



LEGAL COMPLIANCE UPDATES

SB 854 & TEMPLATES

Highlights of UCOP Training from
August 4, 2015

Presented by UC Merced Procurement
August 5, 2015



Background on SB 854

Before

- UC already subject to Prevailing Wage requirements

After

- *Added administrative requirements* that will affect Procurement
- *Expanded definition* of “public works” for which prevailing wage must be paid

Prevailing Wage



The Department of Industrial Relations (DIR) sets Prevailing Wage according to the type of work and location

All workers employed on public works projects must be paid the prevailing wage



Definition of Public Works

construction



alteration



demolition



repair work



installation



maintenance



Paid for in whole or part with public funds and done under contract. Generally does not apply to work done by UC employees

Definition of Public Works

- For federally funded construction, whichever is most stringent applies

Federal law



California Law (SB 854)



When Are Prevailing Wages Required?

All **public works** over **\$1,000** including maintenance



When Are Prevailing Wages Required?

If there are **ANY** public funds in a public works project, the whole project is subject to prevailing wage requirements

Public funds includes self-supporting departments where revenue is not derived from state funds:

Housing and dining



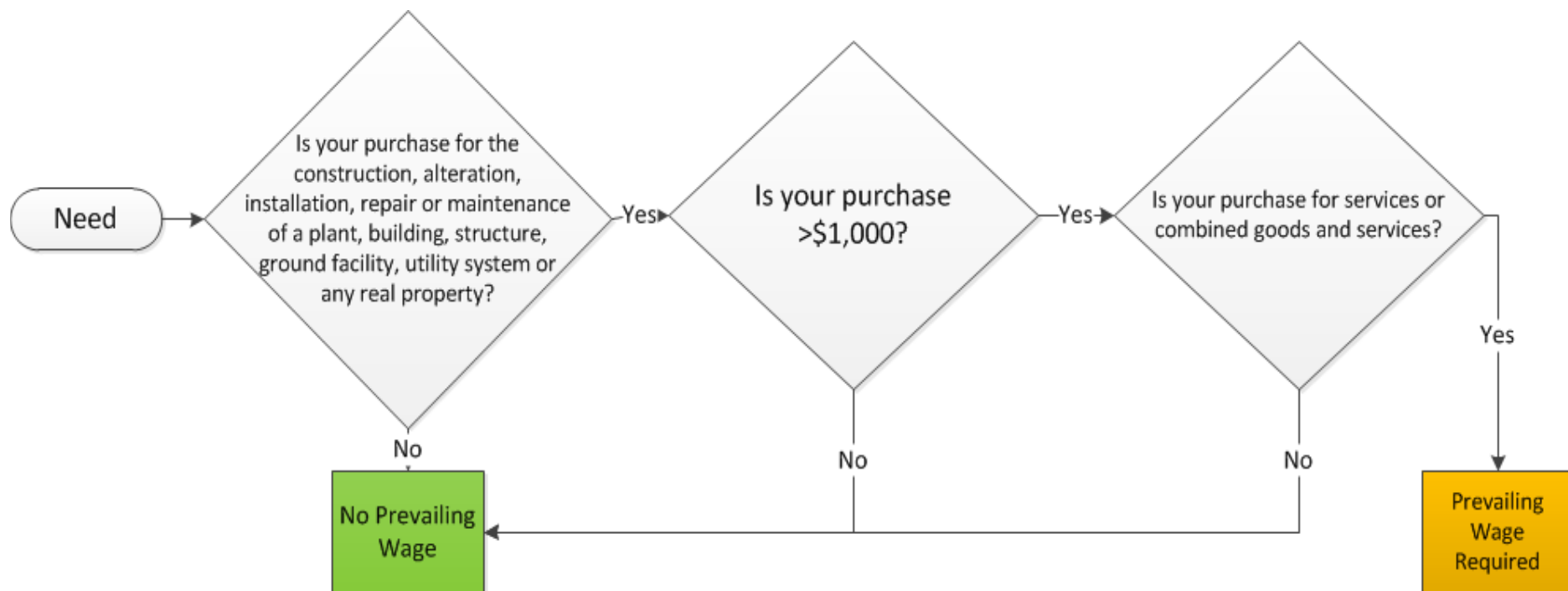
Transportation, parking



Auxiliary business services



Prevailing Wage Decision Tree



Exception 1: Janitorial or custodial services of a routine, recurring or usual nature

Exception 2: Protection of the sort provided by guards, watchmen, or other security forces

Exception 3: Landscape maintenance work by "sheltered workshops," where "sheltered workshops" are nonprofit organizations licensed by the Chief of DLSE employing mentally and/or physically handicapped workers

Categories of Public Works



Construction



Maintenance



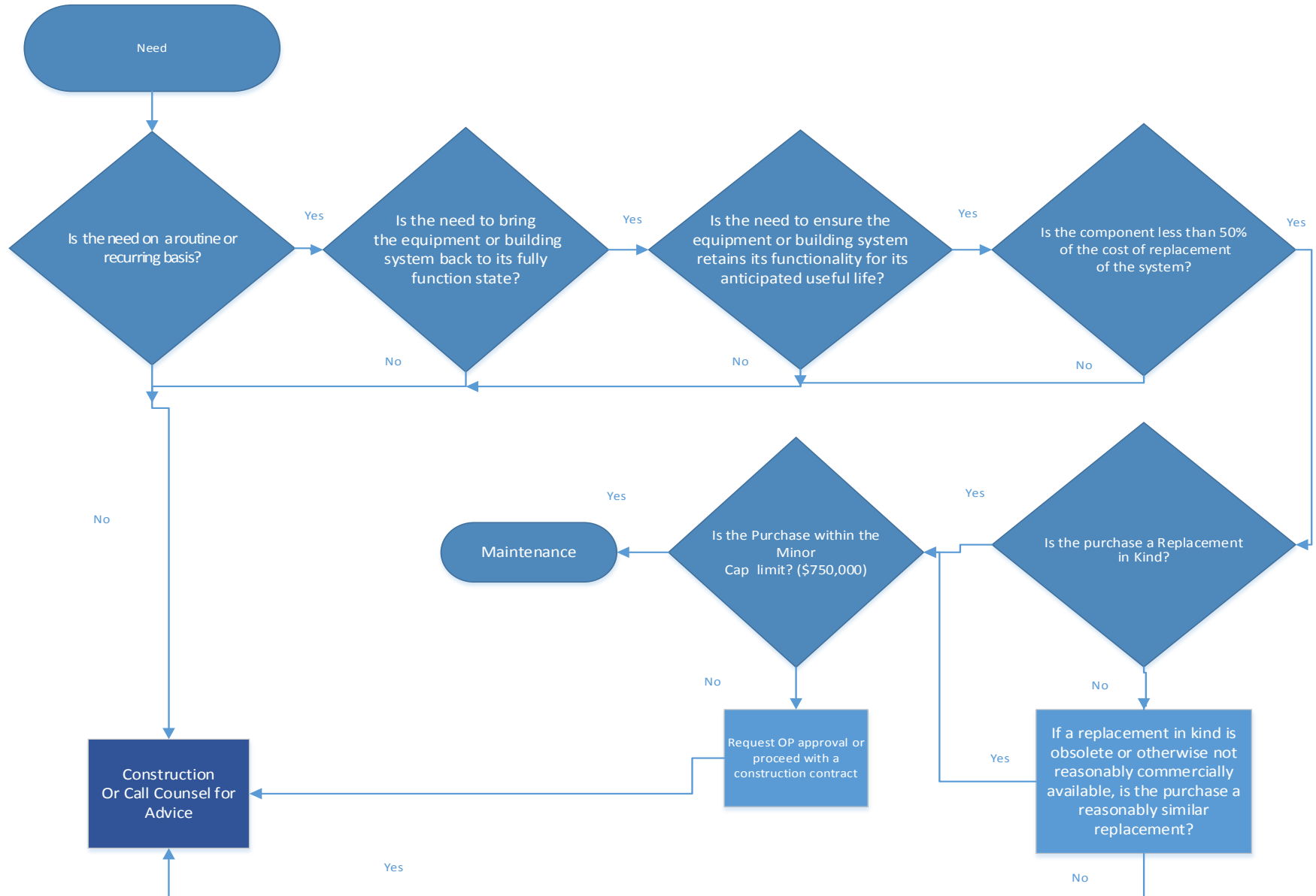
Renewable energy projects



Hauling of refuse



Construction or Maintenance flowchart





Maintenance

Maintenance done under contract and paid for in whole or part with public funds

Maintenance now includes projects not previously covered by Prevailing Wage requirements



See Job Aid for a complete list of projects considered under maintenance

Samples of Maintenance



Prevailing Wage Commodities List

Samples of Contracted Maintenance Work	Must Pay Prevailing Wages? (If >\$1,000)
Tree trimming	yes
Landscaping Maintenance	yes
Equipment Repairs (pumps, motors, belts, etc.)	yes
Elevator Maintenance	yes
Roofing, Patch	yes
Drop Ceiling Repair	yes
Carpet replacement	yes
Installation of Modular Furniture	yes
Painting, touchup	yes



Hauling of Refuse

- From a public works site to an outside disposal location
- Does not include hauling of recyclable materials separated from jobsite to be sold at fair market value





Renewable Energy Projects

Done under private contract where the work is performed on UC property in California

- *and* -

more than 50% of the energy generated will be purchased by UC

- *or* -

the project is primarily intended to reduce UC's energy costs



Risks of Non-compliance?

If UC does not require its suppliers to pay prevailing wages when applicable:

- Contract subject to cancellation
- Reputation risk
- Supplier could be fined or debarred from public works projects
- Supplier could sue UC for any increased costs including:
 - labor cost increases and penalties
 - attorney's fees

New Requirements - UC Must:

When ***requesting*** quotes, or bids:

1. Notify suppliers of registration requirement with DIR
2. Specify that project is subject to compliance monitoring/enforcement by DIR
3. Require the prime contractor to post job site notices as prescribed by regulation
4. Require all suppliers on public works projects to provide proof of DIR registration

What Must UC Buyers Do?

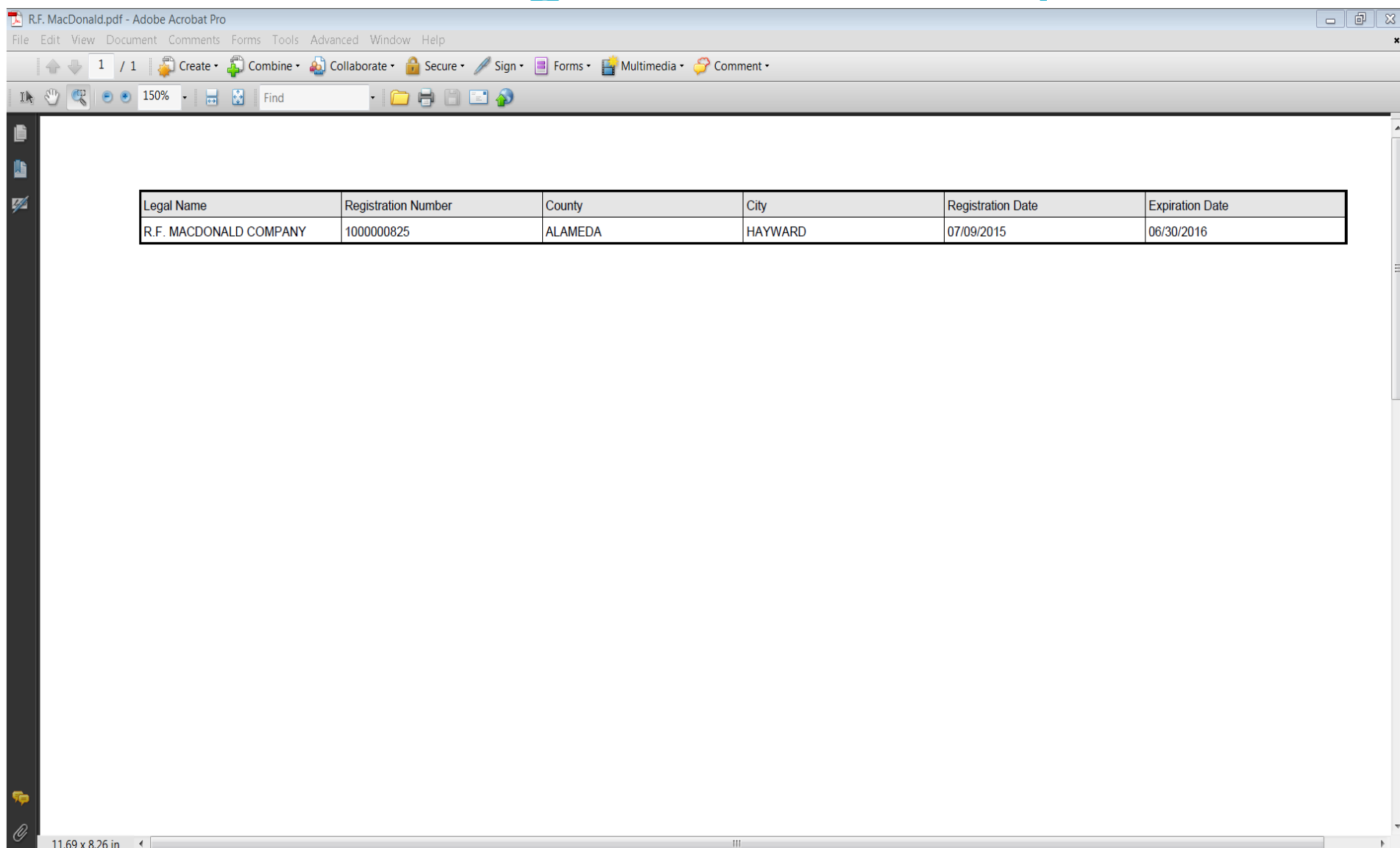


- Before awarding a contract, confirm supplier's DIR registration by searching DIR's database
 - Yes, this is *in addition* to requiring supplier to provide proof of registration
 - DIR has a database of all registered suppliers

<https://efiling.dir.ca.gov/PWCR/Search.action>

Do not accept bid, enter a requisition, or enter into a contract without proof of supplier's DIR registration

DIR Registration Example



What Must UC Buyers Do?

If someone reports a suspected prevailing wage violation



Take action!

- ✓ Report the suspected violation to DIR
- ✓ Campus can investigate allegations (if it has an infrastructure to do so)
 - e.g. UC Davis

Where to Find Resources



UC Procurement Website:

<http://www.ucop.edu/procurement-services/index.html>



DIR website:

<https://www.dir.ca.gov/Public-Works/PublicWorks.html>



Where to Find Resources



UC Procurement Website:

<http://www.ucop.edu/procurement-services/index.html>



FAQs

Job
Aids

Prevailing
Wage
Commodities
list

Supplier
Checklist



Buyer's
Guide

Purchasing
Agreement

Terms and
Conditions
of
Purchasing

Library of
Provisions

August 27th: Deep Dive on SB 854

- Q&A from Overview training
- How to Search for a Contractor
- How to register with the DIR
- How to fill out PWC – 100 Form
- New P.O. process/workflow
- Changes to RFP Documents/Supplier Information Form/T&Cs/Purchasing Agreement/Bus-43



Items in red are being handled by UCM Procurement Services

Questions on Prevailing Wage?

- **Send** questions to sshafer2@ucmerced.edu
 - In **subject line**, type “PW Question”
 - FAQs will be posted on UCOP Procurement website after Deep Dive



BUS-43

- BUS-43 currently being amended
 - Will add provisions to ensure compliance with Prevailing Wage requirements

*Unlike many other contract terms, these provisions are **required when applicable**. BUS-43 will so state.

KNOW THE RULES!



