

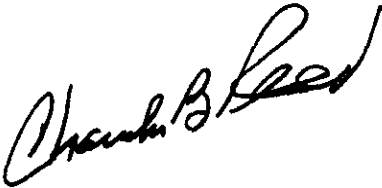
The California State University
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802-4275

(562) 985-2800

Date: April 8, 1999

To: CSU Presidents

From: Charles B. Reed
Chancellor



Subject: Auxiliary Organization Financing Transactions
Executive Order No. 703

I am transmitting a copy of Executive Order No. 703 which provides information and procedures for auxiliary organization financing activity in the CSU.

In accordance with policy of The California State University, the campus president has the responsibility for implementing Executive Orders where applicable and for maintaining the campus repository and index for all Executive Orders.

CBR:rp

Attachment

Distribution: Vice Presidents for Administration and Finance
Auxiliary Organization Directors
Executive Deans
Chancellor's Office Staff

The California State University
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802-4275

(562) 985-2800

Executive Order No. : 703

Title: Auxiliary Organization Financing Transactions

Effective Date: 1999

Supersedes: No prior executive order

This executive order provides supplemental information and procedures in connection with auxiliary organization financing activities. It is issued pursuant to Title 5, California Code of Regulations, Section 42501 (c) and the authority delegated to the chancellor in RFIN 11-98-19, the CSU Policy for Financing Activities. The policy recognizes that certain financing transactions that are long term in nature generally pose greater fiscal risks.

In November 1998 the Board of Trustees approved the CSU Policy for Financing Activities relating in part to auxiliary organization financing activities. In January 1999 the Board of Trustees also approved a revision to Title 5, California Code of Regulations, Section 42500 (c) relating to auxiliary organization financing activities. A copy of Section 3 of the policy and a reprint of the amended section of Title 5 are enclosed as Exhibit A. Campus presidents are required to ensure that the Trustees' policy is implemented.

The procedures of this executive order are intended to be administered within the context of definitions and provisions in the CSU Policy for Financing Activities, as it may be amended from time to time. The title of senior vice chancellor, business and finance referred to in the policy has been updated in this executive order to reflect the new title of executive vice chancellor and chief financial officer.

I. Delegation – Equipment and Working Capital Financings and Refinancings

With regard to Section 3.4 of the Trustees' policy, campus presidents are hereby delegated authority to establish and implement local campus procedures to review and approve auxiliary financing and refinancing activity for:

- lease financing for equipment purchases used in the day to day business activity or programs of recognized auxiliary organizations, and
- working capital needs arising from the day to day business activity or programs of recognized auxiliary organizations.

Recognizing that there may be significant differences and complexities among the transactions processed pursuant to this delegation, campus procedures for review shall, at a minimum, address the following issues:

- if there is a need for involvement of the auxiliary governing board;
- if there is a need to evaluate alternative financing plans; and
- if there is a need to obtain expert legal, tax and financial advice regarding the transaction.

For the above types of financings, campus presidents are also delegated authority to execute documents on behalf of the Trustees and the chancellor that are needed to comply with tax law provisions or otherwise assist in expediting these financings.

II. Other Auxiliary Financings and Certain Refinancing Transactions

Other financing and refinancing transactions referred to in Sections 3.2 and 3.3 of the CSU Policy on Financing Activities are divided into four different categories of transactions. They are:

Type I — Financing transactions of campus auxiliary organizations intended only for the purpose of obtaining new funds for development of projects.

Type II — Financing transactions of campus auxiliary organizations intended to both refinance existing debt and obtain new funds for a project or projects.

Type III — Financing transactions of a campus auxiliary organization intended to restructure existing debt for reasons other than to yield a net present value savings. These transactions might be intended to alter current cash flow to better enable the auxiliary organization to meet all operational needs and could also result in net present value additional cost over the life of the specific debt obligation.

Type IV — Refinancing transactions of campus auxiliary organizations intended only for the purpose of providing a net present value savings over current debt service obligations.

Additional questions regarding these classifications should be addressed to the director of financing and risk management in the Office of the Chancellor.

A. Notwithstanding the delegation in Section I of this executive order and with regard to Section 3.2 of the Trustees' policy (Exhibit A), Type I, Type II and Type III transactions, after review by the campus president, shall be presented to the Trustees as an information item at a regularly scheduled meeting of the Board. A request to the executive vice chancellor and chief financial officer for a Trustees' agenda item shall be made by the university president (or designee). The request should include a draft agenda information item and applicable information noted below. The executive vice chancellor and chief financial officer will evaluate applicable information from the campus relating to:

- the auxiliary organization's governing board approval of the financing plan;
- the description of the roles and responsibilities of entities that are to participate in the transaction;
- the summary of project bids received in support of the level of financing proposed and a sources and uses of funds for the transaction;
- the financial plan showing how the debt will be repaid, and the campus contingency plan in the event that the auxiliary organization is unable to meet the financial obligation;
- the involvement of expert legal, tax and financial professionals in providing assistance with the financing;
- the legal basis for the issuance of the debt;
- the credit pledged to repay the debt, credit ratings and arrangements for bond insurance;

Executive Order No. 703

- the status of the master plan, capital outlay, or other physical planning issues;
- a review of a ground lease, or changes in the auxiliary's written agreement to perform functions at the campus, or any other pertinent documents of the transaction;
- any other facts or issues that may be pertinent to the transaction such as the type of facility and the type of services and resources that the campus community will gain from the new or improved facility; and
- (for transactions involving refinancing plans) the objective of the plan and financial information indicating how the objectives will be achieved.

Most of this information should normally be prepared in connection with review of the project by the auxiliary organization's governing board.

Questions concerning the agenda item or the information needed for the executive vice chancellor and chief financial officer to perform a review should be referred to the director of financing and risk management.

The executive vice chancellor and chief financial officer is responsible for overseeing the final preparation of the requested agenda item.

Execution of documents for the transaction by the auxiliary organization shall not take place before the Trustees' review is completed. Once the project is presented to the Board of Trustees, the chancellor or either the executive vice chancellor and chief financial officer or the director of financing and risk management, under the direction of the chancellor, may execute any and all documents necessary to assist the auxiliary in complying with tax law or other requirements of the transaction.

- B. Notwithstanding the delegation in Section I of this executive order, and with regard to Section 3.3 of the policy approved by the Board of Trustees (Exhibit A), after review by the campus president, information for Type IV transactions shall be submitted from the campus president (or designee) to the executive vice chancellor and chief financial officer. The executive vice chancellor and chief financial officer shall review the refinancing plans and information, including the evaluation of the plan of savings to be achieved.

Upon satisfactory findings regarding the overall refinancing plan and after the advice of appropriate legal counsel, the executive vice chancellor and chief financial officer or the director of financing and risk management may execute any and all documents necessary to assist the auxiliary in complying with tax law requirements, and other actions necessary to complete the refinancing transaction by the auxiliary organization.



Charles B. Reed
Chancellor

Dated: April 8, 1999

**Title 5 California Code of Regulations
Section 42500 (c)
As amended by the Board of Trustees
January 26, 1999**

42500 (c) Auxiliary organizations may issue debt instruments to finance or refinance projects in connection with their mission upon prior approval of the campus president and pursuant to policies of the Board of Trustees as may be implemented by the chancellor. For purposes of this section, "debt instruments" means loans, notes, bonds, finance leases, installment purchase or sale agreements, and certificates of participation.

**The CSU Policy on Financing Activities
Section 3. Auxiliary Organization Debt Issuance Programs
(Excerpt from Board of Trustees Resolution 11-98-18)**

3.1 Title 5, California Code of Regulations, Section 42500 (c) is being amended to restate and make it clear that auxiliary organizations may issue debt instruments to finance or refinance projects. For purposes of this section, "debt instruments" means, loans, notes, bonds, finance leases, installment purchase or sale agreements, and certificates of participation.

3.2 The chancellor shall provide the Trustees with information prior to auxiliary organizations issuing debt instruments except for certain transactions as further described in this section. Upon the Trustees being provided with information about the transaction, the chancellor, the executive vice chancellor, the senior vice chancellor for business and finance, and the director of financing and risk management, and each of them (collectively, "Authorized Representatives of the Trustees") may execute documents, attest to statements of fact and take all actions necessary on behalf of the Trustees to approve the financing and to assist the recognized auxiliary organization to complete and to qualify such financing transactions as tax-exempt, unless one or more of the Trustees ask that the transaction be held for further review.

3.3 For auxiliary organization transactions that are only for the purpose of refinancing existing debt on real property projects, a special processing rule may apply. If the chancellor determines that (1) the primary purpose for such a refinancing is to produce net debt service savings and (2) the structure of the refinancing will result in net debt service savings, then the chancellor, the executive vice chancellor, the senior vice chancellor for business and finance, the director of financing and risk management, and each of them, without special notice to the Trustees, may execute documents, attest to statements of fact, and take all actions necessary on behalf of the Trustees to approve the refinancing and to assist any recognized auxiliary organization to complete and to qualify the refinancing transaction as tax-exempt. If the primary purpose of the refinancing transaction as determined by the chancellor, is for reasons other than to produce net debt service savings or the structure does not result in net debt service savings, then the transaction is subject to the procedures described in Section 3.2.

3.4 The chancellor shall require campus presidents to establish campus procedures applicable to campus auxiliary organizations for the issuance of debt instruments to finance or to refinance personal property with lease-purchase or other tax-exempt financing methods. The procedures issued by the chancellor need not contain a requirement for presentation of such financings to the Trustees. Campus presidents shall be authorized to take all actions to assist the auxiliary organization on behalf of the Trustees to complete and qualify such financing transactions as tax-exempt.

3.5 The delegations conferred by the subsections of this resolution are limited and do not authorize the chancellor or other Authorized Representatives of the Trustees to establish any indebtedness of the State of California, the Board of Trustees, any CSU campus, or any officers or employees of any of them. Lending or pledging the credit of any of these entities is not intended or authorized by this resolution.