

# PTAC Link

PROCUREMENT TECHNICAL ASSISTANCE CENTER - CONNECTING BUYERS & SUPPLIERS

Progress Through Regional Cooperation In The Alleghenies

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The staff of the PTAC at Southern Alleghenies would like to say Happy Thanksgiving to everyone.

Take a moment to give thanks to all the veterans of past and present that have sacrificed to allow us all the freedoms that we have.

Sincerely,  
James, Brandon & Gloria

## SBA Proposes Credit For Lower-Tier Subcontracts

Large prime contractors operating under individual subcontracting plans would receive credit for small businesses performing at any subcontracting tier, according to proposed rule issued yesterday by the SBA.

The proposed rule also requires large primes to assign a NAICS code and size standard to "solicitations" for subcontractors-a

## Obama Orders Federal Contractors to Provide Workers Paid Sick Leave

President Obama signed an executive order on Monday requiring federal contractors to provide up to seven days of paid sick leave a year, even as he accused Republican congressional leaders of endangering the economy and Republican presidential candidates of undercutting American workers.

Addressing a union audience gathered here for Labor Day, Mr. Obama said he was glad not to be on the ballot but then sounded like a candidate himself as he went after the Republicans who hope to succeed him in the White House. He mocked them individually and as a group for portraying themselves as champions of the middle class while opposing labor unions.

"You can't just talk the talk," Mr. Obama said to cheers. "You've got to walk the walk. You can't talk middle class and then do things that hurt the middle class."

He also chastised abortion opponents in Congress for threatening to shut down the federal government in an effort to cut off taxpayer financing for Planned Parenthood, saying such a move could damage the economy at a time of global volatility.

"A shutdown would be completely irresponsible," Mr. Obama said. "It would be an unforced error, a fumble on the goal line."

Mr. Obama's executive order on paid leave was his latest use of executive power to change the rules of the American workplace and was designed to appeal to his union base. A fight over trade this year ruptured the usual alliance between the Democratic president and the organized labor movement.

The executive order will have no real effect until after Mr. Obama's presidency. Because it must first go through a public comment period, it will apply only to new federal contracts starting in 2017. But the White House hopes it will set a standard that will prod lawmakers, private employers, and state and local governments to expand their leave policies.

Speaking in shirt sleeves to more than 700 people at a Boston hotel, a relaxed Mr. Obama appeared almost gleeful as he went after the Republican presidential candidates as a group. He also singled out a few of them, including Gov. Scott Walker of Wisconsin and Gov. Chris Christie of New Jersey, by ridiculing

notion that my come as a surprise to prime contractors, many of whom do not typically issue formal subcontract solicitations.

The proposed rule implements Section 1614 of the National Defense Authorization Act of 2014. This legislation "would allow an other than small prime contractor that has an individual subcontracting plan for a contract to receive credit towards its small business subcontracting goals for subcontract awards made to small businesses at any tier."

The proposed rules notes that, under current law, "a prime contractor generally receives credit toward its small business subcontracting plan goals for awards made at the first tier level" but not for lower-tier awards. That will change under the proposed rule, which will allow prime contractors under individual subcontracting plans to claim credit for lower-tier subcontract awards made to small businesses and socioeconomic subcategories of small businesses (SDB, HUBZone, SDVOSB, and WOSB).

Predictably, the SBA is concerned that some large primes might try to game the system by counting the same dollars at multiple tiers. The proposed rule prevents this, stating "[t]he actual subcontracting dollars are only reported once for the same award to avoid double counting the dollars...."

The proposed rule also clarifies how small business status is to be determined at the subcontracting level. Many large prime contractors (and small subcontractors) erroneously believe that the prime contract's NAICS code and size standard "flow down" to subcontracts. Not so. Under current law, a large prime contractor is responsible for assigning the appropriate NAICS code and size standard to it subcontracts. The proposed rule would go farther and require large prime contractors to assign NAICS codes and size standards to *solicitations* for subcontracts:

*The contractor must assign to the solicitation and the resulting subcontract the NAICS code and*

recent statements they have made, although he did not mention their names.

He noted that one candidate (Mr. Walker) said his battles with labor unions would prepare him to take on terrorists, and that another candidate (Mr. Christie) said a teacher's union deserved a punch in the face. After each, he asked with a smile and disdain, "Really?"

Mr. Obama, who invited labor leaders to fly with him here on Air Force One, said the "constant war against unions" undermined regular workers. "It reminds me of something our old friend Ted Kennedy used to say," he said. "What is it about working men and women they find so offensive? Why are they so mad about folks just trying to make a living?"

At a campaign stop later in the day at the Pink Cadillac Diner in Rochester, N.H., during a motorcycle tour of the first primary state, Mr. Walker defended his battle with unions and portrayed Mr. Obama as a tool of entrenched interests.

"It's clear the president stands with the big government union bosses," Mr. Walker said. "We stand with the hard-working people." He said his actions were "pro-taxpayer" and "pro-worker," adding: "I think the president and his allies fear us more than anybody else in this race because they know we don't talk about it; we get it done. We fight, we win, we actually get results."

During his speech here, Mr. Obama made no mention of his support for new free trade agreements with Asia and Europe, which has deeply angered many of the union leaders and Democratic political leaders he was addressing. Among those on the dais was Senator Elizabeth Warren, the Massachusetts Democrat with whom he quarreled bitterly in the spring over legislation authorizing him to negotiate trade pacts like one with 11 other Pacific Rim nations.

Led by Ms. Warren and egged on by labor union leaders, most of Mr. Obama's fellow Democrats voted against him in Congress on the trade negotiation measure, which passed only with the active leadership of Republicans. As he sought to repair the rift on Monday, Mr. Obama emphasized his working-class message after the speech with a stop at Union Oyster House, where he ordered clam chowder to go. He also gave Ms. Warren a ride back to Washington on Air Force One.

The paid leave order is the latest move by Mr. Obama to use his power over federal contracts to institute changes on a small slice of the labor market when he cannot persuade Congress to enact those measures for the whole country. Among other things, he has signed orders requiring contractors to pay higher minimum wages, banning retaliation against workers who discuss their compensation, providing employees more information about their pay and protecting gay and transgender workers from discrimination.

Mr. Obama's assertive exercise of his authority over federal contractors has generated objections from business groups that argue he is going too far and from lawmakers who complain that he is circumventing the legislative process. Critics say he is piling expensive directives onto companies doing business with the federal government as a sop to his political base without accounting for additional costs.

*corresponding size standard that best describes the principal purpose of the subcontract (see § 121.410 of this chapter). The prime contractor may rely on a subcontractor's electronic representations and certifications, if the solicitation for the subcontract contains a clause which provides that the subcontractor verifies by submission of the offer that the size or socioeconomic representations and certifications are current, accurate and complete as of the date of the offer of the subcontract. Electronic submission may include any method acceptable to the prime contractor including, but not limited to, size or socioeconomic representations and certification made in SAM (or any successor system). A prime contractor or subcontractor may not require the use of SAM (or any successor system) for purposes of representing size or socioeconomic status in connection with a subcontract.*

This, of course, begs the question: does the SBA mean to require large prime contractors to issue formal solicitations for their subcontractor? In my experience, most subcontractors are not awarded as the result of competitive subcontract solicitations. Assuming that the SBA does not mean to impose such a burden, how should large primes and their small subcontractors interpret the rule? Will the subcontractor's signature on a proposed subcontract constitute an "offer for the subcontract"? Hopefully the SBA will provide some clarification. (Speaking of clarification, the SBA is accepting comments on the proposed rule for the next 60 days. To file a comment, simply follow the instructions in the proposed rule.) Allowing large primes to receive credit for lower-tier subcontracting is a commonsense idea, an one that hopefully will result in the award of more lower-tier subcontracts to small businesses.

*Article posted courtesy of Steven Koprince*

The National Federation of Independent Business, while acknowledging that Mr. Obama has the authority to place conditions on federal contractors, said his latest action was another burdensome government mandate on private firms.

"No business in America would require its suppliers and contractors to increase costs that will naturally boomerang back in the form of higher prices," said Jack Mozloom, the federation's media director. He said any call by the president to follow suit would ignore the fact that most employers are small businesses that cannot afford the benefit.

The president's order will guarantee both full- and part-time federal contract workers an hour of paid sick leave for every 40 hours worked, for a total of up to seven days a year. The workers could use the leave to care for themselves, a member of their family, a domestic partner or another loved one, or they could take the leave to recover from domestic violence, sexual assault or stalking.

Officials said the order would affect about 300,000 workers who otherwise would not have paid sick leave and grant other workers more days than they would otherwise have. Cecilia Munoz, the president's domestic policy adviser, said the rule should not cost taxpayers more because the benefits of a more efficient work force should outweigh any additional expenditures.

*Article posted courtesy of Peter Baker NY Times*

## 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 contract awards.

**Become a PTAC Client**

To take advantage of the services and resources provided by The PTAC at SAP&DC, complete the [New Client Sign-Up form](#).

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**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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