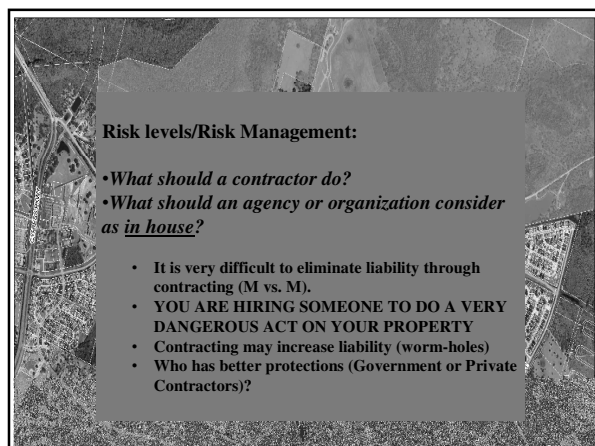


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Contract Quality and Clarity (1)

- Does the RFP specify clear bidder requirements?
 - Training, experience, capabilities
- A Contract: It is an agreement!!! A legally binding agreement!!
- Who is the contracting agent or agent team?
 - Do they have the experience to develop a clear and defensible agreement?
- Who is responsible for what aspect of the project implementation determination? Are they qualified?
- Contingencies – what are they? And, are they defined in the agreement?

Contract Quality and Clarity (2)

- Liability firewalls and indemnification.
 - Are they there? Are they clear?
 - Does your legal team (both sides of the agreement) understand fire law as it relates to prescribed fire?
- Who determines when the contractor has met the obligations (at what phase of the project e.g. fire completion or at some point in ecosystem response)
- Contractor vs. employee relationship – how far in bed do you get?
 - Who writes the burn plan?
 - Specifying desired or acceptable results -- ok
 - Telling of how – dangerous

Is the Cheapest Bid The Best Bid -- REALLY?

- Other contract elements that eliminate risk are more important!!
- Are you including and comparing the right elements to insure capabilities and minimize risk?
- Don't over focus on bid price per acre!!

Florida Fire Program (The Nature Conservancy)

Burn Costs Calculation Table (copyright 07-100)

(Friday, September 18, 2009 12:10:50 PM)

| Burn Unit Size (acres): | Crew Day Cost: | Per Acre Cost: | # of Units/Yr: | Total Acres: | Total RNF Cost (dw Year): |
|-------------------------|----------------|----------------|----------------|-----------------------------|---------------------------|
| 10 | \$3,500.00 | \$350.00 | 0 | 0 | 0.0 |
| 25 | \$3,500.00 | \$140.00 | 2 | 50 | \$7,000.00 |
| 50 | \$3,500.00 | \$70.00 | 0 | 0 | 0.0 |
| 75 | \$3,500.00 | \$47.00 | 0 | 0 | 0.0 |
| 100 | \$3,500.00 | \$35.00 | 1 | 100 | \$3,500.00 |
| 125 | \$4,500.00 | \$36.00 | 0 | 0 | 0.0 |
| 150 | \$4,500.00 | \$30.00 | 0 | 0 | 0.0 |
| 175 | \$4,500.00 | \$26.00 | 2 | 350 | \$9,000.00 |
| 200 | \$4,500.00 | \$23.00 | 0 | 0 | 0.0 |
| 250 | \$4,500.00 | \$18.00 | 0 | 0 | 0.0 |
| 300 | \$4,500.00 | \$15.00 | 0 | 0 | 0.0 |
| 350 | \$4,500.00 | \$13.00 | 0 | 0 | 0.0 |
| 400 | \$4,500.00 | \$11.00 | 1 | 400 | \$4,500.00 |
| 500 | \$5,500.00 | \$9.00 | 0 | 0 | 0.0 |
| 600 | \$5,500.00 | \$9.00 | 0 | 0 | 0.0 |
| 700 | \$5,500.00 | \$8.00 | 0 | 0 | 0.0 |
| 800 | \$5,500.00 | \$7.00 | 1 | 800 | \$5,500.00 |
| 1000 | \$5,500.00 | \$6.00 | 0 | 0 | 0.0 |
| 1500 | \$5,500.00 | \$4.00 | 0 | 0 | 0.0 |
| 2000 | \$5,500.00 | \$3.00 | 0 | 0 | 0.0 |
| Totals: | | | 7 | 1700 | \$39,500.00 |
| | | | | Low Cost Per Acre (dw Year) | \$17.35/Acre |

Cost per Acre Varies Greatly!

- By Unit Complexity
- Fuels Loading
- Size

Price by Acre: The Big Trap!

- Other bid elements are more important, those tending to risk
- Per Acre cost is highly variable

DWP RFP Cost Analysis:

1993-2009

| Year: | BCDs | Crew Cost/Fuel category | Acres: | Total Cost: | Cost /Acre |
|-------|----------|-------------------------|-----------------|--------------------------|------------|
| 1993 | 1 | \$4.5K/M | 25 | \$4500.00 | \$180.00 |
| 1994 | 18 | \$5.5K/H | 1752 | \$99,000.00 | \$56.50 |
| 1995 | 13 | \$5.5K/H | 1826 | \$71,000.00 | \$38.80 |
| 1996 | 7 | \$5.5K/H | 779 | \$38,500.00 | \$49.40 |
| 1997 | 28 | \$4.5K/M | 1979 | \$126,000.00 | \$63.70 |
| 1998 | 6 | \$4.5K/M | 941 | \$27,000.00 | \$28.69 |
| 1999 | 10 | \$4.5K/M | 1207 | \$45,000.00 | \$37.30 |
| 2000 | 0* | N/A | 0 | \$0.0 | \$0.0 |
| 2001 | 6 | \$4.5K/M | 1151 | \$27,000.00 | \$23.50 |
| 2002 | 15 | \$4.5K/M | 2679 | \$81,000.00 | \$30.20 |
| 2003 | 13 | \$3.5K/L | 4219 | \$45,000.00 | \$10.70 |
| 2004 | 17 | \$3.5K/L | 4988 | \$39,000.00 | \$11.80 |
| 2005 | 8 | \$3.5K/L | 1510 | \$28,000.00 | \$18.54 |
| 2006 | 15 | \$3.5K/L | 2954 | \$52,000.00 | \$22.10 |
| 2007 | 8 | \$3.5K/L | 4937** | \$28,000.00 | \$5.70 |
| 2008 | 7 | \$3.5K/L | 2820 | \$24,500.00 | \$8.70 |
| 2009 | 5 | \$3.5K/L | 1979 | \$17,500.00 | \$8.84 |
| Mean: | 180/10.5 | | 35,146/2,067*** | \$773,000.00/\$45,470.00 | \$34.96/Ac |

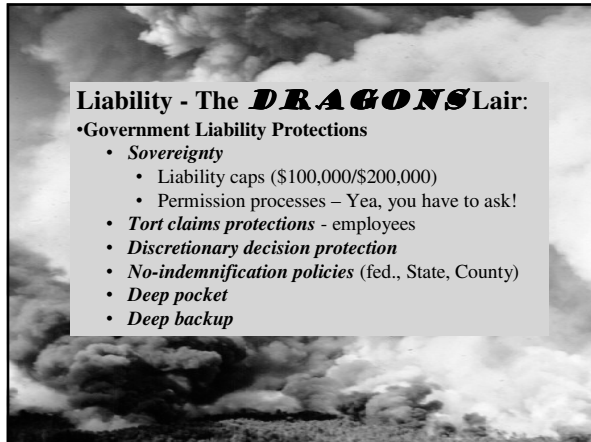
* Gateway Center

**Power-line WF

***Mean at Interval, 3,000 acres per year

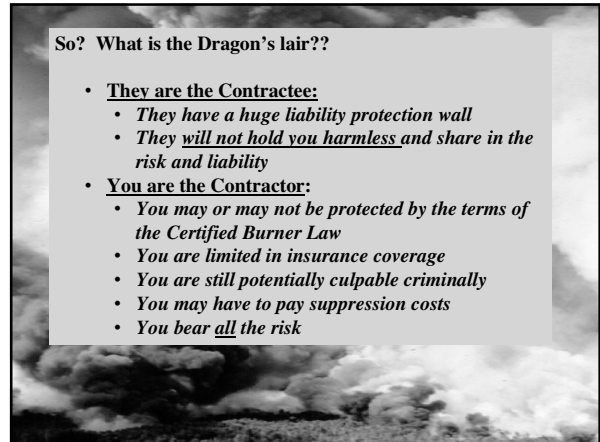
Liability - The **DRAGONS** Lair:

- Private Liability Protections
 - Operating within acceptable professional standard (experience, training methods)?
 - Insurance – Is it appropriate in kind and is it enough?
 - Still, don't screw up -- use it and you may lose it



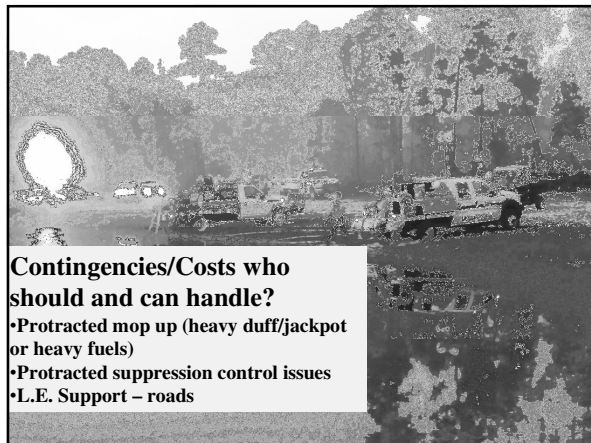
Liability - The *DRAGONS* Lair:

- **Government Liability Protections**
 - *Sovereignty*
 - Liability caps (\$100,000/\$200,000)
 - Permission processes – Yea, you have to ask!
 - *Tort claims protections* - employees
 - *Discretionary decision protection*
 - *No-indemnification policies* (fed., State, County)
 - *Deep pocket*
 - *Deep backup*



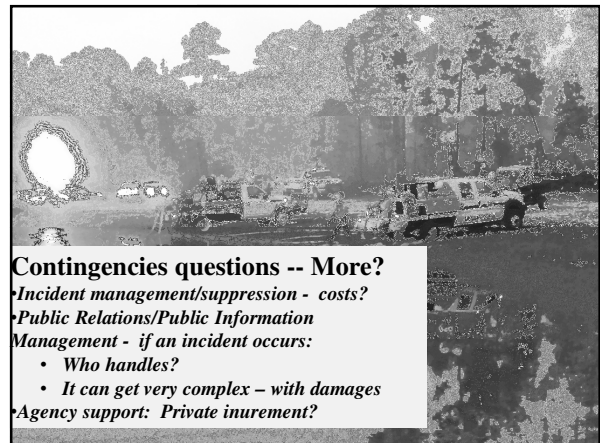
So? What is the Dragon's lair??

- **They are the Contractee:**
 - *They have a huge liability protection wall*
 - *They will not hold you harmless and share in the risk and liability*
- **You are the Contractor:**
 - *You may or may not be protected by the terms of the Certified Burner Law*
 - *You are limited in insurance coverage*
 - *You are still potentially culpable criminally*
 - *You may have to pay suppression costs*
 - *You bear all the risk*



Contingencies/Costs who should and can handle?

- Protracted mop up (heavy duff/jackpot or heavy fuels)
- Protracted suppression control issues
- L.E. Support – roads



Contingencies questions -- More?

- *Incident management/suppression - costs?*
- *Public Relations/Public Information Management - if an incident occurs:*
 - *Who handles?*
 - *It can get very complex – with damages*
- *Agency support: Private inurement?*

Support Fire Teams: *Public or Private --A Proven Solution*




Questions??