
Audit Report

Fair Wage/Fair Work (systemwide)

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Laurie Liao
Senior Auditor

Approved
James Dougherty, Director
Audit & Management Advisory Services

Table of Contents

I. EXECUTIVE SUMMARY	2
II. INTRODUCTION	
Purpose.....	3
Background.....	3
Scope	5
III. OBSERVATIONS REQUIRING MANAGEMENT CORRECTIVE ACTION	
A. Procurement – Annual Verifications.....	6
B. Real Estate – Annual Verification and Follow-Up	7
APPENDIX A. SUMMARY OF WORK PERFORMED AND RESULTS.....	8

I. EXECUTIVE SUMMARY

Audit & Management Advisory Services (AMAS) has completed an audit to evaluate the controls in place to ensure supplier and tenant compliance with the UC Fair Wage/Fair Work Plan (FW/FW Plan). This audit was included in the FY 2020 internal audit plan as a systemwide audit.

Procurement and Supply Chain Services – Processes are adequate to ensure the appropriate FW/FW provision is included in all appropriate contracts, FW/FW contracts are identified and tracked, and supplier annual verifications are monitored. However, we identified two suppliers subject to the annual verification requirement that did not have a current master agreement on file, which is required for suppliers that exceed \$100,000 annually.

Real Estate Services – Annual verification procedures could be improved to ensure appropriate monitoring and consistent follow-up steps. Specifically, we found one of the identified space leases did not submit an annual verification form. Although there was no verification or follow-up process being performed at the start of our audit, new management indicated they will initiate a procedure to ensure the completion of annual verification forms and follow-up with tenants as appropriate.

The following observations requiring management corrective actions were identified:

A. Procurement – Annual Verifications

Two suppliers subject to the annual verification requirement did not have a current master agreement on file, which is required for suppliers that exceed \$100,000 annually.

B. Real Estate – Annual Verification and Follow-Up

Annual verification documentation for all leases and licenses subject to Fair Wage/Fair Work was not consistently maintained, and appropriate follow-up procedures were not being performed.

Management agreed to all corrective actions recommended to address risks identified in these areas. Observations and related management corrective actions are described in greater detail in section III of this report.

II. INTRODUCTION

Purpose

The purpose of this audit was to evaluate the controls in place to ensure supplier and tenant compliance with the UC Fair Wage/Fair Work Plan (FW/FW Plan). This audit was included in the FY 2020 internal audit plan as a systemwide audit.

Background

On July 22, 2015, University of California President Janet Napolitano announced a new minimum wage plan for University of California (UC) employees. With this plan, UC is the first public university in the United States to voluntarily establish a \$15/hour minimum wage. Titled the “UC Fair Wage/Fair Work Plan”, the program guarantees that UC employees hired to work at least 20 hours a week are paid at least \$15 per hour. This was made effective on October 1, 2015, starting at \$13/hr.; then on October 1, 2015, at \$14/hr.; and finally on October 1, 2017, at \$15/hr. This plan not only applies to UC employees; it also applies to all service providers who perform services for the University at one or more UC locations.

Under the plan, services performed for the University at one or more UC locations became subject to the FW/FW Plan. However, the FW/FW plan does not apply if the agreement:

- Is only for the furnishing of goods.
- Involves services not performed at one or more UC campuses, labs or medical centers.
- Involves services that are a Public Work with a wage determination *at or above* the UC Fair Wage.
- Involves services funded by an extramural award containing sponsor-mandated terms and conditions (federal, state or private foundation, research grants).

Contracts subject to the FW/FW Plan must also contain a provision in the UC Terms and Conditions of Purchase that references the UC FW/FW Plan requirements (see Table 1).

Beginning FY 2020, there was an action to streamline the FW/FW audit verification process specific for professional services and consultant contracts by allowing suppliers to pre-certify that they will not employ anyone on-site at a lesser rate. This change would enable certain high-wage suppliers to bypass the mandatory annual certification and audit requirements. This resulted in the development of the “Professional Services Exemption Form”.

For all other services that exceed \$100,000 in a 12-month period, suppliers are required to perform an annual independent verification, at the supplier’s expense, concerning the supplier’s compliance with the FW/FW provision.

<p>Table 1</p>	<p>The UC Terms and Conditions of Purchase, Article 25 – Fair Wage/Fair Work (vers. 2/6/19)</p>
<p><i>If the Agreement is for Services that will be performed at one or more UC Locations, does not solely 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.</i></p> <p><i>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 verification (https://www.ucop.edu/procurement-services/policies-forms/fw-fw-ppaca-resources/fw-fw-annual-verification-form-1.15.19.pdf) performed by a licensed public accounting firm (independent accountant) or the Supplier’s independent internal audit department (http://na.theiia.org/standards-guidance/topics/Pages/Independence-and-Objectivity.aspx) in compliance with UC’s required verification standards and procedures (https://www.ucop.edu/procurement-services/policies-forms/fw-fw-ppaca-resources/fw-fw-annual-verification-standards-procedures-1.15.19.pdf), concerning Supplier’s compliance with this provision, and b) ensure that in the case of a UC interim audit, its independent accountant/independent internal auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recent verification period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work verification 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.</i></p>	

Scope

We conducted this audit by means of the following:

- Interviewed Procurement and Supply Chain Services and the Real Estate Services units to obtain an understanding about the process by which these units ensure the completeness of the list of contracts, leases, or licenses with the Fair Wage/Fair Work (FW/FW) provision and all FW/FW policy exceptions.
- Reviewed UC policy and guidance concerning the UC FW/FW Plan, including:
 - UC Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management
 - UC Terms and Conditions
 - UC FW/FW resources
- Requested the current list of all contracts, leases, and licenses with the FW/FW provision for calendar year 2019 and all FW/FW policy exceptions that were granted.
- From the provided lists, reviewed a judgmental sample to verify that Article 25 was applicable and that the provision language is consistent with the applicable version of the standard terms and conditions and lease/license forms.
- Requested and reviewed the annual verification documentation and pre-certification exemption forms. For any contracts pre-certified as exempt for professional services, reviewed contracts to ensure that wage rates were specified as required.
- Requested and reviewed the annual verification documentation maintained for all contracts with services that exceed \$100,000 in the last year.
- Requested the annual verification documentation maintained for all leases and licenses subject to FW/FW.
- Requested and reviewed the work papers for one procurement contract that incurred services over \$100,000 in the last year.
- Inquired about the verification process to ensure that there is an adequate process in place to monitor and follow-up with suppliers and tenants.
- Participated in systemwide conference calls, follow-up on prior audit noncompliance, and reported statistics.

For additional details, please see Appendix A. Summary of Work Performed and Results.

III. OBSERVATIONS REQUIRING MANAGEMENT CORRECTIVE ACTION

A. Procurement - Annual Verifications		
Two suppliers subject to the annual verification requirement did not have a current master agreement on file, which is required for suppliers that exceed \$100,000 annually.		
Risk Statement/Effect		
Noncompliance with the FW/FW Plan guidance.		
Agreement		
A.1	For identified suppliers that exceed \$100,000 without a current agreement, Procurement and Supply Chain Services will evaluate awarding a master agreement.	Implementation Date
		November 30, 2020
		Responsible Manager
		Procurement and Supply Chain Services Director

A. Procurement – Annual Verifications – Detailed Discussion

Procurement and Supply Chain Services (Procurement Services) processes are adequate to ensure the appropriate FW/FW provision is included in all appropriate contracts, FW/FW contracts are identified and tracked, and supplier annual verifications are monitored.

When performing an analysis of the annual verification form, we received three verification forms and observed the following:

- One verification form was provided past 90 days of the agreement anniversary date (eight days past due). However, we understand that Procurement Services initiated a more robust follow-up process with suppliers after our prior year’s audit, which was not fully implemented until the end of summer 2019.
- Two suppliers subject to the annual verification requirements do not have a master agreement with the campus. Based on guidance, *“if a supplier is providing services for over \$100,000 in a 12 month period without an agreement, then the location needs to conduct an RFP and award a contract (master agreement). The date the agreement is executed is the anniversary date. Any other period, such as calendar or fiscal year, must be approved by the Policy Exception Authority (PEA) as an exception.”*

B. Real Estate – Annual Verification and Follow-Up		
Annual verification documentation for all leases and licenses subject to Fair Wage/Fair Work was not consistently maintained, and appropriate follow-up procedures were not being performed.		
Risk Statement/Effect		
Noncompliance with FW/FW Plan requirements.		
Agreement		
B.1	Real Estate Services will obtain annual verification documentation for the remaining lease contract identified. An internal procedure will also be documented to ensure appropriate follow-up.	Implementation Date
		November 30, 2020
		Responsible Manager
		Real Estate Services Director

B. Real Estate – Annual Verification and Follow-Up – Detailed Discussion

We found that annual verifications procedures could be improved to ensure appropriate monitoring and consistent follow-up steps. When reviewing the annual verifications, we found the following:

- Three out of four verification forms were received. Real Estate informed us they are in the process of continuing to pursue a verification form for the remaining space lease.
- Real Estate Services initially informed us that there was no verification or follow-up process being performed. New management indicated the unit would begin to initiate the completion of the annual verification forms and follow-up with tenants as appropriate when forms are past due.

APPENDIX A. SUMMARY OF WORK PERFORMED AND RESULTS

Preliminary Survey	
Work Performed	Results
<ul style="list-style-type: none"> Identified relevant UC policies and UC Terms & Conditions that include the FW/FW provision. Obtained FW/FW resources from UC Procurement Services at UCOP. Reviewed relevant audit or advisory reports conducted at UC campuses. 	<p>FW/FW provision is included in UC Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management and UC Terms & Conditions Article 25, which are stated in the background section of the Introduction.</p> <p>The most relevant UC resources include those on the Fair Wage/Fair Work & PPACA Resources webpage and other systemwide guidance:</p> <ul style="list-style-type: none"> Fair Wage/Fair Work FAQ Professional Services Exemption Form Annual Verification Standards and Procedures for Fair Wage/Fair Work Supplier Annual Verification Process A Guide to Fair Wage/Fair Work by Commodity Fair Wage/Fair Work Auditor Contact List Contract Scenarios Fair Wage/Fair Work Plan Applicability to Real Property Leased or Licensed To or By the Regents of the University of California

Reporting	
Work Performed	Results
<ul style="list-style-type: none"> Perform an analysis of FW/FW contracts and verification records and statistics. 	<p>Communicated with Procurement and Real Estate Services prior to completion and submission to UCOP.</p>

Procurement and Supply Chain Services Area – Work Performed	
Fair Wage/Fair Work Provision	Results
<ul style="list-style-type: none"> • Obtained the list of all contracts with the Fair Wage/Fair Work (FW/FW) provision and all FW/FW policy exceptions that were granted in calendar year 2019. • Inquired about the process by which Procurement Services ensures the completeness of the list of contracts with the FW/FW provision and all FW/FW policy exceptions. • Reviewed a judgmental sample to verify that the FW/FW provision language was consistent with the language in the applicable version of the UC Terms & Conditions. 	<ul style="list-style-type: none"> • We received a report listing all contracts, including those that are Fair Wage/Fair Work (FW/FW) applicable, during CY 2019, which consisted of 3,448 vendors. Procurement and Supply Chain Services (Procurement Services) also confirmed that no FW/FW policy exceptions had been granted for services executed during CY 2019. • Procurement Services ensures the completeness of the list of contracts with the FW/FW provision through the inclusion of a check box for all orders in CruzBuy, the campus e-procurement system, to identify whether the purchase is subject to the FW/FW provision. Reports can be generated through this system. Furthermore, a database has been established to track contract anniversary dates and spend for services that exceeded \$100,000 annually. • We judgmentally selected 25 contracts in CruzBuy for review and found the following: <ul style="list-style-type: none"> ○ 20 contracts in CruzBuy link to the UC Systemwide Forms & Documents site. However, there is also supplemental FW/FW language to ensure the supplier is aware of the FW/FW plan requirements, but this may not match the original purchase order clause. ○ Two contracts where the appropriate provision is included as an attachment in CruzBuy. ○ Three contracts are for projects with prevailing wages.
Professional Services Exemptions	Results
<ul style="list-style-type: none"> • Requested contracts in the audit period which were pre-certified as exempt for professional services. We also requested the applicable UC FW/FW Professional Services Exemption form. • Reviewed the contracts to ensure that the wage rates were specified as required. 	<ul style="list-style-type: none"> • Suppliers for 13 contracts submitted Professional Services Exemption forms. However, we identified that one was largely not subject to the FW/FW requirements, so wage rates were not reviewed. • One supplier’s contracts indicated the wage rate of the employee was above \$15/hr. The remaining 11 suppliers had contracts indicating the bill rate, which we used to estimate the wage rate exceeded \$15/hr.

Procurement and Supply Chain Services Area – Work Performed	
Supplier Annual Audit Verification	Results
<ul style="list-style-type: none"> • Requested and reviewed the annual verification documentation maintained for all contracts with services that exceed \$100,000 in the last year. • Reviewed the verifications received and identify any instances in which the supplier did not pay the proper rate. • Inquired about the verification process. Also inquired if Procurement send outs progressive follow-up letters. 	<ul style="list-style-type: none"> • We obtained three annual audit verification forms. • In all cases, the forms indicated there were no instances in which the supplier did not pay the proper rate. • Procurement Services ensures that suppliers are formally notified via letter of their obligation to provide an independent audit ensuring compliance with the UC FW/FW Policy. At least one follow up reminder is sent via email to each supplier checking the status of their audit. If a supplier does not provide an acceptable audit within 90 days, then UCSC will either issue a notice of contract termination for default, or issue the supplier an exception (waiver) to the FW/FW audit requirement. • We also obtained an example of the follow-up letters. • We also observed the following: <ul style="list-style-type: none"> ○ In one case, the verification form was signed past 90 days of the anniversary date (eight days past due). ○ In two cases, the supplier did not have a master agreement.
Supplier Annual Audit Procedures	Results
<ul style="list-style-type: none"> • Contacted one of the identified suppliers and requested their annual verification work papers. • Validated whether required audit procedures were followed correctly. 	<ul style="list-style-type: none"> • Contacted one supplier and reviewed their work papers. • Audit procedures were followed correctly and performed by appropriate internal staff with dual reporting to the board for audit matters. There were no exceptions noted in the work papers.
Annual Verification Prior Year Follow-Up	Results
<ul style="list-style-type: none"> • Identified the list of contracts subject to the Fair Wage/Fair Work annual verification that were found to be not compliant with all requirements in the prior year audit. • Requested and reviewed documentation to determine the action taken to address these deficiencies with the supplier. 	<ul style="list-style-type: none"> • Identified four contracts that were found to be not compliant with all requirements in the prior year audit. • Three contracts submitted a compliant verification form. One contract submitted a Professional Services Exemptions form.

Real Estate Services Area – Work Performed	
Fair Wage/Fair Work Provision	Results
<ul style="list-style-type: none"> • Requested the current list of all leases and licenses with the Fair Wage/Fair Work (FW/FW) provision and all FW/FW policy exceptions that were granted. • Inquired about the process that ensures the completeness of the list of leases and licenses with the FW/FW provision and all FW/FW policy exceptions. Identified whether any opportunities for improvement in this process. • Identified the leases and licenses with the FW/FW provision executed in the last calendar year. 	<ul style="list-style-type: none"> • We received a list of four: two Regents as Landlord leases and two Regents as Licensor licenses subject to the FW/FW policy. There were no exceptions granted. • The department relies on manual input into a department shared document that includes all campus portfolios. There is additional review when annual updates are required to change any rent rates. • There were no leases/ licenses with FW/FW provision executed in the last calendar year.
Verifying Annual Audit Verification	Results
<ul style="list-style-type: none"> • Requested the annual verification documentation maintained for all leases and licenses subject to FW/FW. • Reviewed the verifications received for any instances in which the tenant/licensee did not pay the proper rate. • Inquired about the verification process to ensure that Real Estate has an adequate process in place for monitoring and follow-up. 	<ul style="list-style-type: none"> • Three out of four verification forms were received. Real Estate informed us they are in the process of obtaining the remaining verification form. • There were no instances in which the tenant/licensee did not pay the proper rate. • Management indicated they will initiate a procedure to ensure the completion of the annual verification forms annually.