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Business and Finance

Office of Policy & Analysis
Research Administration Office

Memo

Operating Guidance

No. 97-05
June 18, 1997

CONTRACT AND GRANT OFFICERS (CAMPUS AND LAB)* VICE CHANCELLORS--ADMINISTRATION

Subject: Procedures for Submitting Contract and Grant Proposals Exceeding Current Laboratory or Campus Authority or Requiring Regental Approval

Background:

On March 10, 1995, President Peltason issued new delegations of authority for contract and grant administration to the Vice President--Agriculture and Natural Resources, Chancellors, and Laboratory Directors. (See Contract and Grant Operating Guidance Memo 95-6, April 10, 1995.) These delegations increased their level of execution authority with respect to contracts and grants from \$2,000,000 to \$5,000,000 in direct costs in any one project year and removed the seven-year time limit in accordance with July 16, 1993 amendments to section 100.4(dd)(1) and (2) of the Standing Orders of The Regents. (Attachment I.) As a result of these delegations, previous Contract and Grant Operating Guidance Memos on Preparing and Submitting Contract and Grant Items to the Office of the President for Regental Approval are obsolete and are replaced with this Memo.

Contract and Grants Items Requiring Office of the President Approval:

Proposals which exceed \$5 million in direct costs per project year are now submitted to the Office of the President (OP) for approval. Unless a proposal over this limit contains some other conditions requiring Regental approval under Standing Order 100.4(dd) (described below), the authority to sign such proposals and resulting awards rests in OP. If it is not possible to submit the subject proposal to OP Research Administration Office (RAO) in time for review and submission by the sponsor deadline, it should be forwarded to OP RAO as soon as possible after campus submission to the sponsor. The campus transmittal to the sponsor should include a sentence explaining the proposal requires Office of the President review and a cover page signed by OP will be sent to the sponsor under separate cover.

RAO coordinates review of the proposal by appropriate OP units in developing its recommendation for OP approval. Requests for approval of such proposals should include a short summary of the scope of the project, if one is not readily available and identified in the proposal, and a brief summary of any special circumstances or unusual conditions in the proposal or award including a description of any unusual financial arrangements or contingent funding arrangements, for example, with the subcontractors, gift campaigns, matching funding, or the submission to OP RAO of any exception request to full indirect cost recovery. Requests for OP approval should be signed by the Chancellor or Laboratory Director or designee to indicate campus support for the proposed project. If the proposal is funded and needs to be executed, the award document is signed by OP. OP then makes a determination as to whether to delegate future amendments, modifications and renewals to the original award to the campus or Laboratory. Except for unusual circumstances in the award, OP generally delegates these items to the campus or Laboratory.

*Note: The addressees above represent the standard distribution of Contract and Grant Memos. Additional addressees, if any, may be added based on the subject of the Memo. See cc's.

Contract and Grant Items Requiring Regental Approval:

Standing Order 100.4(dd) continues to list nine specific conditions under which Regental approval is required for all contracts "...including documents to solicit and accept pledges, gifts, and grants..". Generally, only 100.4(dd)(9) would generate a Regents' item from a campus Contracts and Grants Office. This is the requirement for Regental approval of agreements which contain third party liability. Procedures for submitting a Regents' item for approval of a proposal which would result in an award containing third party liability are attached to this Memo. (Attachment II.) As described in Attachment II, future amendments, modifications, and renewals of awards which include third party liability are generally not delegated to the campus. Unless original award is delegated, any amendments, modifications, or renewals to the originally approved project must also be approved by The Regents.

Refer: Lourdes DeMattos
(510) 987-9850

Subject Index: 02, 10, 13
Organization Index: U-115

Cancel: C&G Memos 88-11, 88-21, & 94-03



David F. Mears
Director, Research Administration

Attachments

cc: Nancy Capell, OPC&R

STANDING ORDER 100.4

- (aa) The President is authorized to approve the siting of individual buildings or projects, provided that their locations are generally in accordance with a long-range development plan previously approved in principle by the Board, and to approve the siting of individual buildings or projects on University properties, such as field stations and research stations, which may not be covered by approved long-range development plans.
- (bb)¹ The President is authorized to execute on behalf of the Corporation claims against debtors in bankruptcy, in receivership or in liquidation, and against estates of deceased persons.
- (cc)² The President is authorized to approve and execute on behalf of the Corporation contracts, real property rental agreements, and other documents pertaining to the use of facilities for academic, research, or public service programs of the University, or for related administrative support activities with a term of no more than ten years, including option periods provided that base rent (exclusive of operating expenses and all concessions to the University) shall not exceed \$500,000 for the initial year, and annual rent increases for subsequent years shall be limited to either (i) the actual annual percentage increases in the Consumer Price Index for all Urban Consumers (CPI-U all items), or (ii) such amounts that, when the rent is aggregated over the lease term, the total base rent does not exceed \$10 million. Beginning July 1, 1996, the maximum initial year base rent and the maximum aggregate rent specified above shall each be increased annually by a percentage equal to the percentage increase in the National Consumer Price Index for all Urban Consumers (CPI-U all items) for the preceding year, said increase to be reported annually to the Committee on Finance.
- (dd)³ Except as otherwise specifically provided in the Bylaws and Standing Orders, the President is authorized to execute on behalf of the Corporation all contracts and other documents necessary in the exercise of the President's duties, including documents to solicit and accept pledges, gifts, and grants, except that specific authorization by resolution of the Board shall be required for documents which involve or which are:
- (1)⁴ Exceptions to approved University programs and policies or obligations on the part of the University to expenditures or costs

¹ As amended 11-19-71.

² As amended 6-13-75, 6-17-77, 10-16-81, 7-17-87, 7-16-93, and 3-15-96.

³ As amended 7-11-69 and 6-13-75.

⁴ As amended 6-13-75, 1-19-79, 7-17-87, and 7-16-93.

for which there is no established fund source or which require the construction of facilities not previously approved.

- (2)¹ Renewal or modification of prime contracts with the Department of Energy for the operation of the Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.
- (3)² Loans of funds of the Corporation, other than loans from established student, faculty, and staff loan funds.
- (4)³ Agreements for the provision of employee group insurance benefits, with the understanding that Board authorization shall not be required for periodic revisions to existing agreements when the revisions do not substantially change the authorized scope of the benefit plans.
- (5)⁴ Affiliation agreements with other institutions or hospitals involving direct financial obligations or commitments to programs not previously approved.
- (6) Agreements with associations composed of medical staff for collection of professional fees for services rendered to patients at University or affiliated teaching hospitals.
- (7)⁵ Applications for new licenses to the Federal Communications Commission for authority to operate radio or television broadcast equipment.
- (8)⁶ Construction contracts in excess of appropriated funds.
- (9)⁷ Agreements by which the University assumes liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests. This restriction does not apply to

¹ Added 7-16-93.

² As amended 6-13-75.

³ As amended 10-19-73 and 10-19-84.

⁴ As amended 7-11-75.

⁵ As amended 6-13-75.

⁶ As amended 1-20-78.

⁷ As amended 6-13-75.

agreements under which the University assumes responsibility for the condition of property in its custody.

- (ee)¹ Anything contained in subsection (dd) above to the contrary notwithstanding, the President is authorized to take all actions and to execute all documents necessary in the exercise of the President's duties when an emergency precludes prior submission to the Board, provided that in all such cases the President shall report such actions to the Board, through an appropriate Standing Committee, at its next regular meeting.
- (ff)² The President is authorized to negotiate the sale, purchase, receipt by gift, or lease of real properties which are used, held, or to be acquired for campus-related purposes, and to administer all such properties, which are defined as properties within the boundaries of a campus of the University and other properties used, held, or to be acquired for student and employee housing, parking, athletic programs, research, public service, educational programs, or administrative staff purposes of the University.
- (gg)³ The President is authorized to approve the sale, purchase, receipt by gift, or other acquisition of real property when such real property (1) is used, held, or to be acquired for campus-related purposes as defined in (ff) above, and the consideration does not exceed \$5 million, (2) consists of for-sale housing units within an approved University for-sale housing program, (3) is acquired through foreclosure, deed-in-lieu of foreclosure, or otherwise in realization of a security interest under an approved University home loan program, or (4) is the former residence of a recently recruited employee acquired pursuant to an established personnel policy for covered moving expenses.
- (hh)⁴ In furtherance of the authority set forth in (ff) and (gg) above, the President is authorized to execute documents, except those conveying title; provided, however, that any such documents executed prior to approval by the Board or by a Committee thereof empowered to act, or by the President in accordance with (gg) above, shall be conditioned upon such approval.

¹ As amended 9-19-80.

² As amended 7-20-79, 5-21-93, and 3-15-96.

³ Added 5-21-93 and amended 7-15-94 and 3-15-96.

⁴ Added 5-21-93.

ATTACHMENT II

GUIDE FOR PREPARING AND SUBMITTING CONTRACT AND GRANT

ITEMS TO OFFICE OF THE PRESIDENT FOR REGENTAL APPROVAL

INTRODUCTION:

The purpose of this guide is to provide campuses information on the preparation and submission of contract and grant items requiring Regental approval for the assumption of third party liability.

Additional information regarding this subject is available in the Guide for the Preparation of Regents' Materials, written by Coordination and Review, Office of the President. A copy of this guide is available from campus Regents' Coordinators or from Coordination and Review, Office of the President.

I. STANDING ORDER 100.4(dd)(9)

The Standing Order requiring Regental approval for agreements which contain third party liability applies to

(9) Agreements by which the University assumes liability for conduct of persons others than University officers, agents, employees, students, invitees, and guests. This restriction does not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

II. SUBMISSION OF MATERIALS FOR A REGENTS' ITEM

A. Schedule of Submission of Materials for Regents' Meetings

There are presently seven Regents' meetings a year at which contracts and grants items are presented. The annual schedule of these meetings is available on-line at:

<http://www.ucop.edu/ucophome/sor/>

Campuses must submit a Regents' item to the OP RAO one month before the meeting at which the item is to be presented.

When it is not possible to receive Regental approval for a proposal before the sponsor's deadline, an "unofficial" (i.e., not yet approved by The Regents), but campus approved, copy of the proposal may be submitted to the sponsor. The transmittal letter to the sponsor then contains a statement about the proposal requiring Regental approval and that "a fully approved copy will be forwarded." In all cases, Regental approval must be obtained before the start of an award.

1. Interim and Emergency Authorities

Contract and grant proposals or awards which require Regental action but which cannot be held until the next scheduled Regents' meeting may be approved either under Interim or Emergency Authority. Under Interim Authority, the President and the Board Chairman act together to approve a recommendation. If the Chairman is not available, other Regents may sign.

Emergency Authority allows the President acting alone to authorize an item. Emergency Authority is invoked when action is required within three working days. If either of these actions is ever required by a campus, contact the OP RAO for the appropriate procedures. Further information on Interim and Emergency Authorities is also available in the Guide to the Preparation of Regents' Materials .

B. Notification to OP C& G of Proposed Regents' Agenda Item

Campus C& G Offices must provide advance notice to the OP RAO when they expect to submit a Regents' item.

1. Committees of The Regents

Most matters presented to The Regents are considered first by the appropriate Standing Committee of The Regents. The Standing Committee either takes final action if so authorized or makes a recommendation for action by the full Board. Standing Committees of The Regents are:

- The Committee on Audit
- Committee on Educational Policy
- Committee on Finance
- Committee on Hospital Governance
- Committee on Grounds and Buildings
- Committee on Investments
- Committee on Oversight of the Department of Energy Laboratories

The Committee on Finance has the assumption of third party liability under contracts and grants.

C. What Materials to Submit with a Regents' Item

The following materials need to be submitted to OP RAO for a Regents' item:

1. Cover Memorandum to OP RAO

The cover memorandum, directed to OP RAO, indicates approval of the item by the campus and summarizes any special issues related to the item which is described below. Except for requests for action under emergency authority, the cover memorandum may be signed by the Chancellor or a designated official. On some campuses, the Chancellor or Vice Chancellor initials or signs the campus draft item itself.

Requests for actions under emergency authority must be signed by the Chancellor.

In addition, the transmittal accompanying the proposal should include, but not be limited to, the following information when applicable:

- a. Sponsor deadline and any special requirements or instructions for transmitting the proposal to the sponsor by OP RAO;
- b. Indication that the Principal Investigator has approved exceptional PI status, if required;
- c. Description of any unusual financial arrangements or contingent funding arrangements, for example, with the subcontractors, gift campaigns, matching funding, etc. a waiver or reduction of indirect costs;
- d. Description of any unusual circumstances or extraordinary features of the proposal which may be of interest to OP as additional background information;
- e. If the term "Center" is used, explain if it is agency nomenclature or a proposed or actual Organized Research Unit. If an ORU is intended to be established, explain how the University policy on the establishment of ORUs has been or will be met; and
- f. Attach a copy of the contract clause and copies of any correspondence with General Counsel, Risk Management, or the sponsor relative to the contract negotiations of the clause requiring the assumption of third party liability by The Regents. Explain why the assumption of third party liability is warranted and what the assessment of risk is for The Regents considering the proposed scope of work.

2. The Proposal

OP RAO needs two copies of the proposal. One copy should have a face page with a blank space for the signature of the authorized University official, i.e., the OP Research Administration Director. OP submits the copy of the proposal with the original authorized University signature and a transmittal to the sponsor after the proposal has been approved by The Regents. The second copy is for OP RAO files. A copy of the signed face page is returned to the campus. If campus C& G wants an original signature face page, it must submit one extra copy of that page.

There are times, such as when the proposal is unusually large, that the campus C& G Office decides that it is not necessary for OP to send the entire proposal with the signed face page and transmittal letter to the sponsor. In such cases, the campus may submit only one copy of the proposal to OP with an additional face page for the OP signature. When the campus sends only one copy of the proposal to OP, it must include specific instructions in its cover memorandum which accompanies the proposal that it wants OP to submit only the signed face page without a proposal to the sponsor.

3. Draft Item

The campus C& G Office submits a draft Regents' item. Specific instructions on writing this draft follow in Section III. The draft item can be submitted electronically so that OP RAO can revise and reformat it as necessary.

4. Campus Transmittal Letter to Sponsor

A copy of the transmittal letter that was sent to the sponsor if the proposal was already submitted unofficially. Sometimes, the campus transmittal letter to the sponsor includes objections to terms in the sponsor's application requirements. OP RAO may reiterate these objections in its letter transmitting the officially approved proposal to the sponsor. In cases when more than one campus has responded to the same RFP, OP is in a position to send a unified University response to terms to which campuses have objected individually.

5. Campus Animal or Human Subject Approvals if available.

III. WRITE-UP OF REGENTS' AGENDA ACTION

A. The write-up for The Regents' Agenda action item must contain the following information. It can be submitted electronically to facilitate OP RAO revisions as necessary.

1. The title must be consistent everywhere it is used in the item. Avoid using any abbreviations or acronyms in the title.
2. Indicate if proposal anticipates that award will be a contract or a grant;
3. Write out the complete name of the sponsor.
4. Round off the dollar amount as seems appropriate and include the indirect costs.
5. Indicate the dates for the proposed period of performance.

B. When the project renewal involves the assumption of third party liability by the University, amendments, modifications, and renewals to the approved award are not delegated to the campus.

C. Background Statement

1. Style

- ♦ Use the conditional "would" rather than "will" or "shall" since the proposed project does not yet have Regental approval.
- ♦ Use non-technical language which the lay reader can understand. When technical or scientific terms must be used, explain their meaning.

♦ For agencies and terms with which The Regents would be familiar, use the full name once. Thereafter, the abbreviation or acronym may be used. It is not necessary to put these initials after the first use of the full name. The same method may be used for less familiar agencies or terms as long as the abbreviation can be easily traced back to the correct title in the text. Otherwise, put the abbreviation or acronym in parenthesis after the first use of the term to which it refers. Further guidance on the use of abbreviations and acronyms is available in the Guide to the Preparation of Regents' Materials, Section B.5.

♦ Avoid using agency nomenclature such as "program project." Refer to the application as simply a program, if it has several projects within it, or a project, as appropriate.

♦ An item does not need more than 1 1/2 pages (typed, double-spaced) of background. A proposal which involves complex issues or is presented to The Regents may justify a lengthier Background

2. Content

The background statement is usually structured as follows:

a. First paragraph identifies the campus and the sponsor to which the application is being submitted:

BACKGROUND

The _____ campus has prepared a contract/grant proposal for submission to the (sponsor) for new/continued/renewed support of a program/project entitled _____.

--Gives one summary statement about the proposed project.

--Includes a background statement about any previous Regental action on this project.

--Explains the use of the term "Center" if it is used in the title. When the term "Center" is used in the title of an application and it is not intended that a University Organized Research Unit be established, an explanation such as the following must be included:

The use of the term "Center" in the application is in accordance with the agency's nomenclature and does not connote the establishment of a University Organized Research Unit.

When the "Center" is an official ORU, be sure to use its official full name.

b. Second Paragraph (and third, if needed) describes the proposed research objectives.

c. Describes any unique characteristics which add to an understanding of the project or should be noted, such as:

- Specialized parts of the total project, i.e., division of research into sub-projects and administrative support cores.
- Management plan, i.e., membership of advisory or management committees.
- Large subcontracts with other universities or private industry.
- Large equipment or computer purchases.
- Special coordination with other university units.

d. Next to last paragraph provides a statement about the use of human or animal subjects or recombinant DNA and compliance with University policies and federal guidelines, if applicable.

Examples:

The use of human (and/or animal, if applicable) subjects in this project would be in compliance with University guidelines and federal policies.

The use of recombinant DNA technology in this project would be in compliance with University and National Institutes of Health policies and guidelines.

e. Final Paragraph

Describes financial support or benefits of proposed project for students.

Example 1:

Approximately --- graduate students (and --- postdoctoral researchers/undergraduate students) would be supported through this grant/contract. In addition, the proposed project would provide educational and training activities which benefit students at all levels.

Example 2:

The proposed program would support seven graduate student research assistants and eight postdoctoral researchers in the first year, and six graduate student and nine postdoctoral researchers in the second through the fifth year.

Example 3:

Although no graduate students would be directly supported by this grant/contract, graduate students within the School of Medicine, as interns and residents, would benefit from the research efforts.

Example 4:

No funds are requested for the support of graduate students. However, the project would benefit graduate students by increasing the body of knowledge available for study in the field of

Example 5:

Although no financial assistance is requested for graduate student participation in the research, the seminars, lectures, and conferences based on the results of the research would be open to and attended by graduate students of the ----- campus.

D. What Happens at OP RAO

A Regents' item goes through several layers of review with the Office of the President. Items may require review and approval by OP units, such as Academic Affairs, Information Systems, or Materiel Management, based on specific issues in their content. All items containing third party liability are reviewed by General Counsel and Risk Management. Because any of these other units may have questions about the item, the campus C& G Officer who initiates the item may receive telephone calls from OP RAO throughout the review period.

Sometimes it is necessary for these inquiries to be passed on to the Principal Investigator for clarification or for the PI to approve changes in or explanations of technical or scientific language in the item. Because an item can be revised throughout its review in OP, OP RAO will send the campus C& G Officer a copy of the final version that was submitted to The Regents along with materials after The Regents' meeting. (See next section.)

IV. POST-REGENTAL APPROVAL ACTIONS

A. OP RAO Responsibilities

Within a week after The Regents' meeting, the OP RAO receives copies of the action reports which contain the item approvals. RAO then sends the proposal with the proposal face page signed by the OP RAO Director and a transmittal letter to the sponsor.

Copies of this transmittal to the sponsor, the signed proposal face page, The Regents' item, and the action report are sent to the campus C& G Officer, along with a cover memorandum reminding the C& G Officer to inform OP C& G about the final disposition of the proposal. OP C& G also sets up a file containing a copy of the proposal and all other pertinent documents, notes, and Regental material.

B. Campus C& G Responsibilities

1. Notify OP RAO of Final Disposition of Proposal

In order for appropriate OP RAO follow-up actions to take place, the campus C&G Office must notify the OP RAO in writing of the final disposition of any proposal which required Regental approval. If the proposal is denied or withdrawn and is not to be resubmitted, then OP RAO discards the proposal unless the campus C&G Office asks for it to be returned.

2. Send Award Document to OP RAO

If the proposal is awarded and the award document requires a University signature, then the document must be submitted to OP C& G for such a signature upon completion of negotiations by the campus C& G Office. A copy of any award based on a proposal which required Regental approval, whether or not it requires an OP C& G signature, must be sent to the OP C& G Regents' coordinator.