

Acquisition Hour

Federal Contracting: Contract Methods and Types of Contracts

February 18 | 11:00 am – Noon

Presented by:

Carol Murphy, Government Contract Specialist





Assisting Wisconsin businesses compete in the government marketplace.

WPI is Wisconsin's APEX ACCELERATOR

The APEX Accelerators program, under management of the Department of Defense (DOD) Office of Small Business Programs (OSBP), plays a critical role in the Department's efforts to identify and engage with a wide range of businesses entering and participating in the defense supply-chain. The program provides the education and training that all businesses need to participate to become capable of participating in DOD and other government contracts.

WPI provides services and training to all of Wisconsin's 72 counties

- Individual counseling at our offices, client's facility or virtually
- Small group training – webinars and workshops including Acquisition Hours, Cyber Fridays, Evening FAR sessions, Federal Market Insights and Local Government Sales Opportunities
- Conferences the Governors Marketplace, The Contracting Academy (TCA), WEDCs Small Business Academy, Wisconsin Federal Contractor Forum [DC and in-state], Government Opportunities Business Conference GOBC) with WI military bases, End of Year Federal Contractor Update, Annual DOD Contract Management Update, and more.....

www.wispro.org

WPI OFFICE LOCATIONS

- **MILWAUKEE**

- *Technology Innovation Center*

- **MADISON**

- *FEED Kitchens*
- *Dane County Latino Chamber of Commerce*
- *Wisconsin Manufacturing Extension Partnership (WMEP)*
- *Madison Area Technical College (MATC)*

- **CAMP DOUGLAS**

- *Juneau County Economic Development Corporation (JCEDC)*

- **EAU CLAIRE**

- *Western Dairyland*

- **FOND DU LAC**

- *Envision Greater Fond du Lac*

- **GREEN BAY**

- *NWTC Startup Hub*

- **LACROSSE**

- *Veterans in Professions*

- **MANITOWOC**

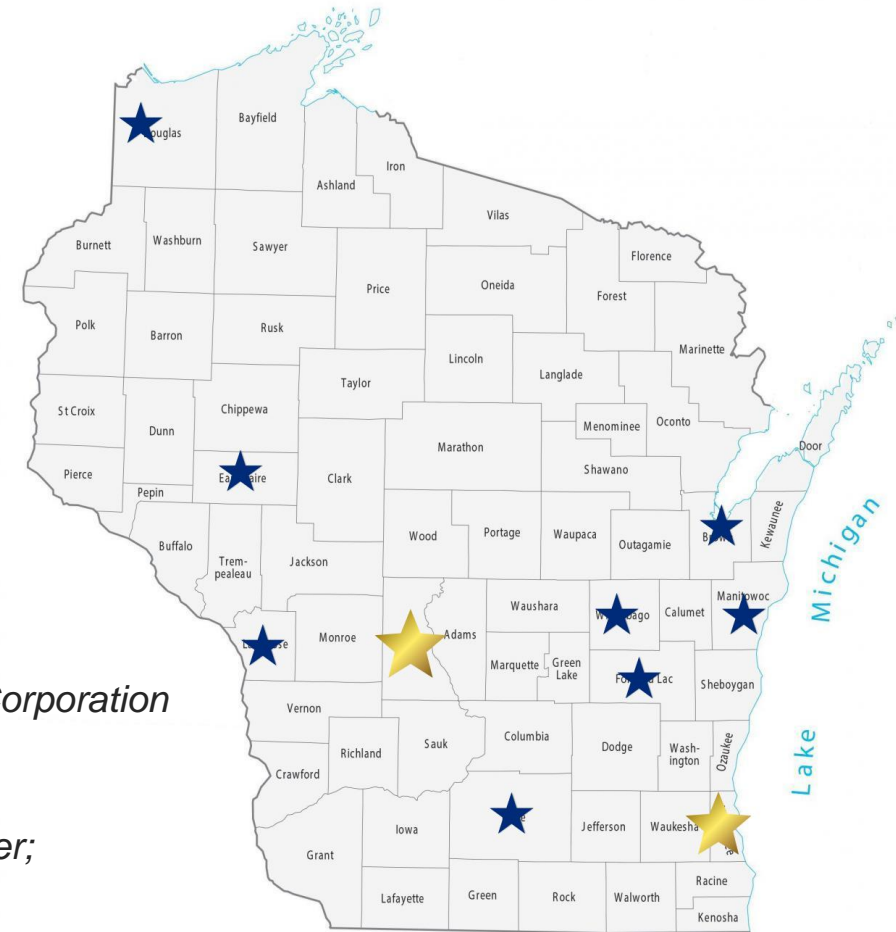
- *Progress Lakeshore*

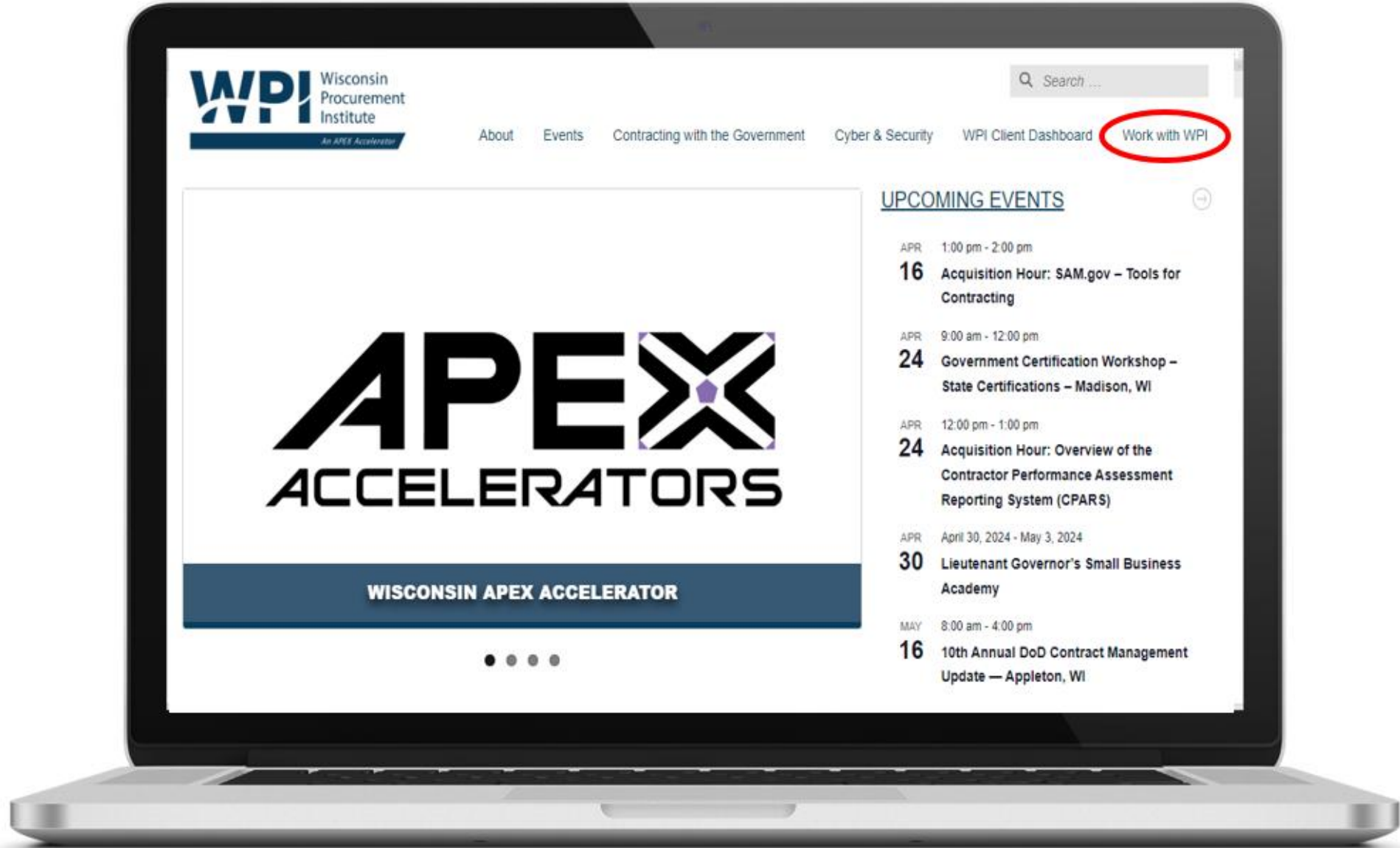
- **OSHKOSH**

- *Greater Oshkosh Economic Development Corporation*

- **SUPERIOR**

- *Small Business Dev Center; UW Superior*





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

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 in accordance with the solicitation

- Bid completely filled out in accordance 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)

- 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 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 a “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 – 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

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 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)

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

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

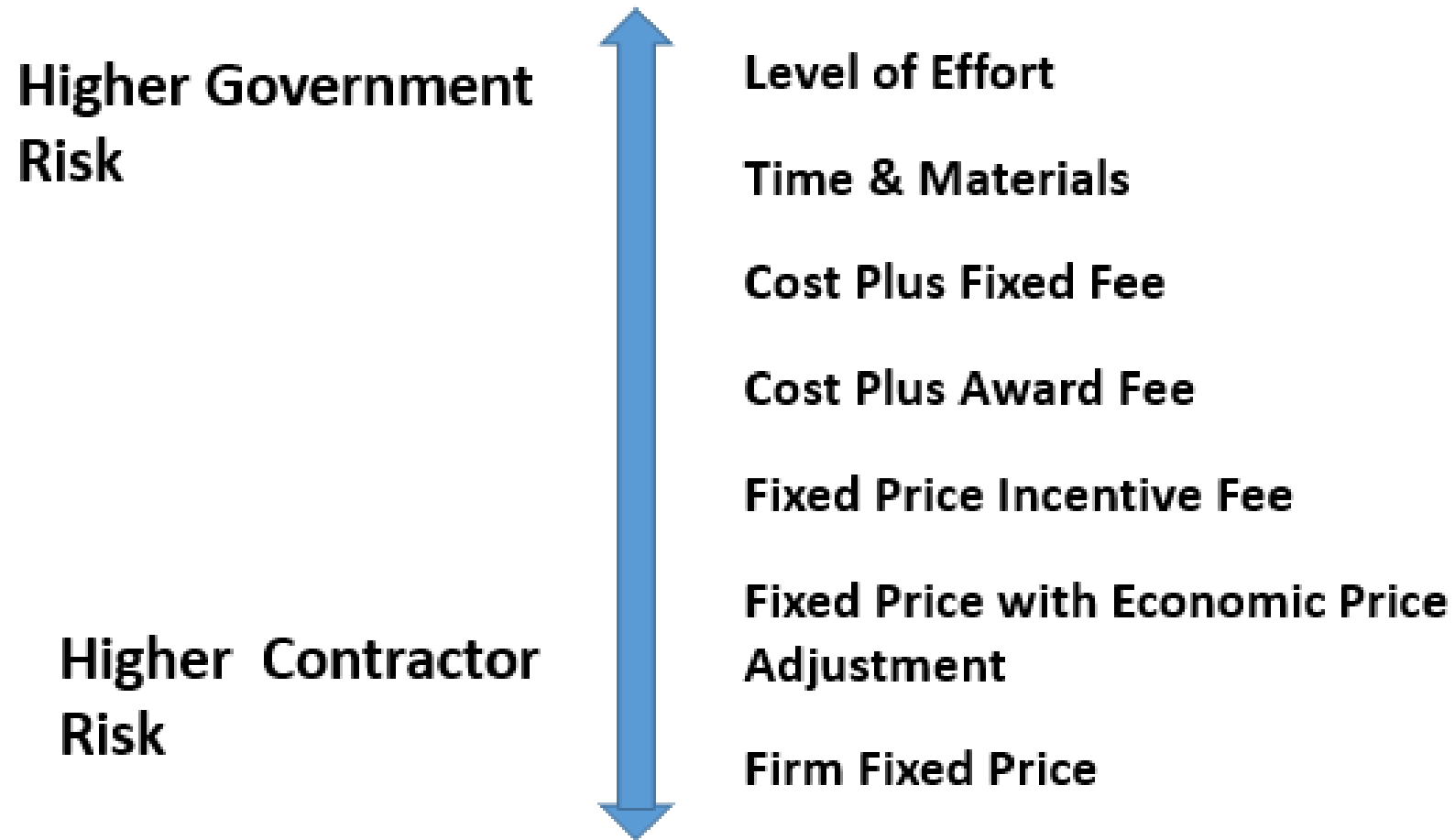
Letter Contracts

- 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



Resources

- 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

Upcoming Events

February 18 2025

Acquisition Hour

The Acquisition Hour webinar series covers a range of topics from market entry, sales growth, small business certifications, compliance, and more. Attendees receive 1 CPE credit for attending.

- **February 18** – Federal Contracting: Contract Methods and Types of Contracts
- **February 19** – Mastering Federal Construction Contract Performance
- **February 26** – Understanding the US SBA and DOD Mentor Protégé Programs (MPP)
- **March 5** – Marketing Materials for One-on-One Buyer Meetings
- **March 19** – Acquisition Hour: Navigating AI: Practical Tips for Federal Contractors

...More information and registrations at wispro.org/events



Cyber Friday

Cyber Friday is a series of one-hour webinars focusing on critical topics for DOD contractors and subcontractors in cyber security, data security, and CMMC. Attendees receive 1 CPE credit for attending.

- **February 28** – CMMC: Are You Ready for a C3PAO Assessment?
- **March 28** – CMMC: Federal Cybersecurity Requirements – Who Must Comply?
- **April 25** – CMMC: Maintaining Your CMMC Certification

...More information and registrations at wispro.org/events

Federal Market Insights

Federal Market Insights is an informal podcast designed to provide valuable information about the government marketplace for businesses interested in government contracting. Each episode is a concise 30-minute session, scheduled at the end of the week. We review noteworthy items published during the week, delve into key topics, and offer background information and perspectives relevant to the government contracting landscape. Stop by, settle in and take-in the conversation.

- February 14 – Starting Your Federal Contracting Journey: Registering in SAM
- February 21 – Getting Started with DoD Contracts: Essential Tips and Information
- February 28 – Navigating DoD Sales: From Regulations to Strategic Planning
- March 7 – Federal Certifications: Beyond Titles to Strategic Value
- March 14 – The Language of Government Contracting: Why Definitions Matter
- March 21 – Federal Information Security: Programs Every Contractor Should Know

...More information and registrations at wispro.org/events

Upcoming Events



May 14

Winning Government Business: Navigating Compliance Risks to Drive Strategic Advantage
Milwaukee, WI



May 15

11th Annual DOD Contract Management Update
Milwaukee, WI

...More information and registrations at wispro.org/events

Featured Newsletters

Visit wispro.org to sign up for our monthly newsletters

Acquisition Alert | CyberNewsletter
Events Newsletter

PRESENTED BY

Wisconsin Procurement Institute (WPI)

www.wispro.org

Carol Murphy

Wisconsin Procurement Institute

carolm2@wispro.org | 608-338-8018

10437 Innovation Drive Suite 320

Milwaukee WI 53226