

**Charles F. Robinson**  
General Counsel and Vice President  
for Legal Affairs

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David M. Birnbaum  
Deputy General Counsel  
Educational Affairs

Jeffrey A. Blair  
Deputy General Counsel  
Litigation, Labor & Employment

Tina W. Combs  
Deputy General Counsel  
Business & Land Use

Max M. Reynolds  
Deputy General Counsel  
Health Law

Kathleen Quenneville  
Principal Attorney  
Governance & Compliance

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Michael R. Smith  
Chief Counsel, Berkeley

Steven A. Drown  
Chief Counsel, Davis

Diane F. Geocariss  
Chief Counsel, Irvine

Kevin S. Reed  
Chief Counsel, Los Angeles

Elisabeth R. Gunther  
Chief Counsel, Merced

Michele Coyle  
Chief Counsel, Riverside

Daniel Park  
Chief Counsel, San Diego

Marcia J. Canning  
Chief Counsel, San Francisco

David M. Birnbaum  
Chief Counsel, Santa Barbara

Carole Rossi  
Chief Counsel, Santa Cruz

**SUMMARY** In response to the budget crisis, Executive Order S-09-09 suspends funding for certain contracts entered into with the State on or after March 1, 2009. State departments may not enter into new contracts for fiscal year 2009-10 without the prior approval of their Agency Secretary. While the Order may affect contracts that the University has with the State, the Order does not require the University to suspend University contracts.

UNIVERSITY of CALIFORNIA  
Office of the General Counsel

# Legal Advisory

June 26, 2009

THIS LEGAL ADVISORY IS ISSUED BY THE OFFICE OF THE GENERAL COUNSEL TO ALERT UC SENIOR MANAGERS TO IMPORTANT LEGAL AND REGULATORY DEVELOPMENTS THAT AFFECT THE UNIVERSITY. FOR MORE INFORMATION OR ASSISTANCE WITH A SPECIFIC LEGAL MATTER, PLEASE CONTACT THE OFFICE OF THE GENERAL COUNSEL.

## Executive Order Suspending State Contracts

University contracts with the State of California may be impacted by Gov. Schwarzenegger's June 8, 2009, Executive Order S-09-09 (Order), which suspends funding for State agency contracts except for those specified in the Order. Moreover, new contracts between the University and the State, as well as amendments to and extensions of existing contracts between these parties, may also be impacted.

Specifically, the Order "disencumbers funds" for contracts entered into on or after March 1, 2009, for goods or services that have not been provided. Funding approval for *proposed contracts* for fiscal year 2008-09 have also been suspended. The Order *does not* apply to projects funded by the American Recovery and Reinvestment Act; projects funded by bonds or grants; projects specifically mandated by court orders; public-private partnerships that require no direct state expenditures; or interagency agreements exempt by Department of Finance guidelines. Moreover, if legal liability will be incurred as a result of the suspension or termination of a contract, the relevant State department or agency must obtain approval to continue encumbering State Funds from the Agency Secretary and the Director of the Department of Finance. For fiscal year 2009-2010, all State departments must submit reduction plans to (and presumably obtain approval from) the Agency Secretary for new contracts, extensions and purchases.

The Office of the General Counsel (OGC) recommends that University offices administering contracts with the State contact the relevant State agency or department to determine whether it intends to cancel or terminate a contract pursuant to the Order. Similarly, a University office administering an interagency agreement or one that contains terms identical to an interagency agreement is encouraged to contact the relevant department or agency to confirm that it will treat the contract as an interagency agreement. We further recommend that University offices obtain written confirmation regarding an agency or department interpretation.

Please note that while the Order may affect contracts that the University has with the State, it does not require the University to suspend University contracts with other parties.

The Order can be found at: <http://gov.ca.gov/executive-order/12460/>.

**CONTACT** If you have questions regarding how Executive Order S-09-09 may affect your contracts or projects, please contact [Mary MacDonald](#), Senior Counsel, Business & Land Use.