

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4000

Executive Order No.: [D R A F T – FOR REVIEW ONLY]

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

Effective Date:

Supersedes: Executive Order 168

This executive order is issued pursuant to Division 8, Part 55, Chapter 7, Article 1 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. 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.

I. Definitions

- A. **“Auxiliary”** means an Auxiliary Organization as defined in Executive Order 698, as amended from time to time.
- B. **“Contract”** means an agreement between the University or Auxiliary and another entity 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.
- C. **“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 Grantor with the Recipient during performance of the project or activity, but Grantors often request an accounting of the use of funds and of results of the project or activity. The University or Auxiliary generally commits resources or services as a condition of the Grant.
- D. **“Grantor”** 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.
- E. **“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.
- F. **"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.
 - G. **"Sponsored Program Administrator"** means the entity designated by the Recipient to administer the Sponsored Program.
 - H. **"Sponsored Program Work Product"** means any work created in the performance of a Sponsored Program. Work product does not include journal articles, lectures, books or other copyrighted works created through independent academic effort and based on the findings of the Sponsored Program, unless the Contract or Grant states otherwise.
 - I. **"Sponsored Programs"** means all work performed pursuant to Grants or Contracts funded by non-CSU entities.
 - J. **"Research Misconduct"** means fabrication, falsification or plagiarism in proposing, performing, or reporting research or in reporting research results. Fabrication is making up data or results and recording or reporting them. Falsification is manipulating research materials, equipment or processes or changing or omitting data or results such that research is not accurately represented in the research record. Plagiarism is the appropriation of another person's ideas, processes, results, or works without giving appropriate credit. The term does not include honest error or honest differences of opinion.
 - K. **"University"** means one of the constituent campuses of the California State University or the Office of the Chancellor.

II. 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 and society as a whole. 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.

A. President 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 between 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.

B. 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.

III. Sponsored Program Administration

A. Proposal Submission, Review, and Approval

- 1. Pre-Award Review and Approval of Proposal.** Proposals for Sponsored Programs shall not be submitted to the Grantor without prior written approval of the President of the campus or designee following review by appropriate officials of the University and Auxiliary responsible for the following areas: (a) academic/programmatic; (b) fiscal, (c) human resources; (d) health and safety; (e) human and animal subject research (if applicable); (e) space; (f) major technical resources and equipment; and (e) risk management (if appropriate). In addition to the above, the chief financial officer and the chief academic officer or their designees shall approve the proposal in writing prior to its submission to the President or designee.
- 2. 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.

B. Performance of Grants and Contracts

- 1. Administration of Sponsored Programs.** 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 Grantor for the use of the funds provided and the performance of the Sponsored Program.
- 2. Agreement between University and Auxiliary for Administration of Sponsored Programs.** The University and the Auxiliary shall enter into an agreement setting forth the rights 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 849, as amended from time to time).
- 3. Agreement Work Orders.** The agreement between the University and an Auxiliary for the administration of Sponsored Programs shall provide for the issuance of work orders by the Auxiliary for each specific Contract or Grant for which the Auxiliary is the Sponsored Program Administrator. A work order shall include, but not be limited to, the following:
- a. Identification of the specific University officials, in the case of Sponsored Programs requiring scholarly research, who are to be responsible for oversight of the conduct of research, including peer review and evaluation of content of the research;
 - b. Procedures for ensuring progress toward fulfillment of Contract or Grant requirements;
 - c. Identification of the Principal Investigator and staffing needs for the Sponsored Program in accordance with Article III.C of this Executive Order;
 - d. Identification of the funds available, and the projected budget, and other fiscal administrative requirements in accordance with Article III.E of this Executive Order;
 - e. Identification of the entity responsible for custody of the work product and records after completion of the Sponsored Program as required by Article III.F of this Executive Order.

C. Human Resources Policy

- 1. Employer.** The Sponsored Program Administrator shall be the employer of the Principal Investigator and other employees for 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. 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 release an employee from normal duties in order to work on the Contract or Grant.
- 2. 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/HRAdm/policies.shtml>)

3. **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 be subject to consequences for unprofessional behavior or other misconduct within the administration of the Sponsored Program and remain subject to the University's discipline system.
4. **Conflict of Interest.** Each campus shall develop a policy that complies with applicable law and CSU policy requiring annual conflict of interest statements to be filed by all Principal Investigators on non-governmental Contracts and Grants. Individuals involved in non-governmental Sponsored Programs shall disclose any financial interests that could reasonably appear to constitute a conflict of interest. (See <http://www.calstate.edu/HRAdm/policies.shtml>.)
5. **Nepotism.** Each campus shall develop a policy regarding nepotism in the administration of Sponsored Programs that is consistent with CSU policy. (See <http://www.calstate.edu/HRAdm/policies.shtml>)

D. Academic Policy

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 Grantor. The qualifications of a Principal Investigator shall include, but not be limited to, employment by the University or Auxiliary. 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.
2. **Human Subject Research.** Each campus shall establish a policy for the protection of the rights and welfare of human subjects in research conducted in connection with Sponsored Programs, in research conducted by employees of the University or Auxiliary in the regular course of their employment, in research conducted by students in satisfaction of University requirements, and in research using any University property or facility. The campus policy shall be adopted and reviewed periodically for consistency with all applicable laws and regulations, including but not limited to, Title 45, Code of Federal Regulations, Part 46. When establishing or revising the 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 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. **Animal Subject 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 of 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 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.
4. **Intellectual Property.** Each campus shall review its intellectual property policies periodically to ensure that they are current, comprehensive, and consistent with Executive Order 644, as amended from time to time, the CSU/CFA collective bargaining agreement, and all applicable laws and regulations.

E. 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. If the University

or Auxiliary's fiscal policies are more restrictive than the terms and conditions of the specific Contract or Grant, those policies should take precedence over the Contract or Grant.

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.

- 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 administering the project in conformance with the approved budget. Disbursements shall not be processed on any account (except reimbursable contracts) unless funds are available or unless approval for transfer or advances has been given in accordance with the budget.
- 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 maintain proper accounting and control of all cash receipts from Contract or Grant billings; to review and approve all expenditures for compliance with the Contract or Grant; and to ensure completion of accurate and timely reporting for each Contract or Grant. The Sponsored Program Administrator shall provide advice and guidance to Principal Investigators to make expenditures in a manner that assures maximum benefit and utilization of funds from Contracts or Grants. The Principal Investigator must review and approve in writing in advance all payments involving non-personnel expenditures. Both the Principal Investigator and his/her supervisor must authorize payments involving expenditures by the Principal Investigator. The Sponsored Program Administrator must certify that funding is available prior to issuance of any personnel action forms.
- 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 Grantors in accordance with the terms and conditions of the Contract or Grant.

4. **Costing.** All appropriate indirect and direct costs shall be recovered for Sponsored Programs in accordance with CSU policy (see Executive Order 753, as amended from time to time) and campus policies. 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 must document such sharing or matching in a manner consistent with the campus cost allocation plans and must maintain records of actual costs shared or matching expenditures.
5. **Insurance.** A University shall not use an Auxiliary to administer Sponsored Programs for the University unless the Auxiliary has appropriate insurance to protect the Auxiliary and the University against significant loss related to Sponsored Programs.

F. Ownership and Retention of Sponsored Program Work Product

1. **Ownership of Work Product.** Each campus shall develop a clear policy regarding the ownership of Sponsored Program work products. Ownership of copyright to a Sponsored Program work product shall be with the University unless the agreement with the Grantor states otherwise. Any Contract or Grant that provides for ownership by other than the University shall provide the University with a free-of-cost, nonexclusive license to use the Sponsored Program work product for purposes consistent with the educational mission of the University. The University or Auxiliary must specify this in the proposal and in the Contract or Grant that is accepted.
2. **Ownership of Sponsored Program Records.** 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. Each campus shall develop a policy on the ownership and custody of records related to Sponsored Programs. Unless the Contract or Grant specifies to the contrary, the University shall own the records relating to the Sponsored Program. Any Contract or Grant that provides for ownership by or license to any person or entity other than the University shall provide the University the right to access and use those records for purposes consistent with the educational mission of the University.
3. **Sponsored Program Records Retention.** Each campus shall establish a policy for Sponsored Program record retention, in accordance with the requirements of the CSU and the State of California. Retention of records refers to the storage, preservation or disposal of records once the Sponsored Program is complete. The campus policy 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; and c) the preservation of records of historical value.

The schedule should a) comply with specific direction set forth in the Contract or Grant requiring a period longer than campus records retention policy, and b) provide for different retention if the records are the subject of a pending audit or litigation. At a minimum, the Recipient must retain and allow access to all financial records, supporting documentation, statistical records, and evaluation and program performance data for the time specified by the Grantor.

IV. System Office Role/Responsibility

- A. Legal Advice.** Legal advice concerning contract or grant administration must be coordinated through the CSU Office of General Counsel.
- B. System Office.** The offices of Academic Affairs, Business and Finance, and Human Resources in the Chancellor's Office shall each be responsible for their respective policy functions in the maintenance and support of the requirements of this Executive Order.