

Aerospace and Defense

Miller Canfield's multidisciplinary aerospace and defense industry team represents domestic and foreign clients in most aspects of their operations, including export controls, trade and customs, public procurement, offsets, negotiating and supervising technology transfers and industrialization programs, arbitration, FDI and cross-border transactions, licensing and governmental approvals, tax incentives, real estate, and employment issues. Our experience and deep-rooted relationships in the public and private sectors give our team an understanding of the legal, regulatory, and business issues faced by our clients in this highly regulated sector.

Headquartered in Detroit, Miller Canfield is committed to assisting Michigan in the growth of its modern aerospace and defense industry, as well as continuing its traditions as the Arsenal of Democracy. The region played a crucial role in the defense sector starting during WWII when Ypsilanti Township's Willow Run was a major manufacturer of military airplanes and continued producing 30 percent of the war material generated in the United States before the end of the war in 1945. Miller Canfield is particularly committed to working with the Aerospace Industry Association of Michigan (AIAM) Michigan Defense Center (MDC) to assist its member companies in their research, development, and domestic and global growth.

Through its Washington, D.C., office, Miller Canfield is uniquely positioned to provide legal services to defense, security, and aerospace clients in their activities outside of the United States.

In particular, Miller Canfield attorneys have considerable experience representing U.S. defense industry clients in international M&A and commercial transactions, as well as in numerous matters local to Poland and Qatar. Miller Canfield has also worked on some of the largest U.S. direct commercial sale and foreign military sale transactions and joint ventures with foreign defense holdings.

Who We Represent

- Companies in the Aerospace, Defense, Cybersecurity Sectors
- Manufacturers, Suppliers, and Purchasers
- Research and Development Organizations
- Contractors and Subcontractors

What We Do

Globalization has led to the development of a complicated web of regulations involving several different agencies of the U.S. government, and other countries as well. Successfully navigating this regulatory landscape requires lawyers who understand the aerospace and defense industries, as well as the agencies that enforce these regulations.

Miller Canfield represents multinational defense, national security, and aerospace technology clients with issues including:

- Direct Commercial Sale agreements and implementation of Foreign Military Sales programs on behalf of U.S. companies
- Counselling on public procurement and government tenders, with particular focus on Poland and Qatar

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- Complying with the International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), U.S. economic and trade sanctions, and other U.S., Canadian, EU, and foreign export controls and sanctions
- Advising on mergers, acquisitions, and divestitures, including acquisition target diligence on compliance with export controls, sanctions, and U.S. and foreign government procurement regulations compliance
- Submitting mandatory declarations and voluntary notices to the Committee on Foreign Investment in the United States (CFIUS) for foreign investment transaction clearance in the U.S.
- Performing export controls and sanctions transaction clearance on commercial clearance on transactions involving export-controlled subject matter, end-users, end-uses, and destination countries and regions
- Negotiating government contracts, including interpretation and compliance with:
 - Federal Acquisition Regulations (FARs)
 - The Defense Federal Acquisition Regulation System (DFARS)
 - Other governmental procurement regulations
 - Filing and pursuing bid protests before the Government Accountability Office (GAO), Court of Federal Claims and procuring agencies
 - Asserting and preserving intellectual property rights against the government
 - Resolving prime/subcontractor disputes
- Negotiating government contracts, construing and complying with federal filing, and pursuing government bid protests
- Advising on critical technologies and cybersecurity, including:
 - Helping clients develop cybersecurity policies and procedures before an incident arises and counseling clients through the important steps that must occur immediately following breach situations
 - Navigating the federal and state government investigations and private litigation that increasingly accompany cybersecurity incidents
 - Instructing clients regarding compliance with regulations and standards related to safeguarding government information from cyberattacks, including the National Institute of Standards and Technology (NIST) Special Publications and Defense Federal Acquisition Regulation Supplement (DFARS) Clause 252.204-7012, and provide guidance for obtaining certification under the Defense Department's Cybersecurity Maturity Model Certification (CMMC) program

Representative Matters

Public Procurement and Transactions

- Represented leading U.S. defense sector companies in connection with the implementation of several billion-dollar Foreign Military Sales and Direct Commercial Sales projects in Qatar and Poland
- Assisted clients in connection with eight out of fourteen offset programs in Poland

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- Negotiated and supervised several technology transfers and industrialization programs in Poland

Investigations and Litigation

- Conducted export control audit and compiled export control benchmark reports
- Conducted internal investigations
- Successfully represented defense contractor against claims of race, sex and religious discrimination, resulting in favorable settlements in three related cases

Court of Federal Claims (IP claims asserted against the government)

- Lead trial counsel for the government in a patent case involving Navy and Coast Guard computer-based ship-board tactical data systems. After a two-week trial, the judge entered judgment for the government on a non-infringement defense, noting that the plaintiff's expert had been thoroughly discredited on cross-examination.
- Lead counsel for the government in a case involving two patents for manufacturing portable panels for bomb-proof shelters. Won summary judgment on one patent on a license defense after proving that the claimed invention was developed (and first "reduced to practice") under a series of Air Force research contracts. Obtained summary judgment of non-infringement on the remaining patent.
- Represented the government on a wide variety of other intellectual property matters and technologies, including satellite orbit-correction systems, military hovercrafts, and cutting-edge drug research at the National Institutes of Health.

Advised multinational OEM as to the Austrian/EU requirements for an engineering center involved with the intra-community transfer of defense articles classified under EU Directive 2009/43/EC

Advised a multinational manufacturer as to the item-based restrictions for components manufactured for use on the International Space Station, considering the impact of both the Commerce Control List (CCL) and U.S. Munitions List (USML)

Conducted export control audit and compiled export control benchmark report for joint venture supplier of military vehicle safety systems and braking, co-owned by publicly traded U.S. commercial vehicle component supplier and German commercial vehicle component supplier

Conducted the transfer of the registration and licenses issued by the Directorate of Defense Trade Controls to a foreign-owned U.S. subsidiary for an acquisition

Coordinated the release of classified material in support of foreign military sales

Conducted export control audit and compiled export control benchmark report for a multi-subsidary armoring division of publicly traded defense contractor

Coordinated the termination of a facility security clearance with the Defense Security Service (DSS) pursuant to responsibilities under the National Industrial Security Program Operating Manual (NISPOM) prior to the facility transfer to a foreign purchaser