

The University of California
Office of the Vice President-Business Affairs

CONTRACT AND GRANT MEMO

No. 3-74

September 20, 1973

I. POLICY AND PROCEDURE

Each item in Section I of this Memo remains in effect until subsequently incorporated into the Contract and Grant Manual, or until specifically cancelled.

I-1. Bureau of Mines (Department of Interior) Contract Clause CHANGES Unacceptable

Attached for your information is a copy of a letter of July 3, 1973, with enclosure, from Columbia University to Mr. Howard Wile of NACUBO regarding Columbia's attempted negotiation of contract terms and conditions with the Bureau of Mines. Columbia refused the contract because the Bureau of Mines would not remove a clause which gave the agency an unlimited right, unilaterally, to make changes in the work.

In general, a "Changes" clause is appropriate in a construction contract, for example, but not in a contract for research, training, or public service. The attached CHANGES clause is an example of the kind of CHANGES clause which is unacceptable to the University, because it gives the contracting officer unlimited authority and thus does not provide for the mutual agreement of the parties to the changes.

Refer: P. Klentz 2-2592

Index: Terms & Conditions
Changes Clause

82.24
I-2. United States - Israel Binational Science Foundation Proposal

The newly-formed U.S.-Israel Binational Science Foundation (BSF) recently issued instructions for submission of proposals under the BSF program for grants for cooperative scientific research and related activities. Announcement of the program was made by the National Science Foundation as their Important Notice No. 53, a copy of which is attached.

Important Notice No. 53 states that proposals may be submitted to BSF either directly, or via a scientific agency of the U.S. Government having a mission related to the proposal.

In either case, requests for support from BSF must be considered proposals to a "foreign institution" within the context of the University's Standing Orders, No. 101.1(aa)(3) and, as such, require Regental authorization.

September 20, 1973

82-24
To date no BSF proposals have been forwarded for Regental approval. At the time that the first BSF proposal is received by this office, a Regents' Agenda item will be prepared recommending Regental authorization of that initial proposal and also of all subsequent BSF grant proposals which are otherwise within the President's authority to solicit and accept. Grant proposals from all campuses will be covered, if this blanket authorization is obtained. The proposal documents would be executed by Vice President Perkins or his delegate.

Further information will be provided later.

Refer: P. Klenz 2-2592

Index: Extramural Funding
Foreign Governments or
Institutions

I-3. Student Unrest Provisions under Higher Education Amendments of 1968

Attached is a copy of The Commerce Clearing House, Inc. report of Commissioner of Education John Ottiva's recent memorandum concerning the above student unrest provision. Also attached is a copy of General Counsel Reidhaar's related memorandum of 8/30/73 to Mr. A. T. Brugger, Office of the Vice President-University Relations. General Counsel believes that no change in University procedures is necessary at this time.

Refer: P. Klenz 2-2592

Index: Student Unrest

I-4. Department of Health, Education, and Welfare Grants Administration Manual, Chapter 1-43, Animal Welfare

The referenced policy issuance was published in May 1973, replacing and expanding the NIH policy issuance "Policy on the Care and Treatment of Laboratory Animals" of June 1971. Campuses should have received from DHEW their memorandum on this subject, advising all institutions receiving DHEW support of the requirement for now filing a DHEW assurance statement on Animal Welfare.

Refer: P. Klenz 2-2592

Index: Animals, laboratory
Agency policy

II. EXTRAMURAL SUPPORT INFORMATION

III. GENERAL INFORMATION

September 20, 1973

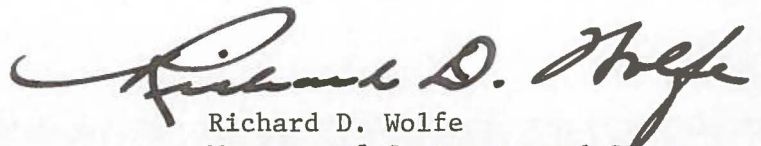
82-43
III-1. Material Issued under Separate Cover

To Contract and Grant Officers only:

- 8/3/73 from R. D. Wolfe - Grant Awards from NIE
INDEX: Terms + Conditions
- 8/21/73 from R. D. Wolfe - Consolidation of AEC Master Contract
AT(11-1)-GEN-10, Mod. 21
- 9/5/73 from S. Filippone - USAF Basic Ordering Agreements
F18600-(year)-A-155 and F44621-
(year)-A-0006, Amendment dated
August 20, 1973
- 9/10/73 from J. A. Perkins - Affirmative Action Programs, and
Certification of Equal Employment
Compliance
- 9/18/73 from R. D. Wolfe - Fall Contract and Grant Officers
Meeting

To Contract and Grant Officers and Accounting Officers only:

- 6/29/73 from N. H. Gross - Indirect Cost Rates and Their
Application for the Period 7/1/74
thru 6/30/75



Richard D. Wolfe
Manager of Contracts and Grants

Attachments (3)

Columbia University in the City of New York | New York, N.Y. 10027

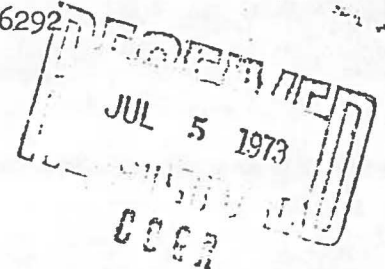
OFFICE OF PROJECTS AND GRANTS

Box 20 Low Memorial Library

212 280-3023

July 3, 1973

OPG:L:6292



Mr. Howard Wile
Committee on Governmental Relations
National Association of College
and University Business Officers
One Dupont Circle, N.W.
Washington, D.C. 20036

Dear Mr. Wile:

This is to inform you about Columbia's experience with the Bureau of Mines, Department of the Interior, Cost Reimbursement contract format.

We objected to three articles in the Bureau of Mines' proposed contract numbered S 0133082 which were all in Appendices 'A' and 'B' of the United States Department of the Interior, Bureau of Mines attachment titled "Cost Reimbursement Research and Development Contracts with Educational Institutions." The three articles were: Clause No. 2 - CHANGES, Clause No. 20 - DATA in Appendix 'A', and Appendix 'B' - PATENTS AND INVENTIONS ARTICLE. We managed to get our publication restriction and background patent problems resolved but we failed to get the Bureau to correct the CHANGES clause. As a result, we were unable to accept the \$17,500 contract and it is lost for good now. I enclose a copy of this clause for your use.

Sincerely yours,

James P. Lewis
Assistant Director

enclosure

Att. 1 to C&G Memo 3-74

Clause No. 1 — DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "head of the agency" or "Secretary" as used herein means the Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

Clause No. 2 — CHANGES

(a) The Contracting Officer, at any time, by written order, may make changes in the work within the general scope of this contract, including but not limited to: (i) revising or adding to the statement of work or services, or deleting portions thereof; (ii) extending or decreasing the performance period; (iii) revising the performance schedule or suspending the performance of all or any part of the work for a period not to exceed 90 days unless a longer period is agreed upon; or (iv) changing the Government-furnished facilities, equipment, materials or services, or the place of performance.

(b) Upon receipt of such notice of change the Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work eliminated or suspended.

(c) If any change under this clause causes an increase or decrease in the cost of, or the time required for performance of this contract, or otherwise affects any other provision of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the estimated cost, or time of performance, or both, (ii) in the amount of the fixed fee, if any, to be paid to the Contractor, and (iii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this Article must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: Provided, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the Article of this contract entitled "Disputes." However, nothing in this Article shall excuse the Contractor from proceeding with the contract as changed.

AUG 17 1973

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7 8 9 10 11 12 1 2 3 4 5 6 PM

NATIONAL SCIENCE FOUNDATION

Office of the Director
WASHINGTON, D.C. 20550

Notice No. 53

cc: Dean Schneiderman

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.. vanden Noort

.. Scherfing

IMPORTANT NOTICE

TO

PRESIDENTS OF UNIVERSITIES AND COLLEGES
AND DIRECTORS OF NONPROFIT ORGANIZATIONS

SUBJECT: U.S.-Israel Binational Science Foundation

The National Science Foundation is pleased to announce, on behalf of the U.S.-Israel Binational Science Foundation, a program of cooperative scientific research and related activities to be conducted principally in Israel, to be financed with Israeli currency, and involving scientists and institutions of the United States and Israel. Eligible activities will be supported by the U.S.-Israel Binational Science Foundation (BSF), which came into existence under an Agreement between the two Governments signed on September 27, 1972. Instructions for preparing and submitting proposals and information about deadlines are given in the pamphlet attached to this Notice. Proposals may be submitted at any time and will be reviewed semiannually as indicated on page 18 of the pamphlet. For the first proposals under this program the deadline has been extended to September 15, 1973.

The program will include cooperative research projects of mutual interest to the U.S. and Israel, concerned with science and technology, for peaceful purposes. Both basic and applied research will be considered, as well as programs dealing with scientific and technological information.

The BSF is to be operated with the interest from a fund, contributed equally by both countries, of \$60,000,000 equivalent in Israeli pounds. The U.S. contribution represents the unobligated residue of accumulated U.S.-Owned Israeli currency, chiefly resulting from the sale of surplus agricultural commodities under Public Law 83-480, the Agricultural Trade Development and Assistance Act of 1954, as amended. U.S. scientists and institutional officials may obtain further information about the U.S.-Israel Agreement from:

Bureau of International Scientific and Technological Affairs
(U.S.-Israel Binational Science Foundation)
Department of State
Washington, D.C. 20520
Phone: (202) 632-2208

U.S. institutions may submit proposals in either of the following ways:

a) To a scientific agency of the United States Government having a mission related to the subject of the proposal. The agency will forward it to BSF with comments concerning the relevance of the proposal to the mission of the agency; judgments as to the scientific merit will be the responsibility of BSF. Proposals from U.S. institutions, which relate to research supported under National Science Foundation programs, may be addressed to:

Office of International Programs
(U.S.-Israel Binational Science Foundation)
National Science Foundation
Washington, D.C. 20550
Phone: (202) 632-5796

b) Directly to the U.S.-Israel Binational Science Foundation, as indicated in the pamphlet. Proposals submitted directly to BSF will later be referred by it to the United States Government for comment.

The program described in the attached pamphlet is a program of the U.S.-Israel Binational Science Foundation and should not be confused with National Science Foundation programs. Consequently, institutions and investigators should be aware that standard NSF proposal and award guidelines and procedures are not applicable.

Attachment (Not included with C&G Memo)


H. Guyford Stever
Director

Att. 2 to C&G Memo 3-74

August 3, 1973

NAME	AC
CHANC.	
V.C.-BSF	
V.C.-SA	
V.C.-AA	
BUS. MGR.	
<i>[Signature]</i>	1
<i>[Signature]</i>	2
<i>[Signature]</i>	

The centers will be designed to evaluate the efficacy of new drugs introduced for treatment of opiate and other addictions, as well as to conduct a program of research on the biological and behavioral bases of addiction.

Educational institutions and nonprofit organizations may obtain grant application forms from the Clinical Research Centers Grants Program, Special Action for Drug Abuse Prevention, 726 Jackson Place, N. W., Washington, D. C. 20500. Completed applications must be submitted by October 15, 1973. The announcement was published in the *Commerce Business Daily*, August 30, 1973, p. 1.

Heart and Lung Institute Starts Grant Program for Young Scientists

The National Heart and Lung Institute is inviting young scientists and physicians to compete for grants to conduct pulmonary or lung-related research under projects they themselves design.

The new program will provide modest independent support for projects to help young scientists and physicians who are on the lower rungs of the professional ladder to encourage them toward pulmonary research, where new knowledge and professional talent are needed.

Young professionals must be under 35 years of age and have doctorates to be eligible to apply for the grants. Applications may be obtained by contacting Jay Moskowitz, Acting Chief, Special Programs and Resources Branch, Division of Lung Diseases, National Heart and Lung Institute, Bethesda, Maryland 20014. Completed applications must be returned by December 1, 1973.

The announcement was made in a Department of Health, Education and Welfare news release, August 30, 1973.

Schools Should Stop Enforcing Student Unrest Provision, Ottina Advises

Since the federal district court for the Northern District of Illinois ruled in *Rasche v. Board of Trustees of the University of Illinois* that the student unrest provision under the Higher Education Amendments of 1968 was unconstitutional and void, Commissioner of Education John Ottina has issued a memorandum to inform colleges and universities that they should no longer enforce the provision. The decision was reported in COLLEGE AND UNIVERSITY REPORTS at ¶ 15,927 and a discussion of the provision is at ¶ 2001.

The invalidated provision attempted to prohibit awarding of federal funds for two years to students who have been convicted of crimes in connection with campus disturbances.

Subscribers are reminded that similar provisions occur in many appropriations bills, including H. R. 8877, the fiscal 1974 money measure for the Departments of Labor and Health, Education and Welfare, which has passed the House.

New Director for LEAA Research and Development Appointed

Gerald M. Caplan has been appointed Director of Research and Development for the Law Enforcement Assistance Administration, the Department of Justice announced. Caplan is currently a law professor at Arizona State University.

Caplan, a former General Counsel of the Metropolitan Police Department in Washington, D. C., will be an Assistant Administrator in charge of the National Institute of Law Enforcement and Criminal Justice.

August 30, 1973

A. T. DRUGGER
ASSISTANT TO THE VICE PRESIDENT - STUDENT AFFAIRS

Re: University of California Policies
Applying to Campus Activities, Organiza-
tions and Students - Withdrawal of
Federal and State Financial Aid

This is written in response to your inquiry of August 28, 1973, wherein you enclose a memorandum from U.S. Commissioner of Education John Ottina. This memorandum states that in the recent case of Rasche v. Board of Trustees of the University of Illinois, et al. (1972) 353 Fed. Supp 973, the court held that certain sections of the Higher Education Amendments Act of 1963 dealing with withdrawal of financial aid for persons found to have engaged in activity prohibited by the Act, were unconstitutional. Commissioner Ottina therefore states in his memorandum that educational institutions are to cease enforcing, executing, administering, or in any way giving effect to the unconstitutional language of the statute in question. Your question is, whether in light of the Rasche case and Commissioner Ottina's memorandum, the University should delete Appendix A of the pending University of California Policies Applying to Campus Activities, Organizations and Students.

It is my opinion that no change is necessary at this time. As you may be aware, there are other federal statutes and one California statute which do not use the prohibitory language the court struck down in Rasche. Therefore, these statutes remain in full force and effect and the University remains obligated to enforce their provisions when applicable. Since the language of Appendix A is of a general nature and does not refer specifically to any one statute, no change is required.

For your information, I am enclosing a copy of a memorandum of this date from Assistant Counsel Glenn Woods to Ted Johnston, Coordinator, Financial Aid, dealing with this same subject.

Please let me know if this office may be of further assistance.

Donald L. Reichhaar
General Counsel

ATT. 3 To C+G Memo-
3-74

A. T. Brugger
August 30, 1973
Page 2.

Attachment

cc: Vice President R. L. Johnson
R. E. Byrne, Coordinator - Administrative Policies
T. D. Johnston, Coordinator - Financial Aid

DLR/GRW/ev.

August 28, 1973

RECEIVED

AUG 29 1973

GENERAL COUNSEL
OF THE REGENTS

GENERAL COUNSEL REIDHAAR

Dear Don:

I enclose a memorandum from John Ottina, U. S. Commissioner of Education, instructing us to stop enforcing that section of the Higher Education Amendments which prohibits the granting of financial aids to students who have been convicted of participating in riots or other disruptive activities.

It occurred to me that in light of this ruling, we may have to delete Appendix A of the pending University of California Policies Applying to Campus Activities, Organizations, and Students.
Do you agree?

Cordially,


A. T. Brugger

enclosure

cc: Mrs. R. E. Byrne
Vice President R. L. Johnson
Mr. T. D. Johnston

MEMORANDUM TO PRESIDENTS AND FINANCIAL AID

OF EDUCATIONAL INSTITUTIONS

WITH RESPECT TO UNCONSTITUTIONALITY OF

STATUTORY STUDENT UNREST PROVISIONS

RECEIVED		
OFFICE		
AUG 22 '73		
ROUTE	DATE	COPY

The United States District Court for the Northern District of Illinois has held in the case of Rasche v. Board of Trustees of the University of Illinois, et al., that section 504(a) of the Higher Education Amendments of 1968, 20 U.S.C. 1060(a), is unconstitutional and void. This section provided as follows:

If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after October 16, 1968, and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c) of this section. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such

individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c) of this section.

The "programs specified in subsection (c)" were various student financial aid programs authorized by the Higher Education Act of 1965 and the National Defense Education Act of 1958.

The section in question had been, prior to the court's decision, repealed by the Education Amendments of 1972, Public Law 92-318, and reenacted by the same act in substantially the same form--as section 497(a) of the Higher Education Act of 1965, 20 U.S.C. 1088f(a). Since the reenacted provision contains the same language which the court found objectionable in 20 U.S.C. 1060(a), we construe the court's decision as, in effect, also holding 20 U.S.C. 1088f(a) as unconstitutional and void.

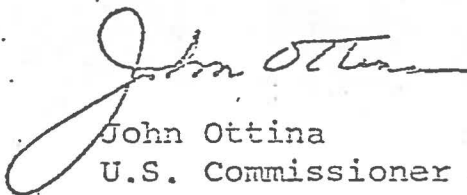
A companion section to 20 U.S.C. 1060(a), 20 U.S.C. 1060(b), was also, prior to the court's decision, repealed by the Education Amendments of 1972 and reenacted by the same act in substantially the same form--as section 497(b) of the Higher Education Act of 1965, 20 U.S.C. 1088f(b). This section, in its original version, read as follows:

If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after October 16, 1968, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c) of this section.

Since both the original and the reenacted version of the provision contain the same language which the court found objectionable in 20 U.S.C. 1060(a), we construe the court's decision as, in effect, also holding this provision as unconstitutional and void.

It is, therefore, the purpose of this memorandum to inform all persons administering student financial aid programs at institutions of postsecondary education, that they are to cease enforcing, executing, administering, or in any way giving effect to 20 U.S.C. 1060(a) or (b) or 20 U.S.C. 1088f(a) or (b).

August 10, 1973



John Ottina
U.S. Commissioner of Education