

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

January 27, 2004

CHANNEL ISLANDS

MEMORANDUM

CHICO

DOMINGUEZ HILLS

TO: CSU Presidents

FRESNO

FROM: Charles B. Reed
Chancellor

FULLERTON

HAYWARD

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

HUMBOLDT

LONG BEACH

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.

LOS ANGELES

MARITIME ACADEMY

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

MONTEREY BAY

NORTHRIDGE

POMONA

In accordance with policy of the Office of the Chancellor, the Chancellor has the responsibility for implementing executive orders which are applicable after maintaining the campus responsibility and fiscal for all executive orders.

SACRAMENTO

SAN BERNARDINE

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

SAN DIEGO

CR:pd

SAN FRANCISCO

Attachment

SAN JOSE

SAN LUIS OBISPO

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

SAN MARCOS

SONOMA

STANFORD

THE CALIFORNIA STATE UNIVERSITY

Office of the Chancellor
401 Golden Shore
Long Beach, California 90803-4310
(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. 100

This executive order is issued under the authority of Section 2 of Chapter III of the Standing Order of the Board of Trustees (Section 90000 of the Education Code and Subchapter 6 of Chapter 1 of Title 5 of the California Code of Regulations and related policies adopted by the Board of Trustees) to administer the 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 as defined in Section 90000 of the Education Code and Section 698.
- 1.2. "Contract" means an agreement between a Sponsor and a Recipient, whereby the Sponsor provides an economic benefit, generally in the form of services or compensation, to the Recipient, and creates a *munus pro qua* relationship between the parties.
- 1.3. "Grant" means a financial contribution to a Recipient to carry out a project or activity. A Grant generally anticipates no substantial programmatic involvement of the Sponsor with the Recipient during the project or activity, but expects to receive the results of the project or activity. The University or Auxiliary Sponsor commits resources or services to the Recipient 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 Programs Administrator to ensure compliance with the academic, scientific, financial and administrative aspects and for day-to-day management of the Sponsored Programs...

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 giving or financing the services or other performance under a Contract or providing the financial support contribution for a project or activity under a Grant.

1.7. "Sponsored Program(s)" means all work performed under contracts or grants funded by non-CSU funding sources including non-CSU funded Contracts and Grants that are subsequently subcontracted to another campus.

1.8. "Sponsored Programs Administrator" means the entity (University or Auxiliary) designated by the Recipient to administer the Sponsored Program.

1.9. "Sponsored Program Records" is the total, searchable and accessible 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 performance of Sponsored Programs.

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 restriction and have been created through independent academic efforts based on the findings of the Sponsored Program.

1.11. "University" means the California State University Office of the Chancellor.

Article 2. General

Sponsored Programs provide significant benefits 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 fully maximizes the benefits of Sponsored Programs to the University and its communities by 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 she presides. The president shall ensure that the University and the Auxiliary operate in conformity with applicable law and the policies of the Office of the Chancellor when proposing and administering Sponsored Programs. Successful 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 program the individuals responsible for implementing that part of the program.

2.2. Written Policies

Each campus shall establish a written policy on the management of Sponsored Programs that incorporates the following provisions: (a) the University and Auxiliary shall have a policy that is consistent with policies pertaining to research management, safety, health, and safety, conflicts of interest, research misconduct, and other applicable CSO and campus policies; (b) in the event that a given Contract or Grant contains terms and conditions that are not in conflict with the University's policies, 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. All proposals for Sponsored Programs shall be submitted to the sponsor without prior written approval to 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 or Contracts or Grants shall not be accepted without prior written approval by the University and Auxiliary responsible for the following areas: (a) academic/programmatic; (b) fiscal; (c) health and safety; (d) human resources 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 the person responsible for the proposal to the sponsor, who shall be responsible 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 policies 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 of 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 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.** An Auxiliary shall enter into a master agreement setting forth the 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;
- b. Carry adequate insurance in accordance with University 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 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 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 requirements for the Principal Investigator(s) for Sponsored Programs for the University or Auxiliary. The qualifications or requirements for the Principal Investigator(s) shall not be limited to, employment by the University or Auxiliary. Each 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 positions, or individuals with campus policy shall include provisions for reassigning the responsibility of the Principal Investigator(s) in case of the Principal Investigator's resignation. It can be the duties alternately. The campus policy shall also address the distribution of responsibilities among Principal Investigators for multi-institutional Sponsored Programs.

3.3.2. Employer. Each campus Administrator shall be the employer of the Principal Investigator and other employees with whom 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 the obligations associated with the performance and payment under the Sponsored Program, all in accordance with campus policy for 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 Principal Investigator to reassign an employee. This applies to employees on the Contract or Grant.

3.3.3. Additional Employment. Each campus shall have authority to enter into non-exclusive 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/HRAdm/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 appropriate behavior or failure of refusal to perform duties adequately or for 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 Sponsored Policies and shall alert Principal Investigators to these requirements. (See <http://www.calstate.edu/HRAdm/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 policies. (See <http://www.calstate.edu/HRAdm/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 delegated activities or exercising institutionally delegated authority or responsibility (1) intervene or interact with living people for research purposes or (2) obtain, directly or indirectly, identifiable private information for research purposes. (See 45 CFR, 46.101(2)(d), read <http://www.hhs.gov/humanresources/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 its campus policy, the campus should review the policies of the Department of Health and Human Services and the accreditation standards of the Association for the Accreditation of Human Research. The president or designee 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 institutions where research by employees of the University or Auxiliary, through regular course work, or by students in research by students in satisfaction of University requirements and in research or instruction using any University property or facilities. These policies shall be consistent with the *Guide for the Care and Use of Laboratory Animals* (Institute for Laboratory Animal Research, National Research Council, National Academies Press, 1986) and regulations of the United States Department of Agriculture and regulations

implementing the Animal Welfare Act as amended, although 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 use and care 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 conduct a periodic review of animal facilities, procedures, and research and teaching protocols, and the University shall be responsible for ensuring that the protocols are followed. In connection with the adoption of its policy, the campus is advised to refer to the United States Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Experimentation, 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, Contractor, or Grant Administrator to adhere to the terms and conditions of the Contract or Grant and to comply with University Auxiliary policies and procedures.

3.5.1. Budget. The Sponsored Program Administrator shall be responsible for final certification of project budgets and for changing or removing procedures. The Principal Investigator for a Contractor Grant shall be responsible for executing the project in conformance with the approved budget. Disbursement of funds 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 awarded. 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, the 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. The Sponsored Program Administrator shall place to define and document approval authority, maintain proper accounting and control of all cash receipts from Contractor or Grant agencies, review and approve all expenditures for compliance with the Contractor Grant, and ensure completion of all financial and timely reporting for each Contract or Grant. The Principal Investigator is responsible for ensuring

that all university expenses are made in compliance with the approved budget on the Contract of Grant and the Sponsored Program Administrator's policies. The Sponsored Program Administrator's chief financial officer or appropriate designee must authorize payments involving personnel 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 conditions of the Contract of Grant.

3.5.4. Cost Recovery. All appropriate indirect and direct costs shall be recovered for Sponsor. University and Auxiliary policies and/or other funding agency requirements.

3.5.5. Cost Sharing. In some cases, the University may share or offset 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 of Sponsors, 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:

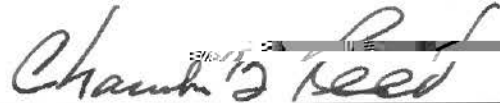
3.6.1. Work Product and Records Policy. Each campus shall develop a policy regarding the security, ownership, and retention of Sponsored Program Work Products and Sponsored Program Records. This policy must be compatible with University and CSU policy pertaining to intellectual property. Any Contract or Grant that prescribes for ownership or license of Work Product or Sponsored Program Records, by 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, 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 over the life of the Sponsored Program is complete. Each campus's policy for Sponsored Program record retention shall comply with applicable State and University and Auxiliary policy, and shall establish a schedule that meets (or exceeds) 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 and 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, 2003