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University of Washington Private Business Use Training

October 30, 2025

Agenda

- Private Business Use (“PBU”) Overview
  - Overview of Guidelines
  - How is it measured?
  - Consequences – exceeding IRS limit
- Overview of the University’s PBU Process
- InVision Replacement - FM Systems Overview
- Q&A

Private Business Use: Overview

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Basic Rule (Governmental)

Bonds issued as governmental bonds will become "private activity bonds" and therefore lose their tax status if:

1. More than 10% of bond proceeds are used for a "**private business use**" and
2. More than 10% of the debt service on the bonds is directly or indirectly payable from or secured by property used in a private business.
3. Or, more than 5% of the bond proceeds are loaned to a private entity

Note: Special rule for bond issues above $150 million: The amount of private business use is effectively capped at $15 million per issue.

Private Business Users

- Federal government
- Foreign governments
- Corporations, partnerships or any other entity engaged in business
- Natural persons engaged in a trade or business
- Governmental Bonds: 501(c)(3) organizations
- Special rules for partnerships with private users
- Note: Students are not private users. They are natural persons, not engaged in a trade or business.

Types of Private Use

- Ownership
- Leases
- Management Contracts
- Output Contracts
- Sponsored Research Agreements
- Other actual or beneficial use
  - Special Legal Entitlements
  - Priority Rights
  - Naming Rights

Short Term Use Exceptions

50 Day Short Term Use Exception

- Use by a nongovernmental person is not PBU if
  - — Term not greater than 50 days
  - — Negotiated arm's length arrangement with fair market value compensation
  - — The property was not financed for the principal purpose of providing that property for use by that nongovernmental person
  - — Renewal options: for this purpose, it means a provision providing either party a legally enforceable right to renew the contract
    - Does not include "evergreen" provisions if either party can cancel

100 Day Short Term Use Exception

- Only applies if facilities aren't available for use by the public (i.e. prisons)

Management Contracts 101

What is a management contract?

- A management, service, or incentive payment contract between a governmental person and a service provider under which the service provider provides services involving all, a portion of, or any function of, a facility.
  - — Examples: Contract for management of dining services, incentive payment contract for physician services at a hospital.
- Can result in private business use unless:
  - — The Regulations specifically say it is not treated as a management contract.
  - — The contract is a "qualified management contract" under Revenue Procedure 2017-13.
  - — The contract under the "facts and circumstances" does not result in a net profits arrangement or otherwise constitute private business use.
- Net profit compensation is a problem ⚠

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Research Agreements

- What is a research agreement? An agreement by a nonqualified person to sponsor research performed by a qualified person.
  - Might also be called Collaboration Agreement, Material Transfer Agreement.
- Why would this be private use? Basically, the IRS does not want private entities using the University to do their product testing for them or to be the primary beneficiaries of University research.
- Sponsored “applied research” is generally private business use. For example, product testing supporting the trade or business of a specific nongovernmental person is applied research.
- Sponsored basic research may or may not be private business use. “Basic research” means any original investigation for the advancement of scientific knowledge not having a specific commercial objective.

Qualified Research Agreements

Safe Harbors in Revenue Procedure 2007-47:

- Corporate Sponsorship:
  - Single sponsor (not including federal government)
  - Can grant an exclusive license to the sponsor, but only on the same terms that would be offered to a non-sponsoring party
  - Must pay fair market value determined after the IP/technology has been created

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Qualified Research Agreements

Additional Safe Harbors

- Industry Sponsorship
  - Single or multiple sponsors (can include the federal government).
  - The qualified user determines the research to be performed and the manner in which it is to be performed (for example, selection of the personnel to perform the research).
  - Title to any patent or other product incidentally resulting from the basic research lies exclusively with the qualified user.
  - The sponsor or sponsors are entitled to no more than a nonexclusive, royalty-free (NERF) license to use the product of any of that research.
- Federal Sponsorship
  - Subcategory under “Industry Sponsorship”—includes Federal agencies like National Institute of Health and National Science Foundation.
  - The existence of march in rights under the Bayh-Dole Act will not cause the contract to be outside the safe harbor.

Basic Measurements

- The amount of private business use of property is determined according to the average percentage of private business use of that property during the measurement period.
- Measurement Period:
  - Starts: later of the issue date of the bonds or the date the property is placed in service
  - Ends: earlier of the last date of the reasonably expected economic life of the property or the latest maturity date of the bonds
- Track the private business use on an annual basis and then average the annual use over the measurement period.
- “Qualified Equity” can off-set private business use in each year

PBU Calculation Example

- Example: UW finances a building with $100,000,000 in tax-exempt bonds. The bonds have a 20-year measurement period and the building has 200,000 total RSF with the following uses:
  - **Research** (100,000 RSF): Building has $4,000,000 in annual research expenditures and $400,000 per year is private use (10% of the research space)
  - **Administrative & Classroom** (80,000 RSF): Used for classroom instruction and administrative purposes (no private business use)
  - **Retail Lease** (20,000): Portion of facility is leased to a private retail tenant for 5 years (25% of the measurement period)

Use	Rentable Square Footage	Proceeds ($) (allocated by SF)	% PBU	% of Time	PBU ($)
Research	100,000 SF	$50,000,000	10%	100%	$5,000,000
Administrative & Classroom	80,000 SF	$40,000,000	-	-	$0
Retail	20,000 SF	$10,000,000	100%	25%	$2,500,000
Total	***200,000 SF***	***$100,000,000***			***$7,500,000***
				% Total PBU:	***7.5% ($7,500,000/ $100,000,000)***

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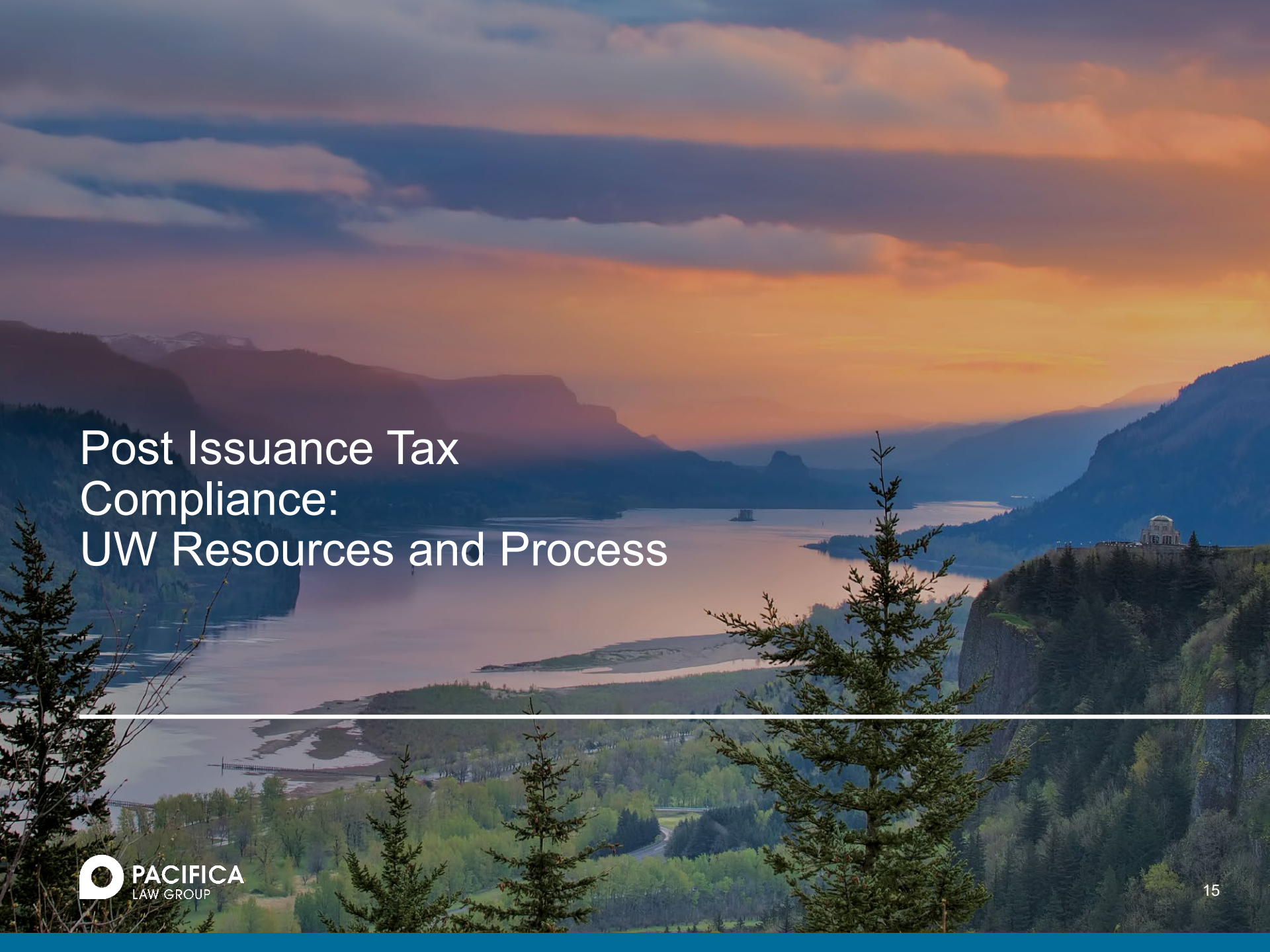
Remedial Action, VCAP, Audits

Remedial Actions

- In some cases, you can take a remedial action to ‘fix’ a change in use that would otherwise cause bonds to be private activity bonds
- Redeem nonqualified bonds
- Alternative use of disposition proceeds or facilities
- 90-day window

Voluntary Compliance Agreement Program (VCAP)

IRS Examinations/Audits



Post Issuance Tax Compliance: UW Resources and Process

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Private Business Use - Resources

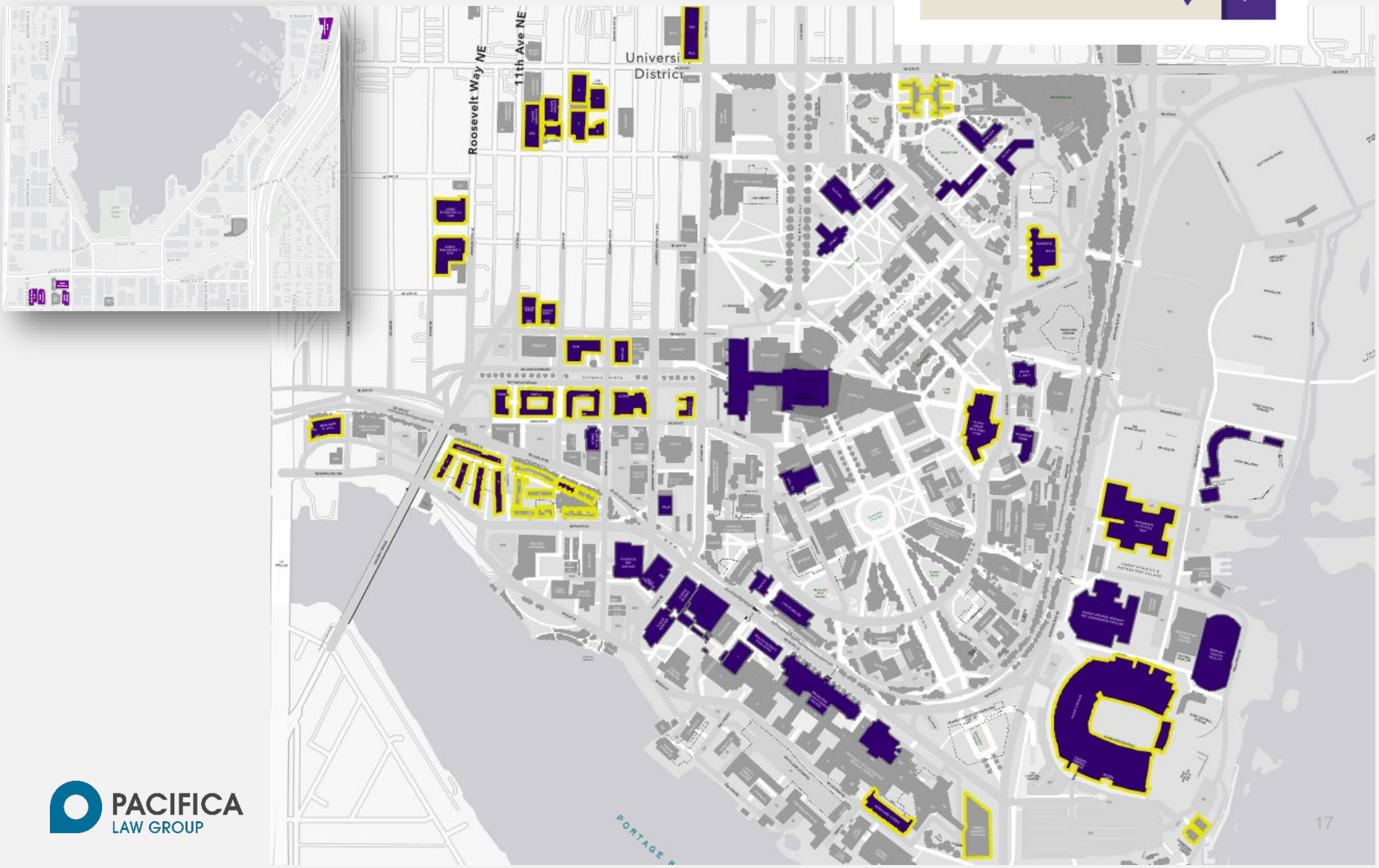
PBU Resources Available at: http://f2.washington.edu/treasury/pbu

- Guide to Identifying and Measuring Private Business Use in Tax-Exempt Facilities
- PBU calculation examples
- Sample PBU calculation workbook
- Tax-Exempt bond-financed campus map
- Annual PBU Survey link
- Instructions for updating Space Manager for PBU survey

Tax-Exempt Financed Facilities

BUILDINGS WITH TAX-EXEMPT DEBT – UPDATED AS OF 6/30/2025

REVIEW CAMPUS MAPS HERE



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PBU Tracking Annual Process

- Surveys are sent each summer for all bond-financed facilities
- ORIS separately sends research expenditure data
- School of Medicine sends HHMI investigator data
- Treasury pulls current space data
- Treasury reviews surveys and compiles a summary
- Treasury collects any new or updated contracts
- Pacifica reviews the summary, research data and contracts
- Pacifica sends updated spreadsheets and summary info to DMA
- Treasury compiles annual PBU book
- Treasury sends SLU spreadsheets to Grow America for 990 filings

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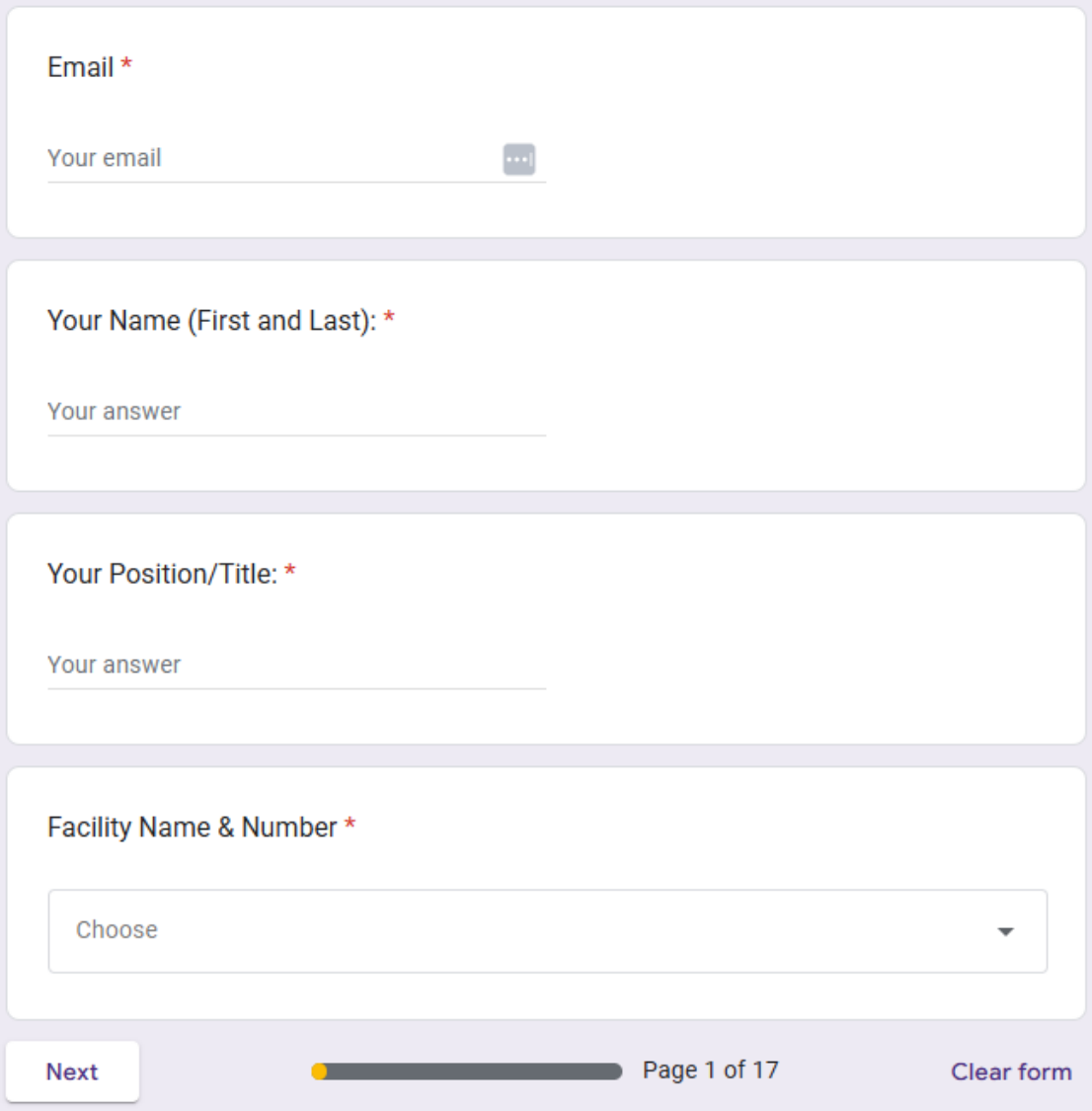
Annual Building Survey



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Annual Building Survey

Is any portion of the Project/Facility privately managed or serviced? *

- ○ No
- ○ Yes, but only contracts for services solely incidental to the primary function of the project (such as janitorial, equipment repair, hospital billing or similar services).
- ◉ Yes, private management, service or incentive payment contract (such as a contract with a private property management company, a physician services group, concessionaires, parking manager, or food service provider).

Private Management, Service, or Incentive Payment Contract

Upload agreement(s) below *

Upload up to 10 supported files. Max 10 GB per file.

Add file

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Annual Building Survey

Any Other Private Business

Any other use by a private business, 501(c)(3) organization, a federal entity or a public-private joint venture? Please include any licensing, franchise, output contracts, priority rights or other agreements with respect to the space. *

- ○ No
- ◉ Yes

Any Other Private Business, cont.

If yes, describe: *

Your answer

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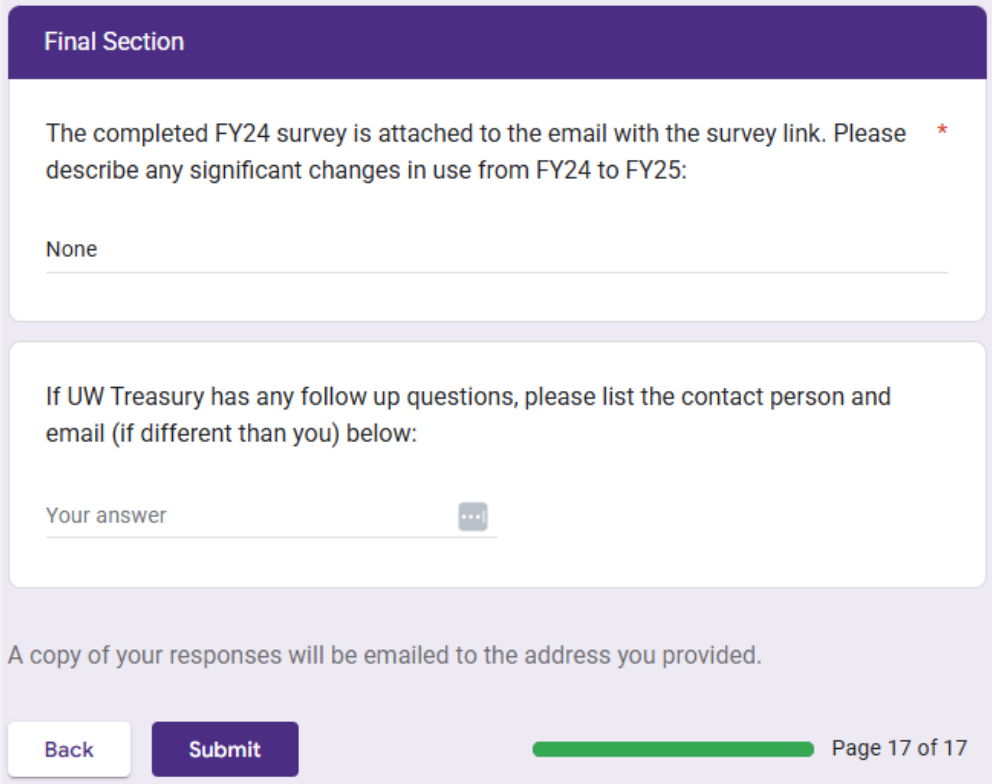
Annual Building Survey



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Research Contracts - IP Flag

Instead of reviewing annually, sponsored research contracts are reviewed by OSP when entered into and flagged for potential private use using the following questions:

- Does sponsor have a license or right to use (or receive royalties from) any resulting technology? Yes/No
  - -If yes, is the price to be paid for the license or use at least fair market value? Yes/No
  - -Is the price to be determined when the license or technology is available for use? Yes/No
- Does the University (or University personnel) determine the research to be performed and the manner performed? Yes/No
- Does title to any patent or product resulting incidentally from the basic research lie exclusively with the University? Yes/No
- Is the sponsor entitled only to a non-exclusive, royalty-free license to use the product of the research? Yes/No
- If federally sponsored, are there any “march-in” rights over licensing (other than those mandated by the Bayh-Dole Act)? Yes/No

Research PBU Summary

FY 2022-2023	Research space	Total Exp	HHMI	IP Flag	% PBU Research	% PBU Bldg	Equity	PBU Bonds
4225 Roosevelt (OTT)	33%	5,548,123	-	184,652	3.33%	1.10%	15%	0.00%
Animal Care and Research (ARCF)	100%	8,066	-	8,066	100.00%	100.00%	21%	78.90%
Ben Hall (RTB)	100%	11,405,129	-	103,152	0.90%	0.90%	18%	0.00%
Molecular Engineering (MOL)	*	29,797,986	2,247,009	3,394,058	-	*	8%	
Bothell/Discovery (DISC)	48%	-	-	-	0.00%	0.00%	58%	0.00%
Magnuson Health Sciences J Wing (HSJ)	83%	24,752,013	2,196,161	2,247,605	16.49%	13.69%	42%	0.00%
Magnuson/AALAC (HSAA)	29%	10,423,747	-	1,202,931	11.54%	3.34%	0%	3.34%
Foege (BIOE)	52%	9,728,456	-	1,076,938	11.07%	5.80%	83%	0.00%
Life Sciences (LSB,LSG)	84%	1,199,587	1,891,707	-	61.19%	51.26%	27%	23.96%

(HHMI + IP Flag)/(HHMI + Total Research) = % PBU Research

Research Space * % PBU Research = % PBU Building

If Equity > % PBU Building, then PBU Bonds = 0

If Equity<% PBU Building, then PBU Bonds = % PBU Building – Equity

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PBU Summary by Bond Issue

All PBU data gathered, including the research data, is then compiled in a summary for each bond issue. This is the 2009 Bonds summary from 2023:

2009B General Revenue Bonds - New Money Projects				2023	
Building	**2009B Proceeds**	**% of 2009**	**QE**	**PBU Project**	**% PBU**
Mol E	$ 50,783,129	66.69%	7.06%	10.00%	6.67%
HUB	$ 2,549,087	3.35%	5.64%	0.00%	0.00%
PACCAR business school	$ 3,300,000	4.33%	78.05%	0.00%	0.00%
Hall Health	$ 27,733	0.04%	26.66%	0.00%	0.00%
Pediatric Dentistry	$ 4,142,722	5.44%	33.67%	0.00%	0.00%
Tower TI/UW	$ 65,193	0.09%	85.09%	0.52%	0.00%
Magnuson/AAALAC	$ 672,892	0.88%	0.00%	3.34%	0.03%
H&D 1A and 1B (Poplar and Cedar)	$ 5,456,660	7.17%	0.00%	0.00%	0.00%
UWMC Exp/Phase 1/Montlake	$ 7,151,730	9.39%	30.28%	0.00%	0.00%
Total 2009B New Money Projects:	$ 74,149,145	97.37%			6.70%

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PBU Summary all Bond Issues

"Master Summary" tracks all bond issues over time.
Note: the 10% PBU restriction is measured over the life of the bonds.
Exceeding 10% in one year is not a violation.

Bond Issue	Final Maturity	Average	Prior PBU	2017	2018	2019	2020	2021	2022	2023
2009	2039	0.40%		0.12%	0.38%	0.32%	0.32%	0.44%	0.45%	0.75%
2009B	2036	4.09%		0.10%	0.02%	2.43%	8.95%	6.10%	4.04%	6.96%
2010B BABs	2040	0.07%		0.33%	0.02%	0.02%	0.02%	0.02%	0.02%	0.04%
2012C	2043	0.08%		0.18%	0.00%	0.03%	0.12%	0.08%	0.06%	0.10%
2013	2023	7.83%		7.80%	7.78%	7.81%	7.89%	7.85%	7.83%	7.86%
2015B/2005 Ref*	2037	0.04%	0.25%	0.28%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
2015B/2006 Ref*	2037	0.86%	6.39%	6.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
2015B/2007 Ref*	2037	8.09%	13.30%	8.94%	8.94%	8.94%	8.94%	6.95%	6.95%	6.95%
2015C Gov't	2045	0.29%		0.00%	0.00%	0.00%	0.01%	0.01%	0.00%	2.03%
2015C 501c3	2032	0.85%		0.51%	1.31%	1.31%	1.31%	0.51%	0.51%	0.51%
2016	2036/2046	1.81%		NIS	NIS	0.00%	1.14%	0.00%	2.50%	5.43%
2018	2048	4.09%			NIS	NIS	2.37%	0.00%	5.17%	8.83%
2020A	2050	0.44%						NIS	0.44%	0.44%
2020C/2011 Ref	2035	2.72%	0.11%					NIS	2.70%	2.75%
2021A	2051	0.63%	0.01%						0.63%	0.63%
2022A 501c3	2037	0.00%							NIS	0.00%
2022C/2019 Ref	2048	4.08%	0.00%						3.10%	5.05%

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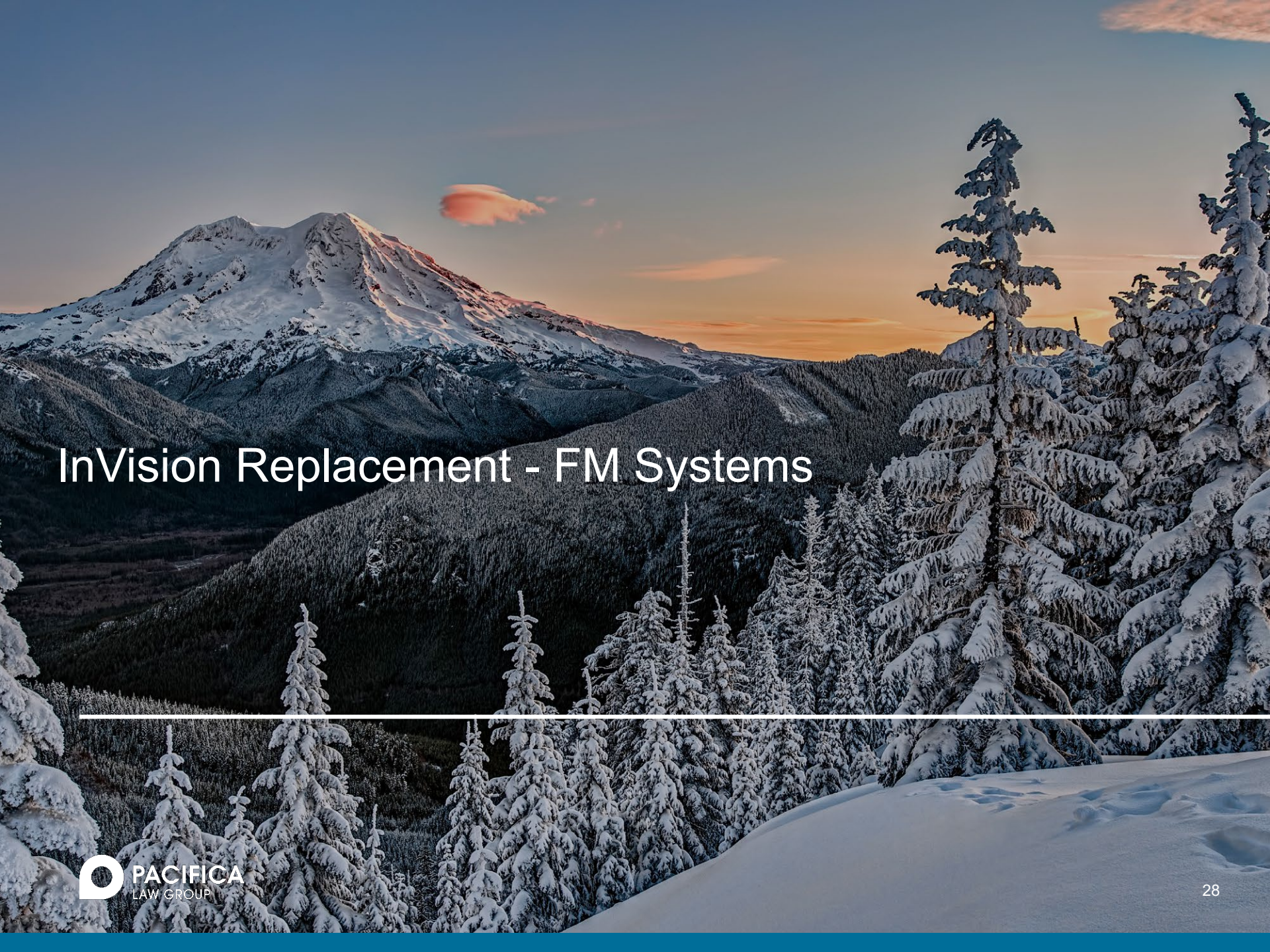
Accomplishments

- Multi-year development of annual private use tracking and documentation process has been successfully implemented
- IP Flag implemented
- Annual PBU Book
- Increased awareness by facilities managers of private use issues
- UWM supplemental surveys for small works projects and affiliation agreements
- Digital surveys

Goals

- Continue to streamline and automate the process
- Verification of final facilities costs and qualified equity as needed
- Maximize efficiency and minimize duplicative efforts
- Complete process more quickly each year
- Improve process documentation to reduce impacts of staffing changes
- Process checklists
- Units to complete space data updates in FM Systems annually
- For rooms with research activity, units to add/update grant worktags



InVision Replacement - FM Systems

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Discussion

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Next Steps

- Surveys will be distributed within the next 1-2 days
- Update space data (FM Systems)
- Responses due back November 21, 2025

- Questions? Contact:

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Thanks for joining us!

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