

DELEGATIONS OF AUTHORITY
CALIFORNIA STATE UNIVERSITY, FRESNO

Report Number 96-07
January 9, 1997

Members, Committee on Audit

Ted J. Saenger, Chair Bernard Goldstein, Vice Chair
Roland E. Arnall Ronald L. Cedillos
James H. Gray William Hauck
Joan Otomo-Corgel Ali C. Razi
Frank Y. Wada Stanley T. Wang

Staff

Acting University Auditor: Larry Mandel
Audit Manager: Norman Buettner
Senior Auditor: Douglas Kennedy

BOARD OF TRUSTEES
THE CALIFORNIA STATE UNIVERSITY

CONTENTS

INTRODUCTION

Purpose	1
Scope and Methodology	1
Background.....	1
Opinion	3
Executive Summary.....	3

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

Purchasing And Contracts	5
Notice Of Contract Award	5
Consultant Contracts.....	5
California State Contracts Register.....	6
Leasing Campus Real Property	7
Auxiliary Organization Subleases.....	7
Liability Insurance.....	8
Motor Vehicle Survey Inspections	9
Sale Of Surplus Property	10

APPENDICES

Appendix A:	Personnel Contacted
Appendix B:	Campus Response
Appendix C:	Chancellor's Acceptance

ABBREVIATIONS

AB	Assembly Bill
CSCR	California State Contracts Register
CSU	California State University
CO	Chancellor's Office
DFEH	Department of Fair Employment and Housing
EC	Education Code
EO	Executive Order
GC	Government Code
IFB	Invitation for Bid
IRS	Internal Revenue Service
ITR	Information Technology Resources
MVI	Motor Vehicle Inspector
OSMB	Office of Small and Minority Business
PCC	Public Contract Code
PO	Purchase Order
PSSO	Procurement and Support Services Officer
RFP	Request for Proposal
RFQ	Request for Quote
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 also followed up on the recommendations contained in audit report #91-05 dated November 20, 1991, subject: *Motor Vehicle Inspections & Real Property Transactions*, CSU Fresno.

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

We have visited the California State University, Fresno campus between August 19, 1996 and October 4, 1996 and audited the procedures in effect at that time.

We found that, except for the items noted in the Executive Summary and in the detail of the report, compliance with legislative delegations and CSU and campus policies and procedures was satisfactory.

EXECUTIVE SUMMARY

The purpose of this section is to provide management with an overview of conditions requiring their attention. Areas of review not mentioned in this section were found to be satisfactory. Numbers in [] refer to page numbers in the report.

PURCHASING AND CONTRACTS

NOTICE OF CONTRACT AWARD [5]

The campus did not file a Notice of Contract with the Department of Fair Employment and Housing (DFEH) on any of the contracts in our sample over \$5,000. Reporting contracts in excess of \$5,000 to the DFEH increases the ability of that agency to monitor state purchasing procedures for discriminatory practices.

CONSULTANT CONTRACTS [5]

Administration of consultant contracts was deficient in several areas. Incorporating the use of consultant proposal analysis forms and consultant services checklists increases the campus's ability to assure that the hiring of a consultant is the appropriate decision. Naming project coordinators for each consultant contract increases the probability the contracted services will be completed in a satisfactory manner.

CALIFORNIA STATE CONTRACTS REGISTER [6]

The campus had not established written criteria for use of the California State Contract Register (CSCR). Establishing written procedures reduces the risk of non-compliance with the state's mandate for open competition in awarding of contracts.

LEASING CAMPUS REAL PROPERTY

AUXILIARY ORGANIZATION SUBLEASES [7]

Sub-leases of state facilities with off-campus groups by the CSU Fresno Association, Inc. were not being submitted to the Chancellor's Office for review and approval. Obtaining the approval of the Chancellor's Office prior to entering into sub-lease agreements reduces the potential for unfavorable contractual conditions among the auxiliary, campus, and the CSU.

LIABILITY INSURANCE [8]

Sub-lease liability insurance requirements involving both the CSU Fresno, Association Inc. and the CSU, Fresno Athletic Corporation with various off-campus groups were not being fulfilled. Obtaining certificates of insurance at the beginning of the lease period, and assuring that they meet contractual requirements for the duration of the term of the lease reduces potential risk to the auxiliary, campus and the CSU.

MOTOR VEHICLE SURVEY INSPECTIONS [9]

Equipment Inspection Reports were not being completed and provided to the campus Property Survey Board. Providing inspection reports to the Property Survey Board strengthens their ability to make an informed decision as to whether to retain or dispose of applicable vehicles.

SALE OF SURPLUS PROPERTY [10]

The campus had not established procedures to assure that all state surplus property sold by a contracted auctioneer was reconcilable to individual receipts. Reconciling sales receipts to the surplus property inventory reduces the risk of loss of revenue.

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

PURCHASING AND CONTRACTS

NOTICE OF CONTRACT AWARD

The campus did not file a Notice of Contract with the Department of Fair Employment and Housing (DFEH) on any of the contracts in our sample over \$5,000.

SUAM Section 2510.08.05 states that:

Campuses must give notice to the Department of Fair Employment and Housing, Office of Compliance Programs, within ten working days of award of all contracts over \$5,000.

The director, Procurement and Support Services, indicated the reason that DFEH was not being notified of contracts in excess of \$5,000.00 was basically attributable to not insuring that each buyer was complying with this requirement.

Not reporting contracts in excess of \$5,000 to the DFEH limits the ability of that agency to monitor state purchasing procedures for discriminatory practices.

Recommendation 1

We recommend that the campus develop procedures to insure that a Notice of Contract is filed with the Department of Fair Employment and Housing for each contract over \$5,000.

Campus Response

We concur. Written procedures have been put in place to insure that a Notice of Contract is filed with the Department of Fair Employment and Housing for each contract over \$5,000.

CONSULTANT CONTRACTS

Administration of consultant contracts was deficient in several areas.

Our review of five consultant contracts files indicated that none of the files contained consultancy proposal analysis forms, consultancy services checklists or the name of the project coordinator.

SUAM Section 2571 requires that a Consultancy Proposal Analysis Form be prepared to assist the campus in determining the propriety of using an independent contractor, rather than an employee, to do a specific job.

SUAM Section 2571.04.05 requires that a Consultancy Services Contract Checklist be used to help assure that proper and complete procedures are followed when establishing consultancy service contracts.

SUAM Section 2571.06 requires that each contract for consulting services provide for and specify a person by name or by position within the campus to be project coordinator.

The director of Procurement and Support Services indicated that his staff was aware of these requirements but had not implemented them pending development of a policy and procedure document.

Failure to incorporate the use of consultancy proposal analysis forms and consultant services checklists reduces the campus's ability to assure that the hiring of a consultant is the appropriate decision. Not assigning project coordinators for each consultant contract could result in payments for unsatisfactory or incomplete services.

Recommendation 2

We recommend that the campus strengthen existing procedures related to consultant contracts, particularly as they relate to consultancy proposal analysis forms, consultant service checklists and assignment of project coordinators.

Campus Response

We concur. Written procedures have been put in place for consultant contracts, particularly as they relate to consultancy proposal analysis forms, consultant service checklists, and assignment of project coordinators.

CALIFORNIA STATE CONTRACTS REGISTER

The campus has not established written criteria for use of the California State Contract Register (CSCR).

BF 94-23 requires that each campus procurement officer must establish written criteria for use of the CSCR. Criteria are to include:

1. Types of contractual services and the monetary levels for which the CSCR will be used.
2. Provisions for approval by the campus Chief Business Officer, or any exemption from established criteria, including emergency contracts, contracts with other public entities, or contracts where it is determined that the state's best interests would be served by exemption.
3. Procedures for documenting justifications for not using the CSCR.

The director of Procurement and Support Services indicated that the former director had established an informal policy several years ago which was never reduced to writing and fully implemented.

The lack of written procedures increases the risk of non-compliance with the state's mandate for open competition in awarding of contracts.

Recommendation 3

We recommend that the campus Procurement Office develop and distribute written criteria for use of the California State Contracts Register.

Campus Response

We concur. Written procedures have been put in place to insure the use of the California State Contracts Register for public work and service contracts over \$5,000.

LEASING CAMPUS REAL PROPERTY

AUXILIARY ORGANIZATION SUBLEASES

Sub-leases of state facilities with off-campus groups by the CSU Fresno Association, Inc. were not being submitted to the Chancellor's Office for review and approval.

At the time of our review, five off-campus groups had existing leases with the CSU Fresno, Association, Inc. None of these leases had been submitted to the Chancellor's Office for review and approval.

SUAM Section 2710 states:

There is no authority for an Auxiliary Organization to enter agreements for use of State facilities with an off-campus group without approval by the Chancellor's Office.

The director of the Student Union stated he was not aware of the requirement to submit such leases to the Chancellor's Office for review and approval.

Entering into sub-lease agreements with off-campus groups prior to the review and approval of the Chancellor's Office could result in unfavorable contractual conditions among the auxiliary, campus and the CSU.

Recommendation 4

We recommend that procedures be established to assure campus auxiliary organizations submit sub-leases of state facilities to off-campus groups to the Chancellor's Office for review and approval prior to the effective date(s) of the lease.

Campus Response

We concur. In the case of the newly built Pavilion, which includes retail space, the campus auxiliary organization was unaware that each individual sub-lease agreement was to be reviewed and approved by the Chancellor's Office. However, the Chancellor's Office did approve the project being fully aware that space was going to be sub-leased in the Pavillion. In the future all sub-leases of state facilities will be sent to the Chancellor's Office for approval before the effective date of the leases.

LIABILITY INSURANCE

Sub-lease liability insurance requirements involving both the CSU, Fresno, Association Inc. and the CSU, Fresno Athletic Corporation with various off-campus groups were not being fulfilled.

- ▶ In our review of off-campus groups leasing space in the Student Union, none of the files contained certificates of insurance (COIs). In addition, seven of the twenty three files regarding short term subleases between the Athletic Corp. and various off-campus groups did not contain COIs.

SUAM Section 2520.03, et seq., contains pertinent liability insurance provisions. In addition, the CSU Office of Risk Management has cooperated on the publication of the *CSU Insurance Requirements in Contracts Manual*, dated January 1993, which has been distributed to the campuses. In addition, the leases and sub-leases contain specific insurance requirements.

The sub-lease agreements between the Student Union and the five off-campus organizations indicated that the Student Union could request copies of the COIs. The Student Union director indicated that he had not requested the five organizations to submit COI's in the past because of their reputation and prior association with the Student Union. However, he agreed that evidence of the liability insurance should be on file and that he would request all five organizations to submit current COI's.

Discussions with the general manager of the CSU, Fresno Athletic Corporation indicated that those files not containing COIs were a matter of oversight.

Failure to secure certificates of insurance at the beginning of the lease period, and assuring that they meet contractual requirements for the duration of the term of the lease, increases potential risk to the auxiliary, the campus and the CSU.

Recommendation 5

We recommend that the campus strengthen existing procedures to assure that all contracts, leases, and sub-leases involving the need for liability insurance contain evidence of appropriate coverage through the length of the applicable contract.

Campus Response

We concur. Auxiliary organizations have since required each vendor to have the required certificates of insurance on file. This procedure will become standard practice.

MOTOR VEHICLE SURVEY INSPECTIONS

Equipment Inspection Reports were not being completed and provided to the campus Property Survey Board to aid them in determining whether vehicles should be retained or disposed of.

SUAM Section 2721.02.04 establishes the criteria to be followed when surveying a vehicle.

. . . When there is a clear reason to believe it might be economically practical to discontinue operating a vehicle, a Survey inspection must be made. At the time of inspection, the Vehicle Inspector will prepare an Equipment Inspection Report....

SUAM Section 2723.01 discusses the role of the campus Property Survey Board in determining whether vehicles are to be retained or disposed of as follows:

. The actual decision whether to retain or dispose of any passenger vehicle shall rest with the campus Property Survey Board, subject to the information in the Equipment Inspection Report

The motor vehicle inspector was not aware that survey inspections were required.

Not conducting survey inspections could result in vehicles being prematurely removed from service and prevents the campus Property Survey Board from having the tools necessary to make an informed decision as to whether the vehicle should be replaced.

Recommendation 6

We recommend that the motor vehicle inspector provide Equipment Inspection Reports to the campus Property Survey Board for all vehicles being considered for disposal.

Campus Response

We concur. However, we suggest the Pre-Auction Inspection form be evaluated for update as well as the Motor Vehicle Inspection Program of the SUAM Manual. The Pre Auction Vehicle Inspection form (form number 2973.09) explicitly states that all items not checked as "OK" must be repaired before sale. This creates a conflict because 90% of surveyed vehicles released are not cost effective to repair. The Request for Property Survey forms were completed for survey and stated that items were not cost effective to repair.

SALE OF SURPLUS PROPERTY

The campus had not established procedures to assure that all state surplus property sold by a contracted auctioneer was reconcilable to individual receipts.

The latest sale of state surplus property at the time of our review had occurred on May 11, 1996. Property records disclosed that approximately \$19,000 in sales had been received by the campus. Discussions with the property clerk indicated that a reconciliation of items for sale to actual receipts was not being accomplished.

SUAM Section 2411.06.01 addresses general requirements regarding the sale of state property. It requires that the general public be given an opportunity to purchase the surplus property and that the sale be advertised and competitively bid.

The property manager stated that the auctioneer had not been including the state property number on the individual sales receipts which prevented the property clerk from performing a reconciliation of receipts to the inventory of surplus property.

Not reconciling sales receipts to the surplus property inventory increases the risk of loss of revenue.

Recommendation 7

We recommend that the campus strengthen existing procedures to assure that the sale of all state surplus property is properly accounted for.

Campus Response

We concur. Written procedures have been put in place to insure that the sale of all state surplus property is properly accounted for between the campus and contracted auctioneers.

**APPENDIX A:
PERSONNEL CONTACTED**

<u>Name</u>	<u>Title</u>
John Welty	President
Deborah Adishian-Astone	Director, Facilities Planning
Cyril Athans	Buyer
Brad Downing	Director, University Fleet Services
Dutch Green	Director, Procurement and Support Services
John Hernandez	Property Clerk
Stephen Katz	Controller
Terri Keane	Clerical Assistant
Margaret Martinez	Accounting Supervisor
Margie Phillips	Buyer
Pete Prestegard	Auxiliary Corporation Accountant
Benjamin Quillian	Vice President for Administration
Joe Sanders	Buyer
Les Snyder	Assistant Athletic Director
Joyce Yamanaka	Secretary
Joel Zarr	Director, Student Union