



Weekly Report for August 17, 2018

SMALL BUSINESS ADMINISTRATION

Small Business Size Regulations: Correction

SBA revised the entry for NAICS code 336999 under Subsector 336 with the addition of “All Other Transportation Equipment Manufacturing” under the NAICS’ U.S. industry title and “1,000” under Size Standards for number of employees. [83 Fed. Reg 159, 40660](#).

GENERAL SERVICES ADMINISTRATION

General Services Administration Acquisition Regulation; Federal Supply Schedule, Order-Level Materials; Technical Amendment

GSA is amending the General Services Administration Acquisition Regulation to clarify the text regarding the application of the threshold for order-level materials (OLM). [83 Fed. Reg. 159, 40683](#). The clarification relates to the applicability of the 33.33 percent threshold on OLMs placed in a task or delivery order or the cumulative value of OLMs in orders against an Federal Supply Schedule (FSS) Blanket Purchase Agreement awarded under a FSS contract.

DEPARTMENT OF DEFENSE

Fiscal Year 2019 NDAA Includes Key Provisions Impacting Contractors

The NDAA authorizes national security funding and includes changes to acquisition policies for both the DoD and the broader federal government. There are a number of key provisions that will impact the federal contractor community, including:

- **Section 880:** Imposes government-wide restrictions on the use of “lowest-price technically-acceptable” evaluation factors for complex professional or IT services, allowing federal agencies to have the flexibility necessary to seek and obtain innovative solutions, better outcomes, and, ultimately, the best value on behalf of taxpayers;
- **Section 878:** Requires a government-wide, uniform definition of, and plan for measuring Procurement Administrative Lead Time to help ensure that agencies solicit and acquire goods and services from contractors in the most effective and efficient manner;
- **Section 852:** Restores prompt payments to small business subcontractors who support the DoD, continuing a critical lifeline for small businesses that work in the market; and
- **Sections 938 and 941-943:** Initiates a number of reporting requirements for security clearances that will provide valuable information that Congress can use to craft new programs to reduce the backlog and wait times associated with government security clearances and to make overall improvements to the process moving forward.

The House passed the conference report by a 359-54 vote on July 26, 2018, and the Senate followed on August 1, 2018, by an 87-10 vote. For more information, please follow this [link](#).

GOVERNMENT CONTRACTING

How Has Federal Contract Spending Changed over Time?

According to an article on datalab.usaspending.gov, over the past decade it has been observed that federal spending on contracts increased from fiscal year 2007 through 2010, following the surge in federal funding related to the Recovery Act. As the Recovery Act tapered off in 2011, contract spending began to decrease, which accelerated following sequestration in 2013. By 2015, contract spending had fallen 27 percent from its 2010 peak before rebounding slightly in the following years.

WHITE HOUSE

The Pentagon Is Rethinking Its Multibillion-Dollar Relationship with U.S. Defense Contractors to Stress Supply Chain Security

According to the [Washington Post](#), the Pentagon has a new goal aimed at protecting its \$100 billion supply chain from foreign theft and sabotage: to base its weapons contract awards on security assessments—not just cost and performance—a move that would mark a fundamental shift in department culture. The goal, based on a strategy called Deliver Uncompromised, comes as U.S. defense firms are increasingly vulnerable to data breaches, a risk highlighted earlier this year by China's alleged theft of sensitive information related to undersea warfare and the Pentagon's decision last year to ban software made by the Russian firm Kaspersky Lab. On Monday, President Trump signed into a law a provision that would bar the federal government from buying equipment from Chinese telecommunications firms Huawei and ZTE Corp., a measure spurred by lawmakers' concerns about Chinese espionage.

LABOR AND EMPLOYMENT

Strong Pushback on Pa. Overtime Proposal

According to an article on post-gazette.com, Pennsylvania is pushing to double overtime salary thresholds, potentially making 460,000 salaried workers there eligible to earn time-and-a-half pay under state law. Its proposed regulations would increase the annual overtime salary threshold for executive, administrative, and professional workers from \$23,660, the current federal minimum, to \$47,892 by January 1, 2022. The proposal comes less than two years after a federal judge struck down a similar Obama-era overtime rule.

CAPITOL HILL

House Small Business Committee Chairman Chabot Requests Study on Small Business Intellectual Property Resources

On August 13, 2018, House Small Business Committee Chairman Steve Chabot sent a letter to the Honorable Gene Dodaro, Comptroller General of the United States, requesting that the Government Accountability Office study ways in which small businesses and entrepreneurs understand the resources available to help them obtain intellectual property protections. You can find more information [here](#).

President Trump Signs Risch's Small Business Cybersecurity Legislation into Law

On August 14, 2018, President Trump signed the NIST Small Business Cybersecurity Act, a bipartisan bill authored by Senators Risch and Schatz, which is expected to provide a consistent set of resources for small businesses to protect their digital assets from cybersecurity threats. The legislation comes in response to a growing trend of hackers targeting small businesses in cyberattacks. You can read more about the law [here](#).

PILIEROMAZZA BLOGS

Worried About an Organizational Conflict of Interest? It's Time to Mitigate!

By Michelle Litteken

The phrase organizational conflict of interest ("OCI") may result in uncertainty and even anxiety for many government contractors. A contractor may be unsure as to whether it may have an OCI if it submits a proposal for or is awarded a contract. And, if the contractor has an OCI, it may not know if the OCI can be mitigated or what to do to mitigate or avoid the OCI. These are critical considerations, as an OCI may result in an offeror being excluded from a competition, a protest of a contract award, or, potentially, the termination of an existing contract. [\[More\]](#)