

SPECIAL INVESTIGATION
RESEARCH FOUNDATION AND COLLEGE OF BUSINESS
CALIFORNIA STATE UNIVERSITY,
CHICO

Investigative Report 11-92
January 24, 2013

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ABBREVIATIONS

BSIS	Business Information Systems
CFA	California Faculty Association
CSU	California State University
CSU Chico	California State University, Chico
F&A	Facilities and Administrative
OUA	Office of the University Auditor
PI	Principal Investigator

EXECUTIVE SUMMARY

INITIAL ALLEGATIONS

It was alleged that:

- ▶ The College of Business underreported revenue received from institutions participating in a SAP hosting center at California State University, Chico (CSU Chico).^{1,2}
- ▶ Individuals involved in making decisions to establish a hosting center at CSU Chico had a conflict of interest because they received income from SAP, whose product was used by the hosting center.
- ▶ The CSU Chico Research Foundation did not accurately and consistently bill an outside entity for direct and indirect costs related to contracts it had with the entity and in turn did not reimburse the campus for costs incurred. Further, this underbilling resulted in inflated residual funds³ that were then improperly transferred into foundation discretionary accounts under the College of Business.
- ▶ CSU Chico was not fully reimbursed for time faculty members were released from teaching to work on hosting center projects.⁴ Further, the additional work done by faculty for projects related to the hosting center created a workload that exceeded California State University (CSU) policy on additional employment.
- ▶ A faculty member was paid a salary for four years to teach online and co-taught classes (while obtaining his PhD in another state) without an approved workload reduction agreement.

INVESTIGATION RESULTS – INITIAL ALLEGATIONS

Underreported Revenue

We were unable to conclusively determine the extent to which hosting center revenues were properly billed and collected, but universities that were end users of the hosting center may have been underbilled by a net of approximately \$43,000 during 2010 and 2011. In addition, two CSU campuses with the same agreement term were charged differently, resulting in one campus being overcharged by \$2,000.

¹ The hosting center at CSU Chico is part of a program designed to provide subscribing university members throughout the world with access to SAP software. SAP is one of the world's largest software manufacturers. No allegations were made against SAP and, as such, they were not part of our investigation. The focus of our investigation was the SAP hosting center at CSU Chico. The hosting center provides online access to SAP software as well as technical support to other universities for use in their classes and curriculum.

² Although the initial allegation stated that the College of Business underreported revenue, revenue collection and accounting is administered by the Research Foundation.

³ Residual, or surplus, funds are those funds remaining at the end of the project period after all cost charges that were allowable and allocable to that specific project.

⁴ Faculty may receive release time from their assigned teaching duties to engage in activities such as new course development, advising, or research.

Conflicts of Interest

One faculty member had a conflict of interest when he participated in making decisions about the hosting center at CSU Chico because he received income from an account funded in part by SAP, whose product was being used by the hosting center. While other conflicts of interest were alleged during the investigation, we did not substantiate those allegations.

Failure to Appropriately and Consistently Bill for Costs Incurred and to Properly Reimburse the Campus

The CSU Chico Research Foundation charged rates for facilities and administrative costs for projects related to the hosting center that often did not cover their own operating costs without adequately documenting why they charged such low rates. Fees that were charged and collected by the Research Foundation were not used to directly reimburse the campus for costs the campus incurred for facilities and administrative costs. Further, charging such low rates resulted in more money being transferred to other Research Foundation discretionary accounts related to the hosting center.

Failure to Fully Reimburse Faculty and Staff Release Time and Violation of Additional Employment Limit

CSU Chico was not fully reimbursed for time faculty members were released from teaching to work on hosting center projects. Further, while we did not find that the additional work done by faculty for projects related to contracts with SAP created a workload that exceeded CSU policy on additional employment, the hours of one hosting center staff member did exceed the limit.

Reduced Workload Agreement

A faculty member was paid a salary for four years to teach online and co-taught classes (while obtaining his PhD in another state) under an approved workload reduction agreement.

INVESTIGATION RESULTS – ANCILLARY FINDINGS

Failure to Pay for Use of University Facilities

The campus did not bill, and therefore was not paid, for its facilities when they were used for non-university certification courses for ten days in both summer 2010 and 2011. The campus also did not bill, and was not paid, for use of its facilities during 2010 and 2011 for an annual four-day summer workshop associated with the hosting center.

Misuse of University Name

Faculty improperly used the university and College of Business names when they advertised the non-university certification course by saying that the course was offered by the “College of Business at CSU Chico.”

CSU Policy Regarding Governance of Centers, Institutes, and Similar Entities

The campus did not designate the hosting center as a campus center, subject to CSU and campus policies governing the establishment and oversight of such entities.

INTRODUCTION

BACKGROUND

Research Foundation

The CSU Chico Research Foundation was incorporated in 1997 and has responsibility for grants and contracts administration for the campus along with entrepreneurial activities. It is governed by a ten member Board of Directors consisting of campus administration, faculty, a student, and members of the community. The executive director is responsible to the Board of Directors for the administration of foundation activities and to the university administration for adherence to campus policy.

The purpose of the foundation is to help develop and administer those activities that aid and supplement the educational mission of CSU Chico. As a private non-profit corporation, the foundation is self-financed and receives no state appropriations. The foundation's financial and personnel structures, while designed to serve the campus, are distinct from those of the university, and operational practices may vary from those of the campus. The foundation must conform with non-profit corporation laws as well as the regulations and directives issued by the Trustees of the CSU.

Hosting Center

SAP America, Inc., (SAP) is one of the world's largest software manufacturers. Various SAP software packages are used by faculty to teach students how to integrate business processes and to think strategically. In 1996, SAP selected the CSU Chico College of Business as its first partner in a program designed to provide university faculty members throughout the world with the tools and resources they need to teach students how technology can enable integrated business processes. In 2002, CSU Chico became an official hosting center for the software. The hosting center maintains servers containing the SAP software and provides services to end users including access to a dedicated website in order to utilize the SAP software, curriculum and faculty training, and technical training/support. Hosting centers eliminate the need for individual campuses to make large investments in technical infrastructures and operational staffing. As one of just two hosting centers for the Americas, CSU Chico now serves as a host for more than 100 institutions in the program.

Campus Actions and Notifications

On or about August 26, 2010, a campus administrator received a whistleblower complaint that outlined several allegations related to numerous agreements involving the campus, the Research Foundation, and an outside entity. The campus administrator investigated the allegations and issued a report on December 22, 2010. Based on the administrator's investigation, the campus addressed a number of the concerns, but on May 17, 2011, they informed the chancellor that they were at a point where they believed assistance from the Office of the University Auditor (OUA) would be beneficial. On May 18, 2011, the chancellor requested that the OUA conduct an investigation.

SCOPE AND METHOD OF INVESTIGATION

To investigate the allegations, we reviewed the campus's report and applicable policies and procedures. We also obtained additional information and documentation including contracts related to the hosting center and SAP, accounting records, payroll data, and email. In addition, we interviewed campus and Research Foundation administrators as well as faculty and staff.

Although the campus's relationship with SAP dates back to 1996 and the campus became a hosting center in 2002, we limited parts of our investigation to more recent time periods, as outlined in the various sections of our report.

RESULTS OF INVESTIGATION

INITIAL ALLEGATIONS

It was alleged that:

- ▶ The College of Business underreported revenue received from institutions participating in a SAP hosting center at CSU Chico.^{5,6}
- ▶ Individuals involved in making decisions to establish a hosting center at CSU Chico had a conflict of interest because they received income from SAP, whose product was used by the hosting center.
- ▶ The CSU Chico Research Foundation did not accurately and consistently bill an outside entity for direct and indirect costs related to contracts it had with the entity and in turn did not reimburse the campus for costs incurred. Further, this underbilling resulted in inflated residual funds that were then improperly transferred into foundation discretionary accounts under the College of Business.
- ▶ CSU Chico was not fully reimbursed for time faculty members were released from teaching to work on hosting center projects. Further, the additional work done by faculty for projects related to the hosting center created a workload that exceeded CSU policy on additional employment.
- ▶ A faculty member was paid a salary for four years to teach online and co-taught classes (while obtaining his PhD in another state) without an approved workload reduction agreement.

INVESTIGATION RESULTS – INITIAL ALLEGATIONS

Underreported Revenue

We were unable to conclusively determine the extent to which hosting center revenues were properly billed and collected, but universities that were end users of the hosting center may have been underbilled by a net of approximately \$43,000 during 2010 and 2011. In addition, two CSU campuses with the same agreement term were charged differently, resulting in one campus being overcharged by \$2,000.

We encountered significant difficulties when conducting our testing and were unable to conclusively determine whether all revenues related to the CSU Chico hosting center were properly billed and collected. Specifically, although Research Foundation and campus staffs were able to verify that the amounts billed were recorded in the accounting records, we found errors and inconsistencies in the noted agreement dates and the amounts billed.

To provide some additional background, the hosting center at CSU Chico charged US schools \$8,000 per year for hosting services with the first four months free to new schools; Latin American schools paid \$5,000 per year with no free months. Billing is based on a calendar year, so schools that join during the

⁵ Although the initial allegation stated that the College of Business underreported revenue, revenue collection and accounting is administered by the Research Foundation.

⁶ As noted previously, our focus was the SAP hosting center at CSU Chico; SAP was not part of our investigation.

year pay a prorated amount. We attempted to determine whether revenue amounts had been properly reported for calendar years 2010 and 2011 by obtaining and reconciling lists of hosted entities from both the Research Foundation and the hosting center, but we found numerous discrepancies that needed to be reconciled.

Further, after comparing the information provided by the Research Foundation to the agreements with the end users,⁷ we noted several discrepancies between amounts billed and what should have been billed according to the agreements. Specifically, it appears that one entity was overbilled by \$2,000 and that 15 other entities were underbilled by a total of \$44,997, resulting in a net underbilling of \$42,997. Due to incomplete and inconsistent information, we could not determine how much eight other entities should have been billed or whether the amounts they were billed were appropriate.

We also found inconsistencies in agreement term dates. Because entities joining the hosting center may receive the first four months free and the annual fees for the first year are prorated, the agreement date is critical to determining the amount the entities should be charged.

Title 5 §42401 and §42402 indicate that the campus president shall require that auxiliary organizations operate in conformity with policy of the Board of Trustees and the campus. One of the objectives of the auxiliary organizations is to provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the campus in accordance with sound business practices. Sound business practice mandates that entities establish and maintain a system or systems of internal accounting and administrative controls. Internal controls are necessary to provide public accountability and are designed to minimize fraud, abuse, and waste of government funds. In addition, by maintaining these controls, agencies gain reasonable assurance that the measures they have adopted protect assets, provide reliable accounting data, promote operational efficiency, and encourage adherence to managerial policies.

CSU campuses billed differently

Seven other CSU campuses were end users of hosting center services. The agreements with two of the schools indicated that they started their initial terms with the hosting center on December 1, 2010, so the fees charged should have been the same, i.e., the first four months free and a prorated fee of \$6,000 due for 2011. However, the fee schedules attached to each of the agreements were different, and one school was charged \$6,000 while the other was charged \$8,000. We did not see any documented explanation for the difference. Based on the information we found in the files, we believe the school that was charged \$8,000 was overcharged by \$2,000. Further, an agreement with a third CSU campus was originally signed for \$8,000 and later formally revised to \$4,000 for calendar year 2010. The revised agreement said the 2011 rate would be \$8,000, but the campus again was only charged \$4,000, resulting in an undercharge of \$4,000 based on the agreement.

⁷ When a new end user (university) joins the hosting center, the end user and the Research Foundation enter into a formal agreement which, among other things, outlines the fees the end user should pay for hosting center access.

Conflicts of Interest

One faculty member had a conflict of interest when he participated in making decisions about the hosting center at CSU Chico because he received income from an account funded in part by SAP, whose product was being used by the hosting center. While other conflicts of interest were alleged during the investigation, we did not substantiate those allegations.

We reviewed documentation related to the implementation of the hosting center and interviewed the faculty member and others involved with the hosting center. We found that the faculty member, who became the director of the hosting center, had a conflict of interest. Specifically, the faculty member participated in the decision-making process to have a hosting center at the campus; and during the time preceding and following the date of the agreement to establish the SAP hosting center, he received income from a Research Foundation account that was funded in part by a \$25,000 deposit from SAP. The faculty member signed an approval document for the hosting center on March 19, 2002, and between January and October of that year, he received \$27,500 in payroll from that account, which was separate from the hosting center itself. Because this occurred ten years ago, available Research Foundation records were limited. We asked the faculty member whether he could tell us what the payments related to and he could not recall with certainty, but did say that he started receiving a fellowship from SAP in 2001 and the payments may have been related to the fellowship or a research project. Although other individuals participated in making and approving the decision to have the hosting center at the campus, the faculty member nevertheless participated in the decision-making process.

The faculty member was also the principal investigator (PI) for the hosting center project. Although PIs are typically required to file conflict-of-interest forms, the Research Foundation was not aware of such a requirement until a 2007 audit and even after that did not require the PI to complete a form because they understood the filing requirement only applied to research projects, which they did not consider the hosting center to be.⁸ It would be typical for a PI to participate in the decision-making process related to their grant or contract and to receive payment for their work on the grant or contract; the concern in this situation is that the faculty member/PI received other additional income from the Research Foundation that came from SAP and that constituted a conflict of interest. Therefore, the faculty member should have recused himself from participating in the decision to have the hosting center at the campus.

Under the Political Reform Act (act), contained in California Government Code, Section 87100 et seq., public officials are disqualified from participating in government decisions in which they have a financial interest. To determine whether a conflict of interest exists under the act, the Fair Political Practices Commission applies an eight-step process, including determining whether the governmental decision will have a material financial effect on the public official's economic interests and whether it is reasonably foreseeable that the economic interest will be materially affected.

⁸ The campus has since made it clear to the Research Foundation that all PIs should complete conflict-of-interest forms.

Other Alleged Conflicts

Numerous concerns were brought to our attention regarding a perceived conflict of interest on the part of several other College of Business faculty members because of the economic benefits the faculty received from SAP in the form of paid travel to conferences and payroll paid through the Research Foundation. These faculty members also incorporated the use of SAP software into their curriculum. The conflict-of-interest provisions disqualify employees from “participating in government decisions in which they have a financial interest.” However, while some may argue to the contrary, we do not interpret the decision to use the software in the faculty members’ curriculum to constitute a “government decision.”

In addition, concerns were raised about the faculty members participating in making decisions to hire other faculty members who also had an interest in using the software in their curriculum. Most of the faculty members we spoke with said they had not been involved in hiring decisions. Even if the faculty members had been involved in hiring decisions and considered a candidate’s interest in or support of the software in their decision, we do not believe this would constitute a conflict of interest because the decision would not have a material financial effect on the faculty members’ economic interests nor is it reasonably foreseeable that the economic interest will be materially affected.

As a result, though there may be concerns about the appearance of these scenarios, we do not believe the faculty members had a conflict of interest. Moreover, to the extent these faculty members were not PIs on related grants or contracts, there was not a requirement for them to complete a conflict-of-interest form, and the Research Foundation did not previously require them for non-research projects.

Under the Political Reform Act, contained in California Government Code, Section 87100 et seq., public officials are disqualified from participating in government decisions in which they have a financial interest.

Further, while the CSU requires PIs to report financial interests on a conflict-of-interest form in certain instances, there is no such requirement for faculty members in general. However, the campus’s Faculty Personnel Policies and Procedures, Section 1.3, instructs faculty members to report to an appropriate administrator if they believe a university decision they may make could affect their private financial interest.

Failure to Appropriately and Consistently Bill for Costs Incurred and to Properly Reimburse the Campus

The CSU Chico Research Foundation charged rates for facilities and administrative costs for projects related to the hosting center that often did not cover their own operating costs without adequately documenting why they charged such low rates.⁹ Fees that were charged and collected by the Research Foundation were not used to directly reimburse the campus for costs the campus incurred for facilities and administrative costs. Further, charging such low rates resulted in more money being transferred to other Research Foundation discretionary accounts related to the hosting center.

⁹ Revenues related to the hosting center now actually come from billing the end users of the hosting center (i.e., other universities), not from SAP.

Additional Background

According to the Research Foundation's guidebook to Creating Auditable Budgets, "Facilities and Administrative (F&A) costs (sometimes referred to as "indirect costs") are incurred for common or joint objectives and, therefore, are those that cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. F&A costs...reimburse the institution for expenses incurred in supporting projects funded by outside agencies. These costs include general and departmental support and the use of University services such as libraries, laboratories, classroom facilities, computer centers, utilities, and student as well as other essential administrative services including accounting, personnel, payroll, accounts payable, accounts receivable, specialized insurance coverage, compliance and regulatory monitoring, independent audits and legal services."

F&A Rates Charged and Cost Allocation Plans

The campus compiled a spreadsheet summarizing 31 agreements between February 1998 and June 2011 that were related to the hosting center and/or SAP. The F&A rates charged for those agreements ranged from 0 to 24 percent and the original agreement with SAP for the hosting center had a 5 percent F&A rate; the F&A rate for 18 of the agreements was 10 percent or less. While more data was not readily available related to its operating costs, the Research Foundation was able to provide them for fiscal year 2004/05 (15 percent) and 2009/10 (17.9 percent). In addition, the Research Foundation indicated that these costs would be greater for more recent years. Comparing the operating costs to the F&A rates charged on the agreements, the rates charged by the Research Foundation often did not cover its costs, let alone provide for money to reimburse the campus for campus F&A costs.

We were unable to determine with certainty what rate the Research Foundation should have charged. Although the Research Foundation has established rates for both federal and state projects, rates for other projects varied, even among projects that related to the hosting center.

Further, we could not determine what amount the campus should have received due to a lack of approved cost allocation plans, other documentation, or policies and procedures outlining what amount or percentage of the Research Foundation F&A rate should be provided to the campus. The campus was only able to provide a cost allocation plan for fiscal year 2009/10 and that plan did not specify rates or amounts; they did not have one for fiscal years 2010/11 or 2011/12. CSU policy requires that each campus develop a cost allocation plan to ensure that costs incurred by the CSU operating fund for services, products, and facilities provided to other CSU funds and to auxiliary organizations are properly and consistently recovered with cash and/or a documented exchange of value.

Without a clearly documented and approved cost allocation plan, the campus has even less assurance that it is receiving appropriate reimbursements or exchange of value for the services, products, and facilities it provides, and it may therefore be subsidizing the hosting center.

The Research Foundation believes that the campus did receive an exchange of value for the F&A services it provided because the Research Foundation, with the approval of its Board of Directors (several of whom are campus administrators), annually provided funds to the campus. While some funds were transferred to the campus, other funds stayed in Research Foundation accounts and were used to pay various expenses on behalf of the campus. While this exchange of value was documented in

approximately fiscal year 2008/09 in a transfer of resources spreadsheet prepared by the Research Foundation, nothing similar was prepared in subsequent years and it is unclear how much value the campus may have received.

The California Constitution, Article XVI, Section 6, prohibits the giving of any gift of public money or thing of value to any individual, municipal, or other corporation.

CSU Executive Order 1000, *Delegation of Fiscal Authority and Responsibility*, states that the campus president shall ensure that costs incurred by the CSU operating fund for services, products, and facilities provided to other CSU funds and to auxiliary organizations are properly and consistently recovered with cash and/or a documented exchange of value. Allowable and allocable indirect costs shall be allocated and recovered according to a cost allocation plan that utilizes a documented and consistent methodology including identification of indirect costs and a basis for allocation.

Further, authority to require payment for granting rights to access campus facilities is generally governed by Education Code 89700(a), which states that the trustees may require all persons to pay fees, rents, deposits, and charges for services, facilities or materials provided by the trustees to such persons.

Residual Funds

The Research Foundation has a policy regarding the disposition of surplus (residual) funds from fixed price or performance based grants and contracts. The policy only applies to surplus funds available at the end of a project and after other project costs have been successfully completed. If no indirect or only partial indirect costs were allowed under the original agreement, the surplus funds should be used to recover the full indirect costs allocable to the specific project. After that, any surplus funds should be shared equally between the project director responsible for the project (whose share is transferred to the appropriate Research Foundation board-designated account) and the Research Foundation's professional development account. Any variation from this policy in the distribution of surplus funds must be submitted in writing to the director of Research and Sponsored Programs for approval.

The Research Foundation did not have documentation of a written waiver of its policy on Distribution of Surplus Funds for the hosting center project. However, the Research Foundation contracts officer said that given SAP's restrictions on revenues received for hosting services (outlined in an "assumptions" document discussed below), there did not seem to be any surplus funds to which the policy would apply. Nevertheless, we did not see this concept spelled out in formal, approved agreements, only in supplementary documents or emails from SAP that were not officially approved by either the Research Foundation or campus representatives.

Many of the hosting center agreements had funds remaining at the end of the agreement term. Approximately \$1.5 million was transferred to other accounts maintained by the Research Foundation to be used to support the hosting center. Although not clearly outlined in the original hosting center agreement, for example, according to a six-page June 2006 "assumptions" document prepared by SAP, "[i]t is expected that revenues in excess of costs will be reinvested into developing curricular/supporting initiatives of the [SAP executive] and put into reserves for hardware investments – the goal should be a break-even operation." Additionally, the software company executive said in a July 2011 email that

“[t]he revenue generated by the hosting fees may be used to support the operations of the [hosting center], the overhead SAP permits, and reserves that are required to ensure that hardware/software/other periodic purchases can be made and to ensure the long-term viability of the [hosting center]. Anything in excess of this must be reinvested back to the program with curriculum development, expand the products/services offered by the [hosting center] or other projects defined by myself. The goal is a break-even operation over time, but in no circumstances can excess fees be absorbed by the College of Business, the Foundation or any other group at CSU Chico.”

Failure to adequately and fully consider and document policy waivers can lead to a loss of revenues and a lack of clarity regarding how much money the Research Foundation and the campus may be entitled to.

The CSU Chico Research Foundation’s Policy on Disposition of Surplus Funds from Fixed Priced or Performance Based Grants and Contracts outlines how surplus funds are calculated and distributed.

In addition, under California Government Code, Section 13400, et. seq., the following are elements of a satisfactory system of control: a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; and an established system of practices to be followed in the performance of duties and functions.

Failure to Fully Reimburse Faculty and Staff Release Time and Violation of Additional Employment Limit

CSU Chico was not fully reimbursed for time faculty members were released from teaching to work on hosting center projects. Further, while we did not find that the additional work done by faculty for projects related to contracts with SAP created a workload that exceeded CSU policy on additional employment, the hours of one hosting center staff member did exceed the limit.

Release Time

Overall, we found the campus was not reimbursed for at least \$70,569 for faculty and staff release time between July 2009 and December 2011. Moreover, there were discrepancies between campus records and representations made by faculty and staff in regard to their release time.

During fiscal years 2009/10 and 2010/11, two faculty members and one staff member received release time from their state duties to work on grants and contracts related to the hosting center and administered by the Research Foundation. The amount reimbursed to CSU Chico for this faculty and staff release time was sometimes less than the actual cost of the time and, until fiscal year 2011/12, did not include reimbursement for the cost of fringe benefits.¹⁰ During fiscal years 2009/10 and 2010/11, approximately \$77,562 in time and benefits was not reimbursed to the campus. In December 2011, the campus was reimbursed an additional \$6,993 for benefits for the staff member, even though benefits were not funded as part of the agreements, resulting in a net of \$70,569 not reimbursed. When we reviewed reimbursed time information for the fall 2011 semester, we found that the campus was reimbursed for the benefits for employees who had release time.

¹⁰ Though the policy still states that “[o]ccasionally, replacement rate may be used,” the former provost instructed the deans to seek full salary and associated fringe for reimbursement.

In another situation, there was inconsistent information in regard to release time for a third faculty member in spring 2010 that made it unclear whether or not he did work related to the hosting center and if so, whether the time should have been reimbursed. Specifically, the faculty member had 20 percent release time during that semester for “instructional experimentation or innovation, or instructionally related research.” In addition, an email instructed Research Foundation staff to prepare a purchase order to reimburse the campus \$4,800 for this faculty member’s time (as well as amounts for two other faculty members that were billed and reimbursed) for January 1, 2010 through June 30, 2010. When we asked the faculty member about the situation, he said there was no buyout (reimbursement) of his time and the release time may have been related to his committee work. However, a form signed by the faculty member and his superiors well after the semester began indicated he was released to work on SAP research and curriculum coordination. While some records we found indicated the campus should have been reimbursed for the faculty member’s time, no one, including the faculty member, was able to tell us conclusively what the faculty member had done with his release time, whether the time should have been reimbursed, and if so, why it was not reimbursed. As a result, we could not make a final determination regarding the appropriateness of the situation.

Further, a fourth faculty member provided release time information for fall 2011 that was contradicted by documentation and other evidence. We asked the faculty member to review a list outlining our initial understanding of who had release time related to the hosting center, including our understanding at the time that he had 20 percent release time during that semester. While he deferred to someone else to confirm the information, he did not correct our understanding and even noted the information looked reasonable. When we later informed him that we found that his release time was not reimbursed, he said that he taught two classes and served as acting chair of the Business Information Systems (BSIS) department and because he was not released from his other duties, there was no need to charge reimbursed time to the hosting center. We then learned the faculty member actually had 40 percent release time and, according to a form he signed at the end of that semester, he worked on a different project; no mention was made of a department chair position. In fact, the faculty member’s statement that he was the department chair during the fall 2011 semester was inaccurate because the BSIS department did not formally exist until December 2011. We confirmed with the dean that the faculty member was not a department chair during that semester, although he was a coordinator/spokesperson for other BSIS faculty during that time because a proposal to split another department was in the works. The faculty member was appointed as interim department chair in the spring 2012 semester.

Finally, the position description for the staff member who received release time was out of date; and after it was revised as a result of a desk audit, the percentage of his time that was reimbursed increased from 50 to 80 percent because it was determined that more of his time was devoted to the hosting center. It was unclear how long the employee had been devoting more than 50 percent of his time to the hosting center, and no retroactive adjustment was made. Despite the increase in reimbursement, there was still a lack of clarity regarding the amount of time he devoted to the College of Business versus the hosting center. When we questioned the staff member about this, he said he looks at his position as being fairly liquid; he works for the hosting center and the hosting center is in the College of Business. He said he had nothing to do with the determination of how much of his time should be reimbursed.

As a result of these various discrepancies and a general lack of clarity, we were unable to make a clear and quantifiable determination as to whether the campus is being appropriately and adequately reimbursed for faculty and staff release time. If the campus is not recovering the full cost of a faculty or

staff member's release time, it is subsidizing the employees' other activities, which, depending on the nature of the activities, may or may not be an appropriate use of state resources.

The campus was unable to provide documented policies or procedures related to the release time process, so we could not determine when and how release time should be approved or what type of information should be documented (for example, the specific type of activities or research the faculty member will be engaging in if the release time is approved).

The California Constitution, Article XVI, Section 6, prohibits the giving of any gift of public money or thing of value to any individual, municipal or other corporation.

CSU Executive Order 1000, *Delegation of Fiscal Authority and Responsibility*, states that the campus president shall ensure that costs incurred by the CSU operating fund for services, products, and facilities provided to other CSU funds and to auxiliary organizations are properly and consistently recovered with cash and/or a documented exchange of value. Allowable and allocable indirect costs shall be allocated and recovered according to a cost allocation plan that utilizes a documented and consistent methodology including identification of indirect costs and a basis for allocation.

Additional Employment

While we did not find that additional work done by faculty for SAP projects created a workload that exceeded CSU policy on additional employment, the Research Foundation failed to detect that one staff member's workload exceeded the limit. Specifically, between January 2010 and June 2011, he reported a total of 925 hours in addition to his full-time position, exceeding the 780 hour limit (10 hours per week for the 18-month period) on additional employment by 145 hours.

According to the interim director of the Research Foundation, the person reviewing the report of additional employment hours did not realize the individual was in fact a staff member and not a faculty member. Faculty members with academic year appointments are allowed to work more total hours than staff members because they are not teaching during summer months and can devote more time to additional employment. The staff member told us he was aware of the 125 percent limitation, but he did not keep track of his hours well enough to know that he had exceeded it.

Failure to properly track and monitor additional employment hours can lead to individuals exceeding the established limits.

The CSU *Additional Employment Policy* states that campuses are responsible for developing appropriate guidelines for implementation of the policy and for developing procedures for prior approval and monitoring of all additional employment.

CSU Coded Memorandum HR 2002-05, *Additional Employment Policy*, limits the total amount of employment an individual may have within the CSU system. Additional employment refers to any CSU employment in addition to the employee's primary appointment; limitations are based on time base, not salary. A maximum of 125 percent time base is allowed. When determining the 125 percent additional employment under the policy, all CSU employment and all outside CSU foundation and other CSU auxiliary employment are considered together.

Reduced Workload Agreement

A faculty member was paid a salary for four years to teach online and co-taught classes (while obtaining his PhD in another state) under an approved workload reduction agreement.

A faculty member was kept on the CSU Chico payroll and paid a salary for four years, though at a reduced 40 percent time base because he was teaching fewer classes, while he attended an out-of-state PhD program and taught classes remotely using videoconferencing technology. The faculty member maintained virtual office hours and students were able to reach him via Skype or by phone. However, various administrators including the dean told us they were unaware the faculty member would be teaching remotely. Although there was an approved form authorizing the reduced time base, the campus did not have specific policies or procedures to address the authorization of faculty teaching courses remotely for extended periods of time.

Under California Government Code, Section 13400, et. seq., the following are elements of a satisfactory system of control: a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; and an established system of practices to be followed in performance of duties and functions.

INVESTIGATION RESULTS – ANCILLARY FINDINGS

Failure to Pay for Use of University Facilities

The campus did not bill, and therefore was not paid, for its facilities when they were used for non-university certification courses for ten days in both summer 2010 and 2011. The campus also did not bill, and was not paid, for use of its facilities during 2010 and 2011 for an annual four-day summer workshop associated with the hosting center.

Outside of their normal state teaching duties, two College of Business faculty members taught a specialized ten-day certification workshop to students who had a background with SAP software. The workshop was attended mainly by CSU Chico students, but was not offered through the university. At the end of the workshop, students took a test offered by SAP and if they passed the test, they received a certification to show they had achieved a certain proficiency level with the software. The workshop was held in classrooms on the CSU Chico campus. According to one of the faculty members, student fees were intended to cover the costs of offering the courses, including payments to the faculty and for course materials.

Because these courses were offered by the faculty members outside of their normal state teaching duties and were a way for them to earn outside income, they should have paid the university rental fees for the use of the facilities, including the classrooms and computers. According to an estimate from the vice president for business and finance, the approximate value of the rental fees for such usage was \$222 per room per day, which, given the number of days and rooms used would have amounted to a value of \$6,660.

In addition, every summer for approximately the last ten years, the hosting center has held a four-day summer workshop at the campus attended mainly by faculty members from other institutions that use SAP software. The campus was not paid for the use of its facilities. Based on information from the vice president for business and finance, estimated fees for such use during 2010 and 2011 would have totaled approximately \$1,776. Although the current hosting center director does not believe they should have to pay an additional fee for facilities use, the vice president disagreed. Further, the former director of the hosting center told us that SAP would pay the costs if they were billed.

As noted earlier, we do not believe there is adequate assurance the campus was appropriately compensated for the F&A services it provided. Given that and the fact that the former director of the hosting center said that SAP was willing to pay for the usage, we believe it would be appropriate to bill them for it in the future.

California Government Code, Section 8314, prohibits state employees from using state buildings, facilities, equipment, and computers for personal advantage or for an endeavor not related to state business. If such a use results in a gain or advantage to the employee or a loss to the state for which a monetary value can be estimated, the employee may be liable for a civil penalty not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use.

The California Constitution, Article XVI, Section 6, prohibits the giving of any gift of public money or thing of value to any individual, municipal or other corporation.

CSU Executive Order 1000, *Delegation of Fiscal Authority and Responsibility*, states that the campus president shall ensure that costs incurred by the CSU operating fund for services, products, and facilities provided to other CSU funds and to auxiliary organizations are properly and consistently recovered with cash and/or a documented exchange of value.

Misuse of University Name

Faculty improperly used the university and College of Business names when they advertised the non-university certification course by saying that the course was offered by the “College of Business at CSU Chico.”

As mentioned, the ten-day certification workshop was not offered through the university. Nevertheless, the fliers announcing the SAP certification course used “College of Business” and “California State University, Chico” in the header and went on to say that the College of Business at CSU Chico was offering the workshop.

Using the university’s name to promote a non-university program gives the false impression that the program is offered and/or endorsed by the university.

California Education Code, Section 89005.5, states that no person shall, without the permission of the Trustees of the California State University, use the university’s name or any abbreviation of it to imply, indicate, or otherwise suggest that any product, service, or organization is connected or affiliated with, or is endorsed, favored, or supported by, or is opposed by the Trustees.

CSU Policy Regarding Governance of Centers, Institutes, and Similar Entities

The campus did not designate the hosting center as a campus center, subject to CSU and campus policies governing the establishment and oversight of such entities.

CSU Executive Order 751, *Centers, Institutes, and Similar Organizations on Campuses of the California State University*, establishes principles for the development of campus policies and procedures governing such entities. According to the executive order, each campus is to have explicit policies and procedures for establishing, operating, monitoring, reviewing, and discontinuing centers, institutes, and similar entities. CSU Chico Executive Memorandum 02-007 is the campus's policy related to these entities that are affiliated with the campus to offer non-credit instruction, information, or other services beyond the campus community, to public or private agencies or individuals. The campuses are required to annually prepare an updated list of such entities, but the hosting center is not on that list.

A campus official informed us that the administration had suggested the operation could be set up as a center, but did not know whether the idea was ever pursued by the College of Business. We believe the hosting center should have been established as a center and subjected to corresponding oversight in accordance with applicable policies.

RECOMMENDATIONS

Our investigation was administrative in nature. The conclusions we drew were made within that context. Recommendations that would mitigate the recurrence of similar findings are presented below.

1. Underreported Revenue

We recommend that the Research Foundation:

- a. Develop a verification process to determine that new end user agreements are accurately entered into the tracking system and all active hosting center end users are billed appropriately in accordance with their agreements. The process should include procedures to verify that the correct agreement start date has been entered and the amount being billed is consistent with the start date and fee schedule.
- b. Develop procedures for cases where an official wants to grant an exception for a rate different from the one outlined in the approved agreement, including clear documentation and explanation of the reason(s) for the exception and ways to ensure it is authorized by all appropriate parties.

Campus Response

- a. We concur. The campus will work with the Research Foundation to develop a verification process to accurately and consistently bill hosting center end users.
- b. We concur. The campus will work with the Research Foundation to develop procedures for establishing fee schedules associated with the hosting center. The procedures will include a clearly defined process for granting exceptions which will include proper authorization.

2. Conflicts of Interest

We recommend that the campus:

- a. Consider offering conflict-of-interest training to faculty.
- b. Remind all faculty of conflict-of-interest rules and regulations, including the requirement in the Faculty Personnel Policies and Procedures to disclose potential conflicts to an appropriate administrator if they believe a university decision they may make or influence could affect their private financial interest.

Campus Response

- a. We concur. The campus will offer conflict-of-interest training to faculty on an annual basis, and require training for all PI's and Co-PI's.

Completion Date: August 31, 2013

- b. We concur. The Assistant Vice President of Faculty Affairs and the Vice Provost for Research will notify all faculty of conflict-of-interest rules and regulations at the beginning of each academic term.

Completion Date: August 31, 2013

3. Failure to Appropriately and Consistently Bill for Costs Incurred and to Properly Reimburse the Campus

We recommend that the campus and the Research Foundation:

- a. Consider developing a special F&A rate that would be consistently applied to all agreements related to the hosting center.
- b. Enforce the Research Foundation's policy regarding surplus funds, including ensuring any exceptions to the policy are appropriately approved and documented. Exceptions to the policy should be approved by a campus administrator in addition to the director of Research and Sponsored Programs because the disposition of surplus funds affects the amount the campus could receive.

We recommend that the campus:

- c. Develop an approved cost allocation plan that clearly outlines how much the campus should be reimbursed for the F&A services it provides.
- d. Consider having reimbursements from the Research Foundation go directly to the CSU operating fund instead of being distributed to other accounts administered by the Research Foundation.
- e. To the extent funds may still be available, consider trying to calculate and recover F&A costs from prior years.

We recommend that the Research Foundation:

- f. Modify the approval/proposal routing form to include an explanation for "adjusted" F&A rates below the maximum rate so those approving the form understand the reasons for adjusting the rate.

Campus Response

- a. We concur. The campus will work with the Research Foundation to revise the Facilities and Administrative (F & A) Cost Rates policy to address F&A rates related to the hosting center and other centers, institutes, and similar entities on campus.

Completion Date: June 30, 2013

RECOMMENDATIONS

- b. We concur. The campus will enforce its current policy regarding surplus funds for the SAP hosting center. At the March 15th Research Foundation Board of Director's meeting, a revision of the Policy on Disposition of Surplus Funds will be presented for approval. The revision will include the addition of a campus administrator's approval for any exceptions granted.

Completion Date: March 31, 2013

- c. We concur. The campus will expand the current Memorandum of Understanding for Grants & Contracts Program Facility Use to include a separate reimbursement for the SAP hosting center which by its nature uses more state resources than a standard contract and grant.

Completion Date: June 30, 2013

- d. We concur. This is no longer standard practice.

- e. We concur. We will calculate and recover, to the extent funds are available, F&A costs from prior years. Hosting center rates will be based on the revised F&A Cost Rates policy (item a. above).

Completion Date: June 30, 2013

- f. We concur. The campus will work with the Research Foundation to revise the proposal routing form to include an explanation for "adjusted" F&A rates.

Completion Date: March 1, 2013

4. Failure to Fully Reimburse Faculty and Staff Release Time and Violation of Additional Employment Limit

We recommend that the campus:

- a. Consider pursuing recovery of the \$70,569 related to unreimbursed released time for faculty and staff between July 2009 and December 2011.
- b. Develop policies and procedures related to release time, including specific procedures for requesting it, and detailing who needs to approve it, what information must be included with the request, as well as any end-of-semester reporting or follow up that should be done. This may, for example, include a type of checklist for faculty requesting release time. Such a policy should also include a timeline indicating a deadline by which a release time request must be submitted, e.g., a week or a month prior to the start of the semester for which the release time is being requested, to help facilitate class assignments and scheduling.
- c. Assume responsibility from the Research Foundation for the monitoring of the additional employment limit. As part of such monitoring, the campus should include a step to verify

whether employees are faculty or staff and whether they are in academic year or 12-month appointments so that the individual reviewing the reports is aware of the appropriate limit to apply.

- d. Issue a reminder to those engaging in additional employment activities about the additional employment policy and the 125 percent limitation on such employment.

Campus Response

- a. We concur. The Research Foundation will reimburse the CSU operating fund \$70,569 for unreimbursed faculty and staff release time between July 2009 and December 2011.

Completion Date: March 1, 2013

- b. We concur. The campus will develop a release time policy which will address the recommended elements.

Completion Date: June 30, 2013

- c. We concur. Campus Human Resources/Payroll, in conjunction with Faculty Affairs, will assume responsibility for monitoring the additional employment limit. We will develop a procedure outlining the new process which will include verification of the employee's appointment and their additional employment limitation.

Completion Date: June 30, 2013

- d. We concur. At the beginning of each academic term, we will issue a campus-wide reminder about the additional employment policy and the 125 percent limitation.

Completion Date: March 1, 2013

5. Reduced Workload Agreement

We recommend that the campus establish a policy regarding remote teaching that outlines if and when it will be allowed, who needs to approve it, and any documentation requirements such as outlining how, specifically, the course(s) will be taught, how long they will be taught remotely, and how office hours and any on-campus duties will be handled.

Campus Response

We concur. The Office of Faculty Affairs and the Provost will establish guidelines within the parameters outlined in the CSU/CFA Collective Bargaining Agreement and the campus Faculty Personnel Policies and Procedures to address these issues.

Completion Date: June 30, 2013

6. Failure to Pay for Use of University Facilities

We recommend that the campus:

- a. Limit the number of individuals who can directly make reservations in the campus's system to reserve facilities, and develop procedures to require clear and detailed descriptions of how the facilities will be used and how it relates to a state business purpose.
- b. If facilities are being reserved for non-state business purposes, develop procedures to ensure that the campus charges appropriately for the use of its facilities and takes into account potential risk management issues.
- c. Inform the individuals who have the ability to reserve campus facilities that state law prohibits state employees from using state buildings, facilities, equipment, and computers for personal advantage or for an endeavor not related to state business beyond a de minimis amount.

Campus Response

- a. We concur. The campus will ensure that access to reservations is limited. The campus Facility Use Procedures will be revised to include a requirement that reservation requests include a detailed description of the event and its purpose as it relates to state university business.
- b. We concur. The Facility Use Procedures will be revised to ensure non-state use of campus facilities is appropriately charged and risk management issues are addressed.
- c. We concur. The campus will revise the Astra Schedule Access Security Form to include a statement regarding use of state facilities for personal advantage, which will require the individual to initial prior to obtaining access to reserve campus facilities.

Completion Date: June 30, 2013

7. Misuse of University Name

We recommend that the campus inform faculty of the restrictions regarding the use of the university's name in regard to any courses, workshops, or other activities not officially offered or endorsed by the campus.

Campus Response

We concur. The Chief of Staff/Director of Licensing will develop a campus-wide announcement regarding proper use of the university's name. The announcement will be distributed at the beginning of each academic term.

Completion Date: March 1, 2013

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We recommend that the campus conduct an assessment of the hosting center to determine whether it agrees that the hosting center should be designated as a center and therefore subject to CSU and campus policies pertaining to such entities. If the campus determines that the hosting center should be so designated, it should take steps to bring the hosting center into compliance with campus policy, such as inclusion in the strategic plan and regular review processes of the unit having authority over it.

Campus Response

We concur. The campus will conduct an assessment of the hosting center to determine if it should be designated as a center and therefore subject to CSU and campus policies.

Completion Date: June 30, 2013

California State University, Chico
Chico, California 95929-0150
Office of the President
530-898-5201
Fax: 530-898-5077



January 8, 2013



Mr. Larry Mandel
University Auditor
The California State University
401 Golden Shore, 4th Floor
Long Beach, CA 90802-4210

RECEIVED
UNIVERSITY AUDITOR

JAN - 8 2013

THE CALIFORNIA STATE
UNIVERSITY

Subject: Special Investigation, Report 11-92
California State University, Chico

Dear Mr. Mandel:

We have reviewed the Office of the University Auditor Report 11-92, Special Investigation at California State University, Chico. Please find enclosed our response to the audit recommendations. Upon acceptance of our response, the campus will submit documentation evidencing implementation of the recommendations.

If you have any questions or require additional information, please contact Jeni Kitchell at 530-898-5910 or jkitchell@csuchico.edu. Thank you.

Sincerely,

Paul J. Zingg
President

Enclosure

SPECIAL INVESTIGATION
RESEARCH FOUNDATION AND COLLEGE OF BUSINESS
CALIFORNIA STATE UNIVERSITY,
CHICO

Investigative Report 11-92

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Completion Date: June 30, 2013

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

CHANNEL ISLANDS

January 24, 2013

CHICO

DOMINGUEZ HILLS

MEMORANDUM

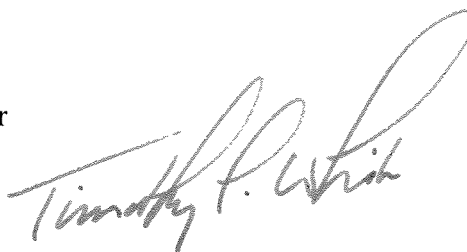
EAST BAY

TO: Mr. Larry Mandel
University Auditor

FRESNO

FULLERTON

FROM: Timothy P. White
Chancellor



HUMBOLDT

SUBJECT: Draft Final Investigative Report 11-92, *Special Investigation, Research Foundation and College of Business*, California State University, Chico

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

In response to your memorandum of January 24, 2013, I accept the response as submitted with the draft final report on the *Special Investigation, Research Foundation and College of Business*, at California State University, Chico.

MONTEREY BAY

NORTHRIDGE

POMONA

TPW/amd

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS