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Steve Juarez, Associate Vice President and Director

April 15, 2015

The Honorable Carol Liu  
Chair, Senate Education Committee  
State Capitol, Room 2083  
Sacramento, CA 95814

**RE: SB 376 (Lara), as amended April 6, 2015**  
**Scheduled for hearing April 22, 2015 in the Senate Education Committee**  
**Position: OPPOSE**

Dear Chair Liu:

The University of California (UC) has reviewed SB 376, which would modify the Public Contract Code to effectively prohibit UC from entering into a contract for goods and services valued at more than \$100,000 if the compensation a bidder pays its employees undercuts the average per-employee compensation, including benefits, for UC employees who perform comparable work. Regretfully the University must oppose this legislation which would ultimately increase UC's costs for procuring services by both creating new administrative burdens and increasing the costs for services, and could have the unintended consequence of limiting cultural and learning experiences offered to our students and the broader community in which our campuses reside.

The University has a mission unique among public employers in California: teaching, research, and public service. Campuses and medical centers view contracting out for services as an important supplement to existing resources. Maintaining a balance of contract and campus-based services assists locations in maximizing efficiency within resource constraints, while allowing for the introduction of new methods and best practices in service delivery. In lieu of using existing employees UC may contract out for services in instances where, among other reasons, there is a need for special expertise or experience, for short-term or temporary staffing needs, for special services and equipment that are not available internally, or for services at a leased facility where the services are provided by the owner.

UC has a number of policies, guidelines and collective bargaining agreements in place to minimize the impact contracting for services could have on current employees.

In any consideration to contract out services where University staff would be displaced, the approval to contract for work is only approved when the decision is consistent with protecting

the core teaching, research, service, and patient care functions of the individual campus or medical center; is in response to a demonstrated, sound business need; and minimizes to the extent possible the impact on University staff. The current Guidelines on Contracting for Services at the University of California (guidelines) acknowledge the circumstances under which the University may need to contract for services. Included in the guidelines is a provision for advance review by the Office of the President for those contracts that may result in the displacement of University staff and that exceed \$100,000 per year.

The guidelines also require compliance with the specific provisions of personnel policies and collective bargaining agreements that apply to any particular employee group that may be affected. For example, some of UC's collective bargaining agreements contain specific provisions stating that the University will not contract out for services solely on the basis that savings will result from lower contractor pay rates and benefits for services customarily performed by bargaining unit employees or that result in layoff of bargaining unit employees. Finally, UC annually reports to the Legislature on contracting out for services at newly developed facilities.

SB 376 may limit the ability of the University to contract for unique, specialized services, and could limit the types of cultural services the University offers to the communities in which campuses are located.

SB 376 would remove personal service contracts from an existing exemption for competitive bidding requirements and would instead require UC to award all contracts for personal services greater than \$100,000 to the lowest responsible bidder. UC contracts for personal services for infrequent, technical, or unique functions performed by an independent contractor. Personal services contracts typically are awarded to individuals rather than partnerships, firms, or corporations, and include translation, technical editing, and technical appraisal. For example, UC may contract for sign language translation services both in the classroom and during speaker series and presentations to assist those who are hearing impaired. Personal service contracts are also administered to arrange for performances at UC campus performing arts centers and sports venues. UC's many performing arts centers, including the Mondavi Center at UC Davis, Cal Performances, and the UCLA Center for the Performing Arts, serve as cultural and performance art centers not only for members of the UC community, but the larger community as a whole. Performers and entertainers at these ticketed venues include acclaimed ballet companies, symphony orchestras, lectures by national public figures, and concerts by popular artists. Having to competitively bid for these performances is unworkable. The current exemption for personal service contracts allows UC to contract directly with these individuals and groups without the need to select a lowest responsible bidder.

SB 376 would significantly increase both the costs of services UC contracts for as well as the costs to administer such contracts.

Since the start of the fiscal crisis the University has engaged in a sustained systemwide effort to change its procurement practices to not only reduce the price it pays for goods, materials and

services but to streamline administrative processes to generate additional savings. UC's strategic sourcing initiative and P200 project seek to use strategic and collaborative sourcing methods to optimize spend and purchasing activities across the UC system, creating significant savings for the university. Strategic sourcing takes advantage of the combined buying power of 10 UC campuses and their affiliates to cut costs for common goods and services resulting in better pricing, quality, and overall service. P200 seeks to recapture \$200 million annually that is currently lost through sub-optimal purchasing contracts and practices, redirecting these critically needed funds to support UC's core missions of teaching, research and public service. UC believes that SB 376 hinders these efforts and would greatly increase not only the cost to administer competitively bid contracts but would also increase the prices that UC must pay for contracts for services provided to the University.

SB 376 would significantly increase the administrative costs associated with the competitive bidding process at UC because it would require a complex calculation and analysis of positions and compensation data prior to the issuing of any request for proposal (RFP) that UC would issue for goods, materials and services. UC would be required to include a calculation of the average per-employee value of total compensation, including benefits, for UC employees who perform comparable work at the location. To maximize our bargaining power, UC's strategic direction is to engage in systemwide RFPs whenever possible. If SB 376 took effect as written, UC would be required to collect salary and benefits data from every location potentially participating in the RFP. Further, the bill requires that the compensation calculation take into consideration known cost escalators to project the future rate of growth of average per-employee total compensation costs but the bill does not specify over what time period. This calculation would add an unnecessary complexity to the development of an RFP.

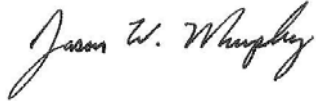
By altering the definition of who can qualify as a lowest responsible bidder, SB 376 will drive up the price that UC pays for its contracts by limiting the number of vendors who will submit bids. Many businesses, including small businesses, may not have the resources to respond to a UC RFP under the requirements of SB 376 and therefore may be less likely to submit bids. Further, the bill does not limit these requirements to only contracts for services. It is unclear how these requirements may apply to contracts for goods and materials. If the bill does not intend to place restrictions on these types of contracts it should be amended to clarify this.

SB 376 would also increase the number of competitive bids that the University would have to administer by eliminating the ability to extend or renew an existing contract for services. Developing, issuing and evaluating RFPs is an administratively burdensome process that can be further complicated depending on the complexity of the contract and whether it is a systemwide or campus-level agreement. Currently, UC may include terms in its contracts that allow the University, at its discretion, to extend or renew a contract for services a predetermined number of times over a predetermined period of time. The option to extend a contract affords UC the ability to evaluate the level and quality of service, provides an opportunity to negotiate even more favorable terms prior to the university opting to exercise its right to renew, and allows UC to take advantage of any changes or advances in technology that may have occurred since the execution of the contract, all without increasing administrative costs. This grants UC more flexibility to ensure it receives the highest quality of service at the lowest cost without locking

itself into contracts with longer terms that may ultimately become less favorable over time as markets and technologies change.

As always, the University appreciates your consideration of our views. Should you have any questions about the University's opposition of SB 376, please do not hesitate to contact me at (916) 445-9924.

Sincerely,

A handwritten signature in black ink that reads "Jason W. Murphy". The signature is written in a cursive style with a large initial 'J'.

Jason Murphy  
Legislative Director

cc: Senator Lara  
Vice Chair and Members, Senate Education Committee  
President Janet Napolitano  
Provost and Executive Vice President Aimée Dorr  
Executive Vice President & CFO Nathan Brostrom  
Senior Vice President Nelson Peacock  
Associate Vice President and Director Steve Juarez