

**LOS ANGELES COMMUNITY COLLEGES
OFFICE OF THE CHANCELLOR
ADMINISTRATIVE REGULATIONS**

INDEX NUMBER B-21

REFERENCE: Education Code section 81031-81033	TOPIC: Real Property Due Diligence
ISSUE DATE: October 31, 2001	INITIATED BY: Business Services
CHANGES: Revisions to comply with Board Rule 4006	DATE OF CHANGES: September 24, 2002 February 1, 2009 November 30, 2012

The following regulation is established to identify the essential elements as a prerequisite for the District's purchase, lease-purchase or lease longer than three years of real property for the benefit of the District.

I. Evaluation

- A. Documentation - The College President shall be responsible for documenting the following matters prior to presenting proposed property acquisition to the Board.
 - 1. The rationale for considering the location and services shall be presented; this rationale shall include a viability study for planned instructional uses, an estimate of cost commitment for the property lease or purchase and/or a business plan for proposed revenue enhancement projects.
 - 2. A Viability Study shall include the following components:
 - a. Viability Review Committee composed of college administration and faculty in appropriate positions to research program and course need and render informed recommendations.
 - b. Information gathering relating proposed programs/classes to:
 - i. College Mission;
 - ii. Educational Master Plan;
 - iii. Accreditation requirements;
 - iv. Student demand;
 - v. Service area demand;
 - vi. Impact on college budget and finance; and,
 - vii. Outside expert opinion and analysis.

3. A Business Plan shall include the following components:
 - a. A Business Plan review committee composed of the College President, Vice President of Administrative Services, campus faculty leadership, District Facilities Planning Director, District Chief Financial Officer, and others prepared to assess the value and earning potential of identified properties.
 - b. Information gathered to include:
 - i. Market analysis of property value;
 - ii. Review of conceptual site plan;
 - iii. Review of purchase vs. lease possibilities;
 - iv. Assessment of potential partners;
 - v. Revenue analysis; and,
 - vi. Evaluation of possible impact on college finances and community relations.

B. Notification

1. If it is a lease or offsite location for less than three years, then the College's Vice President of Academic Affairs must review it with the Council of Academic Affairs.
 - a. The Council of Academic Affairs shall advise whether the proposed site/program competes with another LACCD institution.
 - b. If there is competition with another LACCD institution, the College Presidents shall attempt to resolve the matter. If they cannot, the Chancellor shall make an appropriate determination.
2. If it is an acquisition, lease-purchase or lease longer than three years, the College President must notify the Chancellor.
 - a. The Chancellor will review the matter with the Cabinet, and determine when the matter should be reviewed with the Board.

C. College President's responsibility for Viability Study and Business Plans

1. The College President is responsible for ensuring that a comprehensive evaluation of the economics, including enrollment

projections, is conducted.

2. The College President is responsible for ensuring that the viability study has been reviewed and approved by the Cabinet, or the Cabinet and the Board, as determined by the Chancellor.
3. The College President is responsible for ensuring that before a real estate broker is engaged or solicited for assistance, Board approval should be obtained. To the extent that there is a desire to reserve purchase or lease rights, options may be negotiated with Board approval.

D. Preliminary Business Review

1. In the event of a proposed property purchase, the Facilities Planning & Development Department shall obtain and review a title report early in the transaction to identify title and lien issues; obtain a land survey and American Land Title Association (“ALTA”) extended coverage title insurance to locate and protect against easements and encroachments and have a Phase 1 environmental report prepared and reviewed to make certain there are no existing or potential environmental issues on the property.
2. The Facilities Planning and Development Division will obtain an appraisal, performed by a Membership of the Appraisal Institute (“MAI”) certified or equivalent appraiser, to ensure that the price is fair and reasonable for the District. For preservation of the privileges for attorney-client communications and attorney work-product, outside counsel should contract with appraiser.

II. Business Review and Financial Commitments

- A. The CFO/Treasurer shall be responsible for reviewing the method of financing, the cost of that financing, the timing for acceptance of title or possession, and the timing for making payments.
- B. The College President is responsible for pursuing the processes for obtaining State approval for an “educational center.”
- C. The Facilities Planning & Development Department shall evaluate local zoning and subdivision control issues, which may apply to activities and facilities outside the educational curriculum, e.g., commercial enterprises.
- D. The Facilities Planning & Development Department shall review or arrange for appropriate architectural or engineering review of structures for compliance with the Field Act, or identify an appropriate exception;

plans and specifications for new buildings must go through the Division of the State Architect.

- E. The Facilities Planning & Development Department shall ensure that the facility is accessible for disabled persons, in accordance with applicable building codes.
- F. The Facilities Planning & Development Department shall be responsible for ensuring the facility has been reviewed for appropriate safety conditions.
- G. The Facilities Planning & Development Department shall review the use of the property for compliance with the California Environmental Quality Act. This may require an Environmental Impact Report, a Negative Declaration or a Categorical Exemption, public hearings and notices, and findings by the Board.
- H. Environmental insurance must be obtained for any property acquisition. The College President or designee shall work with the Risk Manager to place the insurance.
- I. The Facilities Planning & Development Department must identify and address any particular issues associated with the site. For example, if the property owner is not amenable to negotiations and condemnation is contemplated, special costs and considerations will have to be weighed.
- J. The Facilities Planning & Development Department shall work with the College President and other appropriate College representatives in coordinating the preparation of a plan and cost of construction estimate to improve the property to a condition which would accommodate the College's intended use.

III. Due Diligence Responsibilities

- A. The Facilities Planning & Development Department shall arrange for an appropriate Environmental Site Assessment for man-made and natural toxicity issues, as well as any applicable State agency review.
- B. The Facilities Planning & Development Department shall be responsible for reviewing or arranging for appropriate review of whether the property is located within a flood plain.
- C. In addition to the requirements contained herein regarding purchasing real property, if a College is considering acquiring a site or sites for the purpose of constructing a school building as defined by Education Code section 81130.5, these additional requirements must be satisfied:

1. The College President shall work with the Facilities and Planning Department to have the site(s) thoroughly investigated to evaluate all factors affecting the public interest and whether it is economically feasible to construct on this site, which includes, but is not limited to, the raw land cost.
2. If the site is either located within a special studies zone as identified on a map by the State Geologist pursuant to Public Resources Code section 2621 et seq., or within an area designated as geologically hazardous as provided in Government Code section 65302(g), or if the estimated cost to reconstruct or alter or add to a building which alters structure elements exceeds \$20,000.00, the investigation shall include geological and soil engineering studies to assess the nature of the site and potential for earthquake or other geological hazard damage. The study shall also evaluate the location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions and other factors affecting the costs of the total project. The cost of geological and soil engineering studies may be treated as a capital expenditure.
3. This investigation is not necessary if the site or sites have been subject to adequate prior studies and the College has access to this information.
4. A copy of each investigative report shall be submitted to the Board of Governors and the Department of General Services.
5. The Facilities, Planning and Development Department is responsible for ascertaining whether the Department of General Services requires geological or soil engineering studies for the construction or alteration of any building on a site not located within a special studies zone.
6. If a proposed site or an existing site where a proposed addition will be made is within two miles of an airport runway or a runway proposed by an airport master plan, the Facilities, Planning and Development Department shall notify the Board of Governors in writing prior to acquiring title to the proposed property or prior to making additions to the existing property. No further action will be taken with respect to the site until such time that the Board of Governors has issued a report on the site and the requirements of Education Code section 81033 (c) and (d) have been satisfied.

IV. Use of Bond Funds

- A. If bond funds are to be used, the College President must ensure that the property is reviewed by the Program Manager, the College Project Manager, and the Executive Director of Facilities Planning & Development.
- B. The Facilities Planning and Development Department will provide bond counsel with the site location, the applicable college and the proposed use in order to verify whether the use of bond funds is legal.
- C. A memorandum must be sent by the College President to the Chancellor confirming that the College's shared governance processes have been consulted. The memorandum should confirm that the shared governance group supports the action and its timing relative to other projects, and that the support was based on a full understanding of the probable cost.
- D. The College President is responsible for ensuring that the proposed site was anticipated as a use of the bond funds by the community.

V. Legal Processes

- A. The Facilities Planning and Development Department is responsible for assigning appropriate legal counsel.
- B. Real Property Counsel must review the transaction for any special safety and legal considerations if the planned use involves significant participation by minors.
- C. The Board may discuss real property in closed session only to provide direction to the real property negotiator(s). The Facilities Planning and Development Department shall schedule an appropriate time through the Office of General Counsel.
- D. Public action must be taken by the Board to make the final decision. Closure of the sale shall not be performed until all due diligence has been performed.