

Government Contracts Group Of The Year: Covington

By **Madison Arnold**

Law360 (February 9, 2024, 6:25 PM EST) -- Successfully defending against a bid protest over the U.S. Army's award of an \$8 billion contract for helicopter development, Covington & Burling LLP's government contracts team was able to secure the "largest and most complex competitive procurement" in Army aviation history for Bell Textron, earning the firm a place among Law360's 2023 Government Contracts Groups of the Year.

Covington attorneys in April were able to fend off Sikorsky Aircraft Corp.'s 160-page protest filed in response to Bell Textron's award that included deeply technical arguments. The U.S. Government Accountability Office rejected all of Sikorsky's claims and agreed with the Army that Sikorsky's design was "technically unacceptable."

"It was an incredibly complex procurement," partner Jason A. "Jay" Carey said in a recent interview with Law360. "They raised a lot of issues, a lot of very complicated issues, both from a legal perspective and then also from a very technical engineering perspective. Our job was to dive into that and really understand not only the arguments that Sikorsky was making, but understand the underlying technical issues, which we had to do in a very short time frame, and we had just a terrific team here that did that."

Bell is now tasked with the development of the Future Long Range Assault Aircraft, meant to replace approximately 2,000 of the Army's 40-year-old Black Hawk aircraft, Covington said.

Attorneys for Bell submitted briefs refuting Sikorsky's claims with a quick turnaround time, eventually convincing the GAO that the Army's selection of Bell's proposal, though almost double the cost of Sikorsky's at \$4.4 billion, was "the most advantageous solution and best value to the government," the accounting office said.

In another massive military contract issue, Covington won a bid protest for its client Guidehouse in October 2022. That protest was related to the U.S. Air Force's \$3.3 billion contract for systems engineering and integration services in support of the nation's intercontinental ballistic missile fleet.

Guidehouse and Jacobs Technology protested the awarding of the contract to BAE Systems Technology Solutions & Services Inc.



As a result of Covington's arguments, the GAO found that the Air Force had conducted an unreasonable employee compensation plan evaluation before making the award decision, and therefore did not meet a Federal Acquisition Regulation provision, the firm said.

Had the provision been properly applied, the GAO said that "it is possible that the agency may have found sufficient risk in BAE's proposal to result in Guidehouse's or Jacobs' proposal being the best value to the government."

In another accomplishment, Covington attorneys advised global private equity firm Advent International on government contract matters for its \$6.4 billion acquisition of Maxar Technologies, which helps government and commercial customers to monitor, understand and navigate space, the firm said.

Maxar provides "90% of the foundational geospatial intelligence used by the U.S. government for national security and keeping troops safe on the ground," according to Covington.

During the acquisition process, which wrapped up in May, Covington said its attorneys had to conduct both classified and unclassified due diligence on Maxar's customer contracts. They also had to advise Advent on regulatory implications for the acquisition and assist with the negotiation of the transaction documents.

"These accomplishments ... are representative of really the true strength and differentiation of our practice here in Covington in that clients come to us with really difficult, challenging, significant matters, and it requires us to come together as a collective team," partner Scott A. Freling said. "Whether it's a team made up of just our government contracts colleagues, or quite often also a team that extends to the larger firm that taps upon the resources of other practice areas, we work seamlessly across practices."

Covington's government contracts team is made up of more than 50 attorneys who spend all or nearly all of their time in the practice group. Additionally, the firm has roughly 50 more attorneys who are litigators, trade control lawyers, intellectual property lawyers or life sciences lawyers who work with the practice group on a regular basis, said Jennifer L. Plitsch, leader of the practice group.

The practice group has significantly grown in Plitsch's time with the firm. She said when she started 24 years ago, the practice group had only a few attorneys and could fit around a bar table at firm retreats.

"Covington doesn't really do anything without thinking it out. That's one of our strengths. We identified what we needed to cover everything and to be able to handle multiple large-scale matters at the same time when our clients have needs," Plitsch said. "We probably still have a little bit of growing to do, but we're pretty close to the right size to cover everything that clients might need."

In addition to the public wins for clients, Plitsch said many of its practice group's success stories have to be kept confidential. Those include regulatory and investigations work that she also considers accomplishments for the team.

"We've had great unsung successes in keeping our clients out of enforcement actions and keeping them on the right side of some very complicated legal issues. That's always a victory for us," Plitsch said.

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