



Weekly Report for February 9, 2018

GOVERNMENT CONTRACTS

Pentagon Warns CEOs: Protect Your Data or Lose Our Contracts

According to an article from Govexec.com, the Pentagon has issued a warning to defense-industry contractors, insinuating that they need to sharpen up their computer networks protection, or risk losing business. Deputy Defense Secretary Patrick Shanahan was at the forefront of the push for greater security measures, stating, “The culture we need to get to is that we’re going to defend ourselves and that ... we want the bar to be so high that it becomes a condition of doing business.”

Some of the largest defense firms have experienced embarrassing hacks in recent years, exposing sensitive data about top-of-the-line American weapons. Boeing and other defense firms have reportedly been the target of foreign hackers on numerous occasions, and just last year it was revealed that an Australian supplier on the F-35 Joint Strike Fighter program reportedly had sensitive, unclassified data stolen from its servers, and there are reports of the F-35 program being targeted by foreign entities as far back as 2007.

While it will be difficult to get firms to sign a cyber disclosure statement that says everyone you do business with is secure, the issuance of this warning shows the Pentagon’s intended direction when it comes to cyber-security. For the full article, please visit Govexec.com.

After Last-Minute Drama, Congress Passes a Government Funding Bill

According to an article in Govexec.com, a second full government shutdown has been avoided, as Congress finally passed a measure that would raise spending levels by \$300 billion over the next two years.

The vote came hours after appropriations expired at midnight, closing agencies for the second time in three weeks after Sen. Rand Paul, R-Ky., derailed the Senate vote in a protest over ballooning deficit spending. The Senate finally passed the legislation early Friday with wide bipartisan support on a 71-28 vote. The House convened at 4 a.m. and finally took up the legislation shortly after 5 a.m., passing the bill on a 240-186 vote. The forthcoming omnibus spending bill would give appropriators an additional \$63 billion for non-defense agencies, allocating a total \$579 billion for fiscal 2018 for domestic agencies. Defense spending would increase by \$80 billion. In fiscal 2019, non-defense spending would increase by \$68 billion to \$597 billion. For the full article, please visit Govexec.com.

BUREAU OF INDIAN AFFAIRS

Civil Penalties Inflation Adjustments; Annual Adjustments

The Bureau of Indian Affairs issued a final rule, which provides for annual adjustments to the level of civil monetary penalties contained in Bureau of Indian Affairs regulations to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance. For the full rule, See [83 Fed. Reg. 5192](#).

DEPARTMENT OF DEFENSE

Department of Defense Freedom of Information Act Program

The Department of Defense (DOD) issued an interim final rule, which revises the DOD Freedom of Information Act (FOIA) regulation to implement the FOIA and incorporate the provisions of the FOIA Improvement Act of 2016. This part promotes uniformity in the DOD FOIA Program. It takes precedence over all DOD Component issuances that supplement and implement the DOD FOIA Program. For the full rule, see [83 Fed. Reg. 5196](#).

LABOR AND EMPLOYMENT

New Paid Leave Plan Would Be Built On Social Security

According to an article in Law360.com, Marco Rubio, and two other congressional Republicans are working on a paid parental leave proposal that would let workers take time to care for newborn children by dipping in early to their Social Security benefits. Under the plan the Independent Women's Forum outlined last month, workers would get 90 percent of the first \$895 of their average monthly earnings, 32 percent of earnings between \$895 and \$5,397, and 15 percent of earnings above that level, up to a maximum of \$2,788 per month. Workers would have had to have worked at least four quarters in their lifetime, with at least two of these coming in the four quarters before their child's birth, to be eligible for benefits.

PILIEROMAZZA NEW BLOGS

What You Need to Know to Prepare for Maryland Sick Leave Requirements

By [Nichole Atallah](#)

Effective February 11, 2018, Maryland's Healthy Working Families Act (the "Act"), Maryland's sick leave law, will go into effect. Although Governor Larry Hogan had vetoed the measure, the Maryland General Assembly overrode the Governor's veto on January 11, 2018, leaving employers scrambling to prepare for implementation. This article discusses some of the pertinent, key provisions from the Act that will guide employers in making appropriate policy changes. Read the article at <http://www.pilieromazza.com/blog>.

Cybersecurity Update

By [Kimi Murakami](#)

Last month many of you listened to the [webinar](#) Jon Williams and I did regarding the December 31, 2017, deadline to comply with the DoD Federal Acquisition Regulation Supplement (DFARS) 252.204-7012 and how to implement the security controls set forth in the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171. Now that the deadline has passed and we've entered into a new era of being compliant with the rules, we thought it would be a good time to follow up on several issues discussed during the webinar and to respond to the most commonly asked questions. Read the article at <http://www.pilieromazza.com/blog>.

CAPITOL HILL

Small Business Administration Nominations

On Wednesday, February 14, 2018, the Senate Committee on Small Business and Entrepreneurship will hold a hearing entitled "Nominations of David C. Tryon to be Chief Counsel for Advocacy of the Small Business Administration and Hannibal M. Ware to be Inspector General of the Small Business Administration." The hearing will be [webcast live](#) on the committee's website, and an archived video will be available shortly after the hearing is complete.

Senator Risch Welcomes Small Business Committee's New Ranking Member

On Wednesday, February 7, 2018, Senate Small Business Committee Chairman Risch welcomed the Committee's new Ranking Member, Senator Ben Cardin (D-MD):

"Senator Jeanne Shaheen deserves our thanks for her passionate work as Ranking Member of the Small Business Committee. I have truly enjoyed working with her – especially on the women's entrepreneurship issues she approached head on – and know the small business community has benefited from her leadership. The entire Committee joins me in welcoming Senator Cardin back to the role of Ranking Member. Senator Cardin and I have served together in many capacities and share a mutual respect for one another. I look forward to working with him in a bipartisan manner to advance the Committee's key priorities."

Job Creation, Competition, and Small Business' Role in the United States Economy

The House Committee on Small Business will [meet for a hearing](#) titled, "Job Creation, Competition, and Small Business' Role in the United States Economy" at 11:00 A.M. on Wednesday, February 14, 2018. The hearing will provide Committee Members with the opportunity to discuss new research conducted by Goldman Sachs regarding the effect of access to capital on small firms' growth and expansion. The hearing will also explore economic trends that show small firms' access to capital, particularly in large urban and remote rural areas, has been slower to recover. Finally, the hearing will feature small business owners who have graduated from Goldman Sachs 10,000 Small Businesses program, offering insight as to what private sector resources can be available to small firms seeking assistance to grow.

Bost, Esty Introduce Bill to Provide Cost-Of-Living Adjustment for Veterans

On February 7, 2018, House Veterans' Affairs Committee Members, Mike Bost and Elizabeth Esty, introduced the Veterans' Compensation COLA Act of 2018, which would provide a cost-of-living adjustment (COLA) for wartime disability, dependents, clothing allowance, and dependency and indemnity compensation to surviving spouses and children. More information can be found [here](#).

RECENTLY ISSUED DECISIONS

Level 3 Communications, LLC v. United States, Nos. 2017-1924, 2017-2068 (Jan. 30, 2018): The Federal Circuit reversed a [decision](#) by the Court of Federal Claims (COFC) to sanction government counsel. During a bid protest, the COFC sanctioned government counsel for violating their duty of candor to the court. The case began with a GAO protest, which was denied. After the denial, the CO lifted the stop work order, and performance began. Nearly a month later, the protester filed a complaint at the COFC. The plaintiff sought a TRO and preliminary injunctive relief, arguing that the awardee had commenced performance. The COFC denied the motion because government counsel stated that the awardee was working on Phase 1 and would not be working on Phase 2 for several months. After oral argument on the merits, the government told the court that the awardee had completed performance of Phase 1 sooner than expected and Phase 2 had begun. The COFC then sanctioned the government for misinforming the court about the status of performance. At the Federal Circuit, the government argued that the COFC abused its discretion because it did not make the required finding of bad faith or fraud. The Federal Circuit agreed, holding that although the government should have informed the plaintiff and the COFC that the awardee has completed Phase 1 early, nothing in the record revealed a sufficient basis for finding "the conscious doing of wrong because of dishonest purpose or moral obliquity" that is required for sanctions.