NOTICE OF BOARD OF REGENTS’ MEETING

Board business not completed on this day will be taken up on another day and time announced at the conclusion of the meeting.

Date: Thursday, March 15, 2012

Time: 12:30 p.m.

Place: University of Hawai‘i at Mānoa
Campus Center Ballroom
2465 Campus Road
Honolulu, Hawai‘i 96822

AGENDA

I. Call Meeting to Order

II. Approval of Minutes of the February 23, 2012 Meeting

III. Public Comment Period: Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Board office prior to the meeting or notify the Secretary of the Board at the meeting site. Written testimony is also accepted. Testifiers are requested to limit their testimony to three (3) minutes.

IV. Report of the President

V. Report of the University of Hawai‘i Foundation

VI. Report on Gifts, Grants and Contracts [Attachment A (For approval)]

VII. Items for Board Action

University of Hawai‘i System

1. Update on Communications and External Relations (Information Only)

University of Hawai‘i at Mānoa

2. Approval of Honorary Degree for U.S. Senator Daniel K. Akaka

Community Colleges

Honolulu Community College

3. Approval of Provisional Associate in Science Degree in Construction Management
VIII. Executive Session (closed to the public):

**Personnel Actions Related to the Following Positions:** *(To discuss the following personnel matters pursuant to HRS §92-5(a)(2))*

a. Update on Executive Searches  
b. Honorary Degree  
c. Emeritus/Emerita Titles

**Legal and Real Estate Matters:** *(To consult with attorneys on powers, immunities, and liabilities pursuant to HRS §92-5(a)(4); To consider negotiations concerning acquisition of public property pursuant to HRS §92-5(a)(3))*

d. Status of Ongoing Litigation  
e. Status Report on Campus Developments *(Information only)*

**Collective Bargaining:** *(To discuss authority of persons conducting labor negotiations and conducting negotiations pursuant to HRS §92-5(a)(3))*

f. Collective Bargaining

IX. Personnel Actions [Attachments B-1 (For approval), Attachment B-2 (Information only)]

X. Announcements

Next Meeting:  
April 12, 2012 at Kapiʻolani Community College

XI. Adjournment
Indemnity Provision – Agreement between the University of Hawai‘i (UH) and the Smithsonian Astrophysical Observatory

The Smithsonian Astrophysical Observatory (SAO) has issued a subaward to UH in the amount of $91,055.00 from its prime agreement with the National Aeronautics and Space Administration (NASA) to conduct a study entitled, “Chandra Survey of Dual AGN Activation in Hard X-Ray Selected Merging AGN Hosts” (hereafter referred to as “Project”). The SAO is a research institute of the Smithsonian Institution.

Dr. David B. Sanders (hereafter "PI"), a member of the UH graduate faculty and affiliated with the UH Institute for Astronomy (IfA), will lead the Project. Under the Project, the PI plans to observe AGN in mergers with multiple nuclei, which can only be detected with the resolution of Chandra. This data, along with samples from last year, will determine the incidence of multiple accreting nuclei in the low redshift Universe for the first time.

The current period of performance of the Project is from December 13, 2011 through December 12, 2013. The PI has not started work on this project. The quoted start date is defined by the time at which SAO provided the data to the PI. SAO has clarified in prior UH-SAO agreements that they are unable to change this start date or extend the period of performance.

Under this award, the PI will analyze data provided by SAO. This data will be transmitted over the Internet from an orbiting x-ray telescope on a space-borne observatory, traveling about a thousand miles above the earth.

The PI or his graduate assistant may travel to the Big Island for the purpose of conducting observations with telescopes on Mauna Kea. These observations need to be planned and proposed to the UH Telescope Time Allocation Committee. The PI will decide whether to initiate this process after he completes the analysis of data provided by SAO.

If observation time on the Mauna Kea telescope is applied for and approved, the PI's primary role will be to determine and control the observational parameters that will maximize the scientific usefulness of the data to be obtained from the observation. The PI will not operate the telescope. A trained technician will perform this task. Interactions between the PI and the technician and other staff supporting the telescopes are limited to oral and electronic communications. According to the IfA, no technician or other staff supporting the telescopes at Mauna Kea has ever suffered any harm or injury from the types of interactions anticipated in the performance of this Project.

The subaward agreement between UH and SAO contains a provision which reads as follows:

D. General Release

Award Recipients are responsible for all actions taken or not taken in the performance of the activities under this Award, and the Smithsonian Institution and NASA expressly disclaim any responsibility to any third party therefore. Further, to the extent allowable by law, the Award Recipient agrees to hold both the Smithsonian and NASA harmless from, and to accept all responsibility for, any harm suffered by anyone arising out of
actions of the Award Recipient or its employees, agents, and representatives if visiting SAO.

As stated in the contract, UH will be undertaking the work under this award as an independent contractor, not as an employee of the Smithsonian Institution or NASA. In addition, UH is insured against the types of risk that might be incurred under this award.

As described, the PI or his graduate assistant paid under the award may travel to Mauna Kea observatories to acquire data for the Project. All other work will be performed at the Institute for Astronomy, located at 2680 Woodlawn Drive and part of the UH Manoa Campus. No employee, agent or representative of the award recipient (UH) will travel to SAO in Cambridge, Massachusetts under this award. Thus, "harm" suffered during such visits will not occur.

Another provision in the subaward agreement between UH and SAO states:

B. Indemnification

The Award Recipient agrees not to make any claim against the U.S. Government, NASA, or the Smithsonian Institution, its Regents, directors, officers, employees, volunteers, licensees, representatives and agents, with respect to activities under this Award for the injury or death of its employees or of contractor or subcontractor employees, or to the loss of its property or that of its contractors and subcontractors, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

Although the title of this clause is "indemnification," this provision is an agreement not to file a claim against the U.S. Government, NASA, or the Smithsonian Institute. Since, with respect to the activities to be performed under this award, UH does not envision a circumstance under which it would want to bring a claim against any of these entities for the injury or death of UH employees or to the loss of its property, and since UH will not hire contractors or subcontractors under this award, we do not believe that this provision is problematic.

If a Mauna Kea telescope technician files a claim against the U.S. Government, NASA, or the Smithsonian Institution, then under this provision, UH might be required to indemnify the U.S. Government, NASA, or the Smithsonian Institution. However, for reasons detailed above, it is extremely unlikely that a technician or other support staff will incur injury or death from any activities performed under this award, or that a claim would be filed against the U.S. Government, NASA, or the Smithsonian Institution. According to the IfA, no such claim has ever been filed against a Mauna Kea observer. For this award, it is highly unlikely that the indemnity clause will be invoked.

For these reasons, it is requested that the Board of Regents approve the acceptance of the two provisions in the subaward agreement between UH and SAO.
B-1 Personnel Actions.

UNIVERSITY OF HAWAI'I AT MĀNOA

Executive

DUBANOSKI, RICHARD
Dean and Professor
College of Social Sciences
Emeritus
Upon Board Approval

Faculty

BILMES, JACOB M.
Professor
College of Social Sciences
Emeritus
Upon Board Approval

HARMS, JOAN Y.
Specialist
Office of the Chancellor
Emerita
Upon Board Approval

CARROLL, WILLIAM D.
Professor
College of Arts and Humanities
Emeritus
Upon Board Approval

HIPLE, DAVID V.
Specialist
College of Languages, Linguistics, and Literature
Emeritus
Upon Board Approval

COOPER, JOANNE E.
Professor
College of Education
Emerita
Upon Board Approval

KNAPP, RONALD H.
Professor
College of Engineering
Emeritus
Upon Board Approval

DAVIDSON, DANA H.
Professor
College of Tropical Agriculture and Human Resources
Emerita
Upon Board Approval

LAMPE, WILLIAM A.
Professor
College of Natural Sciences
Emeritus
Upon Board Approval

DOWRICK, PETER W.
Professor
College of Education
Emeritus
Upon Board Approval

LIU, CLARK C.K.
Professor
College of Engineering
Emeritus
Upon Board Approval
Recommendation: That the Board approve the personnel actions as recommended.

M.R.C. Greenwood
President
B-2 Pursuant to Act 6, Special Session 2008 (SB 2263), the following proposed compensation actions for excluded executives and managers are disclosed for purposes of public comment.

UNIVERSITY OF HAWAI'I – WEST O'AHU

STURM, JAMES P.
Vice Chancellor
Student Affairs
Appointment
$11,930 per month
Temporary Salary Adjustment
$11,334 per month
May 14, 2012