

Gov't Contracts Group Of The Year: Covington & Burling

By **Daniel Wilson**

Law360, Washington (January 5, 2016, 7:29 PM ET) -- A year that saw it successfully challenge and defend various defense contracts and help clear up contracting issues around the sale and licensing of vaccine technology, while growing the group rapidly with a mass lateral move, has earned Covington & Burling LLP a place on Law360's list of Government Contracts Practice Groups of the Year.



In a major coup, Covington last spring absorbed the core of the government contracts practice of the former McKenna Long & Aldridge LLP — now part of Dentons — or nearly 20 lawyers, effectively doubling the size of its government contracts group, with around 45 attorneys now dedicated to government contracts work at the firm, according to practice co-chair Fred Levy, one of those former McKenna Long attorneys.

While the McKenna Long team had several offers, the “full service practice” offered by Covington, the “quality and caliber” of its attorneys, and the chance to combine their expertise — much of it focused on aerospace and defense issues — with Covington’s existing expertise in the life sciences, information technology and cyber industries, among others, tipped their hand, Levy said, noting the effective merger of the two groups had been “seamless, both culturally and professionally.”

“[It’s] the proverbial one plus one equals three,” Levy said. “Combined, we cover the full spectrum of government contract services and clients.”

Clients are attracted to the group by its ability to “answer difficult questions in a thoughtful way,” with Covington using a process that involves bringing in not only government contracts expertise but the expertise of the entire firm, if needed, according to practice co-head Jennifer Plitsch — a problem-solving capacity that has only grown with the group’s recent expansion, she said.

“We are really ... able at the size we are [now] to have the breadth and depth of knowledge to answer almost any question any government contractor may have, from almost any angle,” Plitsch claimed.

Over the past year, these issues have included the successful resolution of several sensitive matters that remain under wraps, including a complex contracting dispute that other firms had declined as too complicated, which drew on the efforts of a broad range of attorneys and succeeded beyond what the client had expected to be possible, Plitsch claimed.

“[That showed] our ability to really dig into a problem and figure it out and be able to explain it in a way that makes sense,” she said.

But the group’s efforts weren’t limited to matters behind closed doors, Plitsch noted, pointing as an example to its work on government contracts-related issues related to Novartis AG’s 2014 multi-billion-dollar sale of a portfolio of vaccine assets, which included a range of existing contracts with several federal agencies.

That work built on a long-existing relationship with Novartis and demonstrated the level of trust the company has in the firm, having brought in Covington attorneys from the beginning of the process to work alongside the company’s own staff, “almost as part of the company’s legal team,” according to Plitsch.

“I think it was a sign of how easily we live our client’s issues over time that they really think of us as part of the team and not [just] as outside lawyers,” she said. “We were in the trenches with them for what was over a year, working on an incredibly complicated deal. I think that’s a testament to the way we really try to learn an industry so we know our clients’ business.”

It also helped Merck & Co. Inc. license Ebola vaccine technology around the same period, at the height of the epidemic in Africa, and provided legal advice on using the technology in various government contracts intended to develop countermeasures to the disease.

And the group secured several victories for defense contractors, including representing Lockheed Martin Corp. in a successful bid protest related to a \$200 million U.S. Army information technology services contract originally awarded to a Lockheed rival — leading to termination of that contract and related corrective action — as well as helping Maersk Line Ltd. defend against a bid protest before the U.S. Government Accountability Office and Court of Federal Claims over a \$162 million U.S. Department of Defense maritime support deal awarded to Maersk, a case which involved several complex technical and legal arguments.

It also secured \$55 million in private security costs for KBR Inc. that had been challenged by the Army, after a trial before the Armed Services Board of Contract Appeals, and won \$22 million from the Army in the Court of Federal Claims after it had refused to pay KBR an award fee.

Further, in April, the group helped secure summary judgment for SAIC — now Leidos Inc. — in a wrongful death case alleging excessive radiation exposure from the company’s VACIS System, used to scan incoming cargo, led to the death of a U.S. Customs and Border Protection agent.

“That’s an example of an area where I think our practice is unique — I don’t know of any other firm that has the expertise in representing contractors in these battlefield tort or tort liability issues that we have,” Levy said.

In the year ahead, the practice group has a number of major cases on its plate, including representing

Partnership for Supply Chain Management as it continues to push in the Court of Federal Claims its bid protest over a United States Agency for International Development contract combining HIV/AIDS medical supply programs with programs addressing malaria, tuberculosis and family planning. The \$9.5 billion deal is USAID's largest ever procurement and likely to be one of the biggest federal contract disputes to play out in 2016.

--Editing by Patricia K. Cole.

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