
Internal Audit Report

Fair Wage/Fair Work Review

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I. EXECUTIVE SUMMARY

Audit & Management Advisory Services has completed an audit to evaluate the controls in place to ensure compliance with UC Fair Wage/Fair Work policy.

UCSC Procurement & Supply Chain Services (Procurement) continues to make progress in developing controls to ensure compliance with the Fair Wage/Fair Work provision. Its recent improvements based on last year's audit include the development of an FW/FW contract tracking system and providing training to procurement staff.

The Fair Wage/Fair Work (FW/FW) provision language included in contracts is consistent with the language in the applicable version of the standard UC terms and conditions. This is explicit in master agreements and is incorporated into purchase orders by reference.

We noted an area for improvement with regards to vendor audit certifications for suppliers with over \$100,00 in annual contract services. Procurement has communicated with the suppliers; however, one of the suppliers has not responded and another supplier continues to have difficulties in locating an affordable audit resource. There are ongoing systemwide efforts to resolve these kinds of issues.

Based on our audit testing of applicable Fair Wage/Fair Wage contracts and our review procedures, we concluded that the current efforts and processes established by Procurement are adequate to ensure compliance with the Fair Wage/Fair Work policy requirements. Procurement should continue to participate in the ongoing systemwide effort to resolve some of the issues encountered with supplier audit certifications.

II. INTRODUCTION

Purpose

The purpose of this review was to evaluate the controls over the implementation of the Fair Wage/Fair Work policy that ensure service providers are complying with this policy.

Background

On July 22, 2015, UC President Janet Napolitano announced at the UC Regents Meeting that UC would become the first public university in the United States to voluntarily establish a minimum wage of \$15/hr. The implementation of this policy was to gradually introduce the UC fair wage. This was made effective on October 1, 2015, starting at \$13/hr.; then on October 1, 2016, at \$14/hr.; and finally on October 1, 2017, at \$15/hr. This policy not only applied to UC employees; it also applied to all service providers who perform services for the University at one or more UC locations.

The Fair Wage/Fair Work (FW/FW) policy is included in the UC BFB-BUS-43 Materiel Management Policy as follows:

Section II. Definitions

Fair Wage/Fair Work Services: Fair Wage/Fair Work Services include all services to be performed for the University at one or more UC Locations. Fair Wage/Fair Work services requirements do not apply to: (i) contracts funded by extramural awards containing sponsor-mandated terms and conditions, or (ii) endowment or investment property where the purpose is to generate income from the general public, except to the extent such property is used by the University in furtherance of its mission.

UC Fair Wage: The UC Fair Wage shall equal \$13 per hour as of 10/1/15, \$14 per hour as of 10/1/16, and \$15 per hour as of 10/1/17.

Section III, Part 1: E.1.d. Fair Wage/Fair Work:

i. General Requirements: University of California requires that Suppliers of Fair Wage/Fair Work Services, including Suppliers of Public Works, pay their employees performing the Services no less than the UC Fair Wage.

ii. Contracting Procedures: All contracts for UC Fair Wage/Fair Work Services must contain a provision substantially in the form of the UC Fair Wage/Fair Work Article in the UC Terms and Conditions of Purchase.

iii. Exceptions: Any exceptions to this Policy must be approved as follows: by the Chief Procurement Officer for a non-UC Health systemwide or Office of the President contract; by the AVP, UC Health Procurement for a UC Health systemwide contract; and otherwise by the senior procurement officer of the campus, medical center, or Lawrence Berkeley National Laboratory.

The standard UC Terms and Conditions of Purchase as Article 25. Article 25 states:

If the Services will be performed at one or more UC Locations, do not involve furnishing goods, and are not subject to extramural awards containing sponsor-mandated terms and conditions, Supplier warrants that it is in compliance with applicable federal, state and local working conditions requirements, including but not limited to those set forth in Articles 11, 12 and 14 herein, and that Supplier pays its employees performing the Services no less than the UC Fair Wage. Supplier agrees UC may conduct such UC Fair Wage/Fair Work interim compliance audits as UC reasonably requests, as determined in UC's sole discretion. Supplier agrees to post UC Fair Wage/Fair Work notices, in the form supplied by UC, in public areas (such as break rooms and lunch rooms) frequented by Supplier employees who perform Services.

For Services that exceed \$100,000 annually and are not subject to prevailing wage requirements, Supplier will, a) at Supplier's expense, provide an annual independent audit performed by Supplier's independent auditor or independent internal audit department in compliance with UC's required audit standards and procedures (<http://insidepublicaccounting.com/newsletters/ipa-100-and-ipa-200>), concerning Supplier's compliance with this provision, and b) ensure that in the case of a UC interim audit, its auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recently audited time period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work certification annually, in a form acceptable to UC, no later than ninety days after each one year anniversary of the agreement's effective date, for the twelve months immediately preceding the anniversary date.

Scope

We conducted this review by means of the following

- Interviewed Procurement director and assistant director
- Reviewed:
 - BFB-BUS-43 Material Management Policy
 - UC Terms and Conditions
 - UC Procurement Services FW/FW resources
- Requested Procurement lists of all contracts with the FW/FW provision for calendar year 2017
- Reviewed a judgmental sample from that list to verify that Article 25 pertained to them
- Requested Procurement for audit certification forms obtained from relevant service suppliers
- Contacted a supplier and discussed annual audit requirements
- Participated in weekly system-wide conference calls with other auditors working on this review

III. RESULTS AND DETAILED ANALYSIS

A. Verifying Fair Wage/Fair Work Provision

Based on our audit testing of applicable contracts to the Fair Wage/Fair Work plan we concluded that the current processes established by Procurement are adequate to ensure compliance with the Fair Wage/Fair Work policy requirements. We have no recommendations.

FW/FW contracts are for services (not goods) provided at UC locations. A contracting document may be a master agreement or a purchase order. Purchase orders may be associated with a master agreement, a blanket purchase order, or may be the sole contracting document. Purchase orders (PO) incorporate UC terms and conditions by reference unless different terms are expressly assented to in writing. Master agreements identify the terms and conditions that apply, often as an addendum. The FW/FW article applies to service contracts since October 1, 2015. Contracts with an earlier start date do not require the FW/FW article unless they are amended or renewed.

We requested from Procurement reports for calendar year 2017 listing contracts in which the FW/FW provision applied. Procurement had created a FW/FW checkbox in the CruzBuy requisition summary screen that buyers check off if the FW/FW provision applied. They used this as a parameter to generate the requested report. Per the audit plan, our intention was to review a judgment sample of at least 10 percent of the 2017 contracts for appropriate wording of the FW/FW article; obtain and review certification forms for all suppliers with campus-based service contracts that exceeded \$100K; and select one contract over \$100K for additional audit steps.

The list of 2017 service contracts we received were for over 850 vendors and over 5000 purchase orders. UCOP suggested that we ask Procurement Services instead for a list of master agreements from which we could review a 10% sample. Procurement does not flag the master agreements with the FW/FW provision. Therefore, we revised the number of contracts we sampled. There were 35 vendors with contracts exceeding \$100K; 29 were campus contracts and the remainder were UCOP agreements. We reviewed the 29 contracts and determined that the Fair Wage/Fair Work provision was included where applicable.

We also reviewed a judgemental sample of 18 service contracts less than \$100K. Five contracts were prevailing wage projects and therefore FW/FW was not applicable. One contract was for commodities only and therefore FW/FW was not applicable. The remaining 12 contracts all included the Fair Wage/Fair Work provision.

B. Verifying Annual Audit Certifications

Based on our review procedures, we concluded that the current efforts by Procurement were generally adequate to ensure compliance with the Fair Wage/Fair Work policy. Procurement should continue to participate in the ongoing systemwide effort to resolve some of the issues encountered with supplier audit certifications.

The UC Terms and Conditions, Article 25, includes the following statement:

For Services that exceed \$100,000 annually and are not subject to prevailing wage requirements, Supplier will, a) at Supplier's expense, provide an annual independent audit performed by Supplier's independent auditor or independent internal audit department in compliance with UC's required audit standards and procedures (<http://insidepublicaccounting.com/newsletters/ipa-100-and-ipa-200/>), concerning Supplier's compliance with this provision, and b) ensure that in the case of a UC interim audit, its auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recently audited time period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work certification annually, in a form acceptable to UC, no later than ninety days after each one year anniversary of the agreement's effective date, for the twelve months immediately preceding the anniversary date.

As contracts that accumulate value over a year (not just in one transaction) qualify for the annual independent audit, buyers will have to identify suppliers that they estimate will satisfy this criterion and track them for the annual notice of audit certification.

Procurement sent letters in May 2017 to the applicable suppliers reminding them of the annual audit certification requirement. Procurement then sent follow up emails in December 2017. One of the suppliers has remained in contact with Procurement and is attempting to locate an affordable audit resource. The other supplier has not responded to Procurement's contact.

We contacted a supplier with a contract worth over \$100K to determine if it had provided an independent audit for the applicable period. The supplier had not provided the audit. It appeared that they were not aware of their obligation. However, as noted above, they had been contacted by the Procurement, but did not respond.

The Procurement director has indicated that the Procurement Leadership Council, which consists of all 10 campuses' chief procurement officers, as well as the chief procurement officer for UCOP, has discussed the challenges of the supplier annual audit certifications. There is a systemwide plan to put a contract in place (possibly a small/diverse business) that UC suppliers could use as an auditor resource at a reasonable cost.

APPENDIX - Summary of Work Performed and Results

Preliminary Survey and Risk Analysis	
Work Performed	Results
<ul style="list-style-type: none"> We conducted a preliminary survey to identify the UC policy and UC standard terms and conditions that include the FW/FW provision. We obtained FW/FW resources from UC Procurement Services at UCOP. 	<p>UC BFB-BUS-43 Materiel Management Policy and Article 25 from UC standard terms and conditions are stated in the background section of the Introduction.</p> <p>UCOP resources included:</p> <ul style="list-style-type: none"> Contract Scenarios Renewals and Extensions Process Fair Wage/Fair Work Decision Tree FAQ (Fair Wage/Fair Work) A Guide to Fair Wage/Fair Work by Commodity Annual Audit Supplier Certification Process (Fair Wage/Fair Work) Annual Audit Standards and Procedures (Fair Wage/Fair Work) Fair Wage/Fair Work Training

Verifying FW/FW Provision	
Work Performed	Results
<ul style="list-style-type: none"> We obtained the list of all 2017 contracts with the Fair Wage/Fair Work provision. We reviewed a judgmental sample of contracts with FW/FW provisions executed during 2017 to verify that the FW/FW provision language was consistent with the language in the applicable version of the UC standard terms and conditions. We requested a list of all FW/FW policy exceptions granted during the year. 	<ul style="list-style-type: none"> We received a report listing all FW/FW contracts during 2017 which was comprised of over 850 vendors and 5000 purchase orders. Procurement Services is unable to provide a list of master agreements as they are not flagged for the FW/FW provision. FW/FW provision language was consistent with the language in the applicable version of the UC standard terms and conditions. This was accomplished by either stating Article 25 as applicable in a master agreement addendum and including UC standard T&C as an attachment, or by reference in purchase orders. During our entrance meeting, the Procurement director stated that no FW/FW exceptions had been granted during the year.

Verifying Annual Audit Certifications	
Work Performed	Results
<ul style="list-style-type: none"> • We requested certification forms for all FW/FW contracts that satisfied the annual audit criteria. • We reviewed the report provided by Procurement Services to identify suppliers who satisfied the criteria for an annual audit certification. • We contacted one of the identified suppliers and requested their certification workpapers and audit report. 	<ul style="list-style-type: none"> • To date, no supplier has provided an annual audit certification. Procurement Services sent reminder letters to the applicable suppliers in May 2017 and sent followup emails in December 2017. • Two contracts satisfied the criteria for annual audit certification. • The supplier had not had the annual audit certification performed and did not appear to be aware of their obligation. Procurement Services had written a reminder letter and followed up with an email; but the supplier did not respond.

Exceptions to FW/FW	
Work Performed	Results
<ul style="list-style-type: none"> • We requested a list of exceptions granted to the FW/FW provision during the year. 	<ul style="list-style-type: none"> • The Procurement director stated that no exceptions were granted during the year.