



Weekly Report for October 22, 2018

DEFENSE DEPARTMENT

Class Deviation-Commercial Items Omnibus Clause for Acquisitions Using the Standard Procurement System

According to an article on acq.osd.mil, this class deviation rescinds and supersedes Class Deviation 2013-00019. Effective immediately, when using the Standard Procurement System (SPS) to contract for commercial items, all Department of Defense (DOD) contracting activities may deviate from the requirements at Federal Acquisition Regulation (FAR) 12.301 (b)(4) and the clause at FAR 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders- Commercial items. The clause at FAR 52.212-5 requires the contracting officer to "check a box" to identify the clauses that are applicable to the specific acquisition of commercial items. Rather than requiring the contracting officers to "check the applicable clauses," SPS has a clause logic capability that automatically selects the clauses under FAR clause 52.212-5.

Performance-Based Payments and Progress Payments (DFARS Case 2017-D019)

The DOD is withdrawing the proposed rule on performance-based payments and progress payments that published on August 24, 2018, and is canceling the public meeting previously scheduled to be held on October 10, 2018. [83 Fed. Reg. 193, 50052](https://www.fedreg.gov/2018/08/24/83-Fed-Reg-193-50052).

GOVERNMENT CONTRACTING

How Contractor Fraud Is Reported Shouldn't Affect How It Gets Investigated

According to an article in govexec.com, while the vast majority of federal contractors are dedicated to their craft and their country, very few wrongdoers occasionally cast a shadow on the industry as a whole. Unfortunately, the way that the government resolves fraud allegations is often dictated not by the egregiousness of the fraud but rather by *how* the government learns of suspected wrongdoing. Given this inconsistency, it is suggested that a more uniform approach to addressing whistleblower allegations be implemented.

SMALL BUSINESS ADMINISTRATION

U.S. Department of Labor Announces New Compliance Assistance Tools to Assist New and Small Businesses

According to a [press release](#), the U.S. Department of Labor today announced the launch of the New and Small Business Assistance and the Compliance Assistance Toolkits webpages. These new online tools assist American small businesses and workers with simple, straightforward resources that provide critical Wage and Hour Division (WHD) information, as well as links to other resources. The webpages were established in response to feedback received from new and small business stakeholders voicing their need for a centralized location to secure the tools and information they

need to comply with federal labor laws. These new webpages provide the most relevant publications and answer the questions most frequently asked by new and small business owners. These tools, in conjunction with worker.gov and employer.gov, ensure greater understanding of federal requirements and provide tools to help employers find resources offered by other regulatory agencies. “The Wage and Hour Division has long understood that the majority of employers want to do the right thing and comply with the law, but they need to know how,” said the WHD’s Acting Administrator Bryan Jarrett. “These new webpages demonstrate our ongoing commitment to proactively help employers comply with the law and provide them the tools they need to understand their responsibilities. We encourage all employers to visit these new webpages and reach out to us for assistance at any time.”

OFFICE OF PERSONNEL MANAGEMENT

OPM Calls on Agencies to Implement Coaching Programs for Employees

According to an article on govexec.com, the Trump administration is calling on federal agencies to expand their use of “coaching,” an “experimental” and “creative” process designed for individuals to help other government workers realize their full potential. Office of Personnel Management Director Jeff Pon sent a memorandum to agency leaders that was made public this week aimed at highlighting the “importance of creating a coaching culture.” Such a culture would boost retention of employees, forge stronger relationships, increase focus on mission and lead to better performance, Pon said. The director tasked agencies’ human capital officers to use his memo to plan, design and implement coaching programs.

CAPITOL HILL

Senate Small Business Committee Passes Six Bills to Assist Current, Prospective Small Business Owners

On October 12, 2018, the Senate Committee on Small Business & Entrepreneurship favorably reported six bills to the full Senate that would, among other things, help veterans transition from service to entrepreneurship, create an equal playing field for small business borrowers receiving a real estate loans through the Small Business Administration’s (SBA) loan programs, aid recovery in natural disasters, and require the SBA to assess the size of businesses based on average revenues of five years rather than three. The full list of bills reported is as follows:

- S. 2679, Veterans Small Business Enhancement Act
- S. 3552, 7(a) Real Estate Appraisal Harmonization Act
- S. 3553, Small Business Access to Capital and Efficiency Act
- S. 3554, A bill to extend the effective date for the sunset for collateral requirements for SBA disaster loans
- S. 3561, National Guard and Reserve Entrepreneurship Act
- S. 3562, Small Business Runway Extension Act of 2018

President Signs Risch, Peters Bill Helping Small Businesses Access Patent Protection

Earlier this week, President Trump signed into law legislation aimed at helping small businesses safeguard their intellectual property with expanded education on obtaining and protecting patents. The Small Business Innovation Protection Act is expected to build upon existing SBA and United States Patent and Trademark Office (USPTO) programs, to better inform small businesses on domestic and international intellectual property protections. This Act requires the SBA and USPTO to develop partnerships in order to develop high-quality training relating to domestic and international

intellectual property protection by leveraging existing training materials developed for small businesses. It also requires the SBA and USPTO to enter partnerships in order to increase the effectiveness of Small Business Development Centers by providing training that addresses small business concerns related to domestic and international intellectual property protections which may be conducted in person or online. You can find more information [here](#).

PilieroMazza Blogs

Submitting a Proposal Soon? Make Sure Your SAM Registration Is Active

By Meghan F. Leemon

While there has been some confusion and a bit of a grey area surrounding when an offeror's profile with the System for Award Management (SAM) must be active, the confusion will be put to rest effective October 26, 2018. Recently, a final rule was released clarifying that offeror registration in SAM is required prior to submission of an offer. [[Read More](#)].