UCLA HEALTH – FAIR WAGE/FAIR WORK

AUDIT REPORT #20-1210

Audit & Advisory Services

September 2020

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Background

As part of the University of California Office of the President (UCOP) initiative to implement the Fair Wage/Fair Work (FW/FW) plan, audits were performed systemwide to assess campus compliance with the requirements as they pertain to suppliers. UCLA Audit & Advisory Services (A&AS) has conducted such an audit of UCLA purchasing departments’ procedures. This is the fourth annual audit.

The initiative, announced in July 2015, established a University of California (UC) minimum level of pay for employees to ensure that all UC workers are provided a fair wage. The plan guaranteed that UC employees hired to work at least 20 hours a week would be paid at least $13 an hour by October 1, 2015, increasing to $15 an hour by October 1, 2017. The plan also requires certain suppliers and real estate tenants/licensees to pay their employees the UC Fair Wage (defined as $15 per hour as of October 1, 2017). As part of the FW/FW plan, UC is to monitor wages for suppliers’ employees.

For service agreements that exceed $100,000 annually, the supplier, at its own expense, must have an annual compensation audit. These audits are to be performed by the supplier’s independent auditor or independent internal audit department “in compliance with UC’s required audit standards and procedures” to assess the supplier’s compliance with the plan. Such suppliers must also provide a UC Fair Wage/Fair Work Independent Accountant/Internal Auditor Verification 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. Additionally, in the event of a UC interim audit, the supplier must ensure that its auditors make available to UC their FW/FW workpapers for the most recently audited time period.

To implement the plan, campus purchasing departments must identify and monitor all contracts subject to the FW/FW provisions, including those suppliers with approved exemptions. Any supplier exempted from the FW/FW provisions, including any supplier for professional services and consulting, must be approved by a campus senior procurement officer or by the systemwide Chief Procurement Officer. For service agreements that exceed $100,000 annually, the campus purchasing departments should remind the suppliers of the FW/FW audit requirements before the agreement’s anniversary date and request the annual FW/FW Independent Accountant/Internal Auditor Verification.

Campus real estate departments must similarly identify and monitor all lease/license agreements subject to the FW/FW provisions, including those agreements with approved exemptions. Any agreement exempted from the FW/FW provisions must be subject to a citywide minimum wage ordinance that meets or exceeds the requirements of the plan. Campus real estate departments should remind the tenants/licensees to provide annual verifications.

Purpose and Scope

The purpose of the audit was to evaluate compliance with the FW/FW plan. The scope of the audit covered activities that UCLA Health Procurement & Strategic Sourcing (Procurement) performs in order to monitor and assure supplier compliance with the requirements specified by the plan.

UCLA Real Estate is responsible for leases and licenses for the campus and UCLA Health. Audit results relating to real estate tenants/licensees are in audit report #20‑4004, Campus – Fair Wage/Fair Work.

The audit was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing* and included procedures considered necessary in achieving the purpose. Discussions were held with management and staff member, and a limited number of contracts was reviewed*.*

Summary Opinion

Based on the results of the work performed within the scope of the audit, management has established adequate processes to identify and to monitor contracts subject to the University's FW/FW requirements. Caspio, the contracts management database system used by Procurement, has been modified to include fields to identify contracts subject to the University's FW/FW requirements and/or with annual spend equal to or greater than $100,000. The database has other fields, such as contract effective and termination dates, that Procurement uses to monitor contracts subject to the University's FW/FW requirements.

For calendar year 2019, Procurement identified 358 contracts subject to the requirements. Of the 358 contracts, 28 had an annual spend exceeding $100,000, which requires that the supplier undergo a compensation verification audit or obtain an exemption. Observations made during the audit are summarized below.

* The FW/FW provision language was not always consistent with the applicable version of the UC Terms and Conditions of Purchase (UC T&C).
* The individuals who performed the FW/FW auditor verification for the suppliers did not always meet the UC Annual Verification Standards. No issues were identified with the supplier selected for an interim audit.
* Five of ten auditor verifications for contracts with anniversary dates from January 1 to December 31, 2019, were not provided timely by the suppliers in accordance with UC T&C, Article 25.
* Thirteen of 14 professional services contracts, pre-certified during the period October 2019 through June 2020, did not specify the wage rates of the professional employees providing the contracted services. For five of the 13 contracts that listed billable hourly rates, the auditor was able to determine that the professional employee wages exceed the UC minimum wage of $15 per hour.
* The standard purchase order comments added to the purchase order field need to be updated.
* As of April 2020, Procurement has granted two after-the-fact-exemptions to a supplier. The exemptions were properly documented and approved, and the documentation is maintained on file. No issues were identified.

The audit results and recommendations are detailed in the remainder of this audit report.

Audit Results and Recommendations

| **#** | **OBSERVATION and CRITERIA** | **RECOMMENDATION** | **MANAGEMENT’S RESPONSE** |
| --- | --- | --- | --- |
| **PROCUREMENT** | | | |
| 1 | FW/FW Provision Language  For a judgmental sample of 25 contracts executed from January to December 2019, all the contracts contained Fair Wage/Fair Work provision language. However, the language was not always consistent with the applicable version of the UC T&C. The applicable UC T&C would be the one in effect at the time of contract review.   * Eighteen contracts used the UC T&C dated November 29, 2017, rather than using the UC T&C that were prepared in 2018 and 2019. * Language from the December 11, 2017, version of the Amendment to Agreement Fair Wage/Fair Wage template was used for five contracts rather than using the UC T&C, Article 25 in effect at the date the contracts were prepared in 2018 and 2019. The Amendment to Agreement Fair Wage/Fair Work template is obtained from the UCOP Procurement website, which has not been updated to reflect the current terminology.   Two of the 25 contracts used the correct version of the UC T&C in effect in 2019.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Criteria:**  BUS-43, III, Part 1, E.1.d.ii. [Fair Wage/Fair Work] Contracting Procedures: All contracts for UC Fair Wage/Fair Work Services must contain a provision substantially in the form of the UC Fair Wage/Fair Work Article [25] in the UC Terms and Conditions of Purchase. | Management should designate a staff member, perhaps the Contracts Administrator, to periodically review the UC Procurement website for updates to the UC T&C and update Procurement's templates so that current versions are available to the contract specialists.  During the audit, the Contracts Administrator reached out to the UCOP Counsel to Procurement, Health Law & Medical Center Services to be informed whenever the UC T&C gets updated. | Ensuring the appropriate UC Terms and Conditions are utilized as well as maintained on the Procurement website is the responsibility of the Contracts Administrator. However, at the time of the audit, the Contracts Administrator was unaware that an updated version was available. As soon as Audit noted the error, the Contracts Administrator obtained the current version and had it added to the Procurement website. Additionally, the Contracts Administrator requested the UCOP Health Law & Medical Center Services legal counsel assigned to support Procurement to add the Contracts Administrator to the distribution list for receiving updates for the UC Terms and Conditions. |
| 2 | FW/FW Auditor Verifications  For the period from May 2019 to July 2020, Procurement received ten auditor verification forms from suppliers that rendered services in excess of $100,000. There were no instances in which the supplier did not pay the proper rate. However, three of the ten individuals who performed the auditor verification for the suppliers did not meet all the UC Annual Verification Standards.   * A finance controller of the supplier performed the auditor verification. The finance controller does not report directly to an independent company board. * Two of the auditors are self-employed accountants, who are not certified public accountants. Although the auditors are not affiliated with the suppliers, their businesses are not licensed public accounting firms.   As part of this audit, a contract with an annual service spend exceeding $100,000 for calendar year 2019 was judgmentally selected. The related annual verification documentation was reviewed to validate that the required audit procedures were followed. There were no issues identified.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Criteria:**  UC Terms of Conditions of Purchase, Revised 2/27/2020, Article 25: For Services rendered (actual spend) not subject to prevailing wage requirements in excess of $100,000 in a year (under the Agreement or any combination of agreements for the same service), Supplier will (i) at Supplier’s expense, provide an annual independent verification (https://www.ucop.edu/procurement-services/for-suppliers/fwfw-resources-suppliers.html) performed by a licensed public accounting firm (independent accountant) or the Supplier’s independent internal audit department (http://na.theiia.org/standardsguidance/topics/Pages/Independence-and-Objectivity.aspx) in compliance with UC’s required verification standards and procedures (https://www.ucop.edu/procurement-services/for-suppliers/fwfw-resources-suppliers.html), concerning Supplier’s compliance with this provision, and (ii) ensure that in the case of a UC interim audit, its independent accountant/independent internal auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recent verification period. Supplier 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 the end of the 12-month period in which $100,000 in spend is reached. | Upon receipt of an auditor verification, in addition to noting whether the auditor indicated any pay rate exceptions, the Service Buyer should ensure that the individual who performed the audit is a licensed public accountant or an employee of the supplier's internal audit department. | Procurement received a list of websites and guidance from A&AS on how to verify that the appropriate individual(s) is performing the audit.  Moving forward the Fair Wage/Fair Work Buyer will confirm verification that the auditor(s) is a licensed public accountant or is an appropriate representative of the supplier’s internal audit department. |
| 3 | Timeliness of FW/FW Auditor Verifications  Although Procurement has established adequate processes to identify and to monitor contracts subject to the University's FW/FW requirements, five of ten auditor verifications for contracts with anniversary dates from January 1 to December 2019, were not provided timely by the suppliers in accordance with UC T&C, Article 25.  The Article 25 states that auditor verifications should be provided no later than 90 days after the end of the 12-month period in which $100,000 in spend is reached. The annual verifications for five suppliers were provided from 99 to 483 days after the anniversary date of the contracts. Three of the five verifications were provided 168 days or more after the anniversary date.  When a supplier is slow to respond or is unresponsive, management determines whether the contract should be cancelled with the supplier or whether the supplier should be granted an exemption from the FW/FW requirements to allow the contract to continue.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Criteria:**  UC Terms and Conditions of Purchase (revised February 27, 2020), Article 25: ... Supplier 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 the end of the 12-month period in which $100,000 in spend is reached. | Although Procurement has a process to send out multiple supplier reminders and to notify departments and Procurement management of supplier verification delays, it could consider if additional efforts can be made to raise supplier awareness of the importance of submission due dates. | Procurement continues its efforts to receive audits in a timely manner. Audit requests are sent months in advance, advising vendors of the requirement. Three follow-up requests are sent out during the 90‑day window period with the third request being a strongly worded letter regarding possible contract termination.  Moving forward, Procurement has created an agreement termination letter, advising the supplier that if the requested Fair Wage/Fair Work audit is not completed at the end of its 30‑day window, their agreement will not be renewed for an additional year. |
| 4 | Professional Services Contracts  Thirteen of 14 professional services contracts, pre-certified during the period October 2019 through June 2020, did not specify the wage rates of the professional employees providing the contracted services. Procurement pre-certifies professional services contracts as exempt from the FW/FW annual independent verification requirement.  For five of the 13 contracts that listed billable hourly rates, the auditor was able to determine that the professional employee wages exceed the UC minimum wage of $15 per hour. | When the contracts are renewed, management should require the suppliers to include wage rates or the wage range for each professional title on a contract. In the meantime, UCOP Procurement Services recommends that suppliers submit detailed invoices that list the wage rates of professional employees providing contracted services. | After receiving guidance from UCOP, the Procurement contracts team has been instructed that all supplier contracts subject to the Fair Wage/ Fair Work provision require the hourly wage rates for each professional title/resource and the rates must be included in the contract. |
| 5 | "Standard PO Comment" Template  The standard purchase order comments added to the purchase order field need to be updated. The template currently used by Procurement references "Appendix A," which refers to the standard terms and conditions used before October 2014. | The "Standard PO Comment" template should be updated to reference the University standard terms and conditions as "UC Terms and Conditions of Purchase." | Procurement updated the language in its standard purchase order comments by removing any language referencing “Appendix A” and replacing the language with “UC Standard Terms and Conditions of Purchase.” This update was also communicated to all Buyers. |
| 6 | FW/FW Exemptions  As of April 2020, Procurement has granted two after-the-fact-exemptions to a supplier: one for fiscal year 2019 and the other for fiscal year 2020. The exemptions were properly documented and approved. The exemptions were approved by the Senior Director for the following reason: "There is no other alternative [supplier] to provide the required services within the required time frame." The completed forms are maintained on file.  No issues were identified. | Not applicable. | Management response is not required. |
| **FY20 CONTRACTS ANALYSIS** | | | |
| The contracts analysis for UCLA Health is at Appendix 1. | | | |

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