

01/15/2020

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

Executive Committee

Tuesday, January 21, 2020

3:30 p.m.

Telephone conference

1820 Van Hise Hall

1220 Linden Drive

Madison, Wisconsin

1. Calling of the roll
2. Approval of New Regent Policy, "Contracts with Research Companies"
3. Adjourn

**APPROVAL OF A NEW REGENT POLICY DOCUMENT:
“CONTRACTS WITH RESEARCH COMPANIES”**

REQUESTED ACTION

Adoption of Resolution 2., establishing a new Regent Policy Document to meet the requirement of Wis. Stat. § 946.13(12)(d) created by 2019 Wisconsin Act 36.

Resolution 2. That, upon the recommendation of the President of the University of Wisconsin System, the Board of Regents approves a new Regent Policy Document entitled “Contracts with Research Companies.”

SUMMARY

At its January 21, 2020 meeting, the Executive Committee will consider a proposal to create a new Regent Policy Document entitled “Contracts with Research Companies.” This policy will return for the full Board’s consideration at the February 2020 meeting following an opportunity for additional review and input by UW institutions.

The proposed policy is necessary to meet the requirements under Wis. Stat. § 946.13(12)(d), created by 2019 Act 36, to adopt a Board of Regents policy specifying the content for a management plan. The proposed policy specifies the minimal standards for what a management plan must contain. Institutions may impose additional or more restrictive requirements if appropriate.

With the adoption of [2019 Act 36](#) and this new Board policy, the process for reviewing research contracts to ensure compliance with Wis. Stat. § 946.13(1) will no longer require a 45-day passive review process by the Board of Regents. Instead, a research contract, regardless of its monetary value, will be exempt from the prohibitions in Wis. Stat. § 946.13(1) if the employee’s interest has been evaluated and addressed by a management plan issued by the entity responsible for managing conflicts of interest, and this management plan is compliant with Board of Regents policy.

BACKGROUND

The Board of Regents recognizes the right of UW System employees to personal financial interests and the duty of the UW System to ensure that UW System activities are conducted with integrity. State employees, including UW employees, are generally prohibited by Wis. Stat. § 946.13(1) from engaging in or entering into a contract in which they have a private pecuniary interest, unless they meet certain exemptions. The exemptions in state law applicable in situations in which UW employees may have a private pecuniary interest in a contract between a research company and a UW System institution for the purchase of goods or services, including research, have evolved over time.

[2005 Act 417](#) created Wis. Stat. § 946.13(12), which provides a specific exemption for research contracts. Research contracts under \$75,000 were exempt if they were approved by the UW employee or officer responsible for evaluating and managing potential conflicts of interest. For research contracts above \$75,000, the Attorney General (AG) reviewed the contract to ensure it did not violate the prohibitions under Wis. Stat. § 946.13(1).

[2009 Act 28](#) created a new process, which repealed the requirement for the AG to review the research contracts, and gave responsibility to the Board of Regents. It also increased the threshold from \$75,000 to \$250,000. Since 2009 Act 28, the Board of Regents has approved numerous contracts under this process through a 45-day passive review.

With the adoption of [2019 Act 36](#), the process will no longer require a 45-day passive review process by the Board of Regents. Instead, a research contract, regardless of its monetary value, will be exempt from the prohibitions in Wis. Stat. § 946.13(1) if the employee's interest has been evaluated and addressed by a management plan issued by the entity responsible for managing conflicts of interest, and this management plan is compliant with Board of Regents policy, included as Attachment A.

Related Policies

- Regent Policy Document 13-1, "General Contract Signature Authority, Approval, and Reporting"
- Regent Policy Document 13-2, "Real Property Contracts: Signature Authority and Approval"
- § 946.13, Wis. Stats., "Private interest in public contract prohibited"

ATTACHMENTS

- A) Proposed Regent Policy Document, "Contracts with Research Companies"

Regent Policy Document, "Contracts with Research Companies" – Proposed

Scope

This policy applies to all University of Wisconsin System institutions when a contract with a research company is subject to Wis. Stat. § 946.13.

Purpose

The purpose of this policy is to define the required elements of a management plan issued in relation to a contract between a UW System institution and a research company where Wis. Stat. § 946.13 may apply.

Policy Statement

The Board of Regents recognizes the right of UW System employees to personal financial interests and the duty of the UW System to ensure that UW System activities are conducted with integrity. Where Wis. Stat. § 946.13 applies, the following elements must be incorporated into a management plan issued by the appropriate UW System institution's institutional body or individual responsible for evaluating and managing potential conflicts of interest:

1. **Reporting of outside activities.** The university employee must submit annual and updated reports of outside activities consistent with institutional requirements and processes.
2. **Use of university facilities and services.** Any activity involving the use of university facilities or services for the benefit of the research company must be conducted in accordance with all institutional and system policies and state and federal laws pertaining to the use of university facilities and services. Except with respect to use of facilities and services made available for general public use in accordance with established rates and conditions applicable to all users, any such activity must be approved by the university employee's Dean, Director, Division Head or their designee, and a written and approved contract is required before the activity begins.
3. **Contract negotiation, approval and signature.** The university employee may not negotiate or sign any contract with the research company on behalf of their institution. In addition, any such contract's terms and budget must be approved by the university employee's Dean, Director, Division Head or their designee.
4. **Invoicing and billing.** The university employee may not be responsible for invoicing or billing the research company, or for institutional decision-making should any issue regarding the research company's performance under a contract with a UW

System institution arise. Any such decisions must be made by an impartial party who is not under the supervision or control of the university employee.

5. **Purchases.** The university employee may not be directly involved in making decisions involving the purchase of items or services from the research company. Any such decisions must be made by an impartial party who is not under the supervision or control of the university employee.
6. **Human resources matters.** The university employee may not be directly involved in any final institutional decision-making regarding their institution's employment of any individual with a financial interest in the research company. Any such decisions must be made by an impartial party who is not under the supervision or control of the university employee.

Institutions may impose additional and/or more restrictive requirements as appropriate for a given situation. If a Dean, Director, or Division Head has a financial interest in the research company, a higher level administrator must be responsible for all necessary approvals referenced in this policy.

Oversight, Roles, and Responsibilities

Institutions may adopt policies or practices consistent with this Regent Policy Document.

Related Regent Policies and Applicable Laws

- Regent Policy Document 13-1, "General Contract Signature Authority, Approval, and Reporting"
- Regent Policy Document 13-2, "Real Property Contracts: Signature Authority and Approval"
- § 946.13, Wis. Stats., "Private interest in public contract prohibited"