

Bret Wacker, Stuart Schwartz, and Nicole Tersigni are **All In.**

Our client, Daniels Building Company, was the successful awardee of a U.S. Department of Veterans Affairs construction contract to renovate existing kitchen and food storage areas at the Battle Creek VA Medical Center in Battle Creek, MI. The procurement was set aside for award only to service-disabled veteran-owned small businesses (“SDVOSB”) approved through the VA’s Center for Verification and Evaluation (“CVE”). After announcement of the award, a disappointed unsuccessful offeror filed a SDVOSB status protest challenging whether Daniels Building was actually a SDOVSB and thus ineligible for the contract award. Daniels Building engaged Clark Hill to defend this protest, which if sustained could have potentially destroyed our client’s business due to its dependency on federal SDVOSB set-aside contracts.

The protestor alleged that, through two separate joint ventures with two different companies with no connection to the VA’s procurement award, that Daniels was (1) controlled by a large company and thus no longer small; and/or (2) was controlled by non-veterans in conflict with the VA’s regulations. The protestor also alleged that Daniels Building fraudulently obtained its SDVOSB certification by intentionally filing false information with, and withholding key information from, the VA. The Clark Hill team of Bret Wacker, Stuart Schwartz and Nicole Tersigni prepared, in the mandated 5 day response period, a detailed brief demonstrating Daniels Building is in fact owned and controlled by a service disabled veteran; and that the protestor’s attempts to defame and discredit Daniels Building Company were without basis in fact or law. The VA agreed with Daniels Building that its joint venture relationships had no bearing on the ownership or control of our client, and that the protestor’s evidence was not compelling enough to overturn Daniels Building Company’s SDVOSB certification. Our client is now able to move forward with contract performance at the Battle Creek VA Medical Center.

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