

Gov't Contracts Group Of The Year: Covington

By **Shayna Posses**

Law360 (February 12, 2019, 3:52 PM EST) -- Covington & Burling LLP handled the regulatory aspects of a private equity firm's acquisition of PricewaterhouseCoopers' U.S. public sector business and successfully challenged a roughly \$5 billion nuclear waste contract award, maintaining its spot among Law360's Government Contracts Groups of the Year.

The full-service practice boasts about 50 attorneys based in Washington, D.C., who tackle both traditional government contracting issues like disputes and bid protests, as well as other activities that implicate contractors, ranging from health care transactions to cyber and national security concerns, group co-chair Frederic M. Levy said.

"We have significant capabilities in all of these areas, and there isn't really anything that we can't handle that touches on government contracts, so I think that makes us unique among the firms that practice in the area," Levy said.

Another key to the group's success is that its attorneys don't work in isolation, the co-chair said. The government contracts lawyers work closely with colleagues across the firm, collaborating with attorneys from such practices as white collar, intellectual property and insurance recovery, he said.

That has led to the firm having a strong regulatory capability in the government contracts space, which was on full display in the team's work on a Veritas Capital acquisition, group co-chair Jennifer Plitsch said.

Covington took the reins of the regulatory aspects of a deal that closed last spring, with an affiliate of the private equity firm picking up PwC's U.S. public sector consulting business. The transaction created a standalone contractor focused on serving federal, state and local governments, as well as multilateral agencies, that has about 1,500 employees, according to the firm.



Plitsch said this deal showcases the group's capacity to "work seamlessly with our corporate colleagues to deliver value on transactions that include government contractors." The team prides itself on its ability to "help clients get deals done and get them done the right way," she added.

The team also boasts a particularly strong bid protest practice, Levy said. He said the team is "not only very talented, but it's very deep," with the bandwidth to handle a number of large protests at the same time and to deal with matters involving federal, state and local government contracts.

The group had a big win in the bid protest space last year in its representation of Savannah River Technology & Remediation LLC, which challenged the U.S. Department of Energy's award of a multibillion-dollar nuclear waste remediation contract to a joint venture.

After a hard-fought protest, SRT won over the U.S. Government Accountability Office in February 2018, with the watchdog saying the DOE hadn't shown it properly considered the inherent risks in the winner's proposed, never-before-used method for processing waste at the agency's Savannah River site in South Carolina.

The GAO directed the agency to reopen the competition, giving SRT another chance to bid for the contract. A new award hasn't been made yet.

Another specialty for the group is its work related to the SAFETY Act, which was enacted after 9/11 to encourage the development and use of anti-terrorism technology. The statute limits liability for providers of U.S. Department of Homeland Security-certified anti-terrorism technologies in the case of an attack.

However, Levy said, "a lot of folks who are eligible for the SAFETY Act aren't even aware of it or that we can provide them this extra level of protection against liability."

One of the team's big achievements last year was securing the first SAFETY Act protections for a public utility, New Jersey's Public Service Electric and Gas Co., he said. The group was also responsible for helping get those protections for the Mercedes-Benz Stadium in Atlanta, which recently hosted the Super Bowl showdown between the New England Patriots and the Los Angeles Rams, Levy said.

"It's a very creative and unique part of our practice," he said.

Still, Plitsch said, a lot of the team's work — including some of its best — can't be discussed publicly, because the client doesn't want anyone knowing about it.

For instance, Covington gets a lot of victories on the regulatory front, in False Claims Act cases and with regard to suspension and debarment matters, which are things "we'd love to toot our horns on, but we have to take the interests of our clients first," she said.

That commitment to clients' needs is exactly how the practice became the leader it is today, Plitsch said. Ten or 20 years ago, government contracts was less of a focus for the firm, but upon realizing that clients needed a "bigger and better and stronger group," Covington committed to growing the team, she said.

In 2015, the firm added the core of the former McKenna Long & Aldridge LLP's government contracts practice, which included Levy, but Covington has also had great luck in recruiting individual lawyers and developing attorneys from within, Plitsch said.

"I think this is a big focus for the firm, and the fact that we've gotten as strong as we have is an indication of how committed the firm is to the practice," she said.

--Additional reporting by Daniel Wilson, Benjamin Horney and Dorothy Atkins. Editing by Nicole Bleier.