

University of California
Office of the President

Office of the
Associate Vice President —
Business and Finance

Contracts and Grants Office

Memo

Operating Guidance

C&G No. 86-22
September 5, 1986

VICE CHANCELLORS — BUSINESS AND FINANCE/ADMINISTRATION* CONTRACTS AND GRANTS OFFICERS (NON-LAB) OFFICE OF THE PRESIDENT FUNCTIONAL MANAGERS

Subject: New State Agreement Contract Provision: Contractor to Give Priority Consideration to Employment of Qualified Aid Recipients

We were recently asked by a campus contracts and grants office about the acceptability of a special provision in a State Air Resources Board Agreement. This provision, concerning the hiring of recipients of aid, states that:

The contractor shall give priority consideration in filling vacancies in positions funded by the contract to qualified recipients of aid under Chapter 2 commencing with Section 11200 of the Welfare and Institutions Code, in accordance with Article 3.9 commencing with Section 11349 of the Welfare and Institutions Code. (Public Contract Code Section 10353)

The State of California Public Contract Code Section 10353, referred to in this provision, requires State Agencies to include a provision in contracts in excess of \$200,000 which requires contractors to give priority to recipients of welfare aid in filling positions funded by the contract.

In response to our inquiry about this clause, the State Department of General Services, Office of Legal Services replied that their "Department would not require contracts which the University of California enters into with other state agencies to contain this provision." (See enclosed letter)

DGS has told us that we can refer to this letter from them if we are asked in the future to include this clause in a contract between the University and a State agency.

Refer: Samuela A. Evans
ATSS 8-582-1654
(415) 642-1654

Subject Index: 2, 14
Organization Index: S-001
S-210

David F. Mears
University Contracts and Grants
Coordinator

*Note: The addressees above represent the standard distribution of Contract and Grant Memos. Additional addressees, if any, may be added based on the subject of the Memo. See cc's.

DEPARTMENT OF GENERAL SERVICES



July 29, 1986

University of California
Office of the President
Berkeley, CA 94720

Attention: David F. Mears
University Contracts and
Grants Coordinator

SUBJECT: Public Contract Code Section 10353 as Applied to University of
California Agreements

Dear Mr. Mears:

Your letter of July 17, 1986, to Mr. Emil J. Relat, requesting an opinion regarding the applicability of Public Contract Code Section 10353 to University of California contracts has been referred to me for a determination.

Although not expressly stated, it would appear the Legislature intended the requirements of Public Contract Code Section 10353 to apply to contracts entered into by state agencies with private and nonprofit entities as opposed to public entities. Consequently, our Department would not require contracts which the University of California enters into with other state agencies to contain this provision.

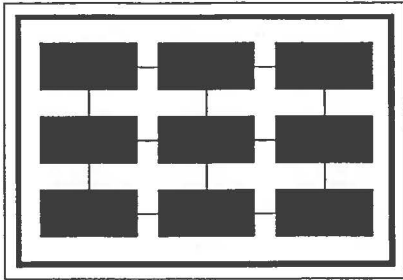
Incidentally, Emil J. Relat retired last June, and I am pleased to inform you that Charles O. Thrasher is Chief Counsel of this office.

Sincerely,

A handwritten signature in cursive script that reads "Teresa L. Boron".

TERESA L. BORON
Staff Counsel
Office of Legal Services
(916) 322-5698

TLB:mh



University of California
Office of the President

Senior Vice President—Academic Affairs

Research Administration Office

Memo Operating Guidance

No. 86-22, Supplement 1
October 11, 2006

CONTRACT AND GRANT OFFICERS

Subject: State Contract Provision: Priority Hiring Considerations

Contract and Grant Operating Guidance Memo 86-22, dated September 5, 1986, distributed a letter from the State Department of General Services (DGS) stating that Public Contract Code Section 10353, Priority Hiring Considerations, does not apply to public entities such as the University of California. [<http://www.ucop.edu/raohome/cgmemos/86-22.htm>] Last year, an attorney at a State agency said that because the letter was “old”, she would not delete this clause. As a result, we have obtained another letter from DGS Office of Legal Services reiterating this position. This letter is attached.

The State of California Public Contract Code Section 10353 referred to in this provision requires State agencies to include a provision in contracts in excess of \$200,000 which requires contractors to give priority to recipients of welfare aid in filling positions funded by the contract. Specifically, the clause found in State General Terms and Conditions (GTC) which the University sometimes receives instead of interagency agreements (GIA) terms and conditions states:

PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

The clause may also be incorporated within an agreement as well.

Refer: Samuela A. Evans
(510) 987-9849
Samuela.Evans@ucop.edu

A handwritten signature in black ink that reads "David F. Mears".

David F. Mears
Director

Enclosure



State of California • Arnold Schwarzenegger, Governor
State and Consumer Services Agency
DEPARTMENT OF GENERAL SERVICES
Office of Legal Services

October 12, 2005

Samuela A. Evans
University of California
Office of the President
Research Administration
1111 Franklin Street, 5th Floor
Oakland, CA 94607

Dear Ms. Evans:

We have reviewed your e-mail to the Department of General Services, Office of Legal Services dated October 4, 2005, in which you ask the Department to confirm that the "Priority Hiring" provision contained in the recently updated General Terms and Conditions (GTC 1005) is not applicable to the University of California.

The legal basis for this provision is contained in Public Contract Code section 10353. It is the opinion of this office that this section is not applicable to State contracts with other public entities, including the University of California. As a result, we do not require the "Priority Hiring" provision to be included in State contracts with the University of California.

Sincerely,

LINDA A. CABATIC, Deputy Director
Office of Legal Services

LAC:tcs:s:admin/opinions/priority hiring provision with UC contracts