



Mary Gauvain
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*Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200*

April 1, 2021

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

Re: Revisions to Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

Dear Susan,

As requested, I distributed for systemwide Senate review the proposed revisions to Presidential Policy BFB-BUS-43 "Purchases of Goods and Services; Supply Chain Management." Nine Academic Senate divisions and two systemwide committees (UCORP and UCFW) submitted comments. These comments were discussed at Academic Council's March 31 meeting and are attached for your reference.

We understand that the revisions incorporate a new "Small Business First" program that requires UC to award all procurements valued between \$10,000 and \$250,000 annually to Small Businesses, minority-owned businesses, or Disabled Veteran Business Enterprises wherever practicable. It aligns with a new state law that allows the University to bypass the competitive bid process, so long as it obtains price quotations from two or more qualifying businesses.

We also understand that the revisions were issued as an interim policy in September 2020 with full compliance expected effective March 2021, to address the need to respond quickly to the pandemic's effects on small businesses. However, Council was dismayed that the policy – even if interim – was put in place before the Senate was able to weigh in. Council wonders whether its attention to the policy is pro forma, after the fact, and a breach of the spirit of shared governance.

In general, the Senate appreciates the intent of the policy to support small businesses during the pandemic, but we are unable to endorse the current version of the policy, given the numerous concerns and questions raised by reviewers across campuses.

The Senate is very concerned that the program will increase costs for the University and individual faculty, both in terms of the price of services and equipment procured through the program, and also in terms of the administrative overhead and new bureaucracy needed to implement it and maintain compliance. It is also unclear who is responsible for higher costs when equipment purchased from a small business exceeds that of a larger supplier. Council members speculated that it would likely have to come from other categories in the grant, which could affect their ability to carry out the project as funded. More generally, a new unfunded mandate is an unwelcome burden on campuses already struggling with deficits and budget cuts. We are also concerned that the certification process

will significantly extend lead-time on time-sensitive procurements, which will affect faculty members' and staff's administrative workload, ability to make purchases in a timely manner, and ability to conduct research. In fact, individual Council members have described instances in which the interim policy has already caused headaches, delays, increased reporting time, and costs by requiring them to demonstrate that a small business is not available for specific technical purchases. The quality control required for specialized technical equipment, which is typically available through established and larger manufacturers, would not be readily available in a small business, and the hours required to investigate and justify the purchase would create needless delay in the research. This is not an efficient use of time for faculty or other University staff. The policy should at a minimum allow exceptions for STEM and other faculty who need to purchase highly technical materials from specific sources.

Reviewers also observed the absence of data and analysis on the benefits of the program for small businesses and the California economy, and on the fiscal impacts of the program for UC. It would be helpful for the next version of the policy to include a cost-benefit analysis addressing these issues, and in particular, the number of UC purchases the policy will affect, and its projected impacts on costs, procurement timelines, and research.

We also found the policy to be unnecessarily complex and the definitions of "small business" "independently owned" business, "diverse" business, and others terms to lack sufficient detail. We encourage authors to eliminate ambiguities and simplify the policy to make it more accessible and understandable to a general University audience. We are also puzzled by the removal of the requirement of California domicile, which seems to contradict the goal of the program to generate growth in California small businesses; this change needs additional explanation and justification. We also note that the big-ticket expenditures on campus such as construction do not seem to be subject to the Small Business First requirement, so the workload burden is not evenly distributed across the general campus.

The Senate agrees that the University of California should support small, local businesses, and should encourage purchasing from them, but in ways that do not increase bureaucracy, workload, and costs. We think it may be more sensible and effective for policy to encourage and incentivize purchases from small businesses rather than mandate such a program across the system.

We appreciate the opportunity to comment and look forward to a more fully developed version of the policy that addresses our concerns. Please do not hesitate to contact me if you have additional questions.

Sincerely,



Mary Gauvain, Chair
Academic Council

cc: Procurement Services Special Programs Manager Lopez
Academic Council
Senate Division Chairs
Executive Director Baxter

Encl.



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

March 23, 2021

MARY GAUVAIN
Chair, Academic Council

Subject: Systemwide Review of Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

Dear Chair Gauvain;

On March 15, 2021, the Council of the Berkeley Division (DIVCO) discussed the proposed Presidential policy titled, *BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management*. None of our committees chose to provide written comment.

Overall, the Berkeley Division can support these changes, which appear to have a positive intent. However, we are also very concerned about the length and complexity both of the document itself and the workload requirements it implies. We urge simplification. For example, in Part 3, Section C, there is a proposed requirement that all purchases of value between \$10K-250K must first be bid with a certified small business or disabled veteran business. While this is a laudable goal, this requirement could increase administrative overhead, delays, and bureaucracy for purchasing.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads 'Jennifer Johnson-Hanks'.

Jennifer Johnson-Hanks
Professor of Demography and Sociology
Chair, Berkeley Division of the Academic Senate

cc: Ronald Cohen, Vice Chair, Berkeley Division of the Academic Senate
Jocelyn Surla Banaria, Executive Director, Berkeley Division of the Academic Senate



DAVIS DIVISION OF THE ACADEMIC SENATE
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March 22, 2021

Mary Gauvain
Chair, Academic Council

RE: Proposed Revisions to Presidential Policy BFB-BUS-43 Purchases of Goods and Services;
Supply Chain Management

Dear Mary,

The proposed revisions to Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management were forwarded to all standing committees of the Davis Division of the Academic Senate. The Committee on Planning and Budget (CPB) responded.

While supportive of the policy's objective to support small businesses and reduce the pandemic's disproportionate economic impacts on them, CPB is concerned about the proposed implementation timeline and the potential for creating barriers in purchasing processes. Overall, CPB recommends a "thoughtful, progressive approach to increasing purchases from small business...with appropriate consultation with stakeholders on how to tailor policy to minimize negative outcomes."

CPB's additional comments are enclosed and relayed here for convenience:

- It is unclear how the policy will be implemented practically at the campus level. Purchasing from small businesses will likely create more work and therefore not be "practicable" as the policy states. In the past, Supply Chain Management offices may have discouraged such purchasing because of the extra work created. Additionally, working long-term with specific vendors may be important to aspects of a faculty's research. It may be necessary to incorporate exceptions for pre-existing relationships with vendors, but it is unclear how to do so without weakening the policy.
- These proposed revisions may have a greater impact on recently recruited faculty who may need to make purchases from startup funds to set up labs, etc. Having additional roadblocks in the procurement process can have a detrimental impact on a faculty member's ability to set up their research in a timely manner.
- The definition of what qualifies as a "small business" is not sufficient to ensure that small businesses that are entities or subsidiaries of larger corporations will not benefit from this policy. The phrase "independently owned" is vague and does not clarify the parameters that define "independence." For example, from a financial reporting perspective, a business entity would be "independent" if no other entity owned more than 50% of its shares. From a tax reporting perspective, a business entity would be "independent" if no other entity owned more

than 80% of its shares. Companies set up joint ventures, special purpose entities, and subsidiaries for various reasons. It is important to define “independently owned” in the document to minimize the possibility of “Big” business entities circumventing the “rule” to garner contracts meant for truly small businesses – businesses that operate as sole proprietorships, small partnerships, or corporations (LLC, Sub S, or C-corporations) whose shares are owned by individuals and not other corporations.

- It is unclear how many purchases, in aggregate, that this policy may affect. It would be helpful to have data on these purchases to understand the potential impact of this policy. In addition, it will be important to keep the bidding process open to all contractors while clearly stating that preference will be given to small businesses so that campuses can collect data on the cost of this initiative. The collection of these data will be critical to the long-term success of this program.
- This policy appears to conflict with existing policies, such as the Regents Policy 5402: Policy Generally Prohibiting Contracting for Services. As an example, if someone has a conference at the conference center for 200 people for two days, the food contract would likely be over the \$10,000 limit that would encourage small business contracts. However, the Regents Policy 5402 prohibits such contracting out for services. These two policies are thus diametrically opposed, at least for services. If one thinks about how much catering, just as an example, used to happen on campus that was provided by outside caterers, it is reasonable to believe that the downturn in small business expenditures by the UC is related to the prohibition of outside contracting for services established by Regents Policy 5402.

The Davis Division appreciates the opportunity to comment.

Sincerely,



Richard P. Tucker, Ph.D.
Chair, Davis Division of the Academic Senate
University of California, Davis

Enclosed: Davis Division Committee Responses

c: Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

March 11, 2021

Richard Tucker

Chair, Davis Division of the Academic Senate

RE: Presidential Policy BFB-BUS-43 Purchases of Goods and Services

The Committee on Planning and Budget (CPB) has reviewed and discussed the Proposed Revisions to Presidential Policy BFB-BUS-43 Purchases of Goods and Services. Overall, the CPB has concerns about the proposed implementation timeline and the detrimental impact these policy revisions may have in creating additional barriers in the purchasing process. The committee recommends instead that a thoughtful, progressive approach to increasing purchasing from small business would be better, with appropriate consultation with stakeholders on how to tailor policy to minimize negative outcomes.

CPB offers the following comments for additional consideration:

- While the committee supports the objective of the policy – to reduce the disproportionate impact that the economic crisis has had on small businesses – it is unclear how the policy will be implemented practically at the campus level. Purchasing from small businesses will likely create more work and therefore not be “practicable” as the policy states. In the past, Supply Chain Management offices may have discouraged such purchasing because of the extra work created. Additionally, working long-term with specific vendors may be important to aspects of a faculty’s research. It may be necessary to incorporate exceptions for pre-existing relationships with vendors, but it is unclear how to do so without weakening the policy.
- These proposed revisions may have a greater impact on recently recruited faculty who may need to make purchases from startup funds to set up labs, etc. Having additional roadblocks in the procurement process can have a detrimental impact on a faculty member’s ability to set up their research in a timely manner.
- The definition of what qualifies as a “small business” is not sufficient to ensure that small businesses that are entities or subsidiaries of larger corporations will not benefit from this policy. The phrase “independently owned” is vague and does not clarify the parameters that define “independence.” For example, from a financial reporting perspective, a business entity would be “independent” if no other entity owned more than 50% of its shares. From a tax reporting perspective, a business entity would be “independent” if no other entity owned more than 80% of its shares. Companies set up joint ventures, special purpose entities, and subsidiaries for various reasons. It is important to define “independently owned” in the document to minimize the possibility of “Big” business entities circumventing the “rule” to garner contracts meant for truly small businesses – businesses that operate as sole proprietorships, small partnerships, or corporations (LLC, Sub S, or C-corporations) whose shares are owned by individuals and not other corporations.
- It is unclear how many purchases, in aggregate, that this policy may affect. It would be helpful to have data on these purchases to understand the potential impact of this policy. In addition, it will be important to keep the bidding process open to all contractors while clearly stating that preference will be given to small businesses so that campuses can collect data on the cost of

this initiative. The collection of these data will be critical to the long-term success of this program.

- This policy appears to conflict with existing policies, such as the [Regents Policy 5402: Policy Generally Prohibiting Contracting for Services](#). As an example, if someone has a conference at the conference center for 200 people for two days, the food contract would likely be over the \$10,000 limit that would encourage small business contracts. However, the Regents Policy 5402 prohibits such contracting out for services. These two policies are thus diametrically opposed, at least for services. If one thinks about how much catering, just as an example, used to happen on campus that was provided by outside caterers, it is reasonable to believe that the downturn in small business expenditures by the UC is related to the prohibition of outside contracting for services established by Regents Policy 5402.

CPB appreciates the opportunity to comment.

March 19, 2021

Mary Gauvain, Chair
Academic Council

Re: Systemwide Review of Proposed Presidential Policy BFB-BUS-43

Dear Chair Gauvain,

The proposed revision to Presidential Policy BFB-BUS-43 Purchases of Goods and Services: Supply Chain Management was reviewed by the Council on Planning and Budget. The Senate Cabinet endorsed CPB's comments at its meeting on March 16, 2021. Cabinet also had the opportunity to discuss the policy further; a summary of our Cabinet discussion is provided below.

Cabinet's discussion focused on the creation of the Small Business First Program. Members were not opposed to the Small Business First Program; it has a number of salient virtues. However, members raised concerns about the implementation of the program to date. These concerns include:

- No analysis was conducted to anticipate costs of executing this program across UC.
- Several members also expressed concern that the program was implemented prior to Senate review and comment.
- Members expressed concern about the process of proprietors self-certifying their small businesses and suggested that definitions and criteria be made more explicit to prevent abuse of the program.
- Members noted that if the goal of the program is to generate growth in California small businesses, and by extension, the California economy, the removal of the requirement of California domicile undermines the program intent and is counterproductive (II. Definitions, Small Business, Page 11).
- Members anticipate that the revisions will delay university business by adding yet another layer of approval for purchasing of equipment, and suggested that incentivizing purchases from small businesses may be more effective than mandating this across the system.

The Irvine Division appreciates the opportunity to comment.

Sincerely,



Jeffrey Barrett, Chair
Academic Senate, Irvine Division

Cc: Joanna Ho, Chair Elect-Secretary
Don Senear, CPB Chair
Kate Brigman, Executive Director
Gina Anzivino, Associate Director
Michelle Chen, CPB Analyst



March 11, 2021

JEFFREY BARRETT, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Systemwide Review of Proposed Presidential Policy BFB-BUS-43

At its February 24, 2021 meeting, the Council on Planning and Budget (CPB) discussed the proposed revision to Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management.

This policy clarifies and expands upon existing policies that favor small businesses in the procurement of goods and services by the University. That which below applies to small businesses is also applicable to businesses owned by disabled veterans, the latter regardless of size.

Among its provisions are a more rigorous application of existing preferential treatment of small businesses. It establishes the principle that all purchases of goods and services in the range of \$10,000-\$250,000 be awarded to small businesses. It clarifies what is meant by a small business, program exceptions, and certifying agencies. The requirement that the business be domiciled in California is eliminated. The revisions also discuss when “competitive” bidding is required. It eliminates competitive bidding when the cost is less than \$100,000; when the cost is between \$100,000 and \$250,000, there is still no competitive bidding. However, two quotes must be obtained.

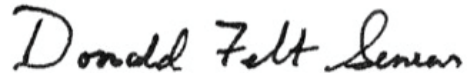
The Council offers the following comments:

- Justification for the policy is not convincing. Absent more thorough analysis, the statements alluding to the number of, and employment by, small businesses does not lead to a conclusion that supporting small businesses leads to more rapid economic growth in the state.
- If the goal of the program is to generate growth in California small business, and by extension, the California economy, the removal of the requirement of California domicile undermines the program intent and is counterproductive (II. Definitions, Small Business, Page 11).
- There is no acknowledgement that this policy may be costly to the University if small businesses have higher costs and prices than larger businesses. Although the Council recognizes the social good in the support of small businesses, absent appropriate cost analysis, including staff and faculty effort, members were not convinced that this is sufficient reason for the UC to distort its purchasing.
- The Council found that the proposed revisions would further delay university business by adding yet another layer of approval for purchasing of equipment.
- The term “self-certified small business” is vague and should be clarified (II. Definitions, Small Business, Page 11).
 - There is concern regarding undue administrative burden and whether the UC is sufficiently resourced to carry out the revisions. In particular, the procedures outlined for supplier diversity and federal planning and reporting must require extra administrative staff in order to adequately enforce procurement practices and establish outreach efforts (V. Procedures, Part 3: Supplier Diversity and Federal Planning and Reporting, A. Campus Programs, 1. Program Development and 2. Outreach Efforts Page 51-52).



- Members observed that the terms “when possible” (V. Procedures, Part 3: Supplier Diversity and Federal Planning and Reporting, A. Campus Programs, 1b Program Development) may be broadly applied for evasion and no action.
- Implementation by March 1, 2021 is clearly not possible, and any rapid implementation will be challenging without an established list of certified Small Business (SB) or Disabled Veteran Business Enterprise (DVBE).

On behalf of the Council,

A handwritten signature in black ink that reads "Donald Felt Senear". The script is cursive and fluid, with the first name "Donald" being the most prominent.

Don Senear, Chair

CC: Kate Brigman, Executive Director, Academic Senate
Gina Anzivino, Assistant Director, Academic Senate
Michelle Chen, CPB Analyst

March 22, 2021

Mary Gauvain
Chair, UC Academic Senate

Re: (Systemwide Senate Review) Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services

Dear Chair Gauvain,

The Divisional Executive Board, councils, and committees appreciated the opportunity to review the proposed revision to BFB-BUS-43. Executive Board members applauded the well-intended underlying goal of the proposal. However, they were concerned that bureaucracy and compliance costs associated with this complex proposal will harm professors' research efforts.

Once again, we appreciate the opportunity to opine on this issue. As is the divisional practice, we have appended all of the committee responses we received prior to the deadline to submit our response.

Sincerely,



Shane White
Chair
UCLA Academic Senate

Encl.

Cc: Jody Kreiman, Vice Chair/Chair Elect, UCLA Academic Senate
Michael Meranze, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate

March 11, 2021

Shane White, Chair
Academic Senate

Re: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

Dear Chair White,

At its meeting on March 8, 2021, the Council on Planning and Budget (CPB) had an opportunity to review and discuss the Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management. Members offered the following comments.

Members noted that the proposed policy was implemented in April 2020; it is unclear whether comments would be taken into consideration since the policy has already gone into effect. Some members felt that this policy is an example of excessive bureaucracy. The policy itself is 66 pages long and 13 pages contain definitions. Members underscored the need for a more manageable and understandable process to have an effective impact, and were concerned about the additional training costs associated with implementing such a policy. While well-intentioned, such policies can add complexity and compliance costs, stifling innovation and reducing bureaucratic efficiency as they accumulate.

Thank you for the opportunity to review. If you have any questions for us, please do not hesitate to contact me at groeling@comm.ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu.

Sincerely,



Tim Groeling, Chair
Council on Planning and Budget

cc: Jody Kreiman, Vice Chair/Chair-Elect, Academic Senate
Michael Meranze, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Principal Policy Analyst, Council on Planning and Budget
Members of the Council on Planning and Budget

February 22, 2021

**SHANE WHITE, CHAIR
ACADEMIC SENATE — LOS ANGELES DIVISION**

**Re: (Systemwide Senate Review) Proposed Presidential Policy BFB-BUS-43 Purchases of
Goods and Services; Supply Chain Management**

The Committee on Diversity, Equity, and Inclusion does not wish to opine on this issue.

Sincerely,

Richard A Yarborough, Chair
Committee on Diversity, Equity, and Inclusion

c: April De Stefano, Chief Administrative Officer
Academic Senate



OFFICE OF THE ACADEMIC SENATE
ROBIN DELUGAN, CHAIR, ACADEMIC SENATE
senatechair@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

March 23, 2021

To: Mary Gauvain, Chair, Academic Council

Re: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

The proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management was distributed for comment to the Merced Division Senate Committees and the School Executive Committees. The following committees offered several comments for consideration. Their comments, and Vice Chair Westerling's comments, are appended to this memo.

- Committee on Academic Planning and Resource Allocation (CAPRA)
- Committee on Research (CoR)
- Committee on Library and Scholarly Communication (LASC)

All three committees raised serious concerns.

One of CAPRA's main concerns is that the program requires new training and additional guidelines that can add to the complexity of purchasing and delay the progress of research projects. For waivers, the program requires to "clearly documents the steps taken and research completed to sufficiently justify an award to a non-SB, MB, or DVBE" which causes costly delay to faculty time and research projects. CAPRA believes there should be some consideration and priority given to the urgent cases when the timeliness of providing a service or product is important for conducting a research project. This case should be included as an example for cases that waiver is justified. CAPRA was also unclear whether faculty are required to purchase from a small business or whether they have the flexibility to choose the most cost-effective vendor. The committee asserted that overall, the policy would benefit from clarity and transparency on how the new requirements would impact faculty research.

CoR pointed out that the Small Business First policy requires that faculty obtain quotes from small businesses and disabled veteran businesses or enterprises, but also requires faculty to purchase from these SB and DVBE regardless of cost, quality or brand. Purchases supported by federally-funded grants are exempt, but state and start-up funds are not exempt. CoR is concerned that this policy significantly enhances the research burden on PIs as follows:

1. Increase costs: This will add unnecessary costs to research directly (forcing faculty to buy more expensive or lower quality items) and overhead (implementation).

2. Implementation issues: No comprehensive list exists making finding these SB and DVBE vendors more difficult.
3. Slows lead-time: The timeline for procurement is not a consideration and could significantly slow down research productivity

LASC stated that depending on how this policy is interpreted and implemented, it could have negative effects on the acquisition of library collection materials. Most collection materials are produced by and acquired from large businesses, such as university presses and commercial publishers. Similarly, most collection-related services, such as serials subscription management, are provided by large businesses. Thus, complying with this policy could place a significant administrative burden on the Library. LASC recommended consideration of how this proposed policy affects library procurement of collection materials. LASC also observed that the policy has a waiver process (III, Part 3.C.2). However, it is likely that the waiver process could be an unnecessary administrative burden on the library, since there are very few small businesses involved in publishing. Furthermore, if a waiver were denied then the Library would be denied the ability to acquire content in support of faculty research and teaching because of the characterization of the business supplying the content. Thus, LASC requested that Library collection purchases be exempt from this policy.

At its meeting on March 12, 2021, Divisional Council (DivCo) members supported these concerns from the three committees and expressed additional concerns about the increased prices, the difficult implementation process, and the onerous time constraints on faculty that would delay their research. Such delays cost a significant amount of money that the campus will not cover. A further complication is that a lot of equipment does not have a supplier that qualifies under this proposed policy which forces faculty to go through the exception process. This results in higher costs and makes the UC less competitive. This policy would place a burden on UCM's Purchasing infrastructure which is not working optimally to serve faculty research and teaching needs.

DivCo was unanimous in its strenuous opposition to the proposed Presidential Policy.

The Merced Division thanks you for the opportunity to comment on this proposed policy.

Sincerely,



Robin DeLugan
Chair, Divisional Council
UC Merced

CC: Divisional Council
Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON ACADEMIC PLANNING AND RESOURCE ALLOCATION
PATTI LIWANG, CHAIR
pliwang@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

February 16, 2021

To: Robin DeLugan, Chair, Division Council

From: Patricia LiWang, Chair, Committee on Academic Planning and Resource Allocation
(CAPRA)

A handwritten signature in blue ink, appearing to read "Patricia LiWang", is placed next to the "From:" line.

Re: Proposed revisions to Presidential Policy UC-PS-20-0489-BUS-43 Purchases of Goods and Services;
Supply Chain Management

CAPRA has reviewed the proposed revisions to Presidential Policy UC-PS-20-0489-BUS-43 Purchases of Goods and Services; Supply Chain Management. CAPRA has several concerns that are listed below:

- The implementation of this proposed plan may be hindered by the other existing UC regulations. For example, the liability insurance requirement for certain purchases is so high that cannot be met by small business owners and only large companies can offer that limit of liability insurance.
- The program requires new training and additional guidelines that can add to the complexity of purchasing and delay the progress of research projects. For waivers, the program requires to "clearly documents the steps taken and research completed to sufficiently justify an award to a non SB, MB, or DVBE" which causes costly delay to faculty time and research project. There should be some consideration and priority given to the urgent cases when the timeliness of providing a service or product is important for conducting a research project. This case should be included as an example for cases that waiver is justified.
- The main purpose of purchasing is to support the students and faculty needs and requirements, especially when there is urgent need to purchase an item to meet certain deadlines or to avoid losing research money. The needs of faculty and students should get priority in urgent cases.
- Under "program exemptions", the "emergency" and "grant" are listed as a program exemption, but what will be considered as an emergency or grant is not defined.
- The program covers all purchases valued annually at \$10,000-\$250,000. It is not clear why and how this limit has been selected.

- It is unclear whether faculty are required to purchase from a small business or whether they have the flexibility to choose the most cost-effective vendor.
- Overall, the policy would benefit from clarity and transparency on how the new requirements would impact faculty research.
- We support the use of small businesses, but would like to see a policy that breaks down barriers (by being able to waive requirements that may be burdensome) to using small businesses (such as the first item above) rather than adding increased paperwork requirements.

We appreciate the opportunity to opine.

cc: Senate Office

UNIVERSITY OF CALIFORNIA, MERCED

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SANTA BARBARA • SANTA CRUZ

ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON RESEARCH
KARA MCCLOSKEY, CHAIR
kmcloskey@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

March 10, 2021

To: Robin DeLugan, Chair, Division Council

From: Kara McCloskey, Chair, Committee on Research (COR)

A handwritten signature in black ink, appearing to read "Kara McCloskey", is positioned to the right of the "From:" line.

Re: Revised Memo - Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

CoR wishes to retract the original memo sent on this policy on February 16, 2021 (appended). Upon further review, I convey the following concerns with this policy:

Small business first policy requires that we get quotes from small business and disabled veteran businesses or enterprises, but also requires us to purchase from these SB and DVBE regardless of cost, quality or brand. Purchases supported by federally-funded grants are exempt, but state and start-up funds are not exempt. This policy significantly enhances the research burden on PIs and we should work hard to block any version of this mandate. This policy will:

1. Increase costs: This will add unnecessary costs to research directly (forcing us to buy more expensive or lower quality items) and overhead (implementation).
2. Implementation issues: No comprehensive list exists making finding these SB and DVBE vendors more difficult.
3. Slows lead-time: The timeline for procurement is not a consideration and could significantly slow down research productivity.

We appreciate the opportunity to opine.

cc: Senate Office

UNIVERSITY OF CALIFORNIA, MERCED

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SANTA BARBARA • SANTA CRUZ

ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON LIBRARY AND SCHOLARLY COMMUNICATIONS
MARIA DEPRANO, CHAIR
mdeprano@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

February 16, 2021

To: Robin DeLugan, Senate Chair

From: Maria DePrano, Chair, Committee on Library & Scholarly Communications (LASC) & LASC Committee Membership

Re: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

At its February 10 meeting, LASC reviewed the proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management, which emphasizes purchasing from small businesses where practicable.

Depending on how this policy is interpreted and implemented, it could have negative effects on the acquisition of library collection materials. Most collection materials are produced by and acquired from large businesses, such as university presses and commercial publishers. Similarly, most collection-related services, such as serials subscription management, are provided by large businesses. Thus, complying with this policy could place a significant administrative burden on the Library.

LASC recommends consideration of how this proposed policy affects library procurement of collection materials.

LASC observes that the policy has a waiver process (III, Part 3.C.2). However, it is likely that the waiver process could be an unnecessary administrative burden on the library, since there are very few small businesses involved in publishing. Furthermore, if a waiver were denied then the Library would be denied the ability to acquire content in support of faculty research and teaching because of the characterization of the business supplying the content.

Thus, LASC requests that Library collection purchases be exempt from this policy.

Thank you for the opportunity to opine.

Cc: LASC members
Senate Office

Comments provided by Professor Westerling, Vice Chair of the Academic Senate

- 1). The proposed policy effectively lowers the threshold for IT purchases above which restrictions on where a PI gets a quote from apply. This not only imposes additional monetary costs, but judging by past experience this will significantly increase the time it takes to process these purchases as well. We are already seeing unacceptable delays with severe impacts on our ability to perform on sponsored projects. The problem is especially acute for projects with a short turnaround time.
- 2). Some state agencies impose very strict conditions on reimbursement for budgeted equipment purchases. The proposal budget has to include a quote for the planned purchase (which of course has expired by the time the purchase is placed). Any cost above the budgeted amount is borne by the investigator or their campus... we are not allowed to invoice for costs greater than the original quote. This is already a substantial burden given the current inflation in costs for computer equipment. The proposed policy compounds the problem, making costs more difficult to predict. This is not only for existing grants that received quotes prior to the policy being implemented, but also because smaller vendors have less leverage with their supply chain.
- 3). The university is proposing to increase both costs and unpredictability of performance on competitive grants for the purposes of social policy, without accounting for the impact on research productivity and our competitiveness for these grants. The university should be providing monetary compensation for the increased costs. I would not argue for this if the requirement were imposed by the state and applied to everyone who competes for state funding, but this is not the case. UC faculty will be put at a disadvantage compared to proposers from non-UC institutions.
- 4). It's important to note that this policy works at cross purposes to UC Merced's objective to increase research spending in pursuit of R1 status. Not only does the proposed policy make us less competitive, but an easy response for PIs would simply be to partner with investigators at non-UC institutions and to route the funding for purchases through those institutions, in order to minimize potential costs and delays. It is essentially impossible for the UC system to prevent this kind of leakage, and it has the potential to directly impact research spending on this campus and across the UC system.



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

JASON STAJICH
PROFESSOR OF MICROBIOLOGY & PLANT
PATHOLOGY
RIVERSIDE, CA 92521-0217
TEL: (951) 827-6193
EMAIL: JASON.STAJICH@UCR.EDU

February 25, 2021

Mary Gauvain, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

Dear Chair Gauvain,

The Riverside Division discussed the Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management and I transmit the comments provided by the Senate committee review.

Sincerely yours,

Jason Stajich
Professor of Microbiology & Plant Pathology and Chair of the Riverside Division

CC: Michael LaBriola, Assistant Director of the Academic Senate
Hilary Baxter, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate



PLANNING & BUDGET

February 18, 2021

To: Jason Stajich, Chair
Riverside Division

From: Katherine Kinney, Chair 
Committee on Planning and Budget

RE: [Systemwide Review] Proposed Policy: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

The Committee on Planning & Budget (P&B) discussed the proposed Presidential Policy, BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management at their February 16, 2021 meeting and had a number of concerns.

While the goal of supporting small business was found by many committee members to be laudable, we have deep concerns about adding layers of policy directives and procedures to the purchasing process, which on the UCR campus is already seen as cumbersome at best. We are unconvinced that training and communication will mitigate the risk of delaying purchases related to research. Many research related purchases have highly specific requirement with limited options for vendors. The proposal appears tone deaf to the actual problems already posed by the cumbersome requirements on purchasing. One member reported that small vendors have in fact refused to do business with UCR because of the reporting requirements, which as another point out require a certain level of legal and administrative capability. One member believed this initiative contradicts the responsibility to use state funds efficiently, while others acknowledge the appropriateness of aligning purchasing practices with University values. However, no member of the committee found the process outlined here likely to serve the best interests of small business or the faculty and campus.



OFFICE OF THE ACADEMIC SENATE

9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA
92093-0002
TELEPHONE: (858) 534-3640
FAX: (858) 534-4528

March 19, 2021

Professor Mary Gauvain
Chair, Academic Senate
University of California
VIA EMAIL

Re: Divisional Review of UC Presidential Policy BFB-BUS-43, Purchases of Goods and Services; Supply Chain Management

Dear Professor Gauvain,

The proposed revisions to UC Presidential Policy BFB-BUS-43, Purchases of Goods and Services; Supply Chain Management were distributed to San Diego Divisional Senate standing committees and discussed at the March 15, 2021 Divisional Senate Council meeting. Senate Council had no objections to the proposal.

The Council sees merit in the proposed policy, but there were a few areas where greater clarity is needed, such as the exclusion of Disadvantaged Business Enterprises (DBE) from several of the recommendations in Section III, and the lack of concrete targets and precise priorities across the different business classifications. It is unclear why Health Sciences' purchasing as well as construction bids are omitted from the policy. Prioritizing local small businesses, rather than only small businesses, may have a larger impact on the immediate community of each campus. In addition, including some description of geographical disadvantage (by zip code perhaps) for Economically Disadvantaged Individuals or DBEs would help identify businesses that are enhancing the local economic climate in underprivileged locations.

The responses from the Divisional Committee on Academic Information Technology, Committee on Diversity and Equity and the Committee on Planning and Budget are attached.

Sincerely,

A handwritten signature in black ink that reads "Steven Constable". The signature is fluid and cursive, with the first name "Steven" and last name "Constable" clearly legible.

Steven Constable
Chair
San Diego Divisional Academic Senate

Attachments

cc: Tara Javidi, Vice Chair, San Diego Divisional Academic Senate
Ray Rodriguez, Director, San Diego Divisional Academic Senate
Hilary Baxter, Executive Director, UC Systemwide Academic Senate

March 15, 2021

PROFESSOR STEVEN CONSTABLE, Chair
Academic Senate, San Diego Division

SUBJECT: UC Presidential Policy BFB-BUS-43, Purchases of Goods and Services; Supply Chain Management

Dear Chair Constable,

At its March 11, 2021 meeting, the Committee on Academic Information Technology (CAIT) reviewed the UC Presidential Policy BFB-BUS-43, Purchases of Goods and Services; Supply Chain Management. From a CAIT perspective, this policy does not affect faculty research contracts and grants purchases. These are excluded from the policy revisions. It is also unlikely that the policy revisions would impact many IT purchases related to or initiated by faculty outside of research contracts and grants. Despite the research contract and grant exception and the likely small impact on remaining purchases related to faculty and IT, we still offer the following comments:

1. The policy uses an audit and compliance framework rather than a goals framework, which will make the cost of compliance and the administrative burden difficult and unhelpful, while not accomplishing much. In an initial review of health science areas outside of research grants, central procurement showed that no past procurements that would or could be awarded to small businesses. While the central university procurement office is working to ensure that if this policy were enacted, the administrative burden felt in departments across campus would be none to very little, CAIT would suggest that using an audit and compliance framework with the extensive exception process would be inferior to using a goals framework. UC San Diego has had a small business program and has achieved success (currently the university is at 18% of procurement to small businesses) using a goals framework. The policy and audit framework proposed is inappropriate and may increase administrative burdens for any faculty who may be affected.
2. Central procurement is focusing efforts in areas that can make a difference, particularly in housing and dining, and similar areas, and will also be pursuing how to improve outcomes in areas of construction, which would be meaningful for the San Diego community. Faculty-related IT purchases are expected to contribute little to the small business goals and the policy as written may not help UC San Diego reach its own small business goals.
3. We understand that central procurement and university leadership is working with UCOP and revising this policy to correct these and other defects not discussed with or relevant to CAIT. CAIT would recommend CAIT support additional efforts, if needed, to ensure this policy does not adversely affect faculty administrative workloads or negatively impact the quality of IT goods and services purchased.

Sincerely,

Ian Galton, Chair
Committee on Academic Information Technology

ACADEMIC SENATE: SAN DIEGO DIVISION
UCSD, LA JOLLA, CA 92093-0002
(858) 534-3640
FAX (858) 534-4528

cc: T. Javidi
J. Lucius
R. Rodriguez
B. Simon

March 1, 2021

STEVEN CONSTABLE, CHAIR
Academic Senate, San Diego Division

SUBJECT: BFB-BUS-43 Policy Purchases

The Committee on Diversity and Equity (CDE) discussed the BFB-BUS-43 Policy Purchases. In general, the committee sees merit in the proposed policy and endorses the revisions. However, there were a couple of areas in which greater clarity could be achieved.

The most important part is the apparent exclusion of DBE, as defined in Section II. Definitions, from the recommendations in, e.g., Section III, Part 1B1 where “awarded to Small Businesses or Disabled Veteran Business Enterprises wherever practicable” occurs. Similar omissions occur in Section III, Part 1C1, Section III, Part 3C1, Section III, Part 3C2, Section V, Part 3A1. This is particularly at odds with phrasing prior to these occurrences that read “small and diverse owned businesses”, “small, diverse and disadvantaged suppliers” or similar, in preambles that do not appear to be specific to the policy requirements, as per the above.

The committee was further concerned that the policy is imprecise with respect to priority across “small”, “diverse” and “disadvantaged” categories, or SB and DVBE and would like to see DBE be prioritized. The policy likewise lacks targets in most places and the committee would like to see something concrete as in Section V, Part 3A1 where 25% is mentioned as a specific target. Finally, it is of concern to the committee that Section V, Part 3A1 language “whenever these suppliers offer products and services that meet the University’s needs for competitive pricing and the quality of the products and services” could be used to undercut the entire policy. After all, if the DBE is providing the most competitive price that University employees would be violating the competitive cost principle by not using such business and suppliers. This could be resolved simply by eliminating this clause and providing a target for DBE awards or by specifying a percentage of the lowest bid that would be acceptable. It could also state that “University’s needs for diversity will be considered along with the University’s needs for competitive pricing and the quality of the products and services.”

The committee suggests that the definition on Economically Disadvantaged Individuals or DBE be modified to include some description of geographical disadvantage (by zip code perhaps) to potentially include businesses that are enhancing the local economic climate in underprivileged locations.

The committee was also unclear on why Health Sciences should be omitted from this policy and suggests that Health Sciences departments be included within these requirements.

Sincerely,

Jennifer Burney, Chair
Committee on Diversity & Equity

cc: T. Javidi

March 1, 2021

STEVEN CONSTABLE, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC BFB-BUS-43 Policy Purchases

The Committee on Planning and Budget (CPB) discussed the UC BFB-BUS-43 Policy Purchases Revisions at its meeting on February 16, 2021. The policy was updated to include a new section outlining policy of UC's Small Business First Program. All other changes were minor updates to bring the rest of the policy in alignment with this new program. The committee has no objections to the policy revisions. A few questions were raised during the committee's discussion and they are shared here as recommendations to consider when implementing the program:

- Is it always standard procedure for UC to request only two bids for procurements? The policy mentions "Informal Competitive Quotation: Responsive price quotations from a minimum of three qualified suppliers, pg. 13"
- What about prioritizing not just small business but **local** small businesses? Would that be too narrow?
- Is only 25% of the bids in this program enough to make a positive impact?
- Why are construction and design bids exempt from this program? What if the bids are below the \$250,000 threshold?

Sincerely,

Kwai Ng, Chair
Committee on Planning & Budget

cc: T. Javidi



UC SANTA BARBARA

Academic Senate

Susannah Scott, Chair
Shasta Delp, Executive Director

1233 Girvetz Hall
Santa Barbara, CA 93106-3050
<http://www.senate.ucsb.edu>

March 23, 2021

To: Mary Gauvain, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division

A handwritten signature in black ink that reads "Susannah L. Scott".

Re: Systemwide Review of Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services and Supply Chain Management

The Santa Barbara Division distributed the Proposed Presidential Policy on Purchases of Goods and Services and Supply Chain Management to the Council on Planning and Budget and the Council on Research and Instructional Resources. Both responses are attached for Academic Council's consideration.

In short, while both groups admire the intention of directing University purchases toward the small business community, they raise significant concerns about the unfunded mandate associated with the proposed policy updates, the unsuitability of many highly technical purchases for small business procurement, the added complexity to what is characterized as an already onerous process, the potential impact on faculty and staff workload, and the rapid adoption schedule.

We thank you for the opportunity to opine.

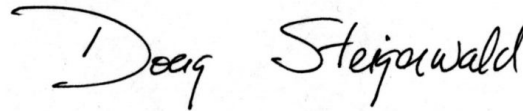
UNIVERSITY OF CALIFORNIA
ACADEMIC SENATE
SANTA BARBARA DIVISION
Council on Planning & Budget

March 15, 2021

To: Susannah Scott, Divisional Chair
UCSB Academic Senate

From: Douglas Steigerwald, Chair
Council on Planning & Budget

Re: Proposed Policy BFB-BUS-43 Purchase of Goods & Services



The Council on Planning & Budget (CPB) has reviewed the Proposed UC Presidential Policy on the Purchase of Goods and Services and Supply Chain Management (BFB-BUS-43).

The aim of the update to BFB-BUS-43 is to add UC's new Small Business First Program into BUS-43. Small Business First requires that all applicable purchases for UC campuses (excluding UC Health and Design & Construction) with the annual value of \$10,000-\$250,000 be awarded to a certified Small Business or Disabled Veterans Business Enterprise wherever practicable. There are exemptions for UC Health and Design and Construction as well as for other purchases made on federal contracts.

The CPB welcomes the university initiative to update this policy, particularly since the impact of the Covid-19 pandemic and the financial crisis on small businesses, often minority-owned, is disproportionately negative.

However, CPB is concerned that the implementation of these policy updates will place an additional workload on staff, who are already overburdened, without additional pay. Sufficient time away from existing duties will be required to allow for the new training stated in the policy and to implement and sustain the "regular outreach programs" recommended.

The stated timing as we read it is confusing. While full compliance is expected by March 1, 2021, and it is stated that a strong training plan has been put in place to meet that deadline, we are surprised to hear of this at this late stage. Also, the expectation of comments by April is inconsistent with full compliance being required by March 1.

Last, the new policy's anticipated effects are unclear. While it is true that the majority of small businesses are minority-owned, this policy seems to unintentionally shift focus away from minority-owned, or woman-owned, businesses in favor of small businesses in general; and away from California-owned businesses (removed as a location requirement). Given the policy's stated goals, it may be helpful to identify where and how much this change can be expected to

affect procurement decisions and whether they are consistent with the motives behind the change.

CPB in principle supports policy BFB-BUS-43 but before giving definitive approval, would need to see a cost-benefit analysis, details of the provisions for adequate staffing to allow for training and the additional workload and clarification of the time schedule.

cc: Shasta Delp, Academic Senate Executive Director

March 17, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Forrest Brewer, Chair 
Council on Research and Instructional Resources

Re: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

The Council on Research and Instructional Resources reviewed the proposed policy in its respective subcommittees, Committee on Instructional Technology (February 26, 2021), and Committee on Research Policy and Procedures and Committee on Library, Information and Instructional Resources (both on March 5, 2021).

This policy change marks a decided attempt to directly steer medium-scale purchases between \$10,000 and \$250,000 to certified small business and/or Disabled veteran owned small businesses. The policy is well motivated by evidence of direct gain to California finances from investments in local businesses, and some members are interested in supporting the goal of harnessing the power of UC investment to help small business. However, there are several flaws in the current iteration, both as an unfunded policy mandate and the rapid adoption schedule (prior to any Academic Senate response) which seems to fly in the face of shared governance.

The policy establishes a mandatory requirement for solicitation of quotes from a third party certified small or disabled veteran small business. Small or disabled veteran owned businesses that are not certified are not eligible for consideration. The certification process, for interested businesses, can take up to a month or more and significantly extend lead-time on time critical procurements.

While there are indeed thousands of small businesses listed in the recommended databases, the ability of the tools to search for specific expertise or instrumentation is extremely limited. More importantly, the types of purchases made on lab start-up funds, such as metrology and instrumentation devices, are typically best served by large diversified companies that have the capacity to absorb development costs and leverage international sales to keep acquisitions costs reasonable. In short, there are few opportunities for small businesses to create advanced instruments or services competitively. Thus, bids from certified small or disadvantaged companies are likely to be difficult to solicit and less cost effective.

There are already concessions in place for awarding to these businesses, in the form of bid process relief as provided by state and federal laws. Moving these carve-outs from optional to mandatory will inevitably reduce the investment the has made in strategic suppliers and result in artificially high pricing by small businesses once they realize they are shielded from competition. Across the system, this will directly affect tens of thousands of purchases where even a nominal 10% cost increase translates to tens of millions of dollars in a system already scrambling to cover numerous debts arising from extraordinary costs and a reduced tax base. This does not count the additional time spent filling and filing additional forms and the potential for greatly increased lead time. In practice, these issues will fall on junior PIs,

who in many ways are already the most burdened segment of the faculty, to perform basic research on state or start-up funds. They certainly do not need additional costs or regulations beyond the normal purchasing overhead. Many faculty feel that purchasing is already quite onerous at the University of California and to make it more so is to jeopardize recruitment and retention. Faculty are also concerned about the additional impacts to already overextended staff; this policy makes insufficient provisions for additional support in satisfying these new requirements. Given these issues, similar results could be obtained by collaborating with the third parties to simplify certification requirements and promote UC requirements and market interests. This would foster a real and direct benefit for local small businesses based on their ability to target UC-specific guidelines such as recyclable packaging, local calibration and service, and longer service and operation lifetimes. In such a case, justification of high initial costs can be made.

Finally, the Council questions the decision to exclude capital expenditures from these requirements. Construction spending is already heavily controlled by purchasing contracts and partnership with smaller local contractors could offer the university tangible savings in the procurement of furniture, fixtures and construction. Another suggested alternative is for the University to compensate such purchases by reducing related overhead costs up to 10% to incentivize rather than mandate the consideration of small business. Although the faculty generally admire the intentions of this program, they would advocate as more efficient a policy that incentivizes options rather than restricts them.

CC: Shasta Delp, Executive Director, Academic Senate

UNIVERSITY OF CALIFORNIA, SANTA CRUZ

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SANTA BARBARA • SANTA CRUZ

1156 HIGH STREET
SANTA CRUZ, CALIFORNIA 95064

Office of the Academic Senate
SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

March 22, 2021

MARY GAUVAIN, Chair
Academic Council

Re: Systemwide Review of Proposed Presidential Policy BFB-BUS-43

Dear Mary,

The Santa Cruz Division of the Academic Senate has completed its review of the proposed Presidential Policy BFB-BUS-43, the Committee on Planning and Budget (CPB) responding. CPB approved of the revisions overall, particularly the noted inclusion of the Small Business First Program, and voiced their support of this particular revision given how COVID-19 has had a disproportionate impact on minority owned businesses.

On behalf of the Santa Cruz Division, I thank you for the opportunity to opine on this systemwide policy.

Sincerely,

A handwritten signature in cursive script, reading "David Brundage", is shown within a rectangular border.

David Brundage, Chair
Santa Cruz Division of the Academic Senate

cc: Dard Neuman, Chair, Committee on Planning and Budget
Nico Orlandi, Chair, Committee on Faculty Welfare
Minghui Hu, Chair, Committee on Academic Freedom
Paul Roth, Chair, Committee on Research



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Shelley Halpain, Chair
Shalpain@ucsd.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th
Oakland, CA 94607-5200

March 24, 2021

**MARY GAUVAIN, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

Dear Mary,

The University Committee on Faculty Welfare (UCFW) has discussed the Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management, and we have several comments. First, we question the small to large business ratio of 49% to 51%: how was this number derived, and what are the market data that support it? Second, greater guidance on the determination of a “small business” is needed: while the proposal references federal guidelines, it also allows for self-certification. Third, the new version omits the requirement that small businesses be domiciled in California, which seems to contradict one stated goal of the policy – to better support the California economy. Finally, the “cost of compliance” is omitted from consideration, leaving the campuses to face another unfunded mandate.

UCFW looks forward to reviewing a more thoroughly developed proposal.

Sincerely,

Shelley Halpain, UCFW Chair

Copy: UCFW
Hilary Baxter, Executive Director, Academic Senate
Robert Horwitz, Academic Council Vice Chair



UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Richard Desjardins, Chair
Email: desjardins@ucla.edu

University of California
Academic Senate
1111 Franklin Street, 12th Fl.
Oakland, California 94607

March 23, 2021

MARY GAUVAIN
CHAIR, ACADEMIC COUNCIL

RE: Proposed Presidential Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

Dear Mary,

The University Committee on Research Policy (UCORP) reviewed the proposed business and finance policy on Purchases of Goods and Services; Supply Chain Management (BFB-BUS-43) during its meeting on March 8, 2021.

This policy change marks a decided attempt to directly steer medium-scale purchases between \$10,000 and \$250,000 toward certified small business and/or disabled veteran owned small businesses. The policy is inspired by evidence of direct gain to California business (and tax revenue) from investments in local businesses, and harnessing the power of UC to help small businesses. However, there are several flaws in the current proposal, both as an unfunded policy mandate and the rapid adoption schedule (prior to any Academic Senate response) which seems to fly in the face of shared governance. These issues are:

- Requirements for certification of small businesses extends the potential lead-time
- Ignores the cost savings to the university from large company investment to cover products of limited general use, but of specific use to university research
- Potential to create “small-business” secondary suppliers essentially reselling large company products for profit
- Additional procurement effort on the part of PI’s currently burdened with constraints from federal and state purchasing rules as well as other UC policy mandates
- Exclusion of Capital expenditures (i.e. buildings, infrastructure and furnishings) which are as large a portion of general purchasing and for which many California small businesses already exist, but are locked out of the current system.

The policy establishes a mandatory requirement for solicitation of quotes from a third party certified small or disabled veteran small business. Small or disabled veteran owned businesses that are not certified are not eligible for consideration. The certification process, for interested businesses, can take up to a month or more and ***significantly extend lead-time on time critical procurements.***

While there are indeed thousands of small businesses listed in the recommended databases, the ability of the tools to search for specific expertise or instrumentation is extremely limited. More

importantly, the types of purchases made on lab start-up funds, such as metrology and instrumentation devices, are typically best served by large diversified companies that have the capacity to absorb development costs and leverage international sales to keep acquisitions costs reasonable. In short, there are few opportunities for small businesses to create advanced instruments or services competitively. Thus, bids from certified small or disadvantaged companies are likely to be difficult to solicit and less cost effective.

There are already concessions in place for awarding to these businesses, in the form of bid process relief as provided by state and federal laws. Moving these carve-outs from optional to mandatory will inevitably reduce the investment the has made in strategic suppliers and result in artificially high pricing by small businesses once they realize they are shielded from competition. Across the system, this will directly affect tens of thousands of purchases where even a nominal 10% cost increase translates to tens of millions of dollars in a system already scrambling to cover numerous debts arising from extraordinary costs and a reduced tax base.

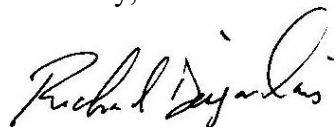
This additional cost does not count the additional time spent filling and filing additional forms and the potential for greatly increased lead time. In practice, these issues will fall on junior PIs setting up labs to perform basic research (capital projects, medical purchases and federally funded grants are excluded) on state or start-up funds who in many ways are the most burdened segment of the faculty. They certainly do not need additional costs or regulations beyond the normal purchasing overhead. ***Many faculty feel that purchasing is already quite onerous at the University of California and to make it more so is to jeopardize recruitment and retention.*** Faculty are also concerned about the additional impacts to already overextended staff; this policy makes insufficient provisions for additional support in satisfying these new requirements.

Given these issues, similar results could be obtained by collaborating with the third parties to simplify certification requirements and promote UC requirements and market interests. This would foster a real and direct benefit for local small businesses based on their ability to target UC-specific guidelines such as recyclable packaging, local calibration and service, and longer service and operation lifetimes. In such a case, justification of high initial costs can be made.

An additional point is related to the provision that excludes capital expenditures from these requirements. Construction spending is already heavily controlled by purchasing contracts and partnership with smaller local contractors could offer the university tangible savings in the procurement of furniture, fixtures and construction. A suggested alternative is for the University to compensate such purchases by reducing related overhead costs up to 10% to incentivize rather than mandate the consideration of small business.

Although the faculty generally admire the intentions of this program, they would advocate for a more efficient and economically-viable policy that incentivizes options rather than restricts them.

Sincerely,

A handwritten signature in black ink, reading "Richard Desjardins". The signature is fluid and cursive, with the first name "Richard" and last name "Desjardins" clearly legible.

Richard Desjardins
Chair, University Committee on Research Policy