



Guidance on	Contracting for Services
Related Policy:	N/A
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Contracting for Services

I. SUMMARY

These systemwide guidelines describe how to contract out for services where University staff would be displaced. These guidelines do not apply to services covered by Regents Policy 5402 (Policy Generally Prohibiting Contracting for Services) or Article 5 of the AFSCME Collective Bargaining Agreement.

II. DEFINITIONS

Not applicable.

III. GUIDELINE TEXT

The University's mission – teaching, research, and public service – is unique among public employers in California. The University must maintain an extremely broad range of support services in order to achieve its mission at the ten campuses and five medical centers. Recognizing the need to support the academic mission, the University's business policies and practices must provide flexibility to address programmatic needs in a rapidly changing research and instructional environment. Adding complexity to this context is the increased reliance on multiple fund sources to support its programs and the impact of fluctuating budgetary conditions on the University. At the same time, the University sets as a priority its responsibility to maintain commitments to its employees, respecting their employment rights and conditions as staffing requirements change.

Thus, in any consideration to contract for services where University staff would be displaced, the University will support and approve contracting University work to non-

University staff only 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. Such decisions are intended to be consistent with the objectives of maintaining the University's relationships with the local business community and the quality of the work environment. Because consideration must be given to both the requirements and circumstances of the services involved and the overall benefit to the campus, these decisions will be made by the Chancellor or designated Vice Chancellor, with review by the Office of the President as appropriate and as described in these guidelines. Campuses and Medical Centers considering contracting for services by non-University staff must submit a completed *“Formal Notice Pursuant to University Guidelines on Contracting for Services”* for review and certification by the Office of Systemwide Human Resources and the Office of the Chief Financial Officer.

In addition, per [California Education Code 92611.9](#), “It is the intent of the Legislature that the University carefully monitor the use and effects of the contracting out for services at newly developed facilities. In order to assist in an improved understanding of such impacts, the University is requested to report annually to the fiscal committees of the Legislature, on or before January 15th of each year, the extent to which it has chosen to contract for services, the rationale for those decisions, the cost implications of such decisions, the impact on hiring, and the extent to which such hiring and contracting practices are at variance with practices at existing facilities.”

Also, per California Public Contract Code 12147, added in 2017 by Assembly Bill 848, the University is prohibited from displacing an employee where a service contractor is performing that same work with workers outside of the United States. The University also is prohibited from paying to train service contract employees located in foreign countries or those who plan to relocate to a foreign country as part of the service contract, if the contract would displace one or more University employees.

Application of Guidelines

These guidelines are intended to guide management decisions to contract for services only in circumstances in which University staff would be displaced. The provisions outlined below apply to decisions to contract for services at University of California (UC) campuses, medical centers, other UC locations, and the Office of the President. These provisions are to be used in conjunction with the applicable sections of *Personnel Policies for Staff Members* and/or the applicable collective bargaining agreement. These provisions are not applicable to the following types of decisions, unless University staff would be displaced:

- 1) to contract for existing or new services; or
- 2) for augmentation to existing services

Nothing in these guidelines will interfere with application of University policies, procedures, or contractual requirements including, for example, equal opportunity and non-discrimination in employment and contracting, or competitive bidding requirements.

Nor will the application of these guidelines interfere with any action required by the University to establish or maintain eligibility for any federal program, contract or grant.

This exclusion includes any requirements contained in any agreement between the University and the Department of Energy where ineligibility would result in a loss of federal funds to the University.

Except as excluded above, the justification for a decision to contract out services will include consideration of the following:

- Compliance with requirements of the *Personnel Policies for Staff Members* and/or applicable collective bargaining agreements;
- Compliance with applicable Business and Finance Bulletins governing service contracts and professional agreements;
- Sound business and financial rationale;
- Level and quality of service required, including special skills and expertise;
- Impact on the local business community; and
- Impact on the core University functions of teaching, research, service, and patient care.

A. Application of Staff Personnel Policies and Collective Bargaining Agreements

The decision to contract for services currently being performed by University staff will take into account the requirements noted below:

1. Provisions for addressing the impact on University staff are provided in the relevant University personnel policies and/or applicable collective bargaining agreement(s). Such provisions reflect eligibility requirements for layoff and preferential rehire, notice requirements, and alternatives to layoff. Additionally, existing local procedures provide support services for displaced staff. Such services may include, for example, the availability of training or retraining programs; transfer and re-employment opportunities; job counseling and placement services; and assistance with job applications, resume preparation, and interviewing skills.
2. When applicable, the University will observe any conditions regarding contracting out and the impact on staff as provided in the State Budget Act for the year in which the contracting decision is made.

B. Business and Financial Necessity

A decision to contract for services resulting in the displacement of staff may be related to the need to address business or financial necessity. Examples include, but are not limited to, any of the following situations:

1. To respond to budgetary limitations or reductions;
2. To adhere to the principles of sound business and fiscal management, such as discontinuing services that have become cost prohibitive as a result of changes in technology, regulatory or safety requirements, etc.;
3. To acquire services incidental to the terms of a contract entered into by the University primarily for the purchase or lease of property, such as maintaining work locations or equipment; or

4. To address unmet service needs.

If the decision to contract for services from non-University staff is based on business or financial necessity, and University staff will be displaced, a complete financial analysis will be conducted and consideration will be given to anticipated benefits, cost, personnel and mission implications of proposed displacement arrangements. The complete financial analysis will compare the actual cost of the service when performed by University staff to the cost of contracting outside of the University for those services, including the following elements:

1. The actual cost of services performed by University staff will include all related costs of providing the service. These costs include, but are not limited to, the cost of facilities, equipment, materials, and supervision required, as well as any other administrative costs such as payroll processing, benefits administration, and other related costs.
2. The cost of contracting out will include the total cost of the contract plus costs associated with administering the contract.
3. The comparison of costs will be considered over the **life of the contract**, and the resultant economic advantage will be clearly articulated.
4. The benefits to the University in protecting the quality and effectiveness of its core functions will be described.

The annual budget process will provide an avenue for periodic evaluation as actual contracting costs will be compared to budget. This periodic evaluation could impact the length of the contract.

Service Requirements

A decision to contract for services resulting in the displacement of University staff may arise in situations where the requisite skills or expertise to provide the services are not available internally. In such situations, there will be an assessment of the levels of service to be provided, including the elements necessary to provide the appropriate level of service in support of the University's programs. Levels of service include both the quality and quantity of work to be performed. The assessment will include review of whether the special services, expertise, facilities, and/or equipment necessary to achieve the required level of service are readily available internally. Examples include, but are not limited to, circumstances in which:

1. The services are not available within the campus/medical center's workforce in sufficient quantity, quality, or level of expertise.
2. Special expertise or efficiencies are better provided through an outside contractor than by the University.
3. Changes in technological and/or other environmental conditions (such as regulatory and certification requirements, safety and risk management standards, etc.) have resulted in a shortage of appropriately qualified University staff to perform those services.

4. The goals and purposes of the service to be performed must be accomplished through the use of non-University personnel for reasons such as the need for an external perspective or the avoidance of a conflict of interest.

C. Review Process

For contracts that may result in the displacement of University staff and are anticipated to exceed \$100,000 per year, review by the Office of the President prior to making any contracting commitments is required for conformance to the criteria outlined in the foregoing sections, and in accordance with the process noted below:

1. Informal notification will be provided to Systemwide Human Resources at the Office of the President at least one month prior to issuance of the Request for Proposals (RFP).
2. Formal written notification to Systemwide Human Resources at the Office of the President, including the analyses required in sections A, B, and C above, will be provided before or in parallel to the issuance of the RFP.
3. Locations must complete the “*Formal Notice Pursuant to University Guidelines on Contracting for Services*,” which will demonstrate with documentation that the proposal:
 - Protects the core teaching, research, service, and patient care functions of the Campus or Medical Center;
 - Demonstrates sound business and financial rationale;
 - Minimizes, to the extent possible, impact on University staff; and
 - Complies with applicable policies and bargaining agreements.
4. Compliance with any applicable Budget Act requirements or related terms of a collective bargaining agreement (e.g. providing a copy of the RFP to the exclusive bargaining agent) will be coordinated with the Office of the President, Labor Relations, as part of the review.

The Office of Systemwide Human Resources and/or the Office of the Chief Financial Officer have the authority to approve or reject displacement decisions. Locations may only proceed forward once the Office of the President’s final decision has been received. A copy of final decision should also be sent to the local Procurement office for their records.

IV. COMPLIANCE/RESPONSIBILITIES

Not Applicable

V. PROCEDURES

Not Applicable

VI. RELATED INFORMATION

- Formal Notice Pursuant to University Guidelines on Contracting for Services
- [California Education Code 92611.9 – University of California – Chapter 6 – Miscellaneous Provisions – Article 2 – Employees](#)
- [Assembly Bill-848 Public Contracts: University of California: California State University: Domestic Workers](#)
- [Regents Policy 5402 \(Policy Generally Prohibiting Contracting for Services\)](#)
- [Implementation Guidelines for Regents Policy 5402](#)
- [Article 5 \(Contracting Out\) of the AFSCME Collective Bargaining Agreement](#)

VII. FREQUENTLY ASKED QUESTIONS

1. Do these guidelines apply to contracts that may result in the displacement of University staff and are anticipated to be less than \$100,000 per year?

Yes, these guidelines apply to contracts that may result in the displacement of University staff and are anticipated to be under \$100,000. For contracts anticipated to exceed \$100,000, refer to section 3.C. Review Process of these guidelines.

2. Are these guidelines applicable to goods?

No, these guidelines are only applicable to contracting out for services where University staff would be displaced.

VIII. REVISION HISTORY

May 17, 2023: Technical update – contact information

April 21, 2020: Guidelines effective changes:

- Section 1 (Guidelines Summary) updated to note that the guidelines do not apply to services covered by Regents Policy 5402 (Policy Generally Prohibiting Contracting for Services) or Article 5 of the AFSCME Collective Bargaining Agreement.
- Section 4 (Related Documents and Resources) updated to include references to Regents Policy 5402, its Implementation Guidelines, and Article 5 (Contracting Out) of the AFSCME Collective Bargaining Agreement.

August 15, 2018: Guidelines effective changes:

- Added language that locations will periodically analyze and evaluate the decision to contract for services from non-University staff for cost saving purposes.

May 2018: Guidelines effective changes:

- Added in FAQs to clarify the guidelines apply to contracting out for services under \$100,000 and that the guidelines are only for services not goods.
- This guideline was remediated to meet Web Content Accessibility Guidelines (WCAG) 2.0.

University of California – Guidance on Contracting for Services

As a result of the issuance of these guidelines, the following document is rescinded as of the effective date of this policy and are no longer applicable:

- *Guidelines for Contracting for Services*, dated September 4, 2002 (technical revisions August 25, 2011 and December 13, 2013)

Formal Notice Pursuant to University Guidelines on Contracting for Services

Location or Medical Center:

Brief Description of Services (exceeding \$100,000 per year) to be Contracted Out:

Can University employees provide the services? Why or why not? (Briefly explain)

Date of Informal Notice to UCOP HR&B:

(Attach documentation of informal notice)

RFP Number:

Planned RFP Issuance Date:

(Attach or provide link to RFP)

Protecting the Core Teaching, Research, Service, and Patient Care Functions of the Location or Medical Center:

Describe the anticipated impact – including potential benefits and risks – on the quality and effectiveness of the core University functions of teaching, research, service, and patient care.

Documenting Demonstrated Sound Business Need (Select at least one and provide supporting documentation):

- To respond to budgetary limitations or reductions (attach a **complete financial analysis**, comparing the actual cost of the service when performed by University staff (including all related costs of providing the service required as well as administrative costs such as payroll processing, benefits administration, and other related services) to the cost of contracting for services (including the total cost of the contract plus costs associated with administering the contract).
- The comparison of costs will be considered over the **life of the contract**, and the resulting economic advantage will be clearly articulated.
- To adhere to the **principles of sound business and fiscal management**, such as discontinuing services that have become cost prohibitive as a result of changes in industry standards
- To acquire services **incidental** to the terms of a contract entered into by the University primarily for the purchase or lease of property, such as maintaining work locations or equipment.
- To address **unmet service needs** (attach an assessment of the levels of service to be provided, including the quality and quantity of work to be performed, including the elements necessary to provide the appropriate level of service in support of the University's programs; include a review of whether the special services, expertise, facilities, and/or equipment necessary to achieve the required level of service are readily available internally). See the *Guidelines* for examples.
- Other** (Briefly explain)

Confirm that the Plan Minimizes to the Extent Possible Impact on University Staff:

Summarize eligibility requirements for layoff and preferential rehire, notice requirements, and alternatives to layoff. Also address support services for displaced staff (e.g., availability of training or retraining programs; transfer and reemployment opportunities; job counseling and placement services; and assistance with job applications, resume preparation, and interviewing skills).

- Confirm compliance with applicable requirements of the *Personnel Policies for Staff Members*.
- Confirm compliance with any applicable collective bargaining agreements, or that no represented staff will be impacted.
- Confirm that the proposed contract is consistent with any conditions imposed through the State Budget Act for the year in which the contracting decision is made.

Briefly explain any anticipated impact on the local business community.

Confirm Compliance with Applicable Policies:

- Confirm compliance with applicable Business and Finance Bulletins governing service contracts and professional agreements. See <http://www.ucop.edu/procurement-services/policies-forms/index.html> for relevant policies and forms.
- Confirm compliance with applicable local procedures.

In any consideration to contract out services where University staff would be displaced, the University will support and approve the contracting out of University work only when the decision is consistent with protecting the core teaching, research, service, and patient care functions of the individual location or medical center; is in response to a demonstrated, sound business and financial rationale need; and minimizes to the extent possible the impact on University staff. Such decisions are intended to be consistent with the objectives of maintaining the University's good relationships with the local business community and the quality of the work environment.

The individuals signing below have reviewed this formal notice and any attachments and by signing this form certify that the proposal to contract out is consistent with the above requirements.

Certified and submitted by:

Name: _____ Signature: _____
Title: _____ Date: _____

Reviewed and certified by Systemwide Human Resources:

Name: _____ Signature: _____
Title: _____ Date: _____

Reviewed and certified by Office of the Chief Financial Officer:

Name: _____ Signature: _____
Title: _____ Date: _____

Note: Because consideration must be given both to the requirements and circumstances of the services involved and the overall benefit to the location, these decisions are made by the Chancellor or designated Vice Chancellor, with review by the Office of the President as appropriate and as described in the Guidelines.

For internal use only (UCOP): Once the final decision has been made, a copy of this form must be sent to the location, including the local Procurement office, for their records.