Five Issues Every Small Business Contractor Should Have on Its Desk This Month

Prepared for our small business government contractor clients

***From the Desk of Strategic Legal Partners** — The July 24 deadline for the DEI contract clause has now passed without a court blocking it, and the 19 states plus D.C. challenging the rule are now formally asking a federal judge to vacate it. The Department of Defense abruptly paused CMMC's third-party certification requirement and has begun industry listening sessions. SBA proposed a significant change to how individually owned 8(a) firms prove eligibility — drawing fresh objections from Senate Democrats this week — and released a scorecard showing record small business dollars alongside the steepest 8(a) decline in a decade. The Court of Federal Claims certified a class of more than 1,000 terminated USAID contractors. And the House narrowly passed the FY2027 NDAA, which now awaits Senate action. As always, this bulletin is general information, not legal advice on your specific facts.*

1 FAR 52.222-90 DEI Clause — July 24 Deadline Has Passed; States Now Seek Vacatur

What's New This Month

The July 24, 2026 deadline for contracting officers to bilaterally modify existing contracts to add FAR 52.222-90 has now come and gone without any court blocking it. Agencies continued issuing modification requests through the deadline. The litigation, however, has intensified rather than resolved: as of this week, the 19 state attorneys general and the District of Columbia behind *Maryland v. Hegseth* (D. Md.) are formally urging the court to vacate the FAR Council's implementing memo and agency class deviations — relief that, if granted, would apply government-wide, not just to the plaintiff states. A separate constitutional challenge (*NADOHE v. Trump*) also remains pending. No ruling on either case has issued as of this writing.

Why It Matters to You

The deadline passing does not resolve anything — it just means the clock has run out while the underlying legal fight continues. If you already signed a bilateral modification, you are now bound by it unless and until a court vacates the rule. If you have not yet been approached, contracting officers may still reach out, since the deadline was framed as a target for agencies' "best efforts" rather than an automatic cutoff. Compliance remains treated as material to payment decisions for False Claims Act purposes, and noncompliance remains an enumerated basis for suspension and debarment. A vacatur ruling, if it comes, would be the first development that meaningfully changes this calculus.

If You Signed a Modification	If You Have Not Been Approached Yet
You are bound by it for now. Keep monitoring the litigation — a vacatur would not automatically unwind a signed modification, but it would affect future enforcement posture.	Do not assume the passed deadline means you are in the clear. Continue reviewing DEI-adjacent programs and be ready to respond thoughtfully if a modification request arrives.

Immediate Action Items

Watch: Maryland v. Hegseth vacatur request now pending before the D. Md. court.

- Track the vacatur briefing in Maryland v. Hegseth and any ruling in NADOHE v. Trump closely
- If you signed a modification, document your compliance basis; if you haven't, stay prepared
- Continue auditing recruitment, outreach, mentoring, and training programs against the clause
- Do not treat the passed deadline as the end of the story — enforcement risk continues either way

Sources: Law360 (July 30, 2026); Ogletree; Maryland v. Hegseth, D. Md. No. 1:26-cv-02322.

2 DoD Suspends CMMC Phase II — Listening Sessions Underway

What's New This Month

Following the July 13, 2026 suspension of the CMMC Phase II third-party (C3PAO) certification requirement, DoD's CMMC Reform Task Force held its first meeting on July 16, and the Department has begun industry listening sessions as part of its 60-day review. An RFI remains open for comments through August 14, 2026, seeking industry cost data on compliance burden. SBA's Office of Advocacy has publicly credited its own advocacy, alongside industry groups, with helping secure the suspension.

Why It Matters to You

This remains a policy pause, not a rule repeal. Your core cybersecurity obligations — DFARS 252.204-7012, NIST SP 800-171 Rev 2, incident reporting, and Level 1/2 self-assessment — remain fully in force. Because the suspension came by memo rather than a change to the underlying DFARS clause or 32 C.F.R. Part 170, it can be reversed as easily as it was granted — treat this as a window to influence the outcome, not a reason to stand down.

If Phase II Was Looming for You	If You Hold a Level 2 (C3PAO) Certificate
Continue NIST 800-171 implementation and Level 1/2 self-assessments. Consider participating in a listening session or submitting RFI comments if you have concrete cost data.	Keep it. It remains a competitive differentiator and satisfies "or higher" requirements in solicitations referencing lower CMMC levels.

Immediate Action Items

Comment Deadline: August 14, 2026 — RFI on CMMC compliance burden.

- File RFI comments if your business has concrete cost data on third-party certification burden
- Continue Level 1/2 self-assessments and SPRS score accuracy — cyber-fraud FCA enforcement continues
- Watch for a class deviation or DFARS rule change, which would signal the suspension is becoming permanent

Sources: Federal News Network (July 30, 2026); Arnold & Porter; PilieroMazza.

3 SBA's 8(a) Social-Disadvantage Rule Draws Senate Democrat Pushback

What's New This Month

SBA's June 11, 2026 proposed rule eliminating the rebuttable presumption of social disadvantage for individually owned 8(a) firms drew formal objections this week from two Democrats on the Senate Small Business and Entrepreneurship Committee, who criticized the plan to remove the presumption that members of socially and economically disadvantaged racial and ethnic groups are eligible for the program. The comment period on the proposed rule closed July 13, 2026, and SBA has not yet issued a final rule.

Why It Matters to You

The political pushback does not change the rule's current status — it is still only proposed, and 8(a) application processing for individually owned firms remains largely frozen pending finalization. If you are considering an 8(a) application, continue assembling documentary evidence of specific discriminatory policies and their material impact on you, since a self-certified narrative will not suffice under the proposed standard.

Prospective Individually Owned Applicants	Entity-Owned Applicants (Tribal/ANC/NHO/CDC)
Keep building a documented discrimination record — personnel records, denial letters, comparative treatment data — while the rule remains in proposed form.	This proposed rule does not change your eligibility path; no action required on this specific item.

Immediate Action Items

- Continue documentation efforts even though the comment period has closed; the rule is not yet final
- Monitor for a final rule before submitting a new individually owned 8(a) application
- If your 8(a) status is at risk of termination, consult counsel promptly on appeal options

Sources: Federal News Network (July 30, 2026); Governmentcontractsnavigator; 91 Fed. Reg. 35433.

4 Danziger v. United States — Certified Class Remains in Discovery

What's New This Month

The Court of Federal Claims' May 13, 2026 certification of a class of more than 1,000 terminated USAID personal-services contractors remains in place, and the case continues in discovery on bad-faith and abuse-of-discretion breach-of-contract theories. No new ruling, settlement, or appellate development has surfaced this month, but the case remains an active and closely watched vehicle for contractors weighing similar claims.

Why It Matters to You

If your business was terminated under a DOGE-related or USAID-adjacent directive and you believe the stated rationale was pretextual, this remains the strongest available precedent for a bad-faith breach theory going beyond standard termination-for-convenience recovery. The same legal theory is available in an individual claim without joining the certified class.

If You Were Terminated Under a Similar Directive	If You Are Weighing a Settlement Offer

Preserve correspondence and public statements around your termination now, while the evidentiary record in Danziger continues to develop.	Do not treat a partial termination payment as full and final satisfaction without counsel review in light of this precedent.

Immediate Action Items

- Calendar the Contract Disputes Act limitations period from your contracting officer's final decision
- Assess whether your fact pattern supports an individual bad-faith breach claim under this precedent

Sources: Governmentcontractslegalforum; Danziger et al. v. United States, No. 25-cv-1241 (Fed. Cl.).

5 SBA FY25 Scorecard — Record Dollars, Steepest 8(a) Decline in a Decade

What's New This Month

SBA's FY25 small business procurement scorecard, released June 25, 2026, gave the government an overall grade of "A," reporting that nearly 28% of prime federal contract dollars — roughly $179 billion — went to small businesses, above the 23% statutory goal (combined prime and subcontract awards reached nearly $273 billion). Within that total, 8(a) awards fell by $1.5 billion to $24.3 billion, the largest 8(a) decline in over a decade, and small disadvantaged business awards fell to 11.6% of primes — their first decrease in ten years. Rep. Nydia Velázquez's April letter posing 34 questions about the revised scorecard methodology remains unanswered by SBA as of this writing.

Why It Matters to You

The topline numbers are strong, but the composition shift is the real signal: agencies are visibly moving dollars away from 8(a) and SDB set-asides and toward SDVOSB/VOSB categories. If your business has relied on 8(a) or SDB status, this is no longer a future risk — it is showing up in actual award data for the fiscal year just closed.

SDVOSB / VOSB-Certified Firms	8(a) / SDB-Reliant Firms
The award data confirms the favorable trend. Keep certifications current and visible in SAM.gov and capability statements heading into FY2027 planning.	Treat the decline as confirmed, not hypothetical. Prioritize teaming with veteran-owned partners and diversify toward full-and-open or other set-aside opportunities.

Immediate Action Items

- Benchmark your FY26 pipeline against the confirmed 8(a)/SDB decline and adjust capture strategy
- Refresh SDVOSB/VOSB/HUBZone certifications now, ahead of FY2027 planning cycles
- Continue monitoring for any SBA response to the unanswered Velázquez inquiry

Sources: SBA.gov FY25 Scorecard release (June 25, 2026); Federal News Network; Legis1.

Also on Our Radar This Month

FY2027 NDAA passes the House: the $1.15 trillion NDAA passed 216-212 on July 22 and now awaits Senate action, where Democrats blocked a motion to advance the Senate's own version on July 14 — expect continued negotiation before a final bill reaches the President. **Shutdown risk:** House Democrats have publicly criticized the latest continuing resolution GOP leaders are racing to pass, with FY2027 appropriations still unresolved heading toward October 1; refresh stop-work contingency plans now. **New defense supply-chain EO (July 20):** a new executive order directs DoD to map and "de-risk" critical supply chains and restricts certain domestic-sourcing waivers starting in 2027 — expect new flow-down and sourcing-disclosure obligations for DoD contractors. **Tariff refund trap persists:** CBP's CAPE portal is processing IEEPA duty refunds, but the FAR 52.229-3 "after-relieved tax" clawback question remains unresolved by any court or agency. **Whistleblower protections:** the House and Senate have each passed companion bills expanding whistleblower protections for government contractors; reconciling differences (including Intelligence Community contractor coverage) is the next step. **HUBZone:** Redesignated Areas expired July 1, 2026; affected firms lose eligibility at their next recertification, with the map not updating again until 2028.

Schedule a July Compliance Check-In

Between the pending FAR 52.222-90 vacatur fight, the CMMC Phase II pause, and the 8(a) rule change, this is a good month to have counsel review your active contract portfolio and certifications. Contact Strategic Legal Partners to schedule a compliance check-in tailored to your contracts.