
Internal Audit Report

Fair Wage/Fair Work Review

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I. EXECUTIVE SUMMARY

Audit & Management Advisory Services has completed an audit to evaluate the controls in place to ensure compliance with UC Fair Wage/Fair Work policy.

In general, the campus has made progress in developing controls to ensure compliance with the Fair Wage/Fair Work provision, but controls are not fully mature.

For example, UCSC Procurement Services was including the Fair Wage/Fair Work (FW/FW) provision language in contracts consistent with the language in the applicable version of the standard UC terms and conditions. This was explicit in master agreements and was incorporated into purchase orders by reference.

In addition, training was evidenced by communication we observed between buyers and suppliers identifying if services were to be provided on UCSC property, a condition of the FW/FW provision, and notifications that the contracted service was a prevailing wage project, a condition affecting the annual audit certification requirement. Procurement also added a FW/FW checkbox in CruzBuy, the e-procurement system, for buyers to identify contracts with this provision and to generate reports to help ensure compliance.

However, relevant suppliers were not always providing the required audit certifications timely, and the campus was not providing timely reminders to help suppliers understand their responsibilities for compliance with the FW/FW clause in their contracts. Further training was needed to ensure that requirements for compliance with the FW/FW provision would be implemented.

The following observations requiring management corrective action were identified:

A. Procedures for FW/FW Applicable Contracts

UCSC Procurement Services did not provide exceptional approval when a supplier was unwilling to accept the UC fair wage provision, and misidentified some contracts as FW/FW applicable.

B. Audit Certifications

UCSC Procurement Services had not received any audit certifications nor provided timely reminders to relevant suppliers of this contractual requirement.

Management agreed to all corrective actions recommended to address risks identified in these areas. Observations and related management corrective actions are described in greater detail in section III of this report.

II. INTRODUCTION

Purpose

The purpose of this review was to evaluate the controls over the implementation of the Fair Wage/Fair Work policy that ensure service providers are complying with this policy.

Background

On July 22, 2015, UC President Janet Napolitano announced at the UC Regents Meeting that UC would become the first public university in the United States to voluntarily establish a minimum wage of \$15/hr. The implementation of this policy was to gradually introduce the UC fair wage. This was made effective on October 1, 2015, starting at \$13/hr.; then on October 1, 2016, at \$14/hr.; and finally on October 1, 2017, at \$15/hr. This policy not only applied to UC employees; it also applied to all service providers who perform services for the University at one or more UC locations.

The Fair Wage/Fair Work (FW/FW) policy is included in the UC BFB-BUS-43 Materiel Management Policy as follows:

Section II. Definitions

Fair Wage/Fair Work Services: Fair Wage/Fair Work Services include all services to be performed for the University at one or more UC Locations. Fair Wage/Fair Work services requirements do not apply to: (i) contracts funded by extramural awards containing sponsor-mandated terms and conditions, or (ii) endowment or investment property where the purpose is to generate income from the general public, except to the extent such property is used by the University in furtherance of its mission.

UC Fair Wage: The UC Fair Wage shall equal \$13 per hour as of 10/1/15, \$14 per hour as of 10/1/16, and \$15 per hour as of 10/1/17.

Section III, Part 1: E.1.d. Fair Wage/Fair Work:

i. General Requirements: University of California requires that Suppliers of Fair Wage/Fair Work Services, including Suppliers of Public Works, pay their employees performing the Services no less than the UC Fair Wage.

ii. 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 in the UC Terms and Conditions of Purchase.

iii. Exceptions: 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 AVP, UC Health Procurement for a UC Health systemwide contract; and otherwise by the senior procurement officer of the campus, medical center, or Lawrence Berkeley National Laboratory.

The standard UC Terms and Conditions of Purchase as Article 25. Article 25 states:

If the Services will be performed at one or more UC Locations, do not involve furnishing goods, and are not subject to extramural awards containing sponsor-mandated terms and conditions, Supplier warrants that it is in compliance with applicable federal, state and local working conditions requirements, including but not limited to those set forth in Articles 11, 12 and 14 herein, and that Supplier pays its employees performing the Services no less than the UC Fair Wage. Supplier agrees UC may conduct such UC Fair Wage/Fair Work interim compliance audits as UC reasonably requests, as determined in UC's sole discretion. Supplier agrees to post UC Fair Wage/Fair Work notices, in the form supplied by UC, in public areas (such as break rooms and lunch rooms) frequented by Supplier employees who perform Services.

For Services that exceed \$100,000 annually and are not subject to prevailing wage requirements, Supplier will, a) at Supplier's expense, provide an annual independent audit performed by Supplier's independent auditor or independent internal audit department in compliance with UC's required audit standards and procedures (<http://insidepublicaccounting.com/newsletters/ipa-100-and-ipa-200>), concerning Supplier's compliance with this provision, and b) ensure that in the case of a UC interim audit, its auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recently audited time period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work certification 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.

Scope

We conducted this review by means of the following

- Interviewed UCSC Procurement Services director and assistant director
- Reviewed:
 - BFB-BUS-43 Material Management Policy
 - UC Terms and Conditions
 - UC Procurement Services FW/FW resources
- Requested UCSC Procurement Services lists of all contracts with the FW/FW provision for FY16 and FY17
- Reviewed a judgmental sample from those lists to verify that Article 25 pertained to them
- Requested UCSC Procurement Services for audit certification forms obtained from relevant service suppliers
- Contacted a supplier and discussed annual audit requirements
- Participated in weekly system-wide conference calls with other auditors working on this review

III. OBSERVATIONS REQUIRING MANAGEMENT CORRECTIVE ACTION

A.	Procedures for FW/FW Applicable Contracts	
UCSC Procurement Services did not provide exceptional approval when a supplier was unwilling to accept the UC fair wage provision, and misidentified some contracts as FW/FW applicable.		
Risk Statement/Effect		
Non-compliance with the FW/FW provision can occur when exception procedures are not followed, and inefficiencies can occur when contracts are mislabeled as FW/FW applicable.		
Agreements		
A.1	UCSC Procurement will ensure buyers have adequate training to identify criteria for FW/FW applicability and notify management of potential exceptions.	Implementation Date
		January 15, 2018
		Responsible Manager
		Director, Procurement Services

A. Procedures for FW/FW Applicable Contracts – Detailed Discussion

FW/FW contracts are for services (not goods) provided at UC locations. A contracting document may be a master agreement or a purchase order. Purchase orders may be associated with a master agreement, a blanket purchase order, or may be the sole contracting document. Purchase orders (PO) incorporate UC terms and conditions by reference unless different terms are expressly assented to in writing. Master agreements identify the terms and conditions that apply, often as an addendum. The FW/FW article applies to service contracts since October 1, 2015. Contracts with an earlier start date do not require the FW/FW article unless they are amended or renewed.

We requested UCSC Procurement Services for reports for FY16 and FY17 listing contracts that the FW/FW provision applied. UCSC Procurement Services had created a FW/FW checkbox in the CruzBuy requisition summary screen that buyers check off if the FW/FW provision applies. They used this as a parameter to generate the requested reports. Our intention was to review a judgment sample of at least 10 percent of the FY16 contracts for appropriate wording of the FW/FW article; obtain and review certification forms for all suppliers with campus-based service contracts that exceeded \$100K in FY16; and select one contract over \$100K for additional audit steps. UCOP Audit Services was managing this system-wide audit and expected that UCSC would have a population of no more than 28 service contracts for review.

The list of FY16 service contracts we received were for 790 vendors and over 1,700 POs. We therefore revised the number of contracts we sampled. There were 16 vendors with contracts exceeding \$100K, but only nine were campus contracts; the rest were UCOP agreements.

We examined the nine campus contracts to see if they satisfied the criteria for the annual audit certification. We found only two of the nine contracts that satisfied the criteria. While the report parameters identify all FW/FW

contracts including those worth more than \$100K, additional analysis is needed to identify those contracts that require annual audit certification. Further, the Leica contract appears to be an exception to policy. See Table 1.

Table 1: Campus Service Contracts > \$100K (Supplier names in red were misidentified – see Comments)

Supplier Name	Comments
Otis Elevator Company	Pre-existing agreement without amendments or renewals; not a FW/FW contract
Santa Cruz Staffing	Master agreement 20160127 (Jan 2016-Jan 2017) replaced previous agreement (2/5/15-2/5/16) and included FW/FW article
LaborMAX Staffing	Could only find POs; these incorporate UC T&C. This is an active vendor.
Leica Microsystems Inc.	Not >\$100K annually; \$24,153.46 annually for 5 yrs. Although UCSC Procurement regarded this as FW/FW applicable, the addendum to the agreement only incorporated UC T&E Articles 8 & 9; the UC PO “expressly limits acceptance to the University standard terms and conditions, including any additional terms and conditions applicable to this transaction... Any additional or different terms proposed by the Seller are rejected by the University <u>unless expressly assented to in writing.</u> ” The agreed to addendum appears to be an exception to the FW/FW provision.
Coastwide Environmental Tech.	Blanket PO, prevailing wage project, 1/15/15-6/30/16; not active on 1 year anniversary
First Security Services	Addendum included FW/FW article; agreement still active. During FY16, this was a prevailing wage contract and therefore the FW/FW annual audit is not applicable.
Friends of Olympia Station	PO with UC T&C; not active on 1 year anniversary
FaciliCorp	Agreement had FW/FW article; not active on 1 year anniversary
Cosco Fire Protection	Addendum included FW/FW article; agreement still active. During FY16, this was a prevailing wage contract and therefore the FW/FW annual audit is not applicable.

We also reviewed a judgment sample of 18 service contracts less than \$100K. Of the 18 contracts inspected, 14 complied with the FW/FW provision. Only four of these had master agreements with Article 25 explicit in the agreements; the rest were UCSC POs in which UC T&C are incorporated by reference unless any are explicitly excluded. The remaining four were not FW/FW applicable. See Table 2.

Table 2: Campus Service Contracts < \$100K (Supplier names in red were not FW/FW applicable)

Supplier Name	Comments
Green Line Liquid Waste	Master agreement 6/28/16-7/29/16; includes FW/FW provision
Alexis Party Rental, Inc.	An updated Master Agreement incorporates the UC T&C, which includes Article 25
Montano Plumbing Inc.	Only POs; prevailing wage projects; include time and materials; assume UC T&C applied
Arrowhead Mountain Spring Water	Blanket PO; assume UC T&C apply
K & D Landscaping, Inc.	Only POs; prevailing wage project at MBEST; assume UC T&C apply
Ace Potable Services	Master Agreement, effective date 9/16/15; FW/FW applies

Coast Counties Glass Inc.	Master agreement signed 12/18/15 includes Article 25. This applied to the 4th of four POs; the previous three POs were after 10/1/15 - we assume the UC T&E applied to these earlier POs.
Santa Cruz Records Management Inc.	Only POs. We assume UC T&C apply
Community Tree Service, Inc.	Master agreement dated 6/3/16 includes Article 25. A previous PO dated 12/10/15 appeared to use the supplier's T&C, which did not include a UC FW/FW provision
Briner & Son Landscape Management	Only one PO, dated 12/10/15. Prevailing wage applied. Assume UC T&C applied
Seascope Golf Club	Services provided at Seascope Golf Club - not FW/FW applicable
Pan-Pacific Supply Company Inc.	Service provider performed work at its shop, not on UC property - not FW/FW applicable. Recent requisition was for goods only and therefore not FW/FW applicable
Artisan Refrigeration	Only POs. We assume UC T&C applied
Cardiff Pest Control Inc.	FW/FW applied to POs since Oct. 2015
Roger's Refrigeration Inc.	Only POs. We assume UC T&C applied
North American Van Lines Inc.	Only a PO; moving service from private residence to private residence in Laureate Court, a campus property. This is FW/FW applicable
University of Arkansas, Fayetteville Campus	Federal-funded research project for services during fieldwork, not on campus property; not FW/FW applicable
Blu Sky Web Solutions LLC	Addendum to renewed agreement includes Article 25. This service appears to be an online assessment and scheduling website; therefore not FW/FW applicable

B. Audit Certifications		
UCSC Procurement Services had not received any audit certifications nor provided timely reminders to relevant suppliers of this contractual requirement.		
Risk Statement/Effect		
There is a risk that service suppliers with contracts worth more than \$100K will not comply with Article 25 if not held to the contract requirement of performing annual audits and provide certifications of those audits to the campus.		
Agreements		
B.1	UCSC Procurement Services will create a procedure to identify the one-year anniversary of applicable contracts to notify those suppliers to send annual audit certifications timely.	Implementation Date
		January 15, 2018
		Responsible Manager
		Director, Procurement Services
B.2	UCSC Procurement Services will provide information to relevant suppliers on independent audit requirements.	Implementation Date
		January 15, 2018
		Responsible Manager
		Director, Procurement Services

B. Audit Certification – Detailed Discussion

The UC Terms and Conditions, Article 25, includes the following statement:

For Services that exceed \$100,000 annually and are not subject to prevailing wage requirements, Supplier will, a) at Supplier’s expense, provide an annual independent audit performed by Supplier’s independent auditor or independent internal audit department in compliance with UC’s required audit standards and procedures (<http://insidepublicaccounting.com/newsletters/ipa-100-and-ipa-200/>), concerning Supplier’s compliance with this provision, and b) ensure that in the case of a UC interim audit, its auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recently audited time period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work certification 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.

As the FW/FW provision became effective October 1, 2015, the earliest one-year anniversary of a contract to which this audit certification applied was October 1, 2016, plus 90 days (December 31, 2016) to provide the audit

certification to the Campus. UCSC Procurement Services sent letters to the applicable suppliers dated May 25, 2017, to remind them of the annual audit certification requirement.

As contracts that accumulate value over a year (not just in one transaction) qualify for the annual independent audit, buyers will have to identify suppliers that they estimate will satisfy this criterion and track them for the annual notice of audit certification.

We contacted a supplier with a contract worth over \$100K to determine if it had provided an independent audit for the period 10/1/2015 – 10/1/2016. The supplier had not provided this audit. We learned that they did not fully understand their obligations, as they had not carefully reviewed Article 25. They initially thought the annual audit provision only applied to requisitions that were individually worth more than \$100K, rather than worth \$100k cumulatively over a year. Nor did they understand that they had to hire an independent auditor to conduct the audit. They also asked us what the required UC audit standards and procedures were as referred to in Article 25, which we sent them. After our communication with the supplier, they said they would contact their CPA firm to conduct the audit, and provide UCSC Procurement Services with the audit certification. They expected that they would better comply with Article 25 next year now that they know their responsibilities.

APPENDIX - Summary of Work Performed and Results

Preliminary Survey and Risk Analysis	
Work Performed	Results
<ul style="list-style-type: none"> We conducted a preliminary survey to identify the UC policy and UC standard terms and conditions that include the FW/FW provision. We obtained FW/FW resources from UC Procurement Services at UCOP. 	<p>UC BFB-BUS-43 Materiel Management Policy and Article 25 from UC standard terms and conditions are stated in the background section of the Introduction.</p> <p>UCOP resources included:</p> <ul style="list-style-type: none"> Contract Scenarios Renewals and Extensions Process Fair Wage/Fair Work Decision Tree FAQ (Fair Wage/Fair Work) A Guide to Fair Wage/Fair Work by Commodity Annual Audit Supplier Certification Process (Fair Wage/Fair Work) Annual Audit Standards and Procedures (Fair Wage/Fair Work) <p>We also obtained presentation slides for FW/FW training: "UC Fair Wage/Fair Work Plan, A Guide On Implementation."</p>

Verifying FW/FW Provision	
Work Performed	Results
<ul style="list-style-type: none"> We obtained the current list of all contracts with the Fair Wage/Fair Work provision and all Fair Wage/Fair Work policy exceptions that were granted. We inquired about the process by which UCSC Procurement Services ensure the completeness of the list of contracts with the Fair Wage/Fair Work provision and all FW/FW policy exceptions. We obtained and reviewed a sample of contracts with FW/FW provisions executed during the period 10/1/2015 – 10/1/2016 to verify that the FW/FW provision language was consistent with the language in the applicable version of the UC standard terms and conditions. 	<ul style="list-style-type: none"> We obtained two reports listing all FW/FW contracts during FY16 and FY17 current at the time UCSC Procurement Services generated the reports. See the section on Exceptions to FW/FW for information on policy exceptions. UCSC Procurement Services has created a FW/FW check box on CruzBuy requisition summary screen that a buyer can check if the requisition satisfies the FW/FW criteria. This checkbox was used as a parameter to create the reports of all contracts with the FW/FW provision. FW/FW provision language was consistent with the language in the applicable version of the UC standard terms and conditions. This was accomplished by either stating Article 25 as applicable in a master agreement addendum and including UC standard T&C as an attachment; or by reference in purchase orders.

Verifying Audit Certifications & UC Audit Procedures	
Work Performed	Results
<ul style="list-style-type: none"> We requested certification forms for all FW/FW contracts that satisfied the annual audit criteria. We reviewed those suppliers on the report for FY16 we received from UCSC Procurement Services with contracts worth more than \$100K. We selected one contract worth more than \$100K to find out if the supplier had completed the annual audit. 	<ul style="list-style-type: none"> As of mid-May 2017, no supplier had proactively provided audit certifications, nor had UCSC procurement asked for these certifications. See Section III.B of this report Only two contracts satisfied the criteria for annual audit certification. See Section III.A. The supplier had not fulfilled the annual audit requirement. See Section III.B

Exceptions to FW/FW	
Work Performed	Results
<ul style="list-style-type: none"> We reviewed the exception granted to the FW/FW provision to validate that documented approval from the senior procurement official at UCSC was on file. 	<p>UCSC Procurement Svc. had adequate documentation of the approval to the only exception it provided to Article 25 during the period of 10/1/2015 - 10/1/2016. The documentation was kept within CruzBuy documents and comments for this requisition and purchase order.</p> <p>The supplier was unwilling to accept Article 25 because it did not have a fair wage requirement with its subcontractors.</p> <p>This contract for an air conditioner was only FW/FW applicable if the supplier installed the air conditioner, as mere delivery of goods is not applicable.</p> <p>There was a medical need for a student to have an air conditioner so the interim director approved the exception so the student would have the air conditioner immediately.</p> <p>We found one FW/FW applicable contract that did not appear to include Article 25; no approval was provided. See Section III.A.</p>