

# COVID-19 & Cybersecurity *2020*

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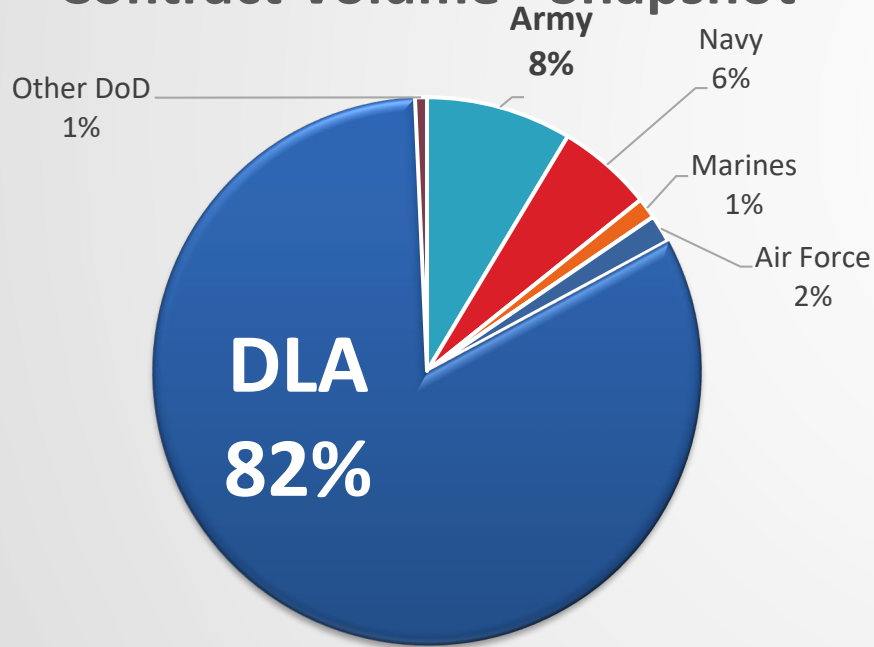
## Agenda

- A. Intro/DCMA Milwaukee Overview**
- B. COVID-19 Impacts & Contracting Support**
- C. Defense Industrial Base Controlled Unclassified Information Protection and Cybersecurity Assessment**
- D. Q&A**

# DCMA Milwaukee Snapshot

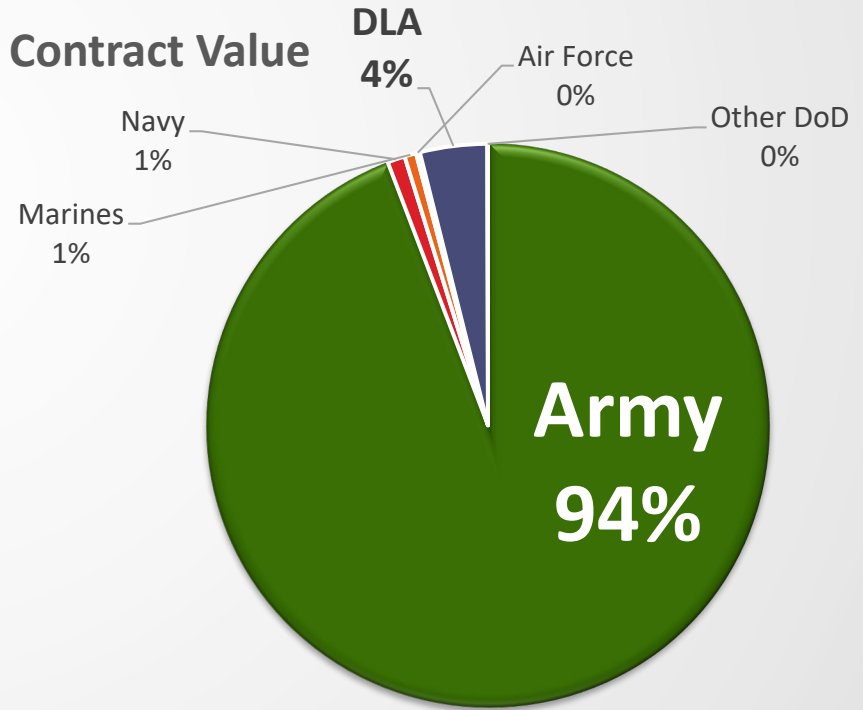
# of Contracts: 3,419  
Contract Value: \$26B

### Contract Volume - Snapshot



■ Army ■ Navy ■ Marines ■ Air Force ■ DLA ■ Other DoD

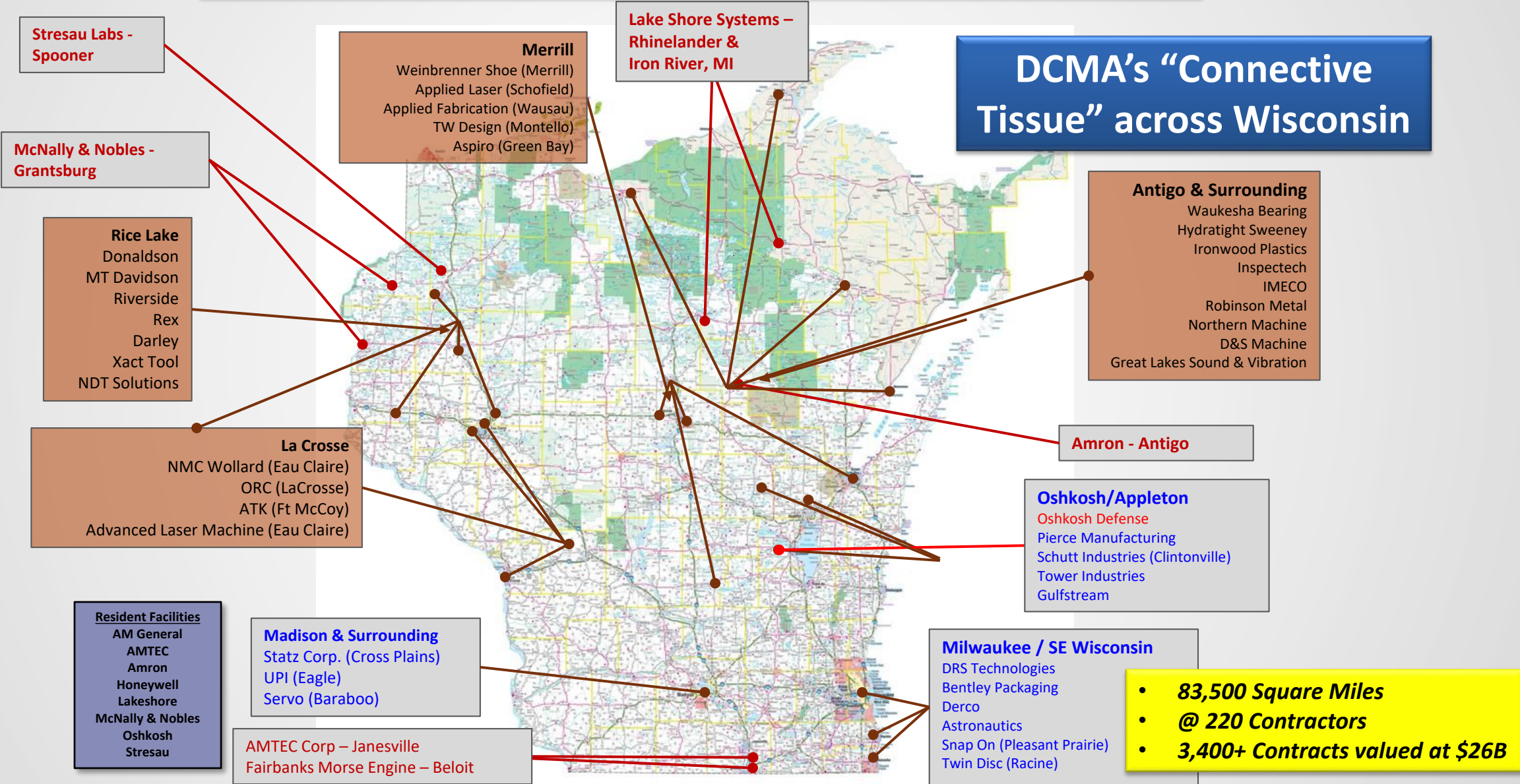
### Contract Value



■ Army ■ Navy ■ Marines ■ Air Force ■ DLA ■ Other DoD

# NCMA Wisconsin Chapter

## DCMA's "Connective Tissue" across Wisconsin



- **83,500 Square Miles**
- **@ 220 Contractors**
- **3,400+ Contracts valued at \$26B**

# COVID-19 Impacts on Defense Industrial Base

- **DCMA tracks facility closures as well as “Operational Impacts”**
  - 4 June: Facility Closures were at 14 down from a high of 267
  - 4 June: Operational Impacts were at 269 down from high of 430
  - Avg Days to Reopen: 20 (Stay-at-home order exemptions versus International Closures)
  - More concerns with layoffs and furloughs due to slow down in commercial sector
- **DCMA Personnel Impacts**
  - 12,290 of the total 12,318 employees are teleworking
  - 6 Lab confirmed COVID cases
- **Wisconsin Impacts**
  - International Subcontractors
  - Smaller manufacturers – temporary
  - Commercial Sector – impacts production capabilities, efficiencies, and rates

**Summary: DIB impact has been minimal thus far**

# Dinnerware

## 252.225-7969 Acquisition of Dinnerware and Stainless Steel Flatware. (DEVIATION 2020-O0017) (b)

**Requirement.** Any dinnerware or stainless steel flatware delivered under this contract shall be produced in the United States, consistent with the requirements at 10 U.S.C. 2533a (commonly known as the “Berry Amendment”)

Use the following clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for acquisition of commercial items, that are for acquisition of dinnerware or stainless steel flatware with an estimated value that **exceeds the simplified acquisition threshold**, if the contract is to be awarded after December 20, 2020, and before September 23, 2023, unless the dinnerware or stainless steel flatware is for—

- (a) Acquisitions outside the United States in support of combat operations;
- (b) Acquisitions by vessels in foreign waters;
- (c) **Emergency acquisitions** by activities located outside the United States for the personnel of such activities; or (d) Commissary resale.

# COVID-19: Contractor Support

## Legislation and Information

- Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116-123 )
- Families First Coronavirus Response Act (FFCRA; Public Law 116-127)
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116- 136)
- Agency Memos and Guidelines

## Break it Down

- Acquisition Flexibilities
- CARES Act – Keep contractors in “Ready State”
- Progress Payment Deviation
- DPAS
- Transparency

# COVID-19: Acquisition Flexibilities

- Contractors deemed “**Essential**” by Department of Homeland Security Cybersecurity & Infrastructure Security Agency (CISA)
- **DFARS 252.237-7023 & 4**: Continuation of Essential Contractor Services
- **FAR Part 18 and DFARS 218**: Emergency Acquisitions
- **FAR 52.249-14, 52.249-8, & 52.212-4**: Excusable Delays
- **FAR 52.243-1 or 52.243-2**: Changes Clause

**Sound Business Acumen by Contracting Officers and Program Managers**

# COVID-19: Progress Payment Deviation

## Progress Payments (FAR 52.232-16 (DEVIATION 2020-00010))

*The purpose of this administrative modification is to implement a block change incorporating Class Deviation 2020-00010. Per this Class Deviation, the progress payment rates at Defense Federal Acquisition Regulation Supplement (DFARS) 232.501-1 are increased to **90 percent for large business concerns and 95 percent for small business concerns.***

- Are you eligible for progress payments? **Acceptable Accounting System?**
- **Prospective** however...90% of costs incurred allows you to “catch up”
- 27 MAR 2020: All current contracts with PP Clause w/ DCMA admin should have received a mass modification to incorporate deviation
- **No advanced payments** – must commensurate with work performed
- Does not change contracting officer’s right to **suspend or apply withholds**

# COVID-19: CARES Act – Paid Leave

➤ See Memo @ [https://www.acq.osd.mil/dpap/policy/policyvault/Class\\_Deviation\\_2020-00013.pdf](https://www.acq.osd.mil/dpap/policy/policyvault/Class_Deviation_2020-00013.pdf)

SECTION 3610. FEDERAL CONTRACTOR AUTHORITY. Notwithstanding any other provision of law, and subject to the availability of appropriations, funds made available to an agency by this Act or any other Act may be used by such agency to **modify the terms and conditions of a contract, or other agreement, without consideration, to reimburse at the minimum applicable contract billing rates not to exceed an average of 40 hours per week any paid leave, including sick leave, a contractor provides to keep its employees or subcontractors in a ready state**, including to protect the life and safety of Government and contractor personnel, but in no event beyond September 30, 2020.

- **DFARS 231.205-79, CARES Act Section 3610 Implementation**

## COVID-19: CARES Act – Paid Leave

- **What For?** Facility closed, cannot perform the work offsite or via telework
- **Funding?** Contingent upon the availability of funds, flexibilities in appropriation
- **Contract Type?** Available for any contract type, must obtain pre-approval from PCO
- **Eligible Costs?** Equitable adjustments should compensate cost only, no profit
- **Credits?** Reduced by the amount of credit from other relief such as Payment Protection Program loan that was forgiven.

## COVID-19: CARES Act – Paid Leave

- **Traceability?** Must setup a stand-alone CLIN – PCO pre-approval
- **Documentation Support?** Contractors bear the burden of supporting any claimed costs, including claimed leave costs for their employees, allocated appropriately against individual contracts, with appropriate documentation and identifying credits that may reduce reimbursement.
- **Deferment of Payroll Taxes?** Allowable cost in current year despite no payment however...not eligible if you receive PPP loan forgiveness
- **Negotiations?** Who is responsible for negotiating equitable adjustments? TBD

## COVID-19: What else?

- **Transparency:** USAspending.gov – COVID-19 Contract Visualizationg
- **Defense Priorities and Allocations System:** Defense Production Act of 1950, orders rated as DO or DX on first page of contract, essential products
- **Commercial Items:** DCMA Commercial Item Group has prepared a class Commercial Item Determination (CID) limited to the information pertaining to the 2020 COVID-19 pandemic.
- **PIEE Modules added:** Solicitation and secure exchange modules added

Questions?

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