

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



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Alexander Bustamante
SENIOR VICE PRESIDENT
CHIEF COMPLIANCE AND AUDIT OFFICER

August 24, 2021

**CHIEF PROCUREMENT OFFICER WILLIAMS
CHIEF TRANSFORMATION OFFICER GRAHAM
ASSOCIATE DIRECTOR LAVIN**

RE: Final Report Project No. P21A004a: Fair Wage Fair Work - UCOP

Attached is a copy of the final report for: Audit Services Project No. P21A004a 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
Executive Vice President Brostrom
Executive Vice President Byington
Executive Director Kalmijn
Executive Director Sullivan
Executive Director Wolkow
Director Schroeder
Systemwide Associate Audit Director Bishin
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. P21A004a
June 2020

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 2020-2021 audit plan, Internal Audit completed a review of the Fair Wage/Fair Work (FW/FW) Plan that was announced by former president Janet 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 are 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 Plan 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; or 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 that 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 pertaining 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.

The FW/FW Plan also applies to leased and licensed space whether UC is the landlord/licensor or tenant/licensee of space, and land ground leases to or from UC Real Estate Services and Strategies (RESS). RESS supports campus and medical center leasing, licensing, and other real estate activities and provides assistance on strategic planning, business case analysis, due diligence, and market, valuation, and financial feasibility analysis for real estate matters. Responsibility for case management, including monitoring of FW/FW compliance, rests with the campus real estate

departments. At UCOP, two departments, the Building and Administrative Service Center (BASC) and Agriculture and Natural Resources (ANR), have been delegated authority to enter into leases.

Objectives and Scope

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

- Review contracts and real estate leases executed in the last year (January 1, 2020 through December 31, 2020) to ensure that applicable contracts and leases contain the required FW/FW provision
- Determine whether Procurement and RESS are reviewing and monitoring contractor compliance with the annual verification requirements
- Determine if exceptions to the FW/FW program were properly approved
- Validate whether suppliers and lease tenants/landlords complied with the annual verification requirements

We reviewed FW/FW processes and interviewed key personnel in the following areas: UCOP Local Procurement, Systemwide Procurement, Systemwide UC Health Procurement, and RESS. For UCOP Local Procurement, Systemwide Procurement, and UC Health Procurement, we reviewed the contract listings of contracts executed in the last year and corresponding annual spending in an effort to validate if the annual verification procedures were properly followed. For real estate leases, we interviewed key personnel within the BASC and ANR and reviewed the lease records to determine if they were subject to the FW/FW provision and if so, followed annual verification procedures.

Overall Conclusion

UCOP Local Procurement, Systemwide Procurement and UC Health have generated a list of contracts subject to the FW/FW provision, and have included the appropriate FW/FW provision in contracts. UCOP Local Procurement and UC Health have also implemented an adequate monitoring process and have performed outreach with suppliers when necessary to remind them of the FW/FW provision. We further noted that the real estate leases managed at UCOP within the BASC and ANR have been adequately reviewed for FW/FW applicability and these leases were not subject to the FW/FW provision.

Although Systemwide Procurement had developed a monitoring process to track supplier compliance with the FW/FW annual verification requirement, this process was not adhered to as follow-up efforts have not always been timely and sufficient to ensure supplier compliance with the annual verification requirement is met.

Opportunities for Improvement and Action Plans

1. Improvements are needed in the Systemwide Procurement FW/FW monitoring and follow-up process

Insufficient monitoring and follow-up

It is the responsibility of the procurement team at each UC location to monitor FW/FW contracts with the annual verification requirement and follow up with applicable vendors to ensure that they fully understand the verification requirement and solicit the required annual verification forms. Although Systemwide Procurement had established a process to send out periodic letters to suppliers to remind them of the verification requirement, records show that follow-up efforts were not sufficient to ensure supplier compliance. As a result, compliance with the supplier annual verification requirement was low.

Of the 42 contracts that were subject to FW/FW, Systemwide Procurement, as part of their FW/FW process, confirmed that 12 contracts met the criteria requiring an annual supplier verification and 18 did not require a verification. At the time of our review, the remaining 12 contracts were not evaluated by Systemwide Procurement to determine if a verification was required. Although the tracking spreadsheet has a field to identify whether the verification is required, it was blank for these 12 contracts. Without this verification evaluation, Internal Audit could not assess overall verification compliance for the 42 contracts.

For the 12 annual verifications that Systemwide Procurement determined that a verification was required during 2020, only 3 verifications were received. For the remaining 9 contracts, follow-up efforts with the supplier were significantly deficient. The tracking spreadsheet used by Systemwide Procurement includes fields to capture the dates when letters are sent to suppliers about their annual verification requirement. These fields include dates for the initial supplier letter, and follow-up at 45 days and 90 days. We noted that the reminder letters were not issued at the 45 and 90 day past due threshold but rather 6 to 15 months after the verification due date, and these follow-up efforts were initiated as a result of this audit.

According to the UC FW/FW Plan, if an annual verification form is not received timely, locations should take one of the following actions: (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 timeframe. In such cases, the Policy Exception Authority must document such approval in writing. However, there was no indication of resolution for these past due verifications.

Management Response

Systemwide Procurement management of the Fair Wage Fair Work verification process was below standard during calendar year 2020 due to several factors as indicated below:

- a. Commodity Management Staff Turnover and Pandemic Related Hiring Freezes. Systemwide Procurement Services experienced significant staff turnover during the second half of 2019, entering 2020 operating 25% below planned staffing levels. The situation was made even more challenging by the pandemic-related hiring freeze, which perpetuated the structural strain on resources.
- b. Pandemic Related disruptions. The Covid-19 pandemic caused major disruptions in UC's supply chain. To better support continued campus operations, Systemwide Procurement was heavily involved with key suppliers and campuses to monitor and find supply of critical personal protective equipment and cleaning supplies. Staffing levels were insufficient to support this effort and resources from other campuses were utilized to augment systemwide staff. Systemwide Procurement also experienced pandemic related staff absences. These absences included the primary analyst maintaining FW/FW correspondence tracking and process management.
- c. Introduction of new compliance requirements. During 2020, UC implemented several new compliance requirements related to contracting out for covered services and program design for UC's new Small Business First Procurement policy. Staff support for the development and implementation of these new policies resulted in fewer resources available to augment FW/FW activities.

Action Plan:

- A1. In an effort to ensure that follow-up efforts are occurring timely and in accordance with its follow-up process, Systemwide Procurement will initiate additional training to commodity managers. This training will address the process for documenting and updating the FW/FW tracking spreadsheet, including follow-up efforts and resolution.

Target Date: November 30, 2021

- A2. Systemwide Procurement will ensure that all the required fields in the FW/FW tracker spreadsheet are completed in accordance with the department monitoring and follow-up process for FW/FW, including the verification required field and dates for follow-up communication.

Target Date: November 30, 2021

- A3. Systemwide Procurement will initiate and fully implement resolution protocols for all past-due supplier annual verifications.

Target Date: November 30, 2021