

Government Contracts Representative Matters

Investigations and Administrative Matters

- Represented corporation in a *qui tam* action alleging false statements and claims in connection with U.S. Postal Service regulations. The *qui tam* relator agreed to dismiss the case with prejudice following the filing of our motion to dismiss.
- Represented an engineering firm doing business in Iraq in connection with an internal investigation and disclosure to the Department of Justice (DOJ). Following its own investigation, the DOJ declined to pursue a case against our client.
- Successfully represented a company in establishing the product it offered to the government was manufactured (i.e., “substantially transformed”) in compliance with the Trade Agreements Act (TAA).
- Successfully represented a company in challenging that a competitor’s product was manufactured in compliance with the TAA.
- Guided and coordinated the processing of a facility security clearance under a Special Security Agreement for a company acquired by a foreign entity.
- Successfully resolved a suspension and debarment action initiated by the Department of the Navy against a corporate client.
- Conducted an internal investigation of the contract billing practices of certain company employees and outside consultants, and represented the company in the favorable settlement of “overbilling” charges on a government contract.
- Represented a company in a “false claims” investigation by the DOJ. Following its investigation, including the presentation of matters to a grand jury, the government elected not to pursue the matter.
- Assisted and guided the establishment of internal pricing and marketing guidelines to facilitate a contractor’s compliance with various government “most favored customer” pricing clauses.
- Guided and marshaled the submission of current, accurate and complete commercial sales and pricing information to the General Services Administration (GSA), leading to the award of GSA’s Multiple Award Schedule contract.
- Conducted an internal investigation of the activities of a company employee providing gratuities to government officials and disclosure of the activities to the contracting agency involved.

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- Represented a company in a “most favored customer” pricing investigation by the GSA and DOJ. Following their investigation, the government elected not to pursue a criminal or civil claim.
- Represented several contractors in Congressional probe of contracting practices and provided guidance on developing appropriate responses to document requests.
- Successfully represented an 8(a) company in suspension and termination proceedings, including filing appeals at Small Business Administration’s Office of Hearings and Appeals resulting from an adverse Office of Inspector General audit.
- Successfully represented a contractor and its principal owner and officer in a suspension and debarment action brought by the U.S. Army.
- Represented several Alaska Native Corporations in responding to an inquiry by the U.S. Government Accountability Office (GAO).
- Succeeded in having a federal agency lift its suspension of a cooperative agreement with an industry research foundation. Because of the firm’s efforts, the foundation avoided a permanent termination of several million dollars in research funding, and the agency released several hundred thousand dollars in withheld payments.

Bid Protest Highlights

GAO PROTESTS

- *Protest of OSC Solutions, Inc.*, B-401498 (2009). Successfully protested a GSA decision to order supplies on a sole-source basis under the authority of the Javits-Wagner-O’Day (JWOD) Act. GAO sustained the Office of Special Counsel’s challenge to GSA’s cancellation of a competitive request for quotations and subsequent order of the supplies on a non-competitive basis under JWOD authority because the Act requires the acquired items to be on the procurement list published by the Committee for Purchases from People Who Are Blind or Severely Disabled. The client was awarded attorneys’ fees and costs.
- *Protest of Ahtna Technical Solutions, Inc.*, B-401205 (2009). Successfully protested Department of Homeland Security Immigration and Customs Enforcement (ICE) award of a contract in excess of \$130 million for detention facility management. Agency took corrective action by canceling the awarded contract in the face of meritorious grounds of protest related to the agency’s flawed evaluation of proposals. The client was awarded attorneys’ fees and costs.
- *Protest of Vantage Vehicles International*, B-400685.2 (2009). Successfully defended award by GSA for the benefit of the U.S. Air Force (USAF) of a significant contract for light trucks to our client Tiger Truck, LLC, brought by a competitor offering non-TAA compliant Chinese manufactured trucks. The protest was dismissed after GAO’s outcome determination conference.

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- *Medical Staffing Joint Venture, LLC*, B-400705 (2009). Successfully represented intervenor in challenge to U.S. Army Medical Command procurement for medical staffing services.
- *Protest of Tiger Truck, LLC*, B-400685 (2008). Successfully represented Tiger Truck, an Oklahoma-based light truck manufacturer in a case of first impression involving the TAA. At issue was the GSA's decision to award an \$11+ million contract to an offeror admittedly offering Chinese manufactured products, despite having a TAA-compliant offer from Tiger Truck. After a hearing, GAO sustained our protest on the grounds that the agency had failed to follow the procedures required under the Federal Acquisitions Regulations and the TAA. The client was awarded attorneys' fees and costs.
- *Protest of GlassLock, Inc.*, B-299931 (2007). Successfully represented GlassLock, Inc.'s challenge to the award of a contract for the procurement and installation of window retrofits for window glass fragment retention in 15 Environmental Protection Agency facilities in the United States and Puerto Rico. The GAO found the agency failed to evaluate the proposals in accordance with the solicitation by double counting past performance; treated offerors unequally; and improperly awarded on a lowest-price, technically-acceptable basis in a best value procurement. The client was awarded attorneys' fees and costs.
- *Protest of OSC Solutions, Inc.*, B-310681 (2007). Successfully represented the company in challenging the evaluation of the company's proposal by the Department of the Air Force. The contracting activity agreed to take corrective action by reevaluating the company's proposal and making a new source selection decision.
- *Protest of Detekion Security Systems, Inc.*, B-298235.2 (2006). Successfully represented awardee/intervenor in a series of protests over a \$12 million DOJ Bureau of Prisons (BOP) contract for complex lethal electric fences awarded to our client. The contract at issue was the first of many contemplated by DOJ/BOP ultimately to cover 88 federal maximum security facilities
- *Protest of DataFlow/Alaska, Inc.*, B-299577 (2006). Successfully protested award of a contract by the Department of Commerce National Oceanic and Atmospheric Agency (NOAA) on the grounds that the agency performed a flawed technical evaluation and best value analysis of proposals. Agency took corrective action and cancelled the challenged contract.
- *Protest of Capitol CREAG LLC*, B-294958.4 (2005). Successfully represented intervenor in challenge to the award by GSA in its procurement of real estate brokerage services to support GSA's National Office of Realty Services and its eleven regional offices.
- *Protest of TDF Corporation*, B-296629 (2005). Successfully protested award of an 8(a) contract by the Army for work previously performed by our small business client on the grounds that the awarding agency

failed to undertake a proper adverse impact analysis in accordance with FAR Part 19. Agency took corrective action and canceled the 8(a) contract.

- *Protest of Leisure-Left, Inc.* B-291878.3 (2003). Successfully represented intervenor in challenge to Buy American Act determination by the Department of Veterans in its procurement of motorized scooters.
- *Protest of Planned Systems International, Inc.*, B-292319.1, et seq (2003). In a series of protests to the GAO and in a related appeal to the SBA's Office of Hearings and Appeals, successfully defended against a protest of award of an \$11 million National Science Foundation (NSF) contract to our client.

COURT OF FEDERAL CLAIMS PROTESTS

- *Hawaiian Dredging, Construction Co., Inc. v. United States, and Nova Group, Inc* U.S. Court of Federal Claims, 48 CCF ¶78,160, 59 Fed. Cl. 305, (Jan. 9, 2004). Successfully represented a disappointed bidder in two concurrent bid protests before the Court of Federal Claims. Despite being the low bidder by a combined \$2 million, the Navy disqualified our client from award of two contracts for dredging and repair operations at Pearl Harbor, and awarded contracts to its competitors. The Patton Boggs' team succeeded in having the Court of Federal Claims order the Navy to cancel both contracts and award contracts to the firm's client.
- *Maden Tech Consulting Inc. v. U.S.*, 74 Fed. Cl. 786 (2006). Obtained declaratory relief from the Court successfully challenging two agency attempts to override a statutory stay of contract performance pending the resolution of a GAO protest. The Court determined that the initial and supplemental justifications by the agency were invalid and reinstated the automatic stay as a matter of law.
- Successfully represented the awardee of the automated people mover (APM) system that will replace the mobile lounges at Dulles Airport. In the most expensive contract award in the Metropolitan Washington Airport Authority's (MWAA) history, the U.S. District Court for the Eastern District of Virginia agreed that MWAA properly evaluated the competing proposals when it awarded the APM contracts to our client over a competing bidder.

OTHER MATTERS

- Successfully pursued a loss efficiency claim on behalf of a general contractor and a subcontractor arising out of a project to renovate an existing building at Great Lakes Naval Training Center to allow the Navy to train its recruits for duty. To resolve the dispute, the general contractor successfully defended multiple Navy motions for summary judgment and ultimately recovered for the additional work that the general contractor and its subcontractor performed as a result of the Navy's plans and specifications.

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- On behalf of several clients, in connection with acquisitions and financings, conducted focused government contracts due diligence, including future program and funding forecasts.
- Designed and implemented dozens of corporate compliance programs and provided training in conjunction with the program roll out.