



→ John W. Chierichella

Of Counsel

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John Chierichella is of counsel in the Governmental Practice in the firm's Washington, D.C. office.

Areas of Practice

John's practice focuses on government contract matters, including claims and appeals, cost and CAS issues, compliance reviews and internal investigations, *qui tam* and other False Claims Act litigation, bid protests, teaming disputes and GSA's Multiple Award Schedule (MAS) Program.

John has been nationally recognized by *Chambers & Partners, Legal 500*, and most recently by *Who's Who Legal*, noting that he "is one of the most instantly recognizable names in government contracts law."

John is a prolific author and frequent lecturer, and co-authored the leading book on the MAS Program. He also served as attorney/adviser to the Secretary, Office of the General Counsel, Department of the Air Force, in the area of procurement law from 1973 to 1975.

Honors

Chambers & Partners, Tier 1 National Ranking

Leading Lawyer in Government, *Chambers USA*

The Legal 500 Hall of Fame – Government Contracts, *Legal 500*, 2021-2022

National Recognition as an Elite Leading Lawyer in Government Contracts, *Legal 500*

Best Lawyers in America, *Best Lawyers*, 2022-2023

Washington, D.C. Super Lawyer, *Super Lawyers*

America's Leading Business Lawyers

Best Lawyers in Washington, D.C.

Best Government Contracts Lawyers, *Washington Business Journal*

Best Government Contracts Lawyers, *Washingtonian Magazine*

SmartCEO Magazine's SmartLawyers

Legal Times, Leading Lawyer

Who's Who Legal, Thought Leaders Global Elite, Leading Public Procurement Lawyer and Government Contracts Expert

Martindale-Hubbell Alternative Dispute Resolution Washington, D.C. Top Rated Lawyer

Recommended Lawyer - Government Contracts, *Legal 500*, 2022

Top Lawyers Hall of Fame, *Washingtonian Magazine*

Experience

Litigation Experience

- Litigation of contract claims and counterclaims in the Court of Federal Claims against the U.S. Postal Service
- Litigation of claims relating to restructuring costs under CAS 406
- Litigation of claims against HHS on behalf of a service-disabled small business
- Litigation relating to costs arising from storm damage incurred by Hurricane Katrina
- Litigation of alleged false claims brought by former employee/*qui tam* relator relating to accounting for vacation and holiday time
- Litigation of alleged false claims brought by former employee/*qui tam* relator relating to accounting for various indirect costs, including independent research and development (IR&D), manufacturing and production engineering, selling costs and long-range economic planning
- Litigation of alleged false claims relating to design, development and production of classified microelectronic circuits
- Litigation with respect to expressly unallowable costs
- Litigation with respect to the allowability and allocability of IR&D costs relating to aircraft development
- Litigation with respect to the allowability and allocability of IR&D costs relating to naval ship design and development
- Litigation with respect to breach of a teaming agreement for a major U.S. aircraft system
- Litigation of alleged false claims relating to compliance with the Buy American and Trade Agreements Acts
- Litigation of alleged false claims relating to compliance with the General Services Administration's Price Reduction Clause
- Litigation of alleged false claims relating to allowability of proxy contest costs

Alternate Dispute Resolution Experience

- Classified arbitration relating to alleged breach of teaming agreement for design, development and production of satellites
- Unclassified arbitration of claim against major Israeli contractor
- Mediation relating to alleged breach of teaming agreement for rocket motor technology
- "Baseball"-style arbitration of claims under government prime contract
- Mediation of penalties assessed for expressly unallowable costs

Investigations

- Investigation of alleged false claims relating to license fees and royalties included in prices billed to U.S. Government customers

- Investigation of alleged cost-plus-percentage-of-cost violations
- Investigation of alleged false claims relating to application of profit to inter-affiliate transfers
- Investigation of possible false claims raised by the U.S. Postal Service Office of Inspector General
- Investigation of alleged false claims relating to contractor claims of commerciality
- Investigation of potential false claims in connection with progress payment invoices
- Investigation of numerous alleged false claims relating to defective cost or pricing data
- Investigations of numerous kickback allegations
- Investigation of numerous potential disclosures under FAR Mandatory Disclosure Rule

Claims

- Representation of major aerospace contractor in connection with claims relating to failed rocket launch and loss of payload
- Preparation of claim against the Department of Interior relating to underpayments on contract for nationwide personal counseling services
- Preparation of claim under contract for overhaul of statewide information technology services contract
- Preparation of claim relating to contract for production of plant machinery and equipment
- Preparation of claims relating to contract for the design, development and production of unmanned aerial vehicles
- Investigation, preparation and prosecution of various contract claims relating to ship design and construction
- Investigation, preparation and prosecution of contract claims relating to extreme weather impacts
- Investigation, preparation and prosecution of contract claims relating to business reorganizations
- Representation of international sales agent in connection with claims for commissions against U.S. aircraft manufacturer
- Response to numerous contractual “show cause” and “cure” letters

Bid Protests

- Numerous offensive and defensive bid protests at the Court of Federal Claims, GAO and agency levels

Counseling

- Audit Response
- Buy American Act, Trade Agreements Act and Appropriations Act Restrictions

Costs

- Allowability
- Allocability
- Reasonableness
- Credits

- Depreciation
- Economic Planning
- Environmental Costs
- Executive Compensation Costs
- Fines, Penalties and Mischarging
- Golden Handcuffs
- Golden Parachutes
- Idle Facilities and Idle Capacity
- IR&D
- Lobbying
- Manufacturing & Production Engineering
- Material Costs
- Organization Costs
- Relocation Costs
- Restructuring Costs
- Royalties
- Selling Costs
- Special Tooling and Special Test Equipment
- Termination Costs
- Legal and Other Proceedings Costs
- Cost Accounting Standards
- Cost or Pricing Data
- Cost Analysis/Price Analysis

Contracts

- Multiple Award Schedule Contracting
- Public Law 85-804/Extraordinary Contract Relief
- Rights in Technical Data and Computer Software
- Subcontracts and Flow Down Requirements
- Teaming Agreements

Other

- Government contracts-related due diligence in support of government contracts-related mergers and acquisitions
- Committee on Foreign Investment in the United States (CFIUS) oversight of M&A involving foreign buyers
- Foreign Ownership, Control or Interest (FOCI) in contractors holding classified contracts

- FOIA
- Service as an ombudsman for a foreign defense contractor under an ITAR-related agreement with DDTC resolving alleged export violations

Articles

Selected Recent Articles in Print

- "Contractors Face Tougher Ethical Standards," *National Defense*, December 2020
- "DoD Policy Memorandum Rejects "Sweeps" Data, National Defense Magazine," *National Defense*, September 2018
- "Achieving Cyber-Fitness in 2017: Part 6—Potential Liabilities and Putting It All Together," *The Government Contractor*, December 6, 2017
- "Industry Struggles with Ever Changing Acquisition Rules," *National Defense*, September 26, 2017
- "Achieving Cyber-Fitness in 2017: Part 5—Cyber Incident Reporting and Response," *The Government Contractor*, September 13, 2017
- "Achieving Cyber-Fitness in 2017: Part 4—Subcontracts, Joint Ventures And Teaming Agreements," *The Government Contractor*, June 14, 2017
- "Presidential Executive Order on Cybersecurity: No More Antiquated IT," *Bloomberg Law Privacy and Security Law Report*, May 29, 2017
- "Achieving Cyber-Fitness in 2017: Part 3—Proving Compliance And The Role Of Third-Party Auditors," *The Government Contractor*, April 5, 2017
- "Achieving Cyber-Fitness in 2017: Part 2—Looking Beyond The FAR And DFARS—Other Safeguarding And Reporting Requirements," *The Government Contractor*, February 22, 2017
- "What You Need to Know About Mergers and Acquisitions Involving Government Contractors and Their Suppliers - Volume 10," *Pratt's Government Contracting Law Report*, January 2017
- "Achieving Cyber-Fitness in 2017: Part 1—Planning for Compliance," *The Government Contractor*, February 1, 2017
- "The Enemy Within: The Soft Underbelly of Cybersecurity," *Metropolitan Corporate Counsel*, November 2016
- "The Impact of Foreign Buyers on Mergers and Acquisitions Involving Government Contractors: Preserving the Facility Security Clearance (Part II)," October 12, 2016
- "Identifying and Mitigating Organizational Conflicts of Interest in Government Contracts Mergers and Acquisitions," *Bloomberg BNA*, October 11, 2016
- "The Impact of Foreign Buyers on Mergers and Acquisitions Involving Government Contractors: Preserving the Facility Security Clearance (Part I)," *The Government Contractor*, October 5, 2016
- "Where to Look for Low Hanging Fruit," *Contract Management - Due Diligence in Government Contracts Mergers and Acquisitions*, September 2016
- "Roadmap to Obtaining Government Consent for Corporate Transactions Involving Government Contractors," *Financier Worldwide Magazine*, September 2016
- "Investing in Small Business - Navigating SBA's Affiliation Rules," *The Government Contractor*, August 24, 2016

- "The Impact of Government Contracts on The Structure of Corporate Transactions," *Financier Worldwide Magazine*, August 2016
- "Contractor Mergers and Acquisitions: Issues to Watch," *National Defense*, June 2016
- "Compulsory Confession Without Absolution: Complying With the FAR Mandatory Disclosure Rule," *Thomson Reuters Westlaw Journal*, September 2015
- "10 Ways To Maximize Success Of Gov't Contract Claims," *Law360*, February 19, 2013

Selected Government Contracts, Investigations & International Trade Blog Posts

- "'You Got To Know When To Protest' Part III: The Court Of Federal Claims Declines To Expand Blue & Gold Waiver Rule For Bid Protests 'Any Further Than The Federal Circuit Already Has'"; September 24, 2021
- Blue & Gold Waiver Rule For Bid Protests Inapplicable When Pre-Award Objection Would Have Been "Futile"
rel="noopener" href="https://www.governmentcontractslawblog.com/2020/08/articles/protest/protest-part-ii-blue-gold-rule/">>"You Got To Know When To Protest' Part II: Federal Circuit Holds *Blue & Gold* Waiver Rule For Bid Protests Inapplicable When Pre-Award Objection Would Have Been 'Futile'; August 18, 2020
- "'You Got To Know When To Protest': Federal Circuit's Inverso Decision Stretches the Blue & Gold Waiver Rule For Bid Protests To New Lengths," July 29, 2020
- "CBCA Rules Contractor Under GWAC Task Orders Properly Submitted Claims to the Agency Ordering Contracting Officer Instead of the Procuring Contracting Officer," May 29, 2019
- "The Government's Playbook – Your Guide to Uncle Sam's Negotiating Techniques," April 29, 2019
- "Resurrecting the Spare Parts Bogeyman – A Refresher on Why the Government Gets It Wrong," April 29, 2019
- "GAO Annual Report On Bid Protests: 2018 Yields More Protests, More Merit Decisions, But Fewer Sustains and Fewer Hearings," December 3, 2018
- "OSD Issues Policy Guidance Rejecting 'Sweeps' Data," June 27, 2018
- "Clearly Erroneous Audit Assertion – An Expensive Thorn in Contractors' Sides," December 1, 2017
- "Industry Struggles With Ever Changing Acquisition Rules," October 26, 2017
- "Presidential Executive Order on Cybersecurity: No More Antiquated IT," May 30, 2017
- "Defense Contractors to Face New Cost Accounting Oversight with Creation of Defense Cost Accounting Standards Board," April 26, 2017
- "Been to Confession Lately?" October 27, 2015
- "Those NDAs May Not Be Worth the Paper They Are Written On," March 24, 2015
- "'How Dare You Charge That for a Spare Part!' – The Untold Story of the X27 Interface Assembly," November 21, 2014
- "Data Rights Redux – 10 Ways to Preserve Your IP," October 29, 2014
- "Creating Intellectual Property is Hard; Losing It to Uncle Sam is Easy," September 24, 2013
- "Teaming Agreements Called Into Question Under Virginia Law," April 29, 2013
- "The ABC's of Government Contract Claims - 10 Ways to Maximize Your Chance of Success," January 28, 2013

Books

GSA Schedule Handbook, First through Eleventh Editions
Co-Authored (2008-2020)

Media Mentions

ABA Section Flags Problems With DFARS/NIST Cybersecurity Guidance
The Government Contractor, 06.13.2018

Navy Contractor Can't Stay \$43M Submarine Oxygen Contract
Law360, 08.16.2017

Trump 'Freeze' Puts Rules in Limbo, But Contractors May Not Mind
Bloomberg BNA Federal Contracts Report, 06.14.2017

Federal Contractors Brace for Insider Threat Rule
Compliance Week, 09.13.2016

Pentagon Weighs Strategy to Secure 'Trusted' Electronics Suppliers
National Defense, 07.11.2016

Events

NCMA's 36th Annual Government Contract Management Symposium
Arlington, VA
12.04.2017

Where Are We Headed? Trends and Directions in the Aerospace & Defense Market 2018
Washington, D.C.
11.01.2017

Lunch With Your Cybersecurity Lawyer
Sheppard Mullin DC
09.28.2017

Memberships

Member, Advisory Board, Government Contractor

Member, Sections of Public Contract Law, Administrative Law and Litigation, American Bar Association

Member, National Contract Management Association

Practices

Governmental Practice

CFIUS: Foreign Investment in the U.S.

White Collar Defense and Corporate Investigations
Litigation
Alternative Dispute Resolution
Bid Protests
Buy American
Claims
Contract Cost Accounting
Exports and Export-Related Controls
False Claims Act
Government Contracts
Intellectual Property Rights Under Government Contracts
Multiple Award Schedule Contracting

Industries

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

Education

J.D., Columbia Law School, 1972, *Law Review*, James Kent Scholar, Harlan Fiske Stone Scholar
A.B., Cornell University, 1969

Admissions

District of Columbia
California
New York
U.S. District Court for the Eastern District of Wisconsin