



AUDIT AND ADVISORY SERVICES
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August 6, 2019

Russell Chung
Chief Procurement Officer
Supply Chain Management

We have completed our audit of UC Berkeley's Fair Wage/Fair Work Plan compliance, as part of a systemwide audit directed by the University of California Office of the President. The audit was included in our annual service plan and was performed in accordance with the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing* and the University of California Internal Audit Charter.

Our observations with management action plans are presented in the accompanying report. Thank you to the staff of Supply Chain Management for their cooperative efforts throughout the audit process. Please do not hesitate to call on Audit and Advisory Services if we can be of further assistance in this or other matters.

Respectfully reported,

Jaime Jue
Director

cc: Vice Chancellor Marc Fisher
Assistant Vice Chancellor and Chief of Staff Ann Jeffrey
Associate Chancellor Khira Griscavage
Interim Controller Elizabeth Chavez
Senior Vice President and Chief Compliance and Audit Officer Alexander Bustamante



AUDIT AND ADVISORY SERVICES

Fair Wage/Fair Work
Audit
Project No. 19-723

August 6, 2019

Prepared by:

Reviewed and Approved by:

Dorothy Lipari
Auditor-in-Charge

Jaime Jue
Director

**University of California, Berkeley
Audit and Advisory Services
Fair Wage/Fair Work**

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OVERVIEW

Executive Summary

Based on the results of the audit work performed, we observed that not all certifications/verifications had been received in a timely manner. In addition, we observed instances where the certification form was completed but an independent audit report was not submitted, and conversely, where an audit report was submitted but a certification form was not completed.

To improve compliance, we suggest that Supply Chain Management strengthen its fair wage/fair work process, including both buyers within Procurement as well as buyers located in campus departments. Consideration should be given to the following:

- Ensure that follow-up with the suppliers identifies and resolves the matter at hand. This should incorporate timely discussion with the suppliers as to status of the independent audits, the accuracy of accompanying certification forms, and why certifications are late. In one case, we found that the supplier had been attempting to secure an independent auditor but had not been successful due to the cost involved. In this case, Procurement may wish to work with the supplier to suggest alternative independent firms and perhaps review the situation to determine whether an exception may be warranted.
- Reinforce training to all buyers regarding the fair wage/fair work requirements and process.

Source and Purpose of the Audit

This purpose of this systemwide audit is to assess whether adequate controls are in place to provide reasonable assurance that the campus is in compliance with the UC Fair Wage/Fair Work policy, as defined in Business and Finance Bulletin (BFB) BUS-43 Material Management and the UC Terms and Conditions of Purchase.

Scope of the Audit

The scope included a review of current practices associated with the fair wage/fair work guidelines and requirements. In addition, a sample of contracts with services exceeding \$100,000 during fiscal year 2018 was selected for review. The review included inspection of the fair wage/fair work provision language contained in the contracting documents, the certification/verification forms, and for a smaller sample, the external CPA audit report and supporting workpapers. The scope was established by the systemwide audit. The audit fieldwork was performed during May and June 2019.

Management represented that no exceptions to the policy had been granted to a supplier for this period.

Background

Systemwide fair wage/fair work requirements were enacted by UC Office of the President and apply to the UC campuses. The requirements became effective October 1, 2017, and pertain to workers of suppliers that perform services at a UC location. The requirement provides that these workers are paid a minimum of \$15 per hour. It does not apply to the provision of goods nor does it apply to services delivered as part of an extramural award containing sponsor-mandated terms and conditions. It complements, but does not supersede, where applicable, State of California prevailing wage requirements for public works.

Suppliers who provide services that exceed \$100,000 annually and are not subject to prevailing wage requirements are required to obtain an annual independent audit that complies with the university's required audit standards and procedures. The audit must be performed by an independent auditor or independent internal audit department. Access to the audit workpapers must be provided to the university upon request. A certification form attesting to compliance is required of the independent auditor annually and is due within 90 days after the annual anniversary of the agreement's effective date.

To assess compliance, suppliers are subject to compliance audits by the university at its sole discretion.

Summary Conclusion

Based on the results of the audit work performed, we observed that not all certifications/verifications had been received in a timely manner. In addition, we observed instances where the certification form was completed but an independent audit report was not submitted, and conversely, where an audit report was submitted but a certification form was not completed.

To improve compliance, we suggest that the Supply Chain Management strengthen its fair wage/fair work process, including both buyers within Procurement as well as buyers located in campus departments. Consideration should be given to the following:

- Ensure that follow-up with the suppliers identifies and resolves the matter at hand. This should incorporate timely discussion with the suppliers as to status of the independent audits, the accuracy of the accompanying certification forms, and why certifications are late. In one case, we found that the supplier had been attempting to secure an independent auditor but had not been successful due to the cost involved. In this case, Procurement may wish to work with the supplier to suggest alternative independent firms and perhaps review the situation to determine whether an exception may be warranted.
- Reinforce training to all buyers regarding the fair wage/fair work requirements and process.

Subsequent Event

The audit found that fair wage/fair work provision language in purchase orders was not always consistent with the language in the applicable version of the standard terms and conditions. This resulted from a uniform resource locator (URL) imbedded in the purchase order clauses being linked to the UC Office of the President site where versions of the UC Terms and Conditions of Purchase were being updated. With each modification, the revised language no longer matched the original purchase order clause. There was no way to determine which version of the prevailing wage and fair wage/fair work provisions was communicated to the supplier.

Subsequent to fieldwork but prior to issuance of our report, the UC Office of the President modified the URL so that it will not change and also now provides a ready-access link to the archived terms and conditions clauses.

SUMMARY OF OBSERVATIONS & MANAGEMENT RESPONSE AND ACTION PLAN

Independent Auditor Certification and Audit

The University of California standard Terms and Conditions of Purchase - Article 25 Fair Wage/Fair Work states “[f]or Services that exceed \$100,000 annually and are not subject to prevailing wage requirements, Supplier will . . . provide an annual independent verification performed by a licensed public accounting firm (independent accountant) or the Supplier’s independent internal audit department.” It further states that “[s]upplier agrees to provide UC with a UC Fair Wage/Fair Work verification annually, in a form acceptable to UC, no later than ninety days after each one year anniversary of the agreement’s effective date, for the twelve months immediately preceding the anniversary date.”

During our review of a sample of suppliers providing services over \$100,000 annually, we found that not all certifications/verifications had been received, and of those that were received, some were received significantly beyond the required 90-day filing period. As in prior years, we also observed instances where the certification form was completed but an independent audit report was not submitted, and conversely, where an audit report was submitted but a certification form was not completed.

To improve compliance, we suggest that Supply Chain Management strengthen its fair wage/fair work process, including both buyers within Procurement as well as buyers located in campus departments. Consideration should be given to the following:

- Ensure that follow-up with the suppliers identifies and resolves the matter at hand. This should incorporate timely discussion with the suppliers as to status of the independent audits, the accuracy of the accompanying certification forms, and why certifications are late. In one case, we found that the supplier had been attempting to secure an independent auditor but had not been successful due to the cost involved. In this case, Procurement may wish to work with the supplier to suggest alternative independent firms and perhaps review the situation to determine whether an exception may be warranted.
- Reinforce training to all buyers in the fair wage/fair work requirements and process.

Management Response and Action Plan

UC Berkeley Supply Chain Management (SCM) will look for opportunities to improve the tracking and monitoring of purchase orders/contracts subject to UC’s Fair Wage/Fair Work (FW/FW) policy. SCM will assess the capabilities of its current purchase order/contract repository system as well as other potential solutions. The SCM Chief Procurement Officer may grant exemptions to the FW/FW policy for services involving professional/consulting services when the hourly rate charged to the University far exceeds the Fair Wage. It is expected Suppliers will have fewer problems providing FW/FW certifications in 2019 due to the City of Berkeley’s minimum wage increase to \$15 per hour October 1, 2018, which matches UC’s Fair Wage for 2019. Procurement Supervisor, Mike Murphy, will review FW/FW purchase orders and contracts and

request updates from SCM Buyers in October 2019, January 2020, and April 2020 regarding any outstanding certifications needed for calendar year 2019.