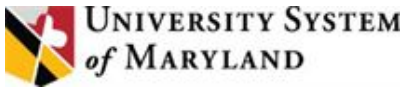


**UNIVERSITY SYSTEM OF MARYLAND
BOARD OF REGENTS - AUDIT COMMITTEE
OPEN MEETING AGENDA**

March 26, 2021

- | | |
|--|------------------------|
| 1. Information & Discussion - USM's Half Year (12/31/2020)
Financial Statements & Financial Comparison Analysis to Peer
Institutions | Ms. Denson
Mr. Page |
| 2. Information & Discussion – Annual Affiliated Foundation Compliance
Report | Ms. Denson
Mr. Page |
| 3. Information and Discussion – Affiliated Foundation Policy Update | Ms. Herbst
Mr. Page |
| 4. Information - Office of Legislative Audit Activity – Published Audit
Reports | Mr. Mosca |
| 5. Information & Discussion - Follow up of Action Items from Previous
Meetings | Mr. Mosca |
| 6. Approval - Convene to Closed Session | Ms. Fish |
-



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Information – Interim Financial Statements

COMMITTEE: Audit Committee

DATE OF COMMITTEE MEETING: March 26, 2021

SUMMARY:

Attached is a set of ***unaudited University System of Maryland interim financial statements for the six month period ended December 31, 2020, the year ended June 30, 2020 and the six month period ended December 31, 2019.***

A set of key points to consider in reviewing the interim financial statements is provided to help focus the user on the information most relevant in understanding the System's financial health.

Also included are the following reports and analyses:

'Trend in transfer of student accounts receivable to state central collections unit for periods June 30, 2016, June 30, 2020 and December 31, 2020' – an institutional history of accounts receivable transferred to the state's central collection unit in accordance with statute, and

'Public College & University Financial Ratio Comparison at June 30, 2020' – a comparison of key financial ratios for universities and university systems with a Aa1 rating from Moody's Investor Services.

ALTERNATIVE(S): This is an information item.

FISCAL IMPACT: This is an information item.

CHANCELLOR'S RECOMMENDATION: Information item

COMMITTEE RECOMMENDATION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: Ellen Herbst (301) 445-1923



**University System of Maryland
Interim Financial Statements**

**Six-month period ended December 31, 2020, fiscal year ended June 30, 2020, and
six-month period ended December 31, 2019**

Points to consider:

1. Per the USM Statement of Net Position (or Balance Sheet) on page 3, ***unrestricted net position*** shows a \$68M increase from June 30, 2020 levels, growing from \$1,212M to \$1,280M. As a point of comparison, the interim financial statements as of December 31, 2019 showed an increase for the first six months of fiscal year 2019 of \$133M. The decline in the increase reflects lost revenue from auxiliary activities associated with measures taken by institutions to manage the effects of the pandemic.
2. Institutions were awarded \$182.5M in CARES Act Funds in the Spring of 2020, of which \$106.7M is direct funding from the Department of Education and \$75.8M is pass through funding from the State. Total CARES Act related revenue recognized is \$65.1M and \$89.3M for the period ending December 31, 2020 and June 30, 2020, respectively, for a total of \$154.4M. There is a balance of \$28.1M of unspent funds as of December 31, 2020.

In December 2020, institutions were awarded an additional \$167.7M of direct CARES Act funding from the Department of Education.

CARES Act Funds (in millions)	HEERF & State Aid	HEERFII	Total
Student Aid	\$40.3	\$42.9	\$83.2
Institutional	40.3	94.6	134.9
HBCUs/Minority Serving Institutions	26.1	30.2	56.3
COVID/Public Safety (State)	75.8		75.8
Total	\$182.5	\$167.7	\$350.2

3. Operating revenues for the six months ended December 31, 2020 decreased \$204M compared to December 31, 2019. \$193M of this decrease is attributable to auxiliary revenues. This decrease is the result of institutions implementing remote learning and social distancing on campuses.
4. Cash spending on System and Board approved capital projects for the six months ended December 31, 2020 is \$65.6M compared to \$51.7M for the six-month period ended December 31, 2019. Significant cash spending on capital projects through December 31, 2020 was reported by the following institutions: UMCP - \$40M, UMB - \$10M, TU - \$5M, SU \$4M, and UMBC - \$4M. As of December 31, 2020, there remains a total of \$329.9M in cash-funded projects authorized and approved that are remaining to be spent, representing a claim against ***unrestricted net position***. In addition, of the total

anticipated donor funds of \$266M to be used to support capital projects, \$191M has been received either by the institutions or their affiliated foundations, and \$75M remains to be collected from donors. The authorizations for cash-funded capital spending have been taken into account in System-wide financial planning and is not expected to reduce

5. Investment income for the period ending December 31, 2020 is \$52M compared to \$87M and \$50M for the periods ending June 30, 2020 and December 31, 2019, respectively. Investment income is comprised primarily of investment income earned on cash held by the State Treasurer and investment returns earned on the endowments.

Investment returns on the USM Foundation managed investments associated with the System's pool of endowment funds called the Common Trust Fund for the six months ended December 31, 2020 was 13%, compared to .86% and 6.67% for the year ended June 30, 2020 and six months ended December 31, 2019, respectively.

Investment returns on cash held by the state treasurer as of December 31, 2020 was .30% compared to 1.39% for FY20 and 1.72% for the period December 31, 2019.

6. Page 6, Operating Expenses by Object report shows a decrease in expenses of \$49M or 1.7% from December 31, 2019 to December 31, 2020. This includes a decrease of auxiliary related expenses of \$65M. Payments to suppliers and contractors decreased \$53M.
7. Page 7 is the report of 'Transfers of Accounts Receivable to the State's Central Collection Unit'. The benchmark for Student accounts receivable collection rate is less than 1%. The Student accounts receivable collection rate for UMES, UB and UMGC are at 1% or greater.
8. Page 8 is the report of Public College & University Financial Ratios as of June 30, 2020. The University System of Maryland maintains its strong Aa1 rating, thanks to a strong financial position and leadership. USM is joined by 13 other public universities.

University System of Maryland
Statements of Net Position
December 31, 2020, June 30, 2020, and December 31, 2019

	December 31, 2020	June 30, 2020	December 31, 2019
ASSETS			
Current assets:			
Cash and cash equivalents	\$2,565,751,603	\$2,633,496,005	\$2,616,399,090
Accounts receivable, net	815,274,714	343,251,636	720,701,572
Notes receivable, current portion, net	3,058,598	3,874,699	3,593,109
Inventories	10,039,242	9,954,651	9,886,866
Prepaid expenses and other	17,943,706	20,886,577	29,317,016
Total current assets	<u>3,412,067,863</u>	<u>3,011,463,568</u>	<u>3,379,897,653</u>
Noncurrent assets:			
Restricted cash and cash equivalents	13,156,963	62,133,802	120,362,440
Endowment investments	399,031,720	354,554,440	387,561,723
Other investments	36,737,139	34,999,509	23,823,960
Notes receivable, net	23,094,349	23,860,209	29,369,031
Capital assets, net	6,918,975,836	6,826,034,004	6,700,403,556
Total noncurrent assets	<u>7,390,996,007</u>	<u>7,301,581,964</u>	<u>7,261,520,710</u>
Total assets	<u>10,803,063,870</u>	<u>10,313,045,532</u>	<u>10,641,418,363</u>
DEFERRED OUTFLOWS OF RESOURCES			
Unamortized loss on refundings of debt	12,109,985	12,109,985	14,196,040
Asset retirement obligations	12,801,865	12,801,865	12,404,568
Deferred changes, pension expense	390,016,497	390,016,497	537,030,657
Total deferred outflows of resources	<u>414,928,347</u>	<u>414,928,347</u>	<u>563,631,265</u>
Total assets and deferred outflows of resources	<u><u>\$11,217,992,217</u></u>	<u><u>\$10,727,973,879</u></u>	<u><u>\$11,205,049,628</u></u>
LIABILITIES			
Current liabilities:			
Accounts payable and accrued liabilities	\$322,524,988	\$348,633,745	\$256,848,564
Accrued workers' compensation, current portion	4,587,314	4,885,800	4,309,950
Accrued vacation costs, current portion	123,375,507	123,461,419	110,904,775
Revenue bonds and notes payable, current portion	98,630,776	99,295,675	97,710,264
Obligations under capital lease agreements, current portion	1,459,268	1,846,129	1,420,762
Unearned revenue	723,940,358	351,060,005	761,451,665
Total current liabilities	<u>1,274,518,211</u>	<u>929,182,773</u>	<u>1,232,645,980</u>
Noncurrent liabilities:			
Accrued workers' compensation	27,984,686	27,686,200	24,423,050
Accrued vacation costs	151,666,808	151,666,808	116,185,923
Revenue bonds and notes payable	1,082,466,071	1,088,171,129	1,186,415,122
Obligations under capital lease agreements	12,360,190	12,336,835	2,844,822
Net pension liability	1,275,563,402	1,275,563,402	1,309,998,345
Noncurrent liabilities	<u>2,550,041,157</u>	<u>2,555,424,374</u>	<u>2,639,867,262</u>
Total liabilities	<u>3,824,559,368</u>	<u>3,484,607,147</u>	<u>3,872,513,242</u>
DEFERRED INFLOWS OF RESOURCES			
Deferred service concession arrangement receipts	243,041,369	252,219,390	261,397,411
Deferred changes, pension expense	109,755,858	109,755,858	126,115,718
Total deferred inflows of resources	<u>352,797,227</u>	<u>361,975,248</u>	<u>387,513,129</u>

UNAUDITED

University System of Maryland
Statements of Net Position
December 31, 2020, June 30, 2020, and December 31, 2019

	December 31, 2020	June 30, 2020	December 31, 2019
NET POSITION			
Unrestricted net position	1,280,459,202	1,212,195,784	1,422,762,405
Net investment in capital assets	5,488,319,659	5,430,985,410	5,276,325,701
Restricted:			
Nonexpendable:			
Scholarships and fellowships	17,588,845	17,585,035	17,128,589
Research	7,635,366	7,210,176	5,476,926
Other	16,927,054	16,923,030	16,922,931
Expendable:			
Scholarships and fellowships	43,470,812	36,878,144	40,716,858
Research	102,898,844	80,563,068	81,408,343
Loans	40,708,380	40,243,558	49,653,816
Capital projects	8,675,425	9,023,201	4,773,779
Other	33,952,035	29,784,078	29,853,909
Total net position	7,040,635,622	6,881,391,484	6,945,023,257
Total liabilities, deferred inflows of resources and net position	\$11,217,992,217	\$10,727,973,879	\$11,205,049,628

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University System of Maryland
Statement of Revenues, Expenses and Changes in Net Position
For the Six Months Ended December 31, 2020, Year Ended June 30, 2020 and Six Months Ended December 31, 2019

	Six Months Ended December 31, 2020	Year Ended June 30, 2020	Six Months Ended December 31, 2019
OPERATING REVENUES			
Tuition and fees	\$842,886,900	\$1,408,292,784	\$851,649,297
Federal grants and contracts	368,683,691	783,778,541	371,264,754
State and local grants and contracts	101,124,205	218,485,078	89,939,238
Nongovernmental grants and contracts	112,147,926	243,414,129	109,706,275
Sales and services of educational departments	164,409,747	335,932,342	161,639,809
Auxiliary enterprises:			
Residential facilities	62,362,730	156,669,640	104,666,799
Dining facilities	26,016,309	100,989,989	75,601,378
Intercollegiate athletics	19,197,563	118,106,651	76,008,474
Bookstore	7,063,658	12,161,325	8,764,170
Parking facilities	12,049,327	36,688,828	25,283,210
Other auxiliary enterprises revenues	58,571,434	132,746,062	87,905,815
Other operating revenues	22,960,150	69,486,420	39,299,762
Total operating revenues	1,797,473,640	3,616,751,789	2,001,728,981
OPERATING EXPENSES			
Instruction	668,176,123	1,402,071,908	672,507,692
Research	498,542,104	1,039,622,121	484,454,933
Public service	258,415,250	521,599,010	254,016,670
Academic support	246,595,381	527,330,418	254,203,613
Student services	137,030,644	321,421,560	137,697,084
Institutional support	296,058,979	543,979,557	270,156,652
Operation and maintenance of plant	179,670,304	402,000,372	200,994,747
Scholarships and fellowships	185,576,526	137,307,078	179,846,297
Auxiliary enterprises:			
Residential Facilities	85,267,448	184,119,860	92,004,487
Dining Facilities	33,909,895	115,170,982	64,921,879
Intercollegiate athletics	55,611,980	138,171,000	67,798,077
Bookstore	7,123,245	14,773,008	8,724,294
Parking Facilities	11,596,433	34,280,720	16,132,951
Other auxiliary enterprises expenses	62,545,670	138,835,403	72,238,305
Total operating expenses	2,726,119,982	5,520,682,997	2,775,697,681
Operating income	(928,646,342)	(1,903,931,208)	(773,968,700)

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University System of Maryland
Statement of Revenues, Expenses and Changes in Net Position
For the Six Months Ended December 31, 2020, Year Ended June 30, 2020 and Six Months Ended December 31, 2019

	Six Months Ended December 31, 2020	Year Ended June 30, 2020	Six Months Ended December 31, 2019
NONOPERATING REVENUES (EXPENSES)			
State appropriations	772,094,453	1,493,671,878	715,112,054
Pell grants	80,749,820	167,411,653	80,975,145
Other nonoperating grants	68,623,597	89,316,876	-
Gifts	31,120,859	53,210,506	29,523,525
Investment income (loss)	52,418,602	87,461,092	50,114,235
Less: Investment expense	(1,468,424)	(1,323,876)	(1,314,951)
Interest on indebtedness	(21,788,174)	(40,580,627)	(26,215,167)
Other revenues (expenses) gains (losses)	5,581,039	(14,638,982)	10,108,114
Total nonoperating revenue (expenses)	987,331,772	1,834,528,520	858,302,955
Income before other revenues (expenses)	58,685,430	(69,402,688)	84,334,255
OTHER REVENUES (EXPENSES)			
Capital appropriations	74,863,779	172,302,652	101,539,616
Capital gifts and grants	25,261,906	23,039,106	5,886,767
Additions to permanent endowments	433,023	2,568,951	379,156
Total other revenues (expenses)	100,558,708	197,910,709	107,805,539
Increase in net position	159,244,138	128,508,021	192,139,794
Net position, beginning	6,881,391,484	6,752,883,463	6,752,883,463
Net position, ending	\$7,040,635,622	\$6,881,391,484	\$6,945,023,257

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University System of Maryland
Operating Expenses by Object
For the Six Month Periods Ended December 31, 2020 and 2019

	2020				2019			
	Payments to Employees	Payments to Suppliers and Contractors	Depreciation	Total	Payments to Employees	Payments to Suppliers and Contractors	Depreciation	Total
Instruction	\$592,710,390	\$43,024,987	\$32,440,746	\$668,176,123	\$587,686,429	\$53,185,610	\$31,635,653	\$672,507,692
Research	320,575,091	163,413,750	14,553,263	498,542,104	319,245,399	149,942,682	15,266,852	484,454,933
Public service	204,072,615	51,301,472	3,041,163	258,415,250	193,179,611	58,104,037	2,733,022	254,016,670
Academic support	174,248,624	54,795,468	17,551,289	246,595,381	173,443,725	64,751,856	16,008,032	254,203,613
Student services	92,701,383	40,334,938	3,994,323	137,030,644	87,626,370	46,140,452	3,930,262	137,697,084
Institutional support	202,615,950	84,992,398	8,450,631	296,058,979	206,051,915	56,027,334	8,077,403	270,156,652
Operation and maintenance of plant	74,548,416	65,297,554	39,824,334	179,670,304	79,728,787	84,252,406	37,013,554	200,994,747
Scholarships and fellowships	3,232,577	182,343,949		185,576,526	4,660,814	175,185,483		179,846,297
Auxiliary enterprises:								
Residential facilities	23,133,290	31,672,237	30,461,921	85,267,448	26,894,713	35,888,527	29,221,247	92,004,487
Dining facilities	15,190,776	14,786,415	3,932,704	33,909,895	21,716,469	39,687,829	3,517,581	64,921,879
Intercollegiate athletics	32,967,453	17,281,413	5,363,114	55,611,980	32,587,261	30,077,201	5,133,615	67,798,077
Bookstore	1,716,948	5,393,760	12,537	7,123,245	1,965,780	6,745,847	12,667	8,724,294
Parking facilities	5,478,464	3,174,305	2,943,664	11,596,433	9,883,352	3,075,339	3,174,260	16,132,951
Other auxiliary enterprises expenses	29,421,009	17,712,082	15,412,579	62,545,670	31,240,630	25,928,285	15,069,390	72,238,305
Total operating expenses	\$1,772,612,986	\$775,524,728	\$177,982,268	\$2,726,119,982	\$1,775,911,255	\$828,992,888	\$170,793,538	\$2,775,697,681

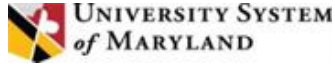
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University System of Maryland
Trend in Transfers of Accounts Receivables to State Central Collection Unit
For Periods June 30, 2016, June 30, 2020 and December 31, 2020
(in thousands)

<u>Operational performance indicators</u>											
	UMB	UMCP	BSU	TU	UMES	FSU	CSU	UB	SU	UMGC	UMBC
Student accounts receivable collection rate:											
Average - five and 1/2 -years ended December 30, 2020											
Net transfers to CCU	90	1,419	421	859	1,335	267	96	604	322	6,310	958
Gross billings	172,374	773,601	68,793	277,574	55,036	146,809	24,121	60,346	124,027	347,837	199,692
Ratio	0.05%	0.18%	0.61%	0.31%	2.43%	0.18%	0.40%	1.00%	0.26%	1.81%	0.48%
Student accounts receivable collection rate:											
Average - five-years ended June 30, 2020											
Net transfers to CCU	100	1,316	273	826	1,190	175	81	569	289	6,267	841
Gross billings	153,918	705,340	62,718	251,660	48,865	106,812	22,383	54,648	113,363	312,284	185,981
Ratio	0.07%	0.19%	0.44%	0.33%	2.43%	0.16%	0.36%	1.04%	0.26%	2.01%	0.45%
Student accounts receivable collection rate:											
Average - five-years ended June 30, 2016											
Net transfers to CCU	119	881	320	635	1,368	220	555	294	281	7,583	818
Gross billings	134,196	579,987	51,153	224,855	53,277	52,851	22,616	62,177	98,953	284,968	165,436
Ratio	0.09%	0.15%	0.63%	0.28%	2.57%	0.42%	2.45%	0.47%	0.28%	2.66%	0.49%

Committee on Audit - Open Session



Public College & University Financial Ratio Comparison
Moody's Aa1 Rating Category

June 30, 2020

Institution	Total Debt	Unrestricted Net Assets ¹	Primary Reserve Ratio	Debt Service	Operating Expenses	Operating Expense Leverage	Market Value of Endowment	Number of Students ^{2,3}	Total FTE ^{2,3}	Endowment per Student	Endowment per FTE	Effective Interest Rate	Increase in Unrestricted Net Assets		
													FY2020	FY2019	FY2018
University System of Maryland	1,189,539,783	1,212,195,784	101.90%	155,730,891	5,520,682,997	2.82%	1,577,914,522	111,654	93,381	14,132	16,898	3.27%	N	N	Y
North Carolina State University at Raleigh ⁴	515,641,288	(1,352,030,048)	-262.20%	45,579,067	1,600,435,802	2.85%	1,417,705,000	36,472	32,386	38,871	43,775	3.89%	Y	Y	N
Ohio State University	3,106,815,000	(333,742,000)	-10.74%	185,577,000	6,899,706,000	2.69%	2,034,290,000	67,957	61,060	29,935	33,316	3.86%	N	N	N
Pennsylvania State University (FASB)	3,454,008,000	3,121,070,000	90.36%	139,815,000	6,587,158,000	2.12%	3,402,938,000	89,816	79,659	37,888	42,719	2.33%	N	N	Y
State University of Iowa	1,150,749,000	1,495,149,000	129.93%	130,829,000	3,750,350,000	3.49%	2,525,508,000	31,730	28,509	79,594	88,585	4.43%	Y	Y	Y
Texas Tech University System	858,134,000	534,994,000	62.34%	104,534,759	2,173,589,000	4.81%	1,284,698,000	36,974	32,012	34,746	40,132	2.65%	N	N	N
University of Colorado	1,791,411,000	(198,488,000)	-11.08%	294,983,000	4,203,349,000	7.02%	1,527,946,000	66,872	59,748	22,849	25,573	3.35%	Y	Y	N
University of Delaware (FASB)	709,343,000	1,246,616,000	175.74%	47,031,000	1,071,353,000	4.39%	1,453,189,000	23,613	21,913	61,542	66,317	4.10%	N	N	Y
University of Minnesota	1,562,340,000	575,234,000	36.82%	154,115,000	3,683,043,000	4.18%	1,485,357,000	66,973	51,935	22,178	28,600	3.05%	N	Y	N
University of Missouri System	1,839,818,000	1,291,499,000	70.20%	105,606,136	3,666,718,000	2.88%	1,732,508,000	68,752	51,967	25,199	33,339	3.90%	N	N	Y
University of Nebraska	1,029,811,000	1,389,087,000	134.89%	88,819,000	2,204,768,000	4.03%	1,735,305,000	51,695	43,293	33,568	40,083	2.77%	Y	Y	N
University of Pittsburgh (FASB)	1,452,894,000	2,567,722,000	176.73%	238,556,000	2,416,807,000	9.87%	1,274,194,000	28,234	26,485	45,130	48,110	3.63%	N	N	Y
University of Utah	1,393,370,616	2,396,035,000	171.96%	149,118,000	5,311,744,000	2.81%	1,071,908,000	33,047	28,736	32,436	37,302	3.27%	Y	Y	N
Virginia Tech	446,844,000	(135,566,000)	-30.34%	53,913,000	1,549,751,000	3.48%	1,337,915,000	37,024	34,943	36,136	38,289	3.53%	Y	Y	N
Average for group- 2020	1,464,337,049	986,412,553	67.36%	135,300,490	3,617,103,914	3.74%	1,704,383,966	53,630	46,145	31,781	36,936				
Average for group- 2019	1,281,208,519	1,041,623,564	81.30%	116,098,023	3,476,845,649	3.34%	1,648,817,220	53,930	47,690	30,573	34,574				

Source: most recent available audited financial statements

NOTES

¹ Unrestricted Net Assets were affected by the implementation of GASB 75 for OPEB.

² UMGCS students are not included in the total enrollment count for University System of Maryland.

³ Enrollment statistics as reported for Fall 2020 by the institutional research departments, FTE estimates were used when not provided

⁴ NC State has a short term Commercial Paper program that is drawn on and paid within 1 year, these payments have been excluded from debt service

**BOARD OF REGENTS**SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Affiliated Foundation Policy compliance status

COMMITTEE: Audit

DATE OF COMMITTEE MEETING: March 26, 2021

SUMMARY: Board of Regents Policy IX-2.00 Policy on Affiliated Foundations details reporting and compliance requirements for foundations and not-for-profit entities recognized as formally affiliated with a USM institution or the System as a whole.

The Board policy requires that audited financial statements, and other reports and listings, be provided the System Office by October 31 annually. The Office of Administration and Finance reviews the items for unusual reporting items, and events that need to be followed up on. In cases of egregious noncompliance or reporting, the first step is review with the Vice Chancellor for Advancement, and then a discussion between the Vice Chancellor for Advancement and the relevant affiliated foundation executive, which in the case of fundraising foundations is often the institution's vice president for advancement. In the event of ongoing egregious noncompliance, the Board of Regents can take the step of revoking the affiliation status, which is required for the institution to provide a license to use the institution's name in fundraising materials.

The Robert H. Smith School of Business Foundation, affiliated with the University of Maryland College Park, is the subject of several reviews and examinations, both internal and external to the institution. The lack of formal compliance materials for the R.H. Smith School of Business Foundation is a product of these examinations and the resulting personnel changes and interactions with the foundation's governing board.

The remaining outstanding items will continue to be pursued with the appropriate institution.

ALTERNATIVE(S): This is an information item.

FISCAL IMPACT: This is an information item.

CHANCELLOR'S RECOMMENDATION: This is an information item.

COMMITTEE RECOMMENDATION:

DATE:

BOARD ACTION:

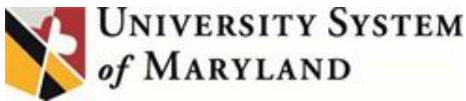
DATE:

SUBMITTED BY: Ellen Herbst (301) 445-1923

Committee on Audit - Open Session

University System of Maryland Affiliated Foundations Compliance Checklist FY20

KEY		RECEIVED DOCUMENTS/DOCUMENTATION																	
		FOLLOW UP REQUIRED																	
		FOLLOWED UP & AWAITING RESPONSE																	
		AII	UMB	UMB	UMCP	UMCP	UMCP	UMCP	UMCP	BSU	BSU	TU	TU	FSU	CSU	UB	SU	SU	UMBC
MATERIALS DUE	DUE DATE	The University of Maryland Fdn (UMF)	Medical Alumni Association of the University of Maryland, Inc. (MAA)	The University of Maryland Baltimore Fdn (UMB)	University of Maryland College Park Fdn (UMCP)	Harry R Hughes Center for Agro-Ecology, Inc. (HRE)	M Club Fdn (MCLB)	Robert H. Smith School of Business Fdn (RHBSF)	The Maryland 4-H Fdn (MD4H)	Bowie State University Fdn (BSUF)	MD Center @ Bowie State University (CNTR)	Towson University Fdn (TUF)	Towson University Public Media (TUPM)	Frostburg State University Fdn (FSUF)	Coppin State University Development Fdn (CSUF)	University of Baltimore Fdn (UBF)	Salisbury University Fdn (SUF)	Ward Museum (WARD)	UMBC Research Park (RPCO)
Certification of Compliance Sheet (initialed by institution's president)	10/31/2020	waiting on JP	yes	yes	yes	need president's and dean's initials	yes		Need president's and dean's signature	yes, but not fully approved by president	yes	yes	yes	yes	yes	yes	yes	yes	yes
Agreement with Institution (signed by president of foundation & institution)	10/31/2020	yes	yes	yes	yes	need president's signature	yes			pending	yes	yes	yes	yes	yes	yes	yes	yes	yes
Annual Financial Audit Report	10/1/2020	final	final	final	final	yes	final		final	final	final	final	final	final	final	yes	yes	final	final
Annual Audit Report of Transfers to USM	10/1/2020	yes	yes	yes	yes	n/a	yes		n/a	yes	n/a	yes	yes	yes	yes	yes	yes	yes	yes
Management Letter/Auditors Required Communications Letter	10/31/2020	yes	yes	yes	yes	yes	yes		yes	representation letter	yes	yes	yes	yes	no management letter	yes	yes	yes	no management letter comments, but required communication
Use of Internal Auditor	10/31/2020	yes - JohnsonLambert	no internal auditor	yes - JohnsonLambert	yes - JohnsonLambert	n/a	n/a		n/a	n/a	yes	yes - SC&H	no internal auditor	yes - FSU Office of Comptroller	yes - Simmons Certified Public Accountants	no IA	yes - CliftonLarsonAllen	no internal auditor	no IA
Annual Audit Report of Unrestricted Funds Available to the President	10/31/2020	yes	none	yes	yes	n/a	n/a		n/a	n/a	n/a	yes	no funds	yes	yes	yes	yes	no funds	no funds
A List of Officers and Directors (can get from website)	10/31/2020	yes	yes	yes	yes	yes	yes		yes	yes	yes	yes	yes	yes	yes - from website	yes	yes	yes	yes
A List of USM Employees Receiving Compensation from the Foundation & Amount of that Compensation	10/31/2020	yes	no employees compensated	n/a	yes	n/a	n/a		n/a	n/a	n/a	n/a	yes	yes	yes	n/a	yes	yes	n/a
A List of State and Federal Contracts and Grants Managed by the Foundation	10/31/2020	n/a	no contracts/grants	n/a	n/a	n/a	n/a		yes	no contracts/grants	yes	no contracts/grants	yes	no contracts/grants	no contracts/grants	yes	no contracts/grants	yes	yes - federal sublease
Annual Report (report of major activities)	10/31/2020	yes	yes		n/a	yes	yes		yes	not available	yes	no annual report in years	yes	yes	need report	yes	yes - Impact Report	yes	yes
Annual affiliated foundation operations report (from USMF)	12/31/2020	yes	yes	yes	yes	yes	yes		yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes

**BOARD OF REGENTS**SUMMARY OF ITEM FOR ACTION,
INFORMATION OR **DISCUSSION****TOPIC:** Information – Affiliated Foundation Policy Update**COMMITTEE:** Audit Committee**DATE OF COMMITTEE MEETING:** March 26, 2021

SUMMARY: Since 2015, with the release of a report on the legislative audit of University of Maryland Eastern Shore that focused on the actions taken by UMES employees working for an affiliated entity known as Maryland Hawk Corporation, there has been a string of negative situations involving USM affiliated foundations. At the October 2020 Audit Committee meeting, the System Office committed to bring a revised policy(s) to the Audit Committee for consideration at its March 2021 meeting.

A working group of institutional counsel, affiliated foundation representatives and System Office staff have been working on first, developing a set of issues and oversight gaps in the current policy relative to the organizations with affiliate status, then second, developing a set of principals and goals for the revised policy, and once agreed-upon, those principals and goals would serve as a basis for re-writing policy.

The working group is at a point where a set of issues and oversight gaps has been identified. Several issues have been identified that now warrant discussion with the Board of Regents Audit Committee. The objective is to assess Regent's perspectives on particular issues of relationship and the resulting oversight and accountability arrangements. Any resulting revision or update to the Policy on Affiliated Foundations affecting fund-raising foundations will be shared with both the Audit Committee and the Advancement Committees of the Board of Regents.

Attached are 2 separate documents: (1) a paper listing principles and policy changes for which there is widespread agreement, and (2) a brief synopsis of the issues that first begins with a set of goals for review and revision of Board of Regents policy relating to affiliated organizations, then a cursory background on the oversight arrangements in the current Board of Regents Policy IX-2.00 Policy on Affiliated Foundations, then identifies the key issues or concerns relevant to the development of revised Board of Regents policy(s) appropriate to effective oversight of affiliated entities, facilitating a discussion among the staff workgroup and the members of the Audit Committee on the appropriate values and objectives, and necessary decisions relevant to revising and updating Board of Regents policy that would better ensure effective and mutually-supportive relationships between the USM, its institutions, and separate organizations granted affiliation status.

A listing of the separate organizations and entities currently considered affiliated foundations, and the primary objective of each, is attached.

FISCAL IMPACT: Discussion item**CHANCELLOR'S RECOMMENDATION:** Discussion item

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: David Mosca



Principles and Concepts in Updating Affiliated Foundation Policy

1. Recognize and address the differences in affiliated entities

The Board of Regents (the "BOR") of the University System of Maryland (the "USM") should:

- create a policy (the "Policy") for fund-raising and investment management affiliated entities that are public charities ("Affiliated Foundations"); and
- create a separate policy or policies for other types of affiliated entities ("Other Affiliated Entities").

Affiliated Foundations perform a unique and vital function for the USM and its constituent institutions ("Institutions"), as recognized by §15-104(b) of the Education Article, and they present specific legal, compliance and reputational risks. Oversight of Affiliated Foundations would be clear, concise and more effective with a policy focused just on them.

The rest of this document relates to Affiliated Foundations.

2. Clear statement of authority of the BOR and the purpose of the Policy.

The Policy should define the elements that establish an affiliation between an Institution and an entity, state the authority of the BOR to regulate the affiliation, and state the purpose of the Policy.

- Essential elements of the affiliation relationship are: (i) use by the entity in any way of the intellectual property (e.g., name, logo, trademark or service mark, trade dress, nickname, etc.) of the USM or an Institution; and (ii) engaging solely in any lawful activity to raise and steward monies that will benefit the USM or an Institution.
- The BOR has the sole authority and discretion to allow another entity to use the intellectual property with respect to an Institution for any purpose, including fundraising. Therefore, the BOR has the sole authority and discretion to determine whether an entity may affiliate with the USM and an Institution and the terms and conditions of that affiliation, including its termination.
- The purpose of the Policy is to set forth the expectations of the BOR with respect to the formation and operation of Affiliated Foundations, and the relative rights and responsibilities of the BOR, an Institution and an Affiliated Foundation.
- Specifically, the Policy seeks an effective balance between the need of the BOR for sufficient control over the Affiliated Foundation in order reasonably to protect the USM and its Institutions), and the need of the Affiliated Foundation for sufficient independence in order to maintain its status as a separate legal entity and maximize the protection provided by HE §15-104(b)(4).
- Arms-length negotiation of the affiliation agreement, and the clear linking of the use of USM intellectual property, and the legal right to affiliate, in exchange for strict compliance by the entity with its purpose clause, should achieve the balance.

3. Establishment of the Affiliated Foundation

The Policy should specify the organizational requirements for an Affiliated Foundation, and the BOR approval process for affiliation.

- prior to formation, the organizers should prepare and present to the Responsible Officer and the Chancellor a robust business plan for the proposed Affiliated Foundation, including how the entity will achieve scale and manage risk
- Chancellor has the authority to reject a proposed Affiliated Foundation at the planning stage
- Maryland non-stock, non-profit (§17)
- tax exempt under §501(c)(3) of the IRC and not a private foundation (§17)
- clearly articulated purpose clause in articles of incorporation and Form 1023; solely to support the USM/Institutions
- explicit provision in the articles that upon termination/dissolution, Affiliated Foundation assets will be transferred, to the USM/Institution (as long as tax-exempt), to another BOR-designated, tax-exempt entity; or to USMF
- Board structure (Responsible Officer is an ex officio, non-voting member; USM employees are no more than 20% of the voting members) (§18)
- "Responsible Officer" is the Chancellor or an Institution President (§11)
- affiliation agreement with BOR (§14, 5)
- include a provision that any proposed change to the purpose of the Affiliated Foundation in the articles of incorporation or the IRS Form 1023 requires prior review and approval of the BOR
- operating agreement with Institution (§14, 5)
- prior review and approval by OAG (statute)
- high-level description of submission and approval procedure for the BOR

4. Operation of the Affiliated Foundation

The Policy should specify the essential requirements of how the Affiliated Foundation must operate in order to retain the right to affiliate.

- maintain the policies, procedures, personnel, technology and other resources that are reasonably necessary in order to conduct the entity's business in compliance with all applicable laws and rules, and all BOR policies (§11-12)
- no educational, research or other activities that would be within the normal scope of the mission of the USM/Institutions (exception for grant acceptance if an Institution is lawfully precluded from signing the grant agreement) (§13-14)
- no participation in projects that involve State procurement without prior BOR/Chancellor approval
- maintain corporate separateness (§15-20)
- operating agreement with the Institution should set forth relative rights and duties, specify oversight responsibilities, address conflicts of interest, identify shared employees, and describe remedies and enforcement mechanisms (§9, 10)

5. Audits and Reporting.

The Policy should specify the auditing and reporting requirements for the Affiliated Foundation.

- annual independent, full scope financial statement audit (§21)
- annual audit of unrestricted funds (§22)
- multi-item annual report to the Institution President (§24)
- audit and inspection rights (§§23, 27)
- BOR annual report to the Legislative Joint Audit Committee on Affiliated Foundations (§29)

6. Accountability and Enforcement

The Policy should describe executive-level responsibilities for the Institution and the Affiliated Foundation.

- Responsible Officer and the Affiliated Foundation Board Chair are the individuals primarily responsible for Affiliated Foundation-Institution relationship
- Responsible Officer is authorized to notify the Affiliated Foundation of Policy violations, and to report violations to the Chancellor (Responsible Officer may not terminate an affiliation)
- Responsible Officer is authorized to enforce the operating agreement, including notice of violations, declaration of breach and termination; termination would result in a Policy violation and trigger BOR involvement
- President has the specific authority to remove state employees who are providing services to the Affiliated Foundation
- Board Chair must certify to the BOR annually that she/he has reviewed the Policy and that to her/his knowledge, after reasonable investigation, the Affiliated Foundation is in substantial compliance with the Policy; failure to certify is a Policy violation that would trigger BOR involvement

7. Termination.

The Policy should state the authority of the BOR to terminate an affiliation with an Affiliated Foundation.

- BOR may terminate an affiliation for violation of the Policy (including violation of the affiliation agreement and/or the operating agreement)
- affiliation agreement should give the BOR the right to seek injunctive relief (e.g., temporary restraining order) in order to avoid irreparable harm to USM/Institution intellectual property
- affiliation agreement should state that the BOR will seek the involvement of the OAG to enforce the Affiliated Foundation's purpose and/or protect its assets



Affiliated Foundation and Other Entity Policy Development Outstanding Issues March 2021

Goals for revision to Board of Regents Policies on Affiliated Entities

- 1) Update the policy provisions to reflect the current range of purposes of affiliated entities
- 2) Provide requirements for use of state / System employees in roles serving affiliated entities
- 3) Incorporate effective separation or termination of affiliation status provisions for where needed
- 4) Improve the clarity and understandability of policy requirements
- 5) Incorporate and enhance prohibited activities

General Background

- General Assembly session 1999 – enactment of legislation authorizing institution presidents to establish separate foundations, and then seek affiliation status approval from Board of Regents
- Current Board of Regents Policy VIII-2.00 Policy on Affiliated Foundations last revised 10/1/1999 – at that point all but 3 affiliated foundations recognized were fund-raising foundations
- Since 1999, 2 fund-raising foundations have been granted affiliated foundation status, and 5 non-fundraising entities have been granted affiliation status under the policy
- Current policy expectations are enforced through the risk that the affiliated organization loses the right to use the institution's name and logo in fundraising materials.
- Provisions in the current BOR policy require that affiliated foundations staff:

- a. ***The executive director and support staff of an affiliated foundation should be paid employees of the foundation and not of the institution. Support staff are defined to be those individuals who provide direct services to the foundation, such as clerks, secretaries, and accountants and does not include fundraisers. Should this not be practical (e.g. an institution employee provides only part-time services to the foundation), the foundation shall make a direct reimbursement to the institution for its share of the employee's salaries and fringe benefits. The foundation shall reimburse the institution for at least 33% of these costs beginning July 1, 1999, 66% beginning July 1, 2000 and 100% beginning July 1, 2001.***

If a foundation requires a 100% level of effort from an individual, that individual shall be a paid employee of the foundation and not of the institution. If an institution employee currently provides that level of effort and would lose benefits if transferred to the foundation, then the foundation shall hire and pay for that support when the current employee no longer provides that support.

- b. ***Alternatively, institution staff may be assigned to carry out functions of an affiliated foundation, including serving as administrative officers and support staff of the foundation without reimbursement to the institution. In any such case, the University resources so used shall be quantified, included in the written agreements, and measured against funds transferred from the foundation to the institution. Also, the written agreement shall require that the foundation's funds may be expended only by transfer to appropriate institution accounts from***

which they may be paid out only in accordance with donor's wishes and applicable system and institutional policies and procedures. Any exception to that requirement must be approved in advance by a member of the foundation's board of directors who shall not be a university employee and shall be reported annually to the Chancellor.

- Reviews of affiliated foundations over time by the Office of Internal Audits, and the System Office indicate that only the USM Foundation and the Towson University Foundation, Inc. hire its own staff separate from institution staff. All other affiliated entities utilize institution staff to perform operational activities.

Unresolved issues in updating Board of Regents policy(s) on affiliated entities

- A. **Appropriate consequences for failure to satisfy oversight requirements for non-fundraising foundations** – the current policy covers separate non-for-profit organizations that seek affiliation status. The consequence for failures in the relationship is to revoke the right to use the institution's name and logo on fundraising solicitation materials. Since 1999 many of the entities granted affiliation status have been non-fundraising foundations. The threat of revoking the right to use the institution's name has proven a toothless consequence for non-fundraising foundations, and an appropriate consequence is needed.
Status: This issue relates principally to non-fundraising foundations, as the threat of revoking the license to use the affiliated institution name, combined with an effective termination of affiliation process, and potentially control over the foundation's board, should serve as effective consequences when issues arise associated with an affiliated fundraising foundation. One possible approach for non-fundraising foundations is to increase the accountability for non-fundraising foundations on the part of the institution president or responsible official, but further provisions compelling organizational behavior in accordance with the institution's needs may be required.

- B. **Scope of allowable roles for state employees performing roles for non-fundraising affiliated entities** – this issue relates to state Ethics law prohibitions on what is known as 'secondary employment' with entities with which the state (USM institutions, specifically) do business. Statutory authority is in place for System institution staff to perform operational duties and roles for affiliated fundraising foundations, but non-fundraising foundations enjoy no similar authorizing language that negates state Ethics law, so Ethics Commission guidance is needed, or a broadening of the statutory language, enabling institution employees to perform roles with affiliated non-fundraising foundations. Current policy requires that affiliated foundations that use System employees process their disbursement transactions through the institution, a requirement not being followed.
Status: The Education Article provides for the allowability of use of System institution staff to perform roles for the institution's affiliated fundraising organizations. There is no known authority or exemption from the Public Ethics Act requirements for System institution staff to perform roles for institution's affiliated non-fundraising organizations. The question of whether or not, and in what circumstances, System institution staff can perform roles for affiliated non-fundraising foundations requires the review and guidance of the State Ethics Commission.

- C. **Scope of allowable activities for affiliated entities** – USM employees are subject to the Maryland Public Ethics Act. Taking into consideration recent engagement with other state entity created, but separate entities and the expectations associated with public accountability and integrity, should affiliated entities that utilize institution staff comply with affiliated organization ethics and integrity standards, or those of the affiliated organization. There is a long tradition of affiliated organizations acquiring property of potential or known interest for eventual disposition to the state of Maryland for the use by a USM institution. In these situations where USM staff are involved, should there be expectations or standards ensuring no conflicts of interest or other self-interested involvement on the part of the affiliated organization that prohibits participation in matters in which directors or staff have an interest. ***Status: The decisions to be made are: (1) what bounds on activities should be imposed on separate affiliated entities, and in what circumstances (presently affiliated foundations are prohibited from offering educational courses that would otherwise be offered by the institution, and cannot accept contract and grant awards without the advance approval of the responsible official) and (2) what if any other state voices is needed in addressing the question. This issue largely focuses on whether affiliated entities can be used by System institutions in ways that the institution would be precluded in the context of Public Ethics Law.***
- D. **Termination of relationship provisions** – within the current expectations of independence, most affiliated foundations organizational documents provide for selection of governing board members by the affiliated organization. The System has had several instances where institutions seek to terminate the affiliation status and seek a wind-down in affiliated entity operations. The lack of institutional control of the affiliated entities' governing board is an impediment to compelling an affiliated entities actions, including dissolution. ***Status: As a result of the lack of control over governing boards of all but one affiliated entity, the termination of relationship provisions consistent of trying to work through the issues, with the ultimate possibility of rescinding the affiliated entity's right to use the name and logo of the institution. Having effective institutional control over the organization's governing board through amendment of the organizational documents would be one possible approach to facilitating the wind-down of affiliated entities when an institution sees the need. In circumstances where control of the governing board is not possible, a requirement that the institution suspend use of institution staff and any other support provided by the institution may be an acceptable approach.***

Proposed path to revising Board of Regents policies relating to affiliated entities:

1. Seek Ethics Commission guidance on System institution staff performing roles for non-fundraising affiliated organizations extending use of conflict of interest management expectations as a precedent and basis for mitigating risks.
2. Resolve outstanding issues with divergent perspectives above.
3. Develop separate Board of Regents policies for affiliated fundraising foundations (and organizations that perform fundraising related activities like investment management) and affiliated non-fundraising foundations.
4. Review and ensure conformance with existing Board of Regents Policies for Business Entities (BOR Policy VIII-13.00 Policy on Business Entities and BOR Policy VIII-15.00 Policy on High-impact Economic Development Activities)
5. Review proposed policies with Office of Attorney General, affiliated organizations, and USM institutions, and then with Chancellor's Council, before finalizing and presenting to Board of Regents.

Listing of organizations granted Affiliated Foundation status (as of March 26, 2021)

Affiliate Organization Name	USM Affiliate	Primary Purpose
University System of Maryland Foundation, Inc.	USM	Fundraising support
Medical Alumni Association of the University of Maryland, Inc.	UMB	Fundraising
University of Maryland, Baltimore Foundation, Inc.	UMB	Fundraising
University of Maryland College Park Foundation, Inc.*	UMCP	Fundraising
Robert H. Smith School of Business Foundation, Inc.	UMCP	Fundraising/Grants
M Club Foundation of the University of Maryland, Inc.	UMCP	Fundraising
Harry R. Hughes Center for Agro-Ecology, Inc.	UMCP	Research / Public service
Maryland 4-H Foundation, Inc.	UMCP	Public service
Bowie State University Foundation, Inc.	BSU	Fundraising
Maryland Center at Bowie State University, Inc.	BSU	Economic development
Towson University Foundation, Inc.	TU	Fundraising
Towson University Public Media, Inc.	TU	Radio station support
Maryland Hawk Corporation, Inc.	UMES	Economic development
Frostburg State University Foundation, Inc.	FSU	Fundraising
Coppin State University Development Foundation, Inc.	CSU	Fundraising
University of Baltimore Foundation, Inc.	UB	Fundraising
Salisbury University Foundation, Inc.	SU	Fundraising
Ward Foundation, Inc.	SU	Duck-decoy museum
University of Maryland Baltimore County Research Park, Inc.**	UMBC	Research park management

** includes Terrapin Development Corporation, a joint venture between UMCP and the UMCP Foundation, Inc. focused of effective use of university or foundation-owned land parcels to be developed for non-university purposes*

*** governing board members selected by UMBC president and approved by USM Board of Regents*



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR **DISCUSSION**

TOPIC: Update of Office of Legislative Audit Activity

COMMITTEE: Audit Committee

DATE OF COMMITTEE MEETING: March 26, 2021

Since the Committee's December 2020 meeting, the Office of Legislative Audits (OLA) has not published any reports of USM institutions:

OLA Engagements Currently Active:

- University of Maryland College Park;
- Bowie State University; and
- The University of Baltimore.

FISCAL IMPACT: none

CHANCELLOR'S RECOMMENDATION: none

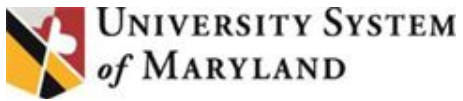
COMMITTEE ACTION: None

DATE:

BOARD ACTION: None

DATE:

SUBMITTED BY: David Mosca



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR **DISCUSSION**

TOPIC: Follow up of Action Items from Prior Audit Committee Meetings

COMMITTEE: Audit Committee

DATE OF COMMITTEE MEETING: March 26, 2021

SUMMARY:

See Attachment: Listing of Open Action Items From 2019 – 2020 Audit Committee Meetings.

FISCAL IMPACT: none

CHANCELLOR'S RECOMMENDATION: none

COMMITTEE ACTION: none

DATE:

BOARD ACTION: none

DATE:

SUBMITTED BY: David Mosca

USM Board of Regents
 Action Items From 2019 - 2020 Audit Committee Meetings
 14-Dec-20

Action ItemStatus**From December 2020 Audit Committee Meeting**

1.	Report on foundation compliance with BOR Policy	Included in March 2021 Audit Committee Meeting
2.	Review Quality Control of enrollment reports prior to submission to MHEC. UMES had poor compliance in December 2020 reporting.	Enrollment reports will be reviewed prior to submitting to MHEC going forward.
3.	Update Audit Committee of SU forgiving debt owed by Ward Museum Foundation.	SU seeking forgiveness approval via Finance Committee in its April meeting.
4.	Integrate Academic Affairs' cyber risks into Audit Committee's cybersecurity discussions	Included in March 2021 Audit Committee Meeting Closed Session
5.	Continue discussion of the State's ransomware policy.	Included in March 2021 or June 2021 Audit Committee Meeting Closed Session.

From October 2020 Audit Committee Meeting

1.	Develop NIST standards compliance scorecards.	In process.
2.	Include requirements for written agreements which need to be renewed periodically in the Foundation Policy revisions.	Will be included with the proposed policy revisions. Update of Policy development in March 2021 meeting.

From October 2019 Audit Committee Meeting

1.	Include ongoing discussion of Foundation Policy Development and Oversight at each FY 2020 Audit Committee meeting. Get Presidents' input.	First update included with Audit Committee's 12/18/2019 meeting. Second in March meeting. Postponed in June 2020 meeting. Update in October 2020 meeting included commitment to present proposed policies at the March 2021 Audit Committee meeting. Ongoing.
2.	Universities shall submit their ERM plan of implementation to the Audit Committee and annually produce risk dashboards. Contact UMB's Department of Health as a resource for implementing ERM. Internal Audit should audit implementation of ERM.	Plan's are due in the Spring of 2020 and implementation by July 2021. Internal Audit will incorporate ERM implementation audits in 2021. Audit Committee will be regularly updated.

Note: Action items concluded prior to the March BOR Audit Committee meetings are not included in this schedule.

**BOARD OF REGENTS**SUMMARY OF ITEM FOR **ACTION**,
INFORMATION OR DISCUSSION

TOPIC: Convening Closed Session

COMMITTEE: Audit Committee

DATE OF COMMITTEE MEETING: March 26, 2021

SUMMARY:

The Open Meetings Act permits public bodies to close their meetings to the public in circumstances outlined in §3-305 of the Act and to carry out administrative functions exempted by §3-103 of the Act. The Committee on Audit will now vote to reconvene in closed session. The agenda for the public meeting today includes a written statement with a citation of the legal authority and reasons for closing the meeting and a listing of the topics to be discussed. The statement has been provided to the regents, it is posted on the USM's website and copies are available here today.

ALTERNATIVE(S): No alternative is suggested.

FISCAL IMPACT: There is no fiscal impact.

CHANCELLOR'S RECOMMENDATION: The Chancellor recommends that the BOR Audit Committee vote to reconvene in closed session.

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE: 3-26-2021-

SUBMITTED BY: David Mosca, 443.367.0035, dmosca@usmd.edu



STATEMENT REGARDING CLOSING A MEETING
OF THE USM BOARD OF REGENTS

Date: March 26, 2021
Time: Approximately 11:00 AM
Location: Zoom

STATUTORY AUTHORITY TO CLOSE A SESSION

Md. Code, General Provisions Article §3-305(b):

- (1) To discuss:
 - [] (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
 - [] (ii) Any other personnel matter that affects one or more specific individuals.
- (2) [] To protect the privacy or reputation of individuals with respect to a matter that is not related to public business.
- (3) [] To consider the acquisition of real property for a public purpose and matters directly related thereto.
- (4) [] To consider a preliminary matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.
- (5) [] To consider the investment of public funds.
- (6) [] To consider the marketing of public securities.
- (7) [] To consult with counsel to obtain legal advice on a legal matter.
- (8) [] To consult with staff, consultants, or other individuals about pending or potential litigation.
- (9) [] To conduct collective bargaining negotiations or consider matters that relate to the negotiations.

FORM OF STATEMENT FOR CLOSING A MEETING

PAGE TWO

- (10) ☐ To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
- (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans.
- (11) ☐ To prepare, administer or grade a scholastic, licensing, or qualifying examination.
- (12) ☒ To conduct or discuss an investigative proceeding on actual or possible criminal conduct.
- (13) ☒ To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.
- (14) ☐ Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- (15) ☒ To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information, including information that is: 1. Related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity; 2. Collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or 3. Related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity; or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

Md. Code, General Provisions Article §3-103(a)(1)(i):☒ Administrative Matters

TOPICS TO BE DISCUSSED:

IT security matters that pose vulnerabilities, Legislative audit matters that are ongoing and, therefore, confidential; discussion of investigative matters which may lead to criminal prosecution or legal action; calendar year 2021 internal audit plan of activity; and the committee meeting separately with the independent auditors and the director of internal audit.

REASON FOR CLOSING:

- 1) To maintain confidentiality of USM's cybersecurity that would constitute a risk vulnerability of networks, critical IT infrastructure and information resources. (§3-305(b)(15));
- 2) To maintain confidentiality of discussions of ongoing investigations by the USM Office of Internal Audit's and outside agencies, which potentially could result in criminal prosecutions (§3-305(b)(12));
- 3) To maintain the confidentiality of matters involved in ongoing legislative audits, as required by Section 2-1226 of the State Government Article of the Annotated Code of Maryland (§3-305(b)(13));
- 4) To carry out an administrative function: discussion of calendar year 2021 audit plan of activity by the USM Office of Internal Audit (§ 3-103(a)(1)(i); and
- 5) To carry out an administrative function: the Committee's separate meetings with the independent auditors and the Director of Internal Audit (§3-103(a)(1)(i)).