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July 8, 2015

The Honorable Rudy Salas, Jr.
Chair, Assembly Accountability and Administrative Review Committee
1020 N Street, Room 357
Sacramento, CA 95814

RE: SB 376 (Lara), as amended June 29, 2015
Scheduled for hearing in the Assembly Accountability and Administrative Review Committee on July 15, 2015
Position: OPPOSE

Dear Assembly Member Salas,

The University of California (UC) has reviewed SB 376, which would modify the Public Contract Code to 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 is lower than the average per-employee compensation, including benefits, for UC employees who perform comparable work. UC prioritizes its responsibility to the well-being and appropriate compensation of its employees, along with appropriate, responsible use of contractors for specific business purposes. As such, the University is committed to exploring the service contracting issues raised by the supporters of SB 376. However, because the specific provisions of SB 376 would increase administrative costs by approximately \$66 million, create new administrative burdens, and would undercut UC's sustained efforts to streamline operations and to make the contracting process more efficient, regretfully UC must oppose this legislation.

The University has a mission unique among public employers in California: teaching, research, and public service. Maintaining a balance of contract and campus-based services assists our campuses, labs, and medical centers 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.

SB 376 would hinder UC's continued efforts to make its contracting practices less burdensome and more efficient to administer.

For the last decade, the University has embarked upon a sustained systemwide effort to reform its procurement practices not only to reduce the price it pays for goods, materials, and services but also to streamline administrative processes to generate additional savings. UC's strategic sourcing initiative and "P200" procurement project use strategic and collaborative sourcing methods to optimize spend and purchasing activities across the UC system, creating significant savings for the University. 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.

SB 376 also conflicts with efforts by the University, in collaboration with the California State University (CSU) system and the California Community Colleges (CCC), to increase coordination among the three segments and take advantage of our combined purchasing power when contracting for goods, materials and services. SB 376 places new administrative burdens on UC operations while no similar requirements exist for CSU and the CCC. These disparate requirements hinder the three segments' ability to implement processes that allow for intersegmental collaboration and increased cost savings.

Through its procurement initiatives and intersegmental collaborations, UC has realized measurable savings that have allowed us to direct resources back to the University. These savings are one of the key factors allowing us to hold in-state tuition flat for another two years. The Legislature itself has supported UC's efforts to increase efficiencies in contracting by passing two separate measures, SB 1280 (Pavley, 2012), which granted the University the authority to select the lowest responsible bidder on a contract for goods and services on the basis of the best value to the University, and SB 1122 (Wright, 2010), which increased the competitive bidding threshold to \$100,000.

SB 376 would significantly increase the administrative costs associated with the competitive bidding process by requiring a complex calculation and analysis of positions and compensation data prior to UC issuing any request for proposal (RFP) for goods, materials, and services. 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 extensive 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, although the bill does not specify over what time period. This calculation would add an unnecessary complexity to the development of an RFP.

The University is currently working to implement two new legal requirements affecting competitive bidding. Under the Federal Patient Protection and Affordable Care Act, the University must ensure that its suppliers of temporary or supplementary staffing services offer health care to their employees. Further, under the recently enacted SB 854 which was chaptered in 2014, UC must include prevailing wage provisions in its RFPs and its contracts for public works projects.

SB 376 would also increase administrative costs 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. 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. UC believes that SB 376 increases 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 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

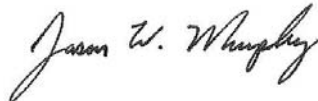
unique functions performed by an independent contractor. Personal services contracts typically are awarded to individuals rather than partnerships, firms, or corporations, and include translation, technical editing, and technical appraisal. For example, UC may contract for sign language translation services 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 also for the larger community as a whole. Performances at these ticketed venues include shows by 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, though UC policy requires the campus to determine price reasonableness.

UC takes the contracting issues raised by supporters of SB 376 seriously and we are dedicated to continuing to address their concerns. In this instance, however, SB 376 (as written) significantly undermines the University's ability to save administrative costs so that more monies can be reserved for the University's core missions of teaching, research, and public service. Therefore, while we appreciate and embrace the intention of the bill, we must reluctantly oppose it.

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

Sincerely,



Jason Murphy
Legislative Director

cc: Senator Ricardo Lara
Vice Chair and Members, Assembly Accountability and Administrative Review Committee
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