

Client Alert

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DOJ Announces Procurement Collusion Strike Force

What's New

The United States Department of Justice Antitrust Division announced a new program to help combat fraudulent schemes that undermine competition in government procurement, grant and program funding. The Procurement Collusion Strike Force (PCSF), which comprises thirteen US Attorneys partners and five law enforcement partners, is the DOJ's aggressive response to illegal bid-rigging, price-fixing and market-allocation schemes in the public procurement process. The PCSF has two main objectives: (1) to deter and prevent antitrust and related crimes on the front end of the procurement process through outreach and training; and (2) to effectively detect, investigate and prosecute crimes that do occur through better coordination and partnership in the law enforcement and inspector general communities.

To the former objective, the PCSF will educate government officials and contractors on how to better structure transactions and the heavy criminal consequences involved with procurement fraud. Local US Attorneys will work with the Antitrust Division trial attorneys to serve as PCSF liaisons and spearhead these educational efforts. These local teams will work also with the Division to jointly investigate and prosecute crimes. Antitrust training materials and a complaint form are available on the [PCSF website](#).

To the latter objective, the PCSF will improve detection by using better data analytics programs and sharing best practices between investigative agencies. The PCSF will review government procurement data to identify "red flags" for collusion, such as common typos and patterns indicative of bid rotation.

Why This Matters

The division has historically investigated violations with government procurement. In fact procurement investigations make up a substantial part of DOJ's antitrust investigations and prosecutions; today, more than one-third of the Antitrust Division's 100-plus open investigations relate to public procurement or otherwise involve the government's being victimized by criminal conduct. The formation of the PCSF, however, signals a renewed focus on this area with expanded and dedicated resources. Companies risk fines in the hundreds of millions of dollars, treble civil damages and debarment from future government contracts. Individuals face lengthy prison sentences and criminal fines.

What You Can Do

As a result of the DOJ's efforts to prosecute aggressively procurement fraud and the substantial penalties that can result from a conviction, government contractors must be apprised of best practices to avoid running afoul of contracting regulations. One way a contractor or potential contractor can mitigate risk is by creating and implementing vigorous corporate compliance programs. The DOJ [recently announced](#) that it would consider a company's compliance efforts at the charging stage of criminal antitrust investigations—specifically, whether the compliance program was well-designed, whether it was applied "earnestly and in good faith" and whether it worked. Not only can a compliance program avoid illegal conduct in the first instance, but having a robust compliance program can help a company avoid prosecution if under investigation, or lower its criminal exposure.

Hunton Andrews Kurth LLP's antitrust and consumer protection team is prepared to help global organizations navigate the ever-changing antitrust landscape, including counseling on government contracting pitfalls and compliance.

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