

Gov't Contracts Group Of The Year: Pillsbury

By **Daniel Wilson**

Law360 (February 20, 2020, 3:04 PM EST) -- Pillsbury Winthrop Shaw Pittman LLP's efforts to get an information technology firm back into consideration for a \$20 billion contract and help a defense giant escape an adverse performance rating have earned it a place among Law360's 2019 Government Contracts Groups of the Year.

The firm has a core contingent of 20 "card-carrying" government contracts attorneys and about 20 more who add additional areas of expertise to the group, with three main hubs in Tysons Corner, Virginia; Washington, D.C.; and Los Angeles, Tysons-based practice co-leader John Jensen said.

"We are strong, I believe, in a number of core areas of government contracts law," he said. "We don't have one practice area that draws clients to our firms, we have a handful where we have critical mass and a lot of experience."

The group's strong presence in Los Angeles, allowing it to provide full service to clients on both coasts, is something that differentiates it from other firms, LA-based practice co-leader Michael Rizzo said.

"We have competitors who are as good as us in Washington or northern Virginia, but we don't think we have any competitors as broad as we are bi-coastally," he said.

Bid protests are a particular strength for the group, and in 2019 Pillsbury attorneys helped clients successfully navigate several protests involving contracts worth \$1 billion or more, such as aiding Chags Health Information Technology, or C-HIT, to get back into consideration for the \$20 billion Chief Information Officer-Solutions and Partners 3 contract, a governmentwide, multi-award information technology deal administered by the National Institutes of Health.

C-HIT was the only one of many protesters to successfully protest its exclusion from consideration for an "on-ramp" of new awardees added to the contract in the middle of its life cycle, winning a U.S. Government Accountability Office protest in April 2019, and the company ultimately won a slot on the CIO-SP3 deal, Jensen said.

"It's one of the most important contract vehicles for any IT contractor to hold these days," Jensen said.



“You have to [be part of] CIO-SP3 if you’re going to be a serious player in the IT marketplace.”

The company was initially excluded from an “on-ramp” of new awardees, eliminated for purportedly failing to provide a password required to decrypt a financial document in its proposal before bids closed.

Amid a disagreement about whether C-HIT had actually provided the password prior to the due date, Pillsbury attorneys successfully argued to the GAO that the encrypted document related to contractor responsibility, not technical acceptability, meaning the NIH should have used the password before it evaluated proposals.

“The holding of the case, significant in the law, is that matters of responsibility are to be determined up until the time of the award of the contract,” Jensen said. “... Essentially the agency was obligated to follow up and ask for that decryption code prior to the time of the award.”

Not all of the group’s successful work can be measured by direct monetary value, however, said partner Alex Tomaszczuk, who splits his practice between the Tysons Corner and LA offices.

A good example of an important matter recently handled by the firm that didn’t involve a monetary claim was the resolution of an adverse Contractor Performance Assessment Rating System rating given to General Atomics Systems Integration by the U.S. Air Force. CPARS ratings are increasingly used by the government in contract award decisions, and the law underlying those ratings is still evolving, Tomaszczuk noted.

General Atomics initially tried to get the Air Force to change the rating, unsuccessfully. But just ahead of a planned Armed Services Board of Contract Appeals trial in February 2019, Pillsbury attorneys sent the agency a “long letter detailing what we perceived to be the weaknesses in their procedural approach and in their substantive review,” and the Air Force agreed to remove the adverse rating, Tomaszczuk said.

“[That was] precisely the relief that the client had sought, so that was a very big victory for our client and for us,” he said. “In some ways I wanted it to go to trial, because it would have been interesting to try to resolve some of these underlying issues, but the client got everything it asked for, so it’s hard not to take a settlement on those terms.”

Pillsbury is also heavily involved in merger and acquisition deals involving government contracts issues, tapping into that work especially through its Tysons Corner office, close to the headquarters or major outposts of many prominent government contractors.

The firm was involved in about 25 such deals in 2019, and the broad scope of its work in that area was demonstrated in its representation of NTT Data Services, a large information technology firm based in Tysons Corner, in the company’s April 2019 acquisition of Cognosante Consulting LLC, Jensen said.

“Unlike most of our deals, which are generally federal contractors, this was actually a company that did state and local contracting,” he said. “So, we were very involved in reading and reviewing and studying and assessing the risks with state contracts in more than 20 states across the country. It was a very intensive exercise.”

A major advantage for the firm as it looks to the future is that several of its partners who led its biggest

wins and most prominent work over the past year are “a generation younger” than the practice group leaders, with long careers ahead of them, according to Rizzo.

“I’m not going to give away our age, but we’re not that old either,” Rizzo said. “We’re really well-positioned from a generational standpoint on both coasts, moving forward.”

--Editing by Jack Karp.