

## Pilieromazza Weekly Update for Government Contractors and Commercial Businesses

August 5, 2019

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### **FALSE CLAIMS ACT / LITIGATION / CYBERSECURITY & DATA PRIVACY**

**Have the Flood Gates Opened?: Cisco Settles First-Of-Its-Kind Cybersecurity False Claims Act Litigation,** August 2, 2019, [Matthew Feinberg](#)

On July 31, 2019, a False Claims Act matter pending in the United States District Court for the Western District of New York was unsealed, revealing an \$8.6 million settlement that may have far-reaching implications for government contractors. The litigation, United States, et al., ex rel. James Glenn v. Cisco Systems, Inc., was initiated in 2011 on behalf of the federal government and a number of state governments, after a Denmark-based employee of a Cisco affiliate was terminated allegedly for reporting a flaw in one of Cisco's video surveillance products. ***With the rapidly developing role of cybersecurity in federal procurements, government contractors should clearly understand their obligations, representations, and certifications to avoid False Claims Act liability and ensure compliance.*** [\[Read More\]](#)

**Department of Defense – According to BGOV, a new report is laying the foundation for DoD's move away from voluntary cybersecurity compliance and toward a more verifiable regime.** The National Institute of Standards report, "Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations," addresses the security of Controlled Unclassified Information (CUI), which is principally held by contractors. The report recommends security requirements applying to "all components of nonfederal systems and organizations that process, store, or transmit CUI." It includes security recommendations on access control, configuration management, personnel security, and risk assessment. All contractors possessing CUI should review this report, Rob Levinson advises. [\[Read More\]](#)

**PODCAST:** PilieroMazza's *GovCon Live!* presents "Ex Rel. Radio," our multi-part series on the False Claims Act, which will include commentary on potential pitfalls for your company, enforcement issues, and emerging trends. Check out our first episode "Cybersecurity, Implied Certifications, and the False Claims Act" with [Isaias Alba](#), [David Shafer](#), and [Jon Williams](#). [\[Read More\]](#)

### **GOVERNMENT CONTRACTS LAW**

**U.S. Court of Federal Claims - According to Law 360, the Education Department acted legally both when it canceled a student loan debt collection contract solicitation and when it launched a more comprehensive replacement, despite its "far from perfect" procurement processes.** While "far from

procurement paragons," the Education Department's three Next Generation Financial Services Environment solicitations reasonably bundled together debt collection with other student loan services to provide a "cradle-to-grave" approach to loan servicing and would not cause loan servicers to violate debt collection law.

**U.S. Court of Federal Claims - According to Law360, the COFC shot down a protest by a Virginia company excluded from a piece of a \$37.4 billion contract with the Army, saying the military branch was not required to fix the firm's mistake during the bidding process.** The contract was for command, control, communications, computers, intelligence, surveillance and reconnaissance-related support services. The Army awarded hundreds of contracts as part of the overall \$37.4 billion contract. Contracts were awarded in two phases, and in the first phase, the Army rejected the protester's proposal finding that the protester's bid did not comply with the solicitation's requirements because its cost proposal was not in the right format. The Army also rejected a revised bid from the protester in the second phase, again finding that the company's cost proposal did not meet the requirements.

**U.S. General Services Administration - According to GSA.gov, GSA has awarded the first 30 Blanket Purchase Agreements (BPA) on its next generation Maintenance Repair Facility Supplies (MRFS) purchasing channel, further streamlining the acquisition of maintenance, repair, janitorial, and sanitation products government wide.** The MRFS Purchasing Channel combines GSA's Maintenance, Repair and Operations and the Janitorial and Sanitation (JanSan) Purchasing Channels into one program. The BPAs awarded under Multiple Awards Schedules 51V, 73, and 75, are designed to help federal agencies purchase maintenance supplies at best value prices.

**Department of Justice – DOJ [reported](#) that Regiment Construction Corp. and its principal will pay \$2.4 million to resolve allegations that it improperly obtained contracts set aside for companies owned and controlled by service-disabled veterans.** The settlement resolves allegations that the New Jersey company and its principal, Daniel Hernandez, made false claims in conjunction with contracts awarded to Regiment by the United States. The government contends that Regiment and Hernandez improperly represented that Regiment was eligible to bid on contract set aside for companies owned and controlled by service-disabled veterans when, in fact, a veteran did not own and control Regiment. The United States contends that Regiment was owned by Hernandez, and not the veteran to whom ownership and control was attributed in Regiment's certification to the United States.

**EVENT: Forming CTAs on GSA Schedules, September 5, 2019, Speaker: [Katie Flood](#). [\[Read More\]](#)**

**EVENT: Legal and Practical Perspectives on Mergers & Acquisitions, September 5, 2019, Speakers: [Jon Williams](#) and [Kathryn Hickey](#). [\[Read More\]](#)**

**WEBINAR: Top 10 Corporate Mistakes that Small Businesses Make in Federal Contracting, September 19, 2019, Speakers: [Isaias Alba](#) and [Kathryn Hickey](#) [\[Read More\]](#)**

**EVENT: Growth through Joint Ventures and Mentor-Protégé Relationships**, November 6, 2019, Speakers: [Peter Ford](#) and [Meghan Leemon](#) [[Read More](#)]

#### **LABOR & EMPLOYMENT LAW**

**According to Law360, New Jersey employers must refrain from using a job seeker's salary history as a factor in hiring decisions — or face hefty fines — under a bill signed into law that aims to close the gender pay gap.** Assembly Bill 1094 prohibits businesses from screening candidates based on prior wages, salaries and benefits, and from requiring a minimum or maximum past salary. Under the new law, employers are permitted to consider salary history in determining salary, benefits and other compensation, and may verify salary history if an applicant voluntarily, without prompting or coercion, provides the information. However, an employer cannot use an applicant's refusal to volunteer salary history as a consideration in hiring decisions. Violations carry penalties of up to \$1,000, \$5,000 and \$10,000.

**Office of Personnel Management** - OPM is issuing a final rule to update the 2012 North American Industry Classification System (NAICS) codes currently used in Federal Wage System wage survey industry regulations with the 2017 NAICS revisions published by the Office of Management and Budget. The final rule is effective August 29, 2019, and the rule applies for local wage surveys beginning on or after November 6, 2019. The final rule can be found [here](#).

**EVENT: Clearing a DOL Audit**, September 25, 2019, Speakers: [Nichole Atallah](#) and [Sarah Nash](#) [[Read More](#)]

#### **BUSINESS & CORPORATE LAW**

**EVENT: Legal and Practical Perspectives on Mergers & Acquisitions**, September 5, 2019, Speakers: [Jon Williams](#) and [Kathryn Hickey](#). [[Read More](#)]

**WEBINAR: Top 10 Corporate Mistakes that Small Businesses Make in Federal Contracting**, September 19, 2019, Speakers: [Isaias Alba](#) and [Kathryn Hickey](#). [[Read More](#)]

**WEBINAR: Incentive Compensation Plans Designed to Retain Talent and Grow the Business**, October 15, 2019, Speaker: [Kathryn Hickey](#). [[Read More](#)]

#### **SMALL BUSINESS PROGRAMS & ADVISORY SERVICES**

**EVENT: Top 10 Corporate Mistakes that Small Businesses Make in Federal Contracting**, September 19, 2019, Speakers: [Isaias Alba](#) and [Kathryn Hickey](#) [[Read More](#)]

**EVENT: Growth through Joint Ventures and Mentor-Protégé Relationships**, November 6, 2019, Speakers: [Peter Ford](#) and [Meghan Leemon](#) [[Read More](#)]

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- Cybersecurity & Data Privacy
- Emerging and Developing Industries
- Environmental Remediation
- Healthcare
- Information Technology
- Manufacturers and Suppliers
- Professional Services
- Solar Energy
- Telecommunications
- Transportation

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