
Government Contractor Labor/Employment and Small Business Programs

Government Contracts

WilmerHale helps government contractors to navigate the labor and employment standards and small business preferences that sharply distinguish government acquisitions from commercial business transactions. Contractors and subcontractors of all sizes are affected by these requirements, and WilmerHale has the experience and perspective to offer practical and cost-effective strategies for compliance.

Experience

LABOR- AND EMPLOYMENT-RELATED REQUIREMENTS

Government contractors and subcontractors are affected by a wide range of labor- and employment-related requirements. WilmerHale's comprehensive federal contracting practice, in collaboration with our labor and employment team, offers clients regulatory counseling, compliance program implementation and auditing, and defense against administrative investigations and enforcement proceedings. In addition, WilmerHale's Labor and Employment - HR Services team, staffed by non-attorney human resources professionals, offers companies of all sizes comprehensive and cost-effective HR business solutions, including the special obligations for government contractors and subcontractors.

This advice includes counseling on:

- Contractor registration and annual certifications
- Negotiation of key personnel terms in contracts for services
- Coordination of labor categories with government-specified job descriptions
- Employment eligibility verification (eVerify)
- Compliance with "revolving door" rules that limit commercial-sector work by former government employees
- Executive compensation reporting requirements
- Limitations on government reimbursement for executive compensation
- Human trafficking policies and compliance program implementation

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS REQUIREMENTS

The laws and regulations administered by the US Department of Labor Office of Federal Contract Compliance Programs (OFCCP) impose requirements on a broad class of contractors and subcontractors. For example, clients turn to us for:

- Advice on whether commercial sales trigger OFCCP requirements
- Design and implementation of Equal Employment Opportunity and Affirmative Action programs
- Counseling on Service Contract Act and Contract Work Hours and Safety Act applicability and compliance requirements
- Implementation of applicant tracking systems
- Representation in OFCCP audits, investigations, and enforcement proceedings

SMALL BUSINESS PROGRAMS

Government contracting program for small businesses affect government contractors and subcontractors, whether or not they are small business concerns.

For companies that are “other-than-small” business concerns, relationships with and acquisitions of small business can nonetheless present government contracting issues. WilmerHale regularly assists such clients on matter such as:

- Implementation of supplier diversity programs, including corporate-wide and contract-specific small business subcontracting plans
- Evaluating the impact of changes in a small business’ size status following corporate acquisition or other transactions
- Implementing joint venture or mentor-protégé arrangements with small businesses

WilmerHale represents small business concerns on the full range of administrative and contractual matters reflected in FAR Part 19 and Small Business Administration (SBA) regulations. These matters include:

- Advice on the application of small business size standards
- Assessment of “affiliation” questions that might impact eligibility for small business programs
- Initiating and defending size protest challenges before SBA field offices and the SBA Office of Hearings and Appeals
- Counseling on the terms of full and partial small business set-aside contracts, including limitations on subcontracting
- Challenges to North American Industry Classification System industry codes used to determine the applicable size standard
- Recertification of size status following corporate transactions affecting a company’s size status
- Advice on administrative requirements applicable to 8(a) business development program participants
- Participating in regulatory rulemaking proceedings affecting small business programs and related federal contracting requirements