

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



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SENIOR VICE PRESIDENT
CHIEF COMPLIANCE AND AUDIT OFFICER

October 17, 2017

**CHIEF PROCUREMENT OFFICER COOPER
INTERIM UC HEALTH CHIEF PROCUREMENT OFFICER WILLIARD**

RE: Final Audit Report: Systemwide Fair Wage/Fair Work

Attached is a copy of the final report for: Audit Services Project Systemwide Fair Wage/Fair Work. With the issuance of this final report, please destroy any previous draft versions. We very much appreciate the assistance provided to us by you and members of your staff during our review. If you should have any questions please feel free to contact me at 510-987-9646 (email: matthew.hicks@ucop.edu).

A handwritten signature in black ink, appearing to read "Matt Hicks".

Matt Hicks
Systemwide Deputy Audit Officer

Attachment

cc: Senior Vice President Bustamante
Executive Vice President Brostrom
Executive Vice President Stobo
Director Sullivan
Director Wolkow
Systemwide Audit Manager Cataldo

UNIVERSITY OF CALIFORNIA
ETHICS, COMPLIANCE AND AUDIT SERVICES
OFFICE OF THE PRESIDENT
INTERNAL AUDIT SERVICES

SYSTEMWIDE FAIR WAGE/FAIR WORK
June 2017

Prepared by:
Systemwide Audit Manager Cataldo

Reviewed by:
Systemwide Deputy Audit Officer Hicks

Executive Summary

Introduction and Background

In accordance with the annual University of California (University) audit plan, the University conducted a systemwide audit of the University of California Fair Wage/Fair Work Plan. This audit was performed at all University of California campuses using a standard systemwide audit program. Each location's Internal Audit Department has issued a report covering its local observations and associated planned management corrective actions. This summary report provides an overview of the systemwide findings and communicates any issues that should be addressed from a systemwide perspective.

The Fair Wage Fair Work (FW/FW) Plan was announced by President Napolitano on July 22, 2015. The FW/FW Plan requires that UC employees working at least 20 hours per week and employees of suppliers providing services to UC under this program are to be paid a minimum of \$13 per hour effective October 1, 2015, \$14 per hour effective October 1, 2016, and \$15 per hour effective October 1, 2017.

The UC FW/FW Plan was effective as of October 1, 2015 for all new agreements; and renewed and extended agreements. Under the plan, most 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; and
- Involves services funded by an extramural award containing sponsor-mandated terms and conditions (federal, state or private foundation, research grants).

Contracts subject to the FFWW Plan must contain a provision in the UC Terms and Conditions of Purchase that reference the UC FW/FW article. 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 Associate Vice President, UC Health Procurement for a UC Health systemwide contract; and otherwise by the senior procurement officer of the relevant campus or medical center.

For services that exceed \$100,000 annually, suppliers are required to perform an annual independent audit and certification, at the supplier's expense. Suppliers must also ensure its auditor makes available to UC its FW/FW work papers.

Several oversight measures were implemented to facilitate compliance with this plan including a telephone hotline and online complaint registration system for workers and contractors to report issues to wages and working conditions, and annual and periodic audits for contractors to ensure compliance with UC's minimum wage rules and expectations for working conditions.

Objectives and Scope

Campus internal auditors reviewed the local campus (and medical center if applicable) FW/FW processes and documentation and interviewed key procurement personnel. The overall purpose of the audit was to assess compliance with the UC Wage/Fair Work Plan requirements for procurement contracts. The audit objectives were to:

- Review contracts executed in the last year to ensure that applicable contracts contain the required FW/FW provision
- Determine whether Procurement is reviewing and monitoring contractor compliance with the annual certification requirements
- Determine if exceptions to the FW/FW program were properly approved
- Validate whether suppliers complied with the annual certification audit requirements

Overall Conclusion

In general, additional effort is needed systemwide to fully comply with all the UC FW/FW Plan requirements. Despite several systemwide training sessions, a number of location procurement departments were unclear on the FW/FW requirements and most locations lacked adequate processes to fully identify and track FW/FW contracts and FW/FW exceptions.

Despite the efforts of local procurement units to remind suppliers of the annual audit requirement and request the required audit certification, compliance with this FW/FW requirement has been inconsistent. Relevant suppliers were not always providing the required audit certifications timely, and not all campuses were providing timely reminders to help suppliers understand their responsibilities for compliance with the FW/FW clause in their contracts.

Management corrective actions have been developed at the local level to address deficiencies identified. This report provides a summary of the observations noted at the locations, as well as corrective actions identified at the systemwide level, which generally address increased education, delivery of tools, and clarification of Plan requirements from Systemwide Procurement to all locations to help ensure compliance with the UC FW/FW Plan.

Opportunities for Improvement and Action Plans

1. Systemwide Training and Guidance

Overall additional effort is needed to ensure full compliance with the UC FW/FW Plan. Systemwide Procurement provided a number of training sessions for UC procurement professionals and developed a resource website which includes contract scenarios and frequently asked questions (FAQs). However, additional clarification on the UC FW/FW Plan would help provide greater consistency and help improve implementation progress systemwide. A number of locations indicated that their campus procurement teams would benefit from additional training or guidance from UCOP with respect to understanding the FW/FW requirements and how to manage exceptions. A summary of areas requiring additional information or clarification was provided to Systemwide Procurement.

Action Plan:

1. Systemwide Procurement will work with Internal Audit to update UC FW/FW Plan reference documents (e.g. FAQs) and websites to provide additional information and clarification in response to the feedback received from the campuses.
2. In an effort to ensure compliance with the UC FW/FW Plan, Systemwide Procurement will provide a refresher training session to UC procurement professionals. Systemwide Procurement will track individuals who have completed this refresher training session.
3. Systemwide Procurement, in consultation with the Procurement Leadership Counsel, will review existing policies and guidance on the FW/FW Plan to identify and implement any necessary modifications to clarify requirements and improve implementation progress.

Target Date: December 31, 2017

2. Fair Wage/Fair Work Contract Identification and Tracking

Not all contracts contained the required FW/FW Provision when required

In accordance with Business and Finance Bulletin BUS-43 Materiel Management (BUS-43), all contracts for UC FW/FW Services must contain a provision substantially in the form of the UC FW/FW Article in the UC Terms and Conditions of Purchase.

We found that five locations identified contracts for which the FW/FW provision was not included when required. In some of these instances, the procurement team used the supplier's terms and conditions which did not contain the FW/FW provision. In these cases, the respective locations have initiated corrective actions to ensure that service agreement templates are updated to include the FW/FW provision and used properly.

Ineffective Contract Monitoring

The majority of locations (9) either did not maintain a listing or database identifying contracts where the FW/FW provision applies, or lacked an effective process to identify these contracts. As part of the UC FW/FW Plan, each location is responsible for identifying contracts in which the FW/FW provision applies. Several campuses indicated that their campus procurement system lacked the functionality to identify contracts subject to FW/FW, or could not distinguish between goods and services, and accordingly were not able to produce a listing of applicable FW/FW contracts. In several cases, contracts were incorrectly identified as FW/FW. Corrective actions have been initiated at the local level to improve FW/FW contract monitoring processes.

Action Plan:

1. Systemwide Procurement will clarify and reinforce with procurement leadership at each location about their roles and responsibilities pertaining to the implementation and compliance with the UC FW/FW Plan and will work with the locations to implement procedures to identify and monitor FW/FW contracts.
2. Systemwide Procurement will review all management corrective actions plans resulting from local campus audit reports and work with the person accountable on each campus to ensure actions are appropriate and sufficient.

Target date: December 31, 2017

3. Annual Supplier Audit Certifications

For services that exceed \$100,000 annually, suppliers are required to perform an annual independent audit and certification, at the supplier's expense. The FW/FW audit standards published by UC require that the audit must be performed by a registered accounting firm or the suppliers' internal audit department if it reports to an independent board. If the annual audits are performed by a registered accounting firm, the firm must not have any affiliation with the supplier and demonstrate appropriate subject matter expertise in their qualifications. Suppliers must also ensure their auditors make available the FW/FW work papers.

It is the responsibility of the procurement team at each UC location to follow up with the applicable vendors to ensure that they fully understand the certification requirement and solicit the required audit certification forms at each contract anniversary date.

Local procedures to monitor supplier compliance

We noted that the majority of locations (8) do not have an effective process to ensure that annual audit certifications documenting vendor compliance are received from the vendor. Moreover, several campus procurement offices did not reach out to suppliers about their certification requirement until this internal audit commenced. Without receipt of the annual audit certification, the campuses have the option to (1) discontinue the relationship with the

supplier, (2) continue to pursue an audit and auditor certification, or (3) seek an exception for this requirement.

Poor Response Rate

The lack of monitoring procedures has contributed to a low response rate for receipt of the annual audit certifications from suppliers. There have been instances in which the campus interactions with the supplier revealed that the supplier was unaware of the FW/FW provision or the supplier did not fully understand the criteria for providing an annual audit certification. On a positive note, several campuses have implemented processes to proactively reach out to applicable suppliers to remind them of the UC FW/FW Plan provision requirements and request the annual certification be submitted.

Audit Standards not always met

Several locations (3) indicated that the suppliers submitted documentation of compliance with the wage limitations but the documentation did not meet the specified supplier audit standards. Specifically there were instances in which the annual certification form was completed by the supplier's management rather than an independent auditor, or the supplier submitted documentation validating wages that exceeded the FW/FW minimum requirement rather than the required certification form. In one instance, a supplier who submitted an annual certification contested the request to review the audit work papers in an effort to validate the certification.

FW/FW Exceptions

We identified four locations that do not have a formal process to approve exceptions to the UC FW/FW Plan. UC policy BUS-43 requires that the FW/FW article be included in applicable contracts, and when a determination has been made that a policy waiver is warranted, proper approval must be obtained and documented. Accordingly, UCOP has developed a standard template to document exemption approvals and is available for all systemwide locations at the UCOP FW/FW website. This template requires the reason for the exception and requires approval from a senior procurement officer at the campus or medical center.

Current guidance from Systemwide Procurement suggests that Procurement has the option to grant an after-the-fact exception to the FW/FW contract provision if issues arise during the annual audit and certification process. We recommend that guidance be updated to disallow exceptions to the FW/FW provision after a contract has been signed with the sole exception of when there is no other alternative provider within the required time frame. In these rare instances, a "Sole Source Justification" should be completed and signed by the appropriate client authority.

Action Plan:

1. Systemwide Procurement, as part of their refresher training to all of the locations, will include reinforcement of the UC FW/FW annual audit certification and exception requirements and provide any additional guidance, including but not limited to: how to address special circumstances associated with the annual audit requirement, implementation

of the proper corrective actions for instances of non-compliance with the annual audit certification requirement, and adherence to the policy for granting and approving exceptions - including those after-the-fact.

2. Systemwide Procurement will remind locations to use the standard follow up request letter template that was developed to inform suppliers of their annual audit requirement.

3. Systemwide Procurement will update FW/FW guidance to disallow exceptions to the FW/FW provision after a contract has been signed with the sole exception of when there is no other alternative provider within the required time frame. In these instances, a "Sole Source Justification" will be required to be completed and signed by the appropriate client authority.

Target date: December 31, 2017