
Audit Report

Fair Wage/Fair Work (systemwide)

Report No. SC-21-04
August 2021

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Approved
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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 2021 internal audit plan as a systemwide audit.

The results of our work found that both Procurement and Supply Chain Services (Procurement) and Real Estate 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 one annual verification was not performed by an appropriate party.

The following observation requiring management corrective action was identified:

A. Procurement – Verification Not Being Performed By An Appropriate Party

One annual verification was not performed by either an independent auditor or the supplier’s independent internal audit department.

Management agreed to the corrective action recommended to address the risk identified in this area. Observations and related management corrective action 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 2021 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 FY2020, 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.

Scope

We conducted this audit by means of the following:

- Interviewed Procurement and Supply Chain Services and the Real Estate Services key staff 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 2020 and all FW/FW policy exceptions that were granted.
- Assessed the risk of procurement contracts being executed without the FW/FW provision language included when required.
- For a sample lease/license, verified that the FW/FW provision language is consistent with the FW/FW section in the standard lease/license forms.
- Requested and reviewed the annual verification documentation and pre-certification exemption forms. From contracts pre-certified as exempt for professional services, reviewed a sample 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.
- Reviewed the list of exceptions granted to the FW/FW provision and validate that documented approval from the senior procurement official at the location is on file.
- 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 - Verification Not Being Performed By An Appropriate Party		
One annual verification was not performed by either an independent auditor or the supplier’s independent internal audit department.		
Risk Statement/Effect		
Non-compliance with the FW/FW Plan guidance, which states it is not acceptable for a campus to continue doing business with a non-compliant supplier.		
Agreement		
A.1	Procurement and Supply Chain Services will evaluate whether to: <ul style="list-style-type: none"> Follow-up with the supplier to re-perform the verification appropriately. Develop a plan for an alternative to the non-compliant supplier. If no alternatives are appropriate, initiate the After-the-Fact Exception process. Terminate the agreement and do not continue doing business with the supplier until they are in compliance. 	Implementation Date
		October 31, 2021
		Responsible Manager
		Procurement and Supply Chain Services Director

A. Procurement – Verification Not Being Performed By An Appropriate Party – Detailed Discussion

When reviewing the annual verification forms, we identified that one supplier indicated the verification was performed by their internal audit department. However, this was signed by the supplier’s Regional HR Representative. Through further follow-up with this supplier, we determined that this individual performed the audit but is not an internal auditor.

The annual verification form states:

In connection with the Agreement between Supplier and The Regents of the University of California, Supplier agreed to the UC Fair Wage/Fair Work Article, which requires Suppliers that provide services exceeding \$100,000 annually and are not subject to prevailing wage requirements to provide an annual independent verification performed by a licensed public accounting firm (independent accountant) or the Supplier’s independent internal audit department in compliance with UC’s required verification standards and procedures.

This supplier is not using an independent internal auditor, as required by the FW/FW plan. As a result, the supplier is in non-compliance with the FW/FW Plan guidance, which states it is not acceptable for a campus to continue doing business with a non-compliant supplier.

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, but is not limited to:</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

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 2020. • 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. • Assessed the risk of procurement contracts being executed without the Fair Wage/Fair Work provision language included when required. This included the consideration of internal controls in place (such as the use of a standard template that contains the provision) and past Fair Wage/Fair Work audit results in this area. 	<ul style="list-style-type: none"> • We received a list of all contracts, including those with exceptions, that are subject to Fair Wage/Fair Work (FW/FW) during CY 2020. • 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 found that all purchase orders and contracts are processed in the campus e-procurement system CruzBuy, which includes a link to the UCOP Terms and Conditions hosted by the Office of the President. In addition, the standard UC template is used and included as part of the documentation in CruzBuy.
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 one contract to ensure that the wage rates were specified as required. 	<ul style="list-style-type: none"> • Suppliers for six contracts submitted Professional Services Exemption forms. • One supplier’s contracts indicated the bill rate, which we used to estimate the wage rate exceeded \$15/hr.
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 four 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

Procurement and Supply Chain Services Area – Work Performed	
	<p>notice of contract termination for default, or issue the supplier an exception (waiver) to the FW/FW audit requirement.</p> <ul style="list-style-type: none"> We also obtained an example of the follow-up letters.
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"> We found this verification was not performed by an internal auditor, as indicated on the form. We could not validate whether required audit procedures were followed correctly.
Supplier Exceptions	Results
<ul style="list-style-type: none"> Reviewed the list of exceptions granted to the Fair Wage/Fair Work provision and validated that documented approval from the senior procurement official at the location is on file. 	<ul style="list-style-type: none"> We validated two after-the-fact exception forms had documented approval by the senior procurement official/ policy exception authority.
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 noncompliant with all requirements in the prior year audit. Requested and reviewed documentation to determine the action taken by management to address these deficiencies with the supplier. 	<ul style="list-style-type: none"> We found there were no contracts that were found to be noncompliant with all requirements in the prior year audit.

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. From this list, identified the leases and licenses with the FW/FW provision executed in the last calendar year. 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. For a sample, verified that the Fair Wage/Fair Work provision language is consistent. 	<ul style="list-style-type: none"> Received a list of all leases/licenses with the FW/FW provision and identified two leases/licenses executed in the last calendar year. 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. Executing a new agreement or amendment also requires the completion of a checklist, in which one items includes an assessment for FW/FW applicability.

Real Estate Services Area – Work Performed	
	<ul style="list-style-type: none"> Sample included the FW/FW provision language that is consistent with the FW/FW section in the standard lease forms.
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 verification forms were received. There were no instances in which the tenant/licensee did not pay the proper rate. A procedure has been formalized to ensure the completion of the annual verification forms annually.

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>