UNIVERSITY SYSTEM OF GEORGIA

BOARD OF REGENTS POLICY MANUAL
Official Policies of the University System of Georgia

9.8 Public Private Ventures

(Last Modified on January 23, 2015)

The Board of Regents considers Public Private Ventures to be essential to implementation of Strategic Capital Planning. Institutions shall conduct Property Activities for Facilities that are supported by revenue based funding through Public Private Ventures. All Public Private Ventures require approval of the Board of Regents. Planning for Public Private Ventures shall be in accordance with Section 9.2, Strategic Capital Planning, of this Policy Manual (/policymanual/section9/policy/9.2_strategic_capital_planning).

The Board of Regents will work with cooperative organizations to provide facilities that will be self-supporting from revenue generated. If appropriate, the Board of Regents will ground lease real property to a cooperative organization for the purpose of providing facilities for use by an institution. The Board of Regents will rent facilities from cooperative organizations. The cooperative organization will offer the facilities as a gift to the Board of Regents within thirty-five (35) years of occupancy or sooner. The Board of Regents cannot incur debt and will have no legal or moral obligation for any debt incurred by cooperative organizations for these facilities. Refer to Section 17.0, Affiliated Organizations, of the Business Procedures Manual (/business_procedures_manual/), for more information on cooperative organizations.

The Board of Regents shall assess administrative fees for all Public Private Ventures as approved by the Board of Regents and updated from time to time.

The USG chief facilities officer and the USG chief fiscal officer will establish guidelines for USG institutions and cooperative organizations in the conduct of Public Private Ventures (BoR Minutes, June 2009).

9.8.1 Housing Facilities

(Last Modified on August 18, 2009)

Refer to Section 7.11.7 of this Policy Manual (/policymanual/section7/policy/7.11_miscellaneous/#p7.11.7_student_housing) for policy concerning student housing comprehensive plans and financial statements.

9.8.2 Private Housing

(Last Modified on November 19, 2012)

The following policies shall govern off-campus private housing:

1. No private housing and/or attendant facilities shall be constructed on USG properties without the expressed written consent of the Board of Regents (BoR Minutes, 1984-85, pp. 119-20).
2. The Board of Regents reserves the right to construct housing and other student service facilities in any or all of USG institutions at anytime.
3. For sound educational reasons, a president may require students to live on campus with prior notification to the Chancellor and subject to the Chancellor's review (BoR Minutes, 1984-85, pp. 119-20; Nov. 2012).
4. Agreements may be entered into, with the approval of the Regents, between institutions and private housing operators to establish and make clear the terms and conditions upon which students are housed in the off-campus facilities, provided no financial or other restricting obligations, expressed or implied, are made on the part of the institutions or the Regents (BoR Minutes, Nov. 2012).
5. All institutions will cooperate with owners of private housing by providing complete information concerning facilities available to all students (BoR Minutes, 1968-69, pp. 182-183).

9.8.3 Capital Liability Capacity and Affordability

(Last Modified on November 19, 2012)

Capital liability capacity is limited and directly impacts the affordability of education and services provided to University System of Georgia (USG) students. Therefore, resources used to fund capital liability lease payments must be managed strategically from an overall system perspective and from an institutional perspective. Capacity is an institution's ability to service capital liabilities through operations and is driven by strength in income, cash flows, and overall financial leverage.

It is the policy of the Board of Regents of the University System of Georgia (USG) to maintain its capacity to enter into capital lease agreements consistent with the underlying objectives of the Public Private Venture (PPV) program. To this end, the Board of Regents designates the capital liability burden ratio as a means to assess and to limit the USG's and a USG institution's authority to initiate new PPV projects. This limit is designed to serve as an additional control over the PPV program and adherence to these limits for proposed projects in no way guarantees approval of a PPV project.

The capital liability burden ratio shall consist of the percentage of total revenues in any given fiscal year that are used to pay an institution's capital lease payments associated with the PPV program. The method for calculating the capital liability burden ratio shall formally be defined by the USG Chief Fiscal Officer. The capital liability burden ratio reflects what percentage of an institution's income is used to make PPV payments and is a generally accepted method of measuring an institution's capacity to enter into additional PPV capital lease arrangements. The capital liability burden ratio shall not exceed five (5) percent for the USG taken as a whole. To this end, institutions shall strive to ensure that new PPV projects submitted for approval do not exceed five (5) percent. Institutions may, consistent with approved strategic objectives and sound fiscal management, submit proposed PPV projects that result in a capital liability burden ratio that exceeds five (5) percent but the proposed PPV project should not exceed seven (7) percent. Finally, institutions may, under extraordinary circumstances, submit projects that exceed the seven (7) percent capital liability burden ratio but under no circumstances shall an institution submit a project for approval that exceeds a ten (10) percent capital liability burden ratio.

9.8.4 Capital Liability Reserve Fund

(Last Modified on November 19, 2012)

It is the policy of the Board of Regents of the University System of Georgia to protect the fiscal integrity of the University System of Georgia (USG), to maintain the strongest possible creditratings associated with Public Private Venture (PPV) projects, and to ensure that the Board of Regents can effectively support its long-term capital lease obligations. To this end, the Board of Regents shall establish a Capital Liability Reserve Fund (hereafter "Fund).

The Fund shall be funded by all USG institutions participating in the PPV program. The USG Chief Fiscal Officer shall determine from time to time the amount to be deposited by each participating institution into the Fund. The Fund shall serve as a pooled reserve controlled and administered by the Board of Regents. The Fund shall only be used to address significant shortfalls and only insofar as a requesting USG institution is unable to make the required PPV capital lease payment to the designated cooperative organization. The Fund will continue as long as the Board of Regents has rental obligations under the PPV program.

Fund distributions shall be made only with approval of the Chancellor and with prior notification to the Board of Regents. Requests for Fund distributions shall be made by the requesting institution's president. Fund distributions shall only be used to make the required rental payment and only in those circumstances in which the institution has exhausted its capacity to fund the rental payment using allowable funding sources. Institutional requests shall detail the justification for the distribution, a plan to reimburse the Fund, and a plan to make the project self-liquidating on a going-forward basis. Nothing in this Policy Manual relieves institutions of the expectation to maintain adequate institutional reserves consistent with prudent fiscal management as needed to mitigate the risk of non-payment of PPV capital lease payments.

The University System of Georgia Chief Fiscal Officer shall establish procedures governing the Fund to include the form and manner of payments to the fund, payment schedules, methods of distribution, required payments to the Fund, payment plan, penalties, and redistribution of fund assets associated either with an institution's cessation of participation in the PPV program or cessation of the PPV program for the University System of Georgia. It is the intent of this Policy to ensure equitable treatment of each institution consistent with their level of PPV capital lease payments, levels of risk, and prudent fiscal management.

9.8.5 PPV Rental Agreements

(Last Modified on October 2, 2014)

9.8.5.1 Lease Rental Agreement Revisions: Refinancing

Capital lease payments associated with the University System of Georgia (USG) Public Private Venture (PPV) program made to cooperative organizations are designed, at a minimum, to support the required cooperative organization bond payment for principal and interest in addition to other costs as determined between the parties to the agreement. The portion of the PPV capital lease payment associated with the principal and interest is established consistent with the original terms of the revenue bond payment schedule required of the cooperative organization. A cooperative organization may, from time to time and at its own discretion, decide to refinance the original bond, revise the bond terms, or otherwise take action to manage risk and reduce costs associated with the bond debt.

It is the policy of the Board of Regents of the University System of Georgia that institutions shall monitor actions taken by cooperative organizations to refinance or otherwise alter the terms of the underlying bond debt. Insofar as the cooperative organization experiences a reduction in principal and interest payments, USG institutions shall ensure that they achieve a corresponding reduction in the associated capital lease payments equal to at least fifty (50) percent of the cooperative organization's savings. This reduction shall be achieved through renegotiating the rental agreement to which the USG institution and the cooperative organization are parties. USG institutions shall not renew rental agreements that have not been amended to reflect these savings. USG institutions should strive to ensure that the length of the original bond is not extended prior to agreeing to renew the underlying rental agreement; however, circumstances may arise when prudence would dictate otherwise.

USG institutions shall use any savings recognized through the renegotiated rental agreement to benefit students and to strengthen the PPV program at that institution. An institution may benefit students through reducing the current mandatory and/or special fees used to support the particular PPV facility, through eliminating a planned future fee increase, through improving services offered associated with the PPV facility, or through fully funding institutional PPV reserves. This list is not intended to be all-inclusive.

Institutions shall notify the USG Chief Fiscal Officer of the planned use for realized savings. (BoR Minutes Sept. 2014)

9.8.5.2 Repair and Replacement Reserves

It is the policy of the Board of Regents of the University System of Georgia that rental agreements associated with the PPV program between the Board of Regents and a cooperative organization or its affiliated limited liability company contain provisions related to routine assessments of facility conditions, funding, disbursement, and disposition of repair and replacement reserves, to enhance the long-term sustainability of PPV projects through ensuring that such reserves are used for capital repairs and replacements.

PPV rental agreements shall contain requirements that the landlord:

1. Fund and establish a repair and replacement reserve for capital repairs and replacements;
2. Provide funds from the repair and replacement reserve for a Facilities Condition Assessment Report (FCAR) performed in accordance with USG procedures and guidelines;
3. Exhaust any PPV project-based reserves or surplus accounts held by the trustee or the foundation prior to exhausting the repair and replacement reserve; and,
4. Utilize any balances remaining in the repair and replacement reserve on necessary capital repairs and replacements prior to the termination of the rental agreement.

It is the intent of the Board of Regents that the cooperative organization, or its affiliated limited liability company, gift any remaining balances in the repair and replacement reserve to the institution upon termination of the rental agreement.

This policy is effective immediately upon approval for new PPV rental agreements and for all PPV renewals to the extent permitted by the existing loan agreements.

The USG Chief Facilities Officer, with the approval of the Chancellor, shall be authorized and empowered, in the name and on behalf of the Board of Regents of the University System of Georgia, to take or cause to be taken any and all such further action as, in the judgment of such official, may be necessary, proper, convenient or required in connection with the execution and delivery of instruments, documents, or writings in order to carry out the intent of this policy for all PPV rental agreements. (BoR Minutes, Sept. 2014)