



Weekly Report March 10<sup>th</sup> 2017

## **OTHER NEWS**

### **“Senate Narrowly Passes Repeal of Obama Fair Pay, Safe Workplace Rule.”**

*Government Executive*, March 6, 2017. Retrieved from <http://www.govexec.com>.

The Senate narrowly approved, by a vote of 49-48, a House-passed Congressional Review Act resolution of disapproval, overturning President Obama’s Fair Pay, Safe Workplaces Executive Order (“EO”) and handing a victory to contractors who had blasted the EO and the Department of Labor’s (“DOL”) rule to implement it as “blacklisting.” The EO aimed to protect contractor employees from wage theft and unsafe working conditions by requiring employers bidding on federal contracts to disclose violations and alleged violations of 14 federal labor laws and similar state labor laws. Many contractors resisted the EO as burdensome and a form of punishment for unproven violations. The DOL’s guidance on the EO issued last August was subsequently blocked by a federal court.

### **“Reversing Course, Pentagon Says It Fully Supports Restructuring of Its Acquisition Bureaucracy.”**

*Federal News Radio*, March 7, 2017. Retrieved from <http://federalnewsradio.com>.

The Pentagon has submitted a report to Congress on how it plans to implement one of its largest organizational changes in decades: the bifurcation of the current Department of Defense (“DOD”) Office of the Undersecretary of Defense for Acquisition, Technology and Logistics (“AT&L”) and the creation of a new Chief Management Officer position, as authorized by the National Defense Authorization Act for Fiscal Year 2017 (“2017 NDAA”). The 2017 NDAA authorizes the splitting of AT&L into two separate Undersecretaries – one for research and engineering and one for acquisition and sustainment. But the report – a two-page memo from Deputy Defense Secretary Robert Work – offers scant detail about where the DOD is headed with the reorganization. Indeed, in the 2017 NDAA, Congress gave the DOD very little direction on the bureaucratic details of the reorganization, other than to say they wanted a new Undersecretary to focus on sharpening the military’s technological edge. However, the DOD intends to take advantage of the flexibilities Congress provided for the establishment of these positions – although no final decisions have yet been made by the Defense Secretary. A final report is expected from the DOD in August.

### **“Agencies Could Learn a Thing or Two from DOD’s Approach to Buying Services.”**

*Federal News Radio*, March 6, 2017. Retrieved from <http://federalnewsradio.com>.

Since 2012, the Pentagon has been effectively utilizing its services acquisition workshop (“SAW”), a four-day training, to procurements worth more than \$1 billion. Ken Brennan, the Deputy Director for Services Acquisition in the DOD’s Procurement and

Acquisition Policy Office, said the success of this effort – that brings together all the stakeholders of an acquisition, from technology, to financial, to mission, to lawyers – is leading the DOD to consider lowering the threshold for requiring the use of SAWs. The 2012 memo mandates using SAWs for services acquisition over \$1 billion and encourages the military to use the process for any services acquisition worth more than \$100 million. The concept of SAW is starting to spread to other agencies as well. Tiffany Hixson, the General Services Administration's ("GSA") Professional Services Category Executive in the Federal Acquisition Service, said at a conference that her office used a version of the SAW while developing the blanket purchase agreement for identity monitoring and data breach response services last year. Hixson said GSA's experience was so positive that she foresees the agency using a SAW for all future multiple award type contracts.

**“Lead Agencies Must Turn Category Management Small Business Strategies into Action.”** *Federal News Radio*, March 6, 2017. Retrieved from <http://federalnewsradio.com>.

The future of the Obama administration's Category Management initiative remains unknown. Several federal officials involved in Category Management have said they have received good feedback from Trump administration transition team and special advisers so far in the first few months of the transition and presidency. But others, particularly in industry, say they are hearing major changes are on the way for this and several procurement initiatives of the prior administration. One thing is certain no matter what happens to Category Management: small businesses have a lot of anxiety about the future of federal procurement. Steve Koprince, a procurement attorney working with small firms, and John Shoraka, the former Associate Administrator for Government Contracting and Business Development at the Small Business Administration during the Obama administration, both say the Office of Federal Procurement Policy and the GSA have struggled to clarify the role of small businesses in Category Management, and ongoing concerns by lawmakers add to what seems like an ever-growing anxiety for small firms they counsel.