

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

By Eric Hornbeck

*Law360, New York (January 28, 2013, 7:39 PM ET)* -- Crowell & Moring LLP's tenacity for its government contracts clients, from fending off more than a dozen challenges to a \$220 million military health care award to finally scoring a client \$10 billion worldwide criminal justice development contract after three rounds of protests, has earned the firm a spot among Law360's Government Contracts Practice Groups of the Year.

The head of the group, Angela B. Styles, said the practice group of 50 attorneys, who are not only in Washington but also in Los Angeles, has remained relatively stable over the past few years in terms of numbers of attorneys but has seen steadily increasing revenues. The firm has been growing its government contracts practice, and it can do so without much fear of conflicts because the firm has been diversifying its client base after long focusing on defense and aerospace clients, she said.

The firm's expertise in core government contracts work is also very translatable into other industries, including the fact-growing high-tech and health care sectors.

"It's the same issues that an IT company is confronting that a toilet paper company is confronting that a defense company is confronting. There's a great consistency among the industries," she said.

The firm doggedly pursues clients with a holistic approach that looks to develop long-term relationships with companies instead of looking at them as one-off representations, Styles said. That determination in pursuing clients continues when it's representing them in litigation, helping the firm rack up a string of impressive victories for those clients this year.

For example, the firm has been working with Spectrum Healthcare since 2009 to defend its \$220 million contract to build and run two military family health clinics from the incumbent contractor. That representation has included a dozen protests and even morphed into Freedom of Information Act requests on various aspects of the contract and state zoning disputes over the health care facilities.

That meant that firm partner Amy Laderberg O'Sullivan was on the phone with the client sometimes multiple times a day as the challenges mounted. The representation showed not just the firm's bid protest prowess but also its ability to help the client with all aspects of the contract.

"We became intimately involved with all aspects of this procurement, and spearheaded a defensive posture in multiple forums," O'Sullivan said.

And it paid off: "Needless to say, we had to fend off challenges to virtually every aspect of that procurement," she said, most recently with an August victory at the Federal Circuit.

Another victory came for firm client CBY Design Builders, which is facing challenges to a \$675 million contract to design and build parts of a flood-control system in New Orleans. After the U.S. Government Accountability Office sustained a protest to the award, Crowell & Moring convinced the U.S. Court of Federal Claims in July that part of the GAO award was irrational: namely, the GAO's finding that offerors were misled as to how price would be considered in the procurement. The court said it wasn't rational for the U.S. Army Corps of Engineers to base its corrective action on the GAO's recommendation.

Even in the procedurally complex case, and with the high degree of deference the court gave to the GAO, the firm still managed to eke out a victory for CBY. Cases of this type aren't often before the court, and CBY faced both two intervenors and the U.S. Department of Justice — three against one, as firm partner Amy O'Sullivan pointed out.

The firm also guided Emergence Group Advisors LLC through three rounds of protests on a \$10 billion indefinite delivery, indefinite quantity contract for the U.S. Department of State's worldwide criminal justice development programs.

The biggest hurdle was the fact that Emergence Group's evaluated price was much higher than the other awardees, according to firm partner Daniel R. Forman. To win that uphill battle and show that Emergence Group should've been in the range that got awards, Crowell & Moring's strategy included pushing the government to look at the past performance of the other awardees.

Emergence Group protested when it didn't get an initial award, and the government took quick corrective action. But after a re-evaluation, Emergence still didn't get one of the five awards the government doled out, so it shot off a second round of protests on the new awards. The GAO sustained Emergence Group's protest in September 2011, and the government reopened discussions — but Emergence Group still didn't get an award in a new round. A third protest resulted in a February GAO decision that found the government's past performance evaluation had deviated from the solicitation's terms. Finally, after that third protest, Emergence Group scored its contract.

"When you win a protest but the client doesn't get the contract, it's a Pyrrhic victory. But when you can see the client walk away with the contract, that's the most satisfying thing from a protest lawyer's perspective," Forman said.

Forman also helped firm client ManTech Telecommunications and Information Systems Corp. defend a \$3 billion Army contract for mine resistant ambush protected vehicle support and logistics, in what he said was an example of the firm working closely and building rapport with agency counsel to prepare defenses and help when it's representing intervenors.

Forman stressed, however, that while the firm has had much success with bid protests and they're an easy way to prove the practice's worth, Crowell & Moring's strength is also in many areas such as internal investigations or terminations for default that don't grab headlines.

"Those are things you don't read about in part because we do a good job with them," he said.

--Editing by Lindsay Naylor.

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