

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

March 3, 2022

**CHIEF PROCUREMENT OFFICER WILLIAMS  
UC HEALTH CHIEF PROCUREMENT OFFICER WILKERSON  
ASSOCIATE DIRECTOR LAVIN**

**RE: Final Report Project No. P21A004: Systemwide Fair Wage/Fair Work**

Attached is a copy of the final report for: Audit Services Project No. P21A004 Systemwide Fair Wage/Fair Work. 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](mailto: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 Brostrom  
Executive Vice President Byington  
Chief Transformation Officer Graham  
Executive Director Sullivan  
Executive Director Wolkow  
Director Schroeder  
Systemwide Associate Audit Director Bishin

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

SYSTEMWIDE FAIR WAGE/FAIR WORK  
Project No. P21A004  
February 2022

Prepared by:  
Systemwide Associate Audit Director Bishin

Reviewed by:  
Systemwide Deputy Audit Officer Hicks

# Executive Summary

## Introduction and Background

In accordance with the annual University of California (UC) audit plan, Internal Audit conducted a systemwide audit of the UC Fair Wage/Fair Work (FW/FW) Plan. This audit was performed at all UC locations<sup>1</sup> using a standard systemwide audit program. Each location's internal audit department issued a report covering its local observations and associated planned management corrective actions. This summary report provides an overview of the systemwide findings and communicates any issues that should be addressed from a systemwide perspective.

The FW/FW Plan was announced by then 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 \$14 per hour effective October 1, 2016, and \$15 per hour effective October 1, 2017.

The FW/FW Plan was effective as of October 1, 2015 for all new agreements and any renewed or 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).

### *Procurement*

Contracts subject to the FW/FW Plan must contain a provision in the UC Terms and Conditions of Purchase that references 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. These positions are collectively defined as the "Policy Exception Authority" in systemwide procurement policy (BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management).

For services (other than exempted Professional Services) that exceed \$100,000 annually, suppliers are required to perform an annual independent verification, at the supplier's expense, concerning the supplier's compliance with the FW/FW provision. The FW/FW verification standards published by UC require that the verification be performed by a registered accounting firm or the

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<sup>1</sup> This includes the five UC medical centers and Office of the President, but excludes Lawrence Berkeley National Laboratory.

suppliers' internal audit department if it reports to an independent board. If the annual verifications are performed by a registered accounting firm, the firm must not have any affiliation with the supplier. Such suppliers must also provide a UC FW/FW verification form annually, no later than 90 days after each one-year anniversary of an agreement's effective date, for the 12 months immediately preceding the anniversary date. Suppliers must also ensure its auditor makes available to UC its FW/FW verification work papers.

It is the responsibility of the procurement department at each UC location to follow up with the applicable vendors to ensure that they fully understand the verification requirements and solicit the required verification forms at each contract anniversary date. In an effort to facilitate FW/FW compliance, Systemwide Procurement developed and made available to all locations a standard follow-up request letter template to inform suppliers of their annual verification requirement.

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 for contractors to assess compliance with UC's minimum wage rules and expectations for working conditions.

### *Real Estate*

The FW/FW Plan applied to real estate agreements effective May 1, 2016; however, this was the second year that real estate was specifically included in the scope of the systemwide audit to assess compliance with the established guidelines. The FW/FW Plan applies to leased and licensed space whether UC is the landlord/licensor or tenant/licensee of space, and land ground leased to or from UC, that fall within specific guidelines. Real estate lessee/lessor and licensee/licensor agreements subject to FW/FW requirements are required to contain specific language that include the following sections: (a) Compliance with the Plan, (b) Audit Rights, and (c) Remedies. Lessees and licensees must provide an annual verification form attesting to their compliance with the FW/FW provisions on the annual anniversary of the contract's effective date.

Real Estate Services and Strategies (RESS) at UCOP 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. The responsibility for monitoring of FW/FW compliance rests with the campus real estate departments.

RESS has provided guidance to campuses to ensure that FW/FW requirements are incorporated into real estate transactions. Shortly after the FW/FW Plan was implemented in 2016, RESS issued guidelines to the campuses on the applicability of the FW/FW Plan, titled the "Fair Wage Fair Work Plan Applicability to Real Estate." It is available on the RESS website and is the definitive policy interpretation of how the FW/FW Plan is to be applied to a range of different real estate transactions.

## **Objectives and Scope**

Campus internal auditors reviewed local FW/FW processes and documentation and interviewed key procurement and real estate services personnel. The overall purpose of the audit was to assess compliance with the UC FW/FW Plan requirements for procurement contracts and real estate leases and licenses. The audit objectives were to:

- Review contracts and leases executed in the last year to ensure that applicable contracts and leases contain the required FW/FW provision
- Determine whether procurement and real estate services are reviewing and monitoring compliance with the annual verification requirements
- Determine if exceptions to the FW/FW program were properly approved
- Validate whether suppliers and lessees/licenseses complied with the annual verification requirements

Audit procedures were conducted at all campus locations and medical centers and at the Office of the President. The procedures for the Office of the President included both local and systemwide agreements.

## **Overall Conclusion**

In general, the campuses and medical centers have implemented adequate processes to ensure the FW/FW provision is included in procurement contracts, FW/FW contracts are identified and tracked, and supplier annual verifications are monitored. The campuses and medical centers have made progress on rates of compliance since the prior year's FW/FW internal audit in implementing effective processes for monitoring supplier compliance with FW/FW requirements as the overall annual verification compliance rate, including campuses and medical centers, was 90% - up from 87% in the prior year. Compliance with verification standards continues to be an issue as evidenced by late verifications.

In the prior year, two campus real estate offices did not report results and the overall compliance rate for verifications received was only 76% for reporting locations. However, in the current year, all locations real estate offices are reporting FW/FW results and now have adequate tracking information and processes to monitor and collect annual verifications. Additionally, the compliance rate has improved to 87%.

Management corrective actions have been developed at the local level to address deficiencies identified. This report provides a summary of the observations noted at the locations, as well as corrective actions identified at the systemwide level.

## Observations, Opportunities for Improvement and Action Plans

### 1. Campus Real Estate Office Compliance with the FW/FW Plan

The current year level of compliance with the FW/FW Plan across the system for real estate leases and licenses has improved (87%) over prior year's rate (76%).

	Prior Year	Current Year
# Space leases subject to FW/FW	49	61
# Space leases with verification	37	53
% Verifications received	76%	87%

It is important to note that in the prior year, UC Davis and UC Riverside (UCR) did not report results. In the current year, when they did report, UCR reported eight leases subject to FW/FW, but none had verifications on file and all were in default (over three months). All other locations compliance rates in the current year were at 100% except UCR (mentioned above).

As of December 2021, UCR Real Estate Services (RES) has developed Standard Operating Procedures for the certification process. UCR RES submitted certification requests for the eight tenants with outstanding verifications; all were received as of February 2022.

#### **Action Plan:**

RESS will continue to offer training to locations' real estate offices, with the next one scheduled for March 2022. RESS will also send an annual reminder regarding Fair Wage/Fair Work requirements and best practices to campus and medical center real estate offices and relevant stakeholders. As part of this communication RESS will continue to offer assistance to locations as needed.

*Target date: 6/30/2022*

### 2. Annual Supplier Verification Compliance Monitoring for Medical Center Procurement has Continued to Improve

#### Improved Supplier Compliance

We noted that medical center procurement departments have made notable improvement in complying with the FW/FW Plan requirements over past years. We found that all locations have a process in place to monitor the annual supplier verification requirement, and the overall compliance rate for receipt of the annual verification has increased as seen below.

	Two Years Ago	Last Year	Current Year
Annual verification compliance Rate – Medical Centers	32%	86%	97%

Refer to Appendix 1 for more detailed systemwide and medical center FW/FW compliance statistics collected from the campus internal audit departments in their performance of this audit.

Verification Standards not Always Met

Several locations identified instances in which the submitted verification forms did not meet the requirements set forth in the verification standards and procedures. Of the 61 verification forms that were received, 29 (48%) were not fully compliant with the requirements. In prior year the non-compliance rate was 17%. All locations had improved compliance rates over prior year except one location (UCSD), which made up 24 of the 29 exceptions (83% of the total). All of those instances in this location were due to lack of timeliness of the verification form received. This location’s corrective actions plan includes continued communication efforts with suppliers to remind them of the verification requirements, and possible termination of the contract if they fail to adhere to the requirements within 60 days.

No Noted Violations of the FW/FW Provision

A review of the 61 annual verification forms received systemwide for the audit identified no instances in which the supplier did not pay the FW/FW Wage to an employee or contractor.

**Action Plan:**

UC Health will meet with UCSD to better understand their remediation plan to resolve lack of timeliness of verification form receipt and determine how best to assist them in improving timeliness of verifications. UC Health will determine if there are any systemwide best practices to share from that outcome.

**Target date: 6/30/2022**

**3. Annual Supplier Verification Compliance Monitoring for Campus Procurement has Continued to Improve**

Improved Supplier Compliance

We noted that campus procurement departments have made notable improvement in complying with the FW/FW Plan requirements over past years. We found that all locations have a process in place to monitor the annual supplier verification requirement, and the overall compliance rate for receipt of the annual verification has increased as seen below.

	Two Years Ago	Last Year	Current Year
Annual verification compliance Rate – Campus Procurement	69%	87%	88%

Refer to Appendix 1 for more detailed systemwide and campus FW/FW compliance statistics collected from the campus internal audit departments in their performance of this audit.

### Verification Standards not Always Met

Several locations identified instances in which the submitted verification forms did not meet the requirements set forth in the verification standards and procedures. Of the 179 verification forms that were received, 20 (11%) were not fully compliant with the requirements. In prior year the non-compliance rate was 40%. All locations had improved compliance rates over prior year except three locations. One location, UCSD, had the majority of the non-compliant cases. Of the 20 that were not fully compliant, seven instances were from this one location (35% of the total). All of those instances in this location were not received timely and one was not signed by the correct party. This location's corrective action plans include continued communication efforts with suppliers to remind them of the verification requirements, and possible termination of the contract if they fail to adhere to the requirements within 60 days.

### Noted Violations of the FW/FW Provision

A review of the 179 annual verification forms received systemwide for the audit identified seven instances in which the supplier did not pay the FW/FW Wage to an employee or contractor. In six of seven instances, the applicable supplier has confirmed that retroactive payroll adjustments were made to the employee. The campus has developed an action plan to address the remaining instance.

### **Action Plan:**

Systemwide Procurement will send an annual reminder to the locations to remind them of the requirements and best practices regarding the Fair Wage/Fair Work policy. As part of this communication, Systemwide Procurement will offer assistance to locations so they can improve compliance with the policy. In cases where compliance is decreasing, Systemwide Procurement will reach out to those locations to understand root causes and offer assistance.

***Target date: 6/30/2022***

## Appendix 1: Systemwide Fair Wage/Fair Work Statistics

### Current Year and Prior Year Compliance Statistics

FW/FW Statistics	Current Year	Prior Year
<b>Procurement</b>		
<b>% Verification Forms Received</b>		
Campuses	88%	87%
Medical Centers	97%	86%
<b>Total</b>	<b>90%</b>	<b>87%</b>
<b>% Forms Received Meeting All Requirements</b>		
Campuses	89%	80%
Medical Centers	52%	83%
<b>Total</b>	<b>80%</b>	<b>81%</b>
<b># Exemptions Granted</b>		
Campuses	9	2
Medical Centers	2	7
<b>Total</b>	<b>11</b>	<b>9</b>
<b># Professional Services Exceptions</b>		
Campuses	56	47
Medical Centers	51	61
<b>Total</b>	<b>107</b>	<b>108</b>
<b># Instances of Suppliers Identified Not Paying Fair Wage</b>		
Campuses	7	15
Medical Centers	0	2
<b>Total</b>	<b>7</b>	<b>17</b>
<b>Real Estate</b>		
<b>% Verification Forms Received</b>	<b>87%</b>	<b>76%</b>

## Current Year Procurement Statistics by Location

### Campuses

	Total	UCB	UCD	UCI	UCLA	UCM	UCR	UCSB	UCSC	UCSD	UCSF	UCOP	SW
# Contracts Subject to Verification Requirement	203	7	11	10	75	8	11	3	6	12	47	1	12
# Verification Forms Received	179	7	11	10	73	8	6	3	4	8	45	1	3
% Verification Forms Received	88%	100%	100%	100%	97%	100%	55%	100%	67%	67%	96%	100%	25%
# Meeting All Requirements	159	3	11	9	69	8	6	2	3	1	43	1	3
% Meeting All Requirements	89%	43%	100%	90%	95%	100%	100%	67%	75%	13%	96%	100%	100%

### Medical Centers

	Total		UCD	UCI	UCLA					UCSD	UCSF		SW
# Contracts Subject to Verification Requirement	63		8	4	10					25	15		1
# Verification Forms Received	61		8	4	8					25	15		1
% Verification Forms Received	97%		100%	100%	80%					100%	100%		100%
# Meeting All Requirements	32		8	4	3					1	15		1
% Meeting All Requirements	52%		100%	100%	38%					4%	100%		100%

### Total Campus and Medical Centers

	Total	UCB	UCD	UCI	UCLA	UCM	UCR	UCSB	UCSC	UCSD	UCSF	UCOP	SW
# Contracts Subject to Verification Requirement	266	7	19	14	85	8	11	3	6	37	62	1	13
# Verification Forms Received	240	7	19	14	81	8	6	3	4	33	60	1	4
% Verification Forms Received	90%	100%	100%	100%	95%	100%	55%	100%	67%	89%	97%	100%	31%
# Meeting All Requirements	191	3	19	13	72	8	6	2	3	2	58	1	4
% Meeting All Requirements	80%	43%	100%	93%	89%	100%	100%	67%	75%	6%	97%	100%	100%

# Campus Real Estate Statistics by Location

	Total	UCB	UCD	UCI	UCLA	UCM	UCR	UCSB	UCSC	UCSD	UCSF	UCOP
# Space and ground leases subject to FW/FW	61	10	8	1	0	0	8	2	3	19	10	0
# Space and ground leases with verification	53	10	8	1	0	0	0	2	3	19	10	0
% Verifications received	87%	100%	100%	100%	N/A	N/A	0%	100%	100%	100%	100%	N/A