

PilieroMazza Weekly Update for Government Contractors and Commercial Businesses

July 8, 2019

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GOVERNMENT CONTRACTS LAW

Long-Awaited Proposed Rule for Lower-Tier Subcontracting Plan Credit Finally Arrives to the FAR, June 28, 2019, [Kathryn Flood](#).

The FAR Council is beginning to catch up with the SBA's allowance that prime contractors with small business subcontracting plans may take credit for lower-tier small business subcontracting—albeit, three years behind schedule. *PilieroMazza attorneys will monitor and report on these developments, which could affect prime contractors and their subcontracting plan reporting, as well as their ability to win and maintain government contracts.* [\[Read More\]](#). The text of the SBA's proposed rule can be found [here](#), and comments to the proposed rule are due August 26, 2019. 84 Fed. Reg. 123, 30071.

Department of Justice – The DOJ [reported](#) that Ronald A. Villanueva, a former member of the Virginia General Assembly, was sentenced to two and a half years in prison for his role in a conspiracy that resulted in the fraudulent award of over \$80 million in government contracts.

Government Accountability Office – The GAO issued a [report](#) advising the General Services Administration and the U.S. Army Corps of Engineers to begin collecting data on contract changes in order to streamline the process and reduce costs associated with construction delays. The GAO published its report after it was asked to review factors that affect the time it takes to finalize contract changes and assess the extent that certain agencies monitor those time frames.

EVENT: Navigating the FAR/DFARS: The Most Confusing and Little Known Clauses, July 10, 2019, Speakers, [Isaias Alba](#) and [Anthony Batt](#). [\[More Info\]](#).

SMALL BUSINESS PROGRAMS & ADVISORY SERVICES

Congressional Research Service – The CRS issued a [report](#) reviewing small business contracting programs. Though the programs generally have strong bipartisan support, such support does not mean that the programs do not face opposition or have issues. Comprehensive studies examining the effect of small business contracting preferences on small business startups, growth, wealth generation, and industry competitiveness may prove useful for congressional oversight, but in the meantime, reports like the Small Business Goaling Report can help policymakers identify programs most in need of examination.

WEBINAR: Everything You Need to Know about SBA's Manufacturer and Non-Manufacturer Rules, July 17, 2019, Speakers, [Jonathan Williams](#) and [Timothy Valley](#). [\[More Info\]](#).

CYBERSECURITY & DATA PRIVACY

Impact of California Consumer Privacy Act on Government Contractors and Commercial Businesses, July 8, 2019, [David T. Shafer](#) and [Jonathan Williams](#)

The California Consumer Privacy Act ("CCPA") will go into effect on January 1, 2020. Similar to the European Union's General Data Protection Regulation ("GDPR"), CCPA creates significant compliance challenges for government contractors and commercial businesses doing business in California, with several states following suit. ***Under CCPA, fines from the Attorney General for businesses that do not comply could be as high as \$7,500 per violation, with CCPA also granting consumers the right to bring private action, exposing companies to actual and statutory damages.*** [\[Read More\]](#)

LABOR & EMPLOYMENT LAW

U.S. Supreme Court – According to Law360, the U.S. Supreme Court agreed to weigh in on whether a federal worker has to show that a challenged action from an employer would not have occurred if it was not for the employee's age in order to successfully plead a claim under the Age Discrimination in Employment Act ("ADEA"). The Supreme Court granted Noris Babb's petition for writ of certiorari in her suit alleging the Department of Veterans Affairs discriminated and retaliated against her because of her gender and age.

Department of Labor – The DOL's Office of Federal Contract Compliance Programs (OFCCP) reached a [settlement](#) with Universal Protection Service LP—a federal contractor—to resolve allegations of pay discrimination at the company's Riverside, California, facility, which was formerly owned and operated by Allied Barton Security Services, which were discovered during a routine OFCCP compliance evaluation.

The DOL also [issued](#) three new opinion letters that address compliance issues related to the Fair Labor Standards Act ("FLSA"). An opinion letter is an official, written opinion by the DOL's Wage and Hour Division ("WHD") on how a particular law applies in specific circumstances presented by the individual person or entity that requested the letter. The opinion letters issued were

- [FLSA2019-7](#), addressing the calculation of overtime pay for nondiscretionary bonuses paid on a quarterly and annual basis;
- [FLSA2019-8](#), addressing the application of the highly compensated employee exemption to paralegals employed by a trade organization; and
- [FLSA2019-9](#), addressing permissible rounding practices for calculating an employee's hours worked.