



Weekly Report for April 27, 2018

SMALL BUSINESS ADMINISTRATION

Tribal Consultation for Small Business HUBZone Program and Government Contracting Programs and Consolidation of Mentor Protégé Programs and Other Government Contracting Amendments

The U.S. Small Business Administration (SBA) announced that it is holding a Tribal Consultation meeting in Anchorage, Alaska concerning the regulations governing the 8(a) Business Development program and the HUBZone program. The Tribal Consultation meeting date is Wednesday, May 9, 2018. 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 this tribal consultation 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. 78, 17626.](#)

Small Business Size Standards: Revised Size Standards Methodology

According to a proposed rule issued by the Small Business Administration (SBA), SBA has revised its white paper explaining how it establishes, reviews, and modifies small business size standards. The revised white paper, "SBA's Size Standards Methodology (April, 2018)" (Revised Methodology), is available for review and comments. This notification discusses the comments SBA received on the methodology that was applied to the most recent review of size standards under the Jobs Act and Agency's responses, followed by a description of major changes to the methodology and their impacts on size standards. [83 Fed. Reg. 82, 468.](#)

VETERANS AFFAIRS DEPARTMENT

Revise and Streamline VA Acquisition Regulation

The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency-specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce the burden on contractors. The VAAM will incorporate portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, they will be published in the Federal Register. VA will combine related topics, as appropriate. In particular, this rulemaking revises VAAR Parts 829—Taxes, 846—Quality Assurance, and 847—Transportation, as well as affected Parts 852—Solicitation Provisions and Contract Clauses and 870—Special Procurement Controls. [83 Fed. Reg. 80, 17979.](#)

DEPARTMENT OF DEFENSE

Department of Defense Freedom of Information Act Program

This final rule removes one of the Department's two Department of Defense (DoD)-level regulations concerning the implementation of and assignment of responsibilities for the DoD Freedom of Information Act (FOIA) program. Any content required to be in an agency's FOIA rule from this part was incorporated into the

Department's other DoD-level regulation concerning the DoD FOIA program, which was recently revised and for which a final rule published on February 6, 2018. Therefore, this part can now be removed from the CFR. Additionally, the revised DoD-level FOIA rule now includes DoD component FOIA program information, which eliminated the requirement for component supplementary rules. Accordingly, all of the department's necessary FOIA public guidance has been incorporated into a single part. [83 Fed. Reg. 80, 17921.](#)

Department of Defense Seeks to Make Civilian Agencies More Productive, Efficient

According to an article on [defense.gov](#), the Defense Department is already looking at ways to make its agencies more productive and efficient. House Armed Services Committee Chairman Rep. Mac Thornberry's interest in the so-called Fourth Estate came to light, as the Texas representative has issued "discussion drafts" of legislation that calls for elimination of some organizations and reforms of others. Thornberry defines the Fourth Estate as civilian-dominated military agencies such as the Defense Contract Audit Agency, the Defense Information Systems Agency or the Defense Logistics Agency. IN order to make the changes these changes, the National Defense Authorization Act called for the creation of a department chief management officer position, and that person – John H. Gibson II – has been leading the effort that gets after reform in the Fourth Estate, and has been focusing on six-major areas that they intend to reengineer and consolidate.

CAPITOL HILL

Risch, Peters Introduce Bill to Increase Federal Cybersecurity Resources for Small Businesses

On April 24, 2018, U.S. Senator Jim Risch (R-ID), Chairman of the Senate Committee on Small Business and Entrepreneurship and a member of the Senate Intelligence Committee, and U.S. Senator Gary Peters (D-MI) introduced bipartisan legislation to provide additional cybersecurity resources to small businesses. S. 2735, the Small Business Advanced Cybersecurity Enhancements Act of 2018, would create cybersecurity assistance units at Small Business Development Centers (SBDCs) throughout the country. The bill's sponsors say these new units would serve as a friendly point-of-contact for small businesses that suffer a cyber-attack, as giving small businesses somewhere to turn when they have been attacked will help them find a solution, and it will help prevent more attacks in the future. You can find more information on this legislation [here](#).

PILIEROMAZZA BLOGS

An Instructive Warning to Contractors of the Need to Understand CDA Requirements

By Patrick T. Rothwell

A few months back, my colleague, Michelle Litteken, wrote a blog post titled "[Don't Get Lost Filing and Prosecuting CDA Claims.](#)" She discussed a decision, Securiforce International America, LLC v. United States, in which the U.S. Court of Appeals for the Federal Circuit held that a federal contractor was required under the Contract Disputes Act ("CDA") to demand a specific amount of money (called a "sum certain") in a CDA claim to its Contracting Officer ("CO") for non-monetary relief if, by granting such relief, the contractor would be entitled to monetary damages. In that case, the contractor requested a declaration from its CO (and then subsequently before the Court of Federal Claims ("COFC")) that the Government improperly terminated its contract, in part, for convenience. However, the contractor did not submit a demand for a sum certain in its CDA claim. Because the contractor's claim would have entitled it to breach damages if it were granted, the contractor could not invoke COFC's jurisdiction over its CDA claim because the claim did not satisfy CDA requirements. A recent decision of the Civilian Board of Contract Appeals ("CBCA") issued in the aftermath of Securiforce shows how failing to include a demand for a sum certain in a CDA claim can prevent a contractor from successfully challenging the denial of its claim. [\[Read the complete article here\]](#)