Immigration is just the beginning

How action and inaction by congress, federal agencies and the courts impact the already difficult lives of contractors
Budget Brinksmanship

• National Commission on Fiscal Responsibility and Reform—Simpson Bowles 12/1/2010
• Cut, Cap and Balance—July 2011
• Budget Control Act—August 2011
• American Tax Payer Relief Act—1/1/2013
• No Budget No Pay—2/4/2013
• Brinksmanship has become the norm
What Congress Fought Over

- Continuing Resolution Funding
  - Started with Dems at 45 days/GOP was at 75 days (Nov. 15 vs Dec. 15)
  - GOP wants to lock in sequester, Dems want it gone
- Dems want $1.058T, GOP wants $988— agreed to about $986.3b (in Sept.)
- Debt Limit
  - Dems want increase to go past next election (about $1.1 T)
  - GOP conflicted, don’t want to keep voting on it but see it as only leverage they have
- How to Negotiate on Budget Issues
What Congress Fought Over

• Second CR needed to fund government to Sept 30, 2014.

• Obamacare
  – 9/10 Sense of Congress on funding Obamacare
  – 9/20 Defund Obamacare
  – 9/28 Repeal Medical Device Tax/ 1 yr Obamacare delay
  – 9/30 Delay individual mandate/No employer subsidies for Congress and White House
The Final Package

• Debt Limit to 2/7
• Government funded to 1/15
• Retroactive Pay to the Furloughed
• Budget Conference finished by 12/13
• Income verification
• Senate 81-18; House 285-144
Two Ways to Look at It
AGC and Most Bus Groups on CR and Debt Limit

- Multi-Industry coalition letter regarding the continuing resolution and debt limit was sent to the members of the U.S. Congress by 251 organizations
- Importance of restraining federal spending requires avoidance of economically disruptive government shut down and requires that congress raise the debt ceiling
- Congress must address entitlement programs that constitute 65% of government outlays and already exceed all federal income tax revenue collected
How Construction is Impacted

• Annual appropriations
• Federal state and local spending
• Sequestration
• Uncertainty over projects starts and stops
• Uncertainty for private investment
• Interest rate risks
• Indecision paralyzes “especially in an fragile recovery”
FEDERAL GOVERNMENT SHUTDOWN

- Sovereign Act Doctrine
- Anti-Deficiency Act
- Exceptions, Exemptions, Essential Personnel & Projects
EXISTING CONTRACTS

- Fully Funded
- Incrementally Funded (Annual Appropriations?)
- Expired Fundings - Exceptions
COMMUNICATIONS DURING A SHUTDOWN

• Business As Usual – Not Hardly
• Double Up On Documentation – Even If No One Responds
• Payment Uncertainty - ?
FUTURE WORK – AWARDS, PROTESTS, DEBRIEFING

• Most Affected
• Combination of Shutdown with Lack of Appropriations = Dead In The Water
YOUR DEADLINES

- Meet Them Anyway
- Document How Met Them
- Double Up On Documentation
What AGC has been focusing on

• Health Care Reform
• Immigration
• WRDA
• Tax Reform
• Laying the ground work for construction funding, tax reform and pension reform
• And, watching the regulatory machine—like Silica & OFCCP rules
AGC Comments on the ACA

• “Please defeat HR 3962...because of its failure to control costs, failure to address medical malpractice reform and failure to apply simple, obvious solutions...” 11/6/2009

• The patient protection bill will saddle employers with expensive new mandates and penalties, raise taxes, and increase health care spending and insurance premiums...”we urge the Senate to reject the Patient Protection Act” 3/25/2010
Obamacare Provisions in Place

- Extension of dependent coverage to 26
- Prohibition on rescissions
- Review of “unreasonable” rate increases
- Coverage of preventative services w/o co-pays
- No exclusion of pre-existing conditions for children
- Prohibits lifetime limits on Essential Health Benefits
- Consumer protections—MLR, appeals, disclosures, website, reporting requirements
New Obamacare Provisions 2014

- Guaranteed issue
- Nondiscrimination based on health status
- Waiting period limited to 90 days
- Guaranteed renewability
- Rating restrictions
- No exclusion of preexisting condition all ages
- EHB, Exchanges, etc
Health Care

• Dismantle by targeting vulnerable pieces and cost escalation while also working to make regs better
• Delayed employer mandate we urge that they also extend the individual mandate
  – please support HR 2667 and HR 2668 ...provide employers and employees time to deal with the enactment of this extremely complex legislation
• Repeal the Health Insurance Tax and the Medical Device Tax—it is just increases the cost of health care
• Continue to highlight the ways the costs are increased
• Continue to work to make regs better fit reality
ACA Changes Needed Now

• Delay employer and individual mandate
• Repeal health insurance and medical device taxes
• Make “full-time” employee definition reflect common employment practices
• Simplify “large employer” definition
• Reduce reporting requirements
• Repeal Auto-Enrollment
Imigration

- Current Immigration system is broken
- Immigration reform strengthens national security
- “Knowing” standard remains liability standard
- Penalties commensurate with violation
- Mandates E Verify
- Establish legal status for undocumented
- Creates new or improves guest worker programs
Multiemployer Pension Plans

- Reform will extend current PPA tools that allow plans to deal with problems
- Reform adds new tools to yellow and red zone plans
  - Deal with market downturns
  - Allows benefit cuts and eases us of hybrid plans
  - Makes participation in plans more attractive for employers
- Without changes plan will get worse and end up at PBGC
WR(R)DA

- Authorizes new port, flood control and enviro projects
- Bipartisan progress with House and Senate bills that:
  - Reprogram funds to address today’s priorities
  - Address, but do not solve, Trust Fund needs
  - Include PPPs, without replacing gov’t funding
  - Streamline pre-construction project review process
- AGC’s Action: 55 Chapters, 4 Coalitions, Hill Meetings
Tax Reform

• Promotes Long term economic growth
• Individual and corporate rates simultaneously
• Reduces effective tax rate for construction
• Simplifies—AMT, Sect. 460, lookback
• Preserve—Bonus Depreciation/Sect. 199
• Address infrastructure investment—HTF, INWTF, HMTF, CWTF, PABs, BABs and P3s.
Fix the Highway Trust Fund

- Highway funding could be reduced to $0 in 2015
- Needs continue to grow for highways and transit
- User fee has lost 38% of buying power
- Map 21 Reforms will bring savings
- All options on the table from gas tax to VMT to GF
- Tax reform has been the vehicle for trust fund fixes
PPP

- Broadest Definition – Public Private PARTNERSHIP
- Purpose –
- Pitfalls –
- Potential –
- ?
ENVIRONMENTAL

- Clean Water Act – Land Disturbing Activities – Stormwater Runoff
- Wetlands – Permits, General Permits, Delineation
- Endangered Species – Adverse Effects on Critical Habitats
- Clean Air Act
- Environmental Advocates
Conclusion

• Brinksmanship has become the norm, federal contractors need to be prepared
• While the drama over appropriations and debt limit are important, we need to lay the groundwork for other important legislation
• With infrastructure funding uncertainty—PPPs will continue to attract interest
• We also need to continue to watch the regulatory machinery
Questions, Comments, Advice?