

AMENDED IN SENATE JULY 13, 2011

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 2, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 450**

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**Introduced by Assembly Member Wieckowski**  
**(Coauthors: Assembly Members Fuentes, Gatto, Mendoza, and**  
**Portantino)**  
(Coauthor: Senator Vargas)

February 15, 2011

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An act to amend Section 89036 of the Education Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

AB 450, as amended, Wieckowski. California State University: audits.

Existing law authorizes the Trustees of the California State University to enter into agreements for the performance of acts or for the furnishing of services, facilities, materials, goods, supplies, or equipment, under certain conditions. The trustees are required to prescribe policies and procedures for the acquisition of services, facilities, materials, goods, supplies, or equipment, subject to specified criteria.

This bill would require the policies and procedures for the acquisition of *food* services to ensure a service contractor, ~~as defined~~, fully discloses to the campus, auxiliary organization, or other unit of the California State University all discounts, rebates, allowances, and incentives received by the service contractor from its suppliers, as specified, and to disclose and pay to the campus, auxiliary organization, or other unit of the university the full amount of the discount, rebate, or applicable

credit, as specified. This bill would require the policies and procedures for the acquisition of services be available for review as part of any audit conducted under specified provisions. The bill would require any necessary changes to the policies and procedures for the acquisition of services be implemented upon the renewal, extension, or amendment of an existing agreement or as part of any new service agreement.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 89036 of the Education Code is amended  
2 to read:

3 89036. (a) (1) The trustees may enter into agreements with  
4 any public or private agency, officer, person, or institution,  
5 corporation, association, or foundation for the performance of acts  
6 or for the furnishing of services, facilities, materials, goods,  
7 supplies, or equipment by or for the trustees or for the joint  
8 performance of an act or function or the joint furnishing of services  
9 and facilities by the trustees and the other party to the agreement.

10 (2) (A) Notwithstanding any other provision of law, the trustees  
11 shall prescribe policies and procedures for the acquisition of  
12 services, facilities, materials, goods, supplies, or equipment. The  
13 policies and procedures of the trustees for the acquisition of  
14 materials, goods, supplies, or equipment shall include competitive  
15 means for obtaining best value while complying with legislative  
16 intent regarding competitive bids or proposals as it is expressed  
17 in Article 3 (commencing with Section 10300) of Chapter 2 of  
18 Part 2 of Division 2 of the Public Contract Code, and may include  
19 the use of financing arrangements.

20 (B) The policies and procedures for the acquisition of *food*  
21 services shall ensure that a service contractor fully discloses to the  
22 California State University campus, auxiliary organization, or other  
23 unit of the California State University all discounts, rebates,  
24 allowances, and incentives received by the service contractor from  
25 its suppliers. If the service contractor receives a discount, rebate,  
26 allowance, or other incentive from any supplier, the service  
27 contractor shall disclose and pay to the California State University  
28 campus the full amount of the discount, rebate, or applicable credit  
29 that is received based on the purchases made on behalf of the

1 California State University campus, auxiliary organization, or other  
2 unit of the California State University. Language stating this  
3 requirement shall be placed in agreements covered by this section.  
4 All discounts, rebates, allowances, and incentives shall be paid to  
5 the California State University campus, auxiliary organization, or  
6 other unit of the California State University during a mutually  
7 agreed upon time frame, and be available for review as part of any  
8 audit conducted pursuant to Section 89045 or 12440.1 of the  
9 Government Code. Any changes required pursuant to this section  
10 shall be implemented upon the renewal, extension, or amendment  
11 of an existing agreement or as part of any new service agreement.

12 (3) The trustees may enter into agreements with the federal  
13 government or any agency thereof in accordance with the  
14 procedures prescribed by the federal government or agency in  
15 order to receive the benefits of any federal statute extending  
16 benefits to the California State University or to California State  
17 University students, including, but not necessarily limited to, both  
18 of the following:

19 (A) Agreements with any agency of the federal government for  
20 the education of persons in the service of the federal government.

21 (B) Agreements with any agency of the federal government for  
22 the education of veterans. These agreements shall provide for  
23 payment of the maximum amount permitted under the act, or acts,  
24 of Congress under which the agreement is entered into.

25 (4) Notwithstanding any other provision of law, the trustees  
26 have all power necessary to perform any acts, and comply with  
27 conditions, required or imposed by the federal government in order  
28 to receive the benefits. The trustees are vested with all necessary  
29 power and authority to cooperate with any agency of the federal  
30 government in the administration of any applicable act of Congress  
31 and rules and regulations adopted thereunder.

32 (b) Notwithstanding any other provision of law, the trustees  
33 have all power necessary to award contracts to one or more  
34 contractors, at any one or more campuses, for the collection of  
35 delinquent educational loans required to be repaid under federal  
36 law.

37 (c) As used in this section, the following terms have the  
38 following meanings:

39 (1) "Auxiliary organization" means those entities defined in  
40 Section 89901.

- 1     (2) “Rebate” includes any return of monetary value, including,
- 2     but not limited to, any volume discounts, allowances, or discount
- 3     purchase incentives.
- 4     ~~(3) “Service contractor” includes a contractor providing food,~~
- 5     ~~janitorial, laundry, maintenance, window cleaning, or landscape~~
- 6     ~~services.~~