

DELEGATIONS OF AUTHORITY

CALIFORNIA STATE UNIVERSITY, SYSTEMWIDE

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ABBREVIATIONS

AB	Assembly bill
CO	Office of the Chancellor
COI	Certificate of Insurance
CS&P	Contract Services & Procurement Office
DFEH	Department of Fair Employment and Housing
EC	Education Code
EO	Executive Order
GC	Government Code
JB&A	John Brandon & Associates Consulting Firm
OGC	Office of General Counsel
PMT	California State University Procurement Modeling Team
PCC	Public Contract Code
SB	Senate Bill
SUAM	State University Administrative Manual

INTRODUCTION

PURPOSE

Our principal audit objective was to review and analyze activities to assure that the CSU has acted responsibly under the delegations of authority established by Senate Bill 1828 (1986) and the extended delegation to campus presidents under AB 1191 (1993). The extended delegation of AB 1191 was circulated to the campus under Executive Order 615, *Delegation of Acquisition Authority for Personal Property and Services*, dated March 23, 1994.

SCOPE AND METHODOLOGY

This review emphasized, but was not limited to, compliance with state laws, Board of Trustee policies, and Office of the Chancellor, principally via the State University Administrative Manual (SUAM) and campus policies, letters and directives. Fiscal year 1995/96 was the primary period of review. Our focus involved the records and procedures within the purchasing office, facilities management and agricultural operations. Specifically, we reviewed and tested the following areas:

- Specific purchasing and contracting delegations via EO 615;
- Insurance;
- EDP and telecommunication acquisitions;
- Consultant contracts;
- Service orders;
- Small business procurement and contract policy;
- Motor vehicle inspections;
- Agreements and leases;
- Leasing campus real property;
- Contracts for the hiring of space for campus use;
- Property transactions; and;
- Sale or exchange of personal property.

We have not performed any auditing procedures beyond the date of our report. Accordingly, our comments are based on our knowledge as of that date and should be read with that understanding.

BACKGROUND

In 1986, Senate Bill (SB) 1828 was passed. This bill extended indefinitely certain CSU delegations of authority concerning purchasing, contracting and other areas of business management. The bill's intent was to promote greater economy or efficiency in CSU operations. The extended delegation involves the following areas:

SB 1828 DELEGATIONS

SUBJECT	CODE CITATION
Motor Vehicle Inspections	EC 89031.5
Lease of Campus Property	EC 89046
Property transactions (real & personal), easements, rights-of-way, quit claims, and sale or exchange of personal property	EC 89048
Leasing non-university property for university use	EC 89048 (e)
Insurance	GC 11007.7
Purchases/Service Agreements under \$100,000	PCC 10295
Purchasing (Federal Surplus Real Property)	PCC 10389
Acquisitions of EDP and Telecommunications Goods and Services under \$100,000	PCC 12100.5

The bill also added Section 89045 (d) to the Education Code. This section requires Trustees' Audit to do a complete audit of the aforementioned delegated subjects at least once every five years. The last audits of these delegated issues occurred during 1991. At that time the SB 1828 delegated items were divided into separate audits under the titles of *Purchasing and Contracting* and *Motor Vehicle Inspections and Real Property Transactions*. For 1996, the 1828 delegated subjects have been combined into one audit which is titled *Delegations of Authority*.

Executive Order 615, *Delegation of Acquisition Authority*, dated March 23, 1994, delegated the procurement authority granted to the CSU under AB 1191 (chapter 1097, Statutes of 1993) to campus presidents. This EO delegates to each campus president the authority to execute and implement the following transactions without regard for dollar limits on behalf of the Board of Trustees:

- A. To purchase, lease or license personal property and incidental services related to the procurement of personal property.
- B. To enter into service contracts and consulting service agreements which are not in connection with a construction contract.

- C. To purchase information technology resource goods and services (previously referred to as electronic data processing and telecommunications) in accordance with the provisions of Public Contract Code 12100, et seq.

OPINION

Our opinion is based primarily upon our observations at the following campuses visited during this review: Bakersfield, Dominguez Hills, Fresno, Long Beach, Northridge, San Bernardino and Sonoma. We found that these campuses were in general compliance with applicable State of California, systemwide, and individual campus directives. Campus specific findings and recommendations have been discussed and reported individually. The findings presented below were noted on at least two of the seven campuses visited and thus took on systemwide implications.

During the course of our review we found that California State University (CSU) contracting and purchasing procedures were being addressed by both the Contract Services and Procurement (CS&P) Office of the CSU as well as a consulting firm, John Brandon and Associates (JB&A) .

JB&A was engaged by a California State University Procurement Modeling Team (PMT) to investigate the feasibility of a multi-campus or systemwide procurement model to improve operational effectiveness and leverage the California State University's purchasing power. JB&A issued a working draft during March 1996.

CS&P has been involved in an on-going revision of the State University Administrative Manual (SUAM). This process has resulted in the release of a draft *California State University Policy Manual For Contracting & Procurement*, during November 1996. The final edition is not expected to be completed for several months.

We believe the comments contained within this report will provide support to both of the ongoing reviews and ultimately strengthen campus operations.

EXECUTIVE SUMMARY

PURCHASING AND CONTRACTS

NOTICE OF CONTRACT AWARDS [5]

Notice of Contract Awards for purchases and contracts over \$5,000 were not being submitted by the campuses to the Department of Fair Employment and Housing (DFEH) in a timely manner. Reporting purchases and contracts in excess of \$5,000 to the DFEH increases the ability of that agency to monitor state purchasing procedures for discriminatory practices.

DIRECT PAYMENTS [5]

California State University purchasing and contract policy in effect at the time of our review did not adequately address *direct payments*. Proper controls over the direct payment process will confirm the California State University commitment to encourage the highest level of competitive purchasing.

AGREEMENTS, LEASES AND LICENSES

CHANCELLOR'S OFFICE REVIEW AND APPROVAL [6]

Initial and/or renewal of agreements, leases and licenses with auxiliary organizations and sub-leases between auxiliary organizations and other entities were not always submitted to the Chancellor's Office (CO) for timely review and approval. CO review and approval of agreements will assure that appropriate interests of the CSU, campus and auxiliary organization are protected.

SHORT TERM FACILITY RENTALS [7]

Each of the campuses reviewed was in noncompliance with the California State University requirements involving short term rental of campus facilities. Properly administering the use of short term facility rentals reduces the risk of liability and revenue loss.

LIABILITY INSURANCE [8]

Appropriate insurance coverage was not always in effect during the entire term of various contracts, leases, licenses and short term rental agreements. Securing certificates of insurance at the beginning of the contractual period and assuring they meet insurance coverage requirements for the duration of the term reduces potential risk to the California State University, the campus and auxiliary organizations (where applicable).

MOTOR VEHICLE INSPECTIONS [9]

Each of the campuses visited were in noncompliance with at least some portion of the CSU motor vehicle inspection requirements. Assuring that the motor vehicle inspection program is fully implemented reduces the risk to the overall safety, efficiency and economic well-being of the CSU campus motor vehicle fleet.

OBSERVATIONS, RECOMMENDATIONS, AND MANAGEMENT RESPONSES

PURCHASING AND CONTRACTS

NOTICE OF CONTRACT AWARDS

Notice of Contract Awards for purchases and contracts over \$5,000 were not being submitted by the campuses to the Department of Fair Employment and Housing (DFEH) in a timely manner.

At the time of our review, SUAM Section 2411.07.02 (purchase orders) and Section 2510.08.05 (contracts) required the submission of Notice of Contract Awards to DFEH within 10 days of the issuance of the purchase order/contract.

Several directors of procurement indicated that they were either unaware of one or both of the above requirements or thought the level of reporting was higher than \$5,000. At two of the campuses, the few instances of noncompliance noted within our tests were attributable to buyer oversight.

Failure to report Notice of Contract Awards to DFEH limits the ability of that agency to monitor state purchasing procedures for discriminatory practices.

Both the Office of the University Auditor and Contracts Services and Procurement have been in contact with DFEH attempting to ease reporting requirements. This joint effort has been successful in reaching an agreement with DFEH on two points: only contracts (not purchases) over \$5,000 need to be reported, and the campuses now have the option of filing quarterly reports rather than the singular report and corresponding 10 day window of reporting.

Recommendation 1

We recommend that the Chancellor's Office:

- a. remind the campuses of the DFEH reporting requirement; and
- b. incorporate the recently obtained agreement with DFEH in the *California State University Policy Manual for Contracting and Procurement*.

Management's Response

We concur with both recommendations. The new CSU Contract and Procurement Policy manual will address the revised procedures for compliance with this item.

DIRECT PAYMENTS

California State University purchasing and contract policy in effect at the time of our review did not adequately address *direct payments*.

We found that campuses frequently purchased, via direct payment, various goods and services that were not conducive to a competitive bid process by either cost or type of transaction. The types of direct payment transactions varied by campus as did their individual expenditure limit. There were a large number of purchases that fit into this category including memberships, subscriptions, freight bill charges, etc. In these situations the campuses wrote a check based on an invoice/receipt⁶ bypassing the procurement process. This process essentially establishes the accounts payable office as the monitor of campus purchasing policies.

We believe the direct payment process to be extremely valuable; it is both an effective and economic use of resources. However, failure to properly control this process could result in the erosion of the California State University commitment to encourage the highest level of competitive purchasing.

Recommendation 2

We recommend that the *California State University Policy Manual for Contracting and Procurement* include general guidelines regarding the issue of direct payments. As a minimum, each campus should be advised to establish a policy regarding the types of transactions authorized to be handled as a direct payment including a procedure for approving exceptions. Each campus should also establish a maximum amount for which a direct payment can be processed without additional local approval.

Management's Response

We concur. The new policy manual directs that campuses are to establish local policies and procedures governing direct payment programs consistent with the audit recommendations.

AGREEMENTS, LEASES AND LICENSES

CHANCELLOR'S OFFICE REVIEW AND APPROVAL

Initial and/or renewal of agreements, leases and licenses with auxiliary organizations and sub-leases between auxiliary organizations and other entities were not always submitted to the Chancellor's Office (CO) for review and approval in a timely manner.

SUAM Section 2701 et seq., requires that agreements, leases and licenses between campuses and their auxiliary organizations be submitted to the CO for review and approval.

SUAM Section 2710 requires that auxiliary organizations entering into agreements with off-campus groups must obtain approval from the CO.

We found the primary cause for the lateness/non-submission of leases to be the lack of a clear line of accountability regarding responsibility for administration of these documents and their various requirements.

Entering into agreements prior to the review and approval of the CO could result in unfavorable contractual conditions among the auxiliary, the campus and the California State University.

Recommendation 3

We recommend that the Chancellor's Office remind the campuses of the review process for agreements, leases, and licenses.

Management's Response

We concur. Concurrently with this audit, we have been reviewing procedures that are intended to achieve a better balance for realignment of responsibility, authority and accountability in the CSU with regard to the review of leasing activities. We agree to determine where such reviews are best handled and will communicate and emphasize our findings throughout the system when these determinations are made.

SHORT TERM FACILITY RENTALS

Each of the campuses reviewed was in noncompliance with the California State University requirements involving short term rental of campus facilities. Examples included:

- ▶ New fees assessed or revised without approval by the president.
- ▶ Assessment of fees did not agree with the campus's approved fee schedules.
- ▶ Short term facility rentals were managed by one to four different offices. There were some instances of differing rental fees for rental of the same type of facility, i.e., classroom.
- ▶ Rental applications and rental agreements did not always include all of the required information contained within SUAM Section 2711 et seq. In the case of rentals to off-campus organizations, there frequently was no mention of the requirement that the organization not engage in discriminatory practices.
- ▶ Facility rental agreements were not always signed by both parties or completed prior to the use of the facility(s).
- ▶ Rental fees were not always credited to the accounts prescribed in the rental agreements or campus policy document.
- ▶ Procedures for facility fee waivers were not always included in the campus policy, while in other situations, the waivers were not approved at all or by others not formally delegated.

- ▶ Certificates of insurance were not always received in a timely manner and/or did not include all of the required additional insureds.

SUAM Sections 2710-2712 contain the primary California State University requirements related to the rental of campus facilities to both on- and off-campus groups.

A November 15, 1996 memo from the Contract services and Procurement Office, *New Policy Manual for Contracting and Procurement - Draft Release* indicates that SUAM Sections 2710-2712 is going to be reviewed and a separate manual issued.

In general, we found that the above conditions existed because responsibility for these short-term leases was assigned to staff who were not fully apprised of the SUAM requirements.

Failure to properly administer the use of short-term facility rentals increases the risk of liability and loss of revenues.

Recommendation 4

We recommend that the Chancellor's Office:

- a. remind the campuses of the requirements involving short term rental/licensing of campus facilities; and
- b. ensure that the pending review of the SUAM section on short term facility leases addresses the issues noted in the above finding.

Management's Response

- a. We concur and will remind campuses of the requirement involving short term leasing and licensing of facilities
- b. We concur with the objective of this recommendation and consistent with our response to the audit finding regarding auxiliary leases and agreements, we will work to review procedures and methods of which address the proper protection and revenue potential for short term use of CSU facilities within our general program for realignment of responsibility, authority and accountability in the CSU.

LIABILITY INSURANCE

Appropriate insurance coverage was not always in effect during the entire term of various contracts, leases, licenses and short term rental agreements. This included contractual documents managed by various campus offices and auxiliary organizations. We found that:

- ▶ Certificates of Insurance (COI) had expired during the term of the agreement and were not renewed;
- ▶ COIs were either not received or were received after the effective date of the agreement; and

- ▶ COIs did not always include appropriate additional insured coverage (the state, the trustees, the university, and its auxiliaries where appropriate and the employees, officers and agents of each of them).

At the time of our review, the issue of insurance coverage was primarily contained within SUAM Section 2520.03, which addressed contracts. There was no one section which fully addressed liability insurance for all types of contractual documents. In addition, we also noted the lack of a clear line of responsibility for assuring proper administration of liability insurance requirements.

Failure to secure COIs at the beginning of the contractual period, and assuring they meet insurance coverage requirements for the duration of the term, increases potential risk to the California State University, the campus, and (where applicable) auxiliary organizations.

The draft release of the *California State University Policy Manual for Contracting and Procurement* now contains more information regarding all types of contractual documents that involve a need for insurance coverage. However, it does not specifically address auxiliaries. Since auxiliaries are frequently involved in sub-leasing state property and in some cases short-term rentals of state property we believe they should be specifically mentioned within this section.

Recommendation 5

We recommend that the Chancellor's Office:

- a. remind the campuses of the need for certificates of insurance to be in effect for the full length of contracts, leases, licenses, and short term rental agreements;
- b. ensure that the *California State University Policy Manual for Contracting and Procurement* be revised to include references to auxiliary organization insurance requirements; and
- c. suggest to the campuses that they consolidate insurance coverage monitoring practices.

Management's Response

- a. We concur. This item is part of a presentation "Insurance Requirements in Contracts" that is to be delivered at the PSSO Conference March 5, 1997, by the systemwide risk manager. A copy of the presentation material will be included in the final response.
- b. We concur. The new *Policy Manual for Contracting and Procurement* will be revised to include references to auxiliary organizations. Additionally, auxiliary organizations have been offered copies of the *Insurance Requirements in Contracts* manual for incorporation into their procurement process.
- c. We concur. The PSSO conference session on Insurance and Risk Management will cover how to manage compliance and monitor receipt of appropriate insurance coverage documentation.

MOTOR VEHICLE INSPECTIONS

Each of the campuses visited were in noncompliance with at least some portion of the CSU motor vehicle inspection requirements.

SUAM Section 2700 et seq., addresses the vehicle inspection process required within the California State University. The campus motor vehicle inspection program, for which the campus motor vehicle inspector is responsible, includes several specific inspections including: pre-delivery; periodic safety and maintenance; repair; survey; operator; van/bus; leased vehicles and warranties.

There are two Education Code issues which should be considered in determining the future of California State University motor vehicle inspection procedures.

Education Code Section 89008 states:

The trustees shall prescribe rules and regulations governing the use of state-owned or leased motor vehicles by employees of the California State University. The rules shall include remedies of assessing actual costs of misuse of state-owned or leased motor vehicles, and employee discipline under Section 89535.

Education Code Section 89031.5. states:

The trustees shall perform inspections of all motor vehicles owned by the California State University or under their jurisdiction. These inspections shall be provided for in the appropriate administrative manual of the California State University.

During our reviews we noted that the criteria within SUAM contained inspections for relatively low value repairs and questionable inspection requirements. In part, this was a factor in some of the campuses not complying with all of the inspection criteria.

Not assuring that the motor vehicle inspection program is fully implemented increases the risk that the overall safety, efficiency and economic well-being of the California State University campus motor vehicle fleets are less than satisfactory.

Recommendation 6

We recommend that the Chancellor's Office ensure that the existing vehicle inspection program contained within SUAM Section 2700 be reviewed with the intent of establishing a more streamlined inspection program which provides reasonable protection to all entities.

Management's Response

We concur and will comply.

**APPENDIX A:
PERSONNEL CONTACTED**

<u>Name</u>	<u>Title</u>
Pat Dayneko	Director, Contract Services and Procurement
Loren House	Contract Program Specialist
Clifford Johnson	Lead Contract Program Specialist
Richard Leffingwell,	Director, Auxiliaries Planning and Bonds
Charlene Minnick	Systemwide Risk Manager
Bruce Richardson	Deputy General Counsel
Tom Roberts	Contract Program Specialist
Richard P. West	Senior Vice Chancellor, Business and Finance