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# Acquisition Hour: Federal Contracting: Contract Methods and Types of Contracts

February 7 | Noon – 1:00 pm

Presented by:

Carol Murphy, WPI



# Webinar Etiquette

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§ Use the QUESTIONS option to ask your question(s).

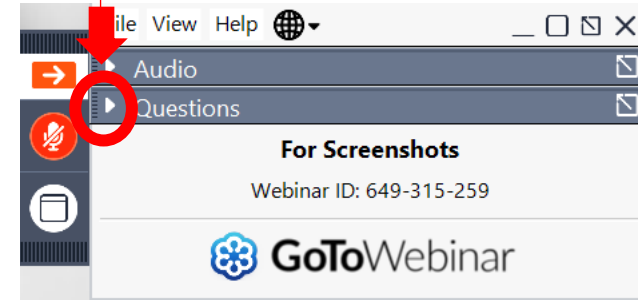
§ We will share the questions with our guest speaker who will respond to the group

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## § ASHLAND

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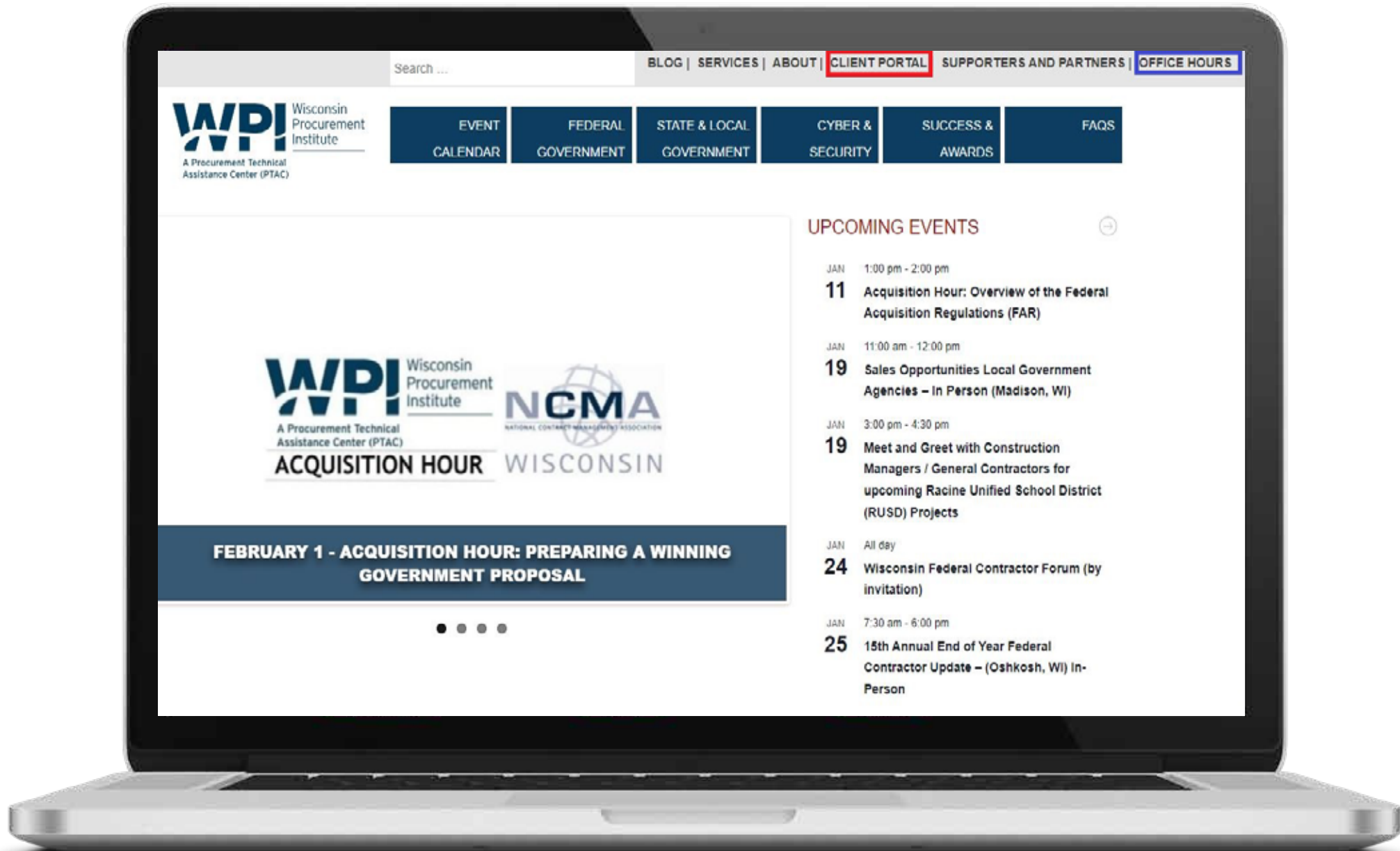
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**FEBRUARY 1 - ACQUISITION HOUR: PREPARING A WINNING GOVERNMENT PROPOSAL**



### UPCOMING EVENTS

- JAN 1:00 pm - 2:00 pm  
**11** Acquisition Hour: Overview of the Federal Acquisition Regulations (FAR)
- JAN 11:00 am - 12:00 pm  
**19** Sales Opportunities Local Government Agencies – In Person (Madison, WI)
- JAN 3:00 pm - 4:30 pm  
**19** Meet and Greet with Construction Managers / General Contractors for upcoming Racine Unified School District (RUSD) Projects
- JAN All day  
**24** Wisconsin Federal Contractor Forum (by invitation)
- JAN 7:30 am - 6:00 pm  
**25** 15th Annual End of Year Federal Contractor Update – (Oshkosh, WI) In-Person

# WHAT WE WILL COVER TODAY

- Contract Methods
  - Sealed Bidding
  - Competitive Negotiations
  - Simplified Acquisitions
- Contract Types
  - Fixed Price Contracts
  - Cost-Reimbursement Contracts
  - Indefinite-Delivery Contracts
  - Other Types of Contracts and Agreements

# CONTRACT METHODS

# SEALED BIDDING – FAR PART 14

# SEALED BIDDING

A method of contracting where contracts are awarded to:

- The LOWEST PRICED
- RESPONSIVE BID
- Submitted by a RESPONSIBLE BIDDER

# SEALED BIDDING PROCESS

- Publication of the Invitation for Bids (IFB) Solicitation (SAM.gov)
- Submission of Bids and Public Bid Opening
- Evaluation of Bids and Contract Award

# THE IFB SOLICITATION

- Solicitation / Contract form
- Bid schedule
- Descriptions / Specifications / Statement of Work
- Contract Clauses
- Attachments
- Solicitation Provisions

# THE IFB SOLICITATION

- Describes all government requirements
- Specifies whether bids must be firm fixed price (FFP) or firm-fixed-price with economic price adjustment (FFP w/ EPA)
- May request bid guarantees or specific responsibility information

# BID SUBMISSION

- Bids must be submitted
  - (1) using the designated method(s),
  - (2) to the proper place, and
  - (3) at (or prior to) the designated time
- Bid constitutes a firm offer
- Bids remain unopened and secure until the public bid opening

# EVALUATING BIDS - RESPONSIVENESS

**RESPONSIVE BID** - a bid which explicitly offers to provide all supplies and services IAW the solicitation

- Bid completely filled out IAW with the IFB's instructions
- No exceptions taken
- Nothing changed or crossed out
- All material amendments acknowledged

# RESPONSIBILITY

**RESPONSIBLE BIDDER** – a bidder capable of meeting all contract requirements and eligible to receive an award

- Has financial resources, and
- Has satisfactory past performance, and
- Has satisfactory integrity and business ethics, and
- Has the organization, experience, technical skills, and facilities

# EVALUATING BIDS - PRICE

The Contracting Officer evaluates the price and price related factors

- Evaluates total price of base requirement and options
- Checks for unbalanced pricing
- Must determine if the pricing is reasonable

# AWARD

- Award is made to the lowest priced, responsive, responsible bidder
- Award is made without discussions
- A binding contract is formed when the Contracting Officer accepts and signs the submitted bid

# NEGOTIATED PROCUREMENTS – FAR PART 15

# NEGOTIATED PROCUREMENTS (FAR PART 15)

- Used when sealed bids are not appropriate
- Award based upon evaluation of both price and non-price factors
- More complex and time consuming than sealed bidding

# THE REQUEST FOR PROPOSAL - GENERALLY

- Solicitation / Contract form
- Item(s) to be priced
- Descriptions / Specifications / Statement of Work
- Contract Clauses
- Contract Provisions including Instructions to Offerors
- Evaluation Criteria and their relative importance

# RFP – INSTRUCTIONS TO OFFERORS

- Describes what information offerors should provide in their proposals
- Often dictates format, page limits, paper size, font size, organization, content, and number of copies
- Proposals should strictly comply with these instructions and limitations

# RFP – EVALUATION CRITERIA/FACTORS

- Describe what government will evaluate to determine award
- All significant factors and sub-factors will be identified
- Relative importance of each listed factor and sub-factor will be identified

# RFP – BEST VALUE CONTINUUM

- Lowest Priced Technically Acceptable
- Cost / Technical Trade Off Process
- Highest Technically Rated Proposal at a Reasonable Price – Rarely used

# COST TECHNICAL TRADE-OFF

- RFP discloses whether the non-price factors when combined are
  - (1) more important than price
  - (2) approximately equal to price or
  - (3) significantly less important than price.

# RFP - DISCUSSIONS

- If RFP states the Government intends to award without discussions, offerors should make their initial offer their best offer
  - √ However Government may later change its mind
- If RFP states the Government intends to award after holding discussions, then discussions will be held

# RFP – COMPETITIVE RANGE

- Comprised of the highest rated proposals
- Offerors excluded from the Competitive Range will be promptly notified
- Offerors excluded can request a pre-award debriefing within 3 days after notification

# RFP – FINAL PROPOSAL REVISIONS

- When all rounds of discussions are concluded, final proposal revisions will be requested
- In final proposal revision, offerors should correct the identified deficiencies and weaknesses, if possible

# RFP – AWARD / SOURCE SELECTION DECISION

- Award is made when the Government accepts the proposal
- Contractor's proposal becomes part of the contract
- Notice of Award is provided to unsuccessful Offerors
- Unsuccessful Offeror may request a post-award debriefing

# SIMPLIFIED ACQUISITIONS – FAR PART 13

# SIMPLIFIED ACQUISITION PROCEDURES

There are three major categories

- Micro-Purchases
- Standard Simplified Acquisitions
- Commercial Item Simplified Acquisition

# MICRO-PURCHASES (\$10,000 OR LESS)

- Competition is not required for a micro-purchase if the price is reasonable
- To the maximum extent practicable, awards distributed equally among qualified contractors
- Generally, Government-wide Purchase Card is used

# REQUESTS FOR QUOTATION (RFQ)

- An RFQ uses simplified acquisition procedures
- Can be used for
  - Commercial Item procurements under \$7.5 million
  - Construction and non-commercial Services and Supplies under the Simplified Acquisition Threshold (SAT), currently \$250,000 for most agencies

# PUBLICIZING SIMPLIFIED ACQUISITIONS

- Actions less than \$15,000 - No publicizing requirements
- Actions between \$15,000 up to \$25,000 - Agencies “display” a synopsis or solicitation for at least 10 days
- Actions between \$25,000 - \$250,000 (non-commercial item) - Agencies normally:
  1. synopsise the requirement in SAM.gov for at least 15 days, and then
  2. post the RFQ to SAM.gov for a reasonable time  
(numerous exceptions may apply)

# RFQ – EVALUATION

RFQs must state the evaluation criteria to be used in determining award

- Relative Importance might not be identified
- Formal evaluation plans, discussions, and scoring of quotations are not required

# QUOTATIONS

- The Vendor's response to RFQ is "Quotation" or a "Quote."  
Not an "Offer"
- A Quotation cannot be just "accepted" by the government.  
Instead
  1. Government makes a selection
  2. Government issues an Order to selected vendor (The order is the Government's Offer)

# REQUESTS FOR QUOTATIONS

- A contract is formed when the Vendor accepts the Government's Order either
  1. in writing, or
  2. Proceeding with the work until substantial performance has occurred
- The Government can withdrawal, amend, or cancel its Order at no cost by sending written notice prior to Vendor acceptance

# REQUESTS FOR QUOTATIONS

- Government can both solicit and receive new quotes any time prior to contract formation
- The Government must consider all timely submitted quotes
- The Government need not consider a quote received after an Order has been sent to a selected Vendor

# COMMERCIAL ITEMS

# COMMERCIAL ITEMS – DEFINITION FAR 2.101

Extreme simplification ...

Any item or service, other than real property, that is sold or offered for sale to the general public

# COMMERCIAL ITEMS – DOES NOT INCLUDE

- Real Property
- Construction
- Items that have not yet been developed
- Items that were developed using government funds and are used exclusively by government
  - Note – this list may not be all inclusive

# COMMERCIAL ITEMS – SIMPLIFIED

An RFQ can be used for

- Commercial Item procurements (Service and Supply) estimated to be under \$7.5 million

# PUBLICIZING COMMERCIAL ITEMS OVER \$25,000 - SIMPLIFIED

For Commercial Items over \$25,000, the CO has two simplified options for publicizing contract actions in SAM.gov

- Combined Synopsis / Solicitation
- Synopsis and Solicitation with a shortened timeframe for publicizing

# CONTRACT TYPES

# FIXED PRICE

# FIXED PRICE

Most common types of federal fixed price contracts:

- Firm Fixed Price (FFP)
- Fixed Price with an Economic Adjustment (FFP EPA)
- Fixed Price with Award Fee
- Fixed Price with Incentive Fee

# FIRM FIXED PRICE

- Price is firm and fixed - Not adjustable solely based on contractor's cost
- Used when clear requirements and prices can be established at the outset
- Contractor bears the risk and liability for cost overruns
- Contractor gets the benefits of decreased costs of performance (i.e. cost underruns)

# FIXED PRICE WITH AN ECONOMIC PRICE ADJUSTMENT

Prices will be adjusted upward or downward based upon:

- Cost indexes
- Published / established price of a specific item
- Actual costs of specified labor or specified material

(Note: Contract may have ceiling or cap on upward adjustment.)

Used when:

- There is doubt about stability of the market or labor conditions, and
- Contingencies can be identified and covered in the contract

# FIXED PRICE WITH AWARD FEE – AN INCENTIVE TYPE CONTRACT

The Contractor receives:

- a negotiated fixed price (which includes normal profit) for satisfactory performance, and
- an award fee for performance that is better than satisfactory

The Contractor may only get a percentage of the award fee. (e.g. 50% of award fee for very good performance, 100% of award fee for outstanding performance)

# FIXED PRICE INCENTIVE FEE

## AN INCENTIVE TYPE CONTRACT

Government and Contractor agree upon a firm target cost, a target profit, a fixed ceiling price and a profit adjustment formula

Final price is determined after performance is completed, when the final cost is determined

- If final cost < the target cost, then the final profit > the target profit- i.e. the Contractor makes more profit
- If final cost > target cost, then the final profit < the target profit – i.e. the Contractor makes less profit

# COST-REIMBURSEMENT

# COST REIMBURSEMENT CONTRACTS

- Two most common types:
  - Cost Plus Fixed Fee
  - Cost Plus Award Fee
- Payment based on allowable incurred costs and profit as specified in contract
- Used when costs cannot be estimated

# COST PLUS FIXED FEE (CPFF)

- Contract has a cost ceiling
- The contract price = Contractor's allowable cost plus a fixed fee.
- Used for research or preliminary studies and for development and test contracts

# COST PLUS AWARD FEE

The contract price is the Contractor's allowable cost plus...

- a fixed base fee negotiated and set prior to award, and
- an award fee for performance that is better than satisfactory based upon an established Award Fee Plan
- The Contractor may only get a percentage of the award fee. (e.g. 50% of award fee for very good performance, 100% of award fee for outstanding performance)

# INDEFINITE-DELIVERY CONTRACTS

# DEFINITE QUANTITY DEFINITE DELIVERY CONTRACT

- The government promises to order a specified amount of services, supplies or construction
- The timing of the orders and of delivery or completion is specified in the original Contract

# INDEFINITE DELIVERY CONTRACTS

- The exact time of ordering is not specified in the original Contract
- Three Types:
  - Definite Quantity/Indefinite Delivery Contracts
  - Requirements Contracts
  - Indefinite Delivery/Indefinite Quantity (IDIQ)

# DEFINITE QUANTITY/INDEFINITE DELIVERY CONTRACTS

- Government promises to order a specified quantity of supplies and services during the contract period
- There is flexibility on when the Government must order – except must be during the contract period
- Delivery Order(s), issued during the contract period, may specify the time(s) of delivery or completion

# REQUIREMENTS CONTRACTS

- Government Promises to order all of its requirements from Contractor during the contract period
- Contractor promises to fulfill all of the requirements ordered during the contract period
- Contract must include realistic total estimate of what will be ordered during the contract period

# INDEFINITE DELIVERY/INDEFINITE QUANTITY (IDIQ)

- Flexibility in both Quantity and Delivery Schedules
- Government promises to order a guaranteed minimum during the contract period
- Contractor promises to furnish additional quantities up to a stated maximum during the contract period

# OTHER TYPES OF CONTRACTS

# ADDITIONAL TYPES OF CONTRACTS

- Time and Materials (T&M) – Government pays loaded labor rates for hours worked (up to the ceiling price) and pays for materials at cost
- Labor Hour Contract – Government pays loaded labor rates for hours worked (up to the ceiling price). Any needed materials are government provided
- Level of Effort Contracts – Government pays for a specific level of effort (i.e. a fixed number of hours) over a specified period of time

# LETTER CONTRACTS

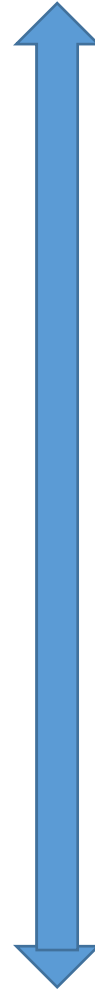
- Preliminary contractual document authorizing work to begin immediately with price and other terms to be determined at a later time
- Used Very Rarely!
- Must specify the maximum government liability which must be superseded by definitive contract IAW the “definitization schedule”

# BASIC ORDERING AGREEMENT (BOA)

- Not a Contract – No binding commitment or promise
- BOA will contain
  - Terms and conditions,
  - Methods for issuing and delivering any orders,
  - Description of services and supplies that could be ordered, and
  - Methods for pricing orders
- Issued to Multiple Contractors - cannot be used to avoid competition

# ALLOCATION OF COST RISK

Higher Government  
Risk



Level of Effort

Time & Materials

Cost Plus Fixed Fee

Cost Plus Award Fee

Fixed Price Incentive Fee

Fixed Price with Economic Price  
Adjustment

Firm Fixed Price

Higher Contractor  
Risk

# RESOURCES

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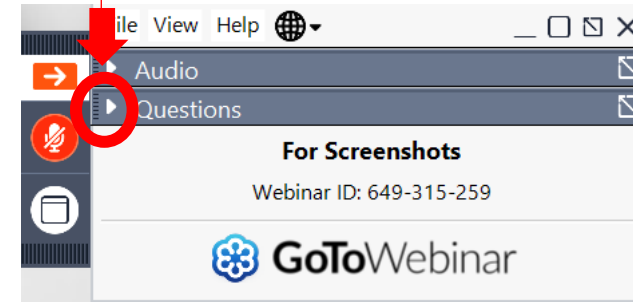
- Federal Acquisition Regulation (FAR) - Acquisition.gov: <https://www.acquisition.gov>
- System for Award Management (SAM): <https://sam.gov/>
- Wisconsin Procurement Institute (WPI)  
Phone: 414-270-3600 [www.wispro.org](http://www.wispro.org)

# QUESTIONS?



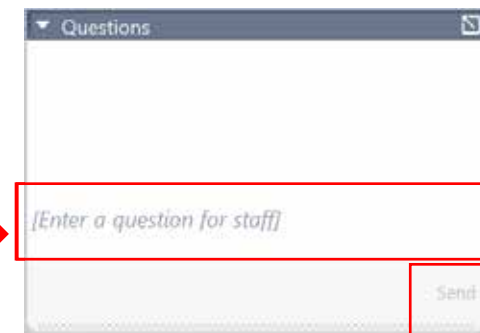
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# UPCOMING TRAINING - EVENTS

# ACQUISITION HOUR LIVE WEBINAR SERIES

- February 7  
**Federal Contracting: Contract Methods and Types of Contracts**
- February 14  
**Protecting Federal Contract Information (FCI): An Introduction to FAR 52.204-21**
- February 28  
**Protecting Federal Contract Information (FCI): An Introduction to FAR 52.204-21**

**...More information and registrations at [wispro.org/events](https://wispro.org/events)**

# EMERGING ISSUES LIVE WEBINAR SERIES

- February 15  
**Analyzing and Understanding the DIBBS RFQ – Overlooked Requirements can Create Contract Compliance Issues**
- February 29  
**From SBIR/STTR to DPA Title III – An Overview of Federal Innovation Programs, Needs and Marketplace**
- March 14  
**Suggested Process for Creating a Federal Business Development Strategy**

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*Registration Now Open*



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# Announcing 2024 Evening FAR Sessions

*January 30 – March 19*

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*[Wispro.org/Events](https://wispro.org/events)*

February 7, 2024

# SURVEY



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[neelagangap@wispro.org](mailto:neelagangap@wispro.org)

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