



PilierioMazza Weekly Update for Government Contractors and Commercial Businesses

January 10, 2019

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Join the HUBZone Council as They Celebrate Their 20th Anniversary

On January 17, 2020, the HUBZone Contractors National Council will be hosting its first **EVER HUBZone Industry Awards Gala** in Baltimore, MD, at [Morgan State University](#) with a 1920s-themed party. The purpose of the event is to raise awareness for the HUBZone Program and highlight the social and economic impact the program is having throughout our nation's most underdeveloped communities. Register [here](#).

PilierioMazza Celebrates Holiday Season with Contributions to Children's Hospital Toy Drive

[PilierioMazza](#) celebrated the 2019 holiday season by supporting the "Holly Jolly Shoppe" toy drive sponsored by the [Beverly Knight Olson Children's Hospital](#) in Macon, Georgia. The Firm's contributions helped the hospital donate over 300 toys to families with ailing children. "We are thrilled that our holiday giving went to such a good cause!" said [Pamela Mazza](#), PilierioMazza's Managing Partner. For additional coverage on the hospital's "Holly Jolly Shoppe," please visit this [link](#).

CYBERSECURITY & DATA PRIVACY

Open-Source Software in Federal Procurements: The Good, the Bad, and the Ugly, Part 1 – The Good, January 2, 2020, [Isaias "Cy" Alba, IV](#)

Open-source code is all the rage. With developers at Fortune 500 companies and hobbyists alike using it to make better products and cut development costs, it is ubiquitous in the commercial market, and government contractors are catching the buzz. Faced with ever-evolving software regulations, though, they need facts before dealing with a federal buyer. In this short blog series, we will walk through the key benefits, drawbacks, and risks associated with the use of open-source code in government contracting, especially at the federal level. *Indeed, when it comes to the use of open-source software, all contractors should be aware of the "good," the "bad," and the "ugly."* [\[Read More\]](#)

FALSE CLAIMS ACT

\$3 Million False Claims Act Payout for Construction Contractor

The U.S. Attorney's Office for the Western District of Oklahoma announced that LaForge & Budd Construction Company, Inc. agreed to pay \$3 million to settle civil claims stemming from allegations that it submitted false claims to the United States Army. In 2010, LaForge entered into a contract to perform work on a dam on Lake George at the Fort Sill Army Post in Oklahoma. The work included raising the elevation of the dam and required LaForge to perform the work in accordance with the plans and specifications provided in the contract. The United States alleges LaForge submitted false claims for progress payments for work done on the dam's embankment. More specifically, LaForge represented that the fill it placed in the embankment of the dam complied with the specifications, terms, and conditions of the contract when, according to the government's

allegations, unsatisfactory materials such as pieces of concrete, concrete rubble, and metal rebar were placed in the embankment. Read more [here](#).

LABOR & EMPLOYMENT LAW

Native American Employment and Training Council Meeting

The Department of Labor's (DoL) Employment and Training Administration issued a notice regarding the next meeting of the Native American Employment and Training Council. The meeting will begin at 9:00 a.m. EST on Tuesday, February 11, 2020, and continue until 5:00 p.m. The meeting will reconvene at 9:00 a.m., on Wednesday, February 12, 2020, and adjourn at 5:00 p.m. The period from 3:00 p.m. to 5:00 p.m., on February 12, 2020, is reserved for participation and comment by members of the public. The meeting will be held at the DoL Frances Perkins Building, 200 Constitution Avenue, NW, Executive Room C-5515, Washington, DC 20210.

The formal agenda will focus on the following topics: 1) Training and Technical Assistance; 2) Administrative and Financial Reporting and Performance Indicators; 3) Update on Public Law 102-477; 4) Updates on New Initiatives; 5) Census Update; 6) Council and Workgroup Updates and Recommendations; 7) New Business and Next Steps; and 8) Public Comment. Read more [here](#).

BUSINESS & CORPORATE LAW

Related Business & Corporate Law Presentations by PilieroMazza

Access to Capital: Resources for Scaling for Growth, February 13, 2020, Speaker: [Dave Shafer](#). [[Read More](#)]

SMALL BUSINESS PROGRAMS & ADVISORY SERVICES

SBA Issues "Peg" Interest Rate

The Small Business Administration (SBA) issued a notice publishing the optional "peg" interest rate. SBA publishes an interest rate called the optional "peg" rate (13 C.F.R. § 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 1.88 percent for the January–March quarter of FY 2020. Pursuant to 13 C.F.R. § 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 C.F.R. § 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State. Read the published version [here](#).

GOVERNMENT CONTRACTS LAW

Government Agencies Release 2020 Regulatory Agendas, January 2, 2020, [Tim Valley](#)

As 2019 comes to a close, the government is setting its short- and long-term goals for 2020. On December 26, 2019, a number of federal agencies released their regulatory agendas for the upcoming year, including the Department of Defense (DoD), SBA, and the Federal Acquisition Regulation (FAR) Council (which consists of DoD, the National Aeronautics and Space Administration, and the General Services Administration (GSA)). *Many regulatory agenda items could impact government contractors and small businesses, so keep these rulemakings in mind as you head into 2020.* Here are our highlights. [[Read More](#)]

GSA OIG: FAS's Use of Pricing Tools Results in Insufficient Price Determinations

GSA Office of Inspector General (OIG) conducted an audit of Federal Acquisition Service's (FAS) use of pricing tools because FAS contracting officers increasingly use and rely on services pricing tools to perform price analyses for Multiple Award Schedule (MAS) contracts.

The audit's objectives were to determine if:

- (1) FAS has sufficient and appropriate policy, guidance, and internal controls related to the use of services pricing tools;
- (2) FAS contracting specialists/officers are using and documenting the use of services pricing tools in accordance with existing FAS policy and federal regulations; and
- (3) the services pricing tools provide accurate data for price analysis.

To assist its contracting officers in evaluating pricing proposals for MAS service contracts, FAS developed the Contract-Awarded Labor Category tool (CALC) and Contract Operations Division Contractors Database labor category pricing tool. However, the GSA OIG found that flawed use of these tools often results in invalid price analyses and price reasonableness determinations that fail to leverage the government's buying power in negotiations and could result in federal agencies overpaying for services. The GSA OIG also found that the data in the CALC tool is incomplete, inaccurate, and duplicative and, as a result, may skew the price analyses. Finally, the GSA OIG found that FAS contracting officers did not adequately document their use of the pricing tools to support price analyses and pricing determinations. Read the full report [here](#).

DoD Establishes CPSR Dollar Threshold

The DoD Defense Acquisition Regulations System (DARS) issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to establish a DoD contractor purchasing system review (CPSR) dollar threshold that provides a regulatory basis for allowing DoD personnel to support other essential priorities and missions of greater contractual risk, while reducing regulatory impact on contractors. This rule creates a new DFARS section at 244.302 to establish a CPSR dollar threshold of \$50 million. The threshold will be used in conjunction with other surveillance criteria cited at Federal Acquisition Regulation (FAR) 44.302(a), to include contractor past performance and the volume, complexity, and dollar value of subcontracts. The rule establishes a DoD dollar threshold of \$50 million for a formal CPSR. Currently, FAR 44.302(a) requires the administrative contracting officer (ACO) to determine whether a contractor's sales to the Government are expected to exceed \$25 million during the next 12 months and, if so, perform a review to determine if a CPSR is needed. In effect, the final rule raises the current surveillance threshold of \$25 million cited at FAR 44.302(a) for DoD contractors. Read the published version [here](#).

DoD Prohibits Procurement of Covered Telecommunications Equipment or Services

DoD's DARS issued an interim rule amending DFARS to implement sections of the National Defense Authorizations Acts (NDAA) for Fiscal Years (FY) 2018 and 2019 related to the procurement of covered telecommunications equipment or services. Specifically, the rule prohibits the procurement of any equipment, system, or service to carry out the DoD nuclear deterrence or homeland defense missions that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as a part of any system. Covered telecommunications equipment or services includes telecommunications equipment or services from certain Chinese entities, including their subsidiaries and affiliates, and from any other entities that the Secretary of Defense reasonably believes to be owned or controlled by or otherwise connected to, the government of the People's Republic of China or the Russian Federation. Read the published version [here](#).

About PilieroMazza

PilieroMazza – a business law firm – serves as a strategic partner to government contractors and commercial businesses from across the United States in numerous industries, including:

- Aerospace and Defense
- Construction
- Cybersecurity & Data Privacy
- Emerging and Developing Industries
- Environmental Remediation
- Healthcare
- Information Technology
- Manufacturers and Suppliers
- Professional Services
- Solar Energy
- Telecommunications
- Transportation

We deliver results for our clients by implementing legal and business solutions that take the client’s best interests into consideration. Moreover, PilieroMazza’s efficient operational structure and lean approach to staffing matters translates into competitive pricing for our clients, while providing the highest standard of client service and legal acumen.

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