

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



1111 Franklin Street, 5th Floor • Oakland, California 94607-5200 • (510) 987-0479 • FAX (510) 287-3334

Alexander Bustamante
SENIOR VICE PRESIDENT
CHIEF COMPLIANCE AND AUDIT OFFICER

November 21, 2018

**CHIEF PROCUREMENT OFFICER COOPER
UC HEALTH CHIEF PROCUREMENT OFFICER MIURA**

RE: Final Report Project No. P18A003a: Systemwide Fair Wage/Fair Work

Attached is a copy of the final report for: Audit Services Project No. P18A003a 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 Nava
Executive Vice President Stobo
Director Sullivan
Director Wolkow
Counsel Houston
Systemwide Audit Manager Cataldo

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

SYSTEMWIDE FAIR WAGE/FAIR WORK
Project No. P18A003a
July 2018

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 (UC) audit plan, Internal Audit conducted a systemwide audit of the UC Fair Wage/Fair Work Plan. This audit was performed at all UC campuses using a standard systemwide audit program. Each location's Internal Audit Department 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 any renewed or 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 FW/FW 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 local FW/FW processes and documentation and interviewed key procurement personnel. The overall purpose of the audit was to assess compliance with the UC FW/FW 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.

Audit procedures were conducted at all campus locations and medical centers and at the Office of the President. The procedures for the Office of the President included both local and systemwide agreements.

Overall Conclusion

In general, while the campuses and medical centers have made progress since the prior year's FW/FW internal audit in implementing effective processes for monitoring supplier compliance FW/FW requirements, additional improvement is required to improve supplier compliance rates.

Suppliers' compliance with the annual FW/FW supplier audit requirement remains low (24% overall for campuses and 11% for medical centers¹). These low supplier rates are generally attributable to ineffective or inadequate processes at the locations to track FW/FW contracts and monitor suppliers' compliance with the annual audit requirement. Some location procurement departments reported they have encountered resistance from accounting firms that expressed concern that the annual audit requirements may not conform to professional standards they are required to follow. While these concerns should be evaluated and addressed as appropriate, they do not appear to be a primary contributing factor to the low compliance rates.

In addition to the low supplier compliance rates, locations have identified instances in which the documentation submitted did not meet the audit requirements. In these cases, the supplier submitted an audit report rather than a certification form or personnel who did not meet the independence standard completed the audit. Additionally, suppliers were not always providing the required audit certifications in a timely manner.

We observed lower rates of compliance and less effective monitoring processes on the medical centers than on the campuses.

We observed improvement in certain FW/FW compliance monitoring processes compared to the prior year. The campuses and medical centers have consistently included the required FW/FW provision in contracts when required and the exception process has generally been followed.

¹ The 11% rate is only representative of the three medical center locations that were able to determine the number of contracts requiring annual certifications.

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. Fair Wage/Fair Work Contract Identification and Tracking

We noted that three campuses and three medical centers either did not maintain a complete 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 for which the FW/FW provision applies. In some instances, the FW/FW provision was added to all contracts, which made it difficult to identify those contracts in which the FW/FW provision applies. Several locations indicated that resource availability had contributed to their compliance challenges but have since addressed these issues. Corrective actions have been initiated at the local level to improve FW/FW contract monitoring processes.

Action Plan:

1. Systemwide Procurement and UC Health Procurement will continue to reinforce with procurement leadership at each location about their roles and responsibilities pertaining to the implementation and compliance with the UC FW/FW Plan.

Target date: December 31, 2018

2. Annual Supplier Audit Compliance Monitoring

For services that exceed \$100,000 annually, suppliers are required to perform an annual independent audit at the supplier's expense. The FW/FW audit standards published by UC require that the audit 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. Such suppliers must also provide a UC FW/FW audit certification annually, no later than 90 days after each one-year anniversary of an agreement's effective date, for the 12 months immediately preceding the anniversary date. 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. In an effort to facilitate FW/FW compliance, Systemwide Procurement developed and made available to all locations a standard follow up request letter template inform suppliers of their annual audit requirement.

Local procedures to monitor supplier compliance

We noted that four campuses and four medical center locations do not have an effective or fully functional process to ensure that annual audits are completed and certifications documenting FW/FW compliance are received in a timely manner from the supplier. Locations lacking an established or effective monitoring process are not proactively informing suppliers of the FW/FW audit requirement before the applicable anniversary date, and/or not following up to ensure timely receipt of certification forms. In some instances the location was either not reviewing the contract at the anniversary date but rather at the renewal period, or not tracking the annual spend. If an annual audit certification is not received timely, 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 after-the-fact exception for this requirement. Exceptions after a contract has been signed are not allowed unless UC determines that there is no alternative provider within the required time frame. In such cases the Policy Exception Authority must document such approval in writing. Low rates of compliance at some locations with established monitoring processes indicate that these locations are not taking appropriate and timely action with suppliers that are not complying with the annual audit requirement.

Poor Response Rate

Ineffective monitoring processes have contributed to a low response rate for receipt of the annual audit certifications from suppliers. Not including the several locations that were unable to determine how many contracts were subject to the FW/FW provision and/or required the annual certifications, a total of 320 supplier annual certifications for the medical centers and campuses were required to be submitted to local procurement, however only 67 were received (21%). Specifically, the campuses received 59 supplier certifications of the 246 (24%) that were due. The medical centers received eight of the 74 (11%) required certifications for the three locations that were able to determine the number of contracts requiring annual certifications.

Audit Standards not always met

Of the 11 campus and medical center locations that received certifications, seven locations indicated that the submitted certifications did not meet the requirements set forth in the audit standards and procedures. Of the 67 certifications that were received, 21 (31%) were not fully compliant with the requirements. The locations identified instances in which the annual certification form was completed by the supplier's management rather than an independent auditor, or the supplier submitted an audit report rather than completing the UC standard certification form.

Locations have experienced some resistance from suppliers about completing the UC annual certification form. Some locations reported that the accounting firms suppliers had contracted with to perform the audit had issues with completing and signing the UC certification form, citing that the annual audit requirements do not conform to professional standards they are required to follow, and submitted either reports/certifications on their corporate letterhead.

Noted Violations of the FW/FW Provision

A review of the 67 annual audit certifications received systemwide in 2017 identified 4 instances in which the supplier did not pay the proper wage to an employee. In three of the four cases, the applicable supplier has confirmed that retroactive payroll adjustments were made to the employee, and for the one outstanding case, the campus was still in communication with the supplier to ensure that payroll adjustments occurred.

Action Plan:

1. In an effort to increase the rate of supplier compliance with the annual audit requirement and to address concerns raised about the annual supplier audit process, Systemwide Procurement is evaluating opportunities to modify the annual supplier audit process and/or its requirements to facilitate compliance while continuing to fulfill the spirit of the FW/FW Plan. Proposed amendments to annual audit requirements have been drafted and are being reviewed by leadership. Additionally, Systemwide Procurement developed a list of small and diverse auditing firms that are ready, willing and able to provide the FFWW annual supplier audit. Currently there are 15 small and diverse audit firms on the list, which can be used by the campuses as a reference for suppliers.

2. Systemwide Procurement and UC Health Procurement will continue to remind locations to use the standard follow up request letter template that was developed to inform suppliers of their annual audit requirement and to take appropriate and timely action if suppliers are not complying with the annual audit requirement. If applicable, Systemwide Procurement will amend the request letter to include any modifications made to the annual FW/FW audit process or its requirements.

Target date: January 31, 2019