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PilieroMazza Client Alert
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GAO Issues Report Finding Fraud and Abuse in the Service-Disabled Veteran-Owned Small Business Program

On November 19, 2009, the U.S. Government Accountability Office ("GAO") issued a report to the U.S. House of Representatives, Committee on Small Business, about the Service-Disabled Veteran-Owned Small Business ("SDVOSB") program. See GAO Report No. GAO-10-108 (Oct. 23, 2009). The GAO's report is the culmination of a year-long investigation into fraud and abuse in the SDVOSB program. You should be aware of the GAO's report because it will likely lead to increased scrutiny and government audits of SDVOSBs.

The GAO's report paints Congress a troubling picture of the SDVOSB program. According to the GAO, the SDVOSB program "does not have effective governmentwide fraud-prevention controls in place and is vulnerable to fraud and abuse." From GAO's investigation of 10 SDVOSBs, it determined that approximately $100 million in sole source and set-aside SDVOSB contracts were improperly awarded to firms that are not eligible for the SDVOSB program and "have figured out how to manipulate the current system." Some of the firms the GAO reviewed readily admitted to being a 100% pass-through for a large business subcontractor. In other instances, the service-disabled veteran did not own or operate the company. And in one particularly egregious example, the service-disabled veteran was a full-time employee of a federal government agency that awarded a contract to his SDVOSB.

We know that the firms the GAO investigated are not representative of all SDVOSBs. But unfortunately, it only takes a few bad actors to hurt the reputation of the SDVOSB program. And once this has occurred, the government will surely take actions designed to "clean up" the SDVOSB program.

Based on the GAO's recommendations to Congress and the government's response to a similar GAO report earlier this year regarding the HUBZone program, we expect that contracting agencies, the Department of Veterans Affairs, and the U.S. Small Business Administration ("SBA") will now place SDVOSB firms under greater scrutiny. In fact, we are aware that the SBA is currently in the process of auditing all of its contracting programs for compliance, so the "clean up" appears to be underway. The increased focus on SDVOSBs may lead to the termination of contracts performed by firms that were previously found to be ineligible, as well as a formal SDVOSB certification process. We also expect to see an increase in compliance audits and proposed suspensions and debarments. As a result, in the coming months you may be asked to submit documents or you may be visited by government representatives to confirm your eligibility for the SDVOSB program.

Now is the time to ensure that you are fully compliant with the governing laws and regulations for the SDVOSB program. At PilieroMazza, one of our primary practice areas is assisting SDVOSB, HUBZone, 8(a), SDB, and other small firms in maintaining compliance with SBA requirements. In our more than 20 years of practicing in this area, we have developed important relationships and familiarity with the SBA, its programs and rules. Regarding the

SDVOSB program, we have helped numerous firms maintain and defend their SDVOSB eligibility, as well as respond to suspension and debarment proceedings. This experience enables us to anticipate what documents the government would request from you and the questions they are likely to ask in an SDVOSB review, allowing you to be better equipped to pass the government's inspection.

We can also perform an SDVOSB compliance audit for your firm to identify problem areas before the government knocks on your door. Responding to a government inquiry should not be the first time you conduct an internal review to ensure you are adhering to the SBA's rules.

Please do not hesitate to contact us if you would like assistance with SDVOSB program compliance, if you need help responding to a government inquiry, or if you would like to learn more about the GAO's SDVOSB report. We may be reached at 202-857-1000 or via email at jwilliams@pilieromazza.com.

Sincerely,

Jonathan T. Williams
Partner