

**Application for Participation by Quasi-Governmental Agency:  
Cal Poly Pomona Philanthropic Foundation**

**LIAB Regular Meeting  
November 13, 2019**

**ISSUE**

Is Cal Poly Pomona Philanthropic Foundation “(Foundation)” a qualified “quasi-governmental agency” eligible to invest funds in the Local Agency Investment Fund (LAIF)?

**RECOMMENDATION**

Staff respectfully recommends that The Foundation be considered a quasi-governmental agency for purposes of investing in LAIF. On the basis of the information provided, The Foundation substantially meets the factors used to determine whether an entity qualifies as a quasi-governmental agency.

**BACKGROUND**

The purpose of this memo is to address whether the Cal Poly Pomona Philanthropic Foundation (Foundation) qualifies to participate in the Local Agency Investment Fund (“LAIF”) as a quasi-governmental agency. Government Code section 16429.1, subdivision (g), provides that the Local Investment Advisory Board shall determine those quasi-governmental agencies which qualify to participate in LAIF.

**ANALYSIS**

The State Treasurer's Office has implemented a seven-factor test to assist in determining whether an entity is a quasi-governmental agency. The Foundation's eligibility as a quasi-governmental agency is analyzed under this test as set forth below based on the information provided by the Foundation.

1. *Does the statute, ordinance or resolution pursuant to which the entity is formed recognize a California state or California local governmental purpose?*

**Agenda Item 3.A**  
**Action Item**

The Foundation is not established under any statute, ordinance, or resolution.

2. *Do the net earnings of the entity inure to any private person or are they irrevocably dedicated to the State of California or a political subdivision of the State?*

The Foundation is a nonprofit formed under Internal Revenue Code section 501(c) (3). Although the Foundation's net earnings cannot inure to the benefit of any private person, upon dissolution of the Foundation, its assets will be irrevocably dedicated to a political subdivision. The Articles of Incorporation provides that its remaining assets shall be distributed to the California State Polytechnic University, Pomona (University), or to one or more nonprofit corporations organized and operated for the benefit of the University. Therefore, since the assets may be distributed to a nonprofit corporation for the benefit of the University, the assets are irrevocably dedicated to the University.

3. *Did the State of California or a political subdivision of the State approve the formation, articles, bylaws, members, directors, and officers of the entity?*

There is no evidence that a political subdivision approved the Foundation's formation, articles, bylaws, members, or officers. Although the Foundation's governing board includes four (4) officials of the University, no more than five (5) and no more than thirty-two (32) elected directors shall be drawn from alumni, business leaders, university donors, or other community members connected to the University.

4. *Does the State of California or a political subdivision of the State approve the methods of financing or investment by the entity?*

There is no evidence that a political subdivision has approved the methods of financing or investments by the Foundation.

5. *Are representatives of the State of California or a political subdivision of the State notified of meetings of directors or members and allowed to attend and make comments?*

The Foundation's bylaws require notice of regular and special meetings of the governing board. Representatives of the University may attend and make comments.

6. *Does the State of California or a political subdivision of the State approve (or reserve right of disapproval) amendments to articles or bylaws and new officers and directors?*

There is no evidence that a political subdivision approves (or reserves right of disapproval) amendments to the Foundation's articles or bylaws and new officers and directors.

7. *Is the entity recognized by other government agencies (e.g., IRS, SEC) as an instrumentality of the State of California or a political subdivision of the State?*

**Agenda Item 3.A**  
**Action Item**

There is no evidence that any other government agency recognizes the Foundation as a political instrumentality. The Foundation is a nonprofit formed under Internal Revenue Code section 501(c) (3).

Since the seven (7) factor test is silent with respect to how many of the factors must be answered affirmatively, we recommend that the Foundation be approved as a quasi-governmental agency.