



Weekly Report for January 12, 2018

GOVERNMENT CONTRACTS

Pentagon Task Force's \$675 Million in Contracts to Rebuild Afghanistan Found Wasteful

According to an article from Government Executive, the Defense Department's now-defunct business task force for rebuilding war-torn Afghanistan has again been found to have ineffectively spent its budget, devoting more than half of \$675 million in contract obligations to indirect or support costs.

The Special Inspector General for Afghanistan Reconstruction on Tuesday released its latest critique of the Pentagon's Task Force for Business and Stability Operations, which worked from 2010-2014 to hire companies to help the Afghan people with economic development in such areas as mining, irrigation and banking. That body was disbanded in 2015, with many of its projects incomplete or turned over to the State Department and the U.S. Agency for International Development.

The latest Investigator General findings show that of more than \$675 million the unit obligated to contracts, less than half was spent "directly on projects" in Afghanistan, going instead to support services. Only 22 percent of the \$316.3 million obligated on contracts for direct support "fully met their deliverables," the report showed. As many as 43 of the 89 contracts reviewed, together worth \$201 million, "used limited competition and sole-source contracting, increasing the government's risk of waste," auditors noted.

According to Senator Chuck Grassley (R-Iowa), the findings of the audit further underline the Defense Department's failure to get its financial house in order. For more information, visit Govexec.com.

VETERANS AFFAIRS

Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014-V005-Parts 812, 813)

The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish them in the Federal Register. To minimize the number of rules published, VA will combine related topics.

LABOR AND EMPLOYMENT

States Act to Quell Harassment As #MeToo Momentum Surges

According to an article in [Law360](#), many “blue” states have recently proposed bills that focus on lowering workplace sexual harassment. The bills plan to curb the use of nondisclosure and mandatory arbitration provisions in employment contracts and settlement agreements. Following a series of high-profile scandals and the coalescence of the #MeToo movement, a growing number of state legislatures are proposing bills that would empower victims to come forward, and attorneys expect that trend to pick up steam in 2018.

CAPITOL HILL

Congress Likely to Consider Another Short-Term Funding Measure

According to an article in [govexec.com](#), House Majority Leader Kevin McCarthy, R-Calif., said Thursday that lawmakers should expect to vote on yet another stopgap measure to fund the government ahead of a January 19 shutdown deadline.

Congress faces the prospect of a government shutdown in eight days, if lawmakers cannot come to an agreement on a spending deal. Furthermore, lawmakers must also act to increase budget caps for defense and non-defense spending, or a sequester will kick-in, in accordance with the 2011 Budget Control Act.

McCarthy believes that a short term solution is required regardless of whether lawmakers come to an agreement on a long-term spending deal before the January 19 deadline, stating: “Legislation will have to be drafted to accompany the long-term deal, and thus even if the agreement is accepted, appropriators will require time to draft the required legislation.”

PILIEROMAZZA BLOGS

Intern or Employee? DOL Adopts Courts’ “Primary Beneficiary” Analysis for Determining When Your Unpaid Intern Will Be Deemed an Employee Under the FLSA

By [Paul Mengel](#) on January 10, 2018

Mr. Mengel’s blog explores how the Department of Labor (“DOL”) and the courts have addressed the question: “Under what set of circumstances does an unpaid intern in the private sector cross the line and become an employee under the Fair Labor Standards Act (“FLSA”) and thus become entitled to compensation?” Since 2010, the DOL has used an inflexible test derived from a 1947 Supreme Court case that articulated a similar test for determining whether railroad brakemen trainees should be deemed employees, whereas the courts have chosen to instead apply a “primary beneficiary” analysis; that is, does the relationship primarily benefit the intern or the employer? To read Mr. Mengel’s full blog, please visit <http://www.pilieromazza.com/blog>.

New Year, New Certification?

By [Megan Connor](#) on January 3, 2018

Ms. Connor's blog discusses why the new year is an optimal time for contractors to review their size/status certifications on SAM.gov. Ms. Connor explains that "A contractor's representations in the SAM database qualify as certifications upon which federal agencies and prime contractors may rely. An inaccurate certification on SAM could lead to a protest by the SBA or liability under the False Claims Act. Therefore, it is vital that contractors keep these certifications up-to-date." To find out exactly why the new year is a prime time to review these certifications, please visit <http://www.pilieromazza.com/blog>.