



OFFICE OF THE PRESIDENT

NELSON PEACOCK

Senior Vice President – Government Relations

Office of State Governmental Relations

1130 K Street, Suite 340

Sacramento, California 95814

(916) 445-9924

Steve Juarez, Associate Vice President and Director

May 1, 2015

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

RE: SB 376 (Lara), as amended April 6, 2015
Scheduled for hearing May 4, 2015 in the Senate Appropriations Committee
Position: OPPOSE

Dear Chair Lara:

The University of California (UC) has reviewed SB 376 (Lara), 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 increase UC's costs for procuring services by both creating new administrative burdens and increasing the costs for services – **an amount UC conservatively estimates at \$66,354,000 annually.**

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. 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.

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 mission. UC believes that SB 376 hinders these efforts and would greatly increase not only the cost to administer competitively bid contracts (***currently estimated at \$354,000 annually***) but would also increase the prices that UC must pay for contracts for services provided to the University ***by approximately \$66 million annually***.

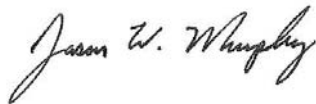
SB 376 would significantly increase the administrative costs associated with the competitive bidding process at UC because it would require a complex calculation and analysis of positions and compensation data prior to the issuing of any request for proposal (RFP) that UC would issue for goods, materials 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.

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.

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.

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 cursive script that reads "Jason W. Murphy".

Jason Murphy
Legislative Director

cc: Vice Chair and Members, Senate Appropriations 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