

The logo for UCI Irvine, featuring the letters 'UCI' in a large, bold, serif font, followed by 'IRVINE' in a smaller, all-caps, serif font. A vertical line separates the two parts of the name.The text 'INTERNAL AUDIT SERVICES' in a serif font, positioned to the right of the UCI Irvine logo. A vertical line separates the logo from this text.

## Fair Wage/Fair Work

*Internal Audit Report No. I2021-210*

July 22, 2021

***Prepared By***

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July 22, 2021

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EXECUTIVE DIRECTOR - SUPPLY CHAIN MANAGEMENT AND SUPPORT OPERATIONS  
UC IRVINE HEALTH**

**RE: Fair Wage/Fair Work Audit  
Report No. I2021-210**

Internal Audit Services has completed the Fair Wage/Fair Work review and the final report is attached.

We extend our gratitude and appreciation to all personnel with whom we had contact while conducting our review. If you have any questions or require additional assistance, please do not hesitate to contact me.

Sincerely,



Mike Bathke  
Director

Attachment

C: Audit Committee  
Laura Bishin, Systemwide Associate Audit Director – UC Ethics, Compliance, & Audit Services

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## I. MANAGEMENT SUMMARY

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In accordance with the fiscal year (FY) 2020-2021 audit plan, Internal Audit Services (IAS) conducted a review of the Fair Wage/Fair Work (FW/FW) program at the University of California, Irvine Campus (UCI) and Medical Center (UCI Health). Based on the audit work performed, some internal controls need improvement and should be strengthened to minimize risks, ensure compliance with University policies and procedures, and/or best business practices. Specifically, the following concerns were noted.

**Management of FW/FW Contracts** – Campus Procurement misclassified FW/FW applicability for two suppliers. FW/FW provisions did not apply to these two suppliers because their services were provided off campus and not on UCI premises. This is discussed in Section V.1.

**Annual Verification Timeliness** – Campus Procurement did not receive an annual verification audit form from a supplier’s accountant in a timely manner. This is discussed in Section V.2.

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## II. BACKGROUND

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### Procurement

The University of California (UC) President announced at the July 22, 2015, Regents Meeting that a FW/FW program was to be adopted. This program was effective October 1, 2015, for all new agreements and for renewed and extended agreements. The new minimum wage plan for UC employees working at least 20 hours per week and employees of suppliers providing services to UC under this program were 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. FW/FW 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 (T&Cs). This includes federal, state or private foundation awards and research grants.

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

Procurement offices will contribute information to the location's database regarding agreements handled by buyers that contain FW/FW provisions and for which an exception has been approved. For service agreements that exceed \$100,000 annually, the Procurement offices are to remind suppliers of the FW/FW audit requirements before the agreement's anniversary date. Buyers should receive verification forms from suppliers and forward a copy of verification to the internal auditor.

### Real Estate

Effective May 1, 2016, UC's FW/FW Plan (Plan) establishes minimum wage levels for persons employed by or on behalf of UC. The Plan applies to payment for work performed in a UC location and are deemed to include leased and licensed space whether UC is the Landlord/Licensor or Tenant/Licensee of space, and land ground leased to or from UC, that fall within the following guidelines.

1. Space Leases and Licenses
  - a. UC as Landlord or Licensor: Where the tenant or licensee, in UC-owned or controlled space, provides a service or conducts a business that UC otherwise would provide or conduct, and the agreement is for a term of more than one year. Examples include food service, bookstores, and recreational programs. Examples of services and businesses that UC does not typically provide or conduct, and therefore are not required to implement the Plan, include banking, dry cleaners, solar power generating facilities, and cell tower service.
  - b. UC as Tenant or Licensee: Where UC as tenant or licensee effectively exercises, or has the power to exercise, control over the operations of a building for a term of more than one year. (i.e., not in multi-tenant buildings where the building owner provides services to tenants including but not limited to UC).
2. Ground Leases
  - a. UC as Ground Lessor: Any building constructed on UC land pursuant to a ground lease or similar arrangement, where (i) UC leases back at least 50 percent of the space for the duration of the ground lease (or similar arrangement), or (ii) the building is constructed for a use that supports UC's mission and which could have been constructed and operated by UC (e.g., recreational facilities, student or faculty rental housing, and parking facilities).
  - b. UC as Ground Lessee: Any building or other facility constructed by UC or for UC's use.

Exceptions to the Plan include:

- Endowment or investment property; and
- Extramural agreements with sponsor mandated terms.

For any lease, license, or ground lease determined to be covered by the Plan, the applicable lease/license agreement shall include provisions that state that the other

party (e.g., lessee, license, landlord) shall comply with the Plan for all of their employees working more than 20 hours per week in premises covered by the applicable agreement. The applicable agreement shall further include provisions that allow UC to audit the other party's compliance with the Plan and provide sufficient access to their records for this purpose. If the other party fails to provide annual verification upon audit, the other party shall be deemed to be in default under the terms of the applicable agreement and UC shall be able to pursue appropriate remedies including termination of agreement.

RES is responsible for maintaining an updated list of all leases and licenses that are subject to the FW/FW policy. RES should be able to identify if the FW/FW verification is current for each lease/license subject to the FW/FW policy and to report on the status of efforts to obtain 100 percent compliance for all leases and licenses. Finally, RES must furnish FW/FW information in a timely manner to campus internal audit so that the UC system can promptly report on compliance with the FW/FW policy.

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### **III. PURPOSE, SCOPE AND OBJECTIVES**

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The purpose of the audit was to assess whether Procurement and RES at both the campus and UCI Health locations have implemented processes to ensure vendor compliance with the FW/FW work plan. The scope included a review of applicable contracts, leases/licenses, and selected transactions for review and testing from January 1, 2020, to December 31, 2020.

The audit included the following objectives:

1. Determine whether applicable procurement contracts for services over \$100,000 and real estate leases/licenses comply with FW/FW requirements;
2. Determine if FW/FW contracts and leases/licenses contain UC T&Cs and provision language, respectively;
3. Verify that RES maintains annual verification documentation for all leases and licenses subject to FW/FW; and
4. Determine if exceptions were adequately managed and approved.

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### **IV. CONCLUSION**

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Campus Procurement could improve departmental controls and processes in the areas of managing whether or not FW/FW provisions apply to suppliers and ensuring the timely receipt of annual verifications.

IAS discussed observation details and recommendations with management who formulated action plans to address the issues. These details are presented below.

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**V. OBSERVATIONS AND MANAGEMENT ACTION PLANS**

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**1. Management of FW/FW Contracts (Campus Procurement)****Background**

FW/FW provisions apply to suppliers who provide services on UCI premises, among other criteria. As such, these suppliers must pay their employees in accordance with FW/FW minimum wage requirements and these FW/FW provisions must be stipulated in the Purchase Orders (PO)/service agreements. However, if suppliers do not meet certain criteria, such as their services are not provided on UCI premises, then FW/FW requirements do not apply to them.

**Observation****Campus Procurement**

Two of eight (25%) suppliers were misclassified by Campus Procurement as suppliers required to comply with FW/FW provisions. However, Campus Procurement management indicated that since these suppliers did not provide their services on UCI premises, FW/FW provisions did not apply and should not have been imposed on them.

Inaccurately imposing FW/FW requirements on suppliers may discourage them from continuing business with UCI. To adhere to certain restrictions and guidelines while being required to make certain accommodations they would not otherwise have to make would be an extra burden of responsibility placed on them. However, IAS notes that Campus Procurement erred on the side of caution with these suppliers, which likely has less of an adverse impact than not imposing FW/FW provisions on a supplier who actually should have been complying with those provisions.

However, it is still imperative for Campus Procurement to review/revisit periodically their suppliers' existing master service agreements (MSAs) and POs to ensure that the scope of work has not changed and that the classification they initially imposed on the supplier, in terms of FW/FW applicability, is relevant.

**UCI Health Procurement**

No issues were noted.

**Real Estate Services (RES)**

No issues were noted.

## **Management Action Plan**

### **Campus Procurement**

Note that these two agreements were put in place several years ago and at that time the team did not pay as close attention to confirm whether FW/FW requirements applied or not, and thus erred on the side of caution.

To remedy this situation from occurring in the future, we have added a step to our FW/FW workflow process to pay closer attention to PO amends and to make the necessary changes to the PO type if the type of service has changed. This process improvement will be discussed with the team during our next meeting and implementation of this additional step to our workflow will be no later than October 1, 2021.

Due date: October 1, 2021

## **2. Annual Verification Timeliness (Campus Procurement)**

### **Background**

For FW/FW suppliers whose aggregate annual spend is over \$100,000, annual verification audits must be conducted by the suppliers' accountants/auditors ensuring that employee wages are paid in accordance with FW/FW provisions. These annual verification forms must be submitted to Campus Procurement within 90 days after the fiscal year end (September 30) since Campus Procurement tracks and monitors their suppliers, for FW/FW tracking purposes, by fiscal period rather than by contract anniversary/renewal date.

### **Observation**

#### **Campus Procurement**

IAS tested ten suppliers who required annual verifications because their annual spend was over \$100,000. All ten annual verification forms were completed properly and were in compliance with FW/FW requirements. However, one supplier's internal audit department did not submit their verification form in a timely manner. This supplier submitted their form to Campus Procurement over seven months past the 90 day due date after fiscal close of September 30, 2020.

Five of the ten suppliers submitted their annual verification forms ranging from nine days to over two months past the September 30 due date. However, these suppliers requested and received from Campus Procurement additional time to submit their annual verifications due to the extenuating circumstances of the pandemic. IAS did not identify these verification forms as exceptions since they were not considered past due.

UCI Health Procurement

No issues were noted.

Real Estate Services (RES)

No issues were noted.

**Management Action Plan**Campus Procurement

As a result of the extenuating circumstances of last year due to the pandemic, many of the suppliers did ask for extensions to submit their verification reports. With regards to the one actual exception mentioned above, the reason why we received the annual verification late was because of an unusual situation. While this supplier shows up on our list, the services they are providing is for the Medical Center. Therefore, we assumed that Medical Center Procurement would obtain the verification from them and we did not pursue it on our end. It was rather late when we discovered that Medical Center Procurement had not asked them for the verification because this supplier did not show up on their list.

There was miscommunication between the two teams, and because of the pandemic, both the Medical Center and Campus Procurement Departments were too busy handling all the urgent needs of the hospital and campus respectively, that we did not have our regularly scheduled meetings for the entire year. Now that we have realized this situation, both our teams have agreed to be more communicative and make sure that we connect with each other on a more regular basis of once every other month for such matters to avoid running into a similar situation again in the future. In addition, we will keep a log of these meeting minutes.

Due date: October 1, 2021