

Small Businesses

As the world's largest purchaser of goods and services, the U.S. government provides valuable opportunities for small businesses. Wiley is well-positioned to assist businesses of all sizes with navigating the specialized rules that apply to U.S. government contracting, including formation of small businesses, entry into the government marketplace, and the negotiation of teaming agreements, joint ventures, mentor-protégé agreements, and subcontracts. Wiley also analyzes affiliation issues, including affiliation arising as a result of a merger or acquisition, and we litigate size challenges, NAICS appeals and bid protests. Our attorneys have extensive experience with issues arising under all U.S. Small Business Administration (SBA) programs, Veteran-Owned (VO), Service-Disabled Veteran-Owned (SDVO), Historically Underutilized Business Zone (HUBZone), Women-Owned (WO), and Small Business Subcontracting programs. Our team also advises technology-focused small businesses on Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs and awards.

Navigating the rules that apply to small businesses is also important to large government contractors that team with small businesses. Wiley frequently counsels large business clients on the unique issues that can arise when teaming with, or acting as a subcontractor to, small businesses, including compliance with limitations on subcontracting, compliance with small business subcontracting plans, and formation of joint ventures, teaming agreements, mentor-protégé agreements and joint ventures, and subcontracts.

Representative results:

- Successfully represented a small business in size appeal concerning one of contractor's largest contracts, valued at nearly a billion dollars, for the supply of emergency and fire equipment to the U.S. military. After the successful size appeal and contract award to our client, Wiley then successfully represented the contractor in defending against multiple protests at the Court of Federal Claims and appeals before the Federal Circuit. *Atlantic Diving Supply, Inc.*, SBA No. SIZ-6005 (2019).
- Successfully challenged solicitation language that required protégé in a mentor-protégé joint venture to have the same experience as all other offerors as inconsistent with SBA regulations. *Innovate Now, LLC*, B-419546, April 26, 2021.

Representative experience includes:

- Litigating size protests before the SBA and representing small businesses in bid protests before the U.S. Government Accountability Office (GAO) and U.S. Court of Federal Claims (COFC), including pre-award

and post-award protests of small-business sole-source and set-aside contracts, as well as NAICS appeals.

- Counseling clients on affiliation and size status issues, including the impact of a merger or acquisition on a contractor's size status, existing set-aside contracts, and eligibility for new set-aside awards.
- Representing small business clients served with government civil investigative demands involving potential noncompliance with HUB-Zone and other SBA program rules.
- Advising small and large businesses on teaming arrangements, subcontract agreements, joint ventures and mentor-protégé agreements and joint ventures.
- Counseling large businesses that work as joint venture partners or subcontractors to small-businesses under small business set-aside contracts and advising on small business subcontracting plans and requirements.
- Advising private equity and venture capital firms on mergers and acquisitions involving small business contractors.
- Assisting with the formation of small business concerns, application to SBA programs, and compliance with SBA program requirements.