

Postal Service Contracting

Contracting with the U.S. Postal Service is different than contracting with other federal agencies. Key procurement rules, such as the Federal Acquisition Regulation (FAR), do not apply. Instead, the Postal Service has its own set of procurement rules and regulations. In turn, postal purchasing officials frequently exercise greater discretion than their federal counterparts.

Some federal procurement laws do apply, such as those relating to contract disputes. But even here, differences abound. Contractors can bring their claims to the Postal Service Board of Contract Appeals, a forum dedicated to hearing disputes arising under postal contracts. And in this special procurement world, bid protests are called "disagreements" and are administered internally by a supplier dispute resolution official. Other differences that impact postal contracting include the use of non-appropriated funds, extensive prequalification and a unionized workforce.

Our firm understands these legal and cultural differences. Because we are familiar with these differences, we won't waste your time and increase your legal bill by "getting up to speed."

Having advised hundreds of postal contractors on a wide variety of issues, we use our knowledge to help contractors succeed within this special environment. We don't just understand postal contracting, we wrote the book on it. Although postal contracting is different, postal contractors face many of the same issues as other government contractors. From award to termination, our attorneys have assisted postal contractors on a variety of issues, including:

- Solicitation analysis
- Bids and proposals
- Negotiation
- Selection, evaluation and contract awards
- Protests and disagreements
- Contract interpretation and administration
- Changes and changed conditions
- Withheld and delayed payments
- Amendments and modifications
- Delays
- Subcontracting
- Cost and pricing data
- Requests for equitable adjustment
- Claims and disputes
- Audits
- Fraud and False Claims Act investigations
- Terminations
- Suspension and debarment
- Compliance program

Representative Experience

Solicitations, Proposals and Protests. The front end of the procurement process often raises questions, particularly because the Postal Service has its own unique purchasing rules and practices. We help contractors sort through the process and take appropriate legal action when warranted.

- Provided solicitation review and assisted in negotiation of \$1.7 billion mail transportation and logistics contract
- Provided advice and counsel to contractor preparing a proposal in response to a solicitation for a multihundred-million-dollar equipment purchase
- Brought protest in U.S. Court of Federal Claims that resulted in termination of the disputed contract award and subsequent award to our client
- Defended awardee contractor in federal court protest brought by disappointed bidder in multihundred-million-dollar computer equipment procurement
- Assisted contractor in lodging successful "disagreement" before the supplier dispute resolution official

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Contract Performance Issues. We help contractors understand their contractual rights and obligations and advise them on issues that arise during the performance of their postal contracts.

- Filed demand letter and obtained payment for contractor who performed extra services but had not been paid
- Advised software company in dispute with Postal Service over license agreement coverage
- Represented transportation contractor in Postal Service claim over fuel usage
- Represented contractor undergoing Department of Labor investigation relating to Service Contract Act wage and benefit issues
- Prepared materials for successful novation of 70 contracts to a new entity
- Represented contractor whose products were wrongfully rejected based on agency's faulty interpretation of contract specifications
- Obtained preliminary injunction in U.S. District Court that led to restoration of mail contractor's security clearance

Requests for Equitable Adjustment and Claims. When your performance costs increase due to Postal Service changes or changed conditions, you are entitled to an equitable adjustment to your contract price. We assist contractors in preparing these requests and, if necessary, litigating the resulting claims before the Postal Service Board of Contract Appeals or U.S. Court of Federal Claims.

- Prepared request for equitable adjustment for multiple changes to a mail processing contract, resulting in multimillion-dollar settlement
- Organized and coordinated team that prepared, accounted for and drafted contract claims in excess of \$700 million under integrated facilities, services and transportation contract
- Prepared multimillion-dollar claim for costs arising from Postal Service failure to comply with contract's stated delivery schedule

Terminations. In terminations for convenience, we advise contractors on what costs are recoverable and help them prepare their claims. In terminations for default, we represent contractors who challenge such actions and who face termination claims.

- Represented contractor before the Postal Service Board of Contract Appeals in action that led to conversion of default termination into termination for convenience and a favorable monetary settlement
- Prepared termination settlement proposal for convenience termination of air transportation network

Fraud and False Claims Investigations. As with other federal agencies, the Postal Service's Office of Inspector General actively pursues allegations of contract fraud. Our attorneys have assisted postal contractors in more of these matters than any other firm.

- Made presentation to assistant U.S. attorney that resulted in dropping of False Claims Act allegations against contractor and successfully recovery on contractor's affirmative claim
- Obtained dismissal of government's False Claims Act action against postal contractor, complete recovery on contractor's affirmative claims, million-dollar settlement on contractor's breach of contract claim, and recovery of attorney fees under Equal Access to Justice Act
- Prepared response to Office of Inspector General subpoena, made presentation to government attorneys and mediators, and negotiated mutually agreeable settlement
- Defended contractor in False Claims Act litigation and achieved settlement in which no damages were paid toward False Claims Act allegations