

A stone wall sign for the University of California, Irvine. The sign is made of light-colored stone blocks and features the university's name in large, dark, serif letters. To the left of the name is a circular seal of the University of California. The sign is set against a background of green trees and a clear blue sky. In the foreground, there is a field of tall, green grasses.

University of California, Irvine

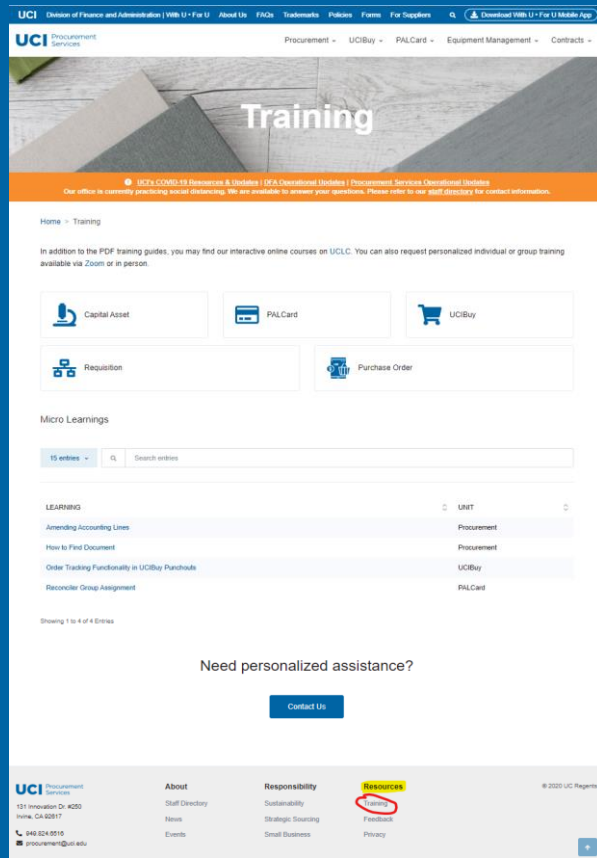
**SB 820, Regents Policy 5402, and
Article 5 of the Collective Bargaining Agreement**

*Procurement Services Department Buyer Training Session
Wednesday, September 29, 2021*

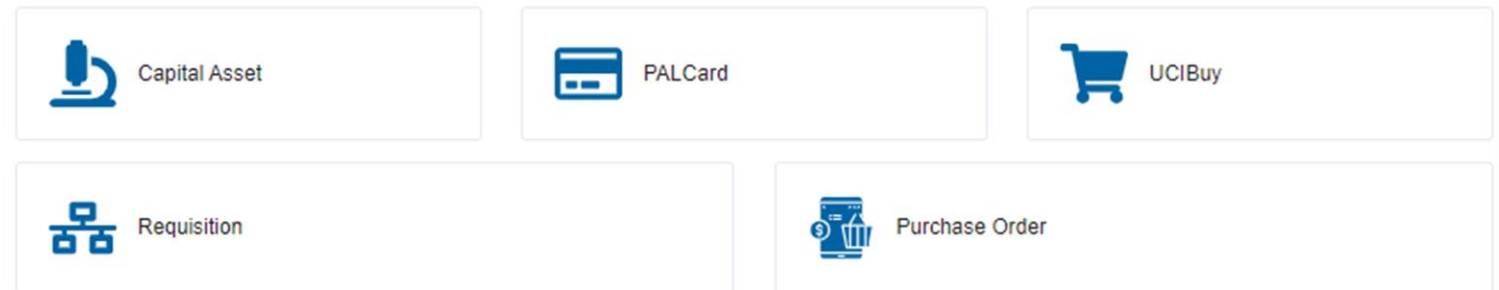
UCI Division of Finance and Administration | With U • For U

Procurement Training

Robust **training guides** are available on the Procurement website and can be accessed from the footer of each web page.



In addition to the PDF training guides, you may find our interactive online courses on UCLC. You can also request personalized individual or group training available via Zoom or in person.



Procurement Training

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In addition to our guides and micro-learnings, you can request a **one-on-one session** conducted via Zoom for a more personalized learning experience.

Please contact Shauna Niswonger at shauna.n@uci.edu.

Today's Agenda

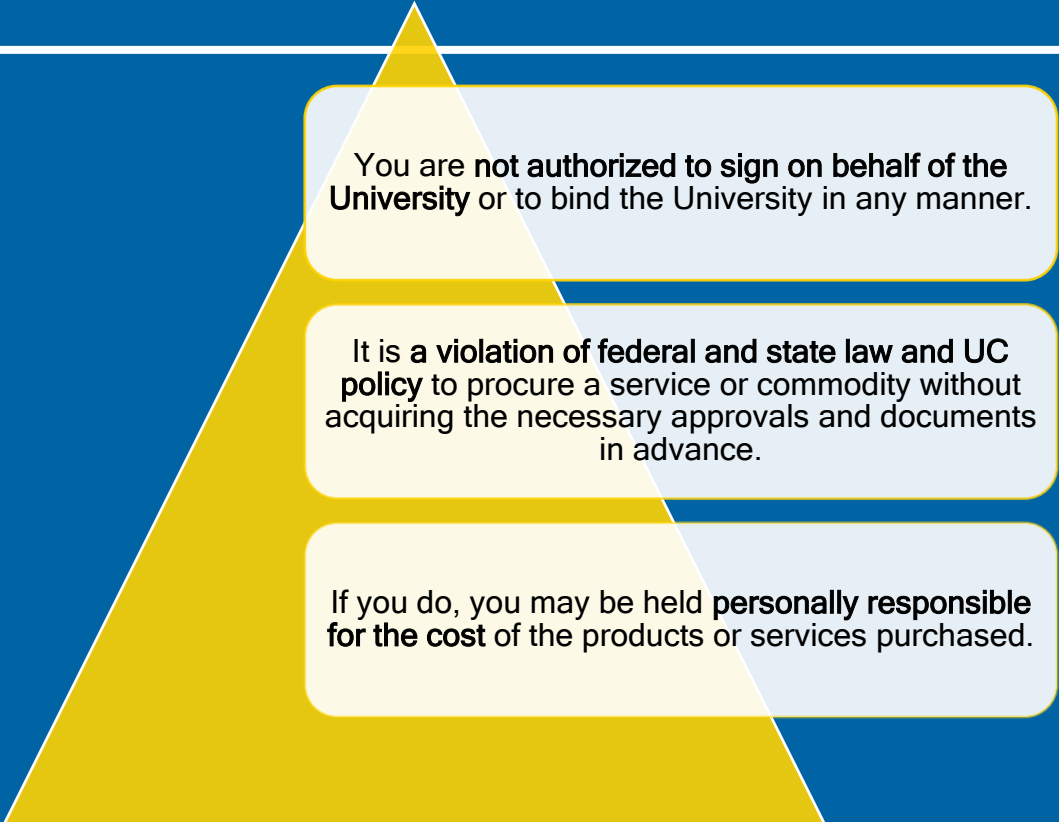
- Welcome
- Overview
- Resources
- Q & A



Remember

As an employee of a public university, it is your responsibility to comply with all procurement laws, rules, regulations, executive orders, policies and procedures concerning the purchase of goods and services:

- UCOP BUS-43
- UCI 707-10
- California Public Contract Code



You are **not authorized to sign on behalf of the University** or to bind the University in any manner.

It is a **violation of federal and state law and UC policy** to procure a service or commodity without acquiring the necessary approvals and documents in advance.

If you do, you may be held **personally responsible for the cost** of the products or services purchased.

SB 820, Regents Policy 5402 and AFSCME Article 5 Overview

UCI Enterprise Workforce Relations (EWR) Team

Leslie Kleiman

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Background



Regents Policy 5402

- Adopted November 14, 2019

AFSCME SX/EX CBAs

- Ratified January 31/February 7, 2020
- **Prohibits contracting out for services that can be performed by University staff**
 - *Contracting out should be used sparingly and treated as **an option of last resort to address temporary needs**, not as a means to replace employees with lower-wage contractors*
- Wage and Benefit parity

[Source](#)

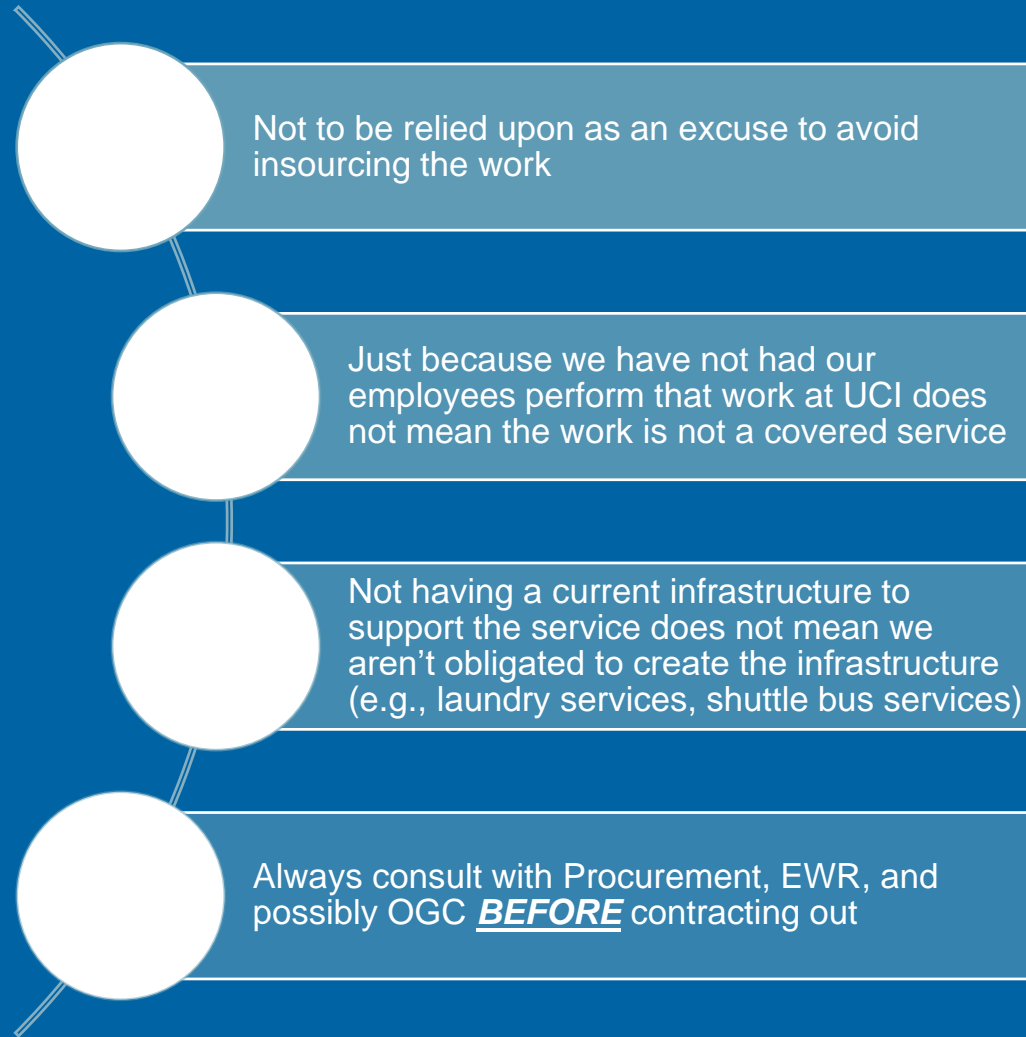
The “Covered Services” are

- Cleaning, custodial, janitorial or housekeeping services
- Food services
- Laundry services
- Groundskeeping
- Building maintenance
- Transportation and parking services
- Security services
- Billing and coding services
- Sterile processing
- Hospital or nursing assistant services
- Medical imaging or other medical technician services

- ***Not included:***
- Skilled trades
- Professional Services

The Only Exceptions (“Carve Outs”) Allowed

- 1) Emergency needing continuous University operations
- 2) Expert knowledge not available with current University employees nor is the equipment required available internally
- 3) Lease of real or personal property
- 4) Urgent, temporary, or occasional
- 5) Remote facilities not within a 10-mile radius of University property
- 6) Clinical staffing needs



Not to be relied upon as an excuse to avoid insourcing the work

Just because we have not had our employees perform that work at UCI does not mean the work is not a covered service

Not having a current infrastructure to support the service does not mean we aren't obligated to create the infrastructure (e.g., laundry services, shuttle bus services)

Always consult with Procurement, EWR, and possibly OGC **BEFORE** contracting out

UCI must provide AFSCME with notice before entering into, extending, or renewing a contract for covered services valued at over \$100,000

EWR will work with you to provide notice.

The notice must contain:

- Duration of the contract
- Scope of work
- Wage and benefit parity information
- Dollar value of the contract
- Location of the work to be performed
- The justification (carve out) on which we are relying in contracting out the work

UCI must also ensure Wage and Benefit Parity if continuing to outsource covered services

- For all existing services that are outsourced, an amendment has to be executed to ensure the supplier complies with this requirement.
- A contractor is required to provide its employees performing covered services at University locations (including leased properties) **with wages and benefits of equivalent value to those provided to bargaining unit employees performing the same or similar work** – or the University is obligated to terminate our agreement with a contractor that fails to comply or fails to remedy its noncompliance within a reasonable timeframe.



Hiring Qualified Individuals

- UCI is required to **offer employment opportunity to the employees of the contractors previously performing covered services** (qualified individuals or “QIs”) at the same location or at a location within 10-miles of the campus/medical center/lab where they performed the work for the contractor, using a streamlined hiring process



A QI must have worked for the contractor performing work at a University location for 1000 hours over a rolling 12-month period or 35% time over a rolling 36-month period

What does this mean for your department?



- Utilize in-house employees to perform the covered services **BEFORE** resorting to contracting a supplier
- Reach out to Enterprise Workforce Relations (EWR) or Procurement Services **BEFORE** requesting any contracted services
- Anticipate paying significantly higher amounts for these covered services if services continue to be outsourced
- Make sure an addendum is in place for wage and benefit parity with service provider

Examples of Covered Services that are Obscure

Type of Service	Explanation
Indoor Plant Maintenance	Still under review and unclear with no direct job classification and specific wage rate
Window Cleaning	Low level window cleaning to be performed by in-house staff, anything requiring specialized equipment to be considered as a non-covered service
Full-Service Catering	Drop-off catering, with no additional service provided is considered a non-covered service. Any catering that involves additional service by caterers is a covered service. Can only be contracted out if it meets one of the carve outs, and wage and benefit parity will apply.
Pest Control	Still under review across the system. Certain types of services may be considered a covered service, but no clear direction at this time
Laundry Services	Carve out #2 applies, however wage and benefit parity must be incorporated

Note: If contracted out, each service MUST still meet the wage & benefit parity requirement

Best Practice: Insource the Work!

- Utilize in-house employees to perform the services **BEFORE** contracting with an outside supplier

For these covered services:	Contact:
<ul style="list-style-type: none">Cleaning, custodial, janitorial, or housekeeping servicesGroundskeepingBuilding maintenance	Facilities Management fm-servicedesk@uci.edu
<ul style="list-style-type: none">Food services	Dining Services food@uci.edu
<ul style="list-style-type: none">Transportation and parking services	Transportation & Distribution Services eventprk@pts.uci.edu
<ul style="list-style-type: none">Laundry servicesSecurity services	Procurement Services procurement@uci.edu Enterprise Workforce Relations jeffrey.hughes@uci.edu (UCI Campus) erin.eckelmanray@uci.edu (UCI Health)
<ul style="list-style-type: none">UCI Health Covered Services	Jackie Yi jacklyy@hs.uci.edu Susanna Rustad srustad@hs.uci.edu

Contract Review for Covered Services



UCI is committed to bringing in-house all covered services as defined by [Regents Policy 5402: Regents Policy Generally Prohibiting Contracting for Services](#). As such, contracts that include covered services will only be allowed sparingly and will require demonstration that all other options to create career UC positions have been exhausted.

Contract Review for Covered Services

- New Request Dates of Service: _____
- Extension/Renewal of Existing Service - PO/Agreement # _____

Requesting Department: _____

Department Contact Name: _____

Email: _____

I. Type of Service			
<input type="checkbox"/> Agricultural	<input type="checkbox"/> Janitorial	<input type="checkbox"/> Food Services	<input type="checkbox"/> Laundry Services
<input type="checkbox"/> Grounds-keeping	<input type="checkbox"/> Building Maintenance	<input type="checkbox"/> Transportation	<input type="checkbox"/> Parking Services
<input type="checkbox"/> Security Services	<input type="checkbox"/> Billing/Coding	<input type="checkbox"/> Sterile Processing	<input type="checkbox"/> Medical Imaging
<input type="checkbox"/> Hospital Assistant Services	<input type="checkbox"/> Nursing Assistant Services	<input type="checkbox"/> Medical Technician Services	<input type="checkbox"/> Other

Explain the scope of work: Provide detailed description of services and why the service is necessary. (be as specific as possible). If UCI employees perform this kind of work, please identify the job titles.

Contract Review for Covered Services

Covered Service Contract Justification

Limited/Exigent Circumstance: Identify carve-out that may apply under Policy 5402	
Services which are customarily performed by bargaining unit employees may be contracted out in the following circumstances. Please indicate which of the following apply.	
<input type="checkbox"/>	(1) The services are needed to address an actual emergency. An emergency may include, but is not limited to, the need to prevent the stoppage of University operations or to ensure continuous operations at the University medical centers.
<input type="checkbox"/>	(2) The employees capable of providing the required services are not available at the University location in sufficient quantity or do not possess the necessary level of expertise, or the services cannot be performed satisfactorily by University employees, or the services are of a specialized or technical nature and the expertise, knowledge, ability and/or equipment required is not available internally. This provision shall be interpreted narrowly and shall not be relied upon to avoid reasonable efforts to hire and train sufficient numbers of University employees.
<input type="checkbox"/>	(3) The services are incidental to a contract for the purchase or lease of real or personal property. This includes services that are to be provided on property that the University has leased to or from a third party or through public private partnerships. This does not include arrangements where the University maintains operational control.
<input type="checkbox"/>	(4) The services are of such an urgent, temporary, or occasional nature that the delay resulting from their performance by University employees hired under the University's regular or ordinary hiring process, or the inefficiencies or difficulties in utilizing University employees, would frustrate the University's goals giving rise to the need for the services. This provision shall be interpreted narrowly and shall not be relied upon to justify the ongoing use of temporary workers.
<input type="checkbox"/>	(5) The contractor will provide equipment, materials, facilities, or support services that could not be provided feasibly in the location where the services are to be performed. Services at remote facilities, which are those not within a 10-mile radius of a University campus, medical center, or Laboratory, may fall within this exception.
<input type="checkbox"/>	(6) The services are performed by registry personnel in its clinical operations to address short-term staffing needs, including circumstances where the University's reasonable recruitment efforts to hire are unable to satisfy ongoing staffing needs.

Contract Review for Covered Services

Explanation of qualifying Circumstances	
Please explain in detail why this work cannot be done with UC staff	
Document your effort to in-source service, including identifying if alternatives were considered before contracting (please attach additional document below as needed)	

Please attach any additional documentation that you believe would assist in the understand of your need

SB 820

SB 820 Compliance

- SB 820 is part of the Education Code, Article 3 Revenue Bonds, sections 92493 et. seq., which deals with the process for the University's capital outlay approval.
- Commencing with the 2021–22 fiscal year, and for each fiscal year thereafter, SB 820 requires the Department of Finance to approve new and ongoing capital expenditures or capital outlay projects only after the University of California demonstrates ongoing and continuous compliance with SB 820 requirements.

Certification Process

The University of California...shall...submit, on or before September 1...a report...detail(ing) the scope of capital...projects...(with) certifications attached to the report...signed by the President of the University of California, or their duly authorized designee, indicating that, at each facility, building, or other property that will benefit from state funding for a capital expenditure or capital outlay project, both of the following occur:

- (1) All (future) work...will be performed exclusively by University of California employees. (and)
- (2) Either of the following (retrospective confirmations or plans for remedy):
 - (A) All work [traditionally performed by persons with University of California Service Unit (SX) job classifications]...has been performed exclusively by University of California employees at all times since the University of California received state funding for a capital expenditure or capital outlay project after January 1, 2017. (or)
 - (B) The University of California shall: provide a written report detailing any noncompliance...specifying how many contract workers performed work at each site, for what periods of time, and what the University of California has done to remedy the noncompliance...and, on or before February 1 of each calendar year, shall certify to the satisfaction of the chairpersons of the budget committee of each house of the Legislature that it has maintained subsequent compliance.

California Code, Education Code - EDC § 92493

(2) “Capital expenditures” means any of the following:

- (A) The costs to design, construct, or equip academic facilities to address seismic and life safety needs, enrollment growth, or modernization of out-of-date facilities, and renewal or expansion of infrastructure to serve academic programs.
- (B) The debt service amount associated with refunding, defeasing, or retiring State Public Works Board lease revenue bonds.
- (C) The costs to design, construct, or equip energy conservation projects.
- (D) The costs of deferred maintenance of academic facilities and related infrastructure.

The receipt of other state funding (e.g., research grants, etc.) would not prompt any specific actions.

Note: At this time, there are **NO exceptions** to meeting SB 820 requirements.

Recap

- What the policy means
- Effective date
- Importance of compliance
- Certification and reporting
- Annual wage and benefit parity adjustment
- Tracking contractor hours
- Continual review

Resources

- [UC Regents Policy 5402](#)
- [Article 5 of the Bargaining Unit](#)
- [SB820](#)
- [CA Code, Education Code EDC92493](#)
- [UC Contracting for Services Guidelines](#)

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HS Procurement Services

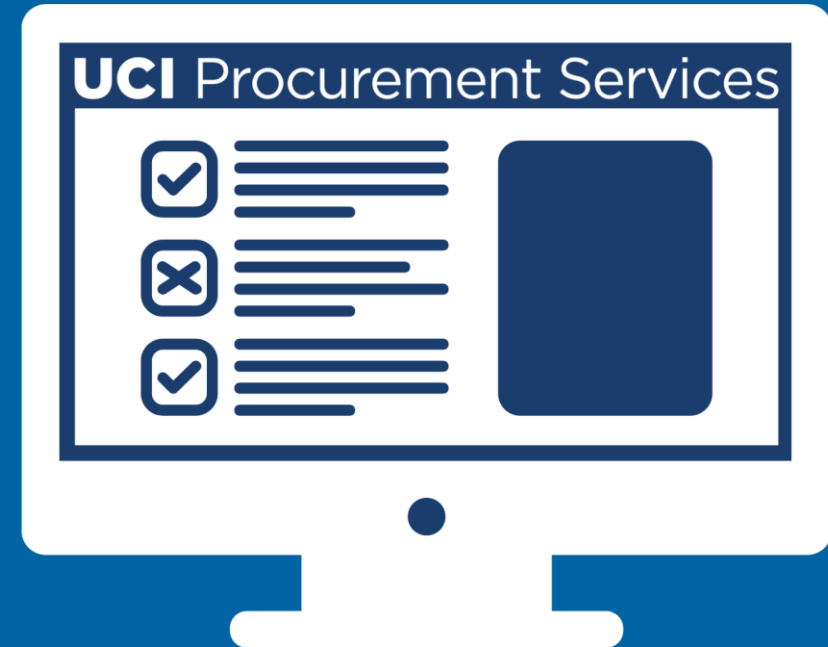
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Survey

Provide feedback on this event

<https://bit.ly/9-29-survey>



*Thank
You*