

GOVERNMENT CONTRACTS

Full-Service Excellence in Government Contract Transactions, Counseling, Litigation, and Investigations



Based strategically in the Washington, DC area, our government contracts practice leverages McGuireWoods' strong defense and national security credentials in providing full-service government contracting services at every step in the procurement process.

Our attorneys have decades of experience counseling government contract clients on the Federal Acquisition Regulation and helping them negotiate significant federal contracts. Should problems arise along the way, we also have the deep experience necessary to defend our clients' interests in bid protests, in litigation with the government and other contractors, and in investigations and regulatory enforcement actions involving a wide range of federal agencies, inspectors general, and federal law enforcement personnel.

Our work ranges from day-to-day government contract counseling to the most high profile and high stakes government contract transaction, litigation, and investigation matters. We provide these services to a broad array of clients operating in a variety of industries and sectors, including defense, national and homeland security, intelligence support, technology, construction, health care, aerospace, and energy.

AREAS OF FOCUS

- **Government contract investigations and enforcement**
- **False Claims Act counseling, investigations, and litigation**
- **Bid protests at GAO and COFC**
- **Government contract claims resolution and litigation**
- **Procurement and compliance counseling, including assistance with the RFP process**
- **Cybersecurity and data privacy counseling**
- **Government contract diligence**
- **Small business advising and counseling and partnership issues**

DEFENSE & GOVERNMENT CONTRACTING CREDENTIALS

Our team offers substantial legal and operational expertise, drawing on decades of experience in key positions with military and civilian agencies, the Department of Justice, the federal courts, and the in-house legal departments of leading government contractors.

- Partner and practice co-chair **Todd Steggerda**, a former Navy pilot, has 20 years of experience with government contract litigation and investigations in the aerospace, defense and national security arenas.
- Partner and practice co-chair **Ned Childs**, with government experience working on enforcement matters at the Dept. of State, has worked on some of the most complex government investigations, protests, and claims for the top defense companies in the world.
- Partner **Pat Rowan**, former head of the Dept. of Justice's National Security Division, worked for the Dept. of Justice for 18 years and now represents government contractors in internal investigations and enforcement matters related to national security.
- Partner **Abram Pafford**, an experienced government contracts litigator who clerked at the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Third Circuit, represents clients in administrative settings and federal and state trial and appellate courts, across the full spectrum of government contracts controversies and prime-sub disputes.
- Partner **Michael Podberesky**, a former Dept. of Justice federal prosecutor in its Civil Fraud Section, represents clients with False Claims Act cases in the healthcare and defense sectors, confronting high-stakes government investigations and litigation arising from allegations of healthcare and procurement fraud and also counsels clients regarding compliance issues.
- Associate **Drew Austria**, a former Navy JAG attorney, has litigated cases concerning national security and advised flag officers regarding, among other things, government ethics and administrative matters while on active duty.
- Associate **Karlee Blank**, a former clerk at the U.S. Court of Federal Claims, has worked on bid protests and government contract claims and disputes.
- Associate **Jason Vespoli**, former member of the Pennsylvania Governor's Office of General Counsel, represented the Commonwealth of Pennsylvania in complex and high profile procurement solicitations and, leveraging prior experience with IT systems and integration, counselled the Commonwealth of Pennsylvania on complex strategically sourced IT contracts and data privacy and security issues.

EXPERIENCE

GOVERNMENT CONTRACT INVESTIGATIONS AND ENFORCEMENT

We leverage the enforcement expertise within McGuireWoods' nationally recognized White Collar and Government Investigations Group to offer clients comprehensive representation on government contract-related investigations and enforcement actions involving the Department of Justice, agency inspectors general, and military criminal investigative services. Our experience covers the full breadth of the investigative and enforcement landscape, including:

- False Claims Act Investigations, including *Qui Tam* Complaints
 - Jointly selected by two top defense contractors to defend their joint venture in a False Claims Act *qui tam* whistleblower lawsuit alleging \$90 million in over-charging on national security satellite launch service contracts, resulting in a full resolution and dismissals with prejudice against Air Force and NRO for a settlement payment of less than \$1 million
 - Resolved a *qui tam* action with the DOJ and Army relating to testing certifications on a \$250 million telecommunications system in Iraq, including full and complete resolution with the Army SDO with no administrative commitments
 - Secured a settlement with DOJ and GSA in a *qui tam* action relating to allegations of non-compliance with a federal supply schedule contract
 - Investigated the false certification of Buy American Act compliance for products delivered to DOD customers, to include a voluntary self-disclosure and negotiated settlement with DOJ
- Inspectors General Investigations and Audits
 - Successfully defended a top defense contractor in a high-visibility, congressionally-requested DOD OIG inquiry of alleged improprieties in the U.S. Air Force space launch competition with no findings of wrongdoing
 - Represented a medical services contractor in connection with parallel DOJ OIG investigations of Federal Bureau of Prisons billings and subcontractor charging practices
 - Assisted a large construction contractor on an SIGAR inquiry involving alleged bribery and anti-kickback violations by a subcontractor
 - Represented a FBOP contractor in a DOJ OIG audit of contract compliance and performance under a services contract
 - Assisted a DOD and NASA subcontractor respond to a DOD OIG audit related to a commercial item determination and commercial pricing negotiations for propellant used in national security applications, including discussions with senior DOD OIG personnel regarding audit conclusions
 - Defense of government contractor in various DOJ investigations into criminal conduct connected with subcontracts
- Internal Investigations and Voluntary Self-Disclosures
 - Conducted an internal investigation regarding procurement integrity matters associated with competitor pricing data, including engagement with government customers, development of firewalls, remedial actions
 - Led an internal investigation involving the treatment of health insurance premium costs under the Cost Accounting Standards for a large government contractor, including a mandatory disclosure and discussions with contracting officials related to remedial actions
 - Assisted a GSA schedule information technology contractor with an internal investigation of various pricing issues
 - Conducted internal investigations of alleged bribes and improper gifts and gratuities involving international subsidiaries of U.S.-based contractors
 - Representation of board of directors in internal investigation into executive misconduct
- Criminal Inquiries
 - Assisted multiple federal contractors respond to DOJ criminal inquiries related to the recruitment, hiring, and work of former government officials
- Suspension and Debarment Office Actions
 - Successfully advised a federal contractor on presentations to Suspension and Debarment officials following the conviction and debarment of a senior corporate executive, avoiding SDO action against the corporation

OUR CORE TEAM

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BID AND SIZE PROTESTS

Our lawyers understand the importance of challenging flawed agency solicitations at the earliest stage. We regularly try to resolve potential disputes over procurements through informal means with the contracting officer and other source-selection officials, and our team has extensive experience with protests at procuring agencies and the Government Accountability Office (GAO), as well as at the U.S. Court of Federal Claims, the Small Business Administration's Office of Hearings and Appeals, and state fora. Representative matters include:

- Successfully represented leading launch service provider intervening in GAO protest defending NASA award of \$150M mission
- Intervened on behalf of joint venture of two top defense contractors at COFC in defense of nearly \$1B launch service agreement OTA
- Represented a small business protesting the award of a task order under a DHS IDIQ contract, with the agency taking corrective action based on the awardee's improper "bait and switch" of proposed key personnel
- Intervened on behalf of a top defense contractor in a GAO bid protest challenge to an Air Force award valued at more than \$500M for the operation and maintenance of a critical early warning radar system
- Intervened at the GAO to defend the award of a classified IDIQ contract with a federal intelligence agency with a proposed task order value of \$120M against two simultaneous but separate bid protests
- Represented an IT services contractor in seeking a permanent injunction against the GSA at the Court of Federal Claims to enjoin the agency from improperly removing the company from the Alliant contracting vehicle, with the agency taking corrective action to reverse the proposed off-ramp action
- Represented a leading Afghan national fuel service provider before the GAO while simultaneously negotiating a reversal of a U.S. Government installation bar, allowing our client to receive a contract extension while the agency pursued corrective action
- Defended one of the country's leading FFRDC's in a bid protest proceeding involving various allegations of an organizational conflict of interest and procurement irregularities
- Represented a defense contractor in a GAO protest of a DOD cyber-forensic services contract valued at more than \$450M, including post-protest negotiations with the agency and awardee on mutually-agreeable corrective action
- Defended an Alaska Native-owned 8(a) contractor against a size challenge and subsequent appeal to the SBA's Office of Hearings and Appeals on a large NASA contract against various allegations of improper affiliation, reliance on non-small or affiliated entities, and non-small status, among other issues
- Successfully defended a small business client against the simultaneous filings of two separate size protests, a HUBZone protest, and a GAO protest, protecting two significant contract wins
- Successfully represented a significant healthcare and research company in a protest in the Commonwealth of Virginia, resulting in the agency's cancellation of its intent to award and announcement that it would issue a re-solicitation of proposals under the terms requested in the protest
- Successfully represented a state service provider in a protest in the State of Florida relating to the statewide delivery of concessions

GOVERNMENT CONTRACT CLAIMS AND OTHER LITIGATION

Our attorneys have engaged in significant litigation with defense and civilian federal agencies, including in matters filed at the Armed Services Board of Contract Appeals and at the U.S. Court of Federal Claims. Representative examples include:

- Secured a \$50M settlement with the US Army and Department of Justice in Court of Federal Claims litigation regarding copyright infringement of a sophisticated logistics software package
- Conducted 3-week trial before the ASBCA in a \$400M breach of contract case against the Air Force regarding a space launch services contract
- Successfully negotiated a termination settlement proposal for a major contractor resulting in a multi-million dollar recovery for the client without the need for costly litigation
- Successfully resolved a government claim based on a DCAA audit of a small business client alleging more than \$2 million in unallowable costs, resulting in payment to the client of more than \$50,000

PROCUREMENT COUNSELING AND TRANSACTIONAL SUPPORT

We help clients win government contracts, comply with an extensive array of regulatory requirements, negotiate teaming agreements and subcontracts, and defend DCAA audits and other agency inquiries. With several attorneys holding active clearances, we also regularly advise clients on matters involving intelligence community platforms and contracts. Representative matters include:

- Represented large government contractor with multiple operating subsidiaries in resolving numerous incurred cost audits, including negotiating the first tolling agreement ever agreed to with the DCMA office responsible for the negotiations
 - Assisted a green energy company establish a government contract compliance and subcontracting program related to a multi-phase development, construction, and energy generation contract
 - Represented a leading government contractor in the technical, engineering, intelligence, and enterprise information technology markets in its \$800 million acquisition of a preeminent national security firm focused on classified military and intelligence community programs
 - Advised multiple companies contemplating various acquisition and divestiture options regarding compliance and risk issues for government contracts and Committee on Foreign Investment in the United States
 - Substantial involvement in numerous merger and acquisition deals, including conducting due diligence, negotiating purchase terms, and advising on government notification and consent requirements, including deals involving classified contracts
 - Negotiated an advance agreement with DCMA allowing a client to recover more than \$6 million in indirect costs previously questioned by DCAA
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ABOUT MCGUIREWOODS LLP

McGuireWoods has 1,100 lawyers in 21 offices across the United States and other countries. Over its 187-year history, we have earned the loyalty of our many longstanding clients with deep understanding of their businesses and broad skills in complex regulatory and compliance matters, high-stakes disputes, and transactional matters. For more than a decade, McGuireWoods has been ranked on BTI Consulting Group's "Client Service 30" list of law firms serving Fortune 1,000 companies — elite firms singled out for client service excellence based on unprompted feedback from corporate counsel. Its full-service public affairs arm, McGuireWoods Consulting LLC, offers infrastructure and economic development, strategic communications and grassroots advocacy, and government relations solutions. For more information, visit www.mcguirewoods.com.