

## Government Contracts Group Of The Year: Crowell & Moring

By Jeannie O'Sullivan

*Law360, New York (February 3, 2017, 4:43 PM EST)* -- Since its founding in 1979 as Washington, D.C.'s go-to government contracts firm for defense companies, Crowell & Moring LLP has considered the practice the bedrock of its business and expanded the group's expertise to multiple industries.

Now with government contracts clientele hailing from the information technology, cybersecurity, health care, energy, private equity, telecommunications, construction and engineering, and professional services sectors and working with the firm across the globe, Crowell & Moring has attained a reputation for versatility and a top spot on Law360's list of Government Contracts Groups of the Year.

"With more than 60 government contracts experts, our depth and expertise set us apart from the competition," said D.C.-based partner Daniel R. Forman, co-chair of the firm's government contracts group.

The firm's success is also attributable to "very sophisticated" attorneys in adjacent practices, added fellow Washington partner Peter Eyre, also co-chair of the government contracts group.

Among the firm's recent successes is a jury reversal in U.S. ex rel. Purcell v. MWI Corp., one of the longest-running False Claims Acts qui tam suits. Defending MWI Corp. against claims filed in 1998 over alleged false submissions to the Export-Import Bank of the United States in connection with loans it guaranteed for Nigerian irrigation projects, Crowell & Moring convinced the D.C. Circuit in 2015 to overturn a \$22.5 million verdict for the government. In January, the U.S. Supreme Court declined to review the circuit decision.

That nine-year representation of MWI showcased the firm's "soup to nuts" services.

"This really does represent our firm at its best," Eyre said.

A federal court was likewise impressed with the firm's arguments in another protracted case that's spanned more than a decade: SUFI Network Services Inc. v. U.S.

In October, the U.S. Court of Federal Claims said that firm client SUFI was entitled to recover attorneys'



fees and expenses after securing a \$113 million breach of contract judgment against the U.S. Air Force, finding the government had acted in bad faith throughout the more than decade-old case. The court considered the government's assertions that the board's opinions failed to comply with the Federal Circuit's prior mandate to be "meritless."

The firm's work exemplified a "big team effort across multiple continents," Eyre said. "It has been a record-setting, precedential case."

Crowell & Moring faced the Air Force again in a successful bid protest on behalf of AT&T Government Solutions Inc. Challenging the military branch's award of a \$38.5 million contract to MacAulay-Brown Inc. for computer network operations and cyberspace warfare operations, the firm convinced the U.S. Government Accountability Office in September that the Air Force had failed to reasonably evaluate the potentially unequal access to information that MacAulay-Brown had because of its relationship with a unspecified proposed subcontractor who was providing acquisition support for the disputed deal.

In another bid protest triumph, the firm was lead counsel to Enterprise Recovery Systems Inc., one of four plaintiffs before the Federal Claims Court challenging the U.S. Department of Education's award of term extensions to other debt collection contractors. In July, the U.S. Court of Appeals for the Federal Circuit revived the protest from ERI and another contractor, ruling that extension task orders awarded to rivals counted as new contracts that could be challenged in bid protests. The case was handled by four partners, and the appeal was argued by an associate, which Eyre said is a testament to the "strength of the firm's junior attorneys." which Eyre said is a testament to the "strength of the firm's junior attorneys."

Meanwhile, Hewlett-Packard Co. sought out Crowell & Moring to handle government contract issues when the technology giant split into two smaller companies in November 2015. As part of an effort that established Hewlett Packard Enterprise and Hewlett Packard Inc., the firm provided advice to internal stakeholders and interfaced with many different government agencies acting as customer and regulator, with the goal of obtaining approvals and facilitating a smooth transition. Managing the intricate corporate disentanglements in a very "interesting and very complicated" endeavor that highlighted the firm's ability to work with other consultants, other advisers and other firms, Eyre said.

HP can also attribute a \$23.5 million cost accounting standards victory to Crowell & Moring's work. As a result of the curtailment of its defined-benefit pension plan, the company was entitled to a "segment closing adjustment" to compensate for the government's undercontribution to the plan under the CAS funding requirements. The firm negotiated a settlement that was approved by Armed Services Board of Contract Appeals in October 2015.

"This is a good example in which we are working with clients on how to bring money back into the firm and the company," Eyre said.

--Additional reporting by Natalie Olivo and Daniel Wilson. Editing by Edrienne Su.