



Weekly Report for January 6, 2017

GOVERNMENT CONTRACTS

Memorandum: Implementation of Defense Federal Acquisition Regulation Supplement Final Rule 2016-D002, Enhancing Effectiveness of Independent Research and Development

On January 4, 2017, the Under Secretary of Defense for Acquisition, Technology and Logistics released a memorandum to implement the class deviation the Department of Defense (“DOD”) issued on December 1, 2016 for its final rule amending the Defense Federal Acquisition Regulation Supplement. This class deviation alleviates the requirement that the technical interchanges between “major” defense contractors and a technical or operational DOD government employee occur before costs are generated for IR&D projects initiated in a contractor’s Fiscal Year 2017 so as to afford contractors a phase-in period to develop processes and procedures. The memorandum can be found [here](#).

General Services Administration Acquisition Regulation; Update Contract Reporting Responsibilities

The General Services Administration (“GSA”) is amending the General Services Administration Acquisition Regulation (“GSAR”) to remove section 504.604 regarding the internal processes for reporting and reviewing the accuracy of contract actions reported in the Federal Procurement Data System. The internal GSA procedures were incorrectly published in the GSAR. The internal GSA procedures will be established as a non-regulatory section in the General Services Acquisition Manual and communicated to the GSA acquisition workforce through a GSA internal policy letter. This final rule became effective on January 3, 2017. [82 Fed. Reg. 46](#).

GAO’s FY 2016 Bid Protest Statistics

The U.S. Government Accountability Office has released its Bid Protest Annual Report to Congress for Fiscal Year 2016. The report can be found [here](#).

Memorandum: “Myth-busting 3” Further Improving Industry Communication with Effective Debriefings

On January 5, 2017, the Office of Federal Procurement Policy (“OFPP”) issued a memorandum outlining best practices for strengthening productive interactions between the federal government and industry through the effective use of debriefings. To broaden the adoption of best practices and maximize the value of debriefings, the OFPP recommends that agencies consider establishing or adopting a debriefing guide, if they do not already have one in place. In addition, agencies are encouraged to review and address in their guidance the “myths” and misconceptions as described in an Appendix the OFPP has provided in this memorandum. The Appendix discusses

frequently referenced issues by both industry and government, differentiates myth from fact, and provides additional information, including existing best practices, to help agencies facilitate effective and efficient debriefings. Agencies are encouraged to post their debriefing guidance, training tools, and debriefing reference materials by March 1, 2017. Agencies are further encouraged to share relevant debriefing instructions with current and potential industry partners, including those new to federal procurement. The memorandum can be found [here](#).

SMALL BUSINESS COMMITTEE

“Small Business Regulatory Flexibility Improvements Act Introduced on Day 1 of New Congress.” *House Small Business Committee*, January 3, 2017. Retrieved from <http://smallbusiness.house.gov>.

On January 3, 2017, House Small Business Committee Chairman Steve Chabot (R-OH) introduced House Resolution 33, the Small Business Regulatory Flexibility Improvements Act of 2017. This bill forces federal regulators to craft smarter, less burdensome regulations that take into consideration their direct and reasonably foreseeable indirect economic effects, especially on small businesses. The bill strengthens and clarifies the Regulatory Flexibility Act of 1980, closing loopholes to get around the good-government intentions of the original legislation by requiring more detailed analysis of proposed regulations, providing greater opportunity for small business input, and ensuring agencies regularly review regulations already on the books for their economic impact on small businesses. The text of the bill has not yet been published.

OTHER NEWS

“To Keep Winning Federal Contracts, Small Businesses Say They Have to Spend More.” *Government Executive*, January 5, 2017. Retrieved from <http://www.govexec.com>.

According to the latest annual survey from the American Express OPEN for Government Contracting initiative, small businesses reported a 72 percent increase in time and money devoted to winning a share of the government’s \$90 billion procurement budget. Completed last year and released last month, the survey found that on average small businesses spent \$148,124 in time and money to bid for federal work. In the area of set-asides, the survey found that minority contractors in fiscal 2015 invested \$152,969. By contrast, women-owned contractors continue to spend less time and money seeking federal contracts, investing \$107,774 on average in 2015 versus \$170,621 invested by men-owned firms. 62 percent of active contractors agreed with the statement that “It’s getting harder to win contracts because there are more bidders for each opportunity,” and 60 percent agreed that “It’s getting harder to win contracts because there are fewer bidding opportunities due to contract bundling.”

“CYBERCOM Setting Up New Acquisition Office for Rapid Procurement Funds.”
Federal News Radio, January 3, 2017. Retrieved from <http://federalnewsradio.com>.

The U.S. Cyber Command (“CYBERCOM”) is looking for a command acquisition executive to oversee an annual \$75 million budget through 2021 authorized by the 2016 National Defense Authorization Act (“NDAA”) to rapidly deliver cyber operations particular equipment, capabilities and services. The executive will provide oversight for program management, contracting support, logistics support, legal advice and guidance. In addition, the 2017 NDAA elevates CYBERCOM to a full combatant command.

“DOD Report Shows Big Savings from ‘Should Cost’ Policy.” *Federal News Radio*, January 2, 2017. Retrieved from <http://federalnewsradio.com>.

Frank Kendall, the Defense Undersecretary for Acquisition, Technology and Logistics, stated in a November 3, 2016 report to Congress the major benefits of its Better Buying Power acquisition reforms, including lower contracts costs, reduced cost overruns, and arrested cost growth on major programs with the “should cost” initiative. The policy asks managers to set program cost targets below independent cost estimates. It then asks the heads of programs to manage with the intent to achieve those cost goals. The report stated ‘should cost’ “techniques are driving significant efficiencies into the acquisition system from the bottom up by enabling individuals to creatively identify new ways to save money.”