



Weekly Report for October 1, 2018

DEFENSE DEPARTMENT

Federal Acquisition Regulation: Evaluation Factors for Multiple-Award Contracts

The Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) are proposing to amend the Federal Acquisition Regulation to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017. Section 825 of the NDAA for FY 2017 amends 10 U.S.C. 2305(a)(3) to modify the requirement to consider cost or price as an evaluation factor for the award for certain multiple award task order contracts issued by DoD, NASA, or the Coast Guard. Section 825 provides that, at the Government's discretion, solicitations for multiple award contracts for the same or similar services that state the Government intends to award a contract to each qualifying offeror that do not require price or cost as an evaluation factor for contract award. This exception does not apply to solicitations for multiple-award contracts that provide for sole source orders pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)). [83 Fed. Reg. 185, 48271](#).

Federal Acquisition Regulation: Federal Acquisition Circular 2005-101; Introduction, System for Award Management Registration, One Dollar Coins

This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005-101. A companion document, the Small Entity Compliance Guide, follows this FAC. [83 Fed. Reg. 187, 48690](#). Further, DoD, GSA, and NASA are issuing a final rule amending the FAR to update the instructions for registration in the System for Award Management and clarify the timing of registration in the System for Award Management. [83 Fed. Reg. 187, 48691](#). DoD, GSA, and NASA are also issuing a final rule amending the FAR to implement a section of the National Defense Authorization Act for FY 2018 that provides an exception for business operations conducted by a contractor while performing under a Government contract from the requirement to accept and dispense \$1 coins. [83 Fed. Reg. 187, 48700](#).

Federal Acquisition Regulation: Federal Acquisition Circular 2005-101; Small Entity Compliance Guide

The Small Entity Compliance Guide has been prepared consistent with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in the FAC, which amends the FAR [83 Fed. Reg. 187, 48702](#).

SMALL BUSINESS ADMINISTRATION

Ownership and Control of Service-Disabled Veteran-Owned Small Business Concerns

The U.S. Small Business Administration (SBA) is amending its regulations to implement provisions of the National Defense Authorization Act for Fiscal Year 2017 (NDAA 2017). The NDAA 2017 placed the responsibility for issuing regulations relating to ownership and control for the Department of Veteran Affairs (VA) verification of Veteran-Owned (VO) and Service-Disabled Veteran-Owned (SDVO) Small Business Concerns with the SBA. Pursuant to NDAA 2017, SBA issued one definition of ownership and control for these concerns, which applies to the VA in its verification and Vets First Contracting Program procurements, and all other Government acquisitions, which require self-certification. The legislation also provided that in certain

circumstances a firm can qualify as VO or SDVO when there is a surviving spouse or an employee stock ownership plan. [83 Fed. Reg. 189, 48908](#).

VETERANS AFFAIRS

VA Veteran-Owned Small Business (VOSB) Verification Guidelines

The VA is amending its regulations governing VA's Veteran-Owned Small Business (VOSB) Verification Program. The NDAA for FY 2017 placed the responsibility for issuing regulations relating to ownership and control for the verification of VOSBs with the SBA. This regulation implements the NDAA by referencing SBA's regulations governing ownership and control and adds and clarifies certain terms and references that are currently part of the verification process. The NDAA also provides that in certain circumstances a firm can qualify as a VOSB or Service-Disabled Veteran-Owned Small Business when there is a surviving spouse or an employee stock ownership plan. [83 Fed. Reg. 185, 48221](#).

VA Acquisition Regulation: Taxes; Quality Assurance; Transportation; Solicitation Provisions and Contract Clauses; and Special Procurement Controls

The VA is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the FAR, to remove procedural guidance internal to the VA into the VA Acquisition Manual (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 the burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. The VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, we will publish them in the Federal Register. In particular, this rulemaking revises VAAR concerning Taxes; Quality Assurance; Transportation; Solicitation Provisions and Contract Clauses; and Special Procurement Controls. [83 Fed. Reg. 185, 48257](#).

WHITE HOUSE

'Unprecedented' Government Spending Spree Picks Up Speed

According to an article on [Nextgov.com](#), the federal Government is primed to spend as much as \$300 billion in the final quarter of fiscal 2018 as agencies rush to obligate money appropriated by Congress before Sept. 30 or return it to the Treasury Department. The spending spree is the product of the omnibus budget agreement signed six months late in March, coupled with funding increases of \$80 billion for defense and \$63 billion for civilian agencies. The shortened time frame left procurement officials scrambling to find ways to spend the money. Through August, defense and civilian agencies obligated some \$300 billion in contracts. Nevertheless, to spend all the money appropriated to them by Congress, they may have to obligate well over \$200 billion more in the final quarter of fiscal 2018, which ends in two weeks.

PILIEROMAZZA BLOGS

GAO Rebukes Agency for Finding Proposal Nonresponsive Based on Buy American Act Submission By Julia Di Vito

The U.S. Government Accountability Office ("GAO") recently sustained a bid protest in which the U.S. Department of Energy ("DOE") found a construction contractor's bid to be nonresponsive due to the contractor's failure to provide all information required by Federal Acquisition Regulation ("FAR") 52.225-9 and 52.225-10. When these FAR provisions are included in a solicitation, they set out a preference that a contractor use domestic products and materials in its construction project. If a contractor wishes to use foreign materials instead of domestic ones based on cost reasons, these FAR provisions require a contractor to

provide data about the construction materials the contractor plans to use so that the agency can determine whether the Buy American Act should be applied to the contract. To read the full blog, please follow this [Link](#).

New Receipts Calculation for Federal Contractors?

By Megan C. Connor

Congress is considering changing the receipts calculation for small businesses. Currently, a company's size is determined based on the average annual receipts of the three recently completed fiscal years. However, in the Small Business Runway Extension Act of 2018, H.R. 6330, which the House passed on September 25, 2018, the House of Representatives, proposes amending the Small Business Act to change this time period to five years. For the full blog, please follow this [Link](#).

Effective October 1, 2018: A Universal Set of Ownership and Control Requirements for VOSBs and SDVOSBs

By Meghan F. Leemon

Just one week before taking effect, the VA issued a final rule on verification guidelines for veteran-owned and service-disabled veteran-owned small businesses, found in the National Defense Authorization Act for Fiscal Year 2017 (NDAA 2017). The final rule implements the NDAA 2017, which placed the responsibility for issuing regulations relating to ownership and control for the VA's verification of VOSBs and SDVOSBs with SBA. For the full blog, please follow this [Link](#).