governing Board, or delegated authority, approval for initial review.
 –(2) In the event a project is ongoing at the time of annual project update, the institution shall update the information on the annual tracking report and submit within 30 days of request.
 –(3) At the time the project is completed to the point of occupancy, the institution shall amend the information with updated data and update the facilities inventory within 90 days.
 (d) The Board shall notify the Governor, Lieutenant Governor, the Speaker of the House of Representatives, and the Legislative Budget Board if the institution does not submit an application as required or is not in compliance with any standard outlined in §§17.30, 17.40, 17.50, and 17.51 of this title (relating to Rules Applying to New Construction and Addition Projects, Repair and Renovation Projects, and Improved Real Property Purchase Projects).]~~

SUBCHAPTER C, PROJECT STANDARDS

Sections

§17.30. Standards for New Construction and/or Addition Projects.

§17.31. Standards for Repair & Renovation Projects.

§17.32. Standards for Improved Real Property Purchase Projects.

§17.30. Standards for New Construction and/or Addition Projects.

The established project standards for New Construction and Addition projects are as follows:

(1) Space Need--The project shall not create a campus space surplus, or add to an existing surplus, as determined by the Board's space projection model report, required by §17.100 of this title (relating to Board Reports).

(2) Cost--The construction building cost per gross square foot shall not exceed one standard deviation above the mean of similar projects received by the Board within the last seven years, adjusted for inflation as described in the Board's Construction Cost report, §17.100 of this title.

(3) Building Efficiency--The ratio of NASF to GSF for the space in projects for classrooms and general-purpose facilities shall be 0.60 or greater. Where the following specialized space is predominant in the project, the ratios of NASF to GSF shall be as follows:

(A) Office space: 0.65 or greater;

(B) Clinical facility; 0.50 or greater;

(C) Diagnostic support laboratories: 0.50 or greater;

(D) Technical research buildings: 0.50 or greater; and

(E) For mixed-use facilities, the ratio of NASF to GSF shall be calculated for each space type and considered separately.

(4) Space Usage Efficiency--The use of existing classroom and class laboratory facilities will be considered when the project includes Education & General (E&G) square footage.

(A) Classroom space usage efficiency--

(i) A score of 75 points or higher is considered as meeting the standard; and

(ii) The classroom score will determine compliance for projects involving the following facility types: classroom, general; auditorium/theater; other facility types that appear to contain classrooms or similar space.

(B) Class laboratory space usage efficiency--

(i) A score of 75 points or higher is considered as meeting the standard; and

(ii) The class laboratory score will determine compliance for projects involving facility type laboratory, general and other facility types that appear, as determined by the THECB staff, to contain class laboratories or similar space.

(C) Overall space usage efficiency--

(i) Overall score is a function of the classroom and class laboratory scores. A combined score of 150 or higher, as determined by summing the classroom and class laboratory scores, is considered as meeting the overall standard; and

(ii) The overall score is applicable for projects involving the following facility types: athletic; office, general; office, high rise; student center; other; and projects that cannot clearly be classified in a single category of facility type.

§17.31. Standards for Repair & Renovation Projects.

The established project standards for Repair and Renovation projects are as follows:

(1) Space Need--The project shall not create a campus space surplus, or add to an existing surplus, as determined by the Board's space projection model report, required by §17.100 of this title (relating to Board Reports).

(2) Cost--The construction building cost per gross square foot shall not exceed one standard deviation above the mean of similar projects received by the Board within the last seven years, adjusted for inflation as described in the Board's Construction Cost report, §17.100 of this title.

(3) Building Efficiency--The institution shall demonstrate that the project does not reduce the existing ratio of NASF to GSF for the building by more than 10 percent. If the project renovation is required to comply with federal or state requirements, the institution shall explain any reduction in the ratio of NASF to GSF for the building.

§17.32. Standards for Improved Real Property Purchase Projects.

The established project standards for Improved Real Property Purchase projects are as follows:

(1) Space Need--The project shall not create a campus space surplus, or add to an existing surplus, as determined by the Board's space projection model report, required by §17.100 of this title (relating to Board Reports).

(2) Cost--The proposed purchase price should not exceed the higher of two appraisal values. If the purchase price is greater than the highest appraised value, the institution shall demonstrate the need for purchasing the property at the greater value.

(3) Repair and Renovation--If the project includes repair and renovation of any improvements on the property, the standards in §17.31 of this title (relating to Standards for Repair & Renovation Projects) shall apply.

~~SUBCHAPTER D, RULES APPLYING TO NEW CONSTRUCTION AND ADDITION PROJECTS~~~~Sections~~~~§17.30. Standards for New Construction and/or Addition Projects.~~

~~[To facilitate Board review of a new construction and/or addition project, an institution shall submit a written application with sufficient detail for the Board to determine if the project complies with the following standards:~~

- ~~—(1) Space Need—The project shall not create a campus space surplus, or add to an existing surplus, as determined by the Board's space projection model report, required by §17.100 of this title (relating to Board Reports). If more than one project is submitted for an agenda, all projects submitted for the current agenda will be considered in the determination of a campus surplus or deficit.~~
- ~~—(2) Cost—The construction building cost per gross square foot shall not exceed one standard deviation above the mean of similar projects considered by the Board within the last seven years, adjusted for inflation as described in the Board's Construction Cost report, §17.100 of this title. The estimated construction cost of the project will be adjusted by the future inflation factor based on the projected timeline of the construction midpoint.~~
- ~~—(3) Efficiency—The ratio of NASF to GSF for the space in projects for classrooms and general purpose facilities shall be 0.60 or greater. Where the following specialized space is predominant in the project, the ratios of NASF to GSF shall be as follows:~~
 - ~~—(A) Office space: 0.65 or greater;~~
 - ~~—(B) Clinical facility; 0.50 or greater;~~
 - ~~—(C) Diagnostic support laboratories: 0.50 or greater; and~~
 - ~~—(D) Technical research buildings: 0.50 or greater; and~~
 - ~~—(E) Parking structure:~~
 - ~~—(i) 400 Square Feet per parking space for automobile facilities;~~
 - ~~—(ii) 500 Square Feet per parking space for boathouses; and~~
 - ~~—(iii) 3,000 Square Feet per parking space for airplanes.~~
 - ~~—(F) For mixed use facilities, the ratio of NASF to GSF shall be calculated for each space type and considered separately.~~
- ~~—(4) Usage Efficiency—The use of existing classroom and class laboratory facilities will be considered when the project includes Education & General (E&G) square footage.~~
 - ~~—(A) Classroom usage efficiency—~~
 - ~~—(i) A score of 75 points or higher is considered as meeting the standard.~~
 - ~~—(ii) The classroom score will determine compliance for projects involving the following facility types: classroom, general; auditorium/theater; other facility types that appear, as determined by the Texas Higher Education Coordinating Board (THECB) staff, to contain classrooms or similar space.~~
 - ~~—(B) Class laboratory usage efficiency—~~
 - ~~—(i) A score of 75 points or higher is considered as meeting the standard.~~

- ~~—(ii) The class laboratory score will determine compliance for projects involving facility type laboratory, general and other facility types that appear, as determined by the THECB staff, to contain class laboratories or similar space~~
- ~~—(C) Overall usage efficiency—~~
- ~~—(i) Overall score is a function of the classroom and class laboratory scores. A combined score of 150 or higher, as determined by summing the classroom and class laboratory scores, is considered as meeting the overall standard.~~
- ~~—(ii) The overall score will determine compliance for projects involving the following facility types: athletic; office, general; office, high rise; student center; other; and projects that, at the discretion of the THECB staff, cannot clearly be classified in a single category of facility type.]~~

~~SUBCHAPTER E, RULES APPLYING TO REPAIR AND RENOVATION PROJECTS~~

~~Sections~~

~~§17.40. Standards for Repair and Renovation Projects.~~

~~[To facilitate Board review for a repair or renovation project, an institution shall demonstrate that the project complies with the following standards:~~

- ~~—(1) Space Need and Cost—The institution shall demonstrate that the repair or renovation project complies with the standards required in §17.30 of this title (relating to Standards for New Construction and/or Addition Projects).~~
- ~~—(2) Efficiency—The institution shall demonstrate that the project does not reduce the existing ratio of NASF to GSF for the building by more than 10 percent. If the project renovation is required to comply with federal or state requirements, the institution shall explain any reduction in the ratio of NASF to GSF for the building.]~~

~~SUBCHAPTER F, RULES APPLYING TO REAL PROPERTY PURCHASE PROJECTS~~

~~Sections~~

~~§17.50. Standards for Improved Real Property Purchase Projects.~~

~~[To facilitate Board review for an improved real property purchase project, an institution shall demonstrate that the project complies with the following standards:~~

- ~~—(1) Space Need—The institution shall demonstrate that the real property project complies with the standards required in §17.30(1)(A) of this title (relating to Space Need).~~
- ~~—(2) Cost—The proposed purchase price should not exceed the higher of two appraisal values. If the purchase price is greater than the highest appraised value, the institution shall demonstrate the need for purchasing the property at the greater value.~~
- ~~—(3) Repair and Renovation—If the project includes repair and renovation of any improvements on the property, the standards in §17.40(1) of this title (relating to Project Standards) shall apply.]~~

~~§17.51. Additional Requirements.~~

~~[(a) Appraisals:~~

~~–(1) If the cost of the improved real property is \$1,000,000 or more, an institution shall provide two current appraisal reports providing a current value of the property. The most recent appraisal of the local property tax appraisal district may be used for one of these reports.~~

~~–(2) Appraisals shall be considered current if the appraisal was completed no more than one year prior to the date the project application is submitted to the Coordinating Board for review.~~

~~(b) Appraiser Credentials. Any appraisal report provided to the Board under this section shall certify that the appraiser(s) meets one of the following requirements:~~

~~–(1) Is designated an Accredited Senior Appraiser by the American Society of Appraisers (A.S.A.) with the professional designation in real estate;~~

~~–(2) Is a member of the Appraisal Institute designated M.A.I. by the Appraisal Institute and is experienced in the valuation and evaluation of commercial, industrial, residential, and other types of properties, and who advise clients on real estate investment decisions;~~

~~–(3) Is a member of the Appraisal Institute designated S.R.P.A. and is experienced in the valuation of commercial, industrial, residential, and other types of property;~~

~~–(4) Is a member of the Appraisal Institute designated S.R.A. and is a real estate solutions provider who is experienced in the analysis and valuation of residential real property;~~

~~–(5) Is a senior member of the National Association of Independent Fee Appraisers designated IFAS;~~

~~–(6) Is an appraiser counselor member of the National Association of Independent Fee Appraisers designated IFAC; or~~

~~–(7) Is a licensee of the Texas Appraiser Licensing and Certification Board in good standing and certified or licensed at the appropriate level for the project and must comply with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser must also state that they have the knowledge and experience to complete the assignment competently.~~

~~–(8) Is a member of the American Society of Farm Managers and Rural Appraisers (ASFMRA) designated as an Appraisal Rural Appraiser, or ARA, who is experienced to value rural property matters as they relate to rural property acquisitions, dispositions or condemnation needs.~~

~~(c) Special requirements for the Texas State Technical College System. Proposed real property acquisitions by the Texas State Technical College System in Cameron, Potter, Harrison, and Nolan Counties must be approved by the Office of the Governor after Board approval and prior to acquisition in compliance with Texas Education Code §135.02(c). The Board shall provide the Office of the Governor a copy of the approval letter and analysis. The System shall provide any additional documentation to the Office of the Governor. The System shall provide a copy of the Governor's approval to the Board for inclusion in the project application file within 30 days of the approval.]~~

SUBCHAPTER D, ENERGY SAVINGS PERFORMANCE CONTRACTS

Sections

§17.40. Projects Requiring Board Approval.§17.41. Delegation of Approval Authority for Energy Savings Performance Contracts.§17.42. Additional Requirements.§17.40. Projects Requiring Board Approval.

An institution is required to obtain Board approval before the institution enters into an energy savings performance contract as defined in Texas Education Code, §51.927. Energy Savings Performance Contract projects shall be evaluated under the provisions of §17.31 of this title (relating to Standards for Repair & Renovation Projects). Additionally, the Board will conduct a review based on a set of guidelines to be developed in collaboration with the State Energy Conservation Office.

§17.41. Delegation of Approval Authority for Energy Savings Performance Contracts.

(a) Assistant Commissioner. The Board authorizes the appropriate Assistant Commissioner designated by the Commissioner to approve the following types of energy savings performance contracts, upon certification of authority by the proposing institution's governing board that the project meets all of the Board standards and statutory requirements:

(1) Less than \$20 million in cost with a contract term of ten or fewer years from the date of installation; and

(2) \$10 million or less in cost with a contract term greater than 10 years but less than or equal to 15 years from the date of installation.

(b) Board Standing Committee. The Board authorizes the standing committee designated to consider facilities rules and applications to approve the following types of energy savings performance contracts, upon certification of authority by the proposing institution's governing board that the project meets all of the specified Board standards and statutory requirements:

(1) Greater than \$20 million in cost with a contract term of 15 or fewer years from the date of installation;

(2) Greater than \$10 million but less than or equal to \$20 million in cost with a contract term of greater than ten years but less than 20 years from the date of installation; and

(3) \$10 million or less in cost with a contract term of greater than 15 years from the date of installation.

(c) Board. The Board shall consider for approval the following types of energy savings performance contracts. Contracts with a project cost of greater than \$20 million and a contract term greater than 15 years from the date of installation.

(d) Any project that is not approved by a delegated party is immediately referred to the next higher-level approval authority.

(e) The Assistant Commissioner may refer projects to the appropriate Board Committee for review.

(f) Decisions of the Assistant Commissioner may be appealed to the appropriate Board Committee. Decisions of the Committee may be appealed to the Board.

§17.42. Additional Requirements.

(a) In addition to those outlined in §17.21 of this title (Relating to Submission Procedures), each institution must include a statement with the application, certified by a Professional Engineer licensed in the State of Texas who shall not be an officer or employee of the offeror for the contract, the institution seeking approval, or otherwise associated with the contract, that the contract meets the following guidelines:

(1) The contract complies with any and all applicable federal, state and local statutes;

(2) The contract contains an energy audit report, a Measurement and Verification plan that conforms to the International Performance Measurement and Verification Protocol (IPMPV) or a case-specific methodology conforming to IPMVP principles, and a detailed calculation of energy savings as a direct result of the project;

(3) The savings achieved over the specified term is equal to or greater than the cost of the project; and

(4) The contract meets the guidelines specified in Texas Education Code, §51.927, (relating to Energy Savings Performance Contracts).

(b) In addition to those outlined in §17.21 of this title (Relating to Submission Procedures), the institution's chief financial officer and general counsel must include a written certification that they have reviewed the energy contract and that the costs do not exceed the guaranteed savings and that other legal provisions are in compliance with applicable laws and statutes.

(c) The institution shall provide to the Board a copy of the signed contract within 30 days of the effective date of the contract.

~~SUBCHAPTER I, RULES APPLYING TO ENERGY SAVINGS PERFORMANCE CONTRACTS~~

Sections

~~§17.80. Projects Requiring Board Approval.~~

~~[Board approval is required before an institution enters into an energy savings performance contract as defined in Texas Education Code, §51.927. Energy Savings Performance Contract projects shall be evaluated under the provisions of §17.40 of this~~

~~title (relating to Rules Applying to Repair and Renovation Projects). Additionally a review will be completed based on a set of guidelines to be developed in collaboration with the State Energy Conservation Office.]~~

~~§17.81. Standards for Energy Savings Performance Contracts.~~

~~[Project Standards. Energy Savings Performance Contract Projects shall be considered under the provisions of §17.40(1) of this title (relating to Standards for Repair and Renovation Projects).]~~

~~§17.82. Additional Requirements.~~

~~[(a) In addition to those outlined in §17.21 of this title (relating to Application Procedures), a statement shall be included with the application, certified by a Professional Engineer licensed in the State of Texas who shall not be an officer or employee of the offeror for the contract, the institution seeking approval, or otherwise associated with the contract, that the contract meets the following guidelines:~~

- ~~–(1) The contract complies with any and all applicable federal, state and local statutes;~~
- ~~–(2) The contract contains an energy audit report, a Measurement and Verification plan that conforms to the International Performance Measurement and Verification Protocol (IPMPV) or a case-specific methodology conforming to IPMVP principles, and a detailed calculation of energy savings as a direct result of the project;~~
- ~~–(3) The savings achieved over the specified term is equal to or greater than the cost of the project; and~~
- ~~–(4) The contract meets the guidelines specified in Texas Education Code, §51.927, (relating to Energy Savings Performance Contracts).~~

~~(b) In addition to those outlined in §17.21 of this title (relating to Application procedures), a statement shall be included with the application signed by the institutions chief financial officer and general counsel that certifies that they have reviewed the energy contract and that the costs do not exceed the guaranteed savings and that other legal provisions are in compliance with applicable laws and statutes.~~

~~(c) The institution shall provide to the Board a copy of the signed contract within 30 days of the effective date of the contract.]~~

SUBCHAPTER E, REPORTS

Sections

§17.100. Board Reports.

§17.101. Institutional Reports.

§17.100. Board Reports.

The Board shall annually prepare the following reports:

(1) Space Projection Model. The Board, in consultation with the institutions, shall develop space planning models to estimate the NASF of E&G space needed at institutions of higher education.

(A) Periodic Review. Each biennium, the Commissioner may convene an advisory committee of institutional representatives to review the model and recommend changes.

(B) Use. The Board shall use the models developed under this section to determine the need for space on campuses, as a component of funding formulas for public institutions other than community colleges, and as standards for facilities development projects.

(2) Space Usage Efficiency (SUE). The Board shall collect data and publish reports designed to inform the public and other state agencies of the intensity of use of E&G facilities at institutions of higher education. Classroom and class lab utilization data are not calculated for health-related institutions.

(A) Periodic Review. The Board shall annually calculate the utilization of classrooms and class laboratories for the institutions.

(B) Use. The Board shall use the models developed under this section to determine the utilization of classrooms and class laboratories for the institutions.

(3) Construction Costs. The Board shall annually calculate and report the mean and one standard deviation above the mean for construction building costs per square foot. The costs shall be based on similar projects reported to the Board, within the immediate prior seven years, annually adjusted for inflation for the region of the state where the project is located. As a minimum, the calculations shall be developed for both new construction/addition and repair and renovation for all facility types available and shall be published on the agency website.

§17.101. Institutional Reports.

Institutions of higher education shall submit current data to the Board for the following reports:

(1) Facilities Inventory.

(A) Periodic Review. Institutions shall report a record of all property, buildings, and rooms occupied or in the control of an institution in a format specified by the Board.

(i) The institution shall update its inventory of facilities on an ongoing basis.

(ii) The inventory is subject to periodic audits.

(iii) The inventory shall be certified by the institution annually on or before November 1, or as specified by the Board.

(B) Use. The Board shall use the data reported in the facilities inventory for the facilities audit program and for other required or requested analyses. The facilities inventory shall be used to complete the following reports:

(i) the Space Projection Model;

(ii) calculation of an institution's Building Replacement Estimate Report; and

(iii) calculation of the Space Usage Efficiency (SUE) report.

(2) Facilities Development Reports.

(A) Capital Expenditure Plan (MP1). On or before July 1 of every year, beginning in 2004, an institution shall submit an update to its Capital Expenditure Plan (MP1) on file with the Board, as required by Texas Education Code, §61.0572(b)(4). In every even-numbered year, the Board shall provide Facilities Development Plan data to the Bond Review Board for inclusion in the Capital Expenditure Report. This report may include planned maintenance, facilities adaptation, and deferred maintenance projects. The data may be used by the Board to respond to legislative requests, predictions of future space need, and similar analyses. The report shall include projects that are planned or may be submitted to the Board within the next five years, regardless of funding source:

(i) new construction projects \$1,000,000 or more;

(ii) repair and rehabilitation projects \$1,000,000 or more;

(iii) information resource projects that cumulatively would total \$1,000,000 or more in one year;

(iv) property purchases that cumulatively would total \$1,000,000 or more in one year (the actual property address or location for individual property acquisitions may be, but are not required to be, identified in a single proposed project entitled "property acquisitions" with a total cost of all purchases or acquisitions projected over the reporting period);

(v) the funding source for any planned project identified in clauses (i) - (iv) of this subparagraph; and

(B) Campus Condition Report. Annually, an institution shall provide a copy of its Campus Condition Report, as supplied to their Governing Board.

SUBCHAPTER K, REPORTS

Sections

~~§17.100. Board Reports.~~

~~[The Board shall annually prepare the following reports:~~

~~—(1) Space Projection Model. The Board, in consultation with the institutions, shall develop space planning models to estimate the NASF of E&G space needed at institutions of higher education.~~

~~—(A) Periodic Review. Each biennium, the Commissioner may convene an advisory committee of institutional representatives to review the model and recommend changes.~~

~~—(B) Use. The Board shall use the models developed under this section to determine the need for space on campuses, as a component of funding formulas for public institutions other than community colleges, and in the evaluation of facilities development projects.~~

~~—(2) Space Utilization. The Board shall collect data and publish reports designed to inform the public and other state agencies of the intensity of use of E&G facilities at institutions of higher education. Classroom and class lab utilization data are not calculated for health-related institutions.~~

~~—(A) Periodic Review. The Board shall annually calculate the utilization of classrooms and class laboratories for the institutions.~~

~~—(B) Use. The Board shall use the models developed under this section to determine the utilization of classrooms and class laboratories for the institutions.~~

~~—(3) Campus Condition Index. The Board shall collect data from the Campus Condition Report as reported annually to institutional Governing boards as required by TEC §61.05821.~~

~~—(4) Construction Costs.~~

~~—(A) Periodic Review. The Board shall annually (not later than October 1 of each year) calculate and report mean and one standard deviation above the mean construction building costs per square foot. The costs shall be based on similar projects reported to the Board, within the immediate prior seven years, annually adjusted for inflation for the region of the state where the project is located. As a minimum, the calculations shall be developed for both new construction/addition and repair and renovation for all facility types available and shall be published on the agency website.~~

~~—(B) Use. The Board shall use the data on construction costs to review project applications and any other required or requested analyses.]~~

~~§17.101. Institutional Reports.~~

~~[Institutions of higher education shall submit current data to the Board for the following reports:~~

~~—(1) Facilities Inventory.~~

~~—(A) Periodic Review. Institutions shall report a record of all property, buildings, and rooms occupied or in the control of an institution in a format specified by the Board.~~

~~—(i) The inventory of facilities shall be updated on an ongoing basis.~~

~~—(ii) The inventory is subject to periodic audits.~~

~~—(iii) The inventory shall be certified by the institution annually on or before November 1, or as specified by the Board.~~

~~—(B) Use. The Board shall use the data reported in the facilities inventory to evaluate project applications, perform facilities audits, to determine compliance with Board Standards, and other required or requested analyses. The facilities inventory shall be used to complete the following reports as required by this section:~~

~~—(i) the Space Projection Model;~~

~~—(ii) calculation of Campus Condition Index Value; and~~

~~—(iii) calculation of classroom and class lab utilization.~~

~~—(2) Facilities Development Reports.~~

~~—(A) Facilities Development Plan (MP1). On or before July 1 of every year, beginning in 2004, an institution shall submit an update to its Facilities Development Plan (MP1) on file with the Board, as required by Texas Education Code, §61.0572(b)(4). In every even-numbered year, the Board shall provide Facilities Development Plan data to the Bond Review Board for inclusion in the Capital Expenditure Report. This report may include planned maintenance, facilities adaptation, and deferred maintenance projects. The data may be used by the Board to respond to legislative requests, predictions of future space need, and similar analyses. The report shall include projects that are planned or may be submitted to the Board within the next five years, regardless of funding source:~~

- ~~—(i) new construction projects \$1,000,000 or more;~~
- ~~—(ii) repair and rehabilitation projects \$1,000,000 or more;~~
- ~~—(iii) information resource projects that cumulatively would total \$1,000,000 or more in one year;~~
- ~~—(iv) property purchases that cumulatively would total \$1,000,000 or more in one year. (The actual property address or location for individual property acquisitions may be, but are not required to be, identified in a single proposed project entitled "property acquisitions" with a total cost of all purchases or acquisitions projected over the reporting period.)~~
- ~~—(v) the funding source for any planned project identified in clauses (i), (ii), (iii), and (iv) of this subparagraph; and~~

~~—(B) Campus Condition Report. Annually, institutions shall provide their Campus Condition Report as supplied to their Governing Board.~~

~~—(3) Project Status and Tracking Reports.~~

~~—(A) Annually, on or before November 1, institutions shall report the status of all reviewed projects to the Board. Reporting to the Board on an annual basis shall cease after the construction project is placed into service and included in the Facilities Inventory Report, or the property acquisition is completed, or the renovation shall be reported to be complete. The report shall include, but is not limited to:~~

- ~~—(i) submitted and actual project cost;~~
- ~~—(ii) submitted and actual building cost;~~
- ~~—(iii) submitted and actual GSF;~~
- ~~—(iv) submitted and actual NASF;~~
- ~~—(v) submitted and actual E&G NASF;~~
- ~~—(vi) submitted and actual source(s) of funding; and~~

~~—(B) If the actual costs, square footage, or source(s) of funding changed to the point where the project is no longer compliant with the applicable rules standards for that project type, the Board may submit notifications in accordance with Texas Education Code §61.0572 (pertaining to real property acquisitions) and Texas Education Code §61.058 (pertaining to new construction, and repairs/renovations).~~

~~—(C) In order to collect costs to determine valid cost standards, institutions shall provide actual building type, building cost, designation of new construction or repair and renovation, GSF, NASF, and E&G NASF for completed projects over \$4 million and less than \$10 million.]~~

SUBCHAPTER F, FACILITIES AUDIT

Sections

§17.110.General Provisions.§17.111.Facilities Audit Objectives.§17.112.Data Sources.§17.113.Institutional Audit Cycle.§17.114.Audit Components.§17.110.General Provisions.

(a) The Board shall periodically conduct a comprehensive audit of all education and general facilities on the campuses of institutions to verify the accuracy of the institutional facilities inventory and approved facilities development projects for each of those institutions.

(b) No later than 30 days after THECB staff has presented the Facilities Audit Report to the Board (or appropriate standing committee of the Board), the Board files a copy of the report with the institution and the Legislative Budget Board.

(c) Institutions that conduct regularly scheduled self-audits may be exempted from the on-site review providing that:

(1) The institution presents to the THECB a copy of the formal report of the audit and its documented processes that demonstrate the accuracy of the data; and

(2) confirmation that the review includes consideration of the facilities audit objectives stated in §17.111 of this title (relating to Facilities Audit Objectives).

§17.111.Facilities Audit Objectives.

The objectives of the audit are to determine whether selected institutions of higher education:

(1) are accurately reporting their facilities inventory data to the Board; and

(2) have followed the Board rules and received approval where such approval was required.

§17.112.Data Sources.

At a minimum, Board shall use the following data sources in the course of the audit:

(1) Institutional Capital Expenditure Plans (MP1);

(2) Campus Condition Report as submitted to the governing board;

(3) Space Model Projection Reports;

(4) Reports required by the Educational Data Center;

(5) Facilities Inventory Reports;

(6) Facilities Development and Improvement Applications and Reviews;

(7) Classroom and Class Laboratory Utilization Reports;

(8) Energy Savings Performance Contracts;

(9) Governing Board facilities approvals; and

(10) Any other institutional data deemed appropriate by the Coordinating Board staff.

§17.113.Institutional Audit Cycle.

(a) The Board shall determine the frequency and the scope of the audits authorized by this section; audits shall be limited to objectives stated in §17.111 of this title (relating to Facilities Audit Objectives).

(b) The Board may conduct an audit of an institution more often than every five years upon the request of the institution, the Board, the Legislature, or another agency within revenue appropriated for this purpose.

(c) Staff of the Board shall publish a schedule of audits for the succeeding fiscal year.

§17.114.Audit Components.

Audits consist of two components:

(1) On-Site Audit of an Institution's Facilities Inventory:

(A) Institutions may participate in the Peer Review Team (PRT) process, by which institutions aid in auditing one another, with the participation of THECB staff. Institutions participating in the PRT program must provide one or more qualified individuals with facilities management for the PRT pool maintained by the THECB Staff; or

(B) Institutions choosing not to participate in the PRT audit process are required to conduct self-audits in accordance with Subchapter F, 17.110(c).

(2) Audit of an Institution's Facilities Development Projects:

(A) The Internal Auditor of an institution (or its System Office) may determine if facilities projects were submitted to the Board in accordance with §17.20 of this title (Relating to Facility Projects to Be Submitted to the Board) and submit a report to the THECB.

(B) The THECB shall publish a Facilities Audit Protocol on the agency's website, including details on the process and timing of these components.

SUBCHAPTER L, FACILITIES AUDIT

Sections

~~§17.110. General Provisions.~~

~~[(a) The Board shall periodically conduct a comprehensive audit of all education and general facilities on the campuses of institutions to verify the accuracy of the institutional facilities inventory and approved facilities development projects for each of those institutions.~~

~~(b) The Board may contract with a recognized firm with substantial experience in auditing facilities to conduct the audit of the institution. The firm selected to conduct the audits shall report the results of those audits directly to the Board through its Committee.~~

~~(c) Institutions may request assistance from the Board to conduct audits of facilities. Costs for such requests shall be the responsibility of the requesting institution.~~

~~(d) Institutions that conduct regularly scheduled self-audits may be exempted from the on-site review providing that:~~

~~–(1) The institution presents to the Office of Resource Planning a copy of the formal report of the audit and its documented processes that demonstrate the accuracy of the data; and~~

~~–(2) confirmation that the review includes consideration of the facilities audit objectives stated in §17.111 of this title (relating to Facilities Audit Objectives).]~~

~~§17.111. Facilities Audit Objectives.~~

~~[The objectives of the audit are to determine whether selected institutions of higher education:~~

~~–(1) are accurately reporting their facilities inventory data to the Board; and~~

~~–(2) have followed the Board rules and received approval where such approval was required, for facilities projects.]~~

~~§17.112. Data Sources.~~

~~[At a minimum, the following Board data sources shall be used in the course of the audit:~~

~~–(1) Institutional Facilities Development Plans (MP1);~~

~~–(2) Campus Condition Report as submitted to the governing board;~~

~~–(3) Campus Master Plans;~~

~~–(4) Space Model Projection Reports;~~

~~–(5) Reports required by the Educational Data Center;~~

~~–(6) Facilities Inventory Reports;~~

~~–(7) Facilities Development and Improvement Applications and Reviews;~~

~~–(8) Classroom and Class Laboratory Utilization Reports;~~

~~–(9) Energy Savings Performance Contracts;~~

- ~~–(10) Governing Board facilities approvals; and~~
- ~~–(11) Any other institutional data deemed appropriate by the Coordinating Board staff.]~~

~~§17.113. Institutional Audit Cycle:~~

~~[(a) The Board shall determine the frequency and the scope of the audits authorized by this section; audits shall be limited to objectives stated in §17.111 of this title (relating to Facilities Audit Objectives).~~

~~(b) The Board may conduct an audit of an institution more often than every five years upon the request of the institution, the Board, the Legislature, or another agency within revenue appropriated for this purpose.~~

~~(c) Staff of the Board shall publish a schedule of audits for the succeeding fiscal year.]~~

~~§17.114. On-Site Audit:~~

~~[(a) The Board shall pay the costs of each audit under this section only from money appropriated to the Board and approved for that purpose by the Board.~~

~~(b) The institution shall reimburse the Board for the costs incurred in performing on-site audits not later than the 30th day after the date the institution receives a statement of audit costs paid by the Board under this subsection.~~

~~(c) No later than 30 days after the Board receives an audit report, a copy of the report shall be filed with the institution, the applicable university system, the State Auditor, and the Legislative Budget Board.]~~