



Weekly Report for June 8, 2018

SMALL BUSINESS ADMINISTRATION

Small Business HUBZone Program and Government Contracting Programs and Consolidation of Mentor-Protégé Programs

The U.S. Small Business Administration (SBA) announces that it is holding tribal consultation meetings in Albuquerque, New Mexico and Oklahoma City, Oklahoma, concerning the regulations governing the 8(a) Business Development and all Small Mentor-Protégé programs and the HUBZone program. SBA seeks to reduce unnecessary or excessive regulatory burdens in those programs and to make them more attractive to procuring agencies and small businesses. Testimony presented at these tribal consultations will become part of the administrative record for SBA's consideration when the Agency deliberates on approaches to changes in the regulations pertaining to these programs. [83 Fed. Reg. 104, 24684](#)

The Federal Government Achieves Small Business Contracting Goal for the Fifth Consecutive Year with Record-Breaking \$105 Billion to Small Businesses

According to a [press release](#), SBA announced that the federal government met its small business federal contracting goal for the fifth consecutive year, awarding 23.88 percent in federal contract dollars to small businesses totaling \$105.7 billion, an increase of \$5 billion. This marks the first time more than \$100 billion in prime contracts has been awarded to small businesses. The federal government earned an "A" on this year's government-wide scorecard. "I am happy to report that for the fifth consecutive year, the federal government has not only met and exceeded its small business contracting goal, but it has awarded \$105 billion to small businesses for the first time earning the government an A on SBA's scorecard for this remarkable achievement," said SBA Administrator Linda McMahon. "This grade reflects significant efforts by federal agencies toward meeting the 23 percent statutory goal to award prime contracts to small businesses. Every contract that gets in the hands of a small business owner is a win-win for the business, creating jobs in their communities, and boosting the nation's economy."

GOVERNMENT CONTRACTING

House Passes Bill to Rescind \$15 Billion From Federal Agencies

According to an article on [govexec.com](#), the House on Thursday approved 210-206 President Trump's proposal to revoke \$15 billion in appropriated funds from federal agencies, the first such rescission package since the Clinton administration. Most of the claw backs would not affect agencies directly, as they deal with money that Congress appropriated that went unspent or that is no longer necessary. In some cases, Republicans have said, agencies could not spend the would-be rescinded money even if they wanted to. A Congressional Budget Office report on the package found the measure would save just \$1 billion in actual outlays over the next 10 years.

DEPARTMENT OF DEFENSE

Class Deviation 2018-O0015 - Threshold for Obtaining Certified Cost or Pricing Data

This Class Deviation rescinds and supersedes Class Deviation 2018-O0012. Effective July 1, 2018, contracting officers shall use \$2 million as the threshold for obtaining certified cost or pricing data, in lieu of the threshold of \$750,000 at FAR 15.403-4. For more information, please visit Acq.osd.mil

Defense Federal Acquisition Regulation Supplements: Contract Closeout Authority

Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement to implement sections of the National Defense Authorization Act for Fiscal Years 2017 and 2018 to permit expedited closeout of certain contracts entered into on a date that is at least 17 fiscal years before the current fiscal year. [83 Fed. Reg. 104, 24897](http://83.Fed.Reg.104.24897)

GENERAL SERVICES ADMINISTRATION

GSA Wants Input on Cyber Services Buying

According to an article on fcw.com, the General Services Administration launched what it's calling the "next phase" of four of its most critical cybersecurity services listed on its biggest IT purchasing platform. In two requests for information released in mid-May, the agency asked federal users and commercial suppliers of the four Highly Adaptive Cybersecurity Services how to modernize those offerings. It's been a little more than a year and a half since GSA rolled out penetration testing, incident response, risk and vulnerability assessment, and a crisis response service dubbed "cyber hunt." In the 2016 launch, the agency had more than 40 suppliers offering services through special item numbers on IT Schedule 70. GSA said it would evaluate additional vendors and add them on a rolling basis.

LABOR AND EMPLOYMENT

Supreme Court Narrowly Sides with Baker in LGBT Rights Row

According to an article on pbs.org, on June 2, 2018, the U.S. Supreme Court ruled in favor of a Christian baker who refused to bake a custom wedding cake ordered from a same-sex couple in a high-profile LGBT rights case involving the state of Colorado, though it largely ducked the core constitutional questions in the case. The court, voting 7-2, vacated a lower court ruling in backing Colorado's discrimination charges against bakery owner, Jack Phillips, but on the narrow grounds that the proceedings were tainted by anti-religious bias. Justice Anthony Kennedy delivered the opinion for the majority, which also included Chief Justice John Roberts Jr., Justice Stephen Breyer, Justice Samuel Alito Jr., Justice Elena Kagan, and Justice Neil Gorsuch. Several justices filed concurring opinions, while Justice Ruth Bader Ginsburg filed a dissent joined by Justice Sonia Sotomayor. The court held that members of the Colorado Civil Rights Commission displayed hostility to religion when adjudicating discrimination claims against Phillips, the owner of Lakewood, Colorado's Masterpiece Cakeshop, who routinely refused his custom wedding cake services to same-sex couples due to his religious beliefs.

11th Circ. Revives Race Bias Suit Against Auto Parts Maker

According to an article on law360.com, the Eleventh Circuit revived a suit alleging that a car parts maker denied a black worker a job transfer because she was not Korean, saying in a published opinion June 1st, 2018, that the trial court wrongly applied a stricter test meant for analyzing circumstantial evidence of bias, when the worker offered direct evidence of the discrimination. The Northern District of Georgia had granted Sewon America Inc. summary judgment on former finance clerk, Jerberee Jefferson's, claims that she was denied a transfer to the company's information technology department because a higher-up "wanted a Korean in that position," and that she was fired for complaining. That court applied a test that lets employers escape

bias claims by showing they had legitimate, nondiscriminatory reasons for taking a challenged action. But the court should not have applied this test, because the statement Jefferson testified to was direct evidence of discrimination, the three-judge appellate panel said. The court found this to be so even though Jefferson herself called her evidence circumstantial and argued Sewon failed the test, known as the McDonnell-Douglas burden-shifting framework.

Richmond Company Agrees to Settle False Claims Act Lawsuit

According to a press release on justice.gov, ten women and girls in Los Angeles, Chicago and seven other cities have claimed they were sexually harassed by co-workers and managers while working at McDonald's Restaurants, according to filings with the U.S. Equal Employment Opportunity Commission. The workers say in their claims filed over the past week that McDonald's ignored their complaints about groping, propositions for sex, and lewd comments in the workplace. In some cases, the women say, the company retaliated against them for speaking out.

CAPITOL HILL

Small Business 7(a) Lending Oversight Reform Act heads to President's Desk

On June 5, 2018, the Senate passed H.R. 4743, the Small Business 7(a) Lending Oversight Reform Act, which would increase the SBA's oversight authority over the 7(a) Loan Program. This legislation was introduced by House Small Business Committee Chairman Steve Chabot and Ranking Member Nydia Velázquez, and currently awaits the President's signature. You can find more information [here](#).

PILIEROMAZZA BLOGS

SBA Eliminates "Direct" Ownership Rules for HUBZone Program

By Jonathan B. Bush

On March 26, 2018, the U.S. Small Business Administration (SBA) issued a direct final rule that changed the wording of 13 C.F.R. § 126.200(b)(1) to allow indirect ownership by U.S. citizens of companies in the HUBZone program. The stated purpose of the rule change is to align more accurately the rule with the underlying statutory authority. Prior to this change the HUBZone rules required that a HUBZone company be "unconditionally and directly owned" by U.S. citizens. The rule took effect on May 25, 2018. [\[More\]](#)

Worried About Class Actions? SCOTUS Recently Handed Employers a Hall Pass

By Sarah L. Nash

Recently, the U.S. Supreme Court held in *Epic Systems v. Lewis* that employers may, as a condition of employment, require employees to sign arbitration agreements containing class action waivers. The Court rejected the NLRB's position that such agreements infringe on employees' right to engage in collective action under the National Labor Relations Act. Instead, the Court gave weight to the Arbitration Act, which, Justice Gorsuch wrote, supports "pretty absolutely" rights for employers and employees to contract for arbitration. [\[More\]](#)

GAO Overtakes OTA Award to REAN Cloud

By Megan C. Connor

On May 31, 2018, GAO sustained a protest filed by Oracle America, Inc. ("Oracle") challenging the Army's entry into a follow-on production other transaction agreement ("OTA") with REAN Cloud LLC ("REAN"). Oracle alleged that the Army did not properly exercise its authority in entering the follow-on production OTA with REAN. GAO agreed. [\[More\]](#)