

## PilieroMazza Weekly Update for Government Contractors and Commercial Businesses

February 5, 2020

If you have questions concerning the content below, please visit this [link](#).

### CLIENT ALERT: CMMC Is Coming: Are You Ready?

[PilieroMazza](#) previously [blogged](#) regarding the draft releases of the Cybersecurity Maturity Model Certification (CMMC) guidelines in anticipation of its final release. The Department of Defense (DOD) released the [final version](#) of the CMMC guidelines on January 31, 2020. **For government contractors, the release signals the start of their preparation, in earnest, for CMMC certification to improve their chances of doing business with DOD. IT system audits are set to begin in mid 2020, and DOD plans to require certification in Requests for Proposals by late 2020.**

Members of [PilieroMazza's Cybersecurity & Data Privacy Team](#) will continue to write and speak about the CMMC throughout its implementation phase. In this regard, members of the Team—[Jon Williams](#) and [Anna Wright](#)—will present a webinar on **Tuesday, March 17, 2020, at 2:00 PM ET** concerning the CMMC guidelines. Please visit this [link](#) to register. [[Read More](#)]

---

**5 Mistakes Companies Make on Proposals**, February 3, 2020, Guest Blogger: [Reena Bhatia](#), [ProposalHelper](#)  
Less than a decade ago, the ratio of contracts to proposals was 1:4. The ratio is now around 1:27. **With stakes this high and increasingly limited access to government stakeholders for any real capture, here is a list of five common mistakes government contractors should avoid on proposals.** [[Read More](#)]

### Coalition for Government Procurement (CGP): GSA Webinar on beta.SAM.gov

CGP hosted a webinar on beta.SAM.gov led by the General Services Administration (GSA). Access the full recording [here](#).

## **CYBERSECURITY & DATA PRIVACY**

**Open-Source Software in Federal Procurements: The Good, the Bad, and the Ugly, Part 3—The Ugly**, January 29, 2020, [Isaias "Cy" Alba, IV](#)

Concluding our blog series on open-source software in the government market, it is time to turn to the darker side of things. We already [discussed the "good"](#) of open-source software for government buyers, and we walked through the "bad," [explaining how some elements may conflict with federal laws or priorities](#). **Now we will look at the "ugly" side of open-source software and how contractors can mitigate associated risks.** [[Read More](#)]

## Related Cybersecurity & Data Privacy Presentations by PilieroMazza

**DOD Cybersecurity: From the DFARS Clause to CMMC**, February 25, 2020, Speaker: [Jon Williams](#). [\[Read More\]](#)

### **BUSINESS & CORPORATE LAW**

**New York v. Delaware Part 2: Which State is Best for Governing Law?**, January 28, 2020, [Melissa Rodriguez](#)  
In Part 2 of this blog series (visit [this link](#) for Part 1), we dive into which state—New York or Delaware—is best for businesses to consider as governing law for their contracts. Both Delaware and New York have a reputation for being the governing law or jurisdiction of choice in commercial agreements and corporate transactions. ***A company's decision will greatly impact which rules and laws govern agreements when legal issues arise.*** [\[Read More\]](#)

## Related Business & Corporate Law Presentations by PilieroMazza

**Access to Capital: Resources for Scaling for Growth**, February 12, 2020, Moderator: [Dave Shafer](#). [\[Read More\]](#)

### **FALSE CLAIMS ACT**

**4 Issues That Defined the False Claims Act in 2019**, January 28, 2020, [Matthew Feinberg](#)  
As I wrote two weeks ago, the Department of Justice (DOJ) recently released its [annual fiscal year statistics](#) on False Claims Act (FCA) and fraud matters. The report shows Fiscal Year (FY) 2019 was another big year for the FCA, as the number of new matters initiated and the amount of monetary recoveries obtained both increased over the previous year. ***2019 also brought important FCA decisions from federal courts, including the Supreme Court; potential new avenues for FCA liability; and formal announcements from DOJ. These reveal emerging trends that may have lasting implications for government contractors.*** [\[Read More\]](#)

### **LABOR & EMPLOYMENT LAW**

**Employers: Is Your FMLA Policy DOL Compliant?**, January 30, 2020, [Nichole Atallah](#)  
The Family Medical Leave Act (FMLA) requires employers with the requisite number of employees to provide up to 12 weeks of leave to employees experiencing a qualifying event. Regulations implementing the FMLA require that employers display a poster in a prominent location that summarizes major FMLA provisions and explains how to file a complaint. Employers may have failed to notice that the Department of Labor (DOL) updated the poster in 2016 to include sections on employer responsibility and enforcement. ***To remain in compliance and avoid a potential DOL investigation, employers should ensure their company has an updated FMLA policy that contains language covering [the most recently added sections](#).*** [\[Read More\]](#)

### **Government Executive: DOL Consolidating Procurement Services**

Government Executive reported that DOL is consolidating its procurement services into one office this quarter after making headway streamlining human resources and information technology support. According to Government Executive, the consolidation is part of a push from the Trump Administration for more shared services, where one office provides administrative support for multiple agencies within a department or across the government. Read more [here](#).

### **DOL Rescinds Regulations on Nondisplacement of Qualified Workers Under Service Contracts**

The DOL issued a final rule to rescind regulations on the nondisplacement of qualified workers under service contracts. On October 31, 2019, President Trump issued an executive order on improving federal contractor operations, which revoked an executive order concerning the nondisplacement of qualified workers under

federal service contracts, and directed the Secretary of Labor to promptly rescind the regulations and policies implementing the revoked executive order. The directive also ordered the termination of all investigations or compliance actions based on the revoked executive order. The final rule is effective January 31, 2020. Read the published version [here](#).

#### Related Labor & Employment Law Presentations by PilieroMazza

**WEBINAR: May the Clause Be with You—FAR 22.2105: Paid Sick Leave for Federal Contractors and Subcontractors**, February 12, 2020, Speaker: [Sarah Nash](#). [\[Read More\]](#)

**WEBINAR: May the Clause Be with You—FAR 52.222-55: Minimum Wages Under Executive Order 13658**, March 11, 2020, Speaker: [Sarah Nash](#). [\[Read More\]](#)

#### **GOVERNMENT CONTRACTS LAW**

#### **SBA Proposes to Use Federal Surplus Personal Property for Veteran-Owned Small Businesses and Small Businesses in Disaster Areas and Puerto Rico**

The Small Business Administration (SBA) issued a proposed rule to expand access for certain small business concerns in varying circumstances to GSA's Federal Surplus Personal Property Donation Program. The Recovery Improvements for Small Entities After Disaster Act of 2015, the Veterans Small Business Enhancement Act, and the John S. McCain National Defense Authorization Act for FY 2019 provide that small businesses in disaster areas, veteran-owned small businesses, and small business concerns located in Puerto Rico, respectively, should be considered for surplus personal property distributions. SBA, in coordination with GSA, is proposing certain procedures for determining which firms may participate in GSA's existing surplus personal property program, and under what conditions. Comments to the proposed rule are due March 23, 2020. Read the published version [here](#).

#### **DOE Office of Management: Expiration of GSA's FAR Part 51 Deviation**

The Department of Energy (DOE) announced that the longstanding GSA class deviation to FAR part 51 expired on October 23, 2019, and may not be used on orders placed after this date, though it may continue to be used on orders issued prior to the expiration date throughout the life of the order, including any options. The deviation allowed contracting officers to authorize all GSA contractors performing on a time and material or labor hour basis to purchase ancillary supplies and services from Federal Supply Schedule contractors. GSA has indicated that agencies may now use [Order-Level Material](#) procedures to acquire other direct costs and material support items to meet the requirements of a specific order. Read the DOE Office of Management policy flash [here](#).

#### **Request for Comments: Revision and Renewal Concerning Payments to Small Business Subcontractors**

DOD, GSA, and the National Aeronautics and Space Administration (NASA) issued a notice and request for comments on a revision and renewal concerning payments to small business subcontractors. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of federal government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. DOD, GSA, and NASA will consider all comments received by March 31, 2020. Read the published version [here](#).

**GSA: Julie Dunne Named New Commissioner of GSA's FAS**

GSA announced that Julie Dunne has been named the commissioner of the Federal Acquisition Service (FAS). Dunne will lead the FAS as it continues to enhance and simplify the acquisition experience through its Federal Marketplace Strategy and IT modernization initiatives. FAS will continue to focus on consolidating the Multiple Award Schedules program and increasing efficiencies and taxpayer savings through shared services, like the Fleet program. Read more [here](#).

**DOD OIG Report: Understanding the Results of the Audit of the DOD FY 2019 Financial Statements**

The DOD's Office of Inspector General (OIG) issued a report describing the importance of DOD financial statement audits and the roles and responsibilities of DOD management and the auditors that reviewed the financial statements. It also summarizes the FY 2019 DOD component and agency-wide audit results, discusses significant material weaknesses, explains improvements that have been made since FY 2018, and provides the DOD OIG's perspective on what the DOD should do to continue its progress towards clean opinions and stronger financial management. Read the full report [here](#).

**Related Government Contracts Law Presentations by PilieroMazza**

**Mentor-Protégé Program, Teaming Agreements, and Joint Ventures**, February 6, 2020, Speaker: [Meghan Leemon](#). [\[Read More\]](#)

**WEBINAR: May the Clause Be with You—FAR 22.2105: Paid Sick Leave for Federal Contractors and Subcontractors**, February 12, 2020, Speaker: [Sarah Nash](#). [\[Read More\]](#)

**Access to Capital: Resources for Scaling for Growth**, February 12, 2020, Moderator: [Dave Shafer](#). [\[Read More\]](#)

**WEBINAR: The Value and Art of Negotiating Effective Teaming Agreements**, February 13, 2020, Speaker: [Tony Franco](#). [\[Read More\]](#)

**WEBINAR: Overview of the Request for Equitable Adjustment, Claim and Appeal Process for Government Contractors**, February 19, 2020, Speakers: [Meghan Leemon](#) and [Lauren Brier](#). [\[Read More\]](#)

**DOD Cybersecurity: From the DFARS Clause to CMMC**, February 25, 2020, Speaker: [Jon Williams](#). [\[Read More\]](#)

**WEBINAR: PCI Subcontracting Summit 2020: Joint Ventures and Teaming Agreements**, February 25, 2020, Speaker: [Isaias "Cy" Alba, IV](#). [\[Read More\]](#)

**WEBINAR: May the Clause Be with You—FAR 52.222-55: Minimum Wages Under Executive Order 13658**, March 11, 2020, Speaker: [Sarah Nash](#). [\[Read More\]](#)

**SMALL BUSINESS PROGRAMS & ADVISORY SERVICES**

**SBA: Updates to Money Smart for Small Business Credit and Banking Modules**

SBA and the Federal Deposit Insurance Corporation have released two updates to the popular [Money Smart for Small Business](#) curriculum. The updated modules focus on banking and credit. They are available for SBA Resource Partners, financial institutions, and economic development organizations to help train entrepreneurs and small business owners. Read more [here](#).

---

**Related Small Business Programs & Advisory Services Presentations by PilieroMazza**

**WEBINAR: The Value and Art of Negotiating Effective Teaming Agreements**, February 13, 2020, Speaker: [Tony Franco](#). [[Read More](#)]

---

**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.

With lawyers in Washington, DC; Boulder, CO; Annapolis, MD; and Chicago, IL, PilieroMazza is privileged to represent clients in the following areas:

- [Audits & Investigations](#)
- [Business & Corporate Law](#)
- [Cybersecurity & Data Privacy](#)
- [False Claims Act](#)
- [Government Contracts Claims and Appeals](#)
- [Government Contracts Law](#)
- [Intellectual Property & Technology Rights](#)
- [Labor & Employment Law](#)
- [Litigation & Dispute Resolution](#)
- [Mergers & Acquisitions](#)
- [Native American Law](#)
- [Private Equity and Venture Capital](#)
- [Small Business Programs & Advisory Services](#)

Visit us at [www.PilieroMazza.com](http://www.PilieroMazza.com).

###

**Disclaimer**

This communication does not provide legal advice, nor does it create an attorney-client relationship with you or any other reader. If you require legal guidance in any specific situation, you should engage a qualified lawyer for that purpose. Prior results do not guarantee a similar outcome.

**Attorney Advertising**

It is possible that under the laws, rules, or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation.

©2020 PilieroMazza PLLC  
All rights reserved.