

**SAN DIEGO STATE UNIVERSITY FOUNDATION
OVERLOAD COMPENSATION**

OIG REPORT 04-1-002
03/02/2004

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ACRONYMS

CSU	California State University
GPG	NSF Grant Proposal Guide
GPM	NSF Grant Policy Manual
HHS	U.S. Department of Health and Human Services
OMB	U.S. Office of Management and Budget
SDSUF	San Diego State University Foundation

INTRODUCTION

Background

San Diego State University is one of 23 campuses of the California State University (CSU) system. While each campus in the CSU system has its own unique geographic and curricular character, all campuses offer undergraduate and graduate instruction. In the fall of 2002, the CSU system enrollment totaled more than 407,000 students taught by some 23,000 faculty. The system awards more than half of the bachelors degrees and a third of the masters degrees granted in California.

CSU has a decentralized organizational structure, thus each campus is largely delegated the responsibilities for its own operations including managing its federal grants. While broad CSU legislative and policy guidance is provided to each campus, detailed operating procedures and practices are established and implemented at the campus level. The San Diego State University Foundation (SDSUF) is the organization responsible for managing federal grant funds at this location. During fiscal year 2000, NSF funded 77 grants to the SDSUF with disbursements of \$5.3 million.

Full-time faculty members at institutions of higher education are responsible for both teaching assignments and conducting research in their respective fields of expertise. Thus, the National Science Foundation (NSF) considers a faculty member's regular organizational salary during an academic year to include compensation for time normally spent on research. When a faculty member is awarded a federal grant, NSF and Federal policy allow salary charges for work performed based on the faculty member's regular compensation rate for the academic year. Only in unusual cases do the federal cost principles allow for salary charges for work beyond the normal faculty academic responsibilities representing extra compensation. Such extra salary compensation must be provided for in the grant agreement or approved in writing by the awarding federal agency.

Extra salary compensation in the CSU system, of which SDSUF is a part, is referred to as **overload compensation** and is defined as additional employment in excess of a full-time workload. CSU has an established Additional Employment Policy that allows full-time academic year employees to accept compensated work assignments in addition to their regular work assignment. Specifically, CSU policy allows faculty to be paid up to 25 percent above their full-time academic year salary from federal funds.

Objectives, Scope, and Methodology

Our audit objective was to evaluate whether CSU's Additional Employment Policy, allowing overload compensation, complies with federal and NSF grant policies and procedures. We became aware of CSU's Additional Employment Policy during our

audit of SDSUF cost sharing.¹ Our review primarily focused on overload compensation costs charged to NSF awards during fiscal year 2000. To accomplish our objective, we:

- Requested and reviewed a schedule prepared by SDSUF of actual overload compensation charges to NSF awards for the period July 1, 1999, to June 30, 2000;²
- Reviewed CSU compensation policies, prior federal determinations regarding these policies, and federal grant regulations concerning overload compensation;
- Reviewed NSF program solicitations and SDSUF proposals for those awards where SDSUF claimed overload compensation and interviewed NSF program officers about their understanding of these claimed costs;
- Discussed CSU's Additional Employment Policy and federal overload compensation policy with officials at the Department of Health and Human Services' (HHS) Office of Audit Resolution and Cost Policy and the Office of Management and Budget (OMB).

The review was conducted in accordance with *Government Audit Standards* to fully address the audit objective.

¹ OIG Report 02-1002 entitled, *Performance Audit of Cost Sharing Provided Under National Science Foundation Awards with Expiration Dates on or After September 30, 1997*, issued on December 18, 2001.

² We accepted the schedule of overload charges and associated costs provided by SDSUF and did not review the completeness of the figures provided.

AUDIT RESULTS

Overload Compensation Charged Without Required NSF Approval

Federal cost principles allow salary charges for work performed based on a faculty member's regular compensation rate for the academic year. Extra salary compensation charges for work performed beyond a faculty member's normal academic responsibilities are only allowed for "intra-university consulting" arrangements when specifically authorized in the grant agreement or approved in writing by the sponsoring agency. Consistent with these requirements, NSF's longstanding policy on faculty compensation is that research is regarded as a normal faculty function during an academic appointment and grant funds may only be used for extra salary compensation when specifically requested by recipient organizations and approved by NSF.

Yet, SDSUF did not disclose in its NSF grant proposals that the requested salaries included extra compensation for work beyond the faculty member's full-time responsibilities, thus NSF program officials believed that they were approving faculty release time and not overload compensation. As a result, without obtaining required NSF approval, SDSUF inappropriately charged 12 NSF awards \$189,114 in overload compensation and related salary costs in fiscal year 2000. Further, four other CSU campuses similarly claimed overload compensation; resulting in a total of \$484,021 of such charges to NSF awards. Over a five-year period, these five CSU campuses may have charged as much as \$2.4 million in such overload compensation costs to NSF grants. As such, NSF lost the opportunity to fund other projects because they unknowingly funded excess SDSUF grant costs. This occurred because established CSU policy allowing for overload compensation had been approved by their cognizant awarding federal agency and SDSUF did not fully understand the OMB and NSF requirements for obtaining specific agency approval for such costs.

Federal Grant Requirements Restrict Extra Salary Compensation

OMB Circular A-21, Cost Principles for Educational Institutions, establish principles for determining allowable costs for work performed under federal assistance grants. When a faculty member is awarded a federal grant, salary charges for work performed are allowed based on the faculty member's regular compensation rate for the academic year. Only in unusual cases do the federal cost principles allow for salary charges for work beyond the normal faculty academic responsibilities representing extra compensation. Paragraph J.8.d. (1) states that faculty member salary charges for the academic year:

“ . . . will be based on the individual faculty member’s regular compensation which . . . constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. **In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period.** . . . Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty member of the same institution. However, in usual cases where . . . the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing **extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency.**”
(emphasis added)

Clearly, extra compensation above the base salary for faculty members can only be charged to federal awards in unusual cases involving “intra-university consulting” arrangements when specifically authorized by the awarding agency.

NSF requires grantee compliance with the OMB Circular A-21 federal cost principles by reference in its Grant General Conditions, which are the standard contractual provisions included in all NSF cost reimbursable grant agreements. However, NSF’s policy and procedures regarding extra salary compensation are defined in greater detail than the OMB requirements. It clearly states that although “exceptions may be considered,” NSF grant funds should generally not be used to augment the total salary of faculty members because research is considered a normal part of their university functions and included in their regular organizational salary. This policy is delineated in NSF’s Grant Proposal Guide (GPG), paragraph II.C.2.g.(i)(a) which states that:

“Compensation for time normally spent on research within the term of appointment is deemed to be included within the faculty member’s regular organizational salary. Grant funds may not be used to augment the total salary or rate of salary of faculty members during the period covered by the term of

faculty appointment . . . **Exceptions may be considered** under certain NSF science and engineering education program solicitations for weekend and evening classes or for administrative work done as overload.” (emphasis added)

The NSF Grant Policy Manual (GPM) further re-emphasizes GPG policy by explicitly stating that extra compensation can only be requested by the recipient organization when such costs are specifically provided for in the program solicitation. GPM 611.1.b.3 states:

“Extra Compensation Above Base Salary. Request may be included in proposals for salary payments for extra compensation only for science and engineering education projects when the particular program solicitation specifically provides that extra compensation may be requested. **This extra compensation above the base salary must be approved by NSF.** Generally this is done in situations such as teaching evening or weekend classes, or for administrative work done as overload prior to or following a project.” (emphasis added)

Thus, extra salary or overload compensation can only be charged to NSF grants when specifically provided for in the NSF grant solicitation, requested by a recipient organization, and approved by NSF.

Yet, contrary to OMB Circular A-21 requirements, SDSUF inappropriately charged overload compensation to 12 NSF grants during FY 2000. The academic year salary support for senior personnel included extra compensation salary for research work to be performed in addition to the faculty member’s other full-time responsibilities. The federal cost principles only allow such compensation charges in unusual cases for “intrauniversity consulting” when provided for in the grant agreement or approved in writing by the sponsoring agency. However, because the SDSUF faculty effort did not involve “intra-university consulting” arrangements, the overload compensation charged to the 12 NSF awards was explicitly not allowed pursuant to the OMB Circular A-21 federal cost principles.

Further, contrary to NSF grant policy and procedures, SDSUF did not specifically request or obtain NSF approval for the overload compensation. Our review of the SDSUF’s proposals for the grants disclosed that neither the proposal budgets nor the budget justifications described the nature of the SDSUF compensation being requested. Academic year salary support for senior personnel included in SDSUF

proposals was not specified as extra salary for work to be performed in addition to the faculty member's other full-time responsibilities. Further, none of the NSF solicitations available for review specifically provided that extra salary compensation *could* be requested and one announcement specifically *prohibited* overload compensation.³

As such, NSF program and grant officials were not aware of and did not have adequate cost information for evaluating whether proposed SDSUF grant costs (a) were allowable and reasonable per applicable federal cost principles and NSF policies and procedures and (b) appropriate for the activities undertaken during the project. NSF did not have an opportunity to determine whether overload compensation for SDSUF faculty members was justified and necessary to accomplish the proposed scope of work. Rather, without detailed cost data or budget descriptions, NSF program officials believed that the SDSUF academic year salary support requested for senior personnel was for the purpose of faculty release time. Faculty release time is defined as a percentage of time faculty members are released by their institutions from their normal full-time duties such as instruction in order to conduct research. In such cases, NSF grant funds are allowed specifically to pay for faculty release time and do not result in augmenting the total salary or rate of salary for faculty members as in the case of overload compensation.⁴

³ For award ESI-9354104, the program announcement stated “[g]rant funds may not be used to augment the total salary rate of college or university faculty members during the period covered by the term of their faculty appointment. No overload salaries are permitted.”

⁴ To illustrate, if a senior faculty member earned \$100,000 annually and was released 25% of his time from his teaching responsibilities to conduct research, federal grant funds of \$25,000 could be requested to pay for the release time. Yet, the faculty member himself would only receive his full-time salary of \$100,000 for the academic year, thus not increasing his total salary or base salary rate. However, if the \$25,000 was requested and approved as extra salary compensation under the federal award, the faculty member would receive an annual salary of \$125,000 for the academic year, thus augmenting his total salary and base salary rate.

As a result, without the required NSF approval, SDSUF inappropriately charged \$128,770 in overload compensation and \$60,344 in related fringe benefits and indirect costs to 12 NSF grants in fiscal year 2000 (see Appendix A). Since all CSU campuses operate under the same Additional Employment Policy, it was likely that NSF had unknowingly paid for overload compensation on awards to other CSU campuses and collectively these costs could have been significant over a period of time. For example, we contacted seven of the largest remaining CSU campuses and four stated that they had also charged overload compensation and related fringe benefits and indirect costs to NSF grants totaling \$294,907.⁵ While we did not evaluate whether NSF had specifically approved these costs, to the extent that they were not, NSF would have paid a total of \$484,021 for overload compensation during the fiscal year that could have been used for other awards and possibly as much as \$2.4 million over a five-year period.

This situation occurred because SDSUF did not fully understand OMB and NSF requirements regarding extra salary compensation allowable under federal awards. CSU's Additional Employment Policy allowed faculty members to be paid up to 25 percent above their full-time academic year salary from federal grant funds for overload compensation. CSU had obtained a ruling from their cognizant federal awarding agency, the Department of Health and Human Services (HHS),⁶ concluding that their Additional Employment Policy was in compliance with OMB Circular A-21 federal cost principles. Based on this, SDSUF believed that specific federal agency approval for extra salary compensation was not required. However, according to OMB officials, the HHS decision did not negate the requirement for SDSUF to follow OMB and NSF procedures limiting the allowability of extra salary compensation to certain types of faculty effort⁷ and explicitly requiring sponsoring agency approval for such costs.

⁵ The four other CSU campuses charging overload compensation to NSF awards were located at Fresno, Long Beach, Dominguez Hills, and Los Angeles.

⁶ HHS is the cognizant federal agency responsible for approving CSU policies in behalf of the federal government.

⁷ OMB Circular A-21 limits extra salary compensation for unusual cases of "intra-university consulting" arrangements and NSF grant procedures limit such costs only for science and engineering education projects when the particular program solicitation specifically provides that extra compensation may be requested.

Since SDSUF charging of overload compensation to NSF grants was contrary to OMB Circular A-21 federal cost principles and NSF grant policy, we question the \$128,770 in overload compensation and \$60,344 in related fringe benefits and indirect costs it charged to 12 NSF grants in fiscal year 2000 (see Appendix A). CSU's cognizant federal awarding agency determination that their Additional Employment Policy was in compliance with federal cost principles did not negate SDSUF's responsibility to comply with the specific OMB Circular A-21 provisions regarding extra salary compensation.

Additionally, the CSU system, of which SDSUF is a part, must amend its Additional Employment Policy to require that the use of overload compensation by campuses comply with specific NSF policies and procedures. Specifically, these policies allow overload compensation only when provided for in the NSF grant solicitation, requested by the recipient organization, and approved by NSF. CSU campuses should adequately disclose the nature of the overload compensation costs in its award proposals to ensure that NSF officials are provided with the opportunity to determine whether the costs are allowable and reasonable with respect to the faculty member's capability to accomplish the proposed scope of work under the NSF grant while maintaining a full academic load.

Recommendations

We recommend the NSF Director of the Division of Grants and Agreements and the Director of the Division of Acquisition and Cost Support :

1. Require that CSU comply with OMB Circular A-21 and NSF Grants Proposal Guide and Grant Policy Manual provisions requiring that extra salary compensation for faculty members during the academic year be clearly identified and requested in its grant proposals and approved in writing by NSF.
2. Disallow \$189,114 in SDSUF overload compensation and associated fringe benefits and indirect costs paid on 12 FY 2000 NSF awards as identified in Appendix A.

CSU Response

CSU does not agree with the audit finding and recommendations. CSU believes its additional salary compensation is appropriate and justified because the CSU system does not receive any State funding for extramural research, like many of the nation's other universities, and established CSU Faculty Workload policies and procedures prohibit the assignment of funds budgeted for instructional positions for non-instructional research.

Specifically, CSU believes that NSF's longstanding premise that "research is one of the normal functions of faculty members at institutions of higher education" is true for the majority of the nation's universities, but factually incorrect for the CSU system.

Under the California Education Code, CSU management stated that SDSUF “receives no State funding for faculty effort or for infrastructure for independent or extramural research.” Therefore, CSU concludes that their budgetary funding model is quite different from the normal university standard across the nation and presents a contradiction to NSF’s premise on which its grant policy and procedures are based.

Additionally, CSU stated that its Faculty Workload policies and procedures, governing faculty compensation since 1976, prohibit the “assignment of funds budgeted for instructional positions from being used or disencumbered for support of positions or duties related to non-instructional research.” CSU’s position is that extramural research, such as that funded under NSF awards, is considered “non-instructional research” and cannot be funded with State funds budgeted for instructional CSU positions. CSU further reiterated that its cognizant federal awarding agency had found its Additional Employment Policy to be in compliance with federal cost principles and that SDSUF was operating in good faith based on this approval. Therefore, CSU concludes that SDSUF’s overload compensation costs of \$189,114 charged to NSF awards during FY 2000 are allowable and appropriate and should not be questioned

Lastly, CSU states that if faculty is restricted from requesting overload compensation on NSF proposals in the future, they will still need to request salary in the form of the traditional reimbursed time mechanism (release time) to pay for the research effort. As a result, NSF costs would be increased because the SDSUF fringe benefit rate charged for reimbursed time is higher than for overload compensation. In its response, CSU provided the actual fringe benefit and indirect costs charged to the 12 NSF awards during FY 2000 cited in the audit report. (CSU's full written response is included in Appendix B).

NSF Response

NSF did not provide formal written comments to the draft report.

OIG Response

Both OMB Circular A-21 federal cost principles and NSF grant procedures strictly limit the allowability of extra salary compensation to certain types of faculty effort⁸ and explicitly require sponsoring agency approval for such costs. Therefore, the lack of State funds provided to the CSU system for funding extramural research does not exempt SDSUF from following both OMB and NSF requirements pertaining to extra salary compensation. Also, while CSU may not be allowed to spend state funds budgeted for instructional positions on non-instructional research, its Faculty Workload policies and procedures do allow state funds to be used for instructionally-

⁸ OMB Circular A-21 limits extra salary compensation for unusual cases of “intra-university consulting” arrangements and NSF grant procedures limit such costs only for science and engineering education projects.

related research. Therefore, on future NSF grants, SDSUF should evaluate what portion of the overload compensation could be appropriately classified as instructionally-related research and therefore be supported by state funds. After such a determination, if SDSUF still believes that overload compensation is justified, then these additional amounts should be disclosed specifically in its proposal and approved as extra salary compensation by NSF. Alternatively, as delineated in CSU's response, the extra salary compensation could be requested as traditional reimbursed time (release time). For either option, CSU would be in compliance with federal cost principles and NSF can be assured that all its awardees are treated equitably.

Finally, although CSU stated that its Additional Employment Policy was institutional-wide, we found that three of the seven largest CSU campuses contacted were not claiming overload compensation on its NSF awards during FY 2000. For example, San Jose State University Foundation (San Jose) only charged summer salaries to its NSF awards, which is allowable and not considered overload compensation because it is outside of the regular academic session. San Jose officials stated that they consider not only university policy but also the requirements and policy guidelines of the sponsoring organization when proposing and charging grant costs and always abide with the most restrictive requirements. San Jose understood that NSF does not routinely pay overload compensation and correctly did not include these costs on its NSF grants.

Lastly, in response to CSU's contention that overload compensation charged to NSF awards should not be questioned because SDSUF was operating in good faith based on DHHS approval of CSU's Additional Employment Policy, we believe that such approval did not negate SDSUF's responsibility to comply with the specific OMB Circular A-21 requirements regarding extra salary compensation. Additionally, OMB officials agreed that SDSUF was required to comply with the more restrictive NSF grant procedures regarding such costs as well. Based on CSU additional documentation provided, we have included the actual dollar amount for SDSUF fringe benefit and indirect costs charged to the 12 NSF grants cited in the audit report. Additionally, based on NSF comments, we have provided a detailed listing of the SDSUF overload compensation and related costs charged on 12 NSF awards during FY 2000, which is included as Appendix A.

Further, we have clarified our recommendation in this regard and are questioning the full amount of \$189,114 because SDSUF did not specifically obtain NSF approval for the extra salary compensation costs as required by OMB Circular A-21 and NSF grant agreements.

San Diego State University

Schedule of Overload Compensation
For the Period July 1, 1999 to June 30, 2000

<i>Award Number</i>	<i>Overload Compensation</i>	<i>Fringe Benefits</i>	<i>Indirect Costs</i>	<i>Total</i>
ESI-9252989	\$6,613	\$1,311	\$3,883	\$11,807
ESI-9354104	7,860	773	0	8,633
ESI-9634025	13,021	2,582	2,340	17,943
SES-9818724	6,487	638	3,705	10,830
DEB-9730004	32,268	6,178	11,995	50,441
ESI-9731339	3,255	645	585	4,485
OPP-9732105	26,245	4,392	7,966	38,603
OCE-9818069	8,114	798	2,317	11,229
DUE-9950622	556	55	318	929
DUE-9951393	4,389	431	1,253	6,073
DUE-9979741	10,728	1,055	942	12,725
REC-9979902	<u>9,234</u>	<u>908</u>	<u>5,274</u>	<u>15,416</u>
	<u>\$128,770</u>	<u>\$19,766</u>	<u>\$40,578</u>	<u>\$189,114</u>

THE CALIFORNIA STATE UNIVERSITY
[Redacted]

September 26, 2003

Mr. Bill Harrison, Audit Manager
National Science Foundation Office
of Inspector General 4201 Wilson
Boulevard Arlington, Virginia
22230

RE: Supplemental Response to Draft Report of Audit of CSU
Faculty Compensation Policy
National Science Foundation Letter Dated July 17, 2003

Dear Mr. Harrison:

Attached are supplemental materials related to the draft audit report on overload compensation that San Diego State University Foundation charged to NSF awards. We hope you find them helpful and receive them in time to incorporate into the final report.

Thank you for giving us this opportunity to submit these supplemental materials. If you have any questions regarding them, please contact [Redacted] or via e-mail a [Redacted]

With kind regards,

Sincerely,

[Redacted Signature]

[Redacted]

Enclosures

c: [Redacted]

**Supplemental Information for
California State University Response
Dated August 29, 2003
to
San Diego State University Foundation
Overload Compensation
Draft Audit Report Dated July 17, 2003**

Correction #1

The audit report states in paragraph three of the background section, that "Full-time faculty members at institutions of higher education are responsible for both teaching assignments and conducting research in their respective fields of expertise." This statement by the NSF Inspector General's auditors is predicated on paragraph II.C.2.g.(i)(a) of the NSF Grants Proposal Guide that states "NSF regards research as one of the normal functions of faculty members at institutions of higher education." While this is true for the majority of universities across the nation, this premise is factually incorrect for the California State University system.

As defined in Suction 66010.4 of the California Education Code, the CSU is one of three major components of State-assisted higher education in California. The Community Colleges and the nine-campus University of California (UC) system comprise the other two components. Under the State's master plan for higher education (circa 1960), the UC system is designated as the research system with doctoral programs, medical schools, etc. The CSU System, with current enrollment of over 350,000, is defined as concentrating on undergraduate instruction and producing the large number of bachelor's degreed individuals needed to fuel the State's growing economy. State funding formulas for the UC and the CSU have reflected these underlying definitions. In contrast to universities in the UC System, San Diego State University receives no State funding for faculty effort or for infrastructure for independent or extramural research.

The CSU Office of the Chancellor established the Faculty Workload Policies and Procedures in the August 16, 1976 directive to University Presidents, coded as EP&R 76-36. This policy document is included as *Attachment A* and is still the guiding policy governing faculty compensation today. EP&R 76-36 defines faculty workload comprising of two components:

- 1) 12 weighted teaching units (WTU) of direct instructional assignments, including classroom and laboratory instruction and instructional supervision (such as student thesis, project or intern supervision) equivalent to 36 hours/week, These units are tracked and reported by the institution.
- 2) 3 WTU equivalencies of indirect instructional activity such as student advisement, curriculum development and improvements, and committee assignments (4 to 9 hours per

week.) These are assumed activities that are not tracked or reported but expected of all faculty.

EP&R 76-36 specifically prohibits the assignment of funds budgeted for instructional positions from being used or disencumbered for support of positions or duties related to non-instructional research. EP&R 76-36 further defines instructionally-related research as "documented research evaluations, which are demonstrably related to the instructional functions and programs of the college."

Over the years, as faculty research has increased in importance as a necessary adjunct to quality instruction at both the undergraduate and graduate levels, CSU faculty have become more active and highly successful in applying for and winning federal grants. The additional responsibilities associated with extramural research are significant and include not only responsibility for the scientific research itself, but also the administrative oversight necessary to ensure funds are spent in accordance with sponsor guidelines, adequate oversight provided to project staff, and a myriad of other responsibilities not inherent to the responsibilities as an instructional faculty within the CSU. Despite the evolution of research as a significant activity in the CSU system, the State of California funding formulas have not changed.

The NSF's fundamental precept that "regards research as one of the normal functions of faculty members at institutions of higher education" is not reflected in the budgets of San Diego State University or other CSU institutions. This is the basis of the CSU Additional Compensation Policy upon which, since the early 1970s, the CSU campuses have been permitted to redefine faculty members' work assignments to include a research component not to exceed 25 percent additional effort, to increase pay accordingly, and to consider these redefined workloads as new 100 percent positions with new base salaries.

The CSU Additional Employment Policy under which all CSU campuses operate was reviewed and approved in 1981 by the U.S. Department of Health and Human Services (DHHS) as the cognizant audit agency of the CSU System. At the request of the NSF Office of the Inspector General, DHHS was asked to review the policy again. DHHS issued a letter dated June 12, 2001 reaffirming that the CSU Additional Employment Policy, which revises the institutional base salary upwards to accommodate the additional research responsibilities, was found to be in compliance with OMB Circular A-21 (*Attachment B*).

The CSU System has relied in good faith on this federal approval to direct our research activities for the past 20 years. Our written policy on compensation for extramural research is applied consistently across all funding sources, monitored closely for compliance, audited annually under A-133 guidelines at the Institutional level and reconciled as part of the institutional effort reporting system. Our model is quite different from the standard across the nation. In fact, it may be unique to California. However, it is a model that is in accordance with federal regulations and as such presents a contradiction to the premises on which the NSF Policy Manual and NSF Proposal Guide are based.

Correction #2

The audit results section, page 3 and 4, states that SDSUF charged 12 NSF awards \$217,261 in overload compensation and related salary costs. We have updated the attached salary spreadsheet (*Attachment C*) to reflect actual fringe benefit and F&A charges for each of the referenced funds for the period July 1, 1999, through June 30, 2000. Please note the actual amount is \$189,114 in total costs (\$128,770 in salaries and \$60,344 in fringe and related F&A) rather than the \$217,261 referenced in the draft audit report. We are unable to confirm the overall amount attributed to the CSU system as a whole since the basis of that calculation was not provided and we therefore question the accuracy of this amount.

Correction #3

The audit report states in a variety of places that "NSF lost the opportunity to fund other higher priority projects because they unknowingly funded excess SDSUF grant costs." This statement is factually incorrect. All proposals were reviewed and funded based on their scientific merit in accordance with NSF policy. If there were other "higher priority" projects they would have been assigned a higher ranking and funded prior to funding the SDSU Foundation awards. We are presuming that the report is attempting to draw the conclusion that the salary funds allocated to SDSU Foundation could have been allocated instead to fund additional projects based on the assumption that the salary costs are "excess costs." The salary costs assigned to the 12 grants audited were costs that were requested in the budget as necessary based on the estimate of academic effort needed to accomplish the work scope of the proposal. This same amount of effort was required, and would need to be funded, regardless as to whether it was compensated in addition to the faculty member's instructional responsibilities via overload or instead of a portion of those instructional responsibilities via reimbursed time payments to SDSU. Program officers evaluated the information as they do all proposals, to determine if the percent of effort requested was sufficient and appropriate for the research being proposed.

We have included a spreadsheet (*Attachment D*) of the salary, fringe and F&A costs that would have been charged if SDSU had paid salaries on the 12 NSF awards cited in this audit via the traditional reimbursed time mechanism. Fringe benefit costs are higher for reimbursed time payments since the University costs include medical and dental costs not provided as part of benefits associated with overload paid through SDSU Foundation. The rate for SDSU reimbursed benefits for the 1999-2000 year was 21.083% versus the 9.83% for faculty ineligible for retirement or even the 19.83% for faculty eligible for retirement benefits through SDSU Foundation. As medical costs have skyrocketed the past few years, the fringe rate for overload compensation has remained fairly constant increasing only slightly with the increase in worker's comp rates to 12.77% and 22.77% respectively, while the rate for reimbursed time compensation through SDSU is estimated at 30% for FY 2003-2004.

As illustrated in Attachment D, NSF saved \$9,360 in fringe benefits and related F&A costs on the 12 awards reviewed under this audit of SDSU Foundation, thus enabling funding of additional projects that may not have been funded if the CSU additional employment policy was considered an unallowable cost under NSF policy and we were required to utilize the reimbursed time mechanism instead. Rather than costing NSF an additional \$2 million over five years as

estimated in the audit report, the CSU system actually saved NSF close to \$100,000 in fringe benefits and related F&A costs.

Response to Recommendation #1:

The audit report recommends that the Directors of the Division of Acquisition and Cost Support and the Division of Grants and Agreements require CSU (a) to revise its Additional Employment Policy to limit its campuses' requests for overload compensation to only those proposals where the NSF solicitation specifically provides for such cost, (b) require the identification of extra salary compensation included in its NSF grant proposals, and (c) acquire the required NSF approval of such costs.

We respectfully request that NSF give serious consideration to the potential outcomes to acceptance of this recommendation. As described earlier in this response, the California State University system is not funded for research. If CSU faculty are restricted from requesting overload on NSF proposals, they will still need to request salary in the form of reimbursed time to pay for their effort on research proposals. This will result in higher costs to the National Science Foundation if the proposal is selected for funding then would be required if the additional compensation policy was allowed. We do not see the benefit to the NSF or to the CSU in implementing such a recommendation.

The fact that the CSU system is not funded by the State of California for extramural research limits the ability for NSF and other federal agencies to access the talent and knowledge of instructional faculty within this 23-campus system. Access to faculty by NSF would become further restricted as a result of these recommendations, dependent on the ability to find qualified instructors to replace researchers to teach their courses rather than allowing a reasonable amount of additional effort to be added to their institutional base to reflect the additional research responsibilities.

OMB Circular A-21, Section J.8.(2)(d) Criteria for Acceptable Methods, recognizes that practices vary among institutions and within institutions as to the activity constituting a full workload. HHS, the cognizant audit agency for the CSU system, has reaffirmed that the CSU Additional Employment Policy, which adds research as an additional responsibility of the faculty member and reconstitutes the base salary accordingly, is an allowable practice under OMB Circular A-2 1. In addition, the ability of a faculty member to accomplish both his/her instructional responsibilities and the proposed research is reviewed and assessed by the department chair and the college dean of the respective faculty member at the time the proposal is routed to verify that the faculty member will be able to contribute the effort requested in the research proposal. We are concerned that requiring the CSU faculty to request and defend overload with each proposal submitted will place us at an unfair disadvantage during peer review. No other institution is required to outline the full-time equivalent workload of a faculty member and justify how they would accomplish both their research and their instructional activities. We believe the proposals should not be judged on these extraneous issues but rather on their scientific merit. If awarded, progress or lack thereof is apparent to the program officers in the progress reports. As noted in the draft audit, no issues were raised in this review regarding

the ability of the faculty member to accomplish the research goals, nor were there any issues raised regarding whether the faculty had contributed the effort outlined in the proposal.

Response to Recommendation #2:

The audit report also recommends that the Directors of the Division of Acquisition and Cost Support and the Division of Grants and Agreements (a) determine whether SDSUF should return the overload compensation paid to its staff and (b) establish policy and procedures to identify extra salary compensation included in NSF grant proposals.

The NSF Grant Policy Manual Program Guide on payment specifies "Academic Year Salaries: To be based on the individual faculty member's regular compensation for the continuous period which, *under the policy of the institutions concerned*, constitutes the basis of his/her salary." It is our contention that SDSU Foundation was operating in full compliance with the NSF program guide in following the instructions for reporting academic year salaries in accordance with our institutional policy of adjusting the base salary to reflect extramural research responsibilities, as approved by DHHS, our cognizant audit agency. Based on that approval, it is our contention that our practice does not qualify as additional compensation as defined in section 511.1(b) 3 of the NSF policy manual.

The NSF program guide language regarding extra compensation above base salary refers to "teaching evening or weekend classes or for administrative work done as overload prior to or following a project." We do not feel the term "overload" as defined in this clause is the same as the term "overload" as used by the CSU to refer to additional compensation for research responsibilities. This NSF clause focuses on science and engineering education projects and appears to us to be targeted to situations where educational program activities supplant normal instruction activities. In our environment, the faculty positions are redefined to a new 100% base salary, and percentages of time are projected accordingly in proposal budgets.

As pointed out in the audit report, SDSU Foundation was operating in good faith based on DHHS's approval of the CSU Additional Employment Policy. In addition, the report validates that the program officer's feel the researchers did in fact perform the level of effort required to conduct the research. We believe these costs to be allowable and appropriate and contend that the costs should not be questioned.

San Diego State University Foundation has restricted faculty overload compensation on NSF funds for the past two years pending the outcome of the overload audit. In addition, the Chancellor convened a system-wide task force to review the Additional Compensation policy during the summer of 2001. The task force updated the policy to clarify terms, calculations and rules as they apply to additional employment within the CSU. The updated policy was reissued to all campuses and is included as *Attachment E*.

By implementing the federally approved Additional Employment Policies, the CSU has enabled faculty to take on additional responsibilities with regards to extramural research, with a corresponding increase in compensation supported by the same extramural funds. The implementation of this policy in part has enabled San Diego State University alone to grow its

extramural research programs from a total of \$13,000,000 in 1981 to over \$140,000,000 in FY 2002. The National Science Foundation, other federal agencies, and the American public benefit substantially from access to the talent and creativity of faculty at CSU teaching institutions that this policy provides. The programs in question in this review have encouraged minority faculty and students to participate in nationally-important research, provided outreach to K-12 schools and students for science and math reform initiatives, and utilized state-of-the-art technology to learn how deep-seated beliefs of teachers influence student learning.

We recognize that the CSU policy is not the norm across the higher education research community; however, we are confident that our practices, which have been consistent over these many years, are in conformance with federal guidelines. We are prepared to work with the NSF to reach a common understanding on these recommendations and their ramifications.

ATTACHMENT A

**CSU Faculty Workload Policy Materials
August 16, 1976**

**Pages 22 through 35 have been
redacted in their entirety**

ATTACHMENT B
Department of Health and Human Services Reaffirmation
Of CSU Overload Policy

June, 2001

**Page 37 has been
redacted in its entirety**

ATTACHMENT C

**SDSU Research Foundation
Extramural Research Compensation of NSF Awards
Actual Fringe Benefits and F&A based on Overload**

July 1, 1999 – June 30, 2000

**Page 39 has been
redacted in its entirety**

ATTACHMENT D

**SDSU Research Foundation
Extramural Research Compensation of NSF Awards
Actual Fringe Benefits and F&A based Reimbursed Time Rates**

July 1, 1999 – June 30, 2000

**Page 41 has been
redacted in its entirety**

ATTACHMENT E

**California State University
Additional Employment Policy**

February 19, 2002

**Pages 43 through 45 have been
redacted in their entirety**