

**AMENDMENT TO THE OPERATING AGREEMENT SPONSORED PROJECTS
ADMINISTRATION AT SAN DIEGO STATE UNIVERSITY POLICY**

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AMENDMENT TO THE OPERATING AGREEMENT BETWEEN TRUSTEES OF THE CALIFORNIA STATE
UNIVERSITY AND SAN DIEGO STATE UNIVERSITY RESEARCH FOUNDATION 10

Definition

This policy specifies how the components outlined in Executive Order 890 are administered at San Diego State University. In the event that a given contract or grant contains terms and conditions that are not in conflict with but are more restrictive than those provided in this policy, the more restrictive terms and conditions of the contract or grant shall prevail.

Authority

Executive Order 890, issued under the authority of Section 2 of Chapter III of the Standing Order of the Board of Trustees with reference to Division 8 (commencing with Section 89000), Part 55, Chapter 7, Article 1 of the Education Code and Subchapter 6 (commencing with Section 42000) of Chapter 1 of Title 5 of the California Code of Regulations and related policies adopted by the Board of Trustees.

Executive Order 698, issued under the authority of Title 5, Division 5, Article 1, Subchapter 6, (42400 et seq) of the California Code of Regulations.

Scope

This policy and any related procedures apply to all auxiliary organizations and any faculty/staff/student of San Diego State University engaged in applying for, and/or administering any grants, contracts, and sponsored projects.

Signed: Stephen Weber, President

Approval Date: 02-17-05

1. Definitions

- 1.1. "**Auxiliary**" means an auxiliary organization as defined in Executive Order No. 698. By means of an operating agreement between San Diego State University ("University") and San Diego State University Research Foundation ("SDSU Research Foundation"), it is acknowledged that SDSU Research Foundation shall act as the administrator and financial liaison for externally funded grants, contracts and special projects. SDSU Research Foundation will act as fiscal agent for awards and have responsibility for award financial administration, including determinations regarding overhead and administrative costs, within University policy and practice. The management of grants, contracts, and special projects will follow the procedures set by SDSU Research Foundation and reviewed and approved by the University.
- 1.2. "**Contract**" means an agreement between SDSU Research Foundation or the University and a sponsor to provide an economic benefit, generally in the form of services, for compensation. The agreement is binding and creates a quid pro quo relationship between the parties.

- 1.3. **"Grant"** means a financial contribution to a recipient to carry out an approved project or activity. A grant generally anticipates no substantial programmatic involvement of the sponsor with the recipient during performance of the project or activity, but sponsors usually request an accounting of the use of funds and of results of the project or activity. The University or SDSU Research Foundation may commit resources or services as a condition of the grant.
- 1.4. **"Principal Investigator"** means the individual (whether referred to in the contract or grant as a principal investigator, project director or other similar term) designated by the sponsoring agency to be responsible for ensuring compliance with the academic, scientific, technical, and day-to-day management of the sponsored program. Financial and administrative aspects of the contract or grant are the joint responsibility of the recipient and the principal investigator.
- 1.5. **"Recipient"** means SDSU Research Foundation or the University awarded a contract or grant. The recipient is SDSU Research Foundation or the University, as the case may be, even if a particular component is designated in the award document, and shall not be an individual, department or other constituent unit.
- 1.6. **"Sponsor"** means the party paying for the services or other economic benefit under a contract or providing the financial contribution for a project or activity under a grant.
- 1.7. **"Sponsored Program(s)"** means all work performed under grants or contracts funded by non-CSU funding sources (including non-CSU-funded contracts and grants that are subsequently subcontracted to another campus).
- 1.8. **"Sponsored Program(s) Administrator"** means the entity (SDSU Research Foundation or the University) designated by the recipient to administer the sponsored program.
- 1.9. **"Sponsored Program Records"** include, but are not limited to, accepted proposals and applications; contracts or grant agreements; program reports and data; correspondence; budgets and supporting financial documentation; supporting human resources documentation; and other records relating to receipt, review, award, evaluation, status and monitoring of the sponsored program.
- 1.10. **"Sponsored Program Work Product"** means any work created in the performance of a sponsored program. Unless the contract or grant states otherwise, sponsored program work product does not include journal articles, lectures, images, books or other works that are subject to copyright protection and have been created through independent academic effort and based on the findings of the sponsored program.

2. Sponsored Program Administration

2.1. Proposal Submission, Review, and Approval

- 2.1.1. **Pre-Award Review and Approval of Proposal Submission.** Proposals for sponsored programs shall not be submitted to the sponsor without prior written approval of the president of the University or the president's designee, the vice president for financial and

business affairs or his/her designee, and SDSU Research Foundation's chief executive office or his/her designee.

2.1.2. Pre-Acceptance Approvals. In addition to appropriate SDSU Research Foundation approvals, awards of contracts or grants shall not be accepted without prior written approval by appropriate officials of the University responsible for the following areas, if applicable: (a) academic/programmatic; (b) fiscal; (c) health and safety; (d) human and animal subject research; (e) space; (f) major technical resources and equipment; and (g) risk management.

2.1.3. Notice. The proposal routing form shall provide notice to all personnel responsible for the preparation of proposals and applications for sponsored programs that, if awarded, the recipient of the contract or grant shall be SDSU Research Foundation or the University, and not an individual, department or other constituent unit.

2.1.4. Amendment of Contract or Grant. Amendments and modifications to contracts and grants only require the approval of SDSU Research Foundation's chief executive officer or his/her designee, unless the amendment involves a significant change in scope of work, requires additional commitment of resources or other costs to the University or increases the risk to the University. Submission of amendments and modifications that fall under the categories referenced must be preceded by the completion of a new proposal routing form.

2.2. Performance of Grants and Contracts

2.2.1. Administration of Sponsored Programs. SDSU Research Foundation shall be the sponsored program administrator on contracts and grants. Exceptions may be granted, on a case-by-case basis, by written approval of the president of the University or his/her designee. SDSU Research Foundation, in conjunction with the principal investigator, is legally responsible and accountable to the sponsor for the use of funds provided and the performance of the sponsored program for those grants administered by SDSU Research Foundation.

2.2.2. Operating Agreement between the University and SDSU Research Foundation for Administration of Sponsored Programs. The operating agreement between the University and SDSU Research Foundation, effective 7/1/01 through 6/30/11, has been amended. It designates the SDSU Research Foundation as the sponsored program administrator for the campus except for those awards which the University's president or vice president of business and financial affairs shall be the sponsored program administrator.

2.2.3. Implementation Plan. The implementation, operational, and record retention policies and procedures for all contracts and grants administered by SDSU Research Foundation are detailed in the SDSU Research Foundation Project Administration Guide, available on the SDSU Research Foundation web-site, and in the SDSU Research Foundation Finance and Accounting Policy Manual, which is maintained by SDSU Research Foundation Accounting Office. These procedures augment and accept responsibility for the

enforcement and implementation of the policies and procedures specified in the sponsoring agency contract or grant agreement and by the CSU. Grants administered by the University will follow all state and CSU regulations and policies.

2.3. Human Resources Policy

2.3.1. Principal Investigator(s).

- 2.3.1.1.** Principal investigators shall be employed by the University and/or SDSU Research Foundation. Limited exceptions may be allowed for the appointment of principal investigators who are not employees of the University or SDSU Research Foundation but who are officially affiliated with the University, such as individuals with emeritus or adjunct status or visiting professors or researchers. Exceptions, as recommended by a dean or director following appropriate consultation, will be approved by the vice president for research.
- 2.3.1.2.** In the case where a principal investigator resigns, becomes incapacitated, or fails or refuses to perform their usual and customary duties, the principal investigator's responsibilities may be reassigned by the dean of the college with notice to SDSU Research Foundation. The vice president for research will counsel, as appropriate, to resolve outstanding issues among the principal investigator, dean, and/or the SDSU Research Foundation. All changes must be in accordance with sponsor guidelines.
- 2.3.1.3.** When projects call for the distribution of responsibilities among principal investigators for multi-institutional sponsored programs, these responsibilities shall be clearly specified in the grant or contract proposal, shall be agreed upon in advance by the principal investigators, and approved by appropriate University and SDSU Research Foundation officials.
- 2.3.1.4.** Principal investigators are responsible for obtaining University and SDSU Research Foundation approvals prior to submitting proposals for external funding. After proposals are awarded, principal investigators are responsible for the programmatic conduct and management of their projects; preparation and timely submission of required technical reports and deliverables; and completing their projects in a diligent and professional manner. Principal investigators must become knowledgeable about and comply with relevant policies and procedures established by the University, the awarding agency, and SDSU Research Foundation. Principal investigators are responsible for assuring that contractual/award terms and conditions are met; the project stays within its budget; and funds are utilized pursuant to sponsor regulations and applicable prevailing cost principles. Principal investigators may seek assistance from the University Graduate and Research Affairs' Division of Research Administration and SDSU Research Foundation Sponsored Research Services as needed for preparing proposals and carrying out projects. Principal investigators shall effectively train and supervise project personnel.

- 2.3.2. Employer.** Principal investigators, on sponsored programs, may be employees of SDSU Research Foundation or, on a reimbursement basis, of the University. When an employee (whether on state or SDSU Research Foundation payroll) is performing on a SDSU Research Foundation administered grant or contract, SDSU Research Foundation shall bear all liability associated with employees' grants and contracts activities. This assignment of liability does not override the University's employer-of-record authorities and responsibilities regarding performance, discipline, administration of terms and conditions of other CSU employment policies.
- 2.3.3. Additional Employment.** Additional employment through contracts and grants is subject to the SDSU Research Foundation's Additional Employment and Overload Policy and Procedures which is in compliance with Chancellor's Office directives. These directives provide a framework in which University employees may be appointed to work on sponsored programs and maintain full time employment with the University.
- 2.3.4. Misconduct.** SDSU's Policy on Integrity in Research and Scholarship is approved by the Office of Public Health and Science's Office of Research Integrity for processing complaints of research misconduct. Other employee misconduct in connection with sponsored projects shall remain subject to University and SDSU Research Foundation policies pertaining to unprofessional behavior and failure or refusal to perform their usual and customary duties.
- 2.3.5. Conflict of Interest.** The SDSU Conflict of Interest Policy for Investigators specifies the procedures required to ensure that no financial conflict of interest adversely affects the conduct or administration of grants and contracts.
- 2.3.6. Nepotism.** SDSU Research Foundation's Employment of Relatives Policy specifies procedures to ensure compliance with CSU policy and SDSU Academic Senate policy.

2.4. Academic Policy

- 2.4.1. Conduct of Research.** The vice president for research is responsible, under the direction of the provost, for assisting SDSU Research Foundation by providing oversight of the conduct of research and ensuring progress toward fulfillment of contract or grant requirements.
- 2.4.2. Human Subjects Research.** The University assumes responsibility for the protection of the rights and welfare of human subjects in compliance with federal regulations as documented within SDSU's Assurance issued by the U.S. Department of Health and Human Services Office of Human Research Protections. The University's Assurance states requirements and procedures for human subjects protections to ensure that all research conducted within its jurisdiction complies with the Code of Federal Regulations pertaining to human subjects (DHHS Policy - 45 CFR 46; FDA Policy 21 CFR 50 and 56). Administrative support for the SDSU Institutional Review Board is provided through Graduate and Research Affairs' Division of Research Administration and Technology Services. This office

is also responsible for establishing and maintaining a program in support of ethical and responsible human subjects research conducted under the auspices of the University.

2.4.3. Animal Subjects Research. The University maintains an approved assurance from the Public Health Service's Office of Laboratory Animal Care that it will comply with the Public Health Service Policy on Humane Care and Use of Laboratory Animals. The SDSU Animal Care and Use Program establishes and implements procedures for the procurement, housing, care and use of live non-human vertebrate animals in sponsored program research, in instruction and research by employees of the University or SDSU Research Foundation in the regular course of their employment, in research by students in satisfaction of University requirements, and in research or instruction using any University property or facility. These procedures include requirements for adequate training of personnel and are consistent with accepted guidelines and standards. The president or designee (the vice president for research) is authorized to take appropriate action to implement regulations required by funding and regulatory agencies on the care and use of animals in research and instruction. The University maintains an Institutional Animal Care and Use Committee (IACUC), appointed by the president or designee (the vice president for research), to ensure adequate review of animal facilities, procedures, and research and teaching protocols.

2.5. Fiscal Administration

2.5.1. Budget. Pre-and post-award budget procedures are detailed in the SDSU Research Foundation Project Administration Guide located on the SDSU Research Foundation website. SDSU Research Foundation is responsible for final certification of project budgets, pre-award and post-award, and budget change review procedures. The principal investigator of the contract or grant, in cooperation with SDSU Research Foundation staff, is responsible for executing the project in conformance with the approved budget, adhering to the terms and conditions of the contract or grant, and complying with University and SDSU Research Foundation policies and procedures.

No disbursements may be processed on any funds unless both parties have executed a contract or unless all approvals have been obtained and the grant has been accepted. Prior authorization to expend funds before receipt of the award document, but within the anticipated budget period, may be granted on a case-by-case basis with approval of SDSU Research Foundation's chief executive officer or his/her designee, and in accordance with SDSU Research Foundation policy. Expenditures outside the approved time period (i.e. pre-award costs) may only be authorized if in accordance with sponsor guidelines.

2.5.2. Account Management. Detailed policies and procedures regarding the management of sponsored program funds are contained in the SDSU Research Foundation Finance and Accounting Policy Manual and are summarized in the Project Administration Guide which is located on the SDSU Research Foundation website.

SDSU Research Foundation is responsible for the timely establishment of funds pursuant to the guidelines delineated in the Project Administration Guide. All expenditures will be in accordance with SDSU Research Foundation, University, and sponsor agency guidelines, policies and procedures. All accounting and control of cash receipts from contract or grant billings are maintained on a fund accounting basis and are in accordance with generally accepted accounting principles, prevailing OMB Circulars, sponsoring agency terms and conditions, and University and SDSU Research Foundation policies and procedures.

All contract and grant expenditures require the written authorization of the principal investigator/program director or designee and SDSU Research Foundation and must be submitted on appropriate SDSU Research Foundation forms. Reimbursement for personal expenditures by the principal investigator/program director will be approved in accordance with the University and SDSU Research Foundation "one up" authorization policy.

Authorization of a designee by the principal investigator/program director will be done in writing on an SDSU Research Foundation signature authorization form. The principal investigator/program director signature on expenditures certifies program appropriateness and compliance with the approved budget and the SDSU Research Foundation signature certifies availability of funds and compliance with the sponsoring agency terms and conditions.

The principal investigator/program director is responsible for the timely submission of technical and project progress reports to the sponsor agency. SDSU Research Foundation will monitor the submission of required technical and project progress reports.

2.5.3. Fiscal Reporting. SDSU Research Foundation is responsible for the accurate and timely financial reporting for each contract and grant. SDSU Research Foundation shall ensure that all fiscal reports (including final reports) and billings are prepared and submitted on a timely basis to sponsors in accordance with the terms and conditions of the contract or grant.

2.5.4. Cost Recovery. All appropriate indirect and direct costs shall be recovered for sponsored programs in accordance with CSU policy, University and SDSU Research Foundation policies, and/or other funding agency requirements.

2.5.5. Cost Sharing. SDSU Research Foundation's Cost Sharing Policies and Procedures specify the requirements for the commitment and documentation of cost sharing arrangements. This document is included in the Project Administration Guide and SDSU Research Foundation Finance and Accounting Policy Manual.

2.6. Sponsored Program Work Product and Records.

2.6.1. Work Product and Records Policy. All sponsored work products and sponsored program records are the property of the University. Such property will be maintained in a secured fashion and retained for the period specified by the sponsoring agency. The principal investigator/program director will be notified of the retention requirements at the beginning of each project via the Fund Analysis Form pursuant to the Project Administration Guide. This policy is consistent with the University policy pertaining to intellectual property.

2.6.2. Records Retention. All records pertaining to a sponsored program will be maintained for a minimum period of three years commencing with the submission of the final technical and financial reports. Should a longer period be required by a sponsoring agency, this information will be contained on the Fund Analysis Form and identified as part of the fund closeout process. All records will be properly disposed of at the conclusion of the retention period unless they have historical value or are the subject of pending or issued intellectual property issues.

3. System Office Role/Responsibility

3.1. Legal Advice.

Legal Advice concerning contract or grant administration that might affect the CSU or the University must be coordinated through the CSU Office of General Counsel.

**AMENDMENT TO THE OPERATING AGREEMENT
BETWEEN TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY AND
SAN DIEGO STATE UNIVERSITY RESEARCH FOUNDATION**

An Operating Agreement between the Trustees of The California State University, San Diego State University and San Diego State University Research Foundation (Auxiliary) effective July 1, 2001, through June 30, 2011, authorizes the Auxiliary to perform the function "Externally Funded Projects Including Research, Workshops, Conferences and Institutes," as specified in Section 42500, Title 5, California Code of Regulations. This Amendment is written to clarify the responsibilities and to change Section XIV, Indemnity to reflect this change.

This Amendment designates Auxiliary as the Sponsored Program Administrator (SPA) by University, except for those awards which the University's President or Vice President for Business and Financial Affairs determine the University shall be the SPA.

Auxiliary, when acting as SPA, agrees to comply with CSU Executive Order No. 890 and to provide grants and contracts services to ensure the submission of proposals and administration of contracts and grants in accordance with San Diego State University's policy for Sponsored Program Administration, federal and state regulations, funding agency regulations, and other applicable California State University, campus and Auxiliary policies.

Auxiliary agrees to indemnify, defend, and save harmless the State, the Trustees of the California State University, Chancellor, and San Diego State University, their officers, agents and employees of each of them (all of which are hereinafter referred to as "State") from any and all loss, damage, or liability that may be suffered or incurred by State, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization including administration of Sponsored Programs by the Auxiliary; and Auxiliary further agrees to carry adequate insurance in accordance with California State University Policy, as specified by Executive Order Nos. 890 and 849.

SAN DIEGO STATE UNIVERSITY

Signed by: Sally F. Roush, Vice President Business & Financial Affairs

Date: 03-23-2005

SAN DIEGO STATE UNIVERSITY RESEARCH FOUNDATION

Signed by: Frea E. Sladek, Chief Executive Officer

Date: 03-17-2005