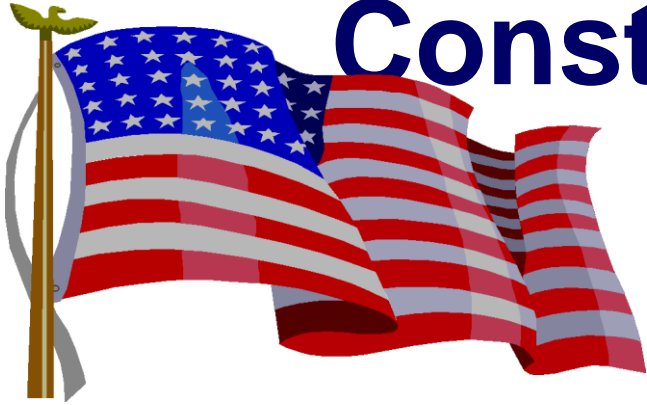




# An Overview of Federal Construction Contracting



*Presented by:*

**Wisconsin Procurement Institute**



*JULY, 2015*



Providing expert technical assistance to  
**FEDERAL, STATE and LOCAL GOVERNMENT Contractors And Subcontractors**

**A Procurement Technical Assistance Center (PTAC) Serving the Wisconsin Business Community**

WPI Offices located at:

Milwaukee County Research Park  
 10437 Innovation Drive, Suite 320  
 Milwaukee, WI 53226

414-270-3600 FAX: 414-270-3610

Juneau County Economic Development Corp.  
 122 Main St - Camp Douglas, WI 54618

608-427-2455 FAX: 608-427-2086

Western Dairyland EOC, Inc.

418 Wisconsin St. - Eau Claire WI 54703

608-427-2455 FAX: 608-427-2086

Fox Valley Technical College – DJ Bordini Center

5 Systems Drive – Appleton WI 54912

920-840-3771 FAX: 414-270-3610

Racine County Economic Development Corporation – Launch Box

141 Main Street, Suite 2, Racine, WI 53403

414-270-3600 FAX: 414-270-3610

Madison Enterprise Center

100 S. Baldwin St., Madison, WI 53703

608-444-0047 FAX: 414-270-3610

Food Enterprise & Economic Development (FEED)

1219 N. Sherman Ave., Madison, WI 53704

608-444-0047 FAX: 414-270-3610

Wausau Region Chamber of Commerce

200 Washington Street, Wausau, WI 54403

920-456-9990 FAX: 414-270-3610

[www.wispro.org](http://www.wispro.org) - [info@wispro.org](mailto:info@wispro.org)



Search ...

[BLOG](#) [SERVICES](#) [ABOUT](#) [MY ACCOUNT](#) [SURVEY](#) [CONTACT](#)



- [EVENT CALENDAR](#)
- [FEDERAL GOVERNMENT](#)
- [STATE GOVERNMENT](#)
- [LOCAL GOVERNMENT](#)
- [OTHER GOVERNMENT & GRANTS](#)
- [FAQS](#)



### UPCOMING EVENTS [→](#)

02/26/2015  
FEDERAL PRIME CONTRACTOR GROUP MEETING  
ST. FRANCIS (MILWAUKEE) »

03/03/2015  
SMALL BUSINESS GOVERNMENT CONTRACTING  
SERIES: SELLING TO THE DEPARTMENT OF VETERANS  
AFFAIRS  
WAUWATOSA »

03/04/2015  
ACQUISITION HOUR: LEARNING ABOUT WAWF - IRAPT  
WEBINAR »

03/09/2015  
ENTERING THE GOVERNMENT MARKET - A PRIMER  
RACINE »

03/11/2015  
ACQUISITION HOUR: PREPARING FOR CSPR AUDIT  
WEBINAR »

### CURRENT OPPORTUNITIES (7) [→](#)

#### GET STARTED WITH THE BASICS

Questions & answers on how to get started.

[GET STARTED](#)

#### SIGN-UP FOR OUR NEWSLETTER

Stay up-to-date with the latest WPI news.

[SIGN UP](#)

#### HAVE A QUESTION? WE'RE HERE TO HELP.

One of our staff of experts is available to answer your questions.

[GET HELP](#)



### GET STARTED WITH THE BASICS

Questions & answers on how to get started.

**GET STARTED**

### SIGN-UP FOR OUR NEWSLETTER

Stay up-to-date with the latest WPI news.

**SIGN UP**

### HAVE A QUESTION? WE'RE HERE TO HELP.

One of our staff of experts is available to answer your questions.

**GET HELP**

### SERVICES OFFERED BY WPI

- FREE Bid Matching Services
- Individual Counseling and Assistance
- Locating Local, State and Federal Opportunities
- Government Market Strategy Development
- Training in use of Government websites and tools
- Assistance with System for Award Management (SAM) Registration
- Assisting in Market Research Process
- Development of Market Profile
- Small Business Subcontracting Plans-Development, Outreach and Reporting
- Small Group Training
- Outreach and training with Local, State and Federal agencies
- Assist with Pre and Post Award Functions
- Assistance with Agency Specific Contracting Requirements
- Assistance with Contracting Regulations and Requirements, including FAR, DFAR, CFR
- Assistance with GSA Schedule Preparation and Administration
- Assistance with Local, State and Federal Certifications, including:
  - Service Disabled & Veteran Owned Small Business, HUBZone, Woman Owned Small Business, 8(a) Business Development Program
  - State
  - Local
  - DBE
- Bid Review and Submission Assistance
- Proposal and Assistance, Review and Submission Assistance
- Capabilities Statement and Related Government Marketing Material Development
- Assistance in Locating and Developing Teaming Partners and Subcontractors
- Updated Government Market Information

Wisconsin Procurement Institute  
 10437 Innovation Dr., Suite 320  
 Milwaukee, WI 53226  
 Telephone 414-270-3600  
 FAX 414-270-3610  
[www.wispro.org](http://www.wispro.org)  
 Executive Director – Aina Vilumsons  
[info@wispro.org](mailto:info@wispro.org)



# Class Objectives

- At the end of this training, you will be able to:



Understand construction FAR, bonding requirements & alternate surety methods



Recognize Solicitation Methods & Contract Types



Identify Socioeconomic Policies



Understand impact of the Davis-Bacon Labor Provisions

# AGENDA

- **Types of Construction Projects**
- **Construction FAR**
- **Procurement and Solicitation Methods**
- **Contract Types**
- **Bidding Process**
- **Socioeconomic Policies**
- **Bonds & Insurance**
- **Safety Plan**
- **Tips & Techniques**
- **Questions & Answers**



# Why Sell to the Federal Government?

- Spends Billions
  - In FY 2014, spent:
    - \$31.1 billion-construction
    - \$284.8 million to WI companies in construction contracts





# What Types of Construction Projects does the Government Issue?

# Vertical Construction

- A GC would build:
  - Federal building,
  - Courthouses,
  - Post offices,
  - Barracks,
  - Hospitals/Healthcare Facilities
  - Communication Facilities, etc.
  - Remodel and repair





# Horizontal Construction

- A Heavy/Highway Contractor would work on infrastructure projects, such as:
  - airfields,
  - bridges,
  - roads & highways
  - dams & tunnels



# Dredging Activities

- The U.S. Army Corps of Engineers is responsible for the majority of dredging activities in the United States, which include the nation's:
  - ports,
  - waterways,
  - wetlands,
  - marshes,
  - beaches and
  - barrier islands

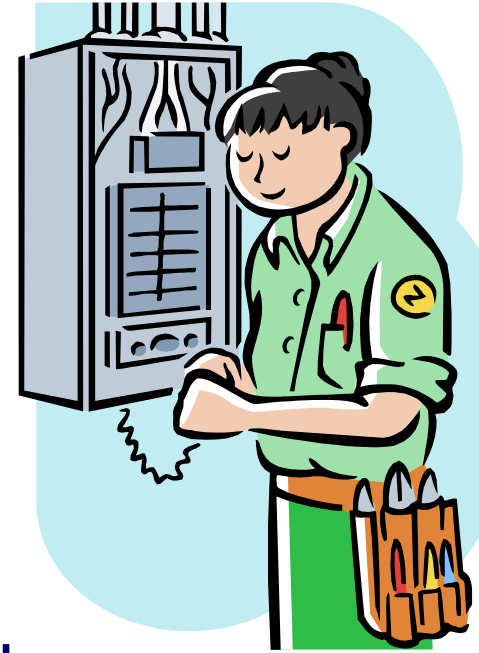


# Specialty Trades

- The Government issues Indefinite Delivery Indefinite Quantity (IDIQ) contracts for various specialty trades, such as:

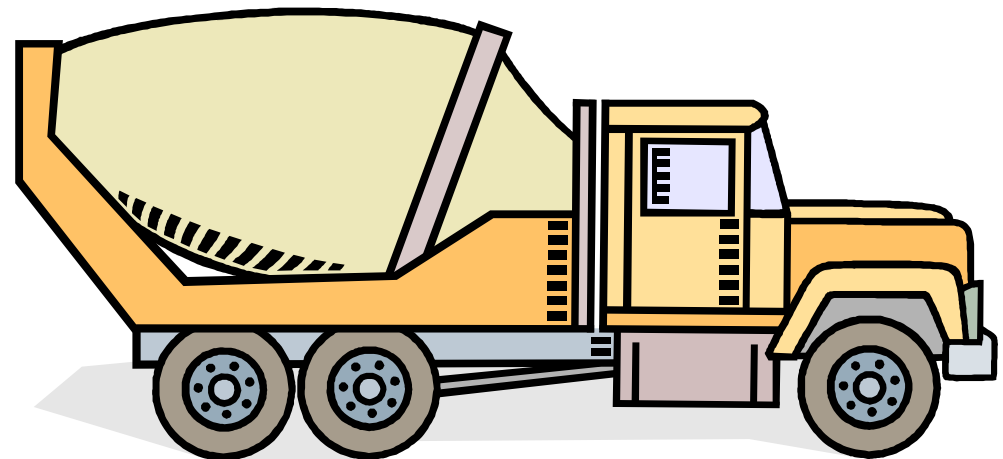
- Carpentry
- Painting
- HVAC

- Plumbing
- Electrical Work



# Construction Supplies

- The Government issues IDIQ contracts for construction supplies, such as:
  - Concrete
  - Asphalt
  - Crushed Stone
  - Lumber





# Who are the Major Players?



# Architect & Engineers (A&E)

- In the **Design-Bid-Build** Procurement method, A&E firms:
  - create the conceptual design
  - prepare the detailed plans and specifications for the project,
  - put together the construction schedule



# Architect & Engineers (A&E)

- In the **Design-Build** Procurement method:

- The A&E firms:

- Prepare plans, and
- Performance specifications

- The Construction firms:

- Prepare the construction schedule





# Government Players

- **Warranted Contracting Officers:**

- Sign, interpret, or terminate contracts
- Authorize changes to contracts, i.e. scope, time extension, etc.
- Bind the government to any contractual agreement

- **Contract Specialist/Administrator:**

- Works for the contracting officer
- Negotiates with vendors
- Draft modifications & correspondence
- Cannot commit funds
- Can assist you with questions!



# Government Players (cont)

- **Contracting Officer's Representative (COR or COTR):**
  - Limited written authority from CO for a specific contract
  - Responsibilities include:
    - Inspection and acceptance of work
    - Interpretation of specifications and drawings
    - Enforcement of safety requirements
    - Conduct a pre-final inspection with the Contractor
  - *Cannot* sign contractual documents.
- **Project Managers:**
  - Responsible for the overall project, *Not* the contract



# What Agencies Buy Construction?

- General Services Administration (GSA)
  - New construction – civilian agencies
  - Maintenance & renovation – civilian agencies
- Army Corps of Engineers
  - New construction on military installations
  - Locks & Dams
  - Coastal Protection
  - Environmental Protection & Restoration
  - Flood Protection



# What Agencies Buy Construction? (cont)

- **Military Bases**
  - Maintenance & renovation
  - New Construction – Up to \$1,000,000 (Appropriated Funds) & Unlimited with Non-appropriated Funds
- **National Guard Units**
  - New construction on military installations
  - Maintenance & renovation
- **Veterans Affairs**
  - New Construction
  - Maintenance & renovation
- **All Other Agencies**

# Federal Government's Procurement Rules



## Federal Acquisition Regulation (FAR)

- Governs almost all federal purchasing
- Established to codify uniform policies for buying supplies & services
- Reviewed, changed, and revised on a continual basis
- Issued & maintained by DOD, GSA, and NASA
- Covers both your company's & the federal government's rights
- Applicable FAR clauses (or references to) will appear on solicitations.

# FAR Site: <http://farsite.hill.af.mil/>

The screenshot shows the FAR Site homepage with several annotations:

- Yellow box:** A yellow box with the text "FAR" and a red arrow pointing to the "FAR" link in the left-hand navigation menu.
- Yellow box:** A yellow box with the text "Supplemental FAR" and a red arrow pointing to the "Supplemental FAR" link in the left-hand navigation menu.
- Red box:** A red box with the text "FAR" and a red arrow pointing to the "FAR" link in the left-hand navigation menu.

The homepage content includes:

- Contracting Laboratory Logo:** Located in the top left corner.
- FAR Site Header:** Features the text "FAR Site" and "554 ELSG/KSL" with a row of various agency logos above.
- Navigation Menu:** Includes "Clause Logic", "FAR Site", "FAR Search", and "FAR Site Forum".
- FAR Site Announcements:** A box stating "FAR Site has been rehosted to a new server".
- Allow Pop Ups for FAR Site:** A text prompt.
- FAR Site Notices:** A section with a small American flag icon and the text: "Welcome to FAR Site (Federal Acquisition Regulation Site)", "FAR Site Public Service Announcements.", "You are accessing a government computer system. Please read this [PRIVACY AND SECURITY NOTICE](#). Need Help Look here for [FAQ's](#)".
- FAR Site Info:** A section with the text: "FAR Site has been accessed **829735953** times.", "Questions/Comments: [FAR Site Webmaster](#)", "Phone numbers: Comm 801-777-9011, DSN: 777-9011", and "Page Updated: 24 Jan 2008".
- Contracting Laboratory Link:** A link that says "Click here to find out more about the Contracting Laboratory ([554 ELSG/KSL](#))".
- Old Version Links:** Links for "View the old version of [FAR Site](#) or the Non-Java version of [FAR Site](#)".
- Footer Navigation:** A row of buttons for "FAR Site", "FAR Search", "Clause Logic", "Site Map", "Forum", "SPS Logic", and "Stats".

July 2015

# What FAR Govern Construction?





# FAR: Prior to Bidding

- Disclosure of Magnitude of Construction Projects- FAR 36.204
- CO cannot disclose the government cost estimate; he/she can state the magnitude of the project in the following price ranges:
  - Less than \$25,000
  - Between \$25,000 and \$100,000
  - Between \$100,000 and \$250,000
  - Between \$250,000 and \$500,000
  - Between \$500,000 and \$1,000,000
  - Between \$1,000,000 and \$5,000,000
  - Between \$5,000,000 and \$10,000,000
  - More than \$10,000,000.

# FAR: Prior to Bidding

- **Site Visit FAR 52.236.27**
  - Normally not mandatory
  - Provide a briefing on the solicitation
  - Inspect the construction site
  - Answers questions, however,
    - Follow-up by emailing all your questions to Contracting Officer **(CO)**
  - If you are interested in Construction work with the government, attend these meetings



# FAR: Construction Phase

## Pre-Construction Conference FAR 52.236-26

- CO will identify date, time, location, & items to be discussed.
- Discussion points will include:
  - Construction Schedule
  - Submittals
  - Quality & Safety, etc
- Major subcontractors should attend



# FAR: Construction Phase

- **Differing Site Conditions FAR 52.236-2**
  - When you discover a Differing Site Condition
    - **Stop** Work Immediately
    - Notify the CO in writing before conditions are disturbed (*shifts risk to government*)
    - Wait for Directions from the CO
    - Document your file (time, date, result)





# FAR: Construction Phase

- **Schedules- FAR 52.236-15**
  - Submit a Construction Schedule within 5 days of starting a project based on # of days to complete
    - Show how work is to progress from start to finish
    - Must be reasonable, feasible, & obtainable
    - Remedies available if you fall behind schedule
    - Tool to measure progress
  - Case law supports that the approved schedule becomes part of the written record





# FAR-Wage Related Construction Clauses

- 52.222-6, Davis-Bacon Act– *Construction contracts > \$2K requires prevailing wage*
- 52.222-7, Withholding of Funds-*if there are violations, CO may suspend further payment until corrected*
- 52.222-8, Payrolls and Basic Records-*must maintain records for 3 years after completion of project*



# FAR-Wage Related Construction Clauses

- 52.222-9, Apprentices and *Trainees- Apprentices must be in a bona fide apprentice program recognized by the Dept. of Labor, then pay rate can be less than prevailing rate*
- 52.222-10, Compliance with Copeland Act Requirements-*Anti-Kickback regulations*



# FAR-Wage Related Construction Clauses (cont)

- 52.222-11, Subcontracts (Labor Standards)-*All tiers of subcontractors must complete SF1413*
- 52.222-12, Contract Termination-Debarment-*Breach of wage related contract clauses is grounds for termination*
- 52.222-13, Compliance with Davis-Bacon and Related Act Regulations-*All rulings and interpretations are incorporated by reference in this contract*



# FAR-Wage Related Construction Clauses (cont)

- 52.222-14, Disputes Concerning Labor Standards – *Dept of Labor has dispute standards for labor standards*
- 52.222-15, Certification of Eligibility-*By entering contract, certifying that firm is eligible for doing business with government*



# FAR-Wage Related Construction Clauses (cont)

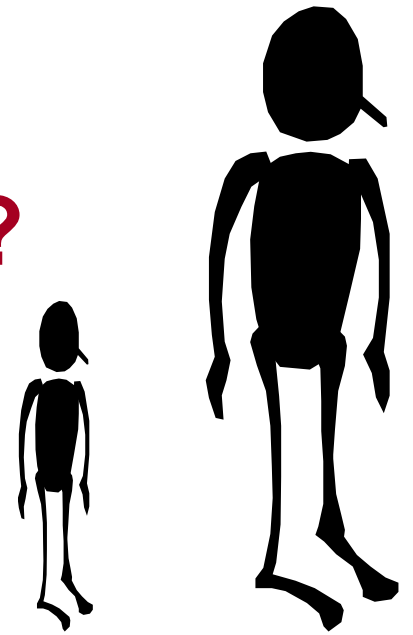
- Lesson Learned - Davis-Bacon Violations
  - A construction contractor submitted false payroll certifications- a subcontractor's electricians were not paid prevailing wages
    - Contract payments were contingent on certifications of Davis-Bacon Act compliance.
    - Contractor had to pay the government treble damages in the amount of **\$1,661,423.**



# Is your Firm Large or Small?

and

# Why is Size Important?





# **SBA's Size Standards for Construction**

- Annual revenue used for construction (average last 3 years receipts)
  - \$33.5M for General & Heavy construction
  - \$20M for Dredging
  - \$14M for all special trades & site preparation
  - \$7M for Land Subdivision & Landscaping

# Why Is Business Size Important?



- Federal Agencies have:
  - goal requirements to do a certain percentage of their contracting business with small businesses
  - Set-asides for small businesses
- Prime Construction Contractors (Large Businesses) with contracts \$1.5 mil or more have small business goal requirements

## OK... Now That You Know The:



- Types of Construction projects the Federal government issues,
- Major Players, and
- The rules of procurement (FAR)...

How is government construction procured?



# Procurement Methods

- **Design-Bid-Build**
- **Design-Build**





# Procurement Methods

- **Design-Bid-Build**

- Historically, public projects used the *design-bid-build* method
- This approach splits the project into two distinct phases:
  - Design (5% to 10% of the project's total cost)
  - Construction - after the designs are completed, invites bids from contractors
- Awarded to the lowest responsible construction bidder
- Performance bonds alleviate concerns about the ability of the low bidder to perform the project

# Procurement Methods

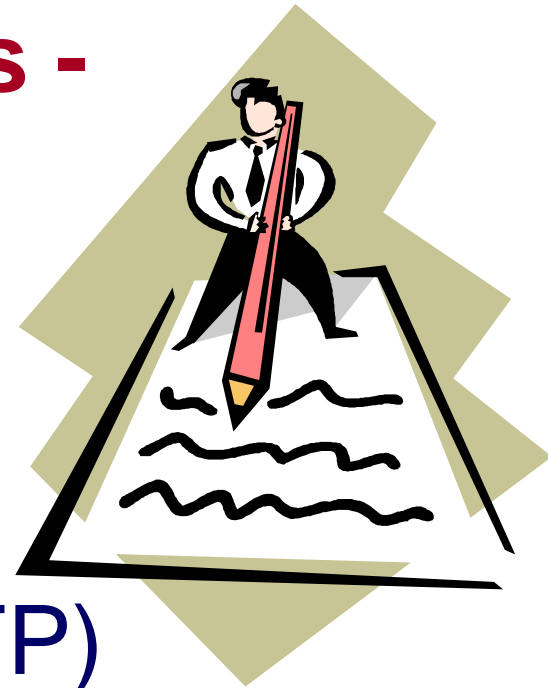
- **Design-Build**

- Clinger-Cohen Act of 1996 enacted design-build for the federal government
- Government describes basic concept of the project
- A single entity designs and constructs the project
- Design-Build offers:
  - Single source responsibility
  - Quicker project completion
  - Reduced administrative costs, and
  - Ability to consider past performance of bidders
- **Best Value** Procurement



# Solicitation Methods - Construction

- Simplified Purchases
- Invitation for Bid (IFB)
- Request for Proposal (RFP)
- Types of RFP Solicitations





# Solicitation Method: Simplified

- Uses Simplified Acquisition Threshold (SAT)
- Greater than \$2,000 but less than \$150,000
  - If less than \$10K, not advertised
  - Between \$10K-\$25K, posted locally
  - \$25K or more, advertised in FedBizOpps
- Usually a Site Visit

# Solicitation Method: IFB

Section 00010 - Solicitation Contract Form

- Over \$150,000 in estimated value
- Clear description of requirements
- Public Bid Opening (date/time) – You should attend!
- Bids evaluated without any discussion
- Awarded to the lowest *responsive & responsible* bidder
- Results in a firm fixed price contract

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Remodel/Renovation of Bldg 1219 FFP The contractor shall provide all labor, materials and equipment to perform all operations necessary in the statement of work titled "Remodel Building 1219" and the attached drawings. This line item shall include pricing for all required "repair" work: mechanical, demolition, finish upgrades, upgrade fire detection system, electrical and elevator. FOB: Destination		Dollars, U.S.		
				NET AMT	
0002	Mass Notification/Sustainable Tech FFP This line item shall include pricing for the following portions of the statement of work, classified by the Government as "new" work: mass notification system, sustainable technologies (green roof, photovoltaics, solar thermal). FOB: Destination		Dollars, U.S.		
				NET AMT	

# Solicitation Methods: RFP



- Over \$150,000 in estimated value
- Used for A&E & Construction requirements
- Submit technical or management proposal and a cost proposal
- There can be clarifications, discussions and/or negotiations
- Government awards on **best value**



# Best Value Award

- **Best value** - A source selection process which is used to determine which proposal offers the best trade-off between price/cost and performance capabilities where quality is considered an integral performance factor. In essence, it provides the greatest overall benefit in response to the requirement

# Two RFP Solicitation Types

- One-Step RFP
  - Qualifications
  - Relevant Experience
  - Past Performance
  - Technical solutions
  - Price
- Proposals evaluated
- Discussions
- Award

- Two-Step RFP
  - Phase I
    - Qualifications
    - Past Performance
    - Proposals evaluated and qualified pool selected
  - Phase II
    - Technical solutions
    - Management approach
    - Price





# Estimate of Construction Costs

- An independent Government estimate of construction costs is prepared for each:
  - Proposed contract, and
  - Contract modification over \$150,000
- Only Government staff have access to estimate
- For IFBs, the Government estimate is
  - announced at the bid opening &
  - listed in the abstract
- FAR 36.203

# Invitations for Bids: Construction

- Must allow sufficient time for bid preparation (a minimum of 30 days)
- Considerations include:
  - Construction season,
  - Time to inspect the site,
  - Time to obtain subcontract bids, and
  - Time to prepare estimates based on plans and specifications.



# Contract Types

- Firm Fix Price Contracts
- Cost Plus Contracts
- Time & Material Contracts
- Other Types of Contracts





## Contract Types: Firm Fixed Price

- Generally, firm-fixed-price contracts are used to acquire construction. They may be priced on a:
  - **Lump-sum** basis (for the total work or defined parts of the work),
  - **Unit-price** basis (for a specified quantity of work units), or
  - Combination of the two methods.



## Contract Types: Firm Fixed Price (cont)

- Lump-sum pricing is preferred over unit pricing
- Unit Pricing is used for:
  - Large quantities of work (grading, paving, or site preparation)
  - Work that cannot be estimated with sufficient confidence (excavation)
  - Work that may change significantly during construction.
- With Unit Pricing,
  - Economic price adjustment may be used
  - “Not to exceed” clause may be used



# Contract Types: Cost Plus

- Pays “allowable” incurred costs
  - Profit
  - Overhead
  - Material
  - Direct Labor
  - Indirect Labor Rates, etc
- Negotiated Process
- Establishes a “not to exceed” ceiling
- Contractor’s accounting system must be adequate

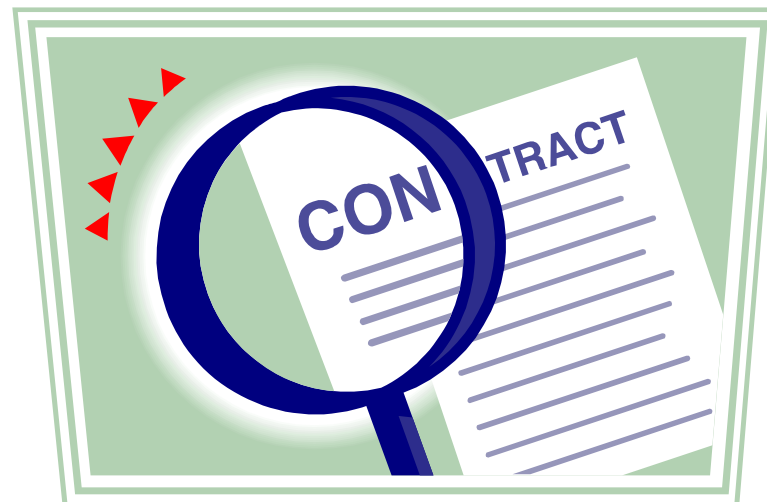
# Contract Types: Time & Material

- Used for Repair and Maintenance, or
- Overhaul work performed in emergency situations.
- May include a ceiling price
- Important factors are:
  - the agreed upon hourly rate
  - the contractor's technical/managerial skills including his reputation for getting the job done.



# Other Types of Contracts:

- Leed Certified
- IDIQ
- JOC
- SABER
- Multiple Award



# Other Types of Contracts: LEED

- **Leadership in Energy & Environmental Design**
  - A whole building rating system for green building
    - sustainable site development,
    - water savings,
    - energy efficiency,
    - materials selection, and
    - indoor environmental quality.
  - Provides independent, third-party verification that a building is:
    - environmentally responsible,
    - profitable and
    - a healthy place to work.





# Other Types of Contracts: IDIQ

- Indefinite delivery/indefinite quantity (IDIQ)
  - Provides for an indefinite quantity of supplies or services during a fixed period of time.
  - Normally multiple award winners
  - Set minimum and maximum order size
  - Awards are usually for base year with option years
  - Issues task orders against the contract
  - Three types of IDIQ contracts: JOC, SABER, & MATOC



# Other Types of Contracts: JOC

- A Job Order Contract (JOC)
  - Fast and timely delivery of maintenance/repair & minor construction projects
  - Low overhead cost of construction procurement and delivery
  - Elimination of change orders.
  - Standard pricing and specification utilizing a published unit price book (UPB)
  - Used by the U.S. Army and Navy



## **Other Types of Contracts: SABER**

- Simplified Acquisition of Base Engineering Requirements (SABER)
  - Used by the Air Force for small construction projects
  - Similar to JOC
  - Local resources are first choice
  - These contracts are subject to the same general rules and requirements as other IDIQ and multiple award contracts.



## Other Types of Contracts: MATOC/MACC

- Multiple Award Task Order/Construction Contracts (MATOC) & (MACC):
  - establish a group of pre-qualified contractors that are technically capable of performing the work,
  - sustain competition among contractors, and
  - Low price normally wins the task order
  - Used by all military installations.

# Change Orders

- Based on FAR 52.243-4, a CO can issue a change order using SF 30 that contains:

- SOW or statement of directed changes
- Drawings
- A Not to Exceed Amount
- Directions for contractor to notify CO when he has reached 75% (usually) of amount
- Estimated time negotiations will be completed

- After negotiations, a definitized contract modification (supplemental agreement) is issued

Standard Form 30

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE	PAGE	OF	PAGES
2. AMENDMENT/MODIFICATION NO.		3. EFFECTIVE DATE		4. REGISTRATION/PURCHASE REG. NO.		5. PROJECT NO. (if applicable)	
6. ISSUED BY CODE		7. ADMINISTERED BY (if other than Item 6) CODE					
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)				[X] 9A. AMENDMENT OF SOLICITATION NO.			
				9B. DATED (SEE ITEM 11)			
				10A. MODIFICATION OF CONTRACT/ORDER NO.			
				10B. DATED (SEE ITEM 11)			
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended. <input type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (if required)							
13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
CHECK ONE							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as change in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UIC section headings, including solicitation/contract subject matter where feasible.)							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SENDER (Type or print)				15B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15E. CONTRACTOR/OFFEROR		15C. DATE SIGNED		15B. UNITED STATES OF AMERICA		15D. DATE SIGNED	
(Signature of person authorized to sign)				(Signature of Contracting Officer)			
NSN 7540-01 152-9070 Previous edition obsolete				STANDARD FORM 30 (REV. 10-82) Prescribed by GSA FPMR (41 CFR) 101-11.6			



# Claims and Disputes

- There are three ways to resolve disputes between the Contractor and the CO:
  1. Contracting Officer provides a written final decision to the contractor
  2. Hire an independent arbitrator (Alternate Dispute Resolution) where each party pays for ½ of the arbitrator's costs

# Claims and Disputes (cont)

- There are three ways to resolve disputes between the Contractor and the CO:
  3. Contractor appeals CO's final decision to:
    - Board of Contract Appeals or US Court of Federal Claims for a *Civilian Agency* contract
    - Arms Services Board of Contract Appeals or the US Court of Federal Claims for a *Military Agency* contract





# Claims and Disputes (Cont)

- Contract Disputes Act of 1978
  - Establishes procedures and requirements for asserting and resolving claims
  - Provides for:
    - Payment of interest on contractor claims
    - A civil penalty for contractor claims that are fraudulent or based on misrepresentation of fact



# OK... Now You Know How Government Procures Construction ...



## How Do You Respond?



# Order of Precedence

- When something is in the specs but not the drawings; or vice versa, it is viewed as being in **both**.
- When there is a difference between drawings and specs; the **specifications** shall govern.
- A discrepancy in the figures, whether in the drawings or the specs, should be brought to the attention of the CO, who will clarify in writing.
- See 52.236-21 Specifications and Drawings for Construction

# Award Phase

- **Bids are publicly opened**

- You cannot withdraw bid after opening!
- Abstracts are prepared
- Bids are evaluated without discussion
- Letter to low bidder to verify bid
- Request Subcontracting Plan, if applicable
- Award made to lowest responsible bidder



- **Proposals are secured for evaluation**

- Proposal can be withdrawn up to award
- Clarification meetings may be held
- Negotiated process
- Notified if *Not* in competitive range
- Request Subcontracting Plan, if applicable
- Awarded to best value



## Award Phase (cont)



### *What if you Win?*

### *Congratulations!*

- ✓ Now starts the construction phase
- ✓ Deliver on-time
- ✓ Meet or exceed quality standards
- ✓ Complete contractual data requirements
- ✓ Operate within your negotiated cost parameters

# Award Phase: Notice of Award

- A notice of award:
  - Written or electronic
  - Contains or references all terms and conditions of the award
  - Identify upcoming **pre-construction** conference
  - States the award price





# Award Phase: Notice of Award (cont)

- A notice of award:
  - Advises the contractor that payment and performance bonds must be promptly executed and returned to the contracting officer;
  - Specify the date of commencement of work, or advise that a notice to proceed will be issued.

# What if You Don't Win?

- Ask the CO for a **debriefing**
- Based on FAR 15.506(d), the debriefing should provide the following information:
  - Your significant weaknesses
  - Your evaluated cost and technical ratings versus those of the successful offeror
  - Your past performance information
  - Overall rankings of all offerors
  - Summary of the rationale for award



# Construction Administration

- Review Contract
- Submit:
  - Material Submittals
  - Safety Plan
  - Weekly Payrolls
  - Construction Schedule
  - Progress Reports



# Construction Administration:



- FAR 52.222-54 Employment Eligibility Verification
  - If your contract is over \$150,000, or
  - Your subcontract is over \$3,000, and
  - The period of performance is 120 days or more
  - You must enroll in E-Verify 30 days after award



# Construction Administration: E-Verify (cont)

- You will need to:
  - verify **all** new employees
  - Verify existing employees **working on contract**
- If you are a prime contractor, must verify that all subcontractors are in e-verify
  - Create a form for them to sign
  - <https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES>



# Construction Administration: Subcontracts

- FAR 52.222-11 – Subcontracts (Labor Standards)
  - Prime contractor must submit a list of all subcontractors to the contracting officer
  - Subcontractors at any tier **must** submit a fully executed SF 1413, Statement and Acknowledgement of applicable labor laws



## Work Phase (cont)

- Stay on top of:
  - Subcontractors
  - Supplies
  - Schedules
  - Payments
  - Quality





## **Work Phase (cont)**

- **Complete the Project On Time!**
  - Keep track of bad weather days/conditions and document
  - By not completing the project on time; you may be subject to Liquidated Damages (LDs)
  - They will be identified in your contract with a per day dollar amount



## Work Phase (cont)

- **Subcontractors**

- If you are not paid:

- Request a copy of the Payment Bond from the Contracting Officer **In Writing**
    - Contact the Surety (Bonding Company) immediately
    - Government is not authorized to assist other than giving you info about the Payment Bond

# Close-Out

- Final Actions:
  - Punchlists – Items that do not conform to specifications
  - Warranties – One year from final acceptance or one year from possession
  - Transfer of Construction
  - Performance Evaluations
  - Contract Close-Out





# Close-Out

- Acceptance and Final payment will not be made until all contract items are complete
  - Punchlist must be completed within a specified time
  - All prime and subcontractor payrolls must be submitted
- The CO may hold up to 10% of the contract amount until all contractual obligations are completed
- Contractor Performance Evaluation will be completed after final payment

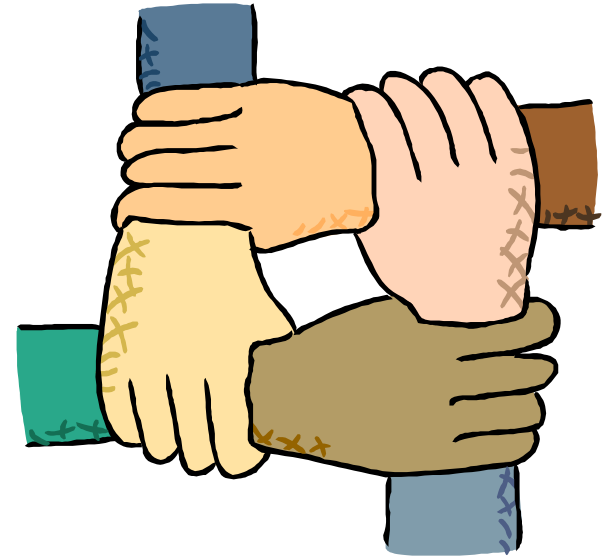


# Close-Out (cont)

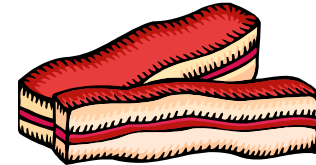
- Contractor Performance Evaluation
  - For DoD: <https://www.cpars.csd.disa.mil> (CCASS section)
  - Some other Federal Agencies are using this
  - Evaluation based on:
    - quality,
    - timely performance,
    - effectiveness of management
    - compliance with contract terms,
    - labor standards, and
    - safety
  - You have 30 days to review evaluation & comment

# Socioeconomic Policies

- Davis Bacon
- Buy American
- Equal Opportunity
- Goal Requirements
- Subcontracting Plan
- Indian Incentive Program



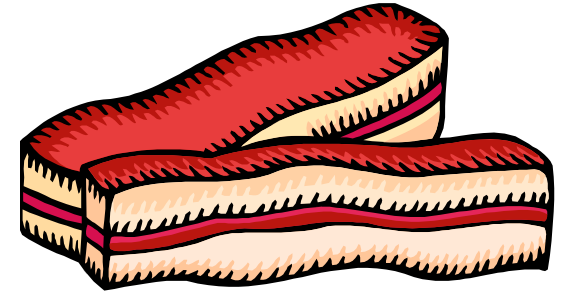
# Socioeconomic Policies: Davis Bacon



- FAR 52.222-6
- Protects workers from non-local contractors underbidding local wage levels
- Applies to federal & federally-assisted construction projects over \$2,000
- Is “site-based”
- Includes alteration, repair, painting & decorating
- Applies to all **laborers & mechanics**

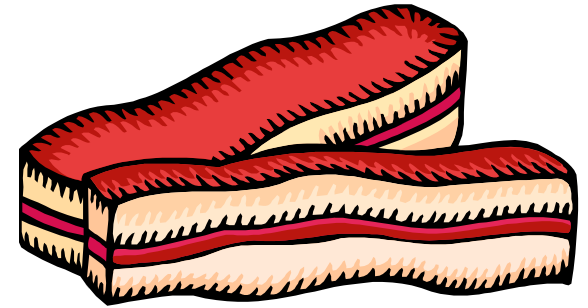
# Socioeconomic Policies: Davis Bacon

(cont)



- The Act requires:
  - payment of prevailing wages and
  - weekly payment of wages
- Wage determination is part of solicitation
  - Review Wage Determination Book
  - <http://www.wdol.gov/dba.aspx#0>

# Socioeconomic Policies: Davis Bacon (cont)



- Payroll Requirements:
  - Submit to CO weekly
  - Include all personnel working on-site
  - Use payroll form or computer program
  - Must indicate how fringe benefits are paid



## **Socioeconomic Policies: Buy American- Construction Materials**

- FAR 52.225-1
- Applies to contracts for construction, alteration, or repair of any public building or public work in the United States
- Policy
  - Use only domestic construction materials in construction contracts performed in the United States.



## Socioeconomic Policies: Buy American- Construction Materials (cont)

- Exceptions
  - Unreasonable cost – determined by **contracting officer**
  - Non-availability – determined by **head of contracting activity**
  - Impracticable or inconsistent with public interest – determined by **head of agency**
- The excepted material must be listed in the contract



# Socioeconomic Policies: Small Business Goal Requirements

	Federal Goals	VA Goals
<b>Socio Economic Factors</b>		
Small Business	23%	28.7%
Small Disadvantaged Business	5%	5%
Women Owned Small Business	5%	5%
Veteran Owned Small Business	0%	10%
Service Disabled Veteran Owned Business	3%	7%
HubZone Business	3%	3%
<b>Total Percentage for Socio Economic Factors</b>	<b>39%</b>	<b>58.7%</b>



# Socioeconomic Policies: Subcontracting Plan

- FAR 19.7/52.219-9
- A subcontracting plan is required for:
  - any construction contract \$1.5 million or more (*unless you are small business*), *and*
  - subcontracting opportunities exist



## Socioeconomic Policies: Subcontracting Plan (cont)

- There are 11 mandatory elements included in the subcontracting Plan
- Categories included in goals of plan:
  - Small Business (SB)
  - WOSB (*Woman-owned SB*)
  - VOSB (*Veteran-own SB*)
  - SDVOSB (Service-disabled VOSB)
  - SDB (Small Disadvantaged Business, including 8(a))
  - HUBZone (Historically Underutilized Business Zone)



# VETS-100/100A

- Applies to contractors/subcontractors who receive *contracts \$100,000 or greater*
  - Tracks number of veterans of various classifications, that were hired the previous year
  - The VETS-100/100A reporting cycle begins annually on August 1 and ends September 30.
  - Companies are encouraged to submit reports online @ [www.vets100.com](http://www.vets100.com)




# Socioeconomic Policies: Indian Incentive Program (IIP)

- FAR 52.226-1 Utilization of Indian Organizations
  - Applies to contracts exceeding **\$500,000**
  - Prime contractors receive a **5% rebate** on:
    - subcontracted work performed by an Indian organization or
    - products manufactured in whole or in part by an Indian organization
  - If FAR clause is not in contract, Prime can request the CO to include via modification
  - <http://www.acq.osd.mil/osbp/sb/programs/iip/index.shtml>



# Types of Bonds (FAR 28.102)

- **The Miller Act** (40 U.S.C. 3131) requires performance & payment bonds for any construction contract exceeding \$150,000
- **Bid Bond**- financial assurance that the contractor intends to enter into a contract
  - 20% of bid/proposal price
- **Performance Bond** protects the government from financial loss should the contractor fail to perform (100% coverage)
  - Cost = ½% to 3% of the contract price
- **Payment Bond** assures workers, subcontractors, material suppliers will be paid – part of Performance Bond (100%)
- Obtain bonds through **approved surety companies**
  - Dept of Treasury Circular 570 [www.fms.treas.gov/c570](http://www.fms.treas.gov/c570)



# Types of Bonds (cont) FAR 28.102 (b)

- Construction contracts between \$30,000 & \$150,00, the CO shall select 2 or more payment protections:
  - Payment Bond
  - Irrevocable Letter of Credit
  - Tripartite Escrow Agreement
  - Certificates of Deposit
- Contractor submits one

# Insurance

- Contractors must carry insurance in the types and amounts specified in the solicitation:
  - Workers' Compensation
  - Commercial General Liability Insurance
  - Comprehensive Automobile Liability Insurance.





# Safety Plan

- **OSHA** is charged with the enforcement of safety and health legislation
- The contractor and subcontractors must have a safety plan:
  - specific to the project, and
  - submitted prior to commencing work.
- Safety plan will be reviewed by:
  - Government Engineer and
  - CO
- If the plan meets contract requirements, accepted in writing

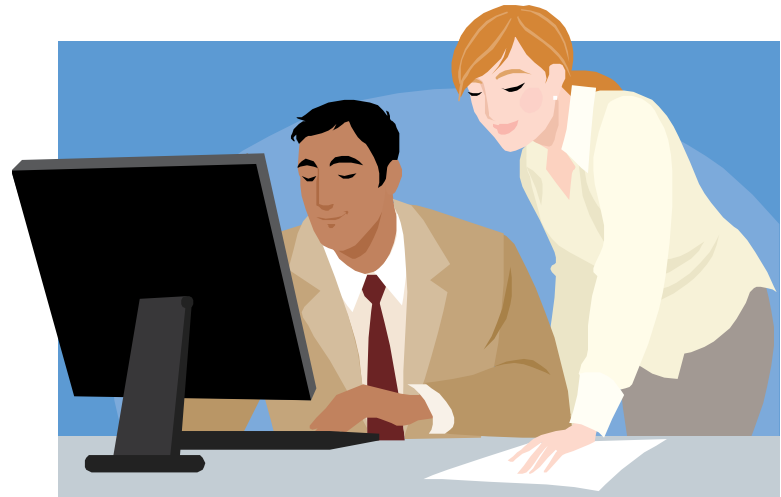


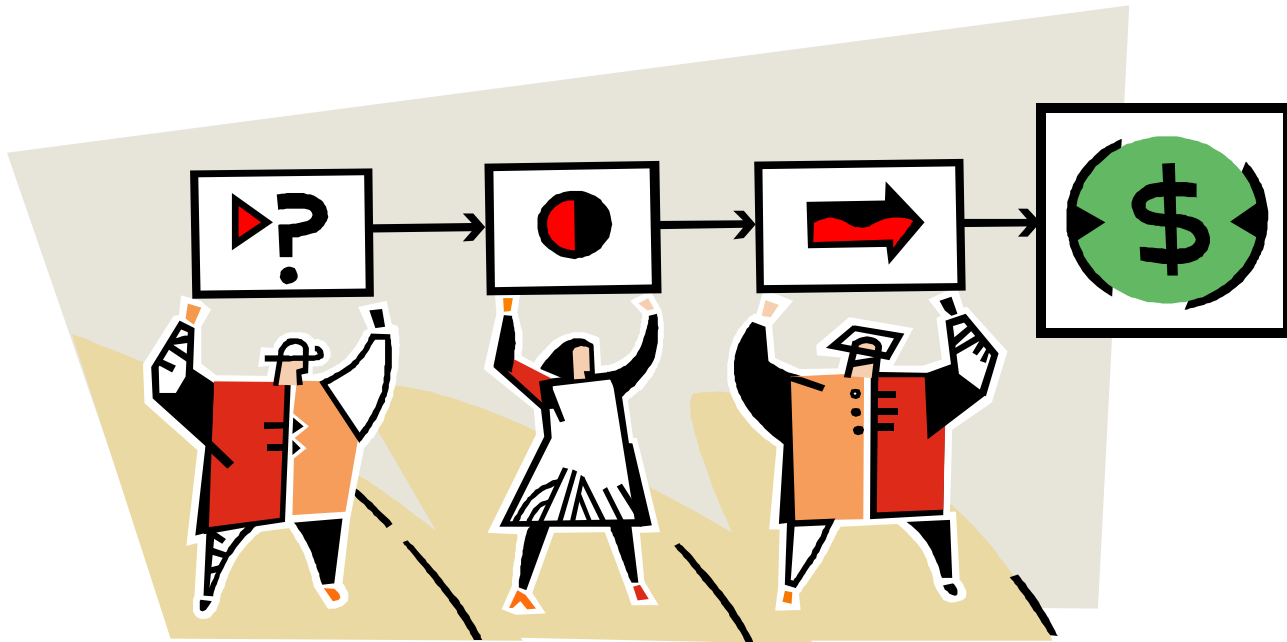
# Additional Tips

- Prime Contractors:
  - Identify current subcontractors using socio economic factors
    - Veteran Owned Small Business
    - Service Disabled Veteran Owned Small Business
    - Small Disadvantaged Business
    - Woman Owned Small Business
    - HubZone Small Business
    - Small Business

# Additional Tips (cont)

- Subcontractors:
  - Send capability statement to all prime contractors
  - Register in SAM





**Any Questions?**



*Thank You and Good Luck!*

**Wisconsin Procurement Institute**



**Milwaukee County Research Park**

10437 Innovation Drive, Ste. 320

Milwaukee, WI 53226

Phone 414-270-3600

Cell Phone 608-338-8018

**[www.wispro.org](http://www.wispro.org)**

**[info@wispro.org](mailto:info@wispro.org)**