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## IN THIS ISSUE

[Domain Expertise](#)

[Federal Marketplace Matters](#)

[Educational Topics](#)

[Compliance Issues](#)

[Upcoming Events](#)

## QUICK LINK

[Our Services](#)

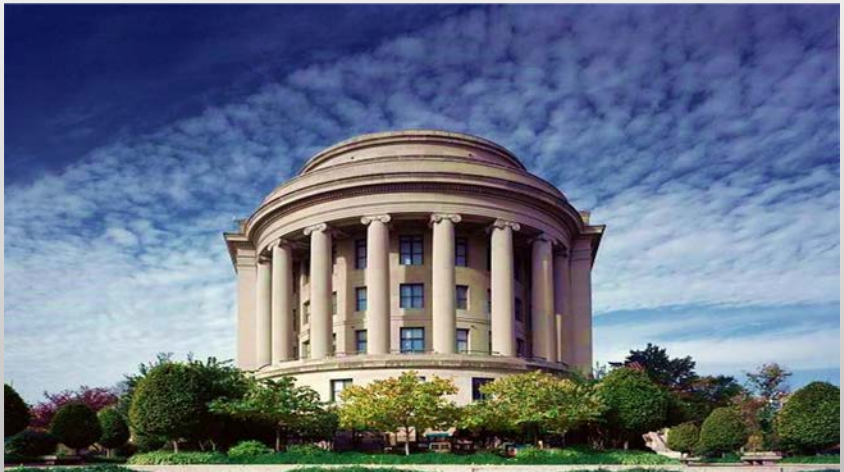
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## CONTACT

The Gormley Group  
1990 M Street, NW  
Suite 480  
Washington, DC 20036  
[www.gormgroup.com](http://www.gormgroup.com)  
[info@gormgroup.com](mailto:info@gormgroup.com)



## Domain Expertise

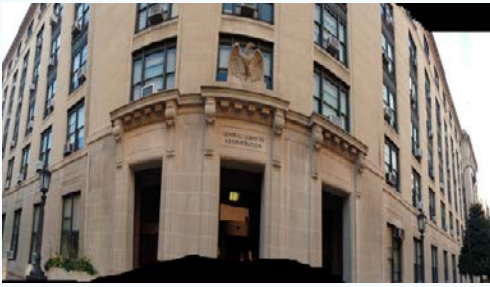
### 6 GovCon Industry Groups Ask Federal Govt to Delay Implementation of Fair Pay and Safe Workplaces Final Rule

Six member associations of the Council of Defense and Space Industry Associations wrote in a letter to the Federal Acquisition Regulatory Council that the federal government should postpone the enforcement of the Fair Pay and Safe Workplaces rule on Oct. 25 due to legislative uncertainty over the regulation and lack of systems to report violations, the Professional Services Council reported Tuesday.

The six CODSIA member organizations asked the FAR Council to release a new guidance that would extend the phase-in process in order to provide federal contractors and contract holders time to comply with the final rule.

The organizations requested the federal government to move the start of the phase-in period for contracts over \$50 million to Oct. 25, 2017 as well as the phase-in for contracts over \$500,000 to April 25, 2018.

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## Federal Marketplace Matters

### Signed continuing resolution keeps agencies running through Dec. 9

Barack Obama signed the bill containing the continuing resolution into law Sept. 29—just about 36 hours before the end of fiscal 2016.

The President signature comes about 16 hours after members of the House passed a “clean” funding bill 342-85 Wednesday night. Agencies now are funded at the most at 2016 levels through Dec. 9.

Despite avoiding a shutdown of the federal government, Rep. Donna Edwards (D-Md.) said Congress has only delayed the work of passing a comprehensive budget deal for fiscal 2017.

The Senate passed the continuing resolution earlier Wednesday in a series of three votes on Wednesday, Sept. 28.

The Senate approved a cloture vote on the continuing resolution, 77-21, ending debate on the amendment. That was followed shortly by a vote to end debate on the bill itself, which also passed 77-21. Lawmakers then approved the bill on a final vote, 72-26.

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## GSA Leaves Many Questions Unanswered, As Industry Assesses The New Transactional Data Reporting Rule

GSA’s new Transactional Data Reporting (“TDR”) pilot program, which requires participating Federal Supply Schedule (“FSS”) contractors to report 11 items of transactional data to GSA each month. The TDR rule also eliminates the requirement to provide a Commercial Sales Practices (“CSP”) format as well as the Price Reductions Clause. As we noted in our earlier post, the TDR rule promises to give GSA contracting officers greater flexibility in evaluating FSS offers and proposed pricing, but there still is significant uncertainty as to how GSA will apply the rule in practice.

Recognizing this uncertainty, the Coalition for Government Procurement recently submitted 65 questions to GSA focused on five aspects of the TDR rule: Use of the Data, Pricing, Pilot Administration and Operations, Public Disclosure of Information, and Evaluating the Pilot. GSA responded to the Coalition’s questions on September 19th. While GSA’s efforts to engage with industry are commendable, GSA left unanswered many key questions that are of significance to FSS contractors, including how the TDR rule will impact FSS contract pricing negotiations.

Many of the Coalition’s 65 questions sought guidance on how GSA plans to utilize the 11 items of transactional data to negotiate pricing for FSS contracts.

In response, GSA largely pointed back to the new GSAM clause established by the rule, GSAM 538.270-2 (Evaluation of offers with access to transactional data), which creates an “order of preference” for the types of data the government may use to negotiate contract pricing. According to GSA, “[t]he process will not change for determining pricing fair and reasonable [sic]. Through data available as a result of TDR, the [contracting officer] will simply have more data to utilize in making their fair and reasonable determinations.” See *id.*

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## Federal Marketplace Matters

### Geospatial as a Service isn't far off

Instead of fielding its own systems, the National Geospatial-Intelligence Agency is developing a "credit card swipe" approach to adding commercially gathered, unclassified intelligence to its data, according to NGA Director Robert Cardillo.

With the rise of commercial satellite imagery providers such as Google's Terra Bella, Planet Labs and BlackSky, NGA is developing new acquisition methods to make its operations more cost-effective and efficient, Cardillo said in a rare public briefing before the Senate Select Committee on Intelligence on Sept. 27.

NGA launched a commercial geospatial intelligence strategy nearly a year ago to help it conduct nimbler acquisitions and make better use of unclassified information. It has partnered with the General Services Administration on the Commercial Initiative to Buy Operationally Responsive GEOINT (CIBORG), which will smooth commercial purchases of geospatial intelligence data, products and services.

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### The Department of Veterans Affairs needs a new Open Government Plan

The care and support that our nation provides to veterans merits all of the transparency and accountability the federal government can bring to bear. That's why the absence of a new open government plan from the Department of Veterans Affairs (VA) over the past six years is not only an egregious flouting of President Barack Obama's 2009 Open Government Directive, but a failure in governance that calls into question whether such plans accurately reflect the priorities and mission of agencies.

These open government plans represent one of the primary vehicles for ensuring that public commitments to open government are part of the next administration. It is more critical than ever for all agencies to not only publish them, but to deliver the progress reports and frank self-assessment that the guidance from the White House requested this summer. Veterans and the public deserve a new 2016 Open Government Plan from the VA that includes a flagship initiative to publish performance data next to customer service data from the men and women it serves.

The VA has an important story to tell, too, which is what makes its failure to publish a plan since 2010 so frustrating. Despite well-documented scandals and mismanagement, veteran-facing digital services are improving. Visit Vets.gov on your smartphone to see what we mean.

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### GSA Launches Data Federation

The General Services Administration (GSA) has launched the U.S. Data Federation a new effort that will support government-wide data standardization and data federation initiatives across both Federal agencies and local governments. The GSA says that the Federation is designed to build on the work already done through websites like data.gov and is part of the GSA's open government plan.

GSA launched data.gov in 2009 with 47 datasets and has since worked with agencies and the White House to expand the catalog to nearly 200,000 datasets across more than 70 agencies.

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## Federal Marketplace Matters

### High-Tech Fans, HVACs and Heat Pumps Are The Future of Federal Buildings

The General Services Administration and the Energy Department are looking for technology that can be used to improve federal office buildings, which could include energy-related analytics, heat pumps, fans and blowers, "alternatives to vapor compressor HVAC," and systems that can conserve and reuse water.

Energy analytics could include technology that helps buildings monitor and manage energy control systems, solutions that can make heat pumps more efficient in cold climates, or fans that can perform better than current ones, and products that can reduce greenhouse gas emissions, among others.

The two groups issued a joint request for information about such "emerging building technology" that would need to "improve economic and environmental performance in federal and commercial buildings."

Successful technology could obtain further funding from GSA's Green Proving Ground program, which pilots out new building technology.

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### Change in Policy Affecting VOSB and SDVOSB Vendors

The Department of Veteran Affairs (VA) released a new policy in July 2016 that strengthens and enhances VA's use of set-asides to the Service Disabled Veteran Owned Small Business (SDVOSB) and Veteran Owned Small Businesses (VOSB) communities under the authority of the Veterans First Contracting Program.

The VA's revised procedures affect all competitive VA contract actions including those conducted using Federal Supply Schedules (FSS).

In order to be given preference under the Veterans First Contracting Program, SDVOSBs and VOSBs must be verified in the VA's Vendor Information Pages (VIP) database.

The VA procurement procedures strengthen and enhance VA's use of set-asides to the SDVOSB and VOSB business communities under the authority of the Veterans First Contracting Program.

#### The key points of the revised procedures are:

VA contracting officers will look to use set-asides to verified SDVOSBs and VOSBs utilizing the VA Rule of Two on all competitive contract actions any time preceding market research indicates two or more verified and capable SDVOSBs or VOSBs are likely to provide a fair and reasonable price providing best value to the government.

#### Recommended Action:

All SDVOSB and VOSB FSS holders are strongly encouraged to register and become verified in the VA's VIP database.

Verification information and instructions can be found on the VA Office of Small and Disadvantaged Business Utilization website,

<http://www.va.gov/osdbu/verification/assistance/index.asp> and at <https://www.va.gov/osdbu/verification/index.asp>

[Link to Policy](#)







## Federal Marketplace Matters

### Oracle to End Use of GSA's IT Schedule 70 Contract Vehicle, Third-Party Software Resellers

Oracle will no longer use the General Services Administration's Information Technology Schedule 70 acquisition vehicle and third-party resellers to directly sell its software platforms to government agencies, Federal News Radio reported Sept 26.

Oracle's decision seeks to reduce litigation risks associated with the False Claims Act as well as address concerns over compliance with the Transactional Data Reporting rule and other requirements, Jason Miller writes.

According to USASpending.gov, Oracle generated \$38.2 billion in 2015 revenue with federal government agencies accounting for \$60.8 million in direct sales last year, Miller reports.

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## Educational

### GSA, Dun & Bradstreet agree on wider DUNS use

Federal agencies and the public will have wider use of the data generated using the proprietary business identifier used in government procurement, the DUNS number, under a new deal between the General Services Administration and Dun & Bradstreet.

Dun & Bradstreet's Data Universal Numbering System (DUNS) has been used by the federal government as a unique and proprietary identifier for years to track spending. The GSA requires the use of a DUNS number in the Federal Acquisition Regulation, and the number is also prescribed by the Office of Federal Procurement Policy at the Office of Management and Budget.

The new arrangement applies to GSA's current deal with D&B, which runs through June 2018. The government is paying \$26 million for the expanded use of the DUNS data, according to D&B. Historical data linked to DUNS identifiers will be maintained by the government, and not returned to D&B as was previously the case.

The use of a proprietary identifier has irked many in the open government community. The issue came to a head at the close of fiscal year 2014, when the government lost five years of spending data on Recovery.gov when a DUNS license expired.

Previously, data collected could be used only for a narrowly defined "acquisition purpose," which restricted use of DUNS-related information across government, Kevin Youel Page, deputy commissioner at GSA's Federal Acquisition Service, wrote in a soon-to-publish blog post on the agreement. The new contract changes change that, he said.

Youel Page said GSA and Dun and Bradstreet had renegotiated the contract to incorporate a change in the way the federal government can use the proprietary DUNS data obtained through Integrated Award Environment systems.

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## Upcoming Events

**October 6, 2016** from 2:00-3:00 PM.

GSA [Schedule 70 Virtual Quarterly Meeting](#).

[Register](#)

**Watch out for GSA Events:**

**MARCH 7-8, 2017** IFMIPS (51V, 03FAC) Industry Day Event

**May 2017** the GSA Federal Acquisition Training Symposium penciled in for in Huntsville, Alabama, and

**June 2017** the Professional Services Industry Day in Tacoma, Washington.


The Gormley Group  
1990 M Street, NW  
Suite 480  
Washington, DC 20036  
[www.gormgroup.com](http://www.gormgroup.com)  
[info@gormgroup.com](mailto:info@gormgroup.com)

## Compliance

GREENEVILLE, Tenn. – On Sept. 13, 2016, a federal grand jury in Greeneville returned an indictment against Vincent Lee Ferguson, 65, of Knoxville, Tenn.; Matthew Lee Ferguson, 40, of Lenoir City, Tenn.; Kerry Joseph Ferguson, 35, of Houston, Texas; Matthew Harrison Martland, 32, of Knoxville, Tenn.; and Stephanie Lynn Kaemmerer, 44, of Knoxville, Tenn., for wire fraud, conspiracy to commit wire fraud, major fraud against the United States, and smuggling goods into the United States.

These individuals appeared in court on Sept. 15, 2016 before U.S. Magistrate Judge Clifton Corker and pleaded not guilty. All were released on bond pending trial, which has been set for Nov. 1, 2016, in U.S. District Court, in Greeneville.

If convicted, they all face a term of 20 years in prison as to each wire fraud charge and smuggling charge, and up to 10 years in prison for the charge of major fraud against the United States. Additionally, they face fines of up to \$250,000 and up to three years of supervised release as to each count. The indictment also seeks forfeiture of approximately \$8.1 million.

Details of this conspiracy are included in the indictment on file with the U.S. District Court, which alleges that these individuals, all of whom were executives and management at Wellco Enterprises, Inc., conspired from December 2008 through August 2012 to defraud the United States government and other purchasers through a scheme to fraudulently import military-style boots that were made in China into the United States and then deceptively market and sell those boots to the United States Armed Forces, government contractors, and the general public as “Made in the USA,” and as compliant with certain domestic content preference laws, including the Trade Agreements Act and the Berry Amendment.

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