



**BEYOND PHASE II
UNDERSTANDING THE STRINGS
ATTACHED TO DOD SBIR AWARDS**

AUGUST 13, 2018

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JAMESON & COMPANY

INTRODUCTION

- Founded in 1978
- Account Managers are CPA's with 15+ years experience
- Clients in 41 states, all agencies, all types of awards
- More than \$4 Billion in client awards procured, managed and survived audit

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AGENDA

1. The OSD pilot program
2. The regulations typically embedded in DOD SBIR awards
3. FAR part 31 compliant accounting systems
4. Indirect rates – How NOT to bankrupt yourself
5. How Jameson can help

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January 19, 2018 OSD Memo - Pilot Program

*Gives Head of Contracting Activity ability to **except** cost or pricing data requirements for contracts < \$7.5M*

- *Awarded to Small Business Concern or Nontraditional Defense Contractor*
- *Sunsets on October 1, 2020*
- *What we're seeing*

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FAR 52.216-7

The Allowable Cost & Payment Clause



ACCEPTABLE ACCOUNTING SYSTEM

Does your General Ledger segregate?



DIRECT COSTS



INDIRECT COSTS



UNALLOWABLE COST

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SEGREGATING COSTS AS DIRECT, INDIRECT OR UNALLOWABLE

- Expenses NOT in the original proposal
- A lab jacket
- Fringe benefits - FICA/SUTA/FUTA; vacation, holiday and sick time; medical & dental insurance; retirement plans
- Rent, telephone, utilities, computers, furniture & equipment
- Accountants and lawyers
- Indirect labor - conferences, bid and proposal, managing the business *including employees, accountants, lawyers, subcontractors and vendors*

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TIMESHEET POLICIES YOU MUST HAVE

- Filled out in ink daily
- Must record all time, signed by the employee
- Signed by the supervisor
- Changes must be crossed out (not erased) and initialed



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ANOTHER LABOR POLICY YOU MUST HAVE

Accounting for Uncompensated Overtime:

- $\$80,000/2,000 = \$40/\text{hour}$
- Bill the government at \$40/hour
- Actually works 2,500 hours
- Actual hourly rate is \$32/hour

3 common cures:

- Pay for OT
- Change the billing rate every month
- Credit the overbilling to the indirect rate pool
- The MIT professor

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COMPANY RAIDED BY FBI

In 2006, a Woburn based high-tech firm specializing in fiber optics, was ranked 297 on Inc.'s list of 500 fastest-growing private businesses in America. Since 2001, they had received 132 SBIR Phase I, 44 SBIR Phase II, 31 STTR Phase I, and 13 STTR Phase II contracts.

January 23, 2013: Company is raided by Federal Agents to investigate unlawful use of SBIR/STTR funds.

According to Court records: Between the years of 2009-2012, the company directed and allowed employees to charge labor hours that did not correspond with actual time and effort to awards. Additionally, employees were given written instructions on how to change their timesheets and told to destroy the documents.

August 2016: The company and its' President agrees to pay \$2.25MM to resolve allegations of violating the False Claims Act.

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OTHER DIRECT COSTS

Direct Consultants

- Require a consulting agreement with an hourly rate and detail of the scope of work
- The consultant must provide an invoice detailing the amount of hours and details of the work performed

Direct Materials

- Must be properly coded with the invoice, purchase order and payment support all in alignment

Direct Travel

- Requires proper coding and must be in line with the published per diem rates
- <http://www.defensetravel.dod.mil>

Direct Subcontractors

- Require a signed subcontract agreement
- The agreement must detail the FAR provisions that are flowed down to the contractor

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NORTHWESTERN PAYS \$3MM FOR FRAUD

According to the Wall Street Journal, Northwestern University agreed to pay nearly \$3 million to settle claims that a former cancer researcher fraudulently used federal grant money for personal expenses, including food, hotels and airfare between 2003 and 2010.

The whistleblower, Melissa Theis, worked as a purchasing coordinator, processing invoices when she 'noticed some red flags,' according to her attorney.

The federal False Claims Act allows private citizens who allege government programs are being defrauded to file actions on behalf of the government and receive a portion, **usually 15% to 30%, of any recovered damages.**

Ms. Theis will get \$498,100 in settlement proceeds, according to the agreement.

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COMPLIANCE IN AN ONGOING DISCIPLINE

- Most DoD Phase II awards contain **FAR clause 52.216-7 – *Allowable Costs***
- You need to maintain a FAR compliant “acceptable accounting system.”
- Your accounting records need to be “always audit ready.”
- You must prepare an annual true up (incurred cost) report which has a 100% chance of being audited and is used to negotiate your indirect rates.
- QUESTIONS??

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The image features a close-up of a light-colored calculator with various function keys like '+', '-', '=', and '+/-' visible. The calculator is placed on top of a utility bill. The bill contains text such as 'AMOUNT DUE \$15.70', 'AMOUNT DUE AFTER THE \$17.22', and 'Total Usage'. There are also some faint, partially obscured text elements like 'Customer Number: 0000000000' and 'Web Code: 0000000000'.

INDIRECT COST RATES

A balancing act that most get wrong by proposing ABSURDLY low indirect rates

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HOW TO BANKRUPT YOURSELF

Proposing indirect rates that are too low creates automatic **cash flow problems** and **project cost losses** proportional to the degree of the “miss.”

If you're bootstrapped, what does this look like?

Credit card debt

Borrow from savings, relatives, etc.

Premature equity dilution

Stop paying yourself *

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HOW DID YOU COME UP WITH *THAT* INDIRECT RATE?

- A colleague at MIT told me to use 10% and I'd win
- Our paid proposal writer
- It's really competitive, so we thought it would be better to be low
- We want to dedicate as much money to the science as we can
- We used the agency's template and worked backwards

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**Coming up with an Indirect Rate by
working backwards...**

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BACKING INTO THE INDIRECT RATE

ITEM	AMOUNT
Total Award	\$1,500,000
7% Fee	\$100,000
Total Costs	\$1,400,000
G&A Costs	\$200,000
Total Unloaded Costs	\$1,200,000
Prominent Consultant #1	\$50,000
Prominent Consultant #2	\$50,000
Subcontract Costs	\$400,000
Materials Costs	\$200,000
Subtotal Labor Costs	\$500,000
Fringe Benefits and Overhead	\$75,000
Labor Costs	\$425,000

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THE MULTIPLIER

ITEM	AMOUNT
Direct Labor	\$1.00
Overhead @ 100%	\$1.00
Subtotal	\$2.00
G&A @ 25%	\$0.50
Subtotal	\$2.50
Fee @ 7%	\$0.18
Total	\$2.68

*For every \$1.00 you pay labor,
you charge the government
\$2.68*

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THE MULTIPLIER OVERVIEW

Our experience with established DoD SBIR-type government contractors:



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THE BUDGET REVISITED

ITEM	AMOUNT
Total Award	\$1,500,000
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Subcontract Costs	\$400,000
Materials Costs	\$200,000
Subtotal Labor Costs	\$500,000
Fringe Benefits and Overhead	\$75,000
Labor Costs	\$425,000

$$\text{Multiplier} = 1.167 * 1.176$$

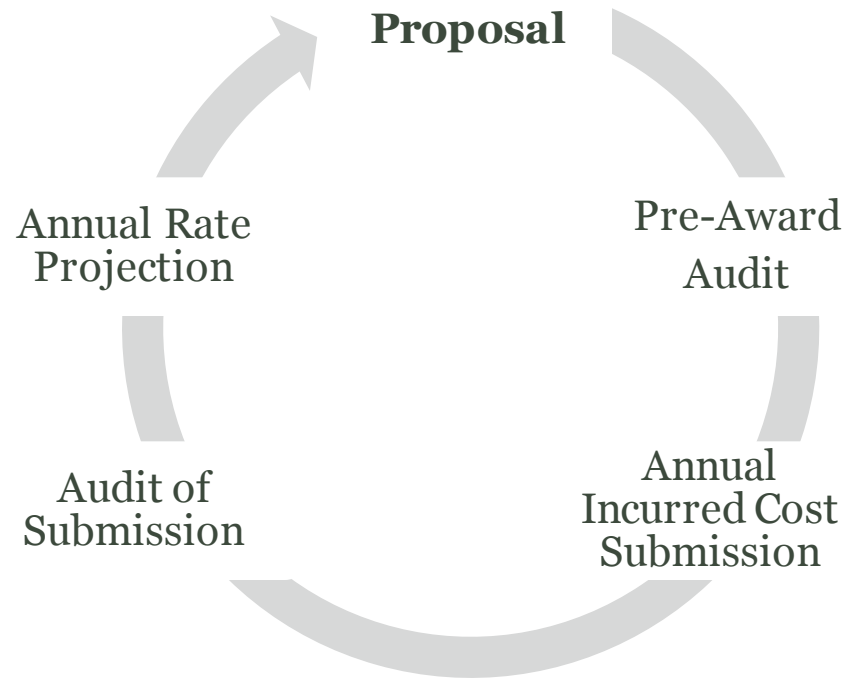
$$= 1.37$$

(16.7%)

(17.6%)

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INDIRECT RATE CYCLE



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WSU PROFESSOR May Face up to 30 Years in Prison

In February of 2016, a Washington State University engineering professor, along with his brother and sister-in-law, have been charged with defrauding the federal government of about \$8 million in SBIR research grants.

U.S. Attorney William Hochul stated, “As charged, the defendants took money intended to foster innovative research by small businesses, and instead used for their own personal use.”

The three were charged in federal court in New York, *with wire fraud, lying to federal agencies and transacting illicit funds. **The charges carry a maximum penalty of 30 years in prison and a \$1 million fine.***

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JULY 19, 2018

Purdue Professor & his Wife Indicted

According to a press release from the U.S. Attorney's office, Han and Shao used a company they founded called Hans Tech to attain over \$1.3 million in grants.

Han and his wife are accused of using the funds to purchase a house, and signed a lease with herself for \$3,000 per month totaling \$150,000 over an 8 year period.

Han and Shao did not inform the NSF that Shao owned the home. "Had that information been revealed, rental payments for the property would not have been allowed," the indictment reads.

Han and Shao are also accused of paying their 10 and 15 year old children \$24,000 in hourly wages and consulting fees for their supposed roles as a secretary and technical assistant for the research project.

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WHAT DO YOU USE INDIRECT MONEY FOR?

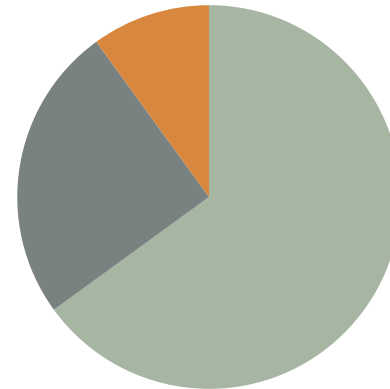
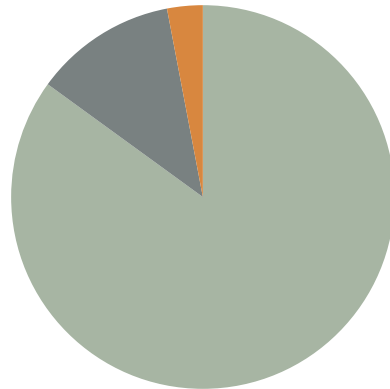
“Indirect rates give you the money to build your business infrastructure (people, facilities, processes) and allow you to work **on** the business.”

The government wants to be able to buy solutions from you in the future, and want you to stay in business... but they won't ask for money for you.

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WHICH HAS LESS RISK IN THE GOVERNMENT'S EYES?

- Fringe Rate
- F&A Rate
- Direct



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WHICH TEMPLATE SHOULD YOU DOWNLOAD?

1. Fringe and F&A rate
2. Fringe and modified F&A rate
3. Overhead rate
4. Overhead and G&A rate
5. Fringe, overhead and G&A rate

BIGGEST INDIRECT EXPENSE

How will key (expensive) people spend their time?

PROJECT

BUSINESS

Working ON the business (indirect labor):

- Building strategic alliances
- Diversifying the revenue stream
- Advancing the technology

0%

15%

0%

20%

0%

15%

Working IN the business (direct labor):

- Project – technical work

100%

50%

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COMPANY RAIDED BY FBI

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According to Court records: Between the years of 2009-2012, **the company directed and allowed employees to charge labor hours that did not correspond with actual time and effort to awards.** Additionally, employees were given written instructions on how to change their timesheets and told to destroy the documents.

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HOUSTON PROFESSORS INDICTED & CONVICTED

The 2014 indictment, alleges one count of conspiracy, seven counts of making false statements and 21 counts of wire fraud, all in connection with the Small Business Innovation Research (SBIR) program.

According to the indictment, both men started Integrated Micro Sensors Inc. (IMS), a small business which applied for and received SBIR grants or contracts from NASA, National Science Foundation, Department of Energy and the United States Air Force.

Officials said if convicted of the conspiracy, both face up to a five-year prison term, as well as another five years upon each conviction of making false statements. For the wire fraud charges, the men face up to 20 years for each conviction. All charges also carry a possible \$250,000 fine.

In late 2015, the two men were convicted and sentenced to prison.

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TWO QUESTIONS YOU NEED TO BE ABLE TO ANSWER

- **Job Cost Report** – used to invoice the government
- **How are the Indirect Rates actually running** (vs. what you are billing the government)?

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QUICKBOOKS

- Only tracks direct costs
- Does not track indirect costs
- Does not allocate indirect costs to projects
- Not FAR compliant

	A	B	C	D	E	F	G	H	I	J	K	N	O
1	Your Company Name												
2	Profit & Loss by Job												
3	January through May 2018												
4													Accrual Basis
5				Project #1			Project #2			Project #3			TOTAL
9													
10	Cost of Goods Sold												
11				5000 · Direct Labor			21,950.00	65,850.00	31,500.00	119,300.00			
12				5200 · Direct Materials			20,239.40	59,521.15	4,263.44	84,023.99			
13				5300 · Direct Consultants			44,376.00	16,250.00	0.00	60,626.00			
14				5400 · Direct Subcontractors			15,054.00	85,000.00	0.00	100,054.00			
15				5600 · Direct Travel			2,296.90	0.00	0.00	2,296.90			
16				5900 · Other Direct Costs			829.31	1,425.25	8,389.62	10,644.18			
17				Total COGS			104,745.61	228,046.40	44,153.06	376,945.07			
18				Gross Profit			18,636.10	146,953.60	51,120.92	216,710.62			
19				Net Ordinary Income			18,636.10	146,953.60	51,120.92	216,710.62			
20				Net Income			18,636.10	146,953.60	51,120.92	216,710.62			
21													
22													
23													
24													
25													
26													

Introducing...



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INDIRECT RATE REPORT



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January 01, 2018

thru

April 30, 2018

Costs	General Ledger	Adjustments	Fringe	F&A
6120 Holiday Pay	11,128	-	11,128	-
6150 Employee Health Insurance	3,012	-	3,012	-
6151 Employee Health Insurance:MG	1,412	-	1,412	-
6153 Employee Health Insurance:AR	1,023	-	1,023	-
6190 Workers' Compensation	551	-	551	-
6200 Pension Plan Contribution	4,350	-	4,350	-
6210 Payroll Taxes	21,999	-	21,999	-
6220 Payroll Service Expenses	1,162	-	1,162	-
7100 Indirect Labor	67,874	-	-	67,874
7120 Bank Charges	115	-	-	115
7140 Office Supplies and Expense	4,443	-	-	4,443
7160 Dues & Subscriptions	49	-	-	49
7170 Indirect Travel	971	-	-	971
7190 Rent	11,237	-	-	11,237
7220 Internet, Cable, Telephone	3,934	-	-	3,934
7230 Business Insurance	3,341	-	-	3,341
7250 Lab Supplies and Expense	124	-	-	124
7310 Legal & Professional Fees	8,213	-	-	8,213

EXECUTIVE SUMMARY

INDIRECT SCHEDULE

SBIR OPI

SBIR SYN

BACKLOG REPORT


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 NIH NATIONAL INSTITUTE ON DRUG ABUSE
 GRANT # 1R43AF1234567

 BUDGET PERIOD: 03/01/2018 - 07/31/2018
 PROJECT PERIOD: 03/01/2018 - 07/31/2018

	Direct Labor	Fringe	Direct Materials	Direct Subcontractors	Direct Consultants	Direct Equipment	Direct Travel	Other Direct Costs	Subtotal	F&A	Total Costs	Fixed Fee	Total	Funding Balance
Budgets, Funding & Rates														
Year 1	51,059	13,275	-	50,000	18,329	11,310	5,000	1,200	150,173	60,069	210,242	14,717	224,959	
Year 2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Currently Funded	51,059	13,275	-	50,000	18,329	11,310	5,000	1,200	150,173	60,069	210,242	14,717	224,959	
DATE														
Feb-18	1,838	478	-	-	-	-	-	-	2,316	926	3,242	227	3,469	221,490
Mar-18	6,189	1,609	-	-	-	5,000	-	-	12,798	5,119	17,917	1,254	19,171	202,318
Apr-18	9,808	2,550	2,927	-	-	110	-	80	15,475	6,190	21,664	1,517	23,181	179,137
May-18	-	-	16	-	-	-	338	-	353	141	495	35	529	178,608
CUM TO DATE	17,835	4,637	2,942	-	-	5,110	338	80	30,942	12,377	43,318	3,032	46,351	
BACKLOG	33,224	8,638	(2,942)	50,000	18,329	6,200	4,662	1,120	119,231	47,692	166,924	11,685	178,608	
FY 2018 Total	17,835	4,637	2,942	-	-	5,110	338	80	30,942	12,377	43,318	3,032	46,351	

BACKLOG REPORT



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NIH NATIONAL HEART, LUNG, AND BLOOD INSTITUTE
GRANT # 1R44HL123456-01

BUDGET PERIOD: 07/01/2017 - 06/30/2018
PROJECT PERIOD: 09/15/2016 - 06/30/2018

	Direct Labor	Fringe	Direct Materials	Direct Consultants	Direct Equipment	Direct Travel	Other Direct Costs	Subtotal	F&A	Total Costs	Fixed Fee	Total	Funding Balance
Budgets, Funding & Rates													
Year 1	149,150	38,779	3,000	87,375	44,500	5,000	204,500	532,304	159,691	691,995	48,440	740,435	
Year 2	134,708	35,024	-	91,500	18,000	5,000	258,000	542,232	136,300	678,532	47,497	726,029	
Total Currently Funded	283,858	73,803	3,000	178,875	62,500	10,000	462,500	1,074,536	295,991	1,370,527	95,937	1,466,464	

DATE													
Sep-16	8,407	2,186	102	-	-	-	7,250	17,945	5,384	23,329	1,633	24,962	715,473
Oct-16	12,779	3,323	1,009	-	9,347	940	16,011	43,410	13,023	56,433	3,950	60,383	655,090
Nov-16	19,867	5,165	-	20,000	-	-	8,729	53,761	16,128	69,890	4,892	74,782	580,308
Dec-16	8,376	2,178	-	8,358	-	-	18,563	37,474	11,242	48,717	3,410	52,127	528,181
2016 Rate Adj		0						0	30,915	30,915	2,164	33,079	495,103
Jan-17	14,753	3,836	-	-	-	362	6,115	25,065	7,520	32,585	2,281	34,866	460,236
Feb-17	14,941	3,885	-	-	-	211	10,737	29,773	8,932	38,705	2,709	41,415	418,822
Mar-17	17,590	4,574	-	6,000	2,287	-	17,260	47,711	14,313	62,024	4,342	66,366	352,456
Apr-17	31,215	8,116	-	7,750	-	-	25,548	72,629	21,789	94,417	6,609	101,027	251,429
May-17	23,528	6,117	-	8,500	1,583	648	16,851	57,228	17,168	74,396	5,208	79,604	171,825
Jun-17	34,177	8,886	-	11,540	4,488	466	21,968	81,526	24,458	105,984	7,419	113,403	58,423
Jul-17	20,221	5,257	-	9,250	-	2,793	19,710	57,231	14,880	72,111	5,048	77,159	707,293
Aug-17	16,514	4,294	-	33,450	-	215	36,290	90,762	23,598	114,361	8,005	122,366	584,927
Sep-17	13,864	3,605	-	12,000	1,974	557	28,762	60,762	15,798	76,561	5,359	81,920	503,008
Oct-17	5,747	1,494	-	-	10,625	436	79,037	97,339	25,308	122,647	8,585	131,232	371,776
Nov-17	8,330	2,166	-	3,000	157	-	4,437	18,090	4,704	22,794	1,596	24,389	347,386
Dec-17	7,341	1,909	-	-	5,244	-	35,209	49,702	12,923	62,625	4,384	67,008	280,378

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PHASE I

\$3,200

What's included:

- Initial QuickBooks Online chart of accounts set up
- Project costing and templates established
- Includes 6 Months JamesonWorx license for 1 award
- 3 hours of training and support
- Indirect rate projection & support for cost portion of proposal

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HOW WE SUPPLEMENT YOUR FINANCIAL TEAM

- Indirect cost rate development
- Financial negotiations with government officials
- Accounting system set up, training and periodic oversight
- Annual incurred cost report preparation
- Representation during government audits

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WHEN TO CALL JAMESON

- Cost portion of proposal = ????
- Cash flow problems, unexpected debt or dilution events
- Having problems getting paid by the government
- You don't know what your actual overhead rate is
- Concerns about your existing financial team

QUESTIONS?

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