

Government Contracts Group Of The Year: Crowell & Moring

By **Stewart Bishop**

Law360, New York (January 17, 2014, 7:00 PM ET) -- Crowell & Moring LLP had a banner year in 2013, fending off challenges to Hewlett Packard Enterprise Services's hotly contested \$3.5 billion U.S. Navy information technology contract and routing False Claims Act suits brought against the defense contractor formerly known as Blackwater, earning it a spot on Law360's Government Contracts Practice Groups of the Year.

Led by partners Angela B. Styles and Daniel R. Forman, the group boasts approximately 60 core government contracts attorneys, supplemented by corporate, intellectual property, Foreign Corrupt Practices Act, M&A and other specialists who team up to offer clients comprehensive services in every aspect of government contracts law.

Crowell & Moring was founded in 1979 as a government contracts firm focused on the defense industry, and in the ensuing years the group has expanded to handle industries ranging from health care to transportation.

Styles credits the group's success in part to the "low wall" culture at Crowell & Moring, which emphasizes the formation of hybrid teams from across the practice groups at the firm to tailor to clients' specific needs.

"We're able to bring the right lawyers together to best serve clients," Styles said. "It really makes for a nice place to work and clients appreciate the teams that we're able to bring together to best address their interests."

For its work on behalf of HP, Forman was quick to give credit to the firm's stable of experienced associates and of counsels that it was able to draw on in defending what is HP's largest government contract by far.

"Internally, we have a deep bench of very solid junior attorneys," Forman said. "That's helpful when you need to handle a procurement this large."

Former subcontractor Harris Corp. had decided to make a play for the Navy's lucrative Next Generation Enterprise Network contract to provide IT services to what is in effect the largest secure network in the world.

After HP landed the contract, Harris launched a bid protest at the U.S. Government Accountability

Office, arguing that the Navy had failed to perform an adequate balancing analysis in connection with its price evaluation.

“The crux of their argument was that our price was incredibly low in comparison to the pricing under the incumbent contract,” said Forman, who took the lead on the case. “The underlying argument was that we were somehow trying to game the system by hiding costs.”

Thanks in part to meticulous preparation in anticipation of the protest, the Crowell & Moring team was able to convince the GAO that HP’s price proposal included all the required work and that it was complete as well as realistic, according to Forman.

In a somewhat bizarre twist for a bid protest, Harris also argued that the Navy failed to properly investigate an adulterous affair that occurred between a Navy program manager responsible for the network program and a Booz Allen Hamilton Inc. employee who was providing procurement support to the Navy.

However, Crowell pointed out that before Harris could file such an allegation under the Procurement Integrity Act, it must ask the Navy to conduct an investigation, something Harris had not done.

The GAO sided with HP and dismissed claims that the affair had influenced the Navy’s decision, saying Harris failed to draw any logical connection between the adulterous relationship and its assertion that the contract was awarded improperly.

It was an apparent act of desperation on Harris’ part that underlies the contract’s value, according to Forman.

“The fact that they were willing to pursue this shows how substantive the contract was to both HP and Harris,” Forman said.

In other contract protest action for Crowell & Moring’s clients last year, the firm also successfully sustained a bid protest on behalf of BAE Systems PLC to the Navy’s award of a \$280 million next generation jammer program contract to rival Raytheon Co.

Outside of the GAO, Crowell & Moring also recently ensured the dismissal of whistleblower cases aimed at defense contractor Academi LLC, formerly known as Blackwater, in one instance by convincing the Fourth Circuit to affirm the dismissal of a whistleblower suit brought by former employees of an Academi subsidiary that accused the contractor of overbilling the federal government under a \$1.2 billion security services contract.

Relators Brad and Melan Davis, ex-employees of Blackwater Worldwide Lodge & Training Center Inc. successor U.S. Training Center Inc., had sought to overturn a Virginia federal court ruling granting summary judgment to USTC in its suit over a U.S. Department of Homeland Security contract related to Hurricane Katrina, arguing the lower court had erroneously excluded evidence.

Crowell & Moring argued that the relators could not establish that the district court had erred in excluding evidence, claiming the Davises had mischaracterized the rulings in order to argue for new bases for admission.

The Fourth Circuit panel agreed, finding the lower court did not abuse its discretion in excluding certain

categories of evidence that the relators sought to introduce at trial and did not abuse its discretion in denying the relators' motion for a new trial because the relators failed to establish that USTC's witness committed perjury.

It's this type of high-stakes litigation that Crowell & Moring's government contracts team thrives on, according to the firm.

Forman said that when it was given the opportunity to work on the HP case, for example, such a substantial contract for the client lends to attorneys working in a pressure cooker of sorts, something the group lives for.

"You can get nervous and choke up or you can relish the pressure and attack it," he said. "And our guys attack it."

--Additional reporting by Stephanie Russell-Kraft. Editing by Stephen Berg.

All Content © 2003-2014, Portfolio Media, Inc.