

## **ARTICLE 5 CONTRACTING OUT**

### **A. GENERAL PROVISIONS**

1. Nothing in this article shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, contract or grant - including the contract requirements contained in the agreement between the University and the Department of Energy- where ineligibility would result in a loss of federal funds to the University of California.
2. The provisions of Sections A – D of this article shall apply to contracts for services that are subject to renewal.

### **B. CONTRACTING OUT**

1. The University of California will not contract out 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 the layoff of bargaining unit employees.
2. Examples of instances in which the University is permitted to contract out services include but are not limited to the following:
  - a. The need to obtain special services and equipment that are not available internally;
  - b. The need to obtain special expertise or efficiencies that are better provided through an outside contractor than by the University;
  - c. The need to provide short-term, temporary staffing in order to meet operational or business needs;
  - d. Financial necessity, where the services being provided would not be economically feasible or would result in significant additional expense if the services had to be performed by bargaining unit employees;
  - e. Contracts at facilities that are not owned or operated by the University or where a UC owned facility, or part thereof, has been leased or otherwise transferred to a third-party, or where the University leases a facility and the services are provided by the landlord; or
  - f. Contracts at remote facilities that are not within a 10 mile radius of the contracting campus, medical center, or Laboratory.

3. Where financial necessity is the reason for the exception, before contracting for work which is fully or partially supported from State funds, including those at the teaching hospitals, the University shall first seek funding from the legislature to address the financial necessity.
4. When the University has determined to contract for services that are customarily provided by AFSCME unit employees, subject to the restrictions contained in this article, it will provide AFSCME's Local 3299 Director or Designee with a copy of any RFP as soon as feasible but no later than ten (10) business days after it is issued. Such notice shall demonstrate the appropriateness for the contract, in accordance with section B above.
  - a. Upon request from AFSCME, the University will provide all existing relevant non-confidential written information pertaining to prospective third-party contracts for services that involve work customarily provided by the SX bargaining unit, which may include the cost analysis used by the University to evaluate the need for contracting out and copies of consultant reports, if any used by the University in making its decision regarding contracting out.
  - b. If AFSCME asks to meet with the University about the proposed contract for services, such a meeting will occur as soon as practicable following the University's receipt of the request. The meeting will not delay the commencement of the contract.
  - c. If AFSCME believes that the University failed to comply with the provisions of Section B above, it can file a formal complaint with the Office of the President, Office of Labor Relations. The Office of the President shall make the final determination as to whether the contract meets the conditions in Section B. The Office of the President decision shall not be grievable or arbitrable.

### **C. EFFECT OF CONTRACTING OUT ON EMPLOYEES**

When a bargaining unit employee who is notified of layoff or released because the University entered into a contract for services that s/he performed, the University will make available another bargaining unit position for which the employee is qualified. The position will be at the same campus/medical center/Laboratory from which the employee was laid off or released. Where the provisions in this article are inconsistent with the provisions of Article 16, Layoff and Reduction in Time, the provisions of this Article and Section shall control.

1. The available position shall be offered at the same duration, percent time, and appointment type held by the employee when s/he was displaced (probationary, limited, per diem, or career).
2. The available position shall be offered at the same base rate of pay earned by the employee when s/he was laid off or released.
3. The right to be offered a position pursuant to this section shall begin on the date an employee is notified of her/his layoff or release.
4. The right of an employee to be offered a position pursuant to this section shall terminate upon acceptance or refusal of the offered position at the same base rate of pay.
5. A non-probationary career employee who refuses an offered position at the same base rate of pay shall be placed in layoff status. Probationary, limited, or per diem employees who refuse an offered position at the same base rate of pay shall be released.
6. This Section C is subject to the grievance and arbitration provision of this Agreement.

**D. NEW FUNDING TO BRING CONTRACTED WORK BACK TO UC**

1. In the event the State of California provides the University of California with sufficient additional new 19900 funding specifically identified to cover the cost of establishing contracted custodial positions, the University will establish such positions. Such funding must cover all salaries, benefits, capital equipment, supervision, and capital/real estate costs, at the same staffing levels as were provided under the contract. On a case by case basis, the University may agree with AFSCME to create UC positions for work contracted out even where the new 19900 funding does not fully cover all costs referred to above.
2. AFSCME and the University will work together to secure the sufficient additional funding.

**E. SYSTEMWIDE REPORTS AND SYSTEMWIDE MEETINGS**

1. The University shall provide AFSCME with the Contracting Out for Services at Newly Developed Facilities report submitted to the State Legislature each year no later than February 1<sup>st</sup> of each year. For 2014, the University shall provide report no later than April 1<sup>st</sup>.

2. Upon request, the University shall provide AFSCME with relevant non-confidential written information and/or supporting data including but not limited to the original RFP.
3. The above-referenced data shall be provided no later than April 15<sup>th</sup>, provided it is requested within thirty (30) days from AFSCME's receipt of the report.
4. The University and AFSCME shall convene two (2) systemwide Labor Management Meetings per year, the first no later than June 1<sup>st</sup> of each year to discuss contracts at University locations listed in the report, provided the union submits a timely request by May 1st, including its agenda for discussion.
5. The University and AFSCME may schedule further Labor Management Meetings as needed.
6. The University shall release AFSCME employees in a without-loss-of-straight-time-pay status for systemwide meetings in accordance with Article 15 – Labor Management Meetings Section A.2.
7. Any agreements reached by the parties will be reduced to writing as side letter agreements.
8. The timelines may be mutually extended by the parties.
9. This Section E is subject to the grievance and arbitration provisions of this Agreement.