

Service Contracts: UCB's Overlooked Asset

Revised October 17, 2011

David Coit Gilman, President of the University, 1872: *"Toward the good which may follow in commercial intercourse, in mutual good fellowship, and in the promotion of a higher civilization, the University of California must stand ready to do its part"*.

Fact: the Business Contracts Office has executed non-research, profit-making, revenue-generating, service contracts which have generated \$550 million in unrestricted revenue to the campus in the last 10 years. This was done without any formal direction from the campus administration. Simple question: What can be done if we actually made a strategic effort to raise revenue through this channel?

Objective: The objective of this paper is to begin a discussion and debate between the administration, faculty and staff with a goal for the campus to generate an additional \$600 million in unrestricted revenue in 5 years. This paper presents various options which can be selectively chosen by the administration to implement or reject to achieve this goal. It is not a set platform or fixed program to be voted upon in its current state.

1) University Mission

"Public Service" is critical cornerstone of the University's self-defined mission (see <http://www.universityofcalifornia.edu/aboutuc/missionstatement.html>). How have we thought about and reported our efforts to implement this mandate? The latest report, *The Economic Impact & Social Benefits of the University of California, Berkeley 2005 – 2006 reports:*

"Community Engagement Programs

UC Berkeley sponsors over 200 community service programs serving K-12 schools, youth and families, seniors, disabled persons, and underserved urban and rural neighborhoods. Annually, UC Berkeley faculty, staff, and students devote more than 300,000 hours to public service, servicing about 250,000 people in the community and across California... "

These are indeed valuable "public services" however; there is a whole range of service contracts that this report did not mention.

Overlooked, underappreciated - service contracts leverage the University's intellectual property assets for the public good, while generating millions of dollars of unrestricted funds for the campus. But we must think like entrepreneurs to maximize these opportunities.

See the attached list of *Successful Service Contracts* which represent significant financial successes to the respective departments, divisions and ORUs and the campus via unrestricted funds collected through the Administrative Full Costing program.

These service contracts bring out the best of Cal by engaging faculty and an enormously broad array of talented staff who focus on solving problems for our citizens: locally, across the state, the country and the world. There were 10,000 + service contracts entered into by our campus over the last 10 years. Our service contracts have an incredibly broad range of services but each helps people solve problems, learn lessons of value -----and we get paid well in the process!

2) Interpretation of a 1958 Presidential Policy

Recently, the Chief Campus Counsel in consultation with the Office of General Counsel reviewed a policy signed by President Robert Sproul in 1958, referred to as Regulation 4. "Reg. 4" has been a confusing impediment to entering into service contracts, because it was thought by some on campus that there needed to be "satisfactory facilities" on campus which were not available in the region, before a faculty member could become engaged in providing services to a commercial company.

Based on a recent clarification however, Reg. 4 divides service into two categories: (A) service that is "of a purely commercial character" (not allowed if available elsewhere); and (B) service that provides valuable experience, expands knowledge, or "is appropriate public service".

This standard of "appropriate public service" helps to clarify the scope of possible service contracts which the campus may engage in: locally, nationally and internationally.

As a result of this clarified interpretation, the following activities have been launched to start to change the campus into a service contracting culture:

- ***"Contracting - the 5 Ws"*** a three hour seminar was launched on 2-25-11. This seminar clarifies the respective roles of the various campus offices: SPO, BCO, OTL, IAO. But equally important, the class asks campus staff to help by generating ideas/proposals/networks for service contracts. Great ideas will come from the people who work in the field. But we must be organized and educated to act quickly and appropriately.
- ***Intellectual Property Law "Top Gun" class*** – This intensive class, on an invitation-only basis, has been offered to senior campus staff (CFOs, COOs) to educate them in spotting/identifying/creating intellectual property opportunities for non-research, revenue-generating, profit-making service contracts. The new class is intensive: 15 weeks, 2 hours per week, text book, mid-term and final exam and in-depth research paper designed to specifically generate revenue for that department.

3) To establish an Entrepreneurial Administration and a Legacy for Cal

The administration needs to establish organizational and process changes in-house to achieve the above described goal:

- Create a position of **Associate Vice Chancellor – Service, reporting to the Vice Chancellor Administration and Finance** and fill the position immediately. To be successful, this function must have equal prominence with research and education.
- The job description could list:
 - Generate \$600m in new revenue in 5 years or less through service contracts.
 - Change the campus culture into a *nimble, entrepreneurial, revenue-based service partner to the world*.
 - Develop and exploit local and regional networks of partners to seek out a broad range of service contracting opportunities and have qualified proposals presented to the campus departments.
 - Involve the California Alumni Association throughout the world to seek out and qualify proposals for service contracts – pay a finder’s fee where appropriate.
 - Develop and exploit a network of professional third party representatives around the world, who will be paid a commission on qualified service contracts.
 - Be the voice and face, along with the Chancellor and Vice Chancellor Administration and Finance, in developing a permanent legacy for Cal, *the service partner to the world*.
- Minor incremental funding can be provided from the Administrative Full Costing Fund which is directly funded by revenue created from these types of service contracts.
- Rename the Business Contracts Office to be the “Service Contracts Office” and restore it to full staffing levels. Currently, the 4 person staff of the BCO has been cut by 15%, even though the office functions as a revenue-generator, and the source of staffing payroll is predominantly state 19900 funds. Have the office report to the new AVC-Service Contracts.
- **Service Contracts Task Force 100** – Ask two iconic campus leaders (Dean Shortell of SPH had indicated an interest in helping) to chair a twice annual lunch in the Chancellor’s Conference Room for **Task Force 100** which will be a group of 100 Bay Area companies who would be invited to submit proposals to the campus for non-research, revenue-generating, service contracts. The proposals would be submitted directly to the respective campus dean or director for evaluation, all at no cost to the University.
- Create a **Chancellor’s Outstanding Service Contract Faculty Award** – Promote to faculty that they can “come to the University’s rescue” by offering their time, talents and technology to create, lead, consult and otherwise be involved with non-research, revenue-generating service contracts.

This is not to be confused with the Cal Corps Faculty Awards for Community Service; as we are not minimizing the importance of local community service. We are however asking the faculty to engage their technical and research expertise to leverage intellectual property assets to do “appropriate public service” and make money for their department.

- Direct the Academic Personnel Office to include and broaden the faculty advancement system with quantifiable career advancement credit to recognize faculty service contracts efforts in leveraging university and their own intellectual property for the financial welfare of their department.
- Create a comparable Chancellor’s *Staff* Service Contract Award and career recognition rewards. We believe that a qualified employee who submits a proposal that produces monetary value to the campus may be awarded a cash “Spot Award”.
- Support the Intellectual Property Law *Top Gun* class by requesting all invited senior staff, regardless of the other pressing matters, to attend (on a mandatory basis).
- Support the “*Contracting 5 Ws?*” by requesting Deans and Directors to direct their entire appropriate staff to attend (on a mandatory basis).

4) How could it work?

The department is the big winner. The only assessment on non-research, revenue-generating, profit-making, service contracts is the current 7% assessment for the Administrative Full Costing Fund. The percentage can be easily changed as dictated by the administration to increase the contribution into the main campus funds.

Representative Agreements – For 14 years the BCO has been executing “representative agreements” normally used to pay a commission to an individual, company, college or university if the “representative” were to recruit students to various programs of Summer Sessions, UNEX or other CSHE programs. The representative agreement sets forth exactly what can be said and not said i.e. “not an agent of the University”, “not a decision maker” etc. – the representative is an “opportunity bearer only” in a designated geographic area. The commission is usually around 10% to 15%.

Why not engage by contract responsible representatives to develop non-research, profit-making, service contract proposals and compensate the representative with a 15% finder’s fee based on the revenue generated from approved projects?

Representative agreements are perfectly consistent with University regulations and practice. This is an immediate way to get a small army of qualified representatives working for us without cost!

What other options does the campus have?

Where are there other **easily available major** sources of new unrestricted money?

- Research? – no ;
- Student tuition hikes? – painful;
- Alumni and benefactors? – no;

- State funding – no.

The logical option for new, unrestricted revenue is non-research, profit-making, service contracts, the *overlooked asset of the campus*. Through our historical and university mission of public service, we can return prominence to our public service roots, create meaningful partnerships and benefit the city, state, country and world, while generating critically needed revenue.

Conclusion: This campus is in the worst financial crisis since the Great Depression, and we have an opportunity to significantly increase revenue through service contracting. We must quickly return to our roots in public service---not just to react to the current state budget (today), but also to plan for future budgets where the state may be funding as little as 8% of the budget of this campus.

The Need: Immediately establish an entrepreneurial culture in the administration of this campus.

Robert Gordon Sproul, President of the University 1930: *"It is of the people and for the people—not in any low or unworthy sense, but in the highest and noblest relations to the intellectual and moral well-being"*.

The attached White Paper entitled "Service Contracts: UCB's Overlooked Asset" is respectfully submitted this October 17, 2011.



Brian C. Donohue, Business Contracts Administrator
412 O'Brien Hall
donohue@berkeley.edu c 925-435-7203

Successful Examples

Non-Research, Profit-Making, Service Contracts.

Consulting: School of Public Health – acts as a consultant to governmental agencies in advising on infectious disease control, while other SPH units provides consulting on Fair Labor practices to a private sector company which obtained a federal government grant. Note the consulting service may be provided to a for-profit company where the result of the effort is to pursue a clear public purpose.

Professional Education: Haas School of Business – has been conducting Executive Education all over the world with private companies that are pay significant sums to train the company's managers in the latest business skills.

Memberships: The Center for the Study of Higher Education - has created a student survey instrument where schools around the country, and now the world, will pay a membership fee to join the consortium of users of the instrument – for a not insignificant membership fee.

Curriculum Development: Lawrence Hall of Science - has entered into many publishing agreements with private companies to produce world-class curriculum for math and science for middle to high school which is being sold all over the world with significant financial return.

Exhibitions: The Berkeley Art Museum – has developed and licensed an incredible range of art for audiences all around the country retaining the proceeds from the art patrons.

Fee for Use: College of Engineering - has specialized equipment/labs which have been made available to the private sector for a fee – the outside user retains the test results and all related intellectual property.

Education of the Public: University Extension conducts 650+ classes each semester to teach mid-level management skills to members of the public and is equipped to assist campus units which desire administrative support for classes to the public.

Sponsorships: The Recreational Sports Department signs up over 100 sponsors each year so the private company can advertise and be seen at the Rec Sports Facility during all the special events there. For example the *Caltopia* event brings in 35,000 students, family and friends to the Recreational Sports Facility in just two days.

Equipment Acquisition – The Marvell Nanofabrication Lab entered into an agreement for an electron beam nanolithography tool (e-beam nanowriter) at a deep discount in exchange for regular vendor access to the equipment. The e-beam nanowriter is used for drawing the finest line features possible (down to 10 nanometers) in semiconductor substrates. This technology is used by a wide range of nanotechnology research and specifically enables development of next generation transistor technology. The tool and all supplied options retail for approximately \$2M.

The contract enabled tool delivery for a total price of \$750K with only a \$300K down payment and payment period of 5 years for the remaining balance.

Personal Services – **School of Optometry** provided Lasik eye surgery services to the public due to a public service contract with Pacific Laser Inc. which provided the surgical equipment and the surgeons, who became members of the UC faculty. With this technology Optometry students witness to the latest surgical techniques

Licensing of Engineering Software - **Civil Engineering** licenses all over the world an incredible software program that describes how to design a nuclear power plant – no-kidding! The UC license agreement provides deep protection of the University for potential liability from nuclear damage if the software program is used in production.

Developing technology– The **Blum Center** has invested in a remarkable solar-powered power plant to provide light and electricity to women who are giving birth in third world countries. Contracts are being worked on to exploit the technology by micro-miniaturization (getting it to fit inside a suitcase!), intellectual property protection and most importantly, safety for the birthing mothers.

Licensing of Business Applications – the **Recreational Sports Department** has teamed up with UCLA and UC Davis to create several business applications for the successful operation of a college recreational sports complex. The three partners then entered into an agreement with a for-profit company to market and license the software application throughout the country – for licensing fees in return.

Community Service – the **Center of Educational Partnership** is hired for fees by various governments and school districts to teach programs in high schools which espouse values which are not available in these local schools i.e. college bound planning.

Academic Affiliations – **Summer Sessions/UNEX/College of Engineering** enter into contracts for educational programs abroad where UC students can travel overseas or foreign students can come to the UCB campus to take classes.

Web-based services – the **Center for Built Environments** has developed an innovative web based tool where private companies, governments pay a fee and gain access to the web based tool.

There are literally thousands of examples of where the intellectual property, the resources and the people of this campus have provided services contracts for a responsible fee/royalties/commissions/profit or trade.

The only major limitation is our own imagination to see the possibilities.