

PUBLIC BIDDING & PROCUREMENT

Government entities spend billions of dollars annually purchasing commodities and services from private businesses. These lucrative government contracts are secured through a public purchasing process known as “public bidding” or “procurement.” Not only is public procurement good for private businesses, but a robust and competitive procurement process helps the government secure low-cost, best-value goods and services in the best interest of the taxpayer.

Companies participating in the competitive procurement process understand the value of retaining expert legal counsel early. In the Arizona marketplace, Gallagher & Kennedy is a leader in public bidding and procurement legal services because of our depth of experience and consistent history of success assisting both companies and government entities alike with local and state government contracting.

Led by Kevin E. O'Malley, a seasoned trial lawyer with decades of experience handling procurement matters, the firm's public bidding and procurement team provides unmatched experience navigating complex and specialized public bidding and procurement laws.

From small businesses to large multi-million-dollar companies, hospitals to construction companies, and women- and minority-owned businesses, we help businesses of all sizes and in all industries identify and pursue revenue-generating contracting opportunities, minimize risk, eliminate pitfalls, resolve disputes, and defend awards.

COMPLIANCE

Compliance with the government's laws and regulations concerning public bidding and procurement can be complex. Each government entity, from the federal government to states, counties, cities, and school districts, has its own laws and regulations concerning public bidding and procurement, including registration requirements, notification procedures, and timelines. Those requirements are more than just “technical” and failure to comply with procurement laws, processes, and guidelines could mean disqualification from an application.

Gallagher & Kennedy's public bidding and procurement attorneys understand how cumbersome it can be for businesses merely to identify potential procurement opportunities, let alone figure out how to comply with the government's rules and regulations. We can help you meet your business objectives by ensuring compliance with the government's complex requirements, enabling you to focus on preparing a strategic response to the request for proposal (RFP).

BID & PROPOSAL PREPARATION & SUBMISSION

Not only do government entities' laws and regulations vary, but nearly every entity has its own procurement opportunity notification system, process, and timeline, and within each government bid, proposal, or purchasing request are particular requirements.

Before submitting a response to a request for proposal (RFP), it's critical you retain experienced legal counsel to proactively manage your risk. We help clients ensure that their submission is timely, responsive, and responsible, directly focused on meeting the government entity's stated needs. If the entity requests additional information, your legal advisor can translate the legalese and navigate the specialty agreements.

As a registered member of ProcureAZ, BidSource, and BidSync, we proactively monitor opportunities from several government procurement and purchasing departments that align with our clients' objectives. We also monitor unique opportunities for small businesses, women-owned businesses, and minority-owned businesses and assist you in registering for those opportunities.

INTELLECTUAL PROPERTY PROTECTION

Companies submitting bids for government contracts must be cognizant of the special rules governing public bodies with respect to public records and, at the same time, present the best, most comprehensive information to the government.

In collaboration with our public bidding and procurement team, our IP lawyers work with you to ensure that your intellectual property is adequately and appropriately protected – both in preparation for a bid or proposal and in the development of goods or services for the government.

[Click here to learn more about our intellectual property legal services.](#)

GOVERNMENT AFFAIRS & LOBBYING

Gallagher & Kennedy's government affairs team is an integral part of the public bidding and procurement practice, offering expert counsel as permitted by state and local law. When circumstances arise, our knowledge and network of professional relationships are critical resources in counseling clients, defending a contract award, and challenging an award on behalf of a non-winning bidder.

In addition, our government relations team collaborates in pitching cutting-edge technology, efficient solutions, and innovations as permitted by law, giving you the resources to help the government entity understand how your product or service best serves the public interest.

[Click here to learn more about our government relations and lobbying team.](#)

CONTRACT NEGOTIATIONS

The Gallagher & Kennedy public bidding and procurement attorneys provide critical counsel during time-sensitive contract negotiations with the government. This is a critical component of the procurement process and one that ultimately may make or break the advancement of your proposal.

BID PROTESTS

Once the government makes its award, it generally allows disappointed bidders or proposers the opportunity to challenge, or "protest," its decision. We have represented both the government and successful bidders in defending against such protests and have represented disappointed bidders in protesting the government's award.

On either side of the equation, having the right counsel on your side is critical. Protest timelines move quickly, arguments can be waived if not raised in a timely manner, and bidders or proposers must actively defend their own bids or proposals.

We have litigated several complex, high-profile protests through political, administrative, and judicial tribunals. Recent examples of our work include:

- Defended the State of Arizona in a multiweek trial challenging its decision to award a multiyear contract to provide health insurance and related services to its 50,000 employees. With annual expenditures between \$400,000,000 and \$500,000,000, the health insurance contract represents one of the State's largest contractual undertakings.
- Defended the State of Arizona's procurement award of its Regional Behavioral Health Authority for Maricopa County.
- Represented international food and beverage expert SSP America, Inc. in a bid protest administrative proceeding and companion state court litigation arising when SSP was awarded a contract to build out and operate restaurants and bars in Terminal 4 at Sky Harbor International Airport in Phoenix, Arizona. The projected value of the 10-year airport food and beverage contract was approximately \$700 million. Prevailing at every stage of the administrative process, the Phoenix City Council was persuaded to reject the protest and award the contract to SSP. Further, the court denied the disappointed bidder's request for an injunction to prevent the award of the contract, to dismiss the litigation, and to award SSP its attorneys' fees.

CONTRACT & SUBCONTRACT CLAIMS & DISPUTES

Even after a procurement contract has been awarded, a dispute may arise between the government and the contract awardee, or between the awardee and a subcontractor. Given the unique nature of government contracting, it is critical to meet the government's contract obligations and establish a positive performance relationship.

Our team advises clients of their rights and responsibilities to help protect their interests and has a successful track record in resolving and litigating contract disputes. Our experience includes:

- Aligning contract performance with the statute, regulation, or contract terms.
- Avoiding threatened terminations and responding to notices of intent to terminate.
- Mediating disputes between prime contractors and subcontractors.

[Click here to learn more about our full-service litigation practice.](#)