

# New Considerations In Small Business Contracting

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DEALE SERVICES, LLC

National Defense Industries Association

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**DEALE.**  
A SMART LAW FIRM

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## Experience

Jerry Miles is a government contracts attorney and business consultant with experience working in-house for KBR, a large government contractor, and a large, regional law firm. In addition to being the owner of a law firm, Mr. Miles regularly advises clients on teaming agreements, joint ventures, subcontracting, government contract disputes and bid protests.

## Education

William & Mary Law  
University of Virginia

# Overview

- SBA Mentor-Protégé Program Expansion
- Subcontracting Changes and New Limitations
- WOSB Sole Source and Limitless Set-Asides
- SBA SDVOSB Verification Authority

# SBA Mentor-Protégé

- M-P Extension (NDAA 2013)
  - Agency M-P Program Issues
    - Unifies Standards for Eligibility
    - Cumbersome & Varied Application Processes
    - Agency Programs End 1 Year After SBA M-P Regulation (Except DOD)
  - Similar To 8(a) M-P Program (HUBZone, WOSB sand SDVOSBs)
    - Financial, Management & Technical Assistance
    - Eligibility and Reporting Requirements
    - Mentor's Incentives for Participating
  - Exemptions from Affiliation

# Small Business Subcontracting

- Prime Contractor Accountability
  - Small Business Subcontracting Plan
    - Prime Must Notify CO if Proposed Subcontractor Isn't Used
    - Subcontractor Can Notify CO if Proposed Subcontractor Isn't Used (?)
  - Reduced Payments
    - Prime Must Notify CO When Reduces SB Subcontractor's Payments
    - Prime Must Notify CO When SB Payments Are Past Due

# Small Business Subcontracting

- Limitations on Subcontracting (NDAA 2013; 52-219-14)
  - Service Contracts: 50% of Contract Cost → 50% of Contract Value (Amount)
  - Supply Contracts:
    - NDAA: 50% of Contract Amount (Excluding Materials)
    - SBA: 50% of Contract Cost for Supplies (Excluding Materials)
  - SBC Prime's 50% Performance Req't Met Via Subcontracting to Other SBCs
    - Other SBC Must Be Similarly Situated: Same Size Standard **OR**;
    - Other SBC Must Be Similarly Situated: Same SBC Program

# WOSB Program Shifts

- WOSB Set-Asides
  - Before: \$6.5M for Manufacturing Contracts; \$4.5M Other Contracts
  - Now (Post-NDAA 2013): No Caps on Set-Asides If Rule of Two Applies
- Sole Source: NDAA 2015 (House) Allows WOSB Sole Source Ks

# SBA VetBiz Verification

- NDAAs 2015 (House, May 2014)
  - SBA-VA MOU: SBA takes over VA verification program within 180 days
  - SBA Rules:
    - Verification: SBA issues verification program rules w/in 270 days of MOU
    - SBA Operate: VA CVE Veterans Information Pages (VIP) database
  - SBA OHA (Previously VA, CVE):
    - Denied verification
    - SDVOSB status protest appeals
    - SDVOSB status protest (excepted)



# Questions?

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