



## → David S. Gallacher

### Partner

2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, DC 20006-6801

T: +1.202.747.1921

F: +1.202.747.3807

[dgallacher@sheppardmullin.com](mailto:dgallacher@sheppardmullin.com)

David Gallacher is a partner in the Government Contracts, Investigations and International Trade Practice Group in the firm's Washington, D.C. office.

### Areas of Practice

David's professional experience involves a wide variety of litigation, administrative and counseling issues related to federal procurement laws. His experience includes complex litigation in federal court under the *qui tam* provisions of the False Claims Act, claims disputes before the Boards of Contract Appeals and bid protest actions.

David regularly counsels both domestic and foreign companies on issues relating to compliance with government regulations including, among other things, subcontract administration, country of origin requirements under the Buy American and Trade Agreements Acts, export controls, commercial item exceptions, merger and acquisition due diligence, cost accounting, suspension and debarment and small business requirements. He also regularly conducts compliance reviews and internal investigations to assist companies ensure that they are in full compliance with the law.

### Articles

- Proposed Changes to the Buy American Act Regulations Implementing Trump Executive Orders  
*Westlaw*, 10.12.2020
- What does it mean to manufacture? Federal circuit's Acetris decision fundamentally alters trade agreements act compliance  
*Westlaw*, 05.04.2020
- Vet-Owned Biz Is Always VA Contract Priority, Fed. Circ. Says  
*Law360*, 10.17.2018
- Cross Your Heart and Hope to Die — New DFARS Clauses Target Counterfeit Electronic Parts  
*Westlaw Journal*, 10.24.2016
- Lots of Little Things - Recent FAR Updates  
*Law360*, 08.19.2013
- 15 Tips For Navigating The 'Buy American' Maze  
*Law360*, 06.19.2013
- Deciphering The Alphabet Soup — FAPIIS, CPARS And PPIRS  
*Law360*, 04.20.2012

- Hits And Misses In DOD IR&D Rule  
*Law360*, 03.20.2012
- "Buy American' And Solar Devices – DOD Clarification"  
*Law360*, 02.21.2012
- The Continuing Saga Of Specialty Metals - Nothing Is Ever So Bad That It Cannot Be Made Worse  
04.28.2007
- Recent Legislation On Award And Incentive Fees - Why Congress Thinks That 'Satisfactory' Performance Is Unacceptable And DOD Is Caught In The Middle  
11.15.2006
- Berry Amendment 'Reform' - The Sound and The Fury  
10.25.2006
- Financing Government Contracts / Edition II - Part I  
04.21.2005
- Financing Government Contracts / Edition II Part II  
04.21.2005
- Speciality Metals and the Berry Amendment - Frankenstein's Monster and Bad Domestic Policy  
04.21.2004
- Liability Limitations For Anti-Terrorist Technologies Under the SAFETY Act  
12.03.2003

## **Global Trade Law Blog Posts**

- "International Sanctions - Updates to U.S. Sanctions Laws in 2011," January 17, 2012

## **Government Contracts and Investigations Blog Posts**

- "Small Business Federal Government Contracting Dollars Continue to Increase," August 30, 2021
- "Fasten Your Seatbelts – Proposed Rule Implementing Biden's "Buy American" Mandates," August 16, 2021
- "At a Glance: White House 100-Day Supply Chain Report," June 29, 2021
- "Duck Hunt – The VA Cannot Escape The Medline Protest, And Takes A Few Shots In The Process," June 29, 2021
- ""What's In A Name?": Federal Circuit Holds Claims Court Blurred Distinction Between 'Size Protests' And 'Bid Protests' In Dismissal For Failure To Exhaust Administrative Remedies," June 29, 2021
- "Ducks (Not) in a Row – VA Agrees to Take Corrective Action in Transitioning MSPV 2.0 Requirements to DLA," June 3, 2021
- "Buy American' Update: Essential Medicines May Continue to Come From Abroad (For Now)," April 28, 2021
- "Finding the Weak Links – President Biden Executive Order Demands Review of Critical U.S. Supply Chains," March 31, 2021
- "Made in America – President Biden's Executive Order on Buying (Even More?) American," January 27, 2021
- "Buy (More) American' – Final Rule Implements Changes to the Buy American Act Regulations," January 20, 2021

- "Buy American' Update: FDA Issues List Of Essential Medicines Required By Executive Order," November 3, 2020
- "Women-Owned Small Business Self-Certification Ends October 15, 2020 When SBA Begins Requiring Formal Government-Issued Or Third-Party Certifications for Awards," September 29, 2020
- "Government Small Business Contracting Continues to Increase: Creating Opportunities and Potential Pitfalls," August 18, 2020
- "Buy American' in the Twilight Zone: Executive Order Strengthening the U.S. Public Health Industrial Base," August 10, 2020
- Energizer – "Substantially Transformed" Has Substantially Changed" href="https://www.governmentcontractslawblog.com/2019/11/articles/taa/cit-compliance-post-energizer/">"The Evolution of TAA Compliance Post-Energizer – "Substantially Transformed" Has Substantially Changed," November 25, 2019
- "GSA Implements Restrictions on Certain Chinese-Made Telecommunications Services and Equipment," September 27, 2019
- "R.I.P. PPIRS," September 27, 2019
- "Effective Last Month! – DoD's Implementation of New FAR Prohibitions on Chinese Telecommunications Equipment and Services in Government Contracts," September 5, 2019
- "Effective Immediately! – FAR Amended to Include Prohibition on Chinese Telecommunications Equipment and Services in Government Contracts," August 13, 2019
- "Buy American' (Again): New Executive Order Requires Changes (By 2020)," July 31, 2019
- "Veterans Are First at the VA Following New Class Deviation Implementing Recent Federal Circuit Mandate," May 29, 2019
- "VA Vendors Beware: Mind the Company You Keep; It's Time for a Compliance Checkup," March 29, 2019
- "Buy American' Updates: Trump's Executive Orders, Government Reports, and Other Updates," February 27, 2019
- "Federal Circuit Affirms Veteran-Owned Small Businesses Are the VA's First Priority," October 30, 2018
- "Buy American and Hire American - New Executive Order Promises to Put American Workers First, But Practical Impacts Remain Unclear," April, 24 2017
- "Cross Your Heart and Hope to Die – New DFARS Clauses Target Counterfeit Electronic Parts," September 22, 2016
- "Look Before You Leap – Pitfalls and Trip Wires Inherent in Government Contracting," January 27, 2016
- "Whew! That Was Close – D.C. Circuit Reaffirms Application of Attorney-Client Privilege and Attorney Work Product Doctrine in Internal Investigations," September 21, 2015
- "SCOTUS: No Unlimited Suspension of the Statute of Limitations Under the False Claims Act; 'First-to-File' Doctrine Does Not Bar Related Suits in Perpetuity," May 27, 2015
- "Free(er?) Trade - US, EU and Canada Quibble Over Market Access and Domestic Preferences," August 15, 2013
- "Lots of Little Things - FAR Updates from the Federal Acquisition Circular," August 15, 2013

- "Quick on the Trigger - Period for Contractors to Comment on Past Performance Evaluations Will Shrink from 30 Days to 14 Days," August 14, 2013
- "Threats and Vulnerabilities - What Every Contractor Should Know About The SBA's New 'Presumed Loss' and 'Deemed Certification' Rules," July 22, 2013
- "'The Song Remains the Same' - DFARS Removes and Replaces Restrictions on Export Controls," July 22, 2013
- "'Buy American' Compliance Tips," April 29, 2013
- "Playing Cards With a Government That Stacks the Deck - D.C. District Court Radically Expands The 'Christian Doctrine' To Subcontracts," April 29, 2013
- "Country of Origin for Computer Software - U.S. Customs Finally Sheds Some Light on the Issue," February 11, 2013
- "Free Trade Agreement Updates for 2012," February 11, 2013
- "Smash & Grab Redux - Congress Seems to Give DCAA Permission But Forgets to Give It Authority," January 28, 2013
- "Smash & Grab - DCAA Poised to Gain Access to Contractor Internal Audit Reports," December 17, 2012
- "Free Trade Agreement Updates - Changes to the WTO GPA and KORUS FTA," April 16, 2012
- "Terrorism and Taxes - Proposed FAR Rule Imposes 2% Tax on Foreign Offers to Fund 9/11 Relief Fund," March 16, 2012
- "New 2012 Updates to U.S. Free Trade Agreements Expected; No Progress With China," February 13, 2012
- "2011 Year In Review: Export Controls and Promised Reforms," January 11, 2012
- "'Bah! Humbug!' - 3% Withholding and the Ghost of Christmas Future," January 11, 2012
- "The Times They Are A Changin' - Independent Research and Development May Not Be So 'Independent' Any More," April 18, 2011
- "Size Does Matter - Impacts Of The Small Business Jobs Act Of 2010," December 17, 2010
- "Bidding Adieu To The 'Summer of Recovery': Changes To ARRA Buy American And Reporting Requirements," November 11, 2010
- "Recovery Act and Updates to 'Buy American,'" April 13, 2010
- "New 2010 Updates to Buy American and Trade Agreements Dollar Thresholds; Buy American Requirements Remain Elusive and Complicated," January 11, 2010
- "It's Time to Report That Stimulus Information That You've Been Collecting -- Are You Ready?" October 5, 2009
- "The Moment of Truth Has Arrived -- 'Made In Taiwan' Now Qualifies Under the TAA," October 5, 2009
- "DHS Publishes New Rules Expanding Berry Amendment to Most DHS Procurements," October 5, 2009
- "More Than a Year In the Making! -- DOD Issues Final Rules for Specialty Metals; New Rules Are No Less Complicated," October 5, 2009
- "Working Like a Highway Road Crew -- Government Finally Amends SF 1443 to Eliminate References to 'Paid Cost Rule,' a Mere *Seven Years* After the Fact," July 7, 2009
- "Country of Origin - 'Made In Taiwan' Will Soon Be TAA Compliant; China Continues to Dawdle; Costa Rica, Peru, and Oman also Recognized," July 7, 2009

- "Recovery Act Update - U.S. Stimulus: "Buy American"; PRC Stimulus: "Buy Chinese"; Canada and WTO: 'Not Pleased,'" July 7, 2009
- "ARRA Risks – Traps for the Unaware," July 7, 2009
- "New Recovery Act Rules Implement Provisions Relating To Government Audit Access, Whistleblower Protections, And Buy American Requirements; Much Confusion Remains," April 9, 2009
- "DOD Conclude That Specialty Metals Are Not Materials Critical To The National Security Interests Of The U.S.," April 9, 2009
- "More Buy American Requirements in the 2009 Stimulus Act: Berry Amendment Expanded To Include DHS," March 19, 2009
- "District Court Enjoins Enforcement of Statute Providing for Race-Based Preferences in Federal Procurement and University Contracts; DOD Issues a Pyrrhic Waiver," March 19, 2009
- "Stimulation Has Its Price - The Audit and Oversight Provisions of The 2009 Stimulus Bill Are Unlike Anything Most Funding Recipients Have Ever Seen," February 23, 2009
- "New Rules For Commercial Off-The-Shelf Products Exempts BAA Components And Exempts Recycled Content Reporting Requirement," February 17, 2009
- "Free Trade Agreements, 'Made In America,' and The 2009 Stimulus Package - Country of Origin Requirements Remain an Elusive Compliance Obligation," February 17, 2009
- "Department Of Commerce Proposes New Rule For Intra-Company Transfers," January 7, 2009
- "Treasury Issues Final Rules Describing Procedures For Reviewing Foreign Investment In U.S. Companies," January 7, 2009
- "New Export Rules Revise De Minimis Provisions, Allowing Bundled Software To Be Included In Commodity Valuation, Clarifying Terms, And Reducing Reporting Requirements," November 17, 2008
- "Encryption Export Restrictions Loosened Under New Rules That Reduce Pre-Review And Reporting Requirements," November 17, 2008
- "Federal Circuit Strikes Down DOD Preferences For Minority Contractors As Unconstitutional; Consequences Uncertain," November 17, 2008
- "Export Licenses Are Now C.O.D. - Department Of State Modifies ITAR Registration Fee Structure To Increase Fees And Provide For More Consistent Revenue Stream," October 6, 2008
- "Hitchcock And Specialty Metals - DOD's New Proposed Rules Are Dizzying; Ambiguities Remain," September 8, 2008
- "New DOD Rule Imposes Contractual Requirement For Contractors To Comply With U.S. Export Laws," September 8, 2008
- "Specialty Metals Update: HASC Criticizes DCMA's January 2008 Specialty Metals Class Deviation," June 30, 2008
- "Amicus Brief Filed in U.S. Supreme Court to Support Reversal of Decision Holding That Any Government Contract Tainted by Fraud is Void from the Outset," June 30, 2008
- "Comments on Proposed CFIUS Rules Range from Cautious Praise to Outright Criticism," June 30, 2008
- "Treasury Proposes New Rules for Reviewing Foreign Investment in U.S. Companies," May 15, 2008
- "New Specialty Metals Rules Add to Existing Confusion; DOD Suggests Single Process Initiative May Help Streamline Application," April 18, 2008

- "DOJ Does Not Support Recent Proposed FCA Amendments - Why Then Do Some in Congress Still Think Changes Are Required?" March 13, 2008
- "Pending Legislation Would Expand Extraterritorial Prohibition on Doing Business with Iran, Even for Foreign Companies; U.S. Companies with Foreign Subsidiaries Should be Warned," February 6, 2008
- "New Legislation Would Loosen Specialty Metals Restrictions While Leaving Heavy Administrative Burdens on Industry," January 16, 2008
- "Export Enforcement," September 20, 2007

## Media Mentions

FLIR Fires Up More M&A  
*The Deal*, 02.12.2019

## Speaking Engagements

"Drafting and Negotiating Teaming Agreements," Public Contracting Institute, 2011-Present

"Teaming Agreements and Advanced Subcontracting," Federal Publications, 2008-Present

"Fun with the FAR," Public Contracting Institute - Webinar, June 4, 2014

"Walking the Tightrope- Q&A on Emerging Compliance Issues," Ingram Micro 2013 Federal Summit, May 15, 2013

"What U.S. Offset Personnel Need to Know About the Buy American Act," Defense Industry Offset Association, Spring 2013 Conference, May 2, 2013

"Terminations for Convenience- You Can't Always Get What You Want," Association of Procurement Technical Assistance Centers, 2013 Training Conference, April 23, 2013

"Buy American and Country of Origin Requirements," Sheppard Mullin Lunch With Your Government Contracts Lawyer, February 26, 2013

"Contract Compliance: Choose Your Own Adventure," Public Sector 2012 Federal Summit, June 21, 2012

"Small But Smart: Three Things Every Small Business Should Know About Selling to the Government," Public Sector 2012 Federal Summit, June 21, 2012

"Extracting Revenue from Government Contractors - Withholding Taxes and Imposing Penalties," GovEd Alliance, June 9, 2011

"Buy American Act and Trade Agreements Act- Country of Origin Restrictions Under U.S. Law," Technology Advances, December 13, 2010

"Making Sense of the Specialty Metals Requirements," American Conference Institute's DOD Contracting Summit, June 23, 2010

"Overview of Requirements Under the Stimulus Act," PLI, March 12, 2010

"Strings Attached to Stimulus Funding - The Buy American Act and Expanded Government Audits," CLE International, March 4, 2010

"Considering the Future of Commercial Contracting," Presented to the Association of Integrated Dual-Use Commercial Companies, February 5, 2009

"Globalization - Practical Considerations in Day-to-Day Business With an International Focus," NCMA's World Congress, April 24, 2007

"Whistleblower Statutes & Corporate Compliance," Lorman Seminars, April 6, 2006

"U.S. Export Control Laws," NCMA, Northern Virginia Chapter, October 18, 2005

"Best (and Worst) Practices: Lessons Learned from the Federal Procurement System," North Carolina Statewide Purchasing Conference, Raleigh, North Carolina, March 29, 2005

## Events

DFUN with the DFARS Part 225 – Contracting with Non-US Sources  
04.02.2019

Supply Chain Week: CPSR, Commercial Item Determinations & Price Analysis, Subcontract Management, and Managing Government Property (FL)  
Public Contracting Institute  
03.08.2019

Government Contracting 101: The Risks of Having Uncle Sam as a Customer  
Third Thursday Emerging Company Webinar Series  
Via WebEx, 10.17.2013

## Practices

Government Contracts, Investigations & International Trade

Bid Protests

Buy American

CFIUS: Foreign Investment in the U.S.

Claims

Contract Cost Accounting

False Claims Act

Foreign Corrupt Practices Act (FCPA)

Intellectual Property Rights Under Government Contracts

Exports and Export-Related Controls  
Multiple Award Schedule Contracting

## Industries

Aerospace & Defense  
CFIUS: Foreign Investment in the U.S.

## Education

J.D., Washington College of Law of the American University, 2001, *magna cum laude*  
B.A., University of Utah, 1997, *cum laude*

## Admissions

District of Columbia  
Commonwealth of Virginia  
Federal courts in Virginia and in the District of Columbia  
U.S. Court of Appeals for the Federal Circuit  
U.S. Court of Federal Claims