



Weekly Report for June 15, 2018

CAPITOL HILL

Vets First? An Examination of VA's Resources for Veteran-Owned Small Businesses

On June 7, 2018, the House Committee on Small Business Subcommittee on Investigations, Oversight, and Regulations ("Subcommittee") held a hearing to examine the resources of the U.S. Department of Veterans Affairs ("VA") for veteran-owned small businesses ("VOSB"), specifically the Veterans First Contracting Program ("Vets First"). The Subcommittee invited testimony from the National Veteran Small Business Coalition, the American Legion, and two service-disabled veteran-owned small businesses ("SDVOSB"). At the hearing, Subcommittee Chairman Trent Kelly said that despite VA's authority to assist veterans through the Vets First program, "VA has continued to impede its own authority and work against the intentions of Congress by creating internal regulations and policies that make it harder to award contracts to veteran-owned small businesses."

The statements of the Subcommittee members and the testifying witnesses confirmed the issues plaguing SDVOSBs and VOSBs that do business with VA through the Vets First program due to the significant efforts of the VA to minimize and avoid using the Vets First program. PilieroMazza attorneys Jonathan T. Williams and Julia Di Vito, along with the Coalition to Defend Vets First, helped to get this hearing scheduled by the Subcommittee and attended the hearing along with a PilieroMazza client who testified about this important issue. This hearing was a substantial first step in advancing SDVOSB, VOSB, and small business issues that PilieroMazza has been working to get VA and Congress to address. You can find more information about this hearing [here](#), and archived video footage [here](#).

DEPARTMENT OF DEFENSE

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause "Right of First Refusal of Employment—Closure of Military Installations" (DFARS Case 2018-D002)

The Department of Defense ("DOD") is correcting the final rule published on May 30, 2018, which amended the Defense Federal Acquisition Regulation ("DFAR") Supplement to remove a clause that duplicates an existing clause in the Federal Acquisition Regulation ("FAR"). The document erroneously cited RIN 0750-AJ54 rather than RIN 0750-AJ66. [83 Fed. Reg. 112, 26846](#)

Federal Acquisition Regulation: Exception From Certified Cost or Pricing Data Requirements—Adequate Price Competition

Pursuant to a section of the National Defense Authorization Act for Fiscal Year 2017, the DOD, General Services Administration ("GSA"), and National Aeronautics and Space Administration ("NASA") are proposing to amend the FAR to provide the DOD, NASA, and the Coast Guard with guidance that addresses the exception from certified cost or pricing data requirements when price is based on adequate price competition. The agencies are accepting public comment on the proposed rule through August 13, 2018. [83 Fed. Reg. 113, 27303](#)

Federal Acquisition Regulations: Use of Products and Services of Kaspersky Lab

Department of Defense, General Services Administration, and NASA are issuing an interim rule amending the Federal Acquisition Regulation to implement a section of the National Defense Authorization Act for Fiscal Year 2018. [83 Fed. Reg. 116, 28141](#)

Federal Acquisition Regulations: Violations of Arms Control Treaties or Agreements with the United States

Department of Defense, General Services Administration, and NASA are issuing an interim rule amending the Federal Acquisition Regulation to implement a section of the National Defense Authorization Act for Fiscal Year 2017 that addresses measures against persons involved in activities that violate arms control treaties or agreements with the United States. [83 Fed. Reg. 116, 28145](#)

Federal Acquisition Regulations: Federal Acquisition Circular 2005-99; Small Entity Compliance Guide

This document is issued under the joint authority of Department of Defense, General Services Administration, and NASA. This Small Entity Compliance Guide has been prepared consistent with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005-99, which amends the Federal Acquisition Regulation. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005- 99, which precedes this document. [83 Fed. Reg. 116, 28149](#)

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company Program–Impact SBICs

The Small Business Administration (“SBA”) is withdrawing its proposed rule published on February 3, 2016. Under the proposed rule, the SBA would have recognized a new class of small business investment companies (“SBICs”) referred to as “Impact SBICs,” which sought to generate positive and measurable social impact as well as financial return. SBA hoped to expand the pool of investment capital available to primarily underserved communities, but is withdrawing the proposed rule in light of the determination that the cost is not commensurate with the benefits. [83 Fed. Reg. 112, 26874](#)

Small Business Investment Companies (SBIC); Early Stage Initiative

The SBA is withdrawing a September 19, 2016 proposed rule, which would have made changes to its Early Stage SBIC initiative. This proposed rule is being withdrawn due to a determination that its costs were not commensurate with the results, and comments to the proposed rule did not demonstrate support for a permanent Early Stage SBIC program. [83 Fed. Reg. 112, 26875](#)

DEPARTMENT OF VETERANS AFFAIRS

VA considering blockchain to help track contract closeouts

The Department of Veterans Affairs (“VA”) is reviewing how blockchain can make its acquisition process more efficient, particularly in finalizing completed contracts. The VA has requested industry input on integrating blockchain into routine government contract procedures. The VA is just one of a growing wave of federal agencies seeking to leverage this new technology to increase efficiency. Officials at the VA foresee a contract with a base period of six months to demonstrate blockchain’s effectiveness, with the possibility of a follow-on contract if the contractor provides a viable solution. You can find more information [here](#).

OFFICE OF PERSONNEL MANAGEMENT

New Collective Bargaining Rules Won't Hurt Telework, OPM Says

In light of President Trump's recent executive order seeking to shorten the collective bargaining negotiation process, there has been speculation that this effort could be used to curb federal employees' ability to telework. However, Office of Personnel Management ("OPM") officials have said that protecting the agency's workplace priorities, including telework, and implementing President Trump's executive order are not mutually exclusive, as the executive order, albeit controversial, only focuses on shortening the overall process of collective bargaining, and does not control the subject matter thereof. You can read more about this story [here](#).

GOVERNMENT CONTRACTING

Court Enters Judgment Against New Jersey Couple for Overcharging the Military for Spare Vehicle Parts

On June 8th, U.S. Attorney William M. McSwain announced that New Jersey couple Babu Metgud and Shubhada Kalyani, operators of defense contractor Shubhada Industries, have been ordered to pay \$232,891.37 to the United States for overcharging the military for light assemblies. Under the False Claims Act, anyone who causes false or fraudulent claims to be submitted to the government for payment is liable for three times the cost of the damages, plus a civil penalty for each false claim. In this case, the defendants were ordered to pay three times the amount paid by the Defense Logistics Agency, plus a \$11,000 civil penalty – atop the statutory maximum. You can find more information [here](#).

PILIEROMAZZA BLOGS

SAM Registration Update: Notarized Letter Requirement Change and New Deadline Looming

By Tony Franco

As most government contractors may know by now, in order to proactively fight against alleged fraudulent activity in the System for Award Management (SAM), the General Services Administration (GSA) issued a rule that required all entities to "provide an original, signed notarized letter stating that you are the authorized Entity Administrator before your registration will be activated." On June 11, 2018, GSA issued an update to the notarized letter requirement in two parts. [\[More\]](#)

Pursuing a CTA Team Solution? Make Sure You're on an Eligible Team!

By Katie Flood

Contractor Team Arrangements (CTA) formed to pursue GSA Schedule task order opportunities are unique animals in the government contracting universe. A mashup of elements taken from joint ventures and more traditional prime-sub relationships, CTAs allow two or more Schedule contract holders to combine their respective Schedule contract offerings in response to an ordering agency's solicitation. GSA guidance is clear that for Schedule obligations—such as reporting sales and paying the Industrial Funding Fee (IFF)—each CTA Team Member is considered to be a "co-prime" for the awarded task order. Therefore, each CTA Team Member is responsible for reporting the sales charged to its various labor categories or product offerings and is also responsible for remitting to GSA the IFF for these sales. [\[More\]](#)