



Board of County Commissioners
Leon County, Florida
 www.leoncountyfl.gov

Office of Management and Budget
Management Review:
Leon County Educational Facilities Authority

Executive Summary:

This management review identifies and evaluates the structure, duties, and responsibilities of the Leon County Educational Facilities Authority (Authority). The management review was Board directed at the June 10, 2008 meeting and was conducted by the Office of Management and Budget.

The Florida Statute and the enabling Resolution states the Authority shall exist if the county finds that “the youth in the community (Leon County) do not have the fullest opportunity to learn and develop their intellectual and mental capacities because there is a shortage of educational facilities or projects at the institutions of higher education located within the county” (FS 243.21(2)). In addition, Florida Statute states that the purpose of the Authority is to assist institutions for higher education in the construction, financing, and refinancing of projects.

The review explores the organizational structure, duties and powers, projects, budget and finances, and community involvement of the Authority. It also presents a comparison of other educational facilities authority across the state of Florida. Staff’s findings and recommendations are incorporated within each section of the review. These findings and recommendations were made in order to ensure that the Authority fulfills its statutory obligation to assist institutions for higher education in the construction, financing, and refinancing of projects (FS 243.22). Each finding directly corresponds to a recommendation. A summary of these findings and recommendations are listed in Table #1.

Table #1: Summary of Findings and Recommendations

Finding	Recommendation
<u>Organizational Structure:</u>	
1. The Authority does publicly notice its meetings; however, it is not in a manner consistent with other County Authorities or Boards.	1. Require that the Authority coordinate with the Public Information Officer to include meetings on the County Calendar.
<u>Duties and Powers:</u>	
2. The Authority currently submits an annual audit to the Clerk of Court but since March 16, 1993 the Authority has not given a formal annual report to the Board.	2. Require the Authority to prepare an annual report, complete with operating and financial statements, and present it to the Board by March 1 st of each year.

Continued: Table 1: Summary of Findings and Recommendations

Projects:

3. The Authority's application and evaluation process is as follows: 1) an applicant submits an application and fee to the Authority; 2) the Authority reviews the application and determines whether or not the project meets a public purpose beneficial to the institutions of higher education; 3) the applicant secures financing; 4) the Authority requests a TEFRA hearing from the Board; and 5) the bonds are then issued. However, this process was not followed when a TEFRA was requested for Create Inc.

4. The Authority manages two student housing projects and makes decisions on whether or not other student housing projects are beneficial to the community. These projects could be in direct conflict with the Authority's own projects. In addition, the Leon County Authority is the only authority in the state of the Florida that owns and manages projects. All other authorities surveyed are a means of conduit financing.

3. Require the Authority to only request a TEFRA hearing from the Board once all financing for a project is in place, in accordance with the application and evaluation process.

4. Require that the Authority not own or operate any educational facilities or dormitories beyond its current properties.

Budget and Financing:

5. The Authority and the County currently share the same Financial Advisor.

6. The auditor for the Authority reports in the management letter for the FY2008 financial statements that the Authority has a deficit in net assets of over \$23 million. A deficit in the fund balance/net assets is a required disclosure since this condition meets one of the conditions under the Florida Statutes 218.503(1) for financial emergency. The Authority also has concerns regarding the current debt service on the A bonds for Southgate. In the past, the Authority has used a portion of the bond reserves for debt services. The bond reserve has not been fully replenished. Additionally, the FY2008 audit reports that the debt coverage required for Heritage Grove fell below the required 1.20 to 1.07. The auditor notes that a financial consultant must be engaged. Due to these conditions, and the low rate of occupancy at Southgate, the Authority, Bond Trustees, and the Management Company are currently developing an aggressive marketing campaign and cost cutting measures.

7. Due to the fact that the Heritage Grove Project was built on state land and that the Issuer, the Authority, and the Borrower, LCEFA, are both tax exempt entities, a TEFRA hearing was not required for the project. The Authority did not request the Board's involvement for the project.

5. In order to have another level of financial analysis, require the Authority to obtain an independent Financial Advisor, which is not affiliated with the County.

6. Require that the authority provide updates to the Board on these contingency plans, as soon as they are available.

7. Due to the large portion of tax exempt bonds that the Authority has the ability to issue, require the Authority to notify the Board of any projects receiving tax exempt bonds, even if a TEFRA hearing is not required for the project.

Continued: Table 1: Summary of Findings and Recommendations

Community Involvement:

<p>8. Southgate currently has an occupancy rate of 52%, the debt service reserve is not fully funded, and approximately 45% of the total fee revenue, from Southgate and Heritage Grove, is contributed to scholarships.</p>	<p>8. Require that the Authority no longer use Southgate revenue to support scholarships due to the current financial status of the dormitory. If net assets associated with Heritage Grove continue to decline, the Authority should re-evaluate the on-going scholarship funding.</p>
<p>9. The Authority issues scholarships to institutions of higher education from revenue derived from its own projects. In addition, the Leon County Authority is the only Authority in the state to issue scholarships according to the statewide comparison study.</p>	<p>9. Support the Authority's scholarship contributions to public institutions of higher education and require that funds for the scholarship continue to be derived solely from the Authority's fee revenue when this revenue is available.</p>
<p>10. The Authority was created to provide an opportunity for the youth of the community (Leon County) to learn and develop their intellectual and mental capacities because of a shortage of educational facilities.</p>	<p>10. Require that the Authority ensure that all projects, exclusive of any scholarship funds, fulfill its statutory mission of providing educational opportunities (when there is a shortage) and assist institutions for higher education in the construction, financing, and refinancing of projects.</p>
<p>11. Both Florida State University and Tallahassee Community College expressed their support for the Authority, especially concerning the scholarship donations.</p>	<p>11. Require that the Authority include a letter of support from an institution of higher education as part of the application process for potential educational facilities projects, thus allowing the Authority to document fulfilling its statutory purpose of assisting these institutions.</p>

Background:

During the July 17, 1990 meeting, the Board approved a resolution establishing the Authority (attachment #1). The Authority was established by the Board as a “mechanism to encourage the funding of educational facilities and as one way to fund the University PUD South Gate Residence Hall Project” (attachment #2). The Florida Statute states the Authority shall exist if the county finds that “the youth in the community do not have the fullest opportunity to learn and develop their intellectual and mental capacities because there is a shortage of educational facilities or projects at the institutions of higher education located within the county” (FS 243.21(2)). The Board did not issue any additional guidelines other than what was in the establishing resolution and Florida Statutes.

Florida Statutes defines that the purpose of the Authority is to assist institutions for higher education in the construction, financing, and refinancing of projects (FS 243.22). The Authority is authorized, among other powers, to acquire and convey property, enter into contracts, make loans, issue notes, and issue revenue bonds related to the acquisition, construction, and equipping of higher education-related projects. Notes, bonds or other obligations incurred by the Authority shall not be deemed a pledge of the faith or credit of the County. The governing statutes for Educational Facilities Authorities are attached (attachment #3).

During the April 26, 1994 meeting, the Board was presented with an agenda item discussing the future of the Authority. The agenda item discussed a memorandum from the County Attorney to the County Administrator and Members of the Board, which responded to an inquiry about the status and options for the future of Authority (attachment #4). The memorandum lists four options that the Board could consider. The Board did not consider dissolving the Authority at that time but did agree to review the financial status of the Authority and then discuss its options.

The Authority owns and operates two projects: Southgate Campus Centre and Heritage Grove. A third project associated with the Authority is the University Courtyard. This project is a conduit financing project and is not directly owned or operated by the Authority. The Authority also issues scholarships to institutions of higher education. Proceeds from the Authority’s projects are re-invested in the community through these scholarships.

Methodology:

The overall methodology of the management review process consisted of meetings with the Authority, document review and analysis, statewide comparison, and community input. The Clerk of Courts’ Finance Division assisted the Office of Management and Budget with the financial analysis of the Authority.

On October 23, 2008, staff met with the Executive Director and Chairman of the Authority to discuss the outline of the management review (attachment #5). Staff also requested several documents from the Authority during this meeting such as audits, budgets, bond documents, project applications, project information, and minutes of the Authority. After reviewing the documents, staff requested clarification regarding the Authority’s financial documents and operations (attachment #6). Staff also met with the Authority’s auditors to discuss the financial status of the Authority and its projects.

In addition to meetings and document review and analysis, staff also conducted a comparison of other educational facilities authorities across the state of Florida. Nine out of the twelve authorities responded to the survey (attachment #7). The survey was conducted in order to compare the duties and responsibilities of the Leon County Authority to others in the state.

In order to gain community input regarding the Authority, the County Administrator sent a letter to each of three public institution of higher education. Letters were sent to the Presidents of the Florida State University, Florida A&M University, and Tallahassee Community College. Two out of three institutions responded to the letter.

On February 13, 2009, County Staff, the Clerk's Finance Director, and the County Attorney met with the Executive Director and General Counsel for the Authority to discuss the draft management review report and the factual information contained within the report (attachment #8). Staff also requested clarification regarding the provisions of the Southgate and Heritage Grove Bonds.

On February 24, 2009, staff presented the Authority with a copy of the management review. The Authority's comments are included in attachment #9.

Organizational Structure:

In accordance with Florida Statute, the Authority consists of seven members, and each member is appointed by the Board to serve a term of five years (attachment #10). All members must be residents of Leon County and at least one member must be a trustee, director, officer, or employee of an institution for higher education. The terms are for five years and expire on July 31st. Members are eligible for reappointment, and there is not a limitation on the number of terms a member may serve. The Board may remove members from the Authority for misfeasance, malfeasance, or willful neglect of duty.

Each year the Authority elects one of its members as Chairman and one as Vice-Chairman. The members of the Authority are not compensated but may be paid for necessary expenses incurred while performing duties on behalf of the Authority. The members of the Authority are volunteers who dedicate their personal time toward the betterment of educational facilities. These members are fully committed to the mission of the Authority which is to assist institutions for higher education in the construction, financing, and refinancing of projects and for this purpose the authority is authorized and empowered as set forth in Chapter 243.22, Florida Statutes.

The Authority also appoints an Executive Director, who is not a member of the Authority, serves at the pleasure of the Authority, and is compensated. The Executive Director's duties include keeping a record of the procedures of the Authority, and serving as custodian of the Authority's books, documents, papers, minutes, and official seal.

Meetings are held on a quarterly schedule or as needed. A majority of the Authority members constitutes a quorum, and an affirmative vote of the majority of members present at a meeting is necessary for any action taken by the Authority. In accordance with the Sunshine Law, the Authority must publicly notice all meetings, which is done through a publication notice in the Tallahassee Democrat. Staff has found that these meetings are not always included on the County Calendar. Similar Citizen Advisory Boards, such as the Housing Finance Authority, Tourist Development Council, and Library Advisory Board, coordinate with the Public

Information Officer to include their meetings on the County Calendar. Staff recommends that the Authority coordinate with the Public Information Officer to include meetings on the County Calendar.

Finding:

1. The Authority does publicly notice its meetings; however, it is not in a manner consistent with other County Authorities or Boards.

Recommendation:

1. Require that the Authority coordinate with the Public Information Officer to include meetings on the County Calendar.

Leon County Educational Facilities Authority's Response:

1. The Authority had not been previously apprised of this opportunity provided by the County Public Information Office. The Authority will gladly make use of this service in addition to its normal public notice practices.

Duties and Powers:

Florida Statutes 243.22 defines the powers and duties of the Authority. Listed below is a summary of the duties and powers of the Authority:

- To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business; to sue and be sued in its own name, and plead and be impleaded.
- Determine the location and character of any project to be financed under the provisions of this part; and (a) to construct, reconstruct, maintain, repair, operate, lease as lessee or lessor and regulate the same; (b) to enter into contracts for any or all of such purposes; (c) to enter into contracts for the management and operation of a project; and (d) to designate a participating institution for higher education as its agent to determine the location and character of a project undertaken by such participating institution for higher education under the provisions of this part and as the agent of the authority, to construct, reconstruct, maintain, repair, operate, lease as lessee or lessor, and regulate the same, and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.
- Issue bonds, bond anticipation notes and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this part.
- Establish rules and regulations for the use of a project or any portion and designate a participating institution for higher education as its agent to establish rules and regulations for the use of a project undertaken by such participating institution for higher education.
- Mortgage any project and the site thereof for the benefit of the holders of revenue bonds issued to finance such projects.
- Make loans to any participating institution for higher education for the cost of a project, including a loan in anticipation of tuition revenues, in accordance with an agreement between the authority and the participating institution for higher education; provided no such loan shall exceed the total cost of the project

- Charge to and equitably apportion among participating institutions for higher education its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this part.

According to the Florida Statutes, the Authority is required to give an annual report to the Board of its activities for the preceding calendar year, including a complete operating and financial statement of its operations during such year (FS 243.36). In addition, the Authority must conduct a yearly audit by a certified CPA. Previously, the Authority has submitted the annual audit directly to the Clerk of Court. It is staff's recommendation that the Authority prepare an annual report, complete with operating and financial statements, to present to the Board by March 1st of each year. By preparing an annual report to the Board, the Authority will have an opportunity to inform the Board of the annual activities, scholarship donations, and financial status of the Authority.

Finding:

2. *The Authority currently submits the annual audit to the Clerk of Court but since March 16, 1993 the Authority has not given a formal annual report to the Board.*

Recommendation:

2. Require the Authority to prepare an annual report, complete with operating and financial statements, and present it to the Board by March 1st of each year.

Leon County Educational Facilities Authority's Response:

2. *In its early years, the Authority provided the Board of County Commissioners (BCC) with detailed reporting of its activities. Subsequently, the Authority was advised by county staff that submission of its annual audit would be sufficient, and was all that was desired by the BCC for reporting purposes. The Authority asks that the BCC advise as to what other specific information it now wishes to be provided, and the Authority will of course be please to comply.*

Projects:

The Authority owns and operates two projects: Southgate Campus Centre and Heritage Grove. A third project associated with the Authority, is the University Courtyard. This project is a conduit financing project and is not directly owned or operated by the Authority. In addition to researching the Authority's projects, staff conducted a statewide comparison study of other educational facilities authorities. This survey, the application and evaluation process, and a description of each project will be summarized in the following paragraphs. The financial status of each project will be discussed under the separate heading of *Budget and Financing*.

Statewide Comparisons to Other Educational Facilities Authorities:

Staff conducted a survey of other educational facilities authorities across the state. Nine authorities out of the twelve responded to the survey (attachment #7). The responding authorities represented counties with both private and public institutions of higher education. Table #2 shows the responses from the nine educational facilities authorities across the state.

Table #2: Educational Facilities Authorities: Statewide Comparison

Counties	Are bonds issued for Private or Public Universities	Projects Sponsored: School Infrastructure? Student Housing?	Are bonds issued only for institutions of higher education?	Does the Authority own or operate projects it issued bonds for?	Donate scholarships to institutions of higher education?
Broward	Private Universities	School Infrastructure and Student Housing	Yes	No	No
Collier	Private Universities	School Infrastructure and Student Housing	Yes	No	No
Hillsborough	Private Universities	Student Housing	Yes	No	No
Lee	Private Universities	School Infrastructure	Yes	No	No
Leon	Neither	Student Housing	No	Yes	Yes
Miami-Dade	Public/Private Universities	School Infrastructure and Student Housing	Yes	No	No
Orange	Private Universities	School Infrastructure and Student Housing	Yes	No	No
Palm Beach	Private Universities	School Infrastructure and Student Housing	Yes	No	No
Volusia	Public/Private Universities	School Infrastructure	Yes	No	No

Many of the authorities issue bonds for private institutions of higher education, and a few public institutions, for school infrastructure and student housing. Some of these projects include libraries, laboratories, classrooms, stadiums, and dormitories. None of the authorities surveyed manage projects that they have issued bonds for and do not make scholarship donations. Leon County was the exception for both. A Wall Street Journal Article published in 1995 also explores responsibilities and oversight of the authorities, including one of the authorities that was not responsive to the survey (attachment #11).

Project Application and Evaluation Process:

The Authority does have an application and evaluation process for approving the bonds for projects. The Authority requires all applicants to submit a generic application and a fee (attachment #12).

During the Authority's January 14, 2009 quarterly meeting, the application fee was raised from \$10,000 to \$25,000. The new fee structure requires a \$10,000 non-refundable deposit and a \$15,000 professional services escrow account (attachment #13). Once these professional expenses reach 80% of the escrow amount, the applicant will be notified and requested to refill the account. A refund will be issued if the additional funds are not needed. The application fee was raised due to the increased cost in project evaluations, such as financial advisor and attorney fees.

Upon submittal of a completed application, the Authority reviews the application. In response to staff's questions, the Authority stated that the only common requirements among projects are that they meet the "statutory objectives and serve a public purpose/need which is supportive or complimentary of the missions of institutions of higher education, and that the operational and financing plan and long term projections for the project appear sustainable, credible, and would meet requirements to obtain reasonable financing through the private funding mechanisms" which must be secured by the applicant (attachment #6). The Authority determines whether or not the project meets a public purpose beneficial to the institutions of higher education.

Once the applicant has secured private financing, the Authority requests a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearings from the Board. The TEFRA is a requirement of Federal law in order to obtain the federal income tax benefits. Depending on the outcome of the TEFRA hearing, the Authority will or will not proceed with issuing the bonds to the applicant. Recently, the Authority requested a TEFRA hearing for Create Inc. prior to securing private financing for the project. Staff recommends that the Authority only request a TEFRA hearing from the Board once all financing for the project is in place, in accordance with the application and evaluation process.

During the November 25, 2008 meeting, the Board adopted a conduit financing policy and directed all Authorities seeking to request TEFRA hearings from the County adopt policies equal to the County policy (attachment #14). Staff will forward the policy to the Authority for implementation.

Southgate Campus Centre: Project Overview

The Southgate Campus Centre is a student only housing facility that serves Florida State University (FSU), Florida A&M University (FAMU), and Tallahassee Community College (TCC). Southgate has a total of 268 rooms (536 beds) all of which are fully furnished with study lounges and a full service dining program. The Authority owns this student housing project and has employed a management company to oversee the daily operations. The Authority and the bondholders approve Southgate's annual budget. Currently, Southgate's occupancy rate is 52%.

On November 16, 1990, in response to the Board of Regents request for information, FSU's Vice President for Student Affairs, Jon Dalton, voiced concerns about the cost of the project and the market demand for such a dormitory (attachment #15). As previously mentioned, the July 17, 1990 agenda item indicated that the Authority could be used for such financing. The Authority did decide to secure financing for the project. In July 1991, \$28.7 million in tax-free bonds were issued through the Authority. Two years later the developer of Southgate filed for bankruptcy with the construction only 85% complete. In the spring of 1994, Southgate defaulted on the bonds. The Authority decided to take ownership of the project in order to ensure its completion. The Authority has stated that since August 1995 Southgate has operated successfully and continues to be a safe student housing alternative.

Heritage Grove: Project Overview

In addition to Southgate, the Authority also owns the Heritage Grove Project and leases the land from FSU and the State of Florida. Heritage Grove provides housing for several student organizations, including fraternities, as well as an alternative housing solution for FSU students. Only registered FSU students may live at Heritage Grove. Since 2004, the rate of occupancy for Heritage Grove has remained close to 100%, with the exception of 2007 when the rate was 93%.

University Courtyard:

The University Courtyard is a conduit financing project sponsored by the Authority. In response to staff inquiries on the Authority's involvement in University Courtyard, the Authority stated that the project is managed by Muni Mae, on behalf of itself and the bondholders. The Authority has never actively managed the project (attachment #6).

Summary of Authority's Projects:

Staff observed that while the Authority manages two student housing projects, it still makes decisions on whether or not other student housing projects are beneficial to the community. These housing projects could be in direct competition with the Authority's own projects. For instance, as discussed above, the Authority's own Southgate project has a low occupancy rate. Recommending issuance of tax free bonds for additional student housing would put new rooms on the market that could be competing for the Authority's residential opportunities. In fact, Bondholder's Risk section of the Heritage Grove bond documents state that "any competing facilities... including the existing Southgate student housing facility owned by the issuer, could adversely affect occupancy of the project" (attachment #16).

This apparent conflict of interest does not support the Authority purpose of assisting institutions for higher education in the construction, financing, and refinancing of projects, which is not limited to student housing. These projects can range from stadiums, administrative buildings, libraries, classrooms, and laboratories. According to the comparison of other authorities across the state, the Leon County Authority is the only authority that has issued bonds for projects that it owns and operates.

Finding:

3. The Authority's application and evaluation process is as follows: 1) an applicant submits an application and fee to the Authority; 2) the Authority reviews the application and determines whether or not the project meets a public purpose beneficial to the institutions of higher education; 3) the applicant secures financing; 4) the Authority requests a TEFRA hearing from the Board; and 5) the bonds are then issued. However, this process was not followed when a TEFRA was requested for Create Inc.

4. The Authority manages two student housing projects and makes decisions on whether or not other student housing projects are beneficial to the community. These projects could be in direct conflict with the Authority's own projects. In addition, the Leon County Authority is the only authority in the state of the Florida that owns and manages projects. All other authorities surveyed are a means of conduit financing.

Recommendation:

3. Require the Authority to only request a TEFRA hearing from the Board once all financing for a project is in place, in accordance with the application and evaluation process.

4. Require that the Authority not own or operate any educational facilities or dormitories beyond its current properties.

Leon County Educational Facilities Authority's Response:

3. The Board of County Commissioners (BCC) hearings for the CREATE proposal were done out of the normal sequence, at the specific request of the County's Bond Counsel. Situations will arise, such as occurred in the CREATE process, where the ultimate financing arrangement cannot be confirmed as "in place" until TEFRA approval is given.

4. The Florida Statutes which authorize the creation of the County Educational Facilities Authorities, the BCC Enabling Resolution which gave birth to the Leon County EFA, and opinions from the Circuit Court and the Florida Supreme Court regarding the activities of the Leon County EFA in particular, confirm and validate the Leon County EFA's authority to own, operate, and manage projects. The Legislature expressly allowed for the establishment of EFAs

by county, so that communities could decide what was best for their own particular situations. There is not a mandate or even a recommendation in the statute that all Authorities operate using the same priorities, methods, policies, or procedures. The mix of higher educational institutions and population in Leon County is unique to this community, and it should not be presumed that the Leon County EFA would operate in the same way as an Authority in a very different community, such as Broward, Miami-Dade, etc. The projects which the Authority now has, or has recently had/considered, were each analyzed and considered in depth, and determined to be unique in their own right and were not felt by the Authority to be in competition with one another. This is a basic policy issue, and one of many reasons why the law provides for the creation of an entity such as the Authority.

Budget and Financing:

In accordance with Florida Statutes 243.23, all expenses incurred in carrying out the provisions of the duties and powers of the Authority must be paid solely by the Authority. The statutes state that notes, bonds, or other obligations incurred by the Authority shall not be deemed a pledge of the faith or credit of the County (FS 243.29). In addition, the Authority may also acquire real property solely from funds provided by the Authority.

Budgets and Financial Statements:

In preparation for this review, staff requested the Authority's budgets for the past three years (attachment #17). These budgets show the amount of revenue the Authority receives from monthly fees, issuer fees, and interest earned. The fee revenue is for the Authority's oversight and management of the Southgate and Heritage Grove projects. In FY07, the Authority received \$145,762 in fees and donated 45% to scholarships for institutions of higher education. The Authority's expenses for the executive director, general counsel, meetings, audits, and scholarship donations are also detailed in these budget documents.

Staff also requested the past five years of audits from the Authority (attachment #18). Staff has reviewed these audits and has met with the Authority and the auditors to discuss the reports. Table #3 outlines the total assets, liabilities, and net assets of the Authority.

Table #3: Leon County Educational Facilities Authority: Total Statement of Net Assets

	2004	2005	2006	2007	2008
Total Assets	\$52,201,952	\$48,191,633	\$46,633,568	\$44,297,079	\$41,927,989
Total Liabilities	\$65,414,334	\$63,372,360	\$64,063,497	\$64,806,739	\$65,521,655
Total Net Assets	(\$13, 212,382)	(\$15,180,727)	(\$17,429,929)	(\$20,509,660)	(\$23,593,666)

The auditor for the Authority reports in the management letter for the year ending September 30, 2008 financial statements that the Authority has a deficit in net assets of over \$23 million, as shown above. A deficit in the fund balance/net assets is a required disclosure since this condition meets one of the conditions under the Florida Statutes 218.503(1) for financial emergency. Florida Statute states that the determinations of a financial emergency is "failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds; or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets, are not available to cover the deficit."

Currently the County and the Authority employ the same Financial Advisor. Staff recommends that in order to have another level of financial analysis, the Authority obtain an independent Financial Advisor, which is not affiliated with the County.

Southgate Campus Centre: Financial Overview

In May 29, 1998, the Authority issued \$12 million in Series A bonds, with 6.75% interest, and \$20.5 million in B bonds, with 7.625% interest, in order to pay for the 1991 bonds (attachment #19). The September 30, 2008 audit for the Authority shows \$26.2 million in payable revenue bonds with \$15 million in accrued interest payable.

Currently, the Authority's immediate concern is its ability to make the A bond payments. Table #4 shows the decreased rate of occupancy for Southgate over the past three years. The bond documents state that the Authority must maintain a reserve fund of \$955,412, for the debt service payment on the bonds in the event of a shortfall. The Authority has acknowledged that the student housing market has experienced a significant downturn. One of these factors is the additional 1,700 new dormitory units that have been opened by FSU.

Table #4: Southgate: Statement of Net Assets

	2004	2005	2006	2007	2008
Rate of Occupancy	100%	100%	96%	78%	52%
Total Assets	\$20,110,131	\$19,694,198	\$18,919,969	\$17,551,812	\$16,240,513
Total Liabilities	\$38,253,623	\$39,689,514	\$40,601,825	\$41,661,168	\$42,546,039
Total Net Assets	(\$18,143,492)	(\$19,995,316)	(\$21,681,856)	(\$24,109,356)	(\$26,305,526)

During the January 14, 2009 quarterly meeting, the Authority met with the Bond Trustees and the Southgate management company to discuss the current financial situation of the dormitory. A discussion was held regarding how the March bond interest payment would be made. It was agreed that a decision would be stayed pending the success of the revised marketing campaign and a strategy implemented to replace the reserve funds, which have recently been used to make past bonds payments.

In conversations with the Authority, staff learned that in light of the project's current financial status the Authority agreed to suspend the issuer fee for Southgate, approximately \$35,000. These fees are ordinarily used to fund scholarship donations.

Staff inquired about the steps the Authority is taking regarding the decrease in revenue. The Authority stated that it is working with the management company to "aggressively increase marketing and cost-cutting measures" (attachment #6). In an effort to strengthen the marketing campaign and attract more students to Southgate, a budget amendment was approved to add \$72,000 to the current marketing budget during the January 2009 quarterly meeting. However, this marketing effort will be directed toward next year's occupancy rate and according to the 2009 Budget and Marketing Calendar that projected occupancy rate is 85% (attachment #20).

Currently, Southgate is only maintaining a 52% occupancy rate, a 26% decrease over the previous year. The Authority has stated that "due to many fixed costs and the need to maintain attractiveness of these projects for the long run, expenses cannot necessarily be pared down." The Bond Trustees, the Authority, and the management company are continuing to work together in order improve the financial status of the facility. The Authority is working on contingency plans with the Bond Trustees for the March bond payment, if the financial environment does not improve. Staff recommends that the Authority continue to work with the Bond Trustees and the management company in order to develop contingency plans for the

current and future bond payments, as well as develop a plan to replenish the bond reserve fund, and provide timely updates to the Board of County Commissioners as soon as additional information becomes available.

Heritage Grove: Financial Overview

On November 18, 2003, the Authority created a separate Limited Liability Company, LCEFA Ocala Road, LLC (LCEFA), in order to be the borrower for the Heritage Grove bonds (attachment #21). The LCEFA is a single member company and is comprised of the Board appointed members of the Authority. The Authority stated that a TEFRA hearing was not required for this project, due to the project's location on state land and that the Authority, the Issuer, and the LCEFA, the Borrower, are both tax exempt entities; therefore, the Authority did not request the Board's involvement.

In December 2003, the Authority issued revenue bonds for the Heritage Grove project in the amount of \$23.3 million (attachment #16). In addition, the Authority entered into a contract with FSU and the State of Florida for a 50 year land lease on the Heritage Grove site. FSU also contributed \$4 million to the project for infrastructure and parking.

Prior to the issuance of the Heritage Grove Bonds, the County Administrator asked the Executive Director of the Authority to brief the County's Finance Advisory Committee of current projects and future projects being considered (attachment #22). This request was made in order to notify the Finance Advisory Committee of how projects may impact the overall indebtedness and future bonding capacity. Staff recognizes the independent nature of the Authority as noted in FS 243.38. However, due to the large portion of tax exempt bonds that the Authority has the ability to issue, staff recommends that the Authority provide notice to the Board regarding any projects that receive tax exempt bonds, even if a TEFRA hearing is not required for the project.

Since 2004, the rate of occupancy for Heritage Grove has remained close to 100%, with the exception of 2007 when the rate was 93%. Although Heritage Grove has been able to maintain a high rate of occupancy, the total net assets for Heritage Grove continue to decrease as shown in Table #5.

Table #5: Heritage Grove: Statement of Net Assets

	2004	2005	2006	2007	2008
Rate of Occupancy	100%	100%	100%	93%	99%
Total Assets	\$28,872,917	\$28,131,122	\$27,378,058	\$26,367,290	\$25,366,289
Total Liabilities	\$23,579,597	\$23,682,846	\$23,461,672	\$23,143,635	\$22,795,616
Total Net Assets	\$5,293,320	\$4,448,276	\$3,916,386	\$3,223,655	\$2,570,673

Staff inquired about this decrease in net assets and the Authority stated that Heritage Grove has had to "maintain its rental structure at close to 2005 rates in order to remain competitive" (attachment #6). By not increasing rental rates at 3% annum, as originally intended, the total net assets for Heritage Grove have decreased by \$2.7 million in the past five years. Additionally, in the September 30, 2008 audit of the Authority, the auditors noted that the fixed charges coverage ratio fell below the required Bond covenant of 1.20 to 1.07. As required by the bond documents, the Authority has stated that it is working with financial consultants to address this note and that it "may require longer term adjustments of present financing structures."

According to the Heritage Grove bond documents, five years from the date the original bonds were issued the bonds are eligible for defeasance, thus allowing student organizations that are

leasing property to purchase it. Defeasance will also be allowed again in another five years. Defeasance is a financing tool by which outstanding bonds may be retired without bond redemption or implementing an open market buy-back. In essence, these student organizations will be able to purchase property allowing the Authority to pay back that portion of the bond. The cost of each eligible property site is \$2.9 million, which is the minimum selling price, as determined by an independent consultant. According to the bond documents, the bonds for Heritage Grove must be defeased or the property sold for the consultant's value or an independent appraised value, whichever is higher.

The Authority has issued letters to these student organizations notifying them of this opportunity (attachment #23). A meeting was also held in which five out of the eight organizations attended. Though not noted in the minutes, during the Authority's January 14, 2009 quarterly meeting, staff observed one student organization express their concern over the high cost of the property and state that many organizations do not have the ability to pay such a high cost (attachment #13). The organization also expressed concern over the property value, which it believes to be lower than \$2.9 million. The Authority has created a committee to explore obtaining an additional independent appraisal of Heritage Grove in order to determine the property value.

University Courtyard: Financial Overview

As stated previously, the University Courtyard is a conduit financing project sponsored by the Authority. The University Courtyard went through the application process with the Authority and a TEFRA hearing was conducted by the Board on February 15, 2000 (attachment #24). Financing for the project, in an amount not to exceed \$10.4 million, was approved by the Board. The Authority is not involved in the day-to-day management of University Courtyard.

It is important to note that that Authority's audits indicate that upon repayment of the bonds, in 2040, that the Authority would take ownership of the University Courtyard. According to the Authority, the project would be "directed to the use, benefit, and ownership of Florida A&M University" if the university accepted. However, the Authority has stated that Muni Mae has intentions of taking over all ownership interest in University Courtyards.

Finding:

- 5. The Authority and the County currently share the same Financial Advisor.*
- 6. The auditor for the Authority reports in the management letter for the FY2008 financial statements that the Authority has a deficit in net assets of over \$23 million. A deficit in the fund balance/net assets is a required disclosure since this condition meets one of the conditions under the Florida Statutes 218.503(1) for financial emergency. The Authority also has concerns regarding the current debt service on the A bonds for Southgate. In the past, the Authority has used a portion of the bond reserves for debt services. The bond reserve has not been fully replenished. Additionally, the FY2008 audit reports that the debt coverage required for Heritage Grove fell below the required 1.20 to 1.07. The auditor notes that a financial consultant must be engaged. Due to these conditions, and the low rate of occupancy at Southgate, the Authority, Bond Trustees, and the Management Company are currently developing an aggressive marketing campaign and cost cutting measures.*
- 7. Due to the fact that the Heritage Grove Project was built on state land and that the Issuer, the Authority, and the Borrower, LCEFA, are both tax exempt entities, a TEFRA hearing was not required for the project. The Authority did not request the Board's involvement for the project.*

Recommendation:

5. In order to have another level of financial analysis, require the Authority to obtain an independent Financial Advisor, which is not affiliated with the County.
6. Require that the Authority provide updates to the Board on these contingency plans, as soon as they are available.
7. Require the Authority to notify the Board of any projects receiving tax exempt bonds, due to the large portion of tax exempt bonds that the Authority has the ability to issue, even if a TEFRA hearing is not required for the project.

Leon County Educational Facilities Authority's Response:

- 5. The Authority believes that it makes good sense and offers certain economies of operation, to share the same Financial Advisor. This allows for yet another means of communication between the Authority and County staff/BCC and is viewed as an added benefit and safeguard to the County's interests, as the County has previously established a working and trusting relationship with its Financial Advisor, who is already very familiar with the pertinent workings, concerns, and interests of the BCC. Should the BCC feel that another, wholly separate financial advisor/opinion is warranted in a particular situation, the BCC could always retain one for that specific project.*
- 6. The Authority is well aware of the financial issues presented, and has been in consultation with various financial, bond and legal counsel, the project management company, the bond trustee and bondholder representatives, to develop appropriate plans moving forward. The Authority will continue to work with these advisors and others in its ongoing efforts to address the financial concerns. In years past, a county staff person had been designated as a liaison to the Authority, and regularly attended its meeting for the purposes of providing continual reporting and feedback on Authority's activities to the county staff/BCC. The Authority would like to see a renewed involvement by County staff or commissioners. In forthcoming recommendations from the Authority chairman to the BCC it will be requested that a county commissioner be designated as an additional member of the Authority (such as is done with some other county appointed authorities and committees), and it will also be requested that at least an annual meeting be held between the Authority chairman and the chairman of the BCC.*
- 7. The Authority presented the entire Heritage Grove project to both the BCC and the Tallahassee City Commission as well as the Planning and Zoning Commission and other governmental authorities, all of which were required to approve the project. As a matter of practice, the Authority has and will always keep the BCC apprised of any projects receiving tax exempt bonds, even if a TEFRA hearing is not required.*

Community Involvement:

Scholarships:

The Authority has been issuing scholarships locally for about 15 years. Proceeds from the Authority's projects are re-invested in the community through these scholarships. The Authority estimates that \$20,000 is given annually to each the following higher education institutions: Florida State University (FSU), Florida A&M University (FAMU), and Tallahassee Community College (TCC) (attachment #25).

The Authority has budgeted \$70,000 for its scholarship donation for the past fiscal year. As stated previously, funding for scholarships is derived from the Authority's fee revenues from

Southgate and Heritage Grove. Approximately 45% of the total fee revenue, from Southgate and Heritage Grove, is contributed to scholarships. According to the statewide comparison, Leon County Authority is the only authority that issues scholarships to institutions of higher education. Staff recommends that the Authority no longer use Southgate revenue to support scholarships due to the current financial status of the dormitory. Also if the net assets associated with Heritage Grove continue to decline, the Authority should re-evaluate the on-going scholarship funding. Staff supports the Authority's scholarship contributions to public institutions of higher education and recommends that funds for the scholarship continue to be derived solely from the Authority's fee revenue when this revenue is available.

While financial assistance is provided to the institutions of higher education through the Authority's scholarship donations, the projects from which the revenue for the scholarships are derived may not directly fulfill the Authority's statutory mission. As stated previously, the Authority was created to provide an opportunity for "the youth in the community (Leon County) to learn and develop their intellectual and mental capacities because a shortage of educational facilities." Staff recommends that the Authority ensure that all projects, exclusive of any scholarship funds, fulfill its statutory mission of providing educational opportunities, when there is a shortage, and assist institutions for higher education in the construction, financing, and refinancing of projects.

Institutions of Higher Education:

In order to gain input from the institutions of higher education regarding the Authority, the County Administrator wrote a letter to each of the three public institutions in Leon County (attachment #26). Both TCC and FSU expressed support of the Authority. In the letter from the President of TCC, Dr. Bill Law, he stated that the Authority has made valuable donations to the scholarship funds of TCC (attachment #27). However, Dr. Law did urge caution about a "quasi-governmental entity operating day-to-day enterprises in a competitive and fast moving environment" such as student housing. Dr. Law also expressed his support for the continuation of the Authority as "an alternative means of funding projects." In a similar letter, FSU Senior Vice President of Finance and Administration, John Carnaghi, has indicated that in the last five years the Authority has donated \$90,000 in scholarships (attachment #28). Mr. Carnaghi did note that the Authority offers safe off-campus housing for students and serves as a "screening of investors/developers interested in building/operating student housing" which are often referred by FSU to the Authority for evaluation. Mr. Carnaghi also expressed his support for the Authority. FAMU did not respond to the County Administrator's letter.

According to Florida Statute, the Authority is to "designate a participating institution for higher education as its agent to establish rules and regulations for the use of a project" (FS 243.22(8)). Based on the input of the institutions of higher education, TCC and FSU, staff recommends that the application process for potential educational facilities projects include a letter of support from an institution of higher education. This letter of support will allow the Authority to document fulfilling its statutory obligation to "assist institutions for higher education in the construction, financing, and refinancing of projects" (FS 243.22) as well as provide community support of such a project. For instance, the Authority reviewed an application for a student housing project and attached was a letter from FSU called "Form of Florida State Referral Agreement" (attachment #29). In this letter, FSU expressed its support for reasonably convenient, suitable, and affordable housing for students. The application for this project was later withdrawn.

Finding:

8. Southgate currently has an occupancy rate of 52%, the debt service reserve is not fully funded, and approximately 45% of the total fee revenue, from Southgate and Heritage Grove, is contributed to scholarships.
9. The Authority issues scholarships to institutions of higher education from revenue derived from its own projects. In addition, the Leon County Authority is the only Authority in the state to issue scholarships according to the statewide comparison study.
10. The Authority was created to provide an opportunity for the youth community (Leon County) to learn and develop their intellectual and mental capacities because of a shortage of educational facilities.
11. Both Florida State University and Tallahassee Community College expressed their support for the Authority, especially concerning the scholarship donations.

Recommendation:

8. Require that the Authority no longer use Southgate revenue to support scholarships due to the current financial status of the dormitory. If net assets associated with Heritage Grove continue to decline, the Authority should re-evaluate the on-going scholarship funding.
9. Support the Authority's scholarship contributions to public institutions of higher education and require that funds for the scholarship continue to be derived solely from the Authority's fee revenue when this revenue is available.
10. Require that the Authority ensure that all projects, exclusive of any scholarship funds, fulfill its statutory mission of providing educational opportunities, when there is a shortage, and assist institutions for higher education in the construction, financing, and refinancing of projects.
11. Require that the Authority include a letter of support from an institution of higher education as part of the application process for potential educational facilities projects, thus allowing the Authority to document fulfilling its statutory purpose of assisting these institutions.

Leon County Educational Facilities Authority's Response:

8. The Authority does not use "revenue" to fund scholarships and could not do so without being in violation of the bond documents. The Authority funds scholarships from the administrative fees earned by it in accordance with the bond documents. Scholarships will continue to be derived from the Authorities administrative fees and funds.
9. Please see the foregoing response to Item No. 8. The Authority is proud to apparently be the only authority in the state to award scholarships.
10. The Authority has and will continue to abide by the Florida statutory provisions and BCC enabling resolution which created and authorized the Authority's mission of providing higher educational opportunities and assistance to benefit the institutions of higher education in the community.
11. As part of its due diligence, the Authority always takes into consideration how its projects fulfill its statutory mission of assisting the community's institutions of higher education. A "letter of support" is a board statement, and one that educational administrators may not be in a position to issue on a given project. Historically and by design, the Authority has always had members from the FSU, TCC, and FAMU administrations, so as to assure open lines of

communications as to the needs and desires of the three institutions of higher education in Leon County.

Conclusion:

Consistent with the findings in this management review, staff recommends that the Board adopt all of the recommendations, which include the following:

- Require that the Authority coordinate with the Public Information Officer to include meetings on the County Calendar.
- Require the Authority to prepare an annual report, complete with operating and financial statements, and present it to the Board by March 1st of each year.
- Require the Authority to only request a TEFRA hearing from the Board once all financing for a project is in place, in accordance with the application and evaluation process.
- Require that the Authority not own or operate any educational facilities or dormitories beyond its current properties.
- In order to have another level of financial analysis, require the Authority to obtain an independent Financial Advisor, which is not affiliated with the County.
- Require that the authority provide updates to the Board on these contingency plans, as soon as they are available.
- Due to the large portion of tax exempt bonds that the Authority has the ability to issue, require the Authority to notify the Board of any projects receiving tax exempt bonds, even if a TEFRA hearing is not required for the project.
- Require that the Authority no longer use Southgate revenue to support scholarships due to the current financial status of the dormitory. If net assets associated with Heritage Grove continue to decline, the Authority should re-evaluate the on-going scholarship funding.
- Support the Authority's scholarship contributions to public institutions of higher education and require that funds for the scholarship continue to be derived solely from the Authority's fee revenue when this revenue is available.
- Require that the Authority ensure that all projects, exclusive of any scholarship funds, fulfill its statutory mission of providing educational opportunities, when there is a shortage, and assist institutions for higher education in the construction, financing, and refinancing of projects.
- Require that the Authority include a letter of support from an institution of higher education as part of the application process for potential educational facilities projects, thus allowing the Authority to document fulfilling its statutory purpose of assisting these institutions.