

ALERT

Department of Justice Announces Establishment of Procurement Collusion Strike Force

November 7, 2019

WHAT: The Department of Justice (DOJ) announced the formation of the Procurement Collusion Strike Force (PCSF). The PCSF is designed to be an interagency partnership among 13 partner U.S. Attorneys from federal districts around the country, investigators from the FBI, and four federal Offices of Inspector General. According to DOJ, the PCSF will work to systematically prevent, detect, and prosecute fraudulent and other alleged criminal activity impacting federal procurements, grants, and program funding.

WHEN: November 5, 2019.

WHAT DOES IT MEAN FOR INDUSTRY: DOJ has identified criminal schemes such as collusion among competitors, bid rigging, and price fixing as posing a serious threat to the free market principles that are the foundation of the procurement process. As a result, DOJ and other law enforcement agencies are committing substantial amounts of resources into this new initiative to stymie and deter such criminal activity. Notably, the Strike Force will include the offices of four Inspectors General – the Department of Justice, Department of Defense, U.S. Postal Service, and General Services Administration.

DOJ included in its announcement that over one-third of the Antitrust Division's 100-plus current investigations relate to public procurement or the victimization of the government through criminal conduct. Thus, while the PCSF is being primarily structured as a criminal and antitrust initiative, the Strike Force will also likely spark civil false claims investigations, and other related government investigations. As a result, it continues to be important for government contractors to

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have sufficient policies, procedures, and training in place to educate the workforce and mitigate risks in these areas.

The key features of the PCSF are twofold. First, conducting training, education, and outreach activities to both the “buyer side” and “seller side” constituencies in federal government contracting. On the “buyer side”, the PCSF will assist federal and local procurement officials to identify indicators of criminal activity and identify vulnerabilities in their acquisition processes. On the “seller side”, the PCSF will educate contractors about antitrust violations and the associated penalties. The second PCSF key feature is the improvement of criminal activity detection, investigation, and prosecution capabilities through the coordination of law enforcement and inspector general bodies. The PCSF is structured around a district-based task organization model, originating in the 13 partner districts. DOJ Antitrust Division is designating Trial Attorneys as PCSF liaisons to the 13 partner districts. Each of these 13 districts is also designating an Assistant U.S. Attorney to serve as a PCSF liaison for that particular district. Lastly, each partner district FBI field office is designating Special Agents to be PCSF liaisons.

Finally, DOJ launched a PCSF website for government procurement officials, companies, and interested members of the public to access training programs, federal antitrust laws, and report suspected criminal activity that impacts government procurement.

Adam Briscoe, an Associate in the Government Contracts practice, contributed to this alert.