



Government Contracts Group Of The Year: Crowell

By **Dietrich Knauth**

Law360, New York (January 25, 2012, 9:31 PM ET) -- Crowell & Moring LLP racked up an impressive range of victories for government contractors in the past year, such as helping Metropolitan Life Insurance Co. retain a \$3 billion military dental contract and winning a complete jury verdict in a potentially billion-dollar False Claims Act suit, earning the firm a place among Law360's Government Contracts Groups of 2011.

And although the firm scored victories in litigation before federal courts, the U.S. Government Accountability Office and other jurisdictions, the obvious wins form only the tip of the iceberg, according to government contracts group chair Angela Styles.

The firm's regulatory expertise and advice have also helped clients navigate confidential but potentially dangerous investigations like suspension and debarment proceedings, which can be devastating to companies that base their business around government contracts, Styles said.

"Fifty percent of what we do is work where there's never going to be a public decision or anything that enters the public record," Styles said. "There's a lot of work that we do for companies, in terms of suspension and debarment, that never hits the newspapers."

With over 50 attorneys specializing in government contracts law, Crowell & Moring maintains a depth and diversity of expertise that enables the firm to draw a wide range of clients, from small businesses looking to get their start in contracting to industry juggernauts like Lockheed Martin Corp. and infamous litigation targets like Xe Services LLC, formerly known as Blackwater Worldwide.

"We have a really diverse client base, from the largest companies to truly small businesses in all sorts of industries," Styles said.

Small and large clients alike benefited from Crowell & Moring's 2011 wins in bid protests and FCA litigation. The firm successfully defended Xe and AT&T Inc. in FCA suits, and helped MetLife and small contractor Education Training & Resources in bid protests.

Xe won a complete jury verdict in August, ending a FCA suit by former employees who said that the contractor overcharged the U.S. for security work in Afghanistan and also in the aftermath of Hurricane Katrina. Relators Brad and Melan Davis alleged that Xe subsidiary U.S. Training Center Inc. had submitted false muster sheets — monthly records showing the number of security guards at work — and travel invoices, and accused the company of billing the government for improper expenses including a prostitute, gym memberships and bar tabs.

The judge overseeing the case whittled several claims from the suit, and a jury returned a verdict for Xe on the remaining claims after an 8-day trial in August.

Crowell & Moring also helped defend AT&T from a FCA suit in Washington that accused the company of pocketing the revenue from unused prepaid telephone cards. Relator Alan Grayson argued that the unused portion of the cards was unclaimed property that, under D.C. law, should be turned over to the city, and AT&T's failure to do so amounted to fraud.

Partner Daniel Forman helped AT&T win the first published ruling from a D.C. court that held that potential whistleblowers could not base claims on information that was already public — in this case, the fact that AT&T collected revenue from unused calling cards.

"Frankly its a very interesting theory, but we were able to show that the elements of his claim had been previously reported by newspapers," Forman said.

Because the city declined to get involved in the case, the suit ended with the relator's involvement. The suit could have ended up creating huge liabilities for AT&T if successful, not only because of the amount of money at stake in D.C., but because success could have spawned copycat suits in other jurisdictions, according to Forman.

In the bid protest arena, Crowell & Moring attorneys helped clients fight their way through a contracting process that has grown more competitive as the federal government tries to cut costs. The firm helped MetLife successfully fend off two challenges to its \$3 billion Tricare Management Activity contract to provide a dental health insurance program to U.S. troops and their families.

The firm also helped Education Training & Resources perform the rare feat of successfully protesting a contract, and going on to win and defend that contract from later challengers. ETR protested the U.S. Department of Labor's decision to award a contract for the operation of a Job Corps Center in Georgia to Alutiiq Education & Training LLC. The contract was set aside for small businesses, and Crowell & Moring partner Amy Laderberg O'Sullivan successfully argued that Alutiiq, an Alaska native corporation, was not eligible for the award because of its reliance on a large subcontractor, ResCare.

The legal battle involved three separate proceedings within the U.S. Small Business Administration, and protests before the GAO and U.S. Court of Federal Claims.

The complete reversal of fortune for ETR was satisfying because it is rare that protestors go on to win a contract, even after success in court.

"Winning a protest doesn't mean that you get the contract — most of the time it just means that you get another bite at the apple," O'Sullivan said.

Despite the costs and uncertainty of pursuing a protest, contractors facing tough economic conditions are fully committed to going after projects, she said. O'Sullivan has represented Spectrum Healthcare Resources Inc. against a persistent challenger that launched seven GAO protests and two COFC cases in an effort to win back a \$230 million military health care contract. In December, the COFC ruled in favor of Spectrum, determining that the U.S. Army had properly awarded the contract.

In such a combative environment, bid protest attorneys need to advise clients of the risks and expenses from a possible do-over, and guide them through "the very odd process where in effect you're suing your customer," O'Sullivan said.

In addition to its wins in bid protests and litigation, Crowell & Moring attorneys pride themselves on comprehensive regulatory expertise, Styles said.

Attorneys in the group, from the elder statesmen to the junior associates, are encouraged to carve out their own areas of regulatory expertise, which can be a huge boost in helping the firm master the complicated and frequently-changing regulations on contracting.

The firm encourages younger attorneys to write targeted blogs and rewards their expertise by trusting them with important issues within their field, Styles says.

The strength of the firm's younger attorneys is a contrast to the "aging population" often found in government contracts groups at other law firms, according to Forman.

"We're poised to really have a dominant position for the next 25 years, given the strength in our junior ranks," Forman said.

In addition to the chance to pick the brains of experienced partners like Terry Albertson, a nationally recognized expert in pricing and cost accounting standards, Crowell & Moring offers a fun, collegiate environment with a good variety of interesting work, Forman says.

"We get the most challenging cases, and the most interesting cases, and it's exciting for junior lawyers to be involved in those," Forman said.

The expertise among the group's junior members also helps clients get what they need without breaking the bank — they don't always have to call in a senior partner who bills \$800 an hour to solve a problem, Styles says. And the firm's attorneys say they're happy to pool their knowledge.

"We are a very close knit group," O'Sullivan said. "I succeed by having a great network of resources."

Being able to draw on the expertise of colleagues means that Crowell & Moring never has to reinvent the wheel for clients, according to Forman.

"We truly have experts in every substantive government contracts area, and I don't think any other practice in the country can genuinely say that," Forman said.

Methodology: In November, Law360 solicited submissions from over 500 law firms for its practice group of the year series. The more than 550 submissions received were reviewed by a committee of Law360 editors. Winners were selected based on the significance of the litigation wins or deals worked on; the size and complexity of the litigation wins or deals worked on; and the number of significant, large or complex deals the firms worked on or lawsuits the firm had wins in. Only accomplishments from Dec. 1, 2010, to Dec. 1, 2011, were considered.

--Editing by Andrew Park.

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