



Pilieromazza Weekly Update for Government Contractors and Commercial Businesses

June 12, 2020

If you have questions concerning the content below, please visit this [link](#).

Pilieromazza will host a series of webinars on “**The Post-Coronavirus Workplace**,” which will cover topics of interest for our clients who are navigating “the new normal.” Please visit this [web page](#) for updates and this [link](#) to subscribe and receive PilieroMazza webinar invitations.

To access resources for businesses navigating the COVID-19 crisis, we invite you to visit PilieroMazza’s “[COVID-19 Client Resource Center](#).” Please contact covid19@pilieromazza.com for immediate assistance.

SMALL BUSINESS PROGRAMS & ADVISORY SERVICES

CARES Act Section 3610 – Part 1: Confusion and Shifting Sands, May 27, 2020, [Cy Alba](#) and [Anna Wright](#)

Defense Pricing and Contracting issued draft instructions and requirements for contractors submitting funding requests under Section 3610 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. ***These requirements contain some departures from previous guidance and define several points that previously were left up to a contracting officer’s discretion. Our two-part blog series examines some of the key areas in which the guidance either clarified or, in some cases changed, existing practice.*** [\[Read More\]](#)

CARES Act Section 3610 – Part 2: A Rock and a Hard Place, May 27, 2020, [Cy Alba](#) and [Anna Wright](#)

In this second part of our blog series on CARES Act Section 3610, we move on to the conflicting information, and the basis of one of the most frequently asked questions we receive: ***What is the potential conflict between state shelter-in-place orders and federal contract performance requirements?*** [\[Read More\]](#)

Small Business Coronavirus Impact Poll Results

The U.S. Chamber of Commerce and MetLife published results for their most recent poll on the impact of COVID-19 for small businesses. According to the poll, most small businesses are open in some capacity and are optimistic about the future. Read more [here](#). Read the full results [here](#).

SBA OIG Semiannual Report to Congress

The Small Business Administration (SBA) Office of Inspector General (OIG) published a report summarizing its activities from October 1, 2019, through March 31, 2020. Read the full report [here](#).

Main Street Lending Program Expanded to Allow More Small and Medium-Sized Businesses to Receive Support

The Federal Reserve Board announced that it has expanded its Main Street Lending Program to allow more small and medium-sized businesses to receive support. The Board lowered the minimum loan amount, raised the maximum loan limit, adjusted the principal repayment schedule to begin after two years, and extended the term to five years, providing borrowers with greater flexibility in repaying the loans. The Board expects the program to be open for lender registration soon and to be actively buying loans shortly afterwards. Read more [here](#).

Paycheck Protection Program Updates

Treasury and SBA to Make Changes Regarding Enactment of PPP Flexibility Act, June 9, 2020, [Cy Alba](#)

On May 28, 2020, we [wrote](#) about the Paycheck Protection Program Flexibility Act. The act's intended purpose was to give employers more latitude regarding the use of their Paycheck Protection Program (PPP) loans while also increasing loan forgiveness to stimulate the economy. Since then, the Senate has passed the act and President Trump signed it into law. On June 8, 2020, U.S. Department of the Treasury (Treasury) Secretary Steven Mnuchin and SBA Administrator Jovita Carranza issued a statement regarding the enactment of the act. ***Treasury and SBA's proposed enactment makes some significant changes from the act itself.*** [\[Read More\]](#)

The PPP Loan Forgiveness Application: Cracking the Code and Deciphering the Confusion, May 28, 2020, [Cy Alba](#) and [Anna Wright](#)

SBA recently released its long-awaited PPP Loan Forgiveness Application. Unfortunately, the forgiveness application is difficult to understand and complete. ***To help crack the code, we put together an analysis with our review of the application, SBA's newly released guidance as to the loan terms, and key issues in the application, as well as input from our accounting partners.*** [\[Read More\]](#)

New PPP-Related Interim Final Rules

SBA issued interim final rules that supplement previously-posted PPP-related interim final rules with additional guidance.

- **Loan Forgiveness**

This interim final rule answers questions on the loan forgiveness process, payroll costs eligible for loan forgiveness, non-payroll costs eligible for loan forgiveness, reductions to loan forgiveness amount, and documentation requirements. Read the published version [here](#).

- **SBA Loan Review Procedures and Related Borrower and Lender Responsibilities**

This interim final rule answers questions on SBA reviews of individual PPP loans, the loan forgiveness process for lenders, and lender fees. Read the published version [here](#).

Senators Announce Legislation to Get Capital to Small Businesses Hardest Hit by COVID-19

U.S. Senate Committee on Small Business & Entrepreneurship Ranking Member Ben Cardin and Senators Chris Coons and Jeanne Shaheen announced their intention to introduce the Prioritized Paycheck Protection Program Act. The bill would authorize new lending under the PPP to small businesses with 100 employees or less, including sole proprietorships and self-employed individuals. Read more [here](#).

Upcoming Small Business Programs & Advisory Services Presentations

WEBINAR: SBA's New WOSB / EDWOSB Certification Requirement and 8(a) Economic Disadvantage Criteria Revisions: What You Need to Know, June 16, 2020, [Meghan Leemon](#) and [Jonathan Pomerance](#). [\[Read More\]](#)

GOVERNMENT CONTRACTS LAW

Federal Procurement Spending Up \$120 Billion Since 2015

The Federal News Network reported that Fiscal Year (FY) 2019 agency procurement spending was up \$20 billion over 2018 and was more than \$120 billion greater than spending in FY 2015. Read more [here](#).

DOD Memo: Reporting Source Selection Process in the FPDS

The Department of Defense (DOD) released a memorandum regarding information collection on source selection processes. The National Defense Authorization Act for FY 2020 requires the federal government to collect information about the source selection processes used to select offerors for award. According to the memorandum, the General Services Administration plans to deploy a new data element to collect this information in the Federal Procurement Data System (FPDS) on June 26, 2020. The new "Source Selection Process" data element will be a required data field for all new contract awards reported to FPDS, except for basic ordering agreements; blanket purchase agreements issued under Federal Acquisition Regulation (FAR) Part 13 procedures; task and delivery orders issued using single-award indefinite-delivery contracts; and call orders issued under single-award BPAs using FAR Part 8 procedures. Read the full memo [here](#).

Special Report on Best Practices and Lessons Learned for DOD Contracting Officials in the Pandemic Environment

The DOD OIG analyzed reports on contracting oversight related to disaster response activities from 2006 through 2020 and published a special report on best practices and lessons learned for DOD contracting officials in the pandemic environment. The report covers best practices and lessons learned in communication, coordination, documentation, consistency in contracting processes, and staffing and training. Read the full report [here](#).

Defense Federal Acquisition Regulation Supplement Updates

DOD recently published final rules that amend the Defense Federal Acquisition Regulation Supplement (DFARS).

- **Repeal of Annual Reporting Requirements to Congressional Defense Committees**

This final rule implements Section 1051 of the National Defense Authorization Act (NDAA) for FY 2018. Section 1051 repealed numerous DOD reporting requirements to Congress, including the annual reporting requirements for commercial items, exceptional case exceptions, and waivers under Section 817 of the NDAA for FY 2003. Read the published version [here](#).

- **Justification and Approval Threshold for 8(a) Contracts**

This final rule implements Section 823 of the NDAA for FY 2020, which increases the threshold for requiring a justification and approval to award a sole source contract to a participant in the 8(a) program from \$22 million to \$100 million. Section 823 also designates the head of the procuring activity as the approval authority. The revised threshold was added in a new DFARS Section 206.303-1, Requirements, and the new approval authority was added in DFARS 206.304, Approval of the Justification. Corresponding revisions showing the new threshold were included at DFARS 206.303-2, Content, and 219.808-1, Sole Source. Read the published version [here](#).

Upcoming Government Contracts Law Presentations

WEBINAR: PCI Subcontracting Summit 2020: Best Practices in Prime's RFP Development,
June 23, 2020, [Cy Alba](#). [\[Read More\]](#)

LITIGATION & DISPUTE RESOLUTION

5 Steps for Preserving and Preparing Your Miller Act Claim, June 11, 2020, [Camilla Hundley](#)

As the United States economy continues to grapple with the unprecedented impact of the coronavirus pandemic, many contractors are concerned about making and receiving payment for work. The Miller Act provides the process for subcontractors to ensure they are paid for their work on federal construction projects, but they must be familiar with its requirements and deadlines to seek payment. ***This guide outlines five steps subcontractors and material suppliers should take to ensure they preserve their right to recover payment under the Miller Act.*** [\[Read More\]](#)

DOJ Ramps Up Crypto, FCA Enforcement Efforts During COVID-19

Bloomberg Law reported that top Department of Justice (DOJ) enforcement trends have shifted since the arrival of COVID-19 to focus on frauds involving testing, cryptocurrency, and False Claims Act (FCA) violations. Read more [here](#).

CYBERSECURITY & DATA PRIVACY

CISA Releases New Cyber Essentials Toolkit

As a follow-up to the November 2019 release of its *Cyber Essentials*, the Cybersecurity and Infrastructure Security Agency (CISA) released the first in a series of six *Cyber Essentials Toolkits*. This can be used as a starting point for small businesses and government agencies to understand and address cybersecurity risks. CISA's launch highlights the first "Essential Element: Yourself, The Leader," which focuses on the role of leadership in forging a culture of cyber readiness in their organization with an emphasis on strategy and investment. Read more [here](#).

About PilieroMazza

PilieroMazza – a business law firm – serves as a strategic partner to government contractors and commercial businesses from across the United States in numerous industries, including:

- Aerospace and Defense
- Construction
- 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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