MEMORANDUM

To: Vice Presidents for Administration
   Executive Facilities Officers

From: Elvyra F. San Juan
      Assistant Vice Chancellor
      Capital Planning, Design and Construction

Date: April 29, 2010

Re: 2011/2012 Facilities and Tax Compliance Reporting

This memo requests campus changes to the custodial space report for the development of the 2011/2012 support budget request for new space, property insurance, and updates for the Space and Facilities Database (SFDB) for fall 2010. In addition, this call letter outlines the steps for compliance with the Internal Revenue Service (IRS) and State Treasurer’s Office (STO) private use reporting procedures for all State and Non-State Tax-Exempt Bond Funded Facilities identified in the February 24, 2010 memorandum from Executive Vice Chancellor Benjamin F. Quillian.

The necessary steps for compliance with the private use reporting procedures and a records retention system have been incorporated within the current reporting window and expand the use of the Space and Facilities Database to capture submitted data. As the private use reporting procedures are new to campus operations they are described first, then followed by the typical space and insurance reporting procedures.

Chancellor’s Office (CO) staff have worked with tax counsel to develop report forms (CPDC Forms 4-2, 4-4) to identify “safe-harbors” acceptable to IRS for Tax-Exempt Bond Funded Facilities that receive external research funding and/or contain areas subleased for private use. Private activity use is generally defined as any arrangement with a commercial entity, a nonprofit organization unrelated to the CSU, or the US Government (including federally funded research grants) for a right to use a facility by means of ownership, leases, management, special legal entitlement, or special economic benefit. A large campus facility may house several areas with externally funded research activities and/or privately subleased areas; the status of all such areas in a tax-exempt bond funded facility must be reported annually.

Campus Vice Presidents for Administration shall assure compliance in reporting tax-exempt bond financed facilities and spaces occupied by externally funded research, and subleased areas.

This call letter establishes a four-step process for compliance with IRS private use reporting procedures:

1. Identify all campus State and Non-State Tax-Exempt Bond Funded Facilities with external research funding and/or areas subleased for private use.

2. Complete the Private Use Checklist and all appropriate forms.

3. Report the space use as part of the annual SFDB reporting process.

IRS REPORTING PROCEDURES

1. Identify Tax-Exempt Bond Funded Facilities

   a. The facilities subject to IRS compliance on private activity use include all facilities financed with either (1) State general obligation bonds (GO); (2) State Public Works Board issued lease revenue bond funds (LRB) since 1988; and (3) all Systemwide Revenue Bond (SRB) financed projects, for the duration of the bond life, plus five years (typically 35 years).

   b. To aid in identifying these facilities, a list of your campus bond funded projects currently in the SFDB has been provided as an attachment (Attachment A); however, as our records may be incomplete it is the campus responsibility to identify and annually report on the status of all tax-exempt bond funded facilities within the main campus and off campus center(s), whether or not there is on-going private activity use.

   c. Digital versions of the bond funded facilities list for your campus are available at: http://www.calstate.edu/cpdc/Facilities_Planning/Space_Mgmt/Resource_Documents/Campus_Bond_Funded_Facilities/

2. Campus Complete Required Forms

   a. For each facility identified in step 1, you will complete a Facilities and Property Survey Private Use Checklist (Attachment B). If you respond “Yes” to any of the six checklist questions, follow the directions for that item to complete the appropriate supporting documentation on CPDC Form 4-2 and/or 4-4.

   b. CPDC Form 4-2 (Attachment C) Facility Information Worksheet should be completed for each facility that includes Subleased Areas.

   c. CPDC Form 4-4 (Attachment D) CSU Compliance with IRS “Private Business Use” Exclusions for Research Projects should be completed for each facility that includes areas designated for externally funded research.

   d. Campuses are directed to identify all externally funded research and commercial spaces in buildings on the 2010/2011 Custodial Report (Attachment E) for the reporting period.

   e. All forms require signatures signifying validity of information and approval of private use. These forms will be submitted to the STO via the CO. The forms serve to identify the “safe-harbors” for private use acceptable to IRS.

   f. Digital versions and instructions for these forms are available at: http://www.calstate.edu/cpdc/Facilities_Planning/Space_Mgmt/Forms/

3. CO Review Campus Forms

   a. The CO Tax-Exempt Task Force will review annual campus submittals of all referenced forms to determine if tax counsel review is necessary. Financing and Treasury will report “safe-harbors” for private use to the STO annually as requested in order to maintain the tax-exempt status of bonds.

   b. The facilities information provided during the reporting window will be validated and entered into the SFDB which in turn will provide detailed reports as required by IRS and STO.
4. Next Steps

a. Campus develops internal procedures for the administration of externally funded research use and leasing of space that will incorporate the review of the Private Activity Use Checklist as part of the initial stages of a research grant proposal or proposed sublease of space.

b. Campuses with State Public Works Board (PWB) lease revenue bond funded facilities shall provide proposed sublease agreements within these facilities to CPDC for PWB review and approval at least two months prior to leasing space to auxiliaries or private lessees.

c. Both the campus and CO shall retain auditable records for the term of the bonds (typically 35 years) as required by the IRS. Campus records are required to document payment of invoices for the original project construction or renovation funded by tax-exempt bonds (as best possible for older buildings); and all subsequent facility leases, subleases and management contracts for private activity use such as food service, bookstores, etc. Records of sponsored research must also be retained. Please review the Records Retention Checklist, which is available on the CSU website: http://www.calstate.edu/cpdc/Facilities_Planning/Space_Mgmt/Resource_Documents/

SPACE AND FACILITIES DATABASE REPORTING

a. The SFDB provides essential information related to facility planning, space planning and utilization. Campus capacity entitlements of lecture and teaching laboratories are based on the SFDB data. The SFDB must be updated and reconciled on an annual basis as this information serves as the foundation for several capital planning processes and campus requests for new space support budget funding. Reported changes in capacity and assignable square footage are updated annually for inclusion on the Capital Planning tools.

b. The SFDB annual reporting window will be open from May 1 to May 31, 2010 in order to support the capital outlay planning processes and to correlate the update with the Academic Planning Database (APDB) fall term reporting schedule.

c. Revised Space Codes: The following Functions Codes have been revised to facilitate the reporting of research and subleased space in tax-exempt bond funded facilities:

200 RESEARCH This category should include all activities specifically organized to produce research outcomes, whether commissioned by an agency external to the CSU or separately by an organizational unit within the University. State funds include activities fully funded by a state or local governmental entity. External funds include activities partially/fully funded by private entities, the federal government or nonprofit organizations.

210 Institutes and Research Centers – State Funds
220 Individual and Project Research – State Funds
230 Institutes and Research Centers – External Funds
240 Individual and Project Research – External Funds

900 AUXILIARY ENTERPRISES An auxiliary enterprise is an entity that exists to furnish goods or services to students, faculty, or staff, and that charges a fee directly related to, although not necessarily equal to, the cost of the goods or services.

910 Auxiliary Enterprises - Student
920 Auxiliary Enterprises - Faculty/Staff
930 Intercollegiate Athletics
940 Subleased Area
The campuses' fall 2009 SFDB space files are available in Excel format on the CO website at: http://www.calstate.edu/cpdc/Facilities_Planning/Space_Mgmt/Reports/Campus_SFDB/Fall2009_sfdb.shtml.

e. All rooms that are scheduled for fall term classes must be included in the SFDB update to correlate with the APDB fall term section audit report and avoid non-matching SFDB facility/space ID errors. All SFDB update data must be entered during the May 2010 reporting window period. Please refer to the SFDB User Manual for step by step instructions on the update process. The SFDB User Manual is also available on the website at:

2011/2012 CUSTODIAL SPACE AND PROPERTY INSURANCE REPORTING

a. This memo also requests campus changes to the custodial space report for the development of the 2011/2012 support budget request for new space and property insurance.

b. Please review and follow the Custodial and Farm Space Policy and Guidelines, which are available on the CSU website:

c. Attachment E provides the campus' 2010/2011 Custodial Report. Please review this document and report all new state-maintained square footage and any changes to the campus' facility farm square footage and improved and unimproved acreage on the custodial worksheet (CPDC Form 4-1). Your campus' CPDC 4-1 worksheet is available on the CSU website. Please access the following URL to download the file:

d. Custodial funding requests for new facility space must be accompanied by the Facility Information Sheet (CPDC Form 4-2) and the Space and Facility Database Worksheet (CPDC Form 4-3, Attachment F). The detailed use of assignable square feet for occupied new space is also required to be reported by the campus SFDB coordinator during this annual update. CPDC 4-2 and CPDC 4-3 forms can be downloaded from the CSU website:

e. Campuses are required to submit square footage data for all state and non-state facilities listed on the campus master plan and legend. Complete information on the campus facility inventory is required for accurate facility data for insurance purposes, as well as facilities benchmarking.

f. Any reported changes submitted to CPDC by May 31, 2010 will be reflected on the 2011/2012 Custodial and Farm Space Report, and forwarded to the CSU Budget Office after review.

CONTACTS and SUBMITTALS

a. For questions contact:

- Custodial space and SFDB - Theresa Tsik, Associate Facility Planner at (562) 951-4159.
- Facility leases - Tom Roberts, Director of Contract Services and Procurement at (562) 951-4583.
- Property insurance - Rebecca Skidmore, Risk Management Analyst at (562) 951-4574.
- Private use in state facilities - Larry Piper, Chief of Facilities Planning at (562) 951-4106.
- Private use in non-state facilities - Rosa Renaud, Senior Financial Manager at (562) 951-4566.
- Sponsored programs - Sue DeRosa, Director of Sponsored Programs (562) 951-4213.
b. Submittals: Please return your electronic custodial and property insurance submission to Theresa Tsik, Associate Facility Planner at tsk@calstate.edu. Submit the STO’s Private Use Checklist and all requested CPDC Private Use reporting forms to Larry Piper, Chief of Facilities Planning, at lppiper@calstate.edu.

c. The CO Tax-Exempt Task Force solicits your comments and suggestions towards the improvement of the procedures outlined by this memo for compliance with the private use reporting process and record retention system.

ESJ:TT

Attachment A: Campus bond funded projects
Attachment B: Facilities and Property Survey Private Use Checklist
Attachment C: Facility Information Worksheet (subleased area), CPDC 4-2
Attachment D: Compliance with IRS “Private Business Use” Exclusions for Research Projects in Tax-Exempt Bond Funded Facilities (externally funded research), CPDC 4-4
Attachment F: Space and Facility Database Worksheet, CPDC 4-3

c. Physical Plant Directors
   Chief Research Officers
   Chief Budget Officers/FOA Delegates
   Risk Managers
   Procurement Officers
   Facility and Space Planners
   SFDB Coordinators
   Benjamin F. Quillian, Executive Vice Chancellor/Chief Financial Officer, Chancellor’s Office
   George Ashkar, Assistant Vice Chancellor/Controller, Chancellor’s Office
   Charlene Minnick, Assistant Vice Chancellor/Chief Risk Officer, Chancellor’s Office
   Rodney Rideau, Director of System Budget, Chancellor’s Office
   Shawn Holland, Physical Plant Program Manager, Chancellor’s Office
   Rebecca Skidmore, Risk Management Analyst, Chancellor’s Office
   CPDC Planners

CO Tax-Exempt Task Force:
   Elvira F. San Juan, Assistant Vice Chancellor, CPDC
   Robert Eaton, Senior Director, Financing and Treasury
   Rosa Renaud, Senior Financial Manager, Financing and Treasury
   Angelique Sutanto, Senior Financial Analyst, Financing and Treasury
   Sue DeRosa, Director of Sponsored Programs Administration
   Tom Roberts, Director of Contract Services and Procurement
   Darryl Dearborn, Contract Manager, Contract Services and Procurement
   Roberta McNeil, Manager, Internal Control and Compliance, Financial Operation
   Nikhil Bassi, Systemwide Tax and Legislation Analyst, Financial Operation
   Larry Piper, Chief of Facilities Planning, CPDC
   Nancy Freelander-Paice, Executive Program and Fiscal Manager, CPDC
   Theresa Tsik, Associate Facility Planner, CPDC
   Eric Chan, Space Analyst, CPDC