MEMORANDUM

To: University Facility Officers
From: Elvyra F. San Juan, Assistant Vice Chancellor
        Capital Planning, Design and Construction
cc: Building Coordinators, Physical Plant Directors, Energy Coordinators, CPDC Managers and
        Dr. Benjamin F. Quillian
Date: September 30, 2009
Subject: CSU Policy on Claiming Federal Energy Policy Act (EPACT) Tax Credits

This memorandum is provided as guidance for campuses to respond to design team queries on their ability to claim Federal tax credits for providing energy efficient designs on CSU capital projects.

CSU policy in this regard is not to contest these deductions, not to directly condition any CSU professional appointment to a rebate of potential tax credits that may be received from a design team. Directly seeking such a rebate may give the appearance of the CSU pursuing a reallocation of Federal tax credits and would be at variance with the stated intent of the referenced Federal regulation.

We have researched the matter internally and externally with KPMG. The Federal Section 179D credit in question will not provide a tax benefit for the CSU. For CSU, the primary benefit will be realized in the improved operating efficiency of the project.

Background:

Energy Policy Act 2005 Federal tax credits have been extended. Presently, as we understand it, under this tax credit, the design team may be eligible to claim Federal tax credits if certain benchmark energy efficiency performance targets are met in construction of capital projects. California’s strict Title 24 Energy Standards coupled with the CSU policy of further exceeding the same have allowed several CSU projects to potentially qualify for this credit.

Subtitle C, Section 1131. EPACT Excerpt:

“(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY
In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the [Federal] Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

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San Bernardino
San Diego
San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus
As a reminder, CSU policy (SUAM 9207) on the selection and appointment of professional service providers is to obtain services based on an evaluation of demonstrated competence and professional qualifications. Further, these services are to be obtained at fair and reasonable costs. Recognizing the creative nature of professional services, the CSU is not obligated to accept the lowest priced proposal for such, however cost can be used as a factor in the campus determination of professional qualifications.

Since total internal costs to the service provider influence the service provider’s development of cost proposal submittals, campuses are encouraged to point out to potential service providers the availability of this credit and let the service provider make their own determination relative to this in any proposal they elect to make.

The following U.S. Department of Energy link provides additional information on this program:
http://www1.eere.energy.gov/buildings/tax_commercial.html