

## Government Contracts Group Of The Year: Covington

By Alyssa Aquino

*Law360 (December 18, 2020, 2:49 PM EST)* -- Covington & Burling LLP counseled domestic businesses as they joined the United States' coronavirus response, including Moderna in its production of a vaccine candidate, and helped shepherd a merger poised create one of the largest providers of mission support services, earning the firm a spot among Law360's 2020 Government Contracts Groups of the Year.

Based out of Washington, D.C., Covington's approximately 45-attorney government contracts bench is equipped to handle all aspects of contracting disputes. During an interview with Law360, practice co-chair Jennifer Plitsch expressed pride in the group's across-the-board work.

"We have an incredibly strong bid protest practice. We have, I think, probably one of if not the most significant M&A practice," Plitsch said. "We're very strong in white collar and debarments and risk mitigation."



The practice is especially adept with issues entrenched within the life sciences industry, an arena that took center stage during the coronavirus pandemic. "[It] had been a sleeper in the past," Plitsch said. "I think this year, everyone realized that the government spends real money in the health care and biodefense space."

The practice has represented Gilead, Merck, Moderna, Regeneron and Ventec on COVID-19 response issues and steered contract negotiations for awards totaling \$10 billion for the development and sale of vaccines, treatments, diagnostics and medical services. It also advised on supply chain and domestic production issues and provided counsel on the Defense Production Act and the Public Readiness and Emergency Preparedness Act, according to the firm.

"Sort of all at once, all of these things became very, very important to a broad group of our clients, existing and new. And so, I joke — it's not really very funny — but I joke that this is sort of the Super Bowl of my practice ... Hopefully, it will never be repeated," Plitsch said.

Significantly, Covington advised Moderna as it partnered with the U.S. government to develop, test and manufacture a COVID-19 vaccine candidate. Moderna has recently requested emergency use authorization of its proposed vaccine after reporting that the drug had a 94% efficacy rate during a clinical trial. Covington additionally worked with ventilator manufacturer Ventec Life Sciences as it

partnered with General Motors to produce 30,000 ventilators.

The practice had to ramp up quickly to advise clients throughout the health emergency, but the group's life sciences specialists had developed a familiarity with these issues throughout the 15 to 20 years during which it advised clients through biodefense crises, such as flu pandemics and nuclear risks, Plitsch said.

The difference between operating in the field pre-COVID-19 and now, however, was stark. Where Covington would normally work with one client in competition to provide an item or service, the firm this year worked across-the-board as the U.S. was tapping several businesses to produce one product — like a vaccine. To meet this demand, the government contracts team collaborated heavily with colleagues versed in trade, intellectual property and Food and Drug Administration matters, Plitsch said.

"The government is contracting with each manufacturer separately ... it's sort of sole source procurements, but with different manufacturers," Plitsch said. "We've been able to help a very broad swath of clients. It's been very intense, very rewarding."

The practice's bid protest specialists also felt the heat throughout 2020, a year marked by a substantial rise in government spending — a spike that naturally led to litigation at the Government Accountability Office, according to the firm.

To handle the workload, the team turned inward and increased the number of times they met remotely. "We try to use it as an opportunity, not only to focus on sort of protest issues and talk about the team from a protest perspective, but also to connect on a basic human level as colleagues ... To stay connected in what otherwise can be a very isolating time," partner Jay Carey said.

According to the firm, Covington successfully protested a \$13 billion contract for nuclear waste remediation for Atkins, Amentum and Westinghouse; persuaded the GAO to upend a \$600 million pharmacy benefit management services contract; and mounted UnitedHealth's winning defense of awards worth more than \$42 billion. The GAO didn't issue a public decision in the nuclear waste dispute.

Covington also shepherded clients through an exceptionally busy deal-making year. In 2020, the firm represented Veritas Capital in its \$5 billion purchase of DXC Technology's U.S. State and Local Health and Human Services unit, Gainwell Technologies. And Covington guided defense contractor Amentum through its acquisition of DynCorp International, a tie-up that will create one of the largest providers of mission critical support services, according to a firm statement.

"We were trying to figure out what effect [the pandemic] would have on the broader [economy] and the economic downturn. One thing that has proven out is that the government contracting industry is quite strong," partner Scott Freling said. "M&A activity has continued at a fairly rapid pace."

The acquisitions team not only pieced deals together despite COVID-19 but also amid increasing federal scrutiny — both from Congress and the White House — on the competitive and national security effects of proposed transactions.

"It underscores the need for specialized expertise in sizing up issues and identifying risks during the process of looking at making an acquisition, and that certainly was at the forefront of a number of deals that we worked on over the past year," Freling said.

Freling stressed that the group's work advising clients through the types of situations that can't be publicly disclosed was a vibrant part of the practice.

"Investigation, suspension, debarment matters ... We're coming in to help our clients with stickier, precarious situations," he said. "That's also a really important and distinguishing feature of what we do as government contracts lawyers."

--Editing by Daniel King.

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