

Small Business Programs and Nontraditional Defense Contractors

As the world's largest purchaser of goods and services, the U.S. government provides valuable opportunities for small businesses and nontraditional defense contractors. Wiley is well-positioned to assist businesses with navigating the specialized rules that apply to U.S. government contracting, including eligibility for U.S. Small Business Administration (SBA) programs and the negotiation of teaming agreements, joint ventures, mentor-protégé agreements, and subcontracts in SBA set-aside programs. Wiley also advises nontraditional defense contractors on entry into the government marketplace, including compliance with government-unique requirements and protection of intellectual property rights.

Navigating the rules that apply to SBA programs is also important to large government contractors that team with small businesses. Wiley frequently counsels large business clients on the key 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, mentor-protégé agreements, teaming agreements, and subcontracts.

Our attorneys have extensive experience with issues arising under all SBA contracting assistance programs, including Veteran-Owned (VOSB), Service-Disabled Veteran-Owned (SDVOSB), Historically Underutilized Business Zone (HUBZone), Women-Owned (WOSB), and Small Business Subcontracting programs. Our team also advises emerging technology companies, as well as their venture capital and private equity investors, on Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs and awards, which provide opportunities for organizations to leverage federal funding to advance their research and development goals.

Wiley's SBIR Series aims to help SBIR awardees and their investors understand all aspects of the SBIR program:

- Five Things You Need to Know About the Terms of Your SBIR Award
- Graduation to SBIR Phase III
- Protecting Your Intellectual Property Under a SBIR Contract
- How Acquisitions and Venture Capital Funding Impact Eligibility for SBIR Awards
- I Just Got a Subpoena for my SBIR Award. Now What?

- Common Fraud Allegations Under SBIR Awards

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 North American Industry Classification System (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 under SBA programs.
- Advising clients on nontraditional and rapid acquisition vehicles, including Other Transaction Agreements (OTs or OTAs), Cooperative Research and Development Agreements (CRADAs), Technology Investment Agreements (TIAs), Space Act Agreements (SAA), Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) awards, grants, and cooperative agreements.
- Representing clients in government investigations, including civil investigative demands and subpoenas, involving alleged noncompliance with SBA program or set-aside rules.
- 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 acquisitions of contractors with small business set-aside contracts or SBIR awards.
- Assisting with the formation of small business concerns, application to SBA programs, and compliance with SBA program requirements.
- Counseling clients on craft licenses, intellectual property agreements, dispute resolution provisions, and other terms that protect our clients' interests while opening the door to participation in the government market.