

CLIENT ALERT

Antitrust Division Praises Early Success and Heralds New Endeavors for Procurement Collusion Strike Force

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As part of its annual Spring Update, the Antitrust Division of the Department of Justice touted the expansion and early success of its Procurement Collusion Strike Force (PCSF), both in coordinating efforts among local, state, and federal enforcers and in leveraging the resources and skills of those stakeholders to identify potential antitrust violations in government procurements. The DOJ stood up the PCSF in late 2019 with a team of United States Attorneys' offices from 13 districts and investigative and law enforcement agents from five partner agencies, including the FBI, the Department of Defense, the GSA, and the U.S. Postal Service; it now boasts 22 U.S. Attorneys' offices, as well as new "like-minded" partners from the Air Force Office of Special Investigations and the Department of Homeland Security OIG.

The DOJ Update references active PCSF investigations of procurements ranging from defense and national security to local public works projects. The Antitrust Division stated that, as it enters its second year, it is pivoting from its initial objective of spreading awareness of antitrust crimes involving government contracts to "gearing up to bring investigations to the recommendation and disposition stage." The update pointed to recent indictments involving bid rigging in state projects and alleged violations of the Procurement Integrity Act, and introduced two new PCSF endeavors to combat collusion in government contracting.

The first is the PCSF Data Analytics Project, a new resource to detect potential bid rigging. The PCSF launched this endeavor in 2020 through virtual workshops and then solicited help from "dozens of agency analytics shops" to develop dedicated tools to detect potential collusion by reviewing bid patterns across aggregated data. The Data Analytics Project will leverage various PCSF partners and their respective procurement platforms to collect and retain bid data and potentially share it among government buyers. We expect that the use of increasingly advanced data analytics to identify potential bid rigging at all levels of government and across agencies will result in more inquiries and investigations by government enforcers.

And the PCSF is not limiting its sights to domestic procurements. The second announcement related to PCSF: Global, a newly-branded extension of the strike force's efforts to prevent, detect, and prosecute bid rigging abroad. Taking advantage of DOJ resources in the criminal and international sections, the aim of PCSF: Global is to expand the strike force's reach by building relationships with foreign competition authorities in order to better protect U.S. taxpayer-funded procurements internationally. The update referenced ongoing international investigations "affecting U.S. government procurements in multiple states, nationwide, and overseas", including one involving 11 agencies and other offices. Noting the "staggering amount" of U.S. funds spent internationally, the Antitrust Division recognizes that enforcement efforts there likely will not be in vain.

The continued focus and investments of the PCSF indicate that preserving competition in public procurements will remain a priority of the Antitrust Division in the Biden Administration, and places a premium on up-to-date antitrust compliance programs for government contactors large and small.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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