

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



January 7, 2004

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SAN MARCOS

SONOMA

STANISLAUS

MEMORANDUM

TO: CSU Presidents

FROM: Charles B. Reed
Chancellor

SUBJECT: Administration of Grants and Contracts
in Support of Sponsored Programs - Executive Order No. 890

Attached is a copy of Executive Order 890 relating to all Sponsored Programs applied for, awarded to and/or administered by any campus of the California State University, the Office of the Chancellor, or any Auxiliary.

Presidents are requested to submit a reply to me no later than July 1, 2004, indicating the campus has completed preparation of their written policy and is in compliance with the policy directives for administration of sponsored programs in accordance with this executive order.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

If you have questions regarding this executive order, please call Contract Services and Procurement at (562) 951-4590.

CR:pd

Attachment

cc: Vice Presidents, Academic/Provosts
Chief Administrative Business Officers
Foundation Directors
Executive Staff, Office of the Chancellor

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4590

Executive Order No.: 890

Title: Administration of Grants and Contracts in Support of
Sponsored Programs

Effective Date: January 7, 2004

Supersedes: Executive Order No. 168

This executive order is issued under the authority of Section 2 of Chapter III of the Standing Order of the Board of Trustees with reference to Division 8 (commencing with Section 89000), Part 55, Chapter 7, Article 1 of the Education Code and Subchapter 6 (commencing with Section 42000) of Chapter 1 of Title 5 of the California Code of Regulations and related policies adopted by the Board of Trustees. It applies to all Sponsored Programs applied for, awarded to and/or administered by any campus of the California State University, the Office of the Chancellor, or any Auxiliary.

Article 1. Definitions

- 1.1. **“Auxiliary”** means an Auxiliary Organization as defined in Executive Order No. 698.
- 1.2. **“Contract”** means an agreement between the University or Auxiliary and a Sponsor to provide an economic benefit, generally in the form of services, for compensation. The agreement is binding and creates a *quid pro quo* relationship between the parties.
- 1.3. **“Grant”** means a financial contribution to a Recipient to carry out an approved project or activity. A Grant generally anticipates no substantial programmatic involvement of the Sponsor with the Recipient during performance of the project or activity, but Sponsors usually request an accounting of the use of funds and of results of the project or activity. The University or Auxiliary may commit resources or services as a condition of the Grant.
- 1.4. **“Principal Investigator”** means the individual (whether referred to in the Contract or Grant as a Principal Investigator, Project Director or other similar

term) designated by the Sponsored Program Administrator to be responsible for ensuring compliance with the academic, scientific, technical, financial and administrative aspects and for day-to-day management of the Sponsored Program.

- 1.5. **“Recipient”** means the University or Auxiliary awarded a Contract or Grant. The Recipient is the University or Auxiliary, as the case may be, even if a particular component is designated in the award document, and shall not be an individual, department or other constituent unit.
- 1.6. **“Sponsor”** means the party paying for the services or other economic benefit under a Contract or providing the financial contribution for a project or activity under a Grant.
- 1.7. **“Sponsored Program(s)”** means all work performed under Grants or Contracts funded by non-CSU funding sources (including non-CSU- funded Contracts and Grants that are subsequently subcontracted to another campus).
- 1.8. **“Sponsored Program(s) Administrator”** means the entity (University or Auxiliary) designated by the Recipient to administer the Sponsored Program.
- 1.9. **“Sponsored Program Records”** include, but are not limited to, accepted proposals and applications; Contracts or Grant agreements; program reports and data; correspondence; budgets and supporting financial documentation; supporting human resources documentation; and other records relating to receipt, review, award, evaluation, status and monitoring of the Sponsored Program.
- 1.10. **“Sponsored Program Work Product”** means any work created in the performance of a Sponsored Program. Unless the Contract or Grant states otherwise, Sponsored Program Work product does not include journal articles, lectures, images, books or other works that are subject to copyright protection and have been created through independent academic effort and based on the findings of the Sponsored Program.
- 1.11. **“University”** means one of the campuses of the California State University or the Office of the Chancellor.

Article 2. General

Sponsored Programs provide significant benefit to the California State University (CSU) and further its educational mission by facilitating research, workshops, conferences, institutes and other projects that enrich the scholarly endeavors of faculty and students and enhance the services provided by the University to California communities. This executive order sets policy to be followed by each campus and any Auxiliary administering Sponsored Programs to ensure that the University or Auxiliary maximizes the benefits of Sponsored Programs and supports faculty, students, and administrators in effectively securing and carrying out Sponsored Programs.

2.1. President's Responsibility

The president of each campus is responsible for the educational effectiveness, academic excellence, and general welfare of the campus over which s/he presides. The president shall require that the University and the Auxiliary operate in conformity with applicable law and the policies of the CSU and the campus when proposing and administering Sponsored Programs. Sound management and administration of Sponsored Programs requires coordination among organizationally separate units and individuals on the campus, and therefore the campus president should identify for each area of policy the campus official responsible for implementing that area of the policy.

2.2. Written Policy

Each campus shall establish a written policy on the management of Sponsored Programs that incorporates the components outlined in this executive order and that is consistent with policies relating to risk management, environmental health and safety, conflicts of interest, research misconduct and other applicable CSU and campus policies. In the event that a given Contract or Grant contains terms and conditions that are not in conflict with but are more restrictive than those provided in the campus policy, the more restrictive terms and conditions of the Contract or Grant shall prevail.

Article 3. Sponsored Program Administration

3.1 Proposal Submission, Review, and Approval

3.1.1. Pre-Award Review and Approval of Proposal Submission. Proposals for Sponsored Programs shall not be submitted to the Sponsor without prior written approval of the president of the University or the president's University designee and of the chief financial officer of the University or the chief financial officer's University designee.

3.1.2. Pre-Acceptance Approvals. Awards of Contracts or Grants shall not be accepted without prior written approval by appropriate officials of the University and Auxiliary responsible for the following areas, if applicable: (a) academic/programmatic; (b) fiscal, (c) health and safety; (d) human and animal subject research; (e) space; (f) major technical resources and equipment; and (g) risk management.

3.1.3. Notice. The campus policy shall provide for notice to all personnel responsible for the preparation of proposals and applications for Sponsored Programs that, if awarded, the Recipient of the Contract or Grant shall be the University or Auxiliary and not an individual, department, or other constituent unit.

3.1.4. Amendment of Contract or Grant. The campus policy shall specify the approvals necessary to amend a Contract or Grant.

3.2 Performance of Grants and Contracts

3.2.1. Administration of Sponsored Programs. Prior to acceptance, the Recipient shall designate either the University or an Auxiliary to administer the Contract or Grant. This entity shall be the Sponsored Program Administrator. The Sponsored Program Administrator is legally responsible and accountable to the Sponsor for the use of the funds provided and the performance of the Sponsored Program.

3.2.2. Master Agreement between University and Auxiliary for Administration of Sponsored Programs. The University and the Auxiliary shall enter into a master agreement setting forth the roles and responsibilities of each party with regard to the administration of Sponsored Programs by an Auxiliary. The Auxiliary shall agree, among other things, to:

- a. Indemnify, defend and save harmless the University from all loss, damage or liability that may be suffered or incurred by the University caused by, arising out of, or in any way connected with the administration of Sponsored Programs by the Auxiliary; and
- b. Carry adequate insurance in accordance with CSU policy (see Executive Order No. 849).

3.2.3. Implementation Plan. The Sponsored Program Administrator shall prepare an implementation plan for each Contract or Grant that shall include, but not be limited to, the following, if not already specified in the Contract or Grant or master agreement:

- a. Identification of the Principal Investigator and staffing needs for the Sponsored Program;
- b. Identification of the funds and resources available, the projected budget, and other fiscal administrative requirements; and
- c. Identification of the person or entity responsible for security, ownership, custody and retention of the Sponsored Program Work Product and Records after completion of the Sponsored Program.

3.3 Human Resources Policy

3.3.1. Principal Investigator(s). Each campus shall include in its policy the minimum qualifications and normal responsibilities of Principal Investigator(s) for Sponsored Programs beyond those imposed by the Sponsor. The qualifications of a Principal Investigator shall include, but not be limited to, employment by the University or Auxiliary. Campus policy may establish criteria for limited exceptions for the appointment of

Principal Investigators who are not employees of the University or Auxiliary, but who are officially affiliated with the University, such as individuals with emeritus status or visiting professors or researchers. The campus policy shall include provisions for reassigning the responsibilities of the Principal Investigator(s) in case of the incumbent Principal Investigator's resignation, incapacitation, or failure or refusal to perform the duties adequately. The campus policy shall also address the distribution of responsibilities among Principal Investigators for multi-institutional Sponsored Programs.

- 3.3.2. Employer.** The Sponsored Program Administrator shall be the employer of the Principal Investigator and other employees with regard to work performed in furtherance of each Sponsored Program. The Sponsored Program Administrator shall be responsible for the assignment, evaluation, and termination of Sponsored Program employees and for other employer obligations associated with the performance and payment under the Sponsored Program, all in accordance with campus policy for the administration of Contracts and Grants. This applies regardless of whether the employee is being paid directly by the University or Auxiliary or whether the University is being reimbursed by the Auxiliary for agreeing to reassign an employee from selected University duties in order to work on the Contract or Grant.
- 3.3.3. Additional Employment.** Each campus shall develop a process for monitoring employment, including additional employment through Contracts and Grants, and shall comply with the limits established by the CSU Additional Employment Policy. (See <http://www.calstate.edu/HRAAdm/policies.shtml>.)
- 3.3.4. Misconduct.** Each campus policy shall provide for a procedure for processing complaints of research misconduct or other employee misconduct in connection with Sponsored Programs. Employees working on Sponsored Programs who are also CSU employees shall remain subject to consequences for unprofessional behavior, failure or refusal to perform duties adequately, or other misconduct within the administration of the Sponsored Program and to the University's discipline system.
- 3.3.5. Conflict of Interest.** Each campus shall maintain a policy that complies with conflict of interest requirements of the law and applicable CSU, Sponsored Program Administrator and Sponsor policies and shall alert Principal Investigators to these requirements. (See <http://www.calstate.edu/HRAAdm/policies.shtml>.)
- 3.3.6. Nepotism.** Each campus shall maintain a policy regarding nepotism in the administration of Sponsored Programs that is consistent with CSU policy. (See <http://www.calstate.edu/HRAAdm/policies.shtml>.)

3.4. Academic Policy

- 3.4.1. **Conduct of Research.** Each campus shall identify specific University official(s), in the case of Sponsored Programs requiring scholarly research, who are to be responsible for assisting the Sponsored Program Administrator by providing oversight of the conduct of research and ensuring progress toward fulfillment of Contract or Grant requirements.
- 3.4.2. **Human Subjects Research.** Each campus shall establish a policy for the protection of the rights and welfare of human subjects in research in which the institution is engaged. The institution is engaged when its employees, students, or other individuals performing institutionally designated activities or exercising institutionally delegated authority or responsibility (i) intervene or interact with living people for research purposes or (ii) obtain individually identifiable private information for research purposes. (See 45 CFR 46.102(d),(f) and <http://ohrp.osophs.dhhs.gov/humansubjects/assurance/engage.htm>.) The campus policy shall be adopted and reviewed periodically for consistency with applicable laws and regulations, including but not limited to, Title 45, Code of Federal Regulations, Part 46. Campuses conducting research funded by the Department of Health and Human Services must have a Federal wide Assurance approved by the office of Human Research Protections. When establishing or revising the campus policy, the campus should review the policy guidance provided by the Office for Human Research Protections of the United States Department of Health and Human Services and the accreditation standards of the Association for the Accreditation of Human Research Protection Programs. The campus president or designee is authorized to take appropriate action to implement regulations required by funding and regulatory agencies for the protection of human subjects in research. Each campus shall maintain one or more Institutional Review Boards, appointed by the president or designee, to ensure adequate review of research protocols involving human subjects and the University shall be responsible for ensuring that these protocols are followed. The campus policy shall incorporate provisions for adequate training of research personnel and for multi-institutional Sponsored Programs.
- 3.4.3. **Animal Subjects Research.** Each campus shall establish policy for the procurement, housing, care, and use of live non-human vertebrate animals in Sponsored Program research, in instruction and research by employees of the University or Auxiliary in the regular course of their employment, in research by students in satisfaction of University requirements, and in research or instruction using any University property or facility. These campus policies and procedures shall provide for adequate training for research personnel and shall be consistent with the *Guide for the Care and Use of Laboratory Animals* (Institute for Laboratory Animal Research, Commission on Life Sciences, National Research Council), requirements of the United States Department of Agriculture and regulations

implementing the Animal Welfare Act as amended, other applicable laws and regulations, and, as appropriate, provisions of the United States Public Health Service Policy on Humane Care and Use of Laboratory Animals. The campus president or designee is authorized to take appropriate action to implement regulations required by funding and regulatory agencies on the care and use of animals in research and instruction. Each campus where research or instruction using live non-human vertebrate animals is conducted shall maintain an Institutional Animal Care and Use Committee, appointed by the president or designee, to ensure adequate review of animal facilities, procedures, and research and teaching protocols, and the University shall be responsible for ensuring that these protocols are followed. In connection with the adoption of its policy, the campus is advised to review the United States Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training.

3.5. Fiscal Administration

Each campus shall establish necessary controls to ensure sound fiscal management of Sponsored Programs, regardless of whether the University or Auxiliary is responsible for Sponsored Program administration. It is the responsibility of the Principal Investigator and the Sponsored Program Administrator to adhere to the fiscal terms and conditions of the Contract or Grant and to comply with University and Auxiliary policies and procedures.

3.5.1. Budget. The Sponsored Program Administrator shall be responsible for final certification of project budgets and budget change review procedures. The Principal Investigator for a Contract or Grant shall be responsible for executing the project in conformance with the approved budget. Disbursements shall not be processed on any account unless both parties have executed a Contract or unless all approvals have been obtained and the Grant has been accepted. In cases when the Sponsor allows the institution to incur pre-award costs, and the Sponsored Program Administrator has a policy in place to allow pre-award spending, then disbursements may be made prior to receipt of the award document, in accordance with the Sponsor and Sponsored Program Administrator guidelines.

3.5.2. Account Management. The Sponsored Program Administrator is responsible for the timely establishment of accounts in accordance with the terms and conditions of the Contract or Grant. Procedures shall be in place to define and document approval authority; maintain proper accounting and control of all cash receipts from Contract or Grant billings; review and approve all expenditures for compliance with the Contract or Grant; and ensure completion of accurate and timely reporting for each Contract or Grant. The Principal Investigator is responsible for ensuring

that all expenditures are made in compliance with the approved budget, the Contract or Grant and the Sponsored Program Administrator's policies. The Sponsored Program Administrator's chief financial officer or appropriate designee must authorize payments involving personal expenditures by the Principal Investigator. The Sponsored Program Administrator must certify that funding is available prior to issuance of any personnel action forms.

3.5.3. Fiscal Reporting. The Sponsored Program Administrator shall ensure that all fiscal reports (including final reports) and billings are prepared and submitted, on a timely basis, to Sponsors in accordance with the terms and conditions of the Contract or Grant.

3.5.4. Cost Recovery. All appropriate indirect and direct costs shall be recovered for Sponsored Programs in accordance with CSU policy, University and Auxiliary policies and/or other funding agency requirements.

3.5.5. Cost Sharing. In some cases, the University may share or match costs associated with a Sponsored Program instead of recovering indirect and direct costs. When there is cost sharing or matching in connection with a Sponsored Program, the Sponsored Program Administrator, in conjunction with the Principal Investigator, must document actual costs shared or matching contributions in a manner consistent with the campus cost allocation plans, Sponsor requirements, and in the case of federal Contracts or Grants requirements as stated in OMB Circular A-110.

3.6. Sponsored Program Work Product and Records.

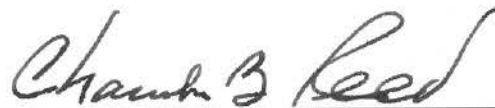
3.6.1. Work Product and Records Policy. Each campus shall develop a policy regarding the security, ownership and retention of Sponsored Program Work Products and Sponsored Program Records. This policy must be compatible with University and CSU policy pertaining to intellectual property. Any Contract or Grant that provides for ownership or license of Work Product or Sponsored Program Records to any person or entity other than the University, shall provide the University with a free-of-cost, nonexclusive license to use the Sponsored Program Work Product and the right to access and use Sponsored Program Records for purposes consistent with the educational mission of the University.

3.6.2. Records Retention. Retention of Sponsored Program Records refers to the storage, preservation or disposal of records once the Sponsored Program is complete. Each campus's policy for Sponsored Program record retention shall comply with applicable law and University and Auxiliary policy, and shall establish a schedule that specifies a) the period of time to retain Sponsored Program records after the Sponsored Program

has been completed; b) disposal of records no longer needed; c) the preservation of records of historical value; and (d) procedures for complying with the Sponsor's record retention requirements.

Article 4. System Office Role/Responsibility

- 4.1. **Legal Advice.** Legal advice concerning Contract or Grant administration that might affect the CSU or the University must be coordinated through the CSU Office of General Counsel.
- 4.2. **System Office.** The offices of Academic Affairs, Business and Finance, and Human Resources in the Office of the Chancellor shall each be responsible for their respective policy functions in the maintenance and support of the requirements of this executive order.



Charles B. Reed, Chancellor

Dated: January 7, 2004