



## Government Contracting

Our clients who provide products and services to governments must contend with ever-changing procurement rules and regulations. Many opportunities are open to them but they are accompanied by legal consequences for everyone involved.

The global financial crisis has placed intense pressure on governments to tackle major budget deficits and debt burdens. As a result, competition for contracts is fierce, bid costs are high and the financial terms imposed on contractors are demanding. International procurement regimes bring their own challenges for non-compliance for both contractors and government customers.

To help our clients meet these challenges, our government contracting practice has grown to become one of the largest of its kind in the world. Unlike many others, we act for both governments and global contractors on their contracting and procurement requirements.

We provide tailored advice and legal services on virtually every aspect of government contracting and public procurement, from bid strategy through to potential challenge. These services include: preparation of strategic alliance agreements and teaming arrangements; bid protests and challenges; and contract administration and claims. Our lawyers also litigate contract disputes and claims involving contractors.

- IT procurement: The UK government turned to us for advice on the world's largest civil information technology procurement
- IP: When two federal contractors went to court in a dispute between them, we were called by the defense to testify as an expert witness on its intellectual property. The US jury found in favor of the defense on all nine counts, including all government contract IP issues.
- Data protection: We advised a global aviation company on the data security and protection survey of data protection requirements in public contracts covering 40 countries
- PPP: We advised a global defense company on a public-private partnership with the UK's Ministry of Defense to modernize their search and rescue helicopter program
- Procurement: A Canadian pharmaceuticals company needed help dealing with various aspects of European Union procurement law. We helped it prepare and submit a vaccines tender to the UK Purchasing and Supply Authority.
- Defense: We advised the Australian Defense Force on the US\$3 billion Amphibious Ships Project
- FCPA: Our lawyers represented a global defense contractor facing an FCPA subpoena concerning allegations of improper payments in Africa over six years. The US government dropped all charges.

### INSIGHTS

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#### KEY CONTACTS

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## Publications

### **Court finds that failure to comply with cybersecurity obligations can create False Claims Act liability**

20 MAY 2019

Key takeaways about this significant finding.

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### **Trump issues Executive Order on securing information and communications technology and services – key points**

16 MAY 2019

The order is issued pursuant to the National Emergencies Act and the International Emergency Economic Powers Act, the latter creating potential civil and criminal liability for those violating EOs and regulations issued under its authority - liabilities that can expand to include those who facilitate a violation.

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### **First Circuit reverses course on its first-to-file rule**

9 MAY 2019

First Circuit law on the first-to-file rule is evolving in a way that could have significant consequences for False Claims Act defendants.

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### **Department of Justice unveils guidelines for cooperation credit in False Claims Act matters**

9 MAY 2019

The new DOJ guidelines are an effort to formalize guidance and credit mechanisms for corporate cooperation in civil cases, especially False Claims Act cases.

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### **EU Policy & Regulatory Alert - EU Publishes Artificial Intelligence Ethics Guidelines**

12 APR 2019

On 8 April 2019, the EU's High-Level Expert Group ("AI HLEG") on Artificial Intelligence ("AI") published the much-anticipated "Ethics Guidelines for Trustworthy AI", setting out a horizontal framework for the development and deployment of ethical and robust AI systems across the EU

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### **The future of DOD contracting**

1 APR 2019

A review of an array of factors, from commercial buying and cybersecurity to "Other Transaction" authority and the recently established Army Futures Command.

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### **Northern District of Illinois dismisses False Claims Act case against Pfizer and Hospira: key takeaways**

19 MAR 2019

The DLA Piper team expects this case will be cited frequently by qui tam defendants in future cases.

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### **Fifth Circuit Court of Appeals affirms CMS demand for return of \$8 million from failed care management demonstration project**

12 MAR 2019

In a demonstration project, the provider's rights and remedies must be expressed in the grant agreement.

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### **False Claims Act – Year in Review: 2018**

4 FEB 2019

In this handbook, we look back on 2018 as a year of shifting enforcement policies and continuing jurisprudential uncertainty in the wake of *Escobar*.

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### **EU Policy & Regulatory Update: First Designations under EU's Chemical Weapons Sanctions Regime**

24 JAN 2019

On 21 January 2019, the Council of the European Union (EU) adopted Decision (CFSP) 2019/86 amending Decision (CFSP) 2018/1544 concerning restrictive measures against the proliferation and use of chemical weapons, listing nine individuals and one entity under the EU's Chemical Weapons Sanctions regime.

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### **EU Policy & Regulatory Update - EU Adds Three Iranian Persons to EU Terrorist List**

14 JAN 2019

On 8 January 2019, the Council of the European Union (EU) adopted Decision (CFSP) 2019/25 amending and updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP.

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### **DOJ tells SCOTUS it plans to seek to dismiss a major *qui tam* action because burdensome FCA discovery would not be in the public interest**

6 DEC 2018

The DOJ's filing is a significant development for FCA defendants and may portend more dismissals to come.

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### **EU Policy & Regulatory Alert: New Regulation on Foreign Direct Investment Screening in the EU**

22 NOV 2018

The European Union is moving fast towards establishing a joint regulatory and policy framework for Europeans to seize the opportunities provided by Artificial Intelligence (AI) and to reinforce Europe's competitiveness in this field.

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## Procurement Pulse - September/October 2018

11 OCT 2018

### PROCUREMENT PULSE SERIES

Monthly update of procurement case law and other relevant intelligence for procurement practitioners

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#### Buyer beware – recent SBA regulatory changes could decrease the value of small business targets

15 AUG 2018

Entities contemplating a merger or acquisition involving small-business government contractors are taking note of this change.

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#### First Round of US Sanctions Reintroduced and EU Blocking Statute Updated

7 AUG 2018

US President Donald Trump announced on 8 May 2018 his decision to withdraw from the Joint Comprehensive Plan of Action (JCPOA), commonly known as the "Iran Nuclear Deal", reached in Vienna on 14 July 2015. The US provided 90- and 180-day wind-down periods before the US nuclear-related secondary sanctions would be reintroduced.

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#### Oil and gas licensing round now opened for Danish part of the North Sea

29 JUN 2018

The Ministry for Energy, Utilities and Climate has just opened for applications for licences for exploration and production of oil and gas (hydrocarbons) in the 8th Danish Licensing Round for the Danish North Sea area.

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#### EU Policy and Regulatory update: EU Legislation to Block US Extraterritorial Sanctions against Iran

21 MAY 2018

On 18 May 2018, the European Commission has launched the process to "activate" EU Council Regulation No 2271/96 (EU Blocking Statute) and to expand the scope of the EU Blocking Statute to include the US sanctions against Iran.

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#### Is collaborative working improving in operational PPPs?

16 MAR 2018

An in-depth look at some of the key questions facing the PPP market, with direct input from those at the coalface of the industry.

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#### EU Impact - Issue 4

30 APR 2018

Edition 4 of our monthly update on the latest EU policy and regulatory developments.

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#### DoD suggests flexibility with cybersecurity compliance deadline

30 APR 2018

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Cautious optimism that DoD may be more flexible and reasonable than anticipated about the implementation process.

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### **EU Impact - Issue 3**

5 APR 2018

Edition 3 of our monthly update on the latest EU policy and regulatory developments.

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### **False Claims Act year in review: 2017**

28 FEB 2018

Our new handbook looks at 2017, a year of significant recoveries, government enforcement reform and shifting jurisprudence post-*Escobar*, then considers the trends we anticipate in the months ahead.

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### **Defense contractors – the time has come: December 31 is the deadline for cybersecurity safeguarding compliance**

6 DEC 2017

A flexible and easily tailored process.

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### **Life after Brexit - how the UK and China can both benefit from the new global regime on jurisdiction agreements and judgments**

16 NOV 2017

On 12 September 2017 China signed the Hague Convention on Choice of Court Agreements 2005 ('Hague'). This ensures not only that a country's exclusive jurisdiction agreements are respected in all other contracting states, but that judgments arising from those agreements are recognised and enforceable there too - so Hague does rather more than it says on the tin.

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### **Ninth Circuit: defense contractors need not shoulder wartime cleanups alone**

6 OCT 2017

This decision is likely to become a touchstone for military contractors engaged with the US government on environmental cleanup actions and cost allocations.

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### **Unavailability of key personnel: a growing protest risk**

4 OCT 2017

Troublingly, this risk exists even if the individual's unavailability was unforeseeable and due to no fault of the offeror.

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### **Prime contractor found nonresponsible based on undisclosed vendor-vetting process – contingency**

## **contractors beware**

20 SEP 2017

A prime contractor may be found nonresponsible based solely on the past actions of a proposed subcontractor.

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## **US lawmakers introduce bill to address cybersecurity flaws in the Internet of Things**

4 AUG 2017

The reach of the legislation would be quite broad notwithstanding its limitation to devices placed with government agencies.

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## **New guidance for lawyers advising clients on human rights risks**

19 JUL 2017

On 17 July 2017, the International Bar Association Legal Policy and Research Unit (LPRU) released a *Handbook for Lawyers on Business and Human Rights* to provide guidance for business lawyers and their corporate clients on how to address human rights risks in corporate and commercial transactions.

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## **Cybersecurity Executive Order escalates cybersecurity to greater priority – top points about critical infrastructure**

12 JUN 2017

Strengthening efforts to support the cybersecurity risk management efforts of CI at greatest risk while setting forth an ambitious plan for updating and upgrading federal networks.

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## ***Universal Health Services*: contractors take note – Supreme Court approves implied certification theory of False Claims Act liability**

22 JUN 2016

The Court's recognition of "implied certification" theory resolves a circuit split in favor of a more expansive view of the Act.

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## **Should I file a bid protest? A checklist of essential questions and considerations**

18 SEP 2014

What are the questions a thoughtful CEO or General Counsel should ask when deciding whether to file a bid protest?

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## ***The Cybersecurity Framework*: Administration, Congress move to incentivize private-sector cooperation, strengthen federal acquisition process**

12 SEP 2013

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## EVENTS

### Upcoming

#### **TopCo liability panel**

25 JUN 2019  
London

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### Previous

#### **DOD contracting: key developments and trends**

7 FEB 2019  
Reston

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#### **Brexit guidelines webinar: The view from Brussels and London**

23 MAR 2018  
Webinar

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## NEWS

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#### **DLA Piper recognized again as a Top Global Outsourcing Advisor**

28 JUN 2018

DLA Piper is pleased to announce that the firm has been selected for the 2018 World's Best Outsourcing Advisors list by the International Association of Outsourcing Professionals (IAOP).

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#### **DLA Piper announces partnership promotions for 2018**

3 APR 2018

DLA Piper is proud to announce that 62 lawyers have been promoted to its partnership. The promotions are effective as of 1 April 2018 in the United States and 1 May 2018 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 42 different offices throughout 20 countries.

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