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OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



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Alexander Bustamante
SENIOR VICE PRESIDENT
CHIEF COMPLIANCE AND AUDIT OFFICER

September 3, 2019

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

RE: Final Report Project No. P19A002: Fair Wage Fair Work - UCOP

Attached is a copy of the final report for: Audit Services Project No. P19A002 Fair Wage Fair Work - UCOP. 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 Nava
Interim Executive Vice President Jenny
Chief Transformation Officer Graham
Executive Director Kalmijn
Director Sullivan
Director Wolkow
Systemwide Associate Audit Director Cataldo
Local Procurement Manager Greene

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

FAIR WAGE FAIR WORK – UCOP
Project No. P19A002
July 2019

Work Performed by:
Peter Cataldo, Systemwide Associate Audit Director

Reviewed by:
Matt Hicks, Systemwide Deputy Audit Officer

Executive Summary

Introduction and Background

As part of the annual fiscal year 2018-2019 audit plan, Internal Audit completed a review of the Fair Wage Fair Work (FW/FW) Plan that 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 program 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 FW/FW Plan must contain a provision in the UC Terms and Conditions of Purchase that outlines the FW/FW Plan requirements. 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 provide an annual independent verification at the supplier's expense. Suppliers must also ensure the auditor performing the verification 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 verifications and periodic audits to ensure compliance with UC's minimum wage rules and expectations for working conditions.

Objectives and Scope

The overall purpose of the audit was to assess compliance with the UC Fair Wage/Fair Work Plan requirements. The audit objectives were to:

- Review contracts executed in the last year (January 1, 2018 through December 31, 2018) to ensure that applicable contracts contain the required FW/FW provision

- Determine whether Procurement is reviewing and monitoring contractor compliance with the annual verification requirements
- Determine if exceptions to the FW/FW program were properly approved
- Validate whether suppliers complied with the annual verification requirements

We reviewed the FW/FW processes and interviewed key personnel in the following areas: UCOP Local Procurement, Systemwide Procurement, and Systemwide UC Health Procurement (UC Health). For UCOP Local and Systemwide Procurement, we reviewed the contract listings of contracts executed in the last year and corresponding annual spend in an effort to validate if the annual verification procedures were properly followed. Systemwide UC Health Procurement did not maintain a listing of FW/FW contracts during the audit period.

Overall Conclusion

UCOP Local Procurement and Systemwide Procurement have monitored FW/FW contracts, generated a list of contracts subject to the FW/FW provision and performed outreach with suppliers when necessary to remind them of the FW/FW provision. Our review of a sample of contracts confirmed that they contained the appropriate FW/FW provision and no FW/FW exceptions were granted.

Although Systemwide Procurement has a monitoring process in place to ensure supplier compliance with the FW/FW annual verification requirement, they would benefit from increased follow-up effort when suppliers are not in conformance with the verification requirement.

Although UC Health has only one FW/FW contract in place, they do not have a process to track and manage FW/FW contracts and verification compliance. At the time of our audit, UC Health contacted the one applicable supplier regarding their verification requirement.

Opportunities for Improvement and Action Plans

1. UC Health

a. Lack of a FW/FW listing

To implement the FW/FW plan, purchasing departments must identify and monitor all contracts subject to the FW/FW provision, including those vendors with approved exemptions. Any supplier exempted from the FW/FW provisions must be approved by a campus senior procurement officer or by the systemwide Chief Procurement Officer. UC Health does not have a process in place to identify and to monitor contracts subject to the University's FW/FW requirements, and does not maintain a listing or database to identify those contracts where FW/FW applies.

Action Plan:

Systemwide UC Health Procurement will implement a process to identify contracts subject to FW/FW Plan requirements and track compliance with these requirements. Contracts management records will be updated to include annotations for FW/FW compliance with verifications required and received.

Target Date: September 30, 2019

b. Lack of monitoring of UC Health contracts for supplier verifications

For service agreements that exceed \$100,000 annually, the supplier, at its own expense, must provide an annual verification to assess compliance with FW/FW requirements. These verifications are to be performed by an independent auditing firm or the supplier's internal audit department "in compliance with UC's required verification standards and procedures" to assess the supplier's compliance with the plan. Such suppliers must also provide a UC Fair Wage/Fair Work Verification Form annually, no later than 90 days after each one-year anniversary of an agreement's effective date, for the twelve months immediately preceding the anniversary date.

Purchasing departments must identify and monitor all contracts subject to the FW/FW provisions, including those vendors with approved exemptions. For service agreements that exceed \$100,000 annually, the campus purchasing departments should remind the suppliers of the FW/FW verification requirements before the agreement's anniversary date and request the annual FW/FW Verification Form.

UC Health did not have a process in place to monitor suppliers' compliance with the annual verification requirement. Without an established process, procurement cannot proactively remind suppliers of FW/FW verification requirement before the agreement's anniversary date, and follow-up on the receipt Verification Forms. UC Health indicated that only one contract was subject to the verification requirement. FW/FW provision. As a result of our audit, UC

Health sent a verification requirement letter to the supplier on July 25, 2019 with a requested Verification Form return date of September 1, 2019.

Action Plan:

1. Systemwide UC Health Procurement will monitor the return of the Verification Form and will follow-up as required to ensure supplier's compliance.

Target Date: *September 30, 2019*

2. Systemwide UC Health Procurement will implement a monitoring process to address the annual verification requirement. The process will include notifying suppliers about the verification requirement, and appropriate follow-up notices and actions, including possible contract cancellation for non-compliance with the verification requirement.

Target date: *October 31, 2019*

2. Systemwide Procurement

a. Increased follow-up needed for suppliers not in compliance with verification requirement

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 verification requirement and solicit the required Verification Forms at each contract anniversary date. Although Systemwide Procurement sends out periodic letters to suppliers to remind them of the verification requirement, we noted that 4 suppliers have past due Verification Forms. Systemwide Procurement should improve their follow-up process with suppliers to bring past due Verification Forms to closure.

According to the UC FW/FW policy, if an annual Verification Form is not received timely, locations have the option to (1) discontinue the relationship with the supplier, (2) continue to pursue completion of the verification requirement, 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.

Action Plan:

Systemwide Procurement will further enhance their annual verification follow-up process to address instances where the supplier has not complied with the verification requirements.

Target Date: *September 30, 2019*

3. UCOP Local Procurement

a. Exception approval was not obtained

Although UCOP Local Procurement has established a process to ensure that the FW/FW provision is included in applicable service contracts, we noted one contract in which the FW/FW provision was purposely not included. In this situation, the contract specified that the supplier would pay union wages that were well above the FW/FW rates. In accordance with the UC FW/FW policy, a formal exception letter should have been pursued.

Action Plan:

UCOP Local Procurement will obtain a retroactive exception letter to justify why the supplier was exempted from the FW/FW requirements.

Target Date: September 30, 2019