

PTAC Link

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Progress Through Regional Cooperation In The Alleghenies

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Events at the SAP&DC PTAC

The Southern Alleghenies PTAC is looking forward to three upcoming outreach events to serve the companies of our area! All of these events are in partnership with other PTACs to serve our clients in western and central Pennsylvania!

COSTARS Training with Northwest PTAC, North Central PTAC and the Clarion SBDC - September 14, 12:30 to 4:30 p.m. Registration for suppliers & vendors is **FREE** and can be found at <http://nwpaptac.ecenterdirect.com/events?centerid=1> Registration will close 09/06/2016.

CONNECT 2016 with JARI PTAC - September 27, 2016, 9:30 AM to 3:30 p.m., Frank J. Pasquerilla Conference Center, Johnstown, PA. This event was previously called the Small Business Opportunities & Resources Forum in 2014. It will be held again, with government agencies and prime contractors meeting local small

Federal Contract Spending Dipped 1.5% in 2015, Study Finds

The grab-bag \$610 billion defense policy bill now at the halfway point in its journey through Congress has the contracting community upbeat about some procurement and small business reforms while wary of debate about the extent to which defense contractors will be subject to President Obama's Fair Pay Safe Workplaces executive order.

A [version](#) of the fiscal 2017 National Defense Authorization Act passed the House May 19 by a 277-147 vote, while slightly [different version](#) cleared the Senate Armed Services Committee the same day 23-3.

"Building on last year's initial set of improvements to the acquisition system, the FY17 NDAA makes foundational reforms intended to help get better technology into the hands of the warfighter faster and more efficiently," said a summary by House Chairman Mac Thornberry, R-Texas. "It does so by requiring weapon systems to be designed with open architectures that can be easily be upgraded as technology and threats evolve. It also provides flexible funding to experiment with new technology, while simplifying the process and expanding the avenues of competition for suppliers of all sizes."

The House bill would give the Defense secretary more tools to manage and approve cost, schedule, and technological risk for major acquisition programs, he added, and it would also set up-front conditions for cost and schedule and then hold the military services accountable for meeting them, in part by giving Congress time during the procurement schedule to assure that appropriate transparency and enforcement mechanisms are in place.

The bill also establishes an "Acquisition Scorecard" that pulls exclusively from existing reports and documents and does not impose new work on Defense officials while focusing on intellectual rights of small and large companies.

businesses to meet their contracting needs. As of this writing, there is a keynote speaker, Ms. Gloria Larkin of TargetGov. Attendance registration can be found here:

<http://jari.ecenterdirect.com/events/601>

COSTARS Training with SEDA-COG PTAC - October 4, 2016
10:00 a.m. to 12:00 Noon, 253 Transfer Road, Bellefonte, PA. As of this writing, we don't have a registration link, but keep an eye on our Twitter & LinkedIn feed for more information!

If you have any questions on the above events, or would like to see a course put on, please contact James Gerraughty at jgerraughtv@sapdc.org or (814) 949-6528 with your ideas.

VA Issues Post-Kingdomware Acquisition Guidance

The VA has released an [Acquisition Policy Flash](#) providing guidance to VA Contracting Officers on implementing the U.S. Supreme Court's decision in [Kingdomware Technologies, Inc. v. United States](#).

The Policy Flash suggests that the VA is, in fact, moving quickly to implement the *Kingdomware* decision-and if that's the case, it is good news for SDVOSBs and VOSBs.

The Policy Flash begins by reiterating the Supreme Court's major holdings: namely, that the Rule of Two applies to orders placed under the GSA Schedule, and applies even when the VA is meeting its SDVOSB and VOSB contracting goals. The Policy Flash states that the VA "will implement the Supreme Court's ruling in every context where the law applies."

As a general matter, the Policy Flash instructs Contracting Officers to conduct robust market research to ensure compliance with the Rule of Two. The Policy Flash continues:

"Thornberry has been extremely open in the process for developing the acquisition agility section, and we welcome that," said Roger Jordan, vice president for government relations at the Professional Services Council. "The requirement of moving toward a modular open system was pretty rigid in the original draft but is now much more flexible to the department."

Also pleasing to large contractors, Jordan added, is language in both the House and Senate bills that encourages Defense to avoid, to the maximum extent practicable, relying on "lowest price, technically acceptable" source selection criteria for certain types of services contracts, including information technology services, systems engineering and technical assistance services. Lowest price, technically acceptable criteria would be used "only in situations where [DoD] can clearly define performance requirements and determine that technical proposals of offerors other than the lowest bidder would result in no, or minimal, benefit to the department," PSC said in a statement praising lawmakers.

"The legislative language aligns with recent DoD internal guidance which, if followed, will avoid an overreliance on [lowest price, technically acceptable criteria] that hinders DOD's ability to maintain a best-in-class competitive edge; inhibits DOD's flexibility in making valuable tradeoffs among cost, innovation, and capabilities; and risks higher long-term costs due to mission failures and contract rework actions," said PSC President and CEO David Berteau.

More contentious is language in both versions that would relieve Defense contractors from applying acquisition regulations promulgated pursuant to President Obama's [2014 Fair Pay and Safe Workplaces Executive Order](#) (13673), or any successor executive order. Congress would confine compliance only to contractors who have been suspended or disbarred because of past federal labor law violations. Without this language, Jordan said, the executive order "puts a pretty significant burden on DoD and industry for companies already abiding by labor laws, and the reporting requirements to capture alleged violations are pretty broad."

The White House, in its May 16 statement of administration policy threatening to veto the bill, objected to that language exempting DoD from the order. "These safeguards give federal contracting officers the information they need to assess a contractor's record of integrity and assist contractors with significant labor violations in improving their labor law compliance," the White House said. "In doing so, these protections help ensure that law-abiding contractors do not have to compete with those who offer lower bids based on savings from skirting the law."

Good Jobs Nation, an advocacy group for low-income workers, noted that the same day the House and Senate panel approved their language on Fair Pay Safe Workplaces, the National Labor Relations Board issued a complaint against one defense contractor for not following the order.

"The President's Fair Pay and Safe Workplaces executive order ensures that companies that receive taxpayer dollars are held to the highest legal and ethical standards," said Joseph Geevarghese, an attorney and director of Good Jobs Nation.

If market research clearly demonstrates that offers are likely to be received from two or more qualified, capable and verified SDVOSBs or VOSBs and award will be made at a fair and reasonable price, the Rule of Two applies and the action should be appropriately set-aside in the contracting order of priority set forth in VAAR 819.7004. Contracting officers shall also ensure SDVOSBs or VOSBs have been verified in VIP before evaluating any offers or making awards on an SDVOSB or VOSB set-aside. Supporting documentation must be maintained in the contract file in the Electronic Contract Management System (eCMS).

With respect to acquisitions currently in the pre-solicitation phase, Contracting Officers are to continue with existing SDVOSB and VOSB set-asides. However, "[i]f the original acquisition strategy was not to set-aside the acquisition to SDVOSBs or VOSBs, a review of the original market research should be accomplished to confirm whether or not the 'Rule of Two' was appropriately considered...." If a review finds that the Rule of Two is met, "the action shall be set-aside for SDVOSBs or VOSBs, in accordance with the contracting order of priority set forth in VAAR 819.7004."

Perhaps most intriguingly, the VA is instructing Contracting Officers to apply the Kingdomware decision to requirements that are in the solicitation or evaluation phase. For these requirements, "[a] review of the original market research and VA Form 2268 shall be accomplished to confirm whether or not the 'Rule of Two' was appropriately considered...." If this review finds that there are two or more SDVOSBs or VOSBs, "an amendment should be issued that cancels the solicitation." However, the agency can continue with an existing acquisition if there are "urgent and compelling circumstances" and an appropriate written justification is prepared and approved.

The VA apparently will not,

"America's taxpayers will not tolerate giving our tax-dollars to corporations that trample the rights of low-wage workers," he added.

The small-business contractor provisions in the House version include language to modernize the Small Business Act for consistency, strengthen small business advocates within DoD and the Small Business Administration, boost opportunities for subcontracting, improve coordination between SBA and Defense Department mentor-protégé programs, and promote integrity and accountability in veterans contracting programs.

"The contracting reforms included in this year's NDAA will provide new and improved opportunities for America's 28 million small businesses to compete for defense contracts so that we can get the best possible products in the hands of our warfighters and make sure the taxpayers get the most bang for their buck," said House Small Business Committee Chairman Steve Chabot, R-Ohio.

The bill also includes bipartisan-backed language long-sought by conservatives to "Audit the Pentagon," or permit lawmakers a closer look at the Defense Department's struggle to achieve financial clean books by 2017. "After 25 years of non-compliance with the law, I am glad the DoD is finally making progress," said sponsor Rep. Michael Burgess, R-Texas. "However, we must continue to put pressure on the Pentagon to comply with federal law in working towards a full audit...The Pentagon must be held to the same level of accountability that other public sector agencies are held to when it comes to the spending of taxpayer dollars."

*Article posted courtesy of:
Charles S. Clark*

At long last: The final rule on safeguarding of contractor information systems

After years of gestation, a final rule was promulgated May 16 to mandate minimum cyber defenses for companies that do government business. This Federal Acquisition Regulations rule - "Basic Safeguarding of Contractor Information Systems" 81 Fed. Reg. 30439 - seeks to protect the confidentiality and integrity of federal contract information (FCI) that resides in or transits through any contractor information system.

Why this rule?

Agencies are required by the Federal Information Security Modernization Act to protect federal information. The obligation extends to nonpublic information provided by the federal government to its contractors. Unauthorized cyber extraction of federal information has caused genuine injury to national interests. Using this new FAR provision, every federal agency now will require minimum cyber protection for FCI.

What is federal contract information?

however, apply Kingdomware to requirements that have been awarded to non-veteran companies, even where a notice to proceed has not yet been issued. The Policy Flash states that "Contracting officers shall coordinate with the HCA, OGC and OSDBU and be prepared to proceed with issuing the notice to proceed if issued within 30 days of this guidance."

Overall, the Policy Flash seems like a positive step for veterans- both in terms of the speed with which it was issued, and in the decision to apply Kingdomware to existing solicitations, except where an award has already been made

Article posted courtesy of Steven Koprince

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FCI is defined as nonpublic information that is "provided for or generated for the government" under a contract to "develop or deliver a product or service to the government, but not including information provided to the public or simple transactional information. The new rule protects "information systems" rather than carefully defined information types, however. If a contractor processes stores or transmits any FCI, its information system becomes subject to minimum enumerated safeguards. Where a contractor information system hosts FCI and other, non-federal information, the rule applies to the whole system.

Why now?

The new FAR has been in the works since March 2010 - but the subject is complex. Even "basic" protection of federal information involves many variables and requires resolution of tough questions. This FAR rule of general application will affect thousands of companies, and must align with other federal cyber initiatives.

Who is affected?

The new "Basic Safeguarding" contract clause, at FAR 52.204-21, is to be included in every solicitation and resulting contract. It applies below the simplified acquisition threshold, to subcontractors for commercial items, and to service (if there is FCI) - but not to the acquisition of commercial-off-the-shelf items. Flowdown is required: The clause applies to any contract or subcontract that involves receipt, use or generation of FCI, where a contractor information system figures into these functions.

How is protection achieved?

The federal government has a surfeit of cyber controls. Those designed for federal information systems, e.g., NIST SP 800-53, are too costly and burdensome to impose on contractors to protect FCI. Instead, the new rule calls out 15 safeguards, each derived from the 2015 NIST Special Publication, SP 800-171.

How will industry respond?

Last summer, the Department of Defense issued the 'Network Penetration' Defense Federal Acquisition Regulation Supplement that requires defense suppliers to apply the SP 800-171 safeguards to protect what DoD calls covered defense information. The DFARS met the strong industry resistance because of uncertainty over costs and how to comply. Similarly, many companies likely will object to the new FAR, even though it invokes only 15 cyber safeguards and these are performance standards - goals - rather than prescriptive design standards. The new rule presumes that the required safeguards are consistent with "prudent business practices." Even so, this FAR has been issued because trust in market forces and customary business practices only goes so far.

Are there problems in the final rule?

Predictably, as this rule addresses a highly complex area and applies so broadly, there are drafting issues. One issue is whether companies must apply the minimum safeguards to federal information received before the rule. Companies may be

uncertain how to reconcile varying federal cyber controls for different types of protected federal information. Some may ask if it is the government's responsibility, in every case, to designate FCI, or whether contractors are to make their own decisions.

Although expressed at a high level, the rule identifies the 15 safeguards as requirements. The rule provides no method to establish compliance. In the absence of stated process, is self-assessment and good faith sufficient? Some companies will have questions as to how much to do, when, with what test, or what validation, and so forth. The regulation concerns contractor information systems and the intent is minimally sufficient security. The government should assure contractors that they can satisfy the new rule without having to embrace the various, often exacting NIST standards developed for federal information systems or for more sensitive federal information types. For FCI, contractors should be encouraged to use sound commercial practices and methods.

This new rule is a major development. While self-described as "just one step in a series of coordinated regulatory actions being taken or planned" to strengthen federal protections of contractor information systems, it reflects a government decision to use its regulatory power and acquisition authority to mandate minimum cyber defenses for all private companies that do government business.

*Article posted courtesy of:
Robert Metzger, PC*

About Us

The PTAC at SAP&DC is an economic development entity that bridges the gap between supplier and buyer in the government marketplace. The PTAC stands ready to support businesses in the Alleghenies region in their pursuit to secure contracts with local, state and/or federal government agencies nationwide by:

- Identifying niche government markets and specific contract opportunities
- Assisting with bid and proposal preparation
- Preparing the required vendor registrations
- Navigating your company through the requirements and procedures of government contracting
- Enhancing competition by obtaining applicable socio-economic certifications
- Providing guidance to ensure successful post-award contract performance

Due to the generous support of our Commonwealth and Federal funding partners, services provided by the PTAC are free of charge.

Whether you are an experienced contractor or new to the government marketplace, the PTAC will provide one-on-

one counseling utilizing the following program resources to increase your share of contact awards.

PTAC Resources

- Electronic Bid Matching for products and services
- Military/Commercial specifications and standards
- Past procurement information and pricing histories
- State and Federal regulations guidance
- Professional training and outreach events
- Quality assurance and packaging guidance

Contact us today at [The PTAC at SAP&DC](#) to get started!



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