Supplemental Materials

AGENDA ITEM V-G (1)

Consideration of adopting the Commissioner's recommendation to the Committee relating to proposed amendments to Chapter 17, Resource Planning, Subchapter A, General Provisions, Section 17.3, of Board rules, concerning resource planning definitions

Recommendation: Approval

Background Information:

Specifically, this amendment will make necessary changes to existing definitions in order to define planned projects when considering project applications.

Notice of the proposed amendments to the Board rules was filed on January 28, 2013, and appeared in the February 8, 2013, issue of the Texas Register.

The 30-day comment period with the *Texas Register* does not end until March 10, 2013. Staff recommend that these rules be discussed and voted on at the April 25, 2013, Coordinating Board meeting.

Date approved by the Commissioner for publication in the *Texas Register*; November 20, 2012.

Date published in the *Texas Register*. February 8, 2013.

Summary of comments received:

Comment 1: The University of North Texas System expressed concern regarding the impact on the expedited process and suggested a response that would exclude projects that fall within expedited process provision from the requirement to be considered a planned project and felt there was a conflict with the statutory definition in TEC 61.0573(a) concerning expedited projects. Additionally, they expressed a concern the proposed requirement for a project to be in the top ten projects and to fall within ten percent of scope and cost identified in the Capital Expenditure Plan (MP1) was an "onerous" requirement.

Staff Response: Staff does not concur, the proposed changes conflict with statutory definition in the TEC 61.0573 (a). This proposed revision further expands this definition as it pertains to the reasonable expectation that significant planning has been done prior to the approval of a project by any permissible method or to reasonably consider the project as actually part of a coherent capital expenditure plan. The clear prioritization of the capital expenditure plan is not an "onerous" requirement and it is a common practice to identify all needs and then prioritize, and it is reasonably expected this already occurs. A project not within the top ten projects is not denied, it simply has a higher burden to show why the priority changed for this project.

Similarly, a project that exceeds the planned costs by more than ten percent is not denied, the institution rightfully has a higher burden to demonstrate why they are deviating from their own plan.

Comment 2: The University of Texas at Austin stated the proposed requirement of a project to be within the parameters of a planned project (i.e. within ten percent of the cost and scope and in the top ten priority projects) does not allow for elevating a project into the top ten projects and does not recognize the potential for changes that may alter the planned costs or scope by more than ten percent.

Staff Response: Changes to the rules do not exclude a project that may fail to meet the definition of planned project. Projects of this type would be subject to delegation of approval as specified in changes to TAC 17.12 if they otherwise meet the standards. The timeline for this approval is fairly rapid (3-5 days) which should not create adverse administrative burden.

CHAPTER 17. Resource Planning

SUBCHAPTER A. General Provisions

Section

- 17.1. Purpose and Scope
- 17.2. Authority
- 17.3 Definitions
- 17.1 17.2 (No change.)
- 17.3 Definitions
 - (1) (56) (No change.)
 - (57) Planned Project a project submitted to the Board for review and approval if the project is reported on the most recently submitted MP1 report and prioritized in the top ten projects submitted by the institution, approved by the Board as supporting the state's higher education needs, the scope of the project is within 10% of the scope as identified in the capital expenditure plan, the cost of the project is within 10% of the project costs identified in the capital expenditure plan, and funding sources are appropriate with the type of project presented.
 - (58) [(57)] 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.
 - (59) [(58)] Real Property--Land with or without improvements such as buildings.
 - (60) [(59)] 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.
 - (61) [(60)] 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.
 - (62) [(61)] Shell Space--An area within a building with an unfinished interior designed to be converted into usable space at a later date.
 - (63) [(62)] 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.
 - (64) [(63)]_Standard--Basis, criteria, or benchmark used for evaluating the merits of a project request or an institutional comparison to a benchmark.

- (65) [(64)] 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.
- (66) [(65)] Tracking Report--Institutional reports indicating the status of approved projects.
- (67) [(66)] 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.
- (68) [(67)] Unimproved Real Property--Real property on which there are no buildings or facilities.
- (69) [(68)] 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.