



Higher Education & Employment Advancement Committee
Public Hearing

March 9, 2017

Written Testimony
Submitted by

Scott Jordan
Executive Vice President and Chief Financial Officer

Members of the Higher Education Committee, thank you for allowing us to testify on HB 7236 AN ACT CONCERNING CONTRACT POLICIES AT THE UNIVERSITY OF CONNECTICUT. I am Scott Jordan, CFO of the University of Connecticut. With me today are Kazem Kazerounian, Dean of Engineering, and Rich Orr General Counsel. They are here to provide additional information and to answer questions as needed.

Cutting the Red Tape at UConn: Legislation to Boost Efficiency and Revenue On Behalf of Connecticut Taxpayers

In this budget environment, UConn - like other state agencies - must do much more with less. We understand the challenges you face in balancing the state budget are daunting and we will do what we can to continue to maintain an affordable, high-quality education for our students. As you know, continued state cuts to our budget cannot and should not be shifted to students through higher tuition. While philanthropy has increased dramatically in the last five years from \$60 million in FY12 to \$78 million in FY16, it cannot make up for the loss of state support. Cuts, rescissions and fund sweeps since 2010 are nearing \$140 million. The Governor's proposed FY18 budget includes an additional \$41 million in cuts.

Knowing that, many members of the General Assembly have asked what can be done to help institutions of higher education operate more efficiently and generate more revenue, without more state support or requiring students to pay more. In response, UConn is suggesting legislation that will help both UConn and the Connecticut State Colleges and Universities system (CSCU). We propose an approach that would do two key things:

- Allow Connecticut higher education to generate revenue through contracts and partnerships with private industry, which, in turn, helps generate economic development; and

- Make Connecticut higher education contracting more efficient and more cost-effective while maintaining our commitment to transparency, diversity, and strong oversight.

Overview of the Proposal - Adopting Contracting Policies

The need to make higher education contracting more efficient and cost-effective is not unique to Connecticut. Some states, such as Texas and Massachusetts already have legislation in place that allows their public universities to create virtually all of their own procurement policies.¹

We are **not** asking for authority that broad.

Our proposal is narrower than the authority given to public higher education in those states and more limited than the language you have before you in HB 7236, LCO No. 4758.

Very similar to the DAS statutes in Chapter 58, the purchasing processes of UConn and the Connecticut State Colleges and Universities system are governed by CGS 10a-151b. This statute governs the purchase of goods and services and will stay in effect under our proposal = meaning we will be required to follow the current state procurement statutes on goods and services

Contrary to the HB 7236 language, we are **not** asking to be exempt from C.G.S. § 10a-151b, and we are **not** asking to be exempt from the Contracting Standards Board.

Rest assured - state laws and purchasing requirements for our construction program will stay the same. We are not proposing ANY changes to how we do business there and the robust oversight we currently have in place.

We are however, seeking some flexibility with regard to the way higher education handles contracts other than traditional purchasing.

In higher education, "contracting" covers much more than the purchase of goods and services. Many of the statutes that govern "contracting" were written to apply to the use of state money to buy goods and services. Those statutes did not contemplate - and they do not work well in - a wide range of contracting that is essential to higher education. These areas of contracting have grown and evolved over time as universities have become more complex and have been asked to be more entrepreneurial and innovative - by focusing on partnerships with private industry to spur economic development and job growth in the state.

¹ The Texas statute is Tex. Educ. Code. § 51.9335. The Massachusetts statute is Mass. Gen. Laws. Ch. 75 §§ 1, 1A and 13.

What we seek with this proposal is to authorize the Board of Regents and the UConn Board of Trustees to adopt contracting policies, notwithstanding other statutory provisions, for the types of contracts that are essential to higher education but are less common in other agencies.

The types of contracts for which polices could be adopted by the two Boards should include:

- **Revenue** – contracts where a university is “selling” rather than “buying”; bringing in money rather than spending it. We want to make it easy for potential “customers” to do business with Connecticut institutions of higher education and make it easier to generate revenue.
- **Industry collaboration** – contracts where a Connecticut institution is collaborating with business, industry or other private or governmental parties on research, technology or other projects.
- **Academic collaboration** – contracts with other educational institutions to share resources to promote research and teaching. Contracts for collaboration are very different from purchasing contracts.
- **International** – UConn has 130 education abroad programs that directly serve over 1,000 UConn students annually. UConn faculty are engaged in academic and research collaborations with colleagues around the globe. UConn has over 400 agreements with 150 international partners for a vast array of research and scholarship initiatives, including student exchanges, service agreements and clinical rotations, and The contract paperwork requirements for purchasing goods and services in Connecticut are ill suited to a wide range of agreements that are necessary for doing business internationally.
- **Non-State Funds.** UConn receives approximately \$200 Million each year in funds for research and related activities from federal agencies, private industry, philanthropy and other parties. The sponsors of research want us, for example, to find a cure for cancer or engineer novel and safer materials. The funders have their own contract expectations and requirements. Although in most cases we are eventually able to find solutions that reconcile their requirements with Connecticut contracting rules, this is time consuming and can interfere with the ability to access these types of funding in a timely manner. Connecticut’s institutions are competing with other universities and entities for these dollars and onerous state contracting requirements put us at a competitive disadvantage as we seek these funds.

Being able to develop policies, again if we choose to do so, for these types of contracts would enhance both Boards’ ability to generate new revenue and enter into partnerships with industry. This legislation is necessary because current contracting statutes – which primarily address goods and services purchased by state agencies using taxpayer funds – are simply not designed for these types of agreements.

Accountability

We respectfully ask that the legislation be redrafted to provide the Board of Regents and the Board of Trustees the authority to develop contracting policies that make sense for the types of contracts described above. The process for developing and adopting the policies will be a public process. There will be an opportunity for public input. The policies will be adopted in a public forum.

We believe the legislation should require the Boards to annually report to the General Assembly on policies adopted or modified since the last report, and report on how the policies have been implemented in the prior year.

The legislation should also provide that the Auditors of Public Accounts will continue to audit the institutions for compliance with the adopted policies and procedures, and that the Attorney General's role in reviewing UConn and CSU contracts, including their review of contracts for legal sufficiency, will not change.

The Need & Current Problem

Revenue Generating Contracts

UConn has the ability to use its intellectual property, expertise and international brand to generate revenue. But many of the state contracting statutes were written for a "buyer" spending taxpayer dollars rather than a "seller" trying to generate revenue to save taxpayer expense. Often the state as a "buyer" has tremendous leverage because it is a large customer within the Connecticut market. But as a "seller," UConn competes for revenue in a national and even worldwide market. In that context, UConn does not have leverage. To be competitive, UConn needs to be nimble. It needs to be customer friendly.

For example, a few years ago the UConn School of Business competed for and won a \$5 million dollar contract to sell services to an international consulting firm. In addition to the revenue generated, the contract would have been tremendously prestigious for UConn and the state. But because of the complexity of Connecticut contracting requirements, the potential customer walked away, declining even to engage in the negotiation. It awarded the contract to another party who was easier to do business with.

This is not an isolated example. Giving UConn and the Connecticut State Colleges and Universities system the ability to develop contracting policies that are better adapted to the real world of business is essential for realizing the revenue potential of their intellectual assets.

Revenue- Speed

UConn needs to be able to react more quickly than the Connecticut contracting requirements allow. To illustrate this, let me briefly describe our recent interaction with Starbucks.

UConn is a partner in opening two Starbucks. One is a Starbucks at the Waterbury campus. It is a direct contract with the University going through the state contracting process. The second Starbucks is in the UConn bookstore in downtown Hartford. That is being done as a private transaction with the current operator of the bookstore. Thus, one contract followed the current "state path" and the second followed the "private path."

Conversations about the Waterbury Starbucks through the state process began in February 2014, but primarily because of state requirements, the contract was not signed until September 2016. It will take another year for UConn to procure design and construction and for the store to be built. The targeted opening is September 2017. The projected net income is estimated at \$445,000 annually eventually growing to \$750,000 - all to the benefit of UConn and taxpayers, but the process will have taken approximately 43 months from the start of conversations until the projected store opening.

By contrast, in Hartford, in order to meet the Fall 2017 opening of the Hartford campus, UConn is extending its existing bookstore contract with Barnes and Noble (B&N) to have B&N open a UConn bookstore in Hartford. In turn, B&N is contracting directly with Starbucks in a private transaction. Discussions about Starbucks began in November 2016. This store is expected to open in September 2017. This smaller store is projected to generate about \$30,000 net to UConn - again to the benefit of UConn and taxpayers. But because it was a private negotiation and contracting process, it will take only 10 months to get to a store opening as opposed to 43 months in Waterbury.

The proposal would give UConn and CSCU the ability to develop contracting policies so they can move more quickly in a market driven environment to realize revenue opportunities that help offset continued cuts in state support.

Industry collaboration

Industry collaboration with a University often involves multiple elements. They can include philanthropy by industry, offering internships to UConn students, employing UConn graduates, sponsoring research where the industry pays UConn to help solve a technical problem and facilitating acquisition of equipment by the University. But the contracting statutes are written for the typical purchasing situation where the state is a buyer and the other party is a "seller," not a partner. The application of the purchasing statutes to these multi-dimensional agreements can impair the ability to maximize benefits to the university.

A dramatic example of this is described in the Testimony of UConn's Dean of Engineering, Kazem Kazerounian, which is also being provided today.

The "Red Tape" Burden

State statutes require multiple forms and certifications. See http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038&opmNAV_GID=1806 . A single

contract can require the submission of all of these six forms (forms 2, 4 and 6A, 6B and 6C have been rescinded):

1. Form 1. Gift and Campaign Contribution Certification
2. Form 3. Certification of State Agency Official or Employee Authorized to Execute Contract
3. Form 5. Consulting Agreement Affidavit
4. Form 6. Affirmation of receipt of State Ethics Laws summary
5. Form 7. Iran Certification
6. Non Discrimination Certification [see separate section below]

There are important public policy goals that caused the legislature to impose the requirements that created these forms. We agree these policies are important, especially when state funds are being used to purchase goods and services in the state.

What we are asking is that when a Connecticut institution of higher education is trying to generate revenue; or is collaborating with industry such as providing internships and clinical opportunities for students, securing semester-long student housing overseas or hiring buses for field work in South America, is it necessary for the other party to file a certification listing the Connecticut campaign contributions of its Board members (See Form 1: Gift and Campaign Contribution Certification)?

When Connecticut institutions of higher education engage in an academic collaboration and are not expending state funds, is it necessary for them to submit an affidavit about whether they used a lobbyist to procure the academic collaboration agreement (See Form 5. Consulting Agreement Affidavit)?

In many cases the substance of the forms is not the problem. Companies in Connecticut that frequently do business with the state understand the forms and comply. However, when dealing with a company in a foreign country – or when the University is trying to sell its products or services – this proliferation of forms frequently become a point of contention it often ends up costing a tremendous amount of time on both sides. That is a waste of resources and often sours the relationship from the outset.

For example, UConn's Jorgenson auditorium hosts world-class performing arts and speakers on a wide range of public affairs topics. Grammy-winning artists have been willing to perform at the Jorgensen, but walked away over contracting issues. In multiple cases, the artists' management companies have agreed to the commercial terms but when they saw the package of required forms, they cancelled and walked away. In the fall of 2016, noted presidential historian Michael Beschloss agreed to speak, but his management company balked at some of the forms and threatened to cancel, capitulating only at the 11th hour after hours and hours of discussion. On another occasion, a potential speaker who was a high-profile national journalist agreed to appear, but he also walked away when presented with the state's contracting requirements. The contracting requirements are

such that a number of booking agencies simply refuse to do business with the Jorgensen. This is illustrative of the difficulties we face in applying state contracting requirements outside of normal purchasing.

We see the proposal as affording the institutions of higher education with the opportunity to reduce the paperwork burden and improve the efficiency of contract procedures in contracting and partnership situations so that we can maximize business opportunities and best fulfill our educational mission. In some cases, the solution may be as simple as incorporating the substantive requirements into the contract itself rather than requiring separate forms. In other cases, the policy might allow a requirement to be waived if the proposed waiver meets certain established criteria.

Whatever policies are developed, under the proposal they would be developed through an open and public process. The policies themselves and the way they are applied would be reported to the General Assembly.

Non Discrimination Requirements

Important public policy goals underlie the non-discrimination requirements of C.G.S. Sections 4a-60 and 4a-60a. No one could seriously suggest that the institutions of higher education are indifferent to the rights, and the dignity, of any of the persons protected by these statutes. In fact, UConn's own Vendor Code of Conduct (attached) and found here <http://policy.uconn.edu/2013/02/12/vendor-code-of-conduct/> goes far beyond the state statutes and imposes requirements relative to not only non-discrimination, but also child labor, health and safety, forced labor, harassment and abuse, and environmental compliance.

We support the public policy that state taxpayer money not be used for purchase from vendors who violate the principles of these statutes.

However, there are many types of contracts other than purchasing contracts. Connecticut law cannot reach activities outside of Connecticut, but the statute requires the other party to the contract "in the performance of the contract" to make certain warranties, take certain actions and have its board adopt certain policies (C.G.S. §4a-60(a)(1)). The apparent conflict between the language of the statute and its effective reach results in confusion and anxiety by parties in other states, not to mention overseas. That in turn consumes large amounts of staff and lawyer time and deters some potential partners - including revenue partners - from doing business with us at all.

We do not seek to avoid Conn. Gen. Stat. § 4a-60 and § 4a-60a or its policies. The statutes already provide a mechanism for obtaining exceptions from the Commission on Human Rights and Opportunities (CHRO) (C.G.S. §46a-56(b)). CHRO is charged with reviewing exemption requests from all state agencies on a case-by-case basis. The process is slow (CHRO only meets once a month), cumbersome and labor intensive. A waiver request can only be made after negotiations have failed. All requests must include: (1) a copy of the contract and a description of the purpose of the contract;

(2) a statement of which elements of the statutory provisions the contractor refuses to adopt and the reasons therefor; (3) a statement of the efforts the state has made to induce the contractor to comply with the statutory provisions; and (4) an explanation of why, despite the contractor refusal, CHRO should grant the particular contract with the particular contractor for both the CHRO and the requesting agency. The results are unpredictable and CHRO cannot reasonably be expected to master all of the considerations in an academic collaboration or an industry research partnership.

We are asking that the Board of Regents and the UConn Board of Trustees be given the opportunity to develop policies that can address the way the Non Discrimination provisions are applied to situations other than purchasing and provide for a more effective method of evaluating and granting exemptions. This must be done in a way that meets the goals of Connecticut's Non-Discrimination law, but also allows higher education to fulfill its mission. Again, any Board policy addressing this issue would be adopted in an open, public forum and would be subject to audit.

Proposed Legislative Approach

UConn and the CSCU will continue to comply with the existing higher education purchasing Statute (C.G.S. Section 10a-151(b)) when purchasing goods and services in the United States using State funds.

For other types of contracts, e.g., revenue-generating, academic and industry collaborations, international contracts, non-state funds, etc., the Board of Regents and UConn Board of Trustees would have the ability to develop their own contracting policies - - policies, that can meet the goals of Connecticut laws, while allowing some flexibility to vary from the strict application of the contracting statutes in these circumstances.

These policies would be subjected to the accountability provisions described above.

The statutory requirements of UConn 2000 for capital projects would not be affected.

We would be happy to submit statutory language for your review and consideration.

Conclusion

UConn and CSCU should have the ability to establish contracting policies that will allow contracting to be cost effective, to encourage contracts with industry to support research and technology commercialization, and to facilitate generating revenue. That is good for higher education. And it's good for Connecticut taxpayers.

We greatly appreciate the Committee's consideration and for your ongoing support of the University of Connecticut. We would be happy to answer any questions.

Policies & Procedures

Vendor Code of Conduct

| | |
|--------------------------------------|---|
| Title: | Vendor Code of Conduct |
| Policy Owner: | President's Committee on Corporate Social Responsibility |
| Applies to: | Others |
| Campus Applicability: | Storrs, and Regional Campuses |
| Effective Date: | January 9, 2013 |
| For More Information, Contact | Leslie Langworthy |
| Contact Information: | (860) 486-5898 |
| Official Website: | http://www.csr.uconn.edu/ |

The University of Connecticut ("UConn") has a longstanding commitment to the protection and advancement of socially responsible practices that reflect respect for fundamental human rights and the dignity of all people. UConn strives to promote basic human rights and appropriate labor standards for all people throughout its supply chain. Promoting these values in concrete practice is the central charge of the President's Committee on Corporate Social Responsibility (<http://csr.uconn.edu/>).

UConn is also committed to building a safe, healthy and sustainable environment through the conservation of natural resources, increasing its use of environmentally responsible products, materials and services (including renewable resources), and preventing pollution and minimizing waste through reduction, reuse and recycling. UConn is proactive about purchasing products that have these environmental attributes or meet recognized environmental standards, when practicable, and buying from entities committed to the support of campus sustainability goals. The University seeks to partner and contract with vendors that demonstrate a similar commitment to these values. Selected vendors may be required to provide a comprehensive summary report of their corporate social and environmental practices.

Principal Expectations

The principal expectations set forth below reflect the minimal standards UConn's vendors are required to meet.

Nondiscrimination. It is expected that vendors will not discriminate in hiring, employment, salary, benefits, advancement, discipline, termination or retirement on the basis of race, color, religion, gender, nationality, ethnicity, alienage, age, disability or marital status, and will comply with all federal nondiscrimination laws and state nondiscrimination laws^[1], including Chapter 814c of the Connecticut General Statutes (Human Rights and Opportunities), as applicable, and further will provide equal employment opportunity irrespective of such characteristics, including complying, if applicable, with Federal Executive Order 1124b, and the Rehabilitation Act of 1973.

Freedom of Association and Collective Bargaining. It is expected that vendors will respect their employees' rights of free association and collective bargaining, including, if applicable, complying with the National Labor Relations Act, and, if applicable, Chapters 561 and 562 of the Connecticut General Statutes (Labor Relations Act, Labor Disputes) and Chapters 67 and 68 of the Connecticut General Statutes (State Personnel Act, Collective Bargaining for State Employees).

Labor Standard Regarding Wages, Hours, Leaves and Child Labor. It is expected that vendors will respect their employees' rights regarding minimum and prevailing wages, payment of wages, maximum hours and overtime, legally mandated family, child birth and medical leaves, and return to work thereafter, and limitations on child labor, including, if applicable, the rights set forth in the Federal Fair Labor Standards Act, the Federal Family and Medical Leave Act, the Federal Davis-Bacon Act and Chapters 557 and 558 of the Connecticut General Statutes (Employment Regulation, Wages).

Health and Safety. It is expected that vendors will provide safe and healthful working and training environments in order to prevent accidents and injury to health, including reproductive health, arising out of or related to or occurring during the course of the work vendors perform or resulting from the operation of vendors' facilities. Accordingly, it is expected that vendors and their subcontractors will perform work pursuant to UConn contracts in compliance with, as applicable, the Federal Occupational Safety and Health Act and Chapter 571 of the Connecticut General Statutes (Occupational Safety and Health Act).

Forced Labor. It is expected that vendors will not use or purchase supplies or materials that are produced using any illegal form of forced labor.

Harassment or Abuse. It is expected that vendors will treat all employees with dignity and respect, and that no employee will be subjected to any physical, sexual, psychological or verbal abuse or harassment. It is further expected that vendors will not use or tolerate the use of any form of corporal punishment.

Environmental Compliance. It is expected that vendors will comply with all applicable federal and state environmental laws and Executive Orders, including but not limited to Titles 22a and 25 of the Connecticut General Statutes (Environmental Protection and Water Resources protection) and Executive Order 14 (concerning safe cleaning products and services). UConn expects vendors will employ environmentally responsible practices in the provision of their products and services.

Preferential Standards

The preferential standards set forth below reflect UConn's core values. UConn will seek to uphold these values by considering them as relevant factors in selecting vendors.

Living Wages. UConn recognizes and affirms that reasonable living wages are vital to ensuring that the essential needs of employees and their families can be met, and that such needs include basic food, shelter, clothing, health care, education and transportation. UConn seeks to do

business with vendors that provide living wages so as to meet these basic needs, and further recognizes that compensation may need to be periodically adjusted to ensure maintenance of such living wages. Vendors are encouraged to demonstrate that they pay such living wages.

International Human Rights. For UConn, respect for human rights is a core value. UConn seeks to do business with vendors who do not contribute to or benefit from systemic violations of recognized international human rights and labor standards, as exemplified by the Universal Declaration of Human Rights.

Foreign Law. UConn encourages vendors and vendors' suppliers operating under foreign law to comply with those foreign laws that address the subject matters of this code, provided such foreign laws are consistent with this code. Vendors and their suppliers operating under foreign law are similarly encouraged to comply with the provisions of this code to the extent they can do so without violating the foreign law(s) they operate under.

Environmental Sustainability. UConn will prefer products and services that conserve resources, save energy and use safer chemicals, such as recycled, recyclable, reusable, energy efficient, carbon-neutral, organic, biodegradable or plant-based, in addition to products that are durable and easily repairable, and that meet relevant certification standards above and beyond those required by law. While UConn is not legally bound to comply with Connecticut General Statutes 4a-67a through 4a-67h concerning environmental sustainability standards in purchasing, it will nevertheless consider vendors' ability to meet those standards in rendering its purchasing decisions. Vendors are encouraged to demonstrate their commitment to environmental sustainability.

Compliance Procedures

Anyone who believes a vendor doing business with UConn has not complied or is not complying with this code may contact the University's REPORTLINE at 1-888-685-2637 or <https://www.compliance-helpline.com>. The REPORTLINE is operated by a private (non-University) company. No effort is made to identify the person reporting and no trace of the call is performed. Information received is given to the Office of Audit, Compliance and Ethics, who will evaluate the concerns raised and, if necessary, refer the matter to the most appropriate University office for review.

OACE has the authority to investigate such matters, and if warranted, recommend remedial action to the UConn administration.

[1] Wherever this code refers to compliance with federal or state laws, that term includes compliance with any regulations duly promulgated pursuant to such laws.

Policy Created: January 7, 2013 (Approved by the President's Cabinet)

Revised: July 14, 2015

This entry was posted in [Others](#), [Uncategorized](#).

← Previous

Next →

Frequently Viewed

By-Laws of the University of Connecticut

By-Laws, Rules and Regulations of the University Senate

Information Security Policy Manual

Policy Against Discrimination, Harassment and Related Interpersonal Violence

Reportline

The University welcomes and encourages good-faith reporting of compliance concerns and/or seeking advice regarding compliance issues. Visit <http://audit.uconn.edu/reportline/> for more information.

© University of Connecticut Disclaimers, Privacy & Copyright Webmaster Login