

Do DEI Bans Spell the End for Diverse Procurement? The University of California's Experience Says It Doesn't Have To

by Justin Sullivan

According to ABC News, lawmakers in 29 U.S. States have introduced legislation to restrict diversity, equity, and inclusion (DEI) programs in state agencies, schools, and private companies. As of April, 10 states – Alabama, Florida, Idaho, Indiana, North Carolina, North Dakota, Tennessee, Texas, Utah and Wyoming – implemented significant restrictions on DEI funding and activities.

The impact at universities in those states has been swift. Some universities have disbanded DEI-related programs and positions have been eliminated. What does this mean for diverse procurement programs at these institutions? The University of California's experience may provide some surprising clues about the path forward.

Today California, the world's sixth largest economy, has the reputation for being a laboratory for liberal policy making in areas from sustainability, privacy protection, and universal basic income; and as a champion for LGBTQ+ rights and protecting women's reproductive healthcare. What you may not know, however, is that since 1996 it has been illegal for the University of California, or any California state governmental institution to consider race, sex, or ethnicity in public contracting.

In 1996, Californians voted 54.55% to 45.45% to prohibit state governmental

entities from using race, sex, or ethnicity requirements as the basis for employment, education, or contracting decisions. Despite the real restrictions Proposition 209 places on contracting decisions, the UC system continues to grow Small, Disadvantaged, women-owned, and disabled veteran spend, which exceeded \$1.5 billion in FY 2022-23, 9.15% of UC's total spend.

Several UC campuses were even more successful. UC Santa Barbara and UC Santa Cruz lead the way with 21% and 20% of spend. Our campus, the University of California, San Francisco was able to achieve 16% of our campus spend and was recognized at the 2024 NAEP EPIC conference as the winner of the Eddie H. Jackson Supplier Diversity Award.

What strategies has UC used to engage and encourage diverse businesses in an environment that restricts their diversity status as an explicit consideration for award? According to the University of California's Small Business Utilization Report for FY 2022-23, UC Campuses have found success using some of the following strategies:

1. Collaborating and sharing information with colleagues.

Because of contracting plans required to support federal awards and other legislative reporting requirements, UC continues to track diverse spend. This provides a wealth of data for UC campuses to share within campus communities about suppliers who were successfully serving individual departments and introduce them to a broader campus audience. Similar data is also shared across UC campuses to encourage growth of successful diverse businesses.

2. Networking with the Small and Diverse Business Community.

While Prop 209 restrictions prevent the UC from awarding based on protected statuses, UC reaches out to diverse groups like National Minority Supplier Development Councils and their affiliates to ensure

that their membership is aware of business opportunities of all kinds. In addition, membership in these organizations includes businesses who are also part of categories where preferential awards are permitted, such as small business and veteran owned businesses. Our goal is to make sure businesses know about opportunities, know how to engage UC, and know how to participate in our bid process.

3. Engagement with small businesses and the public that includes general communications and seminars and workshops for small businesses to grow their awareness of how to do business with the university and engagements. We also hold events to connect small businesses with budget holders to help them better understand our purchasing requirements.

At UCSF, we are lucky to have a high-level of institutional support for our efforts. In 2019, the UCSF Anchor Institution Mission was created as a vehicle for UCSF and community partners to collaborate to increase the economic security and opportunity for under-resources populations in San Francisco Bay Area by leveraging UCSF's workforce development, procurement, and community investment resources.

Marliz Copado, a Strategic Sourcing Professional, leads the Anchor Institution Mission's procurement efforts on campus at UCSF. The Anchor Institution Mission includes a Procurement Subcommittee composed of representatives from Bay Area Businesses, local investment and business advocacy organizations and UCSF staff.

The Anchor Institution Mission activates all of UCSF to engage, making it a campus-wide initiative and not just a Supply Chain Management one. Starting from our Chancellor Sam Hawgood and extending to every department are shared goals for increasing our small and diverse spend.

The Anchor Institution Mission has been a beacon demonstrating UCSF's commitment to San Francisco and all members of the Bay Area community. When combined with the UC System's

commitment, the leadership of our advisory boards and the talent of our professional staff, UCSF's award-winning success is likely to continue for years to come.

Ask the Experts:

We asked Marliz Copado, Strategic Sourcing Professional, who leads UCSF's Supplier Diversity and Inclusion Program, Small Business Office, and the Anchor Institution Mission Procurement Pillar; Anchor Institution Mission Procurement Subcommittee co-Chair's Andrew Clark, UCSF's Executive Director of Strategic Procurement, and Doug Parrish, President and CEO of Red Dipper, Inc., a San Francisco-based Electrical Contracting Services provider, what the keys to UCSF's successful program were, and what advice they would have for their colleagues and peers seeking to advance diverse procurement in a difficult environment.

What strategies have been most important to UCSF's Small and Diverse Businesses given the restrictions placed on California public institutions by Proposition 209?

Marliz Copado: "It has been important to be intentional about inclusion, so that business decisions that align with our organizational values and goals can be made. Although we run a race/ethnic neutral program, our efforts in outreach to build relationships and strategically source businesses in our local and regional communities continues. We do our due diligence to maintain compliance with Prop 209 by way of advisement from our in-house legal teams. During COVID-19, we witnessed as a nation the significant gaps in the systemic business practices within the supply chain that were amplified in various ways. Therefore, supplier diversity and inclusion are important to the supply chain for resiliency and contingency planning to keep our business operations moving forward. Additionally, bringing more options to compete in the supply base allows us to find the best fit for our procurement needs and challenges incumbent suppliers to innovate more with us to achieve our goals."

Andrew Clark: "Debunk myths. You certainly have legal restrictions, however, talking with Legal Counsel early about the realities of the restrictions is important. When we started our Anchor Initiative

Program, our team had a wide variety of interpretations and understandings around what we could do or say under California State Law. We obtained legal counsel, and that guidance helped our team align and we shaped a common understanding and strategy for accomplishing our goals."

What advice would you have for peers in colleagues supporting diverse procurement programs in parts of the country where DEI efforts are targeted for elimination or being heavily scrutinized?

Marliz Copado: "My advice is to reframe the conversation, get executive leadership commitments and establish strategic partnerships. It is important to highlight the responsibility that Institutions have to be good financial stewards and make good business decisions. Maintaining a positive impact for inclusion by way of diversity for resilience within the supply chain is not only good for business but also brand recognition. At the end of the day Supplier Diversity and Inclusion Programs add value because they bring a diverse pool of suppliers/vendors to participate in our federal contracts, RFPs, and procurement opportunities. Limiting this possibility can compromise not being able to find the best price, quality of service, or time savings available on a procurement opportunity that aligns with organizational priorities and the customers' needs. Additionally, encourage your incumbent suppliers to support the supplier diversity and inclusion program work also to further permeate the effectiveness of reaching the goals we seek. Continue to advocate and keep fighting the good fight!"

Andrew Clark: "Take advantage of the population overlap between "diverse suppliers" and "small businesses" and establish partnerships with local community organizations. In California, our laws do not permit us to use protected class within our contract award processes. We are permitted to favor small business and we regularly work with community groups who also support local and small businesses.

We keep these organizations informed about our upcoming projects, ongoing supply needs, and other requirements

of doing business with us. In return, those groups help us find quality suppliers who help meet our needs. One specific example was when we partnered with our city's African American Chamber of Commerce to boost the number of certified small businesses in our catering program. They helped us find several new certified small businesses from their constituency, while remaining within our policies and laws." ▼



Justin Sullivan is Associate Vice Chancellor and Chief Procurement Officer for Supply Chain Management (SCM) at the University of California, San Francisco. He serves as the co-Chair of the NAEP's Editorial Committee that publishes the Educational Procurement Journal. In April, Justin was recognized as a Top 10 Supply Chain & Procurement Professional in the OnCon ICON Awards.



Andrew Clark is Executive Director Strategic Procurement at the University of California, San Francisco. Andrew oversees the Campus's Procurement of goods and services including Strategic Sourcing and Contracting. Andrew Clark has extensive experience with the University of California, having held a student position at UC Santa Barbara and staff positions at the UC Office of the President and UC San Francisco.



Marliz Copado is University of California, San Francisco's Strategic Sourcing Professional for Supplier Diversity. She leads the Strategic Procurement strategy of UCSF's Anchor Institution Mission. In collaboration with Supply Chain Management, she works closely with internal customers and external community advocacy groups to increase UCSF's spending with small, local, and diverse businesses. Marliz and UCSF's efforts were recognized in March 2024 with NAEP's Eddie H. Jackson Supplier Diversity Award.