

Government Contracts Group Of The Year: Jenner & Block

By Jenna Ebersole

Law360, Washington (February 7, 2017, 9:10 PM EST) -- Jenner & Block's rebuilt government contracts team scored major victories over the past year, including a win for client Science Applications International Corp. in a \$575 million computer contract dispute, earning the attorneys a spot on Law360's list of Practice Groups of the Year for 2016.

The firm, which lost a group of attorneys in the spring to Morrison & Foerster LLP, came back with new additions to the government contracts team that included D. Joe Smith as chair and attorneys Gregory H. Petkoff and Matthew Haws. Despite the upheaval, the firm notched successes for clients including Honeywell International, General Dynamics Bath Iron Works Corp. and ASRC Communications Ltd.

After the exodus, the question was whether the firm would have a weakened government contracts practice or continue with a strong one, Smith said.

"The firm is committed to a great government contracts practice, so they had a plan in mind and they responded very quickly," he said.

Since adding the three attorneys, the firm has filed five bid protests and defended three, finding success in seven of the eight protests with a total value of more than \$1.5 billion, Petkoff said.

In the precedent-setting victory for SAIC in the fall, the U.S. Government Accountability Office backed a U.S. Army Corps of Engineers' decision to award the company a \$575 million computer contract. Lockheed Martin Integrated Systems had challenged the deal, and the question was whether Lockheed was properly excluded based on uncertainties from an announced merger agreement with Leidos Holdings Inc.

The GAO found that ongoing reorganization risk should be evaluated in agency in decision-making, showing the need for companies to take precautions when considering the impact of transactions on government contracts.

Petkoff said the deep team at the firm that includes a strong mergers and acquisitions group allowed the attorneys to work together and find success.



“The other side was obviously very intent ... on convincing GAO to overturn the agency decision,” he said. “But we were able to keep [GAO] focused on the issues and help them reach the right result.”

A critical part of the firm’s sustained good work has been attorneys’ ability to understand all sides of contracting, said Smith, a former biotech executive. The firm has a diverse practice spread across areas of government contracts, he added.

Businesses sometimes think that lawyers kill more deals than they allow, Smith said.

“Lawyers will always point out the problems and magnify the problems, but in the end it’s a business decision,” he said. “[My approach is] ‘Here are different strategies that you could take.’ There are different risk patterns involved with those strategies.”

Petkoff, who was a leading contracts lawyer for the Air Force, said clients appreciate his experience on the other side of the table.

“Our clients really demand a strategic approach from outside counsel and they want us to be aligned with their business objectives and understand their business,” he said. “And our ability to do that is one reason that we’ve been so successful.”

The firm has 20 lawyers in the practice area, including 15 who focus primarily on government contracts, Smith said, but even those with a secondary focus have scored major wins, including for Honeywell International.

In that case, the Ninth Circuit in May affirmed that a False Claims Act suit alleging the company fraudulently charged \$250 million for navigation software used on fighter jets and other military vehicles should be tossed, finding a defense contractor employee hadn't shown that Honeywell overcharged on purpose.

For a third client, General Dynamics Bath Iron Works Corp., the firm helped reach a settlement in a dispute with the U.S. Navy over \$100 million in claims on designing and building the DDG 1000, the next-generation guided missile destroyer.

Haws said that issue was one fraught with complicated strategic issues, but demonstrated the firm’s ability to work across offices and respond quickly to solve a client’s needs.

A key area as well where the firm has gained appreciation from clients, he said, has been investigations work. In many cases, attorneys have helped companies navigate the complexity, putting together a team that understands the issues.

“These projects are fascinating and you feel at the end of the day you were really able to make a difference in a very confusing landscape,” Haws said.

Government contracts work broadly is both interesting and meaningful, the attorneys told Law360. Smith said he had great experiences after finding himself in the area of law soon after law school and he likes the defense sector, with military experience in his family.

Petkoff said a mentor told him when he was a young lawyer that he wouldn’t see the same issue twice

in government contracts law and his work would always be interesting, which he has found to be true. Haws said he was drawn to the practice area after experience with an early matter on telephone calling cards for security guards defending facilities in the Middle East.

“Here was an area where you get to do some real [work helping troops overseas],” Haws said. “Or helping domestically as the government tries to keep our country running. It was a way to make a real difference in people’s lives.”

--Additional reporting by Kat Greene and Michael Macagnone. Editing by Jill Coffey.

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