

# Professional Biography



## DAVID FLETCHER | PARTNER

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Partner David Fletcher has nearly 20 years of broad government contracts experience that combines sophisticated regulatory counseling and highly specialized litigation. He has represented businesses in the technology, software, data analytics, IT solutions, cybersecurity, professional services, health care, education, international agricultural development, intelligence and security sectors in high-value bid protests at the U.S. Government Accountability Office (GAO), the Court of Federal Claims and agency-level protest forums.

Dave advises clients ranging from startups to established public companies on contractual and regulatory requirements that apply to government contracts, grants, cooperative agreements, and CRADAs. He prepares and negotiates the terms of subcontracts, subawards, teaming agreements and other prime contractor/subcontractor relationships, provides government contracts compliance training and develops compliance programs. Dave also counsels clients on the meaning and operational effect of the Federal Acquisition Regulation (FAR), agency FAR supplements, Small Business Administration size standards and other regulations that affect the relationship of government contractors and their customers.

Dave's experience includes representing clients (buy-side and sell-side) in mergers, acquisitions, and financing transactions involving government contractors, and in requests for final country-of-origin determinations from U.S. Customs and Border Protection for technology products sold to U.S. government customers. Dave also counsels clients on the allocation of rights in technology funded or acquired by federal agencies under government grants and contracts.

Dave worked in-house at GE Aviation for two years, where he served as the principal legal advisor for GE Aviation's \$1 billion turboshaft/turboprop business.

## REPRESENTATIVE EXPERIENCE

### *Regulatory and Contract Counseling*

- Represented AdvisorEngine in its sale to Franklin Templeton. AdvisorEngine is a digital wealth platform and provider of technology and consulting services to more than 1,200 financial advisory firms in the United States that manage over \$600 billion in assets.
- Representing commercial software developer in contract, subcontract, teaming agreement, and NDA negotiations with government customers and higher-tier government contractor
- Developed and presented government contracts compliance training to executives and national sales team of a public data storage company
- Represented clients in requests for final country-of-origin determinations from U.S. Customs and Border Protection, applying the Trade Agreements Act (TAA) substantial transformation framework, for technology products sold to U.S. government customers

- Represented a private aviation company in negotiating the terms of a subcontract with a large Department of Defense prime contractor
- Represented a software and data integration company in contract negotiations with the U.S. Postal Service
- Represented multiple pharmaceutical companies in requests for small business waivers by the U.S. Food and Drug Administration (FDA) of \$2+ million new drug application fees
- Advised medical technology company clients in negotiations of subawards under the CARB-X program
- Advised a startup technology company on government rights in IP funded by federal agency grants and potential restrictions on exclusive licensing of such IP
- Performed government contracts diligence and negotiated related terms of a stock purchase agreement in a buy-side acquisition of a private company in the defense and intelligence market

### *Litigation and Dispute Resolution*

- Represented a military logistics contractor in a Contract Disputes Act claim and related ASBCA appeal of adverse past performance ratings. The government agreed to change the ratings in accordance with our client's request and to settle the appeal.
- Represented a U.S. government prime contractor in an internal investigation involving potential wrongdoing by company employees outside the U.S.
- Represented numerous companies in the software, data analytics, professional services, healthcare, and intelligence markets in bid protests before the GAO and the Court of Federal Claims (COFC). Recent examples include:
  - Successfully protested the terms of a Department of Labor task order solicitation under the GSA's new Enterprise Infrastructure Solutions ("EIS") IDIQ contract. The Department of Labor took corrective action.
  - Successfully defended the award of a contract to our client by the Defense Logistics Agency in a bid protest filed by a competitor at GAO. In parallel proceedings, successfully defended our client in a size protest and size appeal filed at the Small Business Administration.
  - Successfully represented a data analytics and IT solutions contractor in a protest at GAO of the award of a \$101 million contract by the Department of the Army. The agency took corrective action.
  - Successfully represented a cybersecurity firm in a protest at GAO of the award of a \$3 million contract by the Defense Information Systems Agency (DISA). In a parallel proceeding, filed a successful size protest of the original awardee at the Small Business Administration (SBA). DISA took corrective action and awarded the contract to our client.
  - Successfully represented an independent language school in a protest at GAO of the award of a language training services contract by the US Department of State. The agency took corrective action and reimbursed our client for the costs of filing and pursuing its protest.
  - Successfully represented a federal security and health IT services contractor in two protests at GAO of the award of IDIQ contracts with a collective maximum value of \$1.54 billion. The Department of Homeland Security took corrective action and agreed to reimburse our client for the costs of filing and pursuing both protests.
  - Successfully represented a DoD-focused professional services firm in a series of protests, which GAO ultimately denied, of a \$49 million contract awarded to our client by the Defense Human Resources Agency. In a related protest at the Court of Federal Claims, we obtained dismissal of the plaintiff's complaint on jurisdictional and standing grounds.

**BAR ADMISSIONS**

- District of Columbia
- Virginia

**EDUCATION**

- University of Illinois College of Law, J.D., *cum laude*
- The College of William & Mary, M.Ed., A.B

**PROFESSIONAL LEADERSHIP**

- American Bar Association - Section of Public Contract Law
- Court of Federal Claims Bar Association, Member

**RELATED EMPLOYMENT**

- Cooley, Washington, D.C., Special Counsel