

SECTION 2 - ACCOUNT ADMINISTRATION OF SPONSORED PROGRAMS, GRANTS & CONTRACTS

Policy Sequence # 2-000

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Introduction

Policy # 2-000.1

The Office of University Research is responsible for helping faculty and staff create and submit proposals for funding. When a grant has been awarded, a Foundation Internal Manager is assigned to the project; an account analysis is prepared; and, an orientation meeting is arranged to review the proposal, discuss the budget, and decide what needs to be done so the project gets a smooth start. Most likely, that smooth start means recruiting and hiring staff, finding a place to operate the project, setting up phone lines, purchasing equipment, and understanding the budget (including the restrictions and guidelines imposed by the funding agency).

Throughout a project's duration, the assigned Internal Manager ensures that applicable regulations are followed, monitors expenditures, prepares fiscal reports, provides an administrative liaison relationship between the project and the sponsoring agency, and, in general, furnishes administrative support for the project's investigator and personnel. In addition, the Internal Manager establishes the project's relationship with the Foundation departments that provide personnel, payroll, and accounting services.

The Human Resources department writes job descriptions; classifies positions; handles employee recruitment, compensation, and benefits; ensures that affirmative action policies and regulations are followed; provides orientation and training; assists with performance evaluations; and maintains personnel records.

The Accounting department provides complete accounting services including purchasing, accounts payable, accounts receivable, payroll, and general accounting services.

The Foundation has an extensive computerized management information reporting system which provides up to the minute on-line project data for project personnel.

Pre-Award Services

Policy # 2-010.1

General Information:

External funding for research, scholarly activity, faculty enhancement, and other university programs is critical for maintenance of a healthy university. At California State University, Long Beach, the Office of University Research and the Foundation work together to provide assistance to faculty and staff throughout the many stages of the funding process.

Office of University Research:

The purpose of the Office of University Research (OUR) is to increase the level of research and scholarship at the University by assisting faculty and staff in obtaining external funding for research projects, curriculum development, symposia, workshops, professional travel, and sabbatical-related activities.

The Director of University Research reports to the Vice President for Academic Affairs and works closely with the Dean of Graduate Studies and the Foundation.

OUR is responsible for most of the pre-award activities on campus and is responsible for or coordinates the following services:

- Providing information on funding sources;
- Making initial contact with funding agencies;

- Assisting with grant proposal development;
- Obtaining required disclosures of personal financial interest in accordance with CSULB Executive Order dated May 15, 1996 (see Policy #2-050.1 and Appendix A);
- Clearing of all grant proposals (whether administered through the Foundation or University Business Office);
- Acting as University liaison with the Foundation on proposals for external support of research and scholarly activity;
- Supporting the following committees:
 - Independent Review Committee (IRC)
 - Scholarly and Creative Activities Committee (SCAC)
 - Advisory Committee on Patents & Copyrights (ACPC)
 - Institutional Review Board for the Protection of Human Subjects (IRB)
 - Animal Welfare Board (AWB)
 - Institutional Biosafety Committee for Recombinant DNA Research (IBC)
- Publishing research and sponsored projects reports and activities associated with publication of scholarly materials by the University.

The Office of University Research is located in Suite 310 of the Foundation Office Building. The telephone extension is 5-5314.

Budget Preparation

Policy # 2-020.1

A budget must be prepared before a proposal is submitted. The Foundation grant and contract Internal Managers assist in the preparation of the budget for proposals to be awarded to the Foundation. Faculty and Staff seeking budgeting assistance for proposals which may only be administered by the University should contact the College/Division Administrative Services Manager. Call the Dean's or appropriate Vice President's Office for assistance.

The Project Director's best estimate of the financial support required to carry out the statement of work should be presented in detail in the proposed budget. Since the budget may be reviewed by people who have not seen or may not be familiar with the statement of work, reasonably detailed explanations of budget categories should be provided. While a proposed budget should provide adequate funds for producing high quality research, it should not request excess funds.

Typical Budget Categories

Policy # 2-030.1

The following are the most common elements of a budget proposal. Most proposals will not contain all of these elements.

Salaries and Wages:

List professional personnel first, staff personnel second, casual or part-time workers third. Professional and staff salary figures should be expressed as a percentage of effort figure to reflect the estimated amount of time each person will devote to the project each year. In the case of part-time non-professional personnel including students, the number of hours (rather than percent of effort) should be used in the estimate. Only University and Foundation personnel are reflected here. See **Section 7 Engagement of Independent**

Contractors for non-University personnel.

OMB Circular A-21 was revised to state that clerical and administrative costs (which can include supplies, services, telephone, postage, etc.) should "usually be treated as indirect costs, but that direct charging of these costs may be appropriate where the nature of the work performed under a particular project requires an extensive amount of administrative or clerical support that is significantly greater than the routine level of such services provided by academic departments."

This presents a particular problem for this campus which does not have university funded administrative support for research which would normally be reimbursed under the indirect cost mechanism. In order to provide program necessary clerical and administrative support, these costs must be specifically requested and justified on proposal budgets.

Included in the justification for direct charging administrative and/or clerical support:

- there is **no** support from the General Fund for research
- charges are made through a positive payroll system (ie, timecards are submitted for direct charges)
- specific justification as to why all clerical and administrative charges are directly related to the project charged

Fringe Benefits:

The fringe benefit rate is expressed as a percentage of salary. It varies with personnel classification. Rates for the several University salary classifications are reviewed annually. The Foundation always has the most current University and Foundation fringe benefit rates.

Permanent Equipment:

This is defined by the Foundation as non-expendable, tangible property costing \$5,000 or more per unit and having a useful life of one or more years. Include the cost of shipping, installation, fabrication, and sales tax in the cost of the equipment. Whenever possible the Project Director should specify the name, model number, and manufacturer of the equipment. Equipment is not subject to indirect costs.

Permanent equipment is divided into two categories--special purpose and general purpose.

Special purpose equipment is the type of equipment most often purchased under grants or contracts because it is necessary to the research and is not generally available within or of general use to the University.

General purpose equipment includes items such as office furniture, data processing equipment, typewriters, dictation/transcription machines, word processors, heating and cooling units, cameras, and vehicles. The purchase of general purpose equipment as a direct cost may not be allowable. However, it is allowed by some sponsors when it is primarily or exclusively used in the conduct of scientific research.

Materials and Supplies:

These are expendable items with a useful life of less than one year or a cost of under \$5,000 per item. This budget category should be supported by descriptions of the articles included and best estimates of their cost.

Travel:

It is important to distinguish between domestic and foreign travel since different types of approval may be required. Within each category list the following:

- Name of traveler, destination, and reason for trip;
- Round-trip commercial coach air fare;
- Number of days and per diem or actual living expenses;
- Other expenses such as ground transportation or conference registration fees.

The purpose of each trip should be discussed in the technical proposal or budget justification. Domestic travel costs are allowable in accordance with the Foundation and/or University Travel Policies and Procedures.

The Foundation travel policy is included in **Section 16 - Travel** of this manual. Be sure to allow for anticipated increases in travel costs for subsequent budget periods.

Publication Costs:

Listed with the estimated number of pages should be page charges and names of journals, where possible.

Consultants:

Consultants must be identified by name and/or by specialty and their daily rate should be specified. Some government sponsors prohibit daily rates in excess of the current maximum rate paid to an Executive Schedule Level IV Federal employee. Call the Internal Manager of your project to get the current rate. Some sponsors have set daily limits even lower than this rate. Federal sponsors expect Project Directors to:

- Hire consultants only when the services are necessary and cannot be provided by paying direct salaries to a current University or Foundation employee;
- Engage in an objective selection process designed to secure the most qualified individual. Project Directors wishing to use consultants should check sponsor regulations or call the Foundation for assistance.

The section of this manual regarding use of Consultants (Section 7, Engagement of Independent Contractors) should be reviewed during the budgeting process.

Computer Services:

This category should specify the facilities that are to be used, the type of computer, the hourly cost, and the number of hours required.

Subcontracts and Subgrants:

Subcontracts and subgrants are agreements involving the contracting to other organizations of some scientific or programmatic aspect of a grant or contract made originally to the Foundation. If any work is to be done by a subcontractor, include in the main proposal the subcontractor's authorized proposal and budget. The first \$25,000 of subcontract costs under a University prime agreement are subject to indirect cost.

Once funds are awarded, the Foundation will write a subcontract incorporating the needed information and, in accordance with federal or other sponsoring agency regulations, may ask Project Directors to document the reasons for choosing a particular subcontractor.

It is emphasized that the Foundation is required to establish formal subcontract/subagreement relationships when a portion of the research or substantive effort under a prime agreement is being transferred to another organization. Purchasing supplies and services (fabrication, statistical analysis, maintenance agreements, etc.), while an integral part of the work to be performed, does not establish a collaborative relationship nor a transfer of substantive programmatic work to another organization. These are vendor relationships so purchase orders are appropriate mechanisms for procurement. Vendor relationships are fully burdened, whereas only the first \$25,000 of a subcontract is burdened. Because subcontract arrangements may obligate a substantial portion of the CSULB direct costs, subcontracts will be encumbered and paid down throughout the duration of the project.

Other:

This category can include items such as equipment repair, postage, telephone, subscriptions to periodicals, human subject fees, photocopying expenses, and animal care. These expenses should not be lumped together, but rather should be listed individually.

Trainee Costs:

These costs are allowable under training grants. For each individual trainee, such costs may include stipend, tuition and fees, and "other" costs covering travel, books, etc.

Total Direct Costs:

The total direct costs are the sum of the above elements.

Indirect Costs:

Federal indirect cost rates are audited by and negotiated with the Department of Health and Human Services (DHHS). The most recent rate should be used when preparing the proposal budget or, in some cases, the indirect rates for future years which may have been projected (see Appendix E, Indirect Cost Budgeting Memorandum).

Total Project Costs:

The total project costs are the sum of direct and indirect costs.

Cost Sharing

Policy # 2-040.1

University and Foundation Policy on Use of Cost Sharing or Cost Matching
in Externally Funded Projects

Many funding agencies require cost sharing by the recipient institution. Cost sharing refers to the portion of the project or program cost that is not reimbursed by the sponsor. It may be required by the sponsor as a condition of the award (mandatory) or it may be offered by the California State University, Long Beach (University) in excess of mandatory cost sharing requirements (voluntary). Whether cost sharing is required by the sponsor or is offered by the University or Project Director voluntarily, once an award is made all cost sharing commitments are considered to be mandatory, and as such represent binding obligations of the University and California State University, Long Beach Foundation (Foundation).

Cost sharing refers to the sharing of actual program or project costs. Whenever applicable, the University will show in the approved budget or other appropriate document which program or project costs will be borne by the University and which will be borne by the

sponsor. Cost matching is a specific form of cost sharing, which means that the institution must provide additional resources for the program or project expenses in some proportion to the amount to be externally funded. Cost sharing is agreed upon in advance of proposal submission via the completion of the California State University, Long Beach (CSULB) Grant Proposal Internal Clearance Form (see attached) and the Cost Sharing/Matching Proposal Clearance Addendum (see attached). When the award budget differs from the submitted budget, then the Office of University Research must be involved in the review of the award prior to its acceptance by the Foundation.

The University and Foundation must ensure that cost sharing commitments for grants and contracts are recorded on proposals, accounted for, and reported in a manner consistent with the terms of the individual award and the general requirements set forth in federal or other applicable regulations. Care must be taken during the proposal preparation process to ensure that all potential cost sharing commitments are recognized and approved. All cost-sharing commitments must be clearly stated in the budget explanation of the proposal. Project Directors are cautioned not to imply cost matching that is not included in the budget, because the University and Foundation may be held responsible for implied cost matching.

The University discourages the practice of offering unnecessary cost sharing on a voluntary basis. University and Foundation resources should only be committed in those instances where cost sharing is mandated by a sponsor or is necessary to make a proposal competitive. In all situations, the use of cost sharing should be kept to a reasonable level because of the burden that it places on University and Foundation resources. Throughout the project's life, the Project Director, the University and the Foundation must maintain sufficient documentation to substantiate the actual cost sharing contribution and report the cost sharing to the funding agency. All documentation on cost sharing is subject to audit in accordance with the sponsor's policy for funding which is provided to award recipients.

All matching contributions, both cash and in-kind, must adhere to the following criteria as required by OMB Circular A-110.

1. Are verifiable from the recipient's records.
2. Are not included as contributions for any other federally assisted project or programs.
3. Are necessary and reasonable for proper and efficient completion of the project or program objectives.
4. Are allowable under the applicable cost principles (OMB Circular A-21, or other sponsor regulations if the sponsor is non federal).
5. Are not paid by the Federal Government under another award, except where authorized by federal statute to be used for cost sharing or matching.
6. Are provided for in the approved budget when required by the sponsoring agency.
7. Conform to other provisions of Subpart C, Section 23 of OMB Circular A-110.

Acceptable Cost-Sharing Items

Cost sharing or matching may consist of the following cost elements used to further project

objectives.

1. Salaries of University faculty or staff who are paid by the University/Foundation, and who devote a percentage of their compensated time to a sponsored project, without receiving reimbursement from the sponsor.
2. Fringe benefit costs associated with contributed effort as described in Item 1.
3. Indirect costs foregone, including rent and occupancy costs, where the Foundation requests less than the federally approved negotiated rate, and where the sponsor does not prohibit the use of indirect foregone as cost sharing. This usually requires federal pre-approval.
4. Other direct costs, such as supplies, equipment, non-capitalized assets, or travel that are paid for from allowable funding sources.
5. Project costs financed by cash contributions by the recipient, or by cash from third parties.
6. Contributions of services and property donated by recipient or third parties (non-federal public agencies and institutions, private organizations and individuals), provided that the values are established in accordance with the applicable cost principles.

Specific procedures determining allowable in-kind matching contributions and establishing the related value.

1. Personal services, whether volunteer or paid, by professional, technical, consultant, and other skilled and unskilled labor, which are furnished, can be counted as cost sharing if the service is an integral and necessary part of a project.
 - A. Rates for personal services should be consistent with those paid in the organization which provides the cost sharing. When that is not possible, rates should be consistent with those paid for similar work in the labor market. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.
 - B. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the organization for its own employees.
2. Values for contributions of services and property shall be established in accordance with the applicable cost principles. If a Federal awarding agency authorizes the recipient or other organization to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of A or B, below.
 - A. The certified value of the remaining life of the property recorded in the accounting records at the time of donation.
 - B. The current fair market value. However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

3. The method used for determining cost sharing or matching for donated equipment, buildings and land *for which title passes to the recipient* may differ according to the purpose of the award, as indicated below.
 - A. The total value of the donated property can be claimed as cost sharing if the purpose of the award is to assist the recipient in the acquisition of equipment, buildings, or land.
 - B. In the absence of specific federal approval, only the depreciated or use charge of equipment, buildings, or land can be used if the purpose of the award is just to support the activities that require the use of equipment, land, or buildings.
 - C. The value of donated land and buildings may not exceed its fair market value at the time of donation, as established by an independent appraiser (e.g. certified real property appraiser or General Services Administration representative) and certified by a responsible official of the Foundation.
4. Contributed supplies may include such items as expendable equipment office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.
5. The value of donated expendable personal property shall be reasonable and shall not exceed the market value of the property at the time of the donation.
6. The value of donated software must be shown net of any educational discounts for which the University or Foundation may qualify.
7. The value of donated space shall not exceed the fair rental value as certified by an independent appraiser, of comparable space in the same locality.
8. The value of loaned equipment shall not exceed its fair rental value.
9. Cost sharing obligations must be firm commitments agreed to in writing by an authorized signer.

Cost Sharing Procedures and Responsibilities.

During the proposal preparation process the Project Director, with the assistance of the Office of University Research, will:

1. Determine the need for cost sharing and obtain a copy of the sponsor's written policy (if available).
2. In consultation with the appropriate department, college, division, or other offices, develop a cost sharing plan which indicates the cost sharing methods and amounts to be used, and the sources of all funding or in-kind donations. For the purpose of requesting contributions or donations of tangible property for use in meeting cost-sharing requirements, the University Relations and Development Proposed Acceptance of Gifts form may be used as the estimated value. However, for the purpose of accepting a contribution

or donation to meet cost-sharing requirements, review by the Foundation in accordance with applicable cost principles is required.

3. Review the proposal plan with the Director of University Research and the Foundation in order to resolve any questions concerning appropriateness, allowability, reporting, and documentation requirements and any other related issues.

4. Fill out the Grant Proposal Internal Clearance Form and the Cost Sharing/Matching Proposal Clearance Addendum to be routed for approval along with the proposal. Be certain that cost sharing obligations are firm commitments which are agreed to in writing by an authorized signer.

5. Submit the Grant Proposal Internal Clearance Form and Addendum to the Office of University Research, the Foundation, and Associate Vice President of Financial Management for final approval of the proposal and cost sharing arrangements.

6. The Project Director shall take action to ensure, prior to award of the grant or contract or as soon as possible after notification of the award, that firm commitments in writing are in place to document cost matching. In the event that this is not possible, the Project Director shall obtain a written commitment from the appropriate Vice President, or in the case of SAR the Director, to assume full financial responsibility for the matching. Without such documents, the award may not be accepted by the Foundation.

7. The Project Director shall submit cost sharing documents identified in Paragraph 6, above, to the Foundation as soon as possible after receipt.

Documentation on Cost Sharing/Matching Accounting Will Be Maintained by the Foundation

1. Foundation cost sharing accounts will be established to record all cost sharing contributions identified in Paragraph 7 of the preceding section either by financial or memo entry. These reports will be linked together via the umbrella reporting mechanism.

2. For faculty and staff effort, copies of effort reports will be maintained in the project folder and imaged as supporting documentation for related entries made to cost sharing accounts.

3. For cash contributions or related awards from non-federal sponsors, a separate account will be set up, the funds will be deposited, and records will be maintained on expenditures in accordance with the Foundation's standard policies. The separate accounts will be linked to any and all other cost sharing accounts, related to the project requiring matching, via the umbrella reporting mechanism.

4. For in-kind donations, the Project Director will obtain the required documentation from the appropriate University personnel or third party person/entity responsible for maintaining information about the goods and services used for matching. The Project Director will forward a copy of the documentation to the Foundation for the project folder as soon as possible after receipt. It will be imaged as supporting documentation for all entries made to cost sharing accounts. The "value" and the location (if a tangible asset) of the donation pledged for matching shall be included in the

documentation and the valuation shall be made in compliance with this policy.

5. It shall be the responsibility of the Project Director to document required cost matching on a regular basis and to ensure that the required documents are forwarded to the Foundation. The Foundation will notify the appropriate dean or other responsible administrator in the event that the required documentation has not been provided in a timely way.

6. The Foundation will follow up regularly with the Project Director to provide advice on the status of matching requirements. This will be done via monthly project reports.

7. The Project Director shall routinely follow up with the cost sharing contributors to ensure compliance with their obligations.

The Foundation will review all cost-sharing documentation and will seek to resolve as quickly as possible with the Project Director any potential problems that may be identified. Responsibility for covering costs which are subsequently disallowed by the Sponsor for purposes of cost sharing or cost matching shall be allocated in accordance with the following principles: (1) if the Foundation approved the costs as allowable, the Foundation and the Project Director's department or college shall be equally responsible for covering costs; (2) if the Foundation did not approve the costs as allowable, the Project Director's department or college shall be solely responsible for covering the costs. Costs approved by the Foundation as allowable, but which are not in fact provided as originally proposed, are also the sole responsibility of the Project Director's department or college. Disputes between the Foundation and a Project Director over the allowability of a particular item proposed for cost sharing or cost matching, or its documentation, should be referred in writing to the Foundation's Policy Committee for final resolution.

Conflict of Interests in Grants & Contracts

Policy # 2-050.1

CSULB Executive Order (5/15/96) "Conflicts of Interest in Grants & Contracts"

The Executive Order "Conflicts of Interest in Grants & Contracts" (see Appendix A) supercedes the previous Executive Order "Independent Review Committee" of July 7, 1986. The new Executive Order not only continues the existence of the Independent Review Committee, but adds a reporting requirement to Federal agencies and therefore a Federal disclosure process.

Disclosures of Financial Interest

CSULB Presidential Executive Order "Conflicts of Interest in Grants and Contracts" (5-15-96) (see Appendix A) requires that, before any application for funds from a federal or other covered external agency may be forwarded to that agency, applicants must indicate by their signature on the Internal Clearance form (see Appendix C, Item 13) that they have read these instructions. If, having reviewed the criteria (set forth below), applicants believe they have financial interests exceeding the indicated amounts under the specified conditions, they must complete either (1) a CSULB Federal Disclosure of Financial Interests Form (see Appendix D); or (2) a California Form 730-U, as appropriate. These forms are available in the Office of University Research, University Foundation, and college offices.

This requirement applies to any grant or contract application where it is proposed that award funds will be held in the University, the University Foundation, or that the name or any University resources will be involved. Completed Internal Clearance Forms and Disclosure forms must be presented to the Director, Office of University Research.

The CSULB Federal Disclosure of Financial Interest Form shall be used for all applications to all levels of government, including municipal, county, state, other state, federal, other national, and international governmental organizations, unless it can be shown that no Federal funds are involved. Such evidence must be documented and produced by the applicant.

Disclosures of financial interest will be reviewed by the Director, Office of University Research and, when there is an economic interest disclosed that may pose a conflict of interest or the appearance of a conflict of interest, the Director will refer the materials to the Independent Review Committee of the University for review. All disclosures will be kept on file in the Office of University Research.

If the Committee believes that a "significant" conflict of interest may exist under the relevant definitions, the person who has disclosed the information, the funding agency applied to (if so required by regulation or law), and the Provost will be so informed. The employee will be referred to an appropriate office of the University or University Foundation to determine whether the conflict can be appropriately managed, reduced, or eliminated.

Mitigation to the satisfaction of the University and the funding agency must be accomplished prior to the acceptance of any funds, whether the application is for a new project, a competing or non-competing continuation of a project, or an amendment to the budget of an existing project in those cases in which the Federal government requires new disclosures.

Clearance Procedures

Policy # 2-060.1

Clearance procedures regarding proposals for Grants, Contracts and Cooperative Agreements were outlined in *Administrative Procedures Letter (APL) 80-19* on March 25, 1980 (see Appendix B). This letter, which supercedes APL 78-37, highlights clearance and sign off processes which include CSULB Internal Clearance Form (see Appendix C), External Cover page and Assurance Statements.

Lobbying Activities Disclosure Information

Policy # 2-070.1

(December 14, 1996 rev.)

Introduction

The Lobbying Disclosure Act of 1995 expanded the definition of lobbying to incorporate not only direct contact with legislators and their staff members, but also to incorporate in certain instances contacts with particular federal agency officials. The federal lobbying regulations prohibit a recipient of federal contracts or grants, from expending federally appropriated funds on lobbying activities. In other words, no federal funds may be used to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, federal grant or the renewal of such contracts and grants. Organizations are required to certify that they have not and will not use federally appropriated funds to conduct such lobbying activities. The law also requires organizations requesting or receiving certain types of awards of \$100,000 or more to disclose the names of registered lobbyists who, using non-appropriated funds, have made lobbying contacts regarding federal awards.

Definitions

Lobbying Activities - "Direct lobbying" is when a manager, board member or anyone associated with an entity makes a direct lobbying contact attempting to influence a specific piece of legislation or procurement of a contract or grant.

Lobbying Contact - The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made for any of the following purposes:

- (i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);
- (ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive Order, or any other program, policy, or position of the United States Government;
- (iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or
- (iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

Summary

WHO DISCLOSES: The Foundation/University must comport with reporting requirements under the lobbying regulations whenever they are considered for or have been awarded federal contracts and grants exceeding \$100,000. The reporting must take place at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the form previously filed. For example, if there is a change in the registered lobbyist, if there is a change in the federal official lobbied, or if subcontractors are awarded \$100,000 or more of the federal contract or grant, disclosure must be updated. In the case of subcontracts, the subcontractors must also comport with the reporting requirements. Subcontractors report up through the entity from which they received funds directly.

PROCEDURE: The reporting requirements are as follows: First, the Foundation must file with the agency from which it requests or receives a federal contract or grant a certification stating that it will not use appropriated moneys to fund lobbying activities. (The Foundation never compensates lobbyists with federal funds. Additionally, all costs related to registered lobbyists are scrubbed out of any calculations for indirect cost (facilities and administrative costs) rates for the Foundation. Second, the Foundation must also file with that agency a disclosure form listing the names of individuals who are registered as lobbyists and make lobbying contacts on behalf of the Foundation and/or University and are compensated from nonappropriated funds. The registered lobbyists named in the disclosure form should include not only individuals outside of the Foundation/University, but also its employees.

WHAT MUST BE DISCLOSED: The Foundation/University must disclose on Standard Form LLL (SF-LLL) the names of registered lobbyists who have influenced or attempted to influence by making any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered federal action. (The wording of this requirement in the statute suggests that the burden of "registering" as a lobbyist rests solely with the individual and that the Foundation must disclose based on the individuals representation of him/herself to the Foundation.)

University or Foundation employees, however, need not be listed in the disclosure form if they receive reasonable compensation (consistent with other employees) paid out of

federally appropriated funds for agency and legislative liaison activities such as providing professional and technical services related to the application or awarding of federal contracts and grants. For example, employees who render advice and analysis applying any professional or technical disciplines in the preparation, submission or negotiation of any bid, proposal or application for federal contracts or grants need not be named in the disclosure form. Permissible advice or analysis include an engineer's advice on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract. Impermissible advice or analysis include an engineer's attempts to influence the awarding of such contract.

In addition, communications with the intent to influence, i.e., generally advocate one proposal over another, are not allowable. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable since the engineer is providing technical services, but not directly in the preparation, submission or negotiation of a covered federal action.

WHEN ARE DISCLOSURES MADE: For covered federal actions, the Foundation/University must certify at the time of proposal and again at award that they have not and will not make any prohibited payments (i.e., using federal funds to pay for lobbying activities). The Foundation/University must disclose at the time of proposal and award that they have made or agreed to make payments to registered lobbyists from non-federal funds. This disclosure is made on SF-LLL.

At the end of each calendar quarter another SF-LLL must be filed if an event that materially affects the accuracy of the information reported has occurred. Events materially affecting accuracy of information reported include: a) a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action; b) a change in the person(s) or individual(s) influencing or attempting to influence a covered federal action; or c) a change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered federal action.

TO WHOM IS THE DISCLOSURE MADE: If the Foundation/University will be or is currently the prime recipient of an award, the certification and any required disclosure on SF-LLL is made to the federal agency. The lowest organizational level of the agency should be identified; e.g., Department of Defense, Office of Economic Adjustment.

If the Foundation/University, as a prime recipient, subcontracts to another entity, the subcontractor's disclosure is forwarded to the Foundation for transmittal to the funding agency.

If the Foundation/University is a subcontractor on a covered activity, it will certify and disclose to the contracting organization at the next higher tier, e.g., City of Long Beach for CCDOTT.

Nondisclosure may result in civil penalties of up to \$100,000.

Tax Exempt Status Jeopardy

The Foundation will lose its tax-exempt status if it becomes an "action" organization. [IRC Regs § 1.501(c)(3)-1(d)(2).] There are three types of action organizations: (1) those that participate directly or indirectly in political campaigns on behalf of candidates for office; (2) those that campaign for and have as their primary objective the enactment or defeat of legislation; and (3) those that engage in substantial attempts to influence legislation. [IRC Regs. § 1.501(c)(3)-1(c)(3)(i)-(iv).]

Under the third category, an organization is deemed an action organization if a **substantial part** of its activities consists of attempting to influence legislation. Attempts to influence legislation include (1) directly contacting legislators or urging the public to contact legislators for the purpose of proposing, supporting or opposing legislation; and (b) advocating the adoption or rejection of legislation. [IRC Regs. § 1.501(c)(3)-1(c)(3)(ii).] Legislation includes action by Congress, state legislatures, local governing bodies, and action by the public in procedures such as a referendum, initiative, or constitutional amendment. (The Foundation is not considered an "action" organization.)

Furthermore, an organization will not lose its exemption merely because it advocates the adoption or rejection of legislation as an "insubstantial" part of its activities. [IRC Regs. § 1.501(c)(3)-1(c)(3)(ii)(b), (iii).] In determining whether an organization's political activities are "substantial", the courts consider all the surrounding facts and circumstances, including the percentage of the organization's total expenditures and the proportion of its time and effort used in legislative activities.

There are two methodologies to determine "substantial" lobbying: 1) the 501(h) election; and 2) the "substantial part" test. The 501(h) election involves reporting how much has been spent on lobbying and sets a "safe harbor" amount an organization can spend on lobbying without endangering its tax status. The alternative method is the IRS "substantial part" test. It is a time and activity test, as well as expenditure test. For example, if an organization relies largely on volunteers, and they did a lot of lobbying, the IRS would factor in their time spent lobbying when calculating lobbying amounts. With the 501(h) election, volunteers could theoretically do considerable lobbying without being part of the determination of the limit.

No case has held that an organization's political activities were "substantial" if the effort and expense involved were minimal. Exemption under IRC § 501(c)(3) may be allowed if the organization's political activities are merely incidental to its other activities.

Thus, the Foundation will not lose its tax-exempt status if the effort and expense involved in political activities are minimal and incidental to its other activities. The Foundation was not established substantially for the purpose of influencing legislation. Its political activities are only a small, insubstantial portion of its business and should not jeopardize its tax-exempt status.

Protection of Human Research Subjects

Policy # 2-080.1

General:

Clearance for use of human subject in research and the associated filing requirements are coordinated through the Office of University Research (O.U.R.). The following is provided for informational purposes only. Please contact O.U.R. if further information is required.

Documentation of Required Education:

When human subjects are utilized for a National Institute of Health funded project, the investigators are required to document their education in the protection of human subjects. A letter is required that includes the names of the key personnel who are responsible for the design and conduct of the study; the title of the education program completed by each named personnel plus a one sentence description of the program. This letter must be signed by the Principal Investigator and cosigned by an institution official.

The NIH will request this letter documenting education before an award is issued.

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