

CALIFORNIA STATE UNIVERSITY, EAST BAY

DESIGNATION CODE: 07-08 CR2
DATE SUBMITTED: 1/10/08

TO: The Academic Senate
FROM: The Committee on Research
SUBJECT: Policy on Debarment and Suspension for Federal Grants and Contracts
PURPOSE: Action by the Academic Senate
ACTION REQUESTED: That the Academic Senate approve the proposed CSUEB Policy on Debarment and Suspension for Federal Grants and Contracts; effective upon the signature of the President.

BACKGROUND INFORMATION:

Effective October 1, 1988, all Federal agencies adopted the government-wide regulation mandated by Executive Order 12549, "Debarment and Suspension." These regulations apply to grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, donation agreements and any other non-procurement transaction between a federal agency and a person or entity.

Debarment is defined as an action taken by a government official in accordance with regulations to exclude a person or entity from participating in federal transactions.

CSUEB has established procedures to comply with the federal requirements, but needs to develop a policy to include reference to the federal requirements.

At its meeting of January 10, 2008, the Committee on Research approved the attached Policy and voted to send the document to the Senate for final adoption.

VJ:vj
Attachment

CALIFORNIA STATE UNIVERSITY, EAST BAY

POLICY ON DEBARMENT AND SUSPENSION FOR FEDERAL GRANTS AND CONTRACTS

I. Background

A. Effective October 1, 1988, all Federal agencies adopted the government-wide regulation mandated by Executive Order 12549, "Debarment and Suspension." These regulations apply to grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, donation agreements and any other non-procurement transaction between a federal agency and a person or entity.

B. Debarment is defined as an action taken by a government official in accordance with regulations to exclude a person or entity from participating in federal transactions.

C. Any individual or agency that has been debarred or suspended is prohibited from receiving or participating in competition for federal funds. In order to comply with this regulation, the University must assure that anyone applying for federal funds meets all eligibility requirements with regard to debarment status.

D. "Principal" is defined as an officer, director, owner, partner, key employee or other person with primary management responsibilities. In this context, "principal" includes persons having critical influence on or substantive control over a covered transaction such as a principal investigator or project director, in addition to University and Foundation key administrators.

E. A "covered transaction" is any federally funded project.

II. Policy

A. In accordance with federal Executive Order 12549, the University and/or Foundation make the following certification on all applications for federal funds on behalf of itself and its principals. The University and Foundation certify to the best of their knowledge and belief that it and its principals

1. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
2. have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (2.) of this certification; and
4. have not, within a three-year period preceding this application/proposal, had one or more public transactions (federal, state or local) terminated for cause or default.

III. Procedures

A. PI Responsibility and Certification. The Proposal Routing Form includes the following statement: "By signing below, I certify that I am not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. (Executive Order 12549, Debarment and Suspension, 34 CFR Part 85)". If the principal investigator/project director's cannot make this certification, it is his/her responsibility to notify the Office of Research and Sponsored Programs (ORSP) of any noncompliance and to provide a written explanation to be forwarded to the federal funding agency. Also, it is the PI/PD's responsibility to inform ORSP of any changes in his/her status during the application process and ensuing project period.

B. University and Foundation Compliance. In the absence of any statement and explanation of noncompliance by the PI, the University signatory will report that all principals involved in an application for federal funds are in compliance with the debarment regulations. The University signatory will sign all applications, proposals and award documents assuring that the University and Foundation and their principals are in compliance with this regulation.

Annually, the Office of Research and Sponsored Programs will obtain certifications from the officers and principals of the University and Foundation that they are in compliance with the referenced federal requirements. Principals who will provide certifications include the University President, Provost, CFO, and AVP for Research and Sponsored Programs, and the Executive Director and members of the Board of the CSUEB Foundation.

C. Subawards. When making a subaward to any lower tier(s) involving federal funds, the CSUEB Foundation will include a clause that requires the subawardee to certify as to their status as required by the common rule and any implementing agency regulations. This certification will include the entity and any of its principals. Generally, the Foundation will accept the subawardee's certification, by signature on a contract document or by providing the goods or services under a Purchase Order, as indication that the subawardee is in good standing as are any of its covered principals.

Subaward documents will also include a clause requiring the subawardee to pass appropriate non-procurement debarment and suspension regulations down to any lower tier(s).