



Long-Term Remote Work Strategies

Sarah Nash and Anna Wright
July 15, 2020

About PilieroMazza

PilieroMazza – a business law firm – serves as a strategic partner to government contractors and commercial businesses from across the United States.

We deliver results for our clients by implementing legal and business solutions that take the client's best interests into consideration. Moreover, PilieroMazza's efficient operational structure and lean approach to staffing matters translates into competitive pricing for our clients, while providing the highest standard of client service and legal acumen.

PilieroMazza is privileged to represent clients in the following areas:

- Audits & Investigations
- Business & Corporate Law
- Cybersecurity & Data Privacy
- False Claims Act
- Government Contracts Law
- Mergers & Acquisitions
- Intellectual Property & Technology Rights
- Labor & Employment Law
- Litigation & Dispute Resolution
- Native American Law
- Small Business Programs & Advisory Services
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Sarah Nash advises clients on a wide variety of labor and employment issues including the Fair Labor Standards Act, the National Labor Relations Act, Office of Federal Contract Compliance Programs regulations, anti-discrimination law, and whistleblower law. She provides employers counsel regarding terminations, non-disclosure agreements, personnel issues, wage and hour issues, and employment practices and policies. Ms. Nash has also advised tribally-owned entities on unique labor and employment issues, including Native American preferences, sovereign immunity questions, and Title VII jurisdiction.

Ms. Nash has litigated cases before federal and state courts, including representing clients at arbitration, administrative proceedings, and mediation. She has participated in litigation in a number of practice areas, including labor and employment, administrative procedure, constitutional law, trademark law, and appellate practice.

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Assisting clients in a variety of government contracting matters, Ms. Wright guides commercial businesses through bid protests at all levels, size and status protests, requests for equitable adjustment, claims, and appeals. Her work encompasses small business procurement matters, particularly on issues related to eligibility, participation in the federal small business set-aside programs, and maintaining regulatory compliance. Ms. Wright also works closely with PilieroMazza's False Claims Act (FCA) Group and addresses other issues arising under the Federal Acquisition Regulation (FAR) and the Contract Disputes Act (CDA).

While earning her law degree, Ms. Wright served as a law clerk for the U.S. Attorney's Office for the District of Columbia and received the President's Volunteer Service Award.

Learning Objectives

- Maintaining data security and implementing an insider threat program;
- Managing employee disputes and complaints;
- Hiring and onboarding new employees; and
- Meeting health and safety obligations.

What Is An Insider Threat?

- “The likelihood, risk, or potential that an insider will use his or her authorized access, wittingly or unwittingly, to do harm to the national security of the United States. Insider threats may include harm to contractor or program information, to the extent that the information impacts the contractor or agency’s obligations to protect classified national security information.”
- Per IBM X-Force Threat Intelligence Index Report: nearly \$11.5 million lost during FY2019 due to insider threats

Who Needs To Be Concerned About An Insider Threat?

- Cleared contractors are specifically required to have an insider threat program in place
- But, any contractor with valuable assets is vulnerable, irrespective of whether the contractor is cleared
 - Also applies to non-government contractors due to processing of, for example, personally identifying information

What Are The Causes Of Insider Threats?

- Intentional/malicious vs. negligent
- Of the 4,716 reported insider threat incidents in FY2019:
 - 63% were attributable to either employee or contractor negligence, and cost \$4.58 million
 - 14% were attributable to criminal insider activity, and cost \$4.08 million
 - 23% were attributable to credential theft, and cost \$2.79 million

What Are Warning Signs Of Employees Who May Pose An Insider Threat Intentionally?

- Personal factors
- Behaviors
- Importance of regular communication with remote workforce

What Are Ways Employers Can Mitigate Risks For Remote Workforce?

- Clear policies and procedures
 - Comprehensive telework policy
 - Clear cyber-security requirements
- Designated individuals
- Clear reporting processes and non-retaliation policies

Polling Question

Polling Question: A remote employee is performing poorly on the job and not responding to company emails professionally. What personnel action would you recommend in response?

- a. Terminate the employee. They clearly aren't up for the job.
- b. Create a blanket policy that requires employees to return to the office and discontinue the telework policy.
- c. Write the employee up through the company's regular discipline policies.
- d. Discontinue telework for this particular employee.

What Are Unique Considerations For Onboarding Remote Employees?

- Distributing personnel policies and acknowledgment of receipt
- Employee training
 - Anti-harassment training
 - Timekeeping training
 - Ethics Training
- Immigration Requirements

Additional Health And Safety Concerns

- ADA accommodation considerations
 - Importance of engaging in interactive process
 - Question of undue hardship
- Workers' compensation

Potential Penalties For A Violation

- False Claims Act liability
- Wage and hour laws
- Government repercussions

Questions?



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