



STATE OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD  
**UNFAIR PRACTICE CHARGE**

DO NOT WRITE IN THIS SPACE:

Case No:

Date Filed:

**INSTRUCTIONS:** File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at [www.perb.ca.gov](http://www.perb.ca.gov). If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES ☐ If so, Case No. NO ☒

1. CHARGING PARTY: EMPLOYEE ☐ EMPLOYEE ORGANIZATION ☒ EMPLOYER ☐ PUBLIC<sup>1</sup> ☐

a. Full name: American Federation of State, County, & Municipal Employees Local 3299

b. Mailing address: 1330 Broadway, Suite 1450  
Oakland, CA 94612

c. Telephone number: (510) 272-0169

d. Name and title of person filing charge: Julia Lum, Attorney E-mail Address: [jlum@leonardcarder.com](mailto:jlum@leonardcarder.com)  
Telephone number: (510) 272-0169 Fax No.: (510) 272-0174

e. Bargaining unit(s) involved: SX, EX, and K7

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION ☐ EMPLOYER ☒

a. Full name: Regents of the University of California

b. Mailing address: 1111 Franklin Street  
Oakland, CA 94607

c. Telephone number: (510) 987-9800

d. Name and title of agent to contact: Allison Woodall, Deputy General Counsel E-mail Address: [allison.woodall@ucop.edu](mailto:allison.woodall@ucop.edu)  
Telephone number: (510) 987-9800 Fax No.: (510) 987-9757

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:

b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:

b. Mailing address:

c. Agent:

<sup>1</sup> An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.  
PERB-61 (7/22/2014)

## 5. GRIEVANCE PROCEDURE

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes ☐ No ☒

## 6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- ☐ Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- ☐ Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- ☒ Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- ☐ Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- ☐ Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code, § 99560 et seq.)
- ☐ Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- ☐ Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are:  
Government Code Sections 3571 (a), (b), and (c)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are *(a copy of the applicable local rule(s) MUST be attached to the charge)*:

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. *(Use and attach additional sheets of paper if necessary.)*

See Attached.

## DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on 4/29/19

at Oakland, CA (Date)

(City and State)

Julia Lum

(Type or Print Name)

(Signature)

Title, if any: Attorney

Mailing address: Leonard Carder LLP, 1330 Broadway Suite 1450, Oakland, CA 94612

Telephone Number: (510) 272-0169

E-Mail Address: jlum@leonardcarder.com

## PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Alameda,  
State of California. I am over the age of 18 years. The name and address of my  
residence or business is Leonard Carder, LLP, 1330 Broadway, Suite 1450  
Oakland, CA 94612.

On 4/29/19, I served the Unfair Practice Charge  
(Date) (Description of document(s))

(Description of document(s) continued)

on the parties listed below (include name, address and, where applicable, fax number) by (check  
the applicable method or methods):

X placing a true copy thereof enclosed in a sealed envelope for collection and delivery  
by the United States Postal Service or private delivery service following ordinary business  
practices with postage or other costs prepaid;

     personal delivery;

     facsimile transmission in accordance with the requirements of PERB Regulations  
32090 and 32135(d).

(Include here the name, address and, where applicable, fax number of the Respondent and any other parties served.)

Allison Woodall, Attorney  
Deputy General Counsel  
UC General Counsel Office  
1111 Franklin Street  
Oakland, CA 94607

I declare under penalty of perjury that the foregoing is true and correct and that this  
declaration was executed on 4/29/19, at Oakland CA.  
(Date) (City) (State)

Rosemary Prem

(Type or print name)

  
(Signature)

## **ATTACHMENT TO UNFAIR PRACTICE CHARGE**

### **I. INTRODUCTION**

Charging Party, American Federation of State, County, and Municipal Employees, Local 3299 (“AFSCME” or “the Union”) brings this charge against Respondent Regents of the University of California (“UC” or “the University”) for refusing to bargain, in violation of Government Code § 3571(a), (b) and (c). UC is refusing to bargain over a proposed decision to contract out the work of many of the largest classifications the systemwide Service (“SX”) bargaining unit as well as the work of many of the titles in AFSCME’s Skilled Trades (“K7”) bargaining unit at UCSC.

PERB should compel the University to cease and desist from proceeding with a plan to contract out bargaining unit work, restore the status quo, and if the University proceeds over the union’s objection, to make whole the affected employees and bargaining units by restoring the value of all work lost as a result of the University’s unlawful conduct.

### **II. STATEMENT OF FACTS**

#### **A. Background**

AFSCME 3299 represents approximately 26,000 employees within the University of California system. The Union represents a wide range of UC employees, including a systemwide unit of Service (“SX”) workers who perform the duties assigned to the titles listed below for which UC is seeking the services of private sector vendors. AFSCME also represents a bargaining unit of Skilled Trades workers at UCSC in the “K7” bargaining unit.

The most recent collective bargaining agreements between UC and AFSCME covering the SX unit expired on June 30, 2017; the EX MOU expired December 31, 2017, and the K7 MOU expired on September 30, 2017. Any contractual waivers of the right to bargain over contracting out bargaining unit work expired with each of those MOUs.

#### **B. UC Provided AFSCME with a Copy of an RFP that Seeks a Vendor to Manage Contracts for Services but is Failing and Refusing to Bargain**

On February 12, 2019, UC provided AFSCME’s chief negotiator, Seth Newton Patel, with a copy of a “Request for Proposals” (“RFP”) that seeks multiple vendors to make staff available to work in a virtually limitless number of positions, including many in AFSCME’s systemwide Service Unit and Skilled Trades at UCSC. In his cover email, Ian Smith of UC’s Office of the President, states:

The overall objective of this RFP is to select multiple supplies to assist UC in providing temporary staffing services. Multiple awards will result from this RFP. As a systemwide agreement, all UC locations will have access to the agreement for their temporary staffing service needs.

See Exhibit 1, attached. The accompanying RFP lists out dozens of titles – including almost all SX titles – for which UC seeks contract labor.<sup>1</sup> The RFP is attached as Exhibit 2. Notably, the RFP explicitly identifies UC’s intent to contract out the work of the following titles and/or occupational groups that are represented by AFSCME in the Service (“SX”) Unit:

- Light Industrial/Laborer
- Custodian
- Senior Custodian
- Custodial Supervisor
- Groundskeeper
- Lead Groundskeeper/Gardner
- Shipping and Receiving Clerk
- Shipping and Receiving Laborer
- Waitperson/Server
- Cook
- Food Service Worker
- Lead Food Service Worker
- Sous Chef
- Captain
- Cashier
- Bartender
- Dishwasher
- Animal Care Tech (AFSCME represents “Animal Tech Assistants”)
- Lab Assistant (AFSCME represents “Lab Helpers”)

The RFP also explicitly states UC’s intent to contract out the work of the following titles and/or occupational groups in AFSCME’s Skilled Trades (K7) Unit:

- Painter
- Electrician
- Lead Electrician
- HVAC Tech/Refrigeration Tech
- Carpenter
- Plumber

Exhibit 2, pages 3-5. The RFP anticipates that the University will select “multiple vendors” able to perform all or some of this work in June of 2019. (Exhibit 2, p. 11). The RFP and resulting contracts would leave it up to each UC location or “Requestor” to identify what type of services each seeks to have a vendor perform, for how long and according to what schedule; the vendor would perform the work only after UC executes a contract – a Purchase Order - applicable to each assignment and worker. Exhibit 2, Section III(C)(2) and (7) on p. 6.

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<sup>1</sup> AFSCME has learned the hard way that UC’s use of the word “temporary” is entirely misleading, as department that might decide to contract out work that they claim is “only temporary” rarely constrain themselves from using contract labor for ongoing work, often keeping minimally compensated contract workers on for weeks, months and even years instead of hiring UC employees to fill necessary positions to perform ongoing work.

The same day that AFSCME received the RFP, AFSCME demanded bargaining regarding the decision to contract out bargaining unit work as well as the effects of any such decision. (Exhibit 1.) In that correspondence, Mr. Newton Patel reminded the University that it has a statutory obligation to bargain over each and every decision to contract out bargaining unit work and asked that the University not proceed without negotiation.

The University flatly ignored AFSCME's demand to bargain and has at all times since failed and refused to bargain over this critical subject. Instead, it remains poised to execute a series of systemwide contracts with vendors in order to have their services available at any or all UC locations. The University has made it clear that once it executes an agreement with a vendor – even one with a broker or a vendor that is simply “at the ready” - it is unwilling to bargain over “any” subsequent decision to contract out work to those vendors. This issue is squarely addressed in relation to UC's explicit refusal to bargain over “any decision” to contract work out to Aya Healthcare – allegations set forth in detail in UPC SF-CE-\_\_\_\_-H. (See, in particular, Exhibit 1 thereto) In other words, the University is refusing to bargain over decisions to contract out work *at any point* in the decision making process whether it is *before* entering into a systemwide agreement with a vendor *or after* doing so but *before* invoking it to contract out the work of specific services or personnel.

### **III. ARGUMENT**

HEERA, at Government Code Section 3571(c) makes it unlawful for the University to refuse or fail to meet and confer with the Union on all matters within the scope of representation and to implement changes to terms and conditions of employment unilaterally. Section 3571(a) and (b) furthermore makes it unlawful for the University to interfere with or discriminate against employees or unions exercising rights under HEERA. By failing to meet and confer with the Union on matters within the scope of representation and by interfering with employee rights under HEERA, the University has violated these provisions of state law.

#### **A. UC Is Required To Meet And Confer Regarding Each Decision To Contract Out Bargaining Unit Work**

HEERA Section 3571(c) requires higher education employers to meet and confer in good faith with employee organizations about matters “regarding wages, hours, and other terms and conditions of employment.” The duty to bargain collectively requires the employer to maintain the status quo without taking unilateral action as to wages, working conditions, or benefits until negotiations reach an impasse. (*San Joaquin County Employees Assn. v. City of Stockton* (1984) 161 Cal.App.3d 813, 818-19 [citing *Producers Dairy Delivery v. Western Conference* (9th Cir. 1981) 654 F.2d 625, 627; *Peerless Roofing Co., Ltd. v. NLRB* (9th Cir. 1981) 641 F.2d 734, 736; *Clear Pine Mouldings, Inc. v. NLRB* (9th Cir. 1980) 632 F.2d 721, 729; *NLRB v. Sky Wolf Sales* (9th Cir. 1972) 470 F.2d 827, 980]; *County of Alameda* (2006) PERB Dec. No. 1824-M [citing *San Joaquin, supra*, at 819].)

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**B. The Parties' MOU and All Purported Contractual Waivers of the Right to Bargain Have Expired**

UC appears to believe that during the life of the MOU, it had a “management right” to use its discretion to contract out work, and it now argues that it should be afforded similar discretion to do so after the MOU expired. As a matter of law, however, any and all contractual waivers of the right to bargain expired with the parties SX and K7 MOUs. In *Regents of the University of California* (2004) PERB Decision No. 1689-H, at 24-26 (“*UC-AFT*”), the Board recognized that waivers of the right to bargain or a contractual reservation of management rights expire with the end of the collective bargaining agreement. (*Id.*, citing with approval *Blue Circle Cement Company* (1995) 319 NLRB 954.)

Here, the decision at issue are entirely based on the University's discretion. UC is here, seek vendors that would make themselves available perform unspecified, but potentially enormous volumes of Service Unit work across the UC system and still more work of the Skilled Trades Unit at UCSC. Moreover, if the University proceeds to execute contracts with responsive bidders it would be relying on discretion to decide the scope of work and terms of each of those contracts. Finally, if individual departments then decide to transfer bargaining unit work to one of those vendors, that too would rely on an exercise of discretion by the employer. Each of these decisions are within the scope of representation and should be negotiated.

**IV. THE UNIVERSITY'S PLAN TO CONTRACT OUT UNSPECIFIED BUT POTENTIALLY ENORMOUS AMOUNTS OF BARGAINING UNIT WORK TO PRIVATE SECTOR VENDORS UNLAWFULLY INTERFERES WITH THE EXERCISE OF EMPLOYEE RIGHTS UNDER HEERA**

AFSCME has spent years fighting to improve minimum labor standards at UC, to lift wages for the lowest paid University employees, to compel UC to provide career opportunities, job security, family healthcare benefits, and a secure retirement. UC's decisions to contract out work seek an end-run around the hard-won terms and conditions of employment negotiated by AFSCME and UC over decades as contract workers generally lack union representation and work for significantly lower wages, without paid vacation time, family health care or any pension. Bypassing the Union to contract out AFSCME's work threatens all of these standards and fundamentally interferes with employees' rights as well as the rights of the Union itself.

HEERA section 3571, subdivision (a) makes it unlawful for a higher education employer to “[i]mpose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by [HEERA].” Additionally, HEERA section 3571, subdivision (b), makes it unlawful for a higher education employer to deny organizational rights guaranteed by HEERA.

A prima facie case of interference is established by allegations that an employer's conduct tends to or does result in some harm to employee rights. (*Jurupa Unified School District* (2012) PERB Decision No. 2283, p. 7, citing *Carlsbad Unified School District* (1979) PERB Decision No. 89 (*Carlsbad*).) If the harm to protected rights is slight and the employer offers justification based on operational necessity, the competing interests are balanced. (*Cabrillo Community College*

*District* (2015) PERB Decision No. 2453, pp. 13-14.) However, if the harm to employee rights outweighs the asserted business justification, a violation will be found. (*Id.*) Where the employer's conduct is inherently destructive of protected rights, it will be excused only on proof that it was caused by circumstances beyond the employer's control and that no alternative course of action was available. (*County of Santa Clara* (2018) PERB Decision No. 2613-M citing *County of San Bernardino (Office of the Public Defender)* (2015) PERB Decision No. 2423-M, pp. 36-37.)

An employer's failure and refusal to bargain over contracting out and to instead proceed with its plans unilaterally interfere with workers' rights to be represented and deny the exclusive representative the right to represent employees performing bargaining unit work for the employer's benefit. PERB has held that unilaterally reassigning job duties to workers outside the bargaining unit constitutes interference with employees' rights to be represented. In *Regents of the University of California (CNA)* (1998) PERB Decision No. 1255-H, the University unilaterally reassigned certain duties of UCLA registered nurses in the cardiac catheterization lab to cardiovascular technicians. PERB held that UC's conduct interfered with the RN's rights to have CNA represent them in their employment relations with their employer, a violation of section 3571(a). (*Id.*, proposed dec. at p. 41.)

Moreover, unilateral changes by the employer during status quo periods interfere with the exclusive representative's right to represent its members, and interfere with the right of bargaining unit members to be represented. In *UC-AFT, supra*, PERB Decision No. 1689-H, at 24-26, PERB held that UC's unilateral changes to healthcare benefits during the status quo period interfered with UC-AFT's right to represent its members, in violation of section 3571(b) and interfered with the right of the bargaining unit to be represented by UC-AFT, in violation of section 3571(a).

Here, the University has refused to bargain over the first of at least three levels of decisions to contract out work. UC's insistence on proceeding, without negotiation, let alone agreement, will eventually be reflected in a series of unilateral changes – specific decisions to contract out the work of specified positions in an untold number of departments up and down the state. The University's continuous refusal to bargain and each unilateral action taken by the University to assign unit work to non-unit contract labor fundamentally interferes with employee rights in violation of HEERA Section 3571(a), and further violates AFSCME's rights to represent the SX and K7 bargaining units. in violation of section 3571(b).

## **V. CONCLUSION AND REMEDIES REQUESTED**

UC is refusing to bargain over a matter within the scope of representation and appears poised to execute a series of contracts with vendors that UC would then consider to "authorize" UC locations across the state to decide *what* work each might wish to contract out, *to which* vendor, for *how long* and for *what reason*, all without bargaining. AFSCME seeks an order requiring that UC and its representatives to cease and desist from:

1. contracting out SX or K7 bargaining unit work
2. refusing to bargain over contracting out of bargaining unit work



The remedy should also include an affirmative order requiring the University to:

3. to the extent that this matter is not heard and decided until after any or all UC locations execute Purchase Orders or other contractual instruments arranging for private sector vendors to perform work in lieu of UC employees in SX or K7 positions, to restore the status quo by making the affected bargaining unit(s) whole, restoring the value of all bargaining unit work wrongfully assigned to non-unit personnel by any "UC Location" that contracted bargaining unit work out to any private vendor, with interest at the statutory rate, as well as the value of all lost work opportunities. The order should indicate that the monetary remedy would be offset by the value of make whole relief provided to former contract workers who are hired or otherwise converted to UC employment.
4. restore the status quo by compensating the Union for its time and expenses in pursuing the instant UPC, including attorneys' fees and costs, and for lost dues for all periods of time that non-unit personnel performed work that should have been performed by AFSCME-represented employees; and
5. such other relief as PERB deems just and proper.

# **Exhibit 1**

**From:** Seth Newton Patel <[spatel@afscme3299.org](mailto:spatel@afscme3299.org)>

**Subject:** Re: UC Temp Labor RFP

**Date:** February 12, 2019 at 1:35:05 PM PST

**To:** Ian Smith <[Ian.Smith@ucop.edu](mailto:Ian.Smith@ucop.edu)>

**Cc:** Nadine Fishel <[Nadine.Fishel@ucop.edu](mailto:Nadine.Fishel@ucop.edu)>, "[cpreparata@afscme3299.org](mailto:cpreparata@afscme3299.org)" <[cpreparata@afscme3299.org](mailto:cpreparata@afscme3299.org)>

Ian,

AFSCME is in receipt of UCOP's RFP for "Temporary Labor Services." UC has a statutory obligation to bargain over each and every decision to contract out bargaining unit work. All waivers of the Union's right to bargain expired with the contract, including the limited "exceptions" or "justifications" for contracting out after proper notice, and other procedures specified in Article 5.

The University should not proceed with assigning any bargaining unit work--i.e. work comprised of duties customarily assigned to the bargaining unit--to a contractor by executing any contract, "order", "purchase order," "change order" or any other contractual instrument without meeting and conferring with AFSCME. In order to engage in meaningful negotiations, AFSCME will be requesting additional information.

Seth

On Tue, Feb 12, 2019 at 9:51 AM Ian Smith <[Ian.Smith@ucop.edu](mailto:Ian.Smith@ucop.edu)> wrote:

Seth –

Please see attached RFP issued 2/6/19.

The overall objective of this RFP is to select multiple suppliers to assist UC in providing temporary staffing services. Multiple awards will result from this RFP. As a systemwide agreement, all UC locations will have access to the agreement for their temporary staffing service needs.

Please let us know if you have any questions.

Regards,

**IAN SMITH**

Manager, Labor Relations

Human Resources - Labor Relations Unit

University of California - Office of the President

ph: 510-587-6450

cell: 510-915-2316

fax: 510-268-0602

[Ian.Smith@ucop.edu](mailto:Ian.Smith@ucop.edu)

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# **Exhibit 2**

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**The Regents  
of the  
University of California**  
***REQUEST FOR PROPOSAL (RFP)***

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***UC Temporary Labor Services (Non IT Temp)***  
***(RFP#: AM-2019-1-TEMP)***

***Date Issued: 2/6/2019***



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It is the supplier's responsibility to read the entire document, any addendums and to comply with all requirements listed herein. Any addenda to this Request for Proposal will be directed to all participating suppliers either through the CalUsource portal or email. It is the supplier's responsibility to watch their email for any addendums, notices, or changes to the RFP or process.

<b>Issued By:</b>	The Regents of the University of California
<b>RFP Administrator:</b>	Amanda Marks Senior Strategic Sourcing Manager System-wide Strategic Sourcing University of California, Office of the President 1111 Franklin Street, 10 <sup>th</sup> Floor Oakland, CA 94607-5200

The information contained in this Request for Proposal (RFP) is confidential and proprietary to the University of California and is to be used by the recipient solely for the purpose of responding to this RFP.

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### I. PURPOSE AND OBJECTIVES OF THE REQUEST FOR PROPOSAL (RFP)

The purpose of this RFP is to invite qualified Suppliers to prepare and submit proposals to the University of California ("the University" or "UC") to provide temporary staffing services, in accordance with the requirements set forth in this RFP.

The overall objective of this RFP is to select multiple suppliers to support UC locations and California State College (CSU) locations in establishing the most cost effective and efficient program for providing temporary staffing services while maintaining high standards of quality and service. It is anticipated that multiple awards will result from this RFP.

All UC and CSU locations will have access to the system-wide agreements for their temporary staffing service needs.

Our goal is to secure quality talent using:

- The right mix of staffing providers to meet temporary staff needs in a timely fashion
- Electronic and automated processes to support recruitment, selection, scheduling, time keeping, invoicing, payment, and order related processes for temporary staff
- Training, screening, background checks for temporary staff
- Standardized titles and job descriptions reflective of current technologies and needs
- A competitive rate schedule (based on region) sufficient to draw appropriate talent
- Detailed management reports on utilization, candidate effectiveness, and rate/cost analysis
- Utilization of certified Diversity suppliers directly or through subcontracting

Qualified Suppliers are invited to submit proposals based on the requirements provided in this RFP. The successful supplier(s) will have produced a compelling offering based on the objectives outlined above.

### II. BACKGROUND AND ORGANIZATION

#### a. Background

The University of California (UC) is a public, state-supported land grant institution with a 3-pronged mission: to provide high quality education, to conduct state of the art research, and to provide meaningful public service. UC has approximately 200,000 employees across all UC locations including campuses, medical centers, national laboratories, the Office of the President, and affiliates.



Successful awardees will be able to extend the terms of the agreement to California State University (CSU) and California Community College (CCC) locations. Any locations using the terms of the agreement will be contracted under separate agreements with CSU and CCC. California state law now allows this usage.

b. University/Other Locations

The following sites may access the services:

- All UC locations
- Twenty-three (23) CSU campus locations
- CCC campus locations

Any awarded agreement(s) shall be extended to the locations listed above as well as any future locations as they may be announced during the term of an awarded agreement.

### III. PROJECT SCOPE AND PROGRAM REQUIREMENTS

This section sets forth specific service requirements for the University of California's program for temporary staffing services. Suppliers must be able to perform all program requirements as outlined in the RFP.

#### A. Temporary Staffing Model – System-wide Program

For the University of California locations, individual departmental orders will be placed directly with the supplier(s). The supplier(s) will fulfill and coordinate the location's needs for temporary staffing included within the scope of this program. Additional responsibilities will include quality control, customer service, reporting program administration and other responsibilities associated with the program infrastructure.

#### B. Labor Area Classification

If a supplier provides multiple areas of job category coverage, then supplier must have the ability to respond to the requests for the placement of temporary staff at a minimum of at least three (3) labor area classifications. Preference will be given to those who offer multiple labor area classifications.

If a supplier's sole area of expertise is limited to one (1) of the labor area classifications below (i.e, food service), then a supplier can respond to one (1) labor area classification.

Supplier must be able to provide temporary staffing services for all job positions listed under a labor area classification. For example, if a supplier offers Admin/Clerical temporary staffing services, pricing for all job positions listed under that labor area classification must be provided to be considered for evaluation.

##### 1. Administrative/Clerical Labor Area Classification

- Clerk
- Senior Clerk/Assistant I
- Clerical Assistant
- Assistant II
- Assistant III
- Medical Front Desk
- Administrative Specialist
- Administrative Analyst
- Executive Secretary
- Executive Assistant
- Administrative and Job Placement Assistant

- Administrative and Marketing Assistant
- Administrative Assistant – Bilingual Spanish
- Administrative Assistant – Finance
- Administrative Officer II
- File Clerk
- Office Administrator
- Office Assistant
- Office Manager
- Receptionist

2. Accounting/Finance Labor Area Classification

- Accountant I
- Accountant II
- Accountant III
- Accountant IV
- Accounts Payable Specialist
- Accounts Payable Clerk
- Accounts Payable Coordinator
- Accounts Receivable Assistant
- Accounts Receivable Specialist
- Accounts Receivable Administrator
- Accounting Assistant I
- Accounting Assistant II
- Accounting Assistant III
- Accounting Clerk
- Accounting Coordinator
- Senior Accountant
- Staff Accountant
- Assistant Accountant
- Assistant Budget Analyst
- Bookkeeper
- Bookkeeper Clerk
- Budget Analyst
- Finance Manager
- Senior Finance Manager
- Financial Analyst
- Senior Financial Analyst
- Financial Analyst – Fund Accounting
- Payroll Accountant
- Tax Assistant

3. Light Industrial Labor Area Classification

- Light Industrial/Laborer
- Custodian
- Senior Custodian
- Custodial Supervisor
- Groundskeeper
- Lead Groundskeeper/Gardner
- Painter
- Shipping and Receiving Clerk

- Shipping and Receiving Laborer
- 4. Skilled Labor, Labor Area Classification
  - Electrician
  - Lead Electrician
  - Refrigeration Technician
  - Carpenter
  - Plumber
  - HVAC Technician
- 5. Food Service Labor Area Classification
  - Waitperson/Server
  - Cook
  - Food Service Worker
  - Lead Food Service Worker
  - Food Service Supervisor
  - Sous Chef
  - Captain
  - Cashier
  - Bartender
  - Dishwasher
- 6. Laboratory Science Support Labor Area Classification
  - Laboratory Technician
  - Laboratory Manager
  - Laboratory Assistant
  - Animal Care Technician
- 7. Media and Content Creation Services Labor Area Classification
  - Junior Designer
  - Mid-level Designer
  - Senior Designer
  - Copywriter
  - Marketing Coordinator/Advertising Assistant
  - Marketing and Communication Assistant
  - Marketing/Communications Manager
  - Social Media Specialist
  - Content Manager
  - Event/Field Marketing Specialist
  - Trade Show Coordinator
  - Sales Administrator Assistant
  - Sales Coordinator
  - Sales Operations Administrator
  - Sales Support
  - Project and Communications Specialist
  - Donation Marketing Specialist

**C. Roles and Responsibilities – Temporary Labor Services**

1. Upon request from any location, selected supplier(s) will provide the designated location personnel with the skill, knowledge, and experience required by UC to perform the duties, functions and

responsibilities of the positions included within the scope of this program. Any temporary staff provided by the supplier(s) to perform services under this program will be performed solely by the identified personnel of the selected supplier.

2. Requestors shall have the exclusive right to determine the period of time and work schedule of all personnel provided by selected supplier(s) to perform services under this program. Requestors will not warrant or guarantee in any manner the period of time or work schedule of any person provided by the supplier(s) to perform services at the designated location.
3. Should any personnel terminate employment with selected supplier(s) while such person is providing services to a UC location, selected supplier(s) must agree to replace immediately such personnel with a person having like skills, knowledge, and experience.
4. From time to time, UC locations may also request supplier(s) to provide certain named or specifically identified personnel with unique skills, knowledge and experience.
5. In order for this program to be successful, selected suppliers must agree to provide only skilled, knowledgeable, and experienced personnel to perform services. Supplier(s) must also agree to provide locations and departments requesting services information on any candidate(s) whose quality of services has been previously determined by any location to be unsatisfactory.
6. No service substitutions will be accepted without the prior approval of the authorized Requestor.
7. Commencement of work will only begin when supplier(s) has in their possession a purchase order applicable to the assignment and worker. Any work performed prior to the date of the purchase order shall be considered as having been performed at the supplier's own risk.

#### **D. Background Checks**

Supplier will arrange for background checks, verifications, references, and other investigations, as requested, as part of the overall assessment of candidates presented for consideration.

Supplier warrants that Temporary Staff will have had a full background check initiated by Supplier and that the Temporary Staff will have no known criminal records or criminal charges which would in any way affect the ability of Temporary Staff, to discharge their responsibilities according to the highest ethical standards. In addition, Temporary Staff will have a full background check to discharge their responsibilities in regards to patient and financial data and the systems that process such information. Background checks will include, but are not limited to, reference checks and criminal checks.

All felony and misdemeanor convictions (except marijuana related offenses greater than two years old) must be reported to UC and may result in the Temporary Staff being prohibited from performing work at UC. Acceptable background screening will consist of the last seven years residence and employment verification. The background screen will also include a criminal conviction records investigation conducted by any third-party agencies that adheres to the California Investigative Consumer Reporting Agencies Act. A criminal convictions records investigation will consist of a records search (documented by a written report retained by Supplier) by the appropriate law enforcement or other local or state agency in each location in which the Temporary Staff has resided and worked in during at least seven years preceding the date of the criminal conviction records investigation. UC may require persons, before entering UC premises, to complete a criminal convictions questionnaire. In the event that UC has grounds to believe that a Temporary Staff falsified his or her criminal convictions questionnaire in any way, such person will not perform any work for UC or enter onto UC premises. UC reserves the right, at its discretion, to request from Supplier documentation of the completion of a criminal conviction records investigation for any Temporary Staff assigned to work on UC premises. Supplier's failure to have completed a criminal convictions investigation

of any of its Temporary Staff in accordance with this clause will be grounds for immediate expulsion of the Temporary Staff and UC will have the right to terminate the Agreement both with respect to the Temporary Staff and Supplier.

#### **E. Service Guaranty**

Upon notification of unsatisfactory performance of a candidate, a replacement will be provided and the charges for the initial candidate will be removed from the University's account.

Credits for unsatisfactory performance of a candidate will be a minimum of forty (40) hours or five (5) business days.

#### **F. Key Performance Indicators**

The Key Performance Indicators (KPI's) are monitored through presentations in the Quarterly Business Reviews and the required activity reporting. The required Key Performance Indicators are:

- |  |                                |
|--|--------------------------------|
| 1. On-Time Reporting (by UC Location and System):                | 99%                            |
| 2. Response to Initial Order:                                    | within 4 Hours                 |
| 3. Placement of Short-Term Positions (Six (6) Months and Under): | within One (1) Business Day    |
| 4. Placement of Long-Term Positions (Over Six (6) Months):       | within Three (3) Business Days |
| 5. RUSH Placements:  | within the Same Business Day   |
| 6. Customer Service Satisfaction:                                | 99%                            |
| 7. Request for Reports:  | within Five (5) Business Days  |
| 8. Placement Accuracy:   | 100%                           |
| 9. Invoice/Billing Accuracy:                                     | 99%                            |

#### **G. Guarantee of Appropriate Interview and Placement Standards**

Awarded supplier(s) must provide quality and security in regard to interview and placement standards to assure none of the following breaches occur:

1. Other individuals speaking for candidates during live interviews.
2. Other individuals speaking for candidates during taped interviews.
3. Replacement of candidates with other candidates after the interview and screening process has occurred and a job offer has been made.
4. Substitution of the skill sets of candidates.
5. Falsification of information related to any candidate.

If any candidates have been falsely presented, represented, or put forth, the situation will be reviewed and may result in the termination of the agreement.

#### **H. Subcontracting**

Supplier(s) may subcontract out to other suppliers but must provide the University of California with the following:

1. The name(s) of the originating firm(s) from which the candidate is provided.
2. The method utilized to compensate the candidate, showing compensation originates from the awarded supplier(s)'s organization.
3. The subcontracted candidate must meet all of the qualifications as if they were provided by the awarded Supplier.

### **I. No Conversion Fee**

NOTE: DO NOT INCLUDE ANY CONVERSION FEES. UC reserves the right to convert temporary staff to a direct hire at any time during the assignment with no conversion fee.

### **J. UC Sustainable Procurement Requirements**

Suppliers must provide information on how their operations represent Sustainable Procurement\* and how the organization supports environmental and social responsibility requirements as part of the proposal response.

\*Sustainable Procurement definition: Purchasing that takes into account the economic, environmental and socially responsible requirements of an entity's spending. Sustainable Procurement allows organizations to procure their goods and services in a way that achieves value for money on a whole-life basis in terms of generating benefits not only to the organization, but also to society and the economy, while remaining within the carrying capacity of the environment.

## **IV. PROPOSAL SUBMITTAL REQUIREMENTS**

### **A. Issuing Office and Communications Regarding the RFP**

This RFP, and any subsequent addenda to it, is being issued by the System-wide Strategic Sourcing, Office of the President. System-wide Strategic Sourcing is the sole point of contact regarding all procurement and contractual matters relating to the requirements described in this RFP. System-wide Strategic Sourcing is also the only office authorized to change, modify, clarify, etc., the specifications, terms, and conditions of this RFP and any agreements(s) awarded as a result of this RFP.

All communications, including submission of the RFP response (**except Minimum Qualifications, Supplier Questions Pertaining to the Scope, and UC References which will be submitted via email**) and any requests for clarification, concerning this RFP must be submitted via CalUsource (as further detailed herein).

Suppliers are advised that failure to adhere to the above communications requirements may result in disqualification.

### **B. Addenda to the Request for Proposal**

Any changes, additions, or deletions to this RFP will be in the form of written addenda issued via the CalUsource portal. Any addenda to this RFP will be distributed to all participating suppliers via the CalUsource portal. The University will not be responsible for failure of any prospective supplier to receive such addenda. All addenda will become part of the RFP.

## **V. INSTRUCTIONS FOR SUBMITTING PROPOSALS**

For proposals to be considered for evaluation, suppliers must be able to meet all minimum qualifications as outlined in **Attachment 1 Minimum Qualifications to Respond to RFP**. Suppliers that do not meet the minimum qualifications should not submit a proposal as it will not be considered.

### **A. CalUsource**

Proposals in response to this RFP must be submitted online using the CalUsource portal, **no later than 4:00 p.m. (PT) on the Friday, March 8, 2019**. No mailed, telephone, emailed, facsimiled or late proposals will be considered. Late proposals **will not** be accepted.

CalUsource requires significant time for accurate data entry. Suppliers are encouraged to become familiar with the process of responding and plan for adequate time to submit a proposal. For general information

and support for CalUsource technical issues, contact GEP Support: 1-732-428-1578 or [support@gep.com](mailto:support@gep.com). Identify yourself as registering in the University of California network.

For further guidance and instruction to the CalUsource portal, refer to **Guideline F CalUsource Supplier Guide** under the Guidelines section of CalUsource.

Suppliers must provide a complete, straightforward, concise response to all questions and information in the RFP as detailed in CalUsource. Submission of a proposal via CalUsource confirms the supplier's understanding and acceptance of all requirements, terms, and conditions of the RFP.

Suppliers must not provide superfluous materials such as marketing materials or website links in response to, or in lieu of, specific responses to the questions herein, and may be disqualified for providing superfluous materials.

#### **B. Intent to Bid**

Prospective suppliers must provide a written intent to participate by **February 12, 2019** via email to [Amanda.Marks@ucop.edu](mailto:Amanda.Marks@ucop.edu).

Suppliers who do not provide a written statement of the intent to participate will be excluded from communications related to this RFP.

#### **C. Supplier Questions Pertaining to the Scope**

Submit any questions regarding the RFP using the **Attachment 2 Supplier Questions.xls**. Provide the Supplier Questions via email to [Amanda.Marks@ucop.edu](mailto:Amanda.Marks@ucop.edu).

The last day for suppliers to submit any and all questions in writing is Tuesday, February 12 by 4pm PT. All supplier questions and answers will be distributed to all suppliers (without attribution) by Friday, February 22 by 4pm PT. No further supplier questions submitted after this date and time will not be answered.

#### **D. General Conditions**

Please note the following are requirements regarding this RFP process:

- The initial proposal will be considered binding. Financial negotiations will continue throughout the evaluation process; however, suppliers' original financial quotes are binding.
- Additional information may be solicited and accepted during the evaluation process.
- Minor modifications or corrections of oversights to the original proposal may be allowed at the University's sole discretion; however, the University cannot guarantee that revised proposal elements will be accepted.
- The University reserves the right to reject all proposals.

#### **E. Proposal format**

A proposal must include a cover letter dated and be signed by an individual (complete with title, contact email, contact phone number) who is authorized to contractually bind the organization. This cover letter is considered to be an integral part of the proposal. The letter should be addressed to Amanda Marks, UC Senior Strategic Sourcing Manager, using the contact information provided.

Amanda Marks  
Senior Strategic Sourcing Manager



Systemwide Strategic Sourcing  
Office of the President  
1111 Franklin Street, 10<sup>th</sup> Floor  
Oakland, CA 94607  
[Amanda.Marks@ucop.edu](mailto:Amanda.Marks@ucop.edu)  
510-587-6093

The cover letter must indicate the organization's confirmation of the following:

- Proposal adheres to all minimum qualifications described in **Attachment 1 Minimum Qualifications to Respond to RFP**.
- Proposals must be valid for 120 days from submittal date.

The following is a brief description of the various components of the RFP. Instructions are provided below to ensure proper completion of proposal and submission procedure.

### **Supplier Questionnaire**

Suppliers are to respond to the RFP by submitting a response to the questionnaire section in the CalUsource portal. Refer to the ten (10) questionnaires in CalUsource for specific questions that each supplier is required to complete, validating the ability to perform the desired scope of work. When applicable, certain questions have the ability to attach documents to support the response.

Pricing must be submitted and completed with supplier's response to this RFP in the format requested, **UC Temporary Labor Pricing Template.xls**. The pricing proposal is attached to this questionnaire and is to be downloaded, completed, and submitted directly via this question in CalUsource.

### **F. Proposal Preparation Costs**

Supplier will bear all costs incurred in the preparation and submission of the proposal and related documentation, including supplier's presentation to UC if required.

### **G. Agreement Term**

It is anticipated that the initial term of any agreement resulting from this RFP will be for a period of five (5) years. The University of California may, at its option, extend or renew the agreement for two (2) additional one-year periods under the same terms and conditions.

### **H. File Naming Conventions**

**The following document naming conventions must be followed without exception.**

*Template spreadsheet files*

For questions requiring an attached Excel file, there will be one Excel file for table answers and a separate file for financial answers. Individual questions will be identifiable as individual worksheets (tabs) within the file. The naming convention for the posted templates is simply:

UC Temporary Labor Pricing Template.xls  
Supplier Questions.xls

When a file is downloaded and populated it with information the file must be renamed by adding the company name to the beginning, as shown:

<Supplier Name>-UC Temporary Labor Pricing Template.xls

An abbreviation may be used for the company name. However, the same company name must be used for each and every file.

#### *Additional Attachments*

When submitting documents (either requested or unsolicited) that are not based on a template file provided with the RFP, files should be named using the following convention, if the attachment is associated with a specific question:

<SupplierName>-<Product><Section Name><Question #>.<file extension>

Remember, as noted above, an unsolicited attached file may NOT be provided as a substitute for answering the question fully in the space and manner provided.

Alternatively, if the attachment is not associated with a specific question, the naming should be:

<SupplierName>-<Product><Short Title>.<file extension>

#### *Hard Copy Attachments*

If the required document is not available in an electronic format, place a copy in a binder under a tab using the same naming convention described above.

## **VI. RFP TIMELINE**

Suppliers submitting proposals in response to this RFP must do so according to the following schedule. A supplier may be disqualified for failing to adhere to the dates and times for performance specified below (all times Pacific Time):

The RFP timeline is as follows:

<b>Date</b>	<b>Time</b>	<b>Event</b>
Feb. 6, 2019	4:00 PM PT	RFP Issue Date: UC Temporary Labor Services RFP
Feb. 12, 2019	4:00 PM PT	Supplier Notify UC of Intent to Bid
Feb. 12, 2019	4:00 PM PT	Submit Supplier Questions regarding the RFP
Feb. 22, 2019	4:00 PM PT	University Responses to Supplier Questions
March 8, 2019	4:00 PM PT	Deadline for Submission of Proposals
Week of April 8, 2019	TBD	Finalists Identified (if required)
Week of April 29, 2019	TBD	Finalist Presentations (if required)
June 2019	TBD	Anticipated Award Date

Suppliers will be advised if the timeline is revised.

## **VII. SELECTION PROCESS**

UC intends to select the responsive and responsible Bidder whose proposal contains the combination of solution features, supplier attributes, and probable cost offering the best overall value.

A responsive Bidder is one whose offer satisfies the requirements of this RFP, including the requirements of the Terms and Conditions.

A responsible Bidder is one that is considered capable of performing and is otherwise eligible and qualified to perform the proposed Scope of Work.

UC will determine the best overall value by comparing differences in solution features and supplier attributes offered with differences in probable cost and related factors, striking the most advantageous balance between expected performance and the overall cost to UC. Bidders, therefore, must be persuasive in describing their solution features and supplier attributes and their value in enhancing the likelihood of successful performance and achievement of UC's requirements.

UC's selection may be made on the basis of the initial proposals or UC may elect to negotiate with Bidders who are selected as finalists.

## **VIII. ATTACHMENTS**

For Completion and return:

The proposal documents listed below are uploaded in the CalUsource portal under the Attachments section.

1. CalUsource Attachments: Minimum Qualifications (to be submitted via email)
2. CalUsource Attachments: Supplier Questions.xls (to be submitted via email)
3. CalUsource Attachments: UC References Form.xls
4. CalUsource portal: Questionnaire
5. CalUsource portal: UC Temporary Staffing Pricing Template.xls

The documents listed below are included for information in the CalUsource portal under the Guidelines section:

- A. UC Professional Services Agreement Template
- B. UC Terms and Conditions of Purchase, dated 9.4.2018 (See Minimum Qualifications for Articles that not applicable)
- C. Appendix Data Security & Privacy, dated 5.24.2018 (See Minimum Qualifications for Amendments that are not applicable)
- D. Appendix HIPAA BAA, dated 5.16.2017
- E. Required Supplier Information
- F. CalUsource Supplier Guide

Sincerely,

Amanda Marks  
Systemwide Strategic Sourcing  
Senior Strategic Sourcing Manager

Office of the President  
University of California  
1111 Franklin Street, 10th Floor  
Oakland, CA 94607

Email: [amanda.marks@ucop.edu](mailto:amanda.marks@ucop.edu)  
Phone: 510-587-6093