



Weekly Report for April 23, 2018

GOVERNMENT ACCOUNTABILITY OFFICE

CIVILIAN AND CONTRACTOR WORKFORCES:

Department Of Defense's Cost Comparisons Addressed Most Report Elements but Excluded Some Costs

In response to Congressional direction, the Department of Defense (DoD) issued a [report](#) in April 2018 comparing the costs of federal civilian and service contractor personnel at select installations. The report addressed three out of four provision elements and partially addressed one, as discussed below. DoD concluded that neither federal civilians, nor service contractors were predominately more or less expensive, with costs being dependent on position, location, and level of seniority. DoD noted that it used a non-probability based sample of personnel for its report, and the results are not generalizable.

VETERANS AFFAIRS DEPARTMENT

Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014-V001)

The Department of Veterans Affairs in this final rule amends six clauses, or provisions, and removes one clause which duplicates current Federal Acquisition regulations (FAR) coverage and is unnecessary. Additionally, this final rule provides an updated policy on variations, tolerances and exemptions regarding overtime in contracts providing nursing home care for veterans, removes an information collection burden on an outdated practice of using bid envelopes, clarifies language regarding the prohibition of contractors from making reference in their commercial advertising, and revises definitions relating to D&S Committee, debarring officials and suspending officials currently contained in the VA Acquisition Regulation. This document adopts as a final rule, with three technical non-substantive changes, the proposed rule published in the Federal Register on May 17, 2017. [83 Fed. Reg. 73, 16206](#).

DEPARTMENT OF DEFENSE

Class Deviation 2018-O0013: Micro-Purchase Threshold, Simplified Acquisition Threshold, and Special Emergency Procurement Authority.

This [class deviation](#) rescinds and supersedes Class Deviation 2017-O0007, dated September 1, 2017, and Class Deviation 2018-O0001, dated November 8, 2017. Effective immediately, for DoD acquisitions of supplies or services funded by DoD appropriations, contracting officers shall use the revised definitions and procedures associated with the micro-purchase threshold, simplified acquisition threshold, and special emergency procurement authority provided in the attachments to this class deviation.

Class Deviation 2018-O0012: Threshold for Obtaining Certified Cost or Pricing Data.

This [class deviation](#), 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. In addition, contracting officers shall use the provision and clauses provided in Attachment 1 of this deviation in lieu of FAR clauses 52.230-1 through 52.230-5.

GOVERNMENT CONTRACTING

Defense contractors face more aggressive ransomware attacks

According to an article in [thehill.com](#), cybersecurity experts say defense contractors are facing more aggressive attacks as nation states and other hacking groups increasingly use malicious software to block information or manipulate data. The companies that provide U.S. military and intelligence agencies with products and services have long faced espionage-motivated attacks. They are now, however, also confronting outside attacks that aim to thwart, or even sabotage, their operations.

DEPARTMENT OF THE ARMY

The Freedom of Information Act Program

This final rule removes the Department of the Army's regulation concerning the Freedom of Information Act program (FOIA). On February 6, 2018, DoD published a revised FOIA program rule as a result of the FOIA Improvement Act of 2016. When the DoD FOIA program rule was revised, it included DoD component information and removed the requirement for component supplementary rules. DoD now has one DoD-level rule for the FOIA program that contains all the codified information required for the Department. [83. Fed. Reg. 76, 17294.](#)

U.S. SUPREME COURT

High Court Endorses Broader View of FLSA Exemptions

As part of its ruling Monday, April 16, 2018, that auto service advisers are overtime-exempt under the Fair Labor Standards Act (FLSA), the U.S. Supreme Court jettisoned half-century-old precedent that called for narrowly construing exemptions to the FLSA and likely made it easier for employers who claim exemptions to overcome legal challenges. In a 5-4 decision authored by Justice Clarence Thomas, the high court ruled that employees at a California auto dealership—Encino Motorcars LLC—who advise customers about repair work, fall under an FLSA exemption that excludes "any salesman, parts-man or mechanic primarily engaged in selling or servicing automobiles" from overtime pay. For more information, please visit [lextalk.com](#).

CAPITOL HILL

Hearing Scheduled for VA Secretary Nominee

On Monday, April 16, 2018, Senate Veterans Affairs Committee Chairman Johnny Isakson announced that the Committee has scheduled a hearing for President Trump's nominee to serve as Secretary of Veterans Affairs, Rear Admiral Ronny Jackson. The hearing will take place on Wednesday, April 25, 2018. This announcement came on the same day as Rear Admiral Jackson's

courtesy visits with several senators, including Chairman Isakson. You can find more information on this meeting [here](#).

House Small Business Democrats Champion Entrepreneurial Development Programs for Women, Minorities, and Veterans

On Friday, April 13, 2018, Democrats on the House Small Business Subcommittee on Investigations, Oversight, and Regulations met to discuss efforts to expand opportunities for entrepreneurial development for women, minorities, and veterans. “Entrepreneurs take a great risk and we want them to know that they are not alone—they have a vast network of community support,” said Subcommittee Ranking Member Rep. Alma Adams (D-NC). The Small Business Administration administers a multitude of entrepreneurial development initiatives which reach Americans in all fifty states Guam, Puerto Rico, American Samoa, and the US Virgin Islands. More information on these efforts can be found [here](#).

House Oversight and Investigations Chairman Bergman Urges VA to Remedy Flaws in Choice Contracts

Last week, Subcommittee on Oversight and Investigations Chairman Jack Bergman (R-Mich.) sent a letter to the Department of Veterans Affairs, urging VA to remedy ongoing flaws in its Choice Program contracts. “While the collapse of last month’s agreement to enact community care consolidation legislation was extremely disappointing, there are nonetheless steps VA can take right now to improve the Choice Program,” said Bergman. The VA Office of Inspector General attributed many of the Choice Program’s difficulties to contracting decisions during its implementation. VA recently announced its intent to end its contract with Health Net Federal Services in September 2018 while continuing its contract with TriWest Healthcare Alliance into 2019. Meanwhile, VA is attempting to put in place replacement contracts reflecting an improved, consolidated community care program, but this effort has stalled. You can find more information [here](#).

PILIEROMAZZA BLOGS

Corporate Record-Keeping and Compliance, or "Do I Really Need to Hold a Shareholders' Meeting If I Am the Only Shareholder?"

By Jonathan Bush

When we are asked to review client corporate record-keeping, it is far too often the case that such record-keeping has fallen by the wayside and been overlooked. We understand that, for small businesses and/or entities with only a handful of equity owners, corporate record-keeping can seem a tedious or expensive chore. Some clients have asked “Do I really need to hold a shareholders meeting if I am the only shareholder?”

The short answer is, “Yes, you do.” Both corporations and limited liability companies (LLCs) have internal and external organizational and record-keeping requirements that vary depending on the state of incorporation or organization. [\[Complete Article\]](#)