

Phillip R. Seckman

Partner



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Overview

Phillip Seckman represents clients concerning government and commercial contract matters. His practice spans a broad range of subjects related to federal procurement law, state and local procurement law, and complex federal regulatory issues. He concentrates his practice in the areas of commercial item acquisitions, GSA schedule contracting, cybersecurity, compliance, internal investigations, and bid protests (both federal and state). A significant component of his practice involves government contract cost allowability, proper cost accounting, and contract cost and pricing issues.

Phil has significant experience in the assessment, presentation, and litigation of complex contract claims. He also has significant experience assisting clients in establishing policies and procedures to ensure compliance with government contract requirements. When potential non-compliances have been identified, Phil has assisted in the internal review and assessment of these issues and has aided clients in the preparation of appropriate disclosures when required. He frequently assists DOD contractor clients regarding business systems issues, including preparing for, responding to, and remediating issues associated with reviews conducted by the Defense Contract Management Agency and the Defense Contract Audit Agency.

Phil frequently writes and lectures regarding commercial item acquisitions, GSA schedule contracting, cybersecurity, business systems, FAR Mandatory Disclosure Rule, and cost accounting issues.

Phil was recently named a Fellow of the National Contract Management Association. Phil also has been repeatedly recognized as a "Rising Star" by Colorado Super Lawyers.

Experience

- Successfully litigated a \$35M contract dispute before the Civilian Board of Contract Appeals involving a cost plus incentive fee contract at a DOE cleanup site.
- Lead counsel in numerous bid protest matters before the Government Accountability Office.
- Lead counsel in the development, pursuit and successful negotiation of multi-million dollar construction contract equitable adjustment.
- Lead counsel in the prosecution and settlement of a claim for reimbursement of legal costs incurred by a

contractor defending against various third-party claims. The successful negotiation and settlement resulted in the recovery of over 95% of claimed costs.

- Successfully obtained a sustained protest victory involving a Colorado State procurement for the new Pharmacy Benefits Management System valued at over \$200M. The state agency then restructured the solicitation based on the results of the protest action.
- *ATK Thiokol v. United States*, 598 F.3d 1329 (Fed. Cir. 2010) (co-authored the appellate briefs that aided victory in the landmark case regarding IR&D costs).
- American Ordnance, LLC, ASBCA No. 54718 (Feb. 17, 2010) (finding entitlement to breach of contract for defective specifications relating to the melt pour of 155MM M107 Howitzer Shells).

Insights

- Co-author, "Biden administration builds on its domestic preference policies with a new Executive Order geared towards American supply chain resilience and security," Dentons client alert, March 3, 2021
- Co-author, "President Biden signs new Executive Order aimed at strengthening Buy American rules during first week in office," Dentons client alert, January 27, 2021
- Co-author, "Pre-Contract Challenges to Government Assertions of CAS Noncompliance and Cost Disallowances," *The Procurement Lawyer*, Winter 2021
- Co-author, "The Section 889B Prohibition. . . Legislative mess begets regulatory mess?," Dentons client alert, September 29, 2020
- Co-author, "Government Contracting During the COVID-19: Key Considerations for Negotiating New Government Contracts Amidst the Global Pandemic," Dentons client alert, April 6, 2020
- Co-author, "Guarding The Privilege Reprised: Fourth Circuit Reverses District Court Decision Finding Disclosure Pursuant to the Mandatory Disclosure Rule Waived Attorney-Client Privilege," Dentons client alert, March 31, 2020
- Co-author, "PREP Act Coverage for COVID-19 Related Activities Provides Important Immunity Protections," Dentons client alert, March 30, 2020
- Co-author, "Supply Chain Impact of President Trump's Executive Order Under the Defense Production Act," Dentons client alert, March 21, 2020
- Co-author, "Voluntary vs. Involuntary Stop Work: What Contractors Should Consider as the COVID-19 Pandemic Evolves," Dentons client alert, March 17, 2020
- Co-author, "A "Breach" Too Far? The Federal Circuit's Application of the *Tecom* Contract Breach Standard in *Bechtel National, Inc.*," *The Procurement Lawyer*, Fall 2019
- Co-author, "IR&D, BP, Selling and Related Costs Under Federal Government Contracts-A Practical Guide," *Dentons US LLP*, August 2019
- Co-author, "In *Bechtel National Inc.*, the Federal Circuit fails to clarify *Tecom* and the allowability standard for third-party settlement costs," Dentons client alert, July 23, 2019
- Co-author, "DOD Quietly Kills Another Controversial IR&D Rule," Dentons client alert, December 3, 2018
- Co-author, "Cybersecurity compliance - A key to future DoD awards," Dentons client alert, October 1, 2018
- Co-author, "DP/DPAP Guidance Increases Defective Pricing Risk for Contractors Certifying Current Cost/Pricing Data," *Dentons US LLP*, June 13, 2018
- Co author, "Implications of the Changing Cost and Pricing Data Thresholds for Prime Contractors and

Subcontractors," *Dentons US LLP*, May 23, 2018

- Co-author, "DOD Issues Final Rule Regarding Voluntary Disclosures of Defective Pricing," *Dentons US LLP*, May 17, 2018
- Co-author, "Government Contracts Legislative and Regulatory Updates - February 2018," *Dentons US LLP*, February 16, 2018
- Co-author, "For Commercial Item Contractors, Some Improvements -- Mixed With New and Old Barriers -- in DoD's Final Rule on Procurement of Commercial Items and Accompanying Guidebook," *Dentons US LLP*, February 5, 2018
- Co-author, "Stock Option Cost Allowability Runs Aground on Black-Scholes," *Dentons US LLP*, December 19, 2017
- Co-author, "DCAA Issues MRD Confirming Auditors Should Not Verify Technical Interchanges," *Dentons US LLP*, November 30, 2017
- Co-author, "DoD Cyber Security - Tips and Tricks for DoD Contractors in a Hurry," *Federal Times*, September 2017
- Co-author, "DPAP Issues Guidance Regarding NIST SP 800-171 Security Controls Implementation," Dentons client alert, September 28, 2017
- Co-author, "DoD Announces Industry Day to Facilitate Implementation of New Network Penetration Reporting Clause," Dentons client alert, April 6, 2017
- Co-author, "Hope For Commercial Item Contractors In 2017," *Law360*, December 30, 2016
- Co-author, "DoD Issues Final Rule on Covered Defense Information Clarifying Contractor Obligations," *Dentons US LLP*, October 21, 2016
- Co-author, "The Tip of the Iceberg," *Dentons US LLP*, October 16, 2016
- Co-author, "GSA's Final Rule on Transaction Data Reporting Reduces Burden--But Remains Potentially Harmful," *Dentons US LLP*, June 23, 2016
- Co-author, "A Lighter Touch — Final FAR Rule Issued on Safeguarding Contractor Information Systems" *Dentons US LLP*, May 13, 2016
- Co-author, "Cybersecurity and Your Supply Chain: What You Don't Know May Hurt You," *NCMA Contract Management Magazine*, February 2016

Activities and Affiliations

Presentations

- Co-Presenter, "Cybersecurity in Government Contracting (DIBCAC Assessments and CMMC)," Dentons Government Contracts Academy, March 11, 2021
- Co-presenter, "COVID-19: Key Issues Impacting the Government Contractor Community III," Dentons webinar, April 2, 2020
- Co-presenter, "COVID-19," Baker Tilly Virchow Krause, LLP Webinar Series, Winter 2020
- Panelist, "Cyber Security in Your Supply Chain," and facilitator, "Commercial Item Acquisition Workshop," Rocky Mountain Government Contracts Conference, October 10-11, 2019
- Co-presenter, "Truthful Cost or Pricing Data (f/k/a - The Truth in Negotiations Act)," American Conference Institute, June 19-20, 2018

- Co-presenter, "It's Time to Check the Checklist Before DFARS Cyber Deadline," Deloitte & Touche Webinar, November 2017
- Co-presenter, "2017 Cost & Pricing Developments," Federal Publications Seminars, November 2017
- Presenter, "The DOD Network Penetration Clause: Impacts on DOD Contractors and Subcontractors," National Property Management Association, September 2017
- Co-presenter, "The New CAS Board at the DoD," American Conference Institute, June 2017
- Co-presenter, "The NARA Rule and NIST SP 800-171," PCI Webinar, March 2017
- Co-presenter, "Federal Contracting in Here and Now: Smothered in Compliance Burdens & Risks," ABA Corporate Counsel CLE Seminar, February 2017
- Co-presenter, "The DOD Network Penetration Clause: Impacts on DOD Contractors and Subcontractors," PCI Webinar, January 2017
- Co-presenter, "Contract Performance Issues," 2016 Denver Government Contracts Briefing," Dentons US LLP, Denver, CO, May 10, 2016
- Presenter, "DOD's New Cyber Requirements: Impacts on DOD Contractors and Subcontractors," Public Contracting Institute, January 5, 2016
- Presenter, "Effective Strategies for Preparing Presenting and Negotiating Commercial Item Status," Colorado Technical Assistance Center (PTAC), December 17, 2015
- Presenter, "Cost Negotiations Virtual Conference 2015," National Contract Management Association, November 18, 2015
- Presenter, "The DFARS UCTI Clause - How It Impacts the Subcontract Relationship," National Contract Management Association World Congress, July, 2015
- Presenter, "Business Systems: Managing Business System Audits," Public Contracting Institute, June 23, 2015
- Presenter, "Subcontract Flowdowns Best Practices and Emerging Issues," and "Cybersecurity Developments -What Contractors Need to Know," National Contract Management Association Denver Chapter Spring Seminar, April, 2015
- Presenter, "Government Contract Change Essentials," Lorman, January 27, 2015
- Presenter, "Government Contract Change Essentials," Lorman Webinar, January, 2015

Memberships

- American Bar Association, Commercial Products and Services Committee, Co-Chair and Accounting Cost & Pricing Committee Vice-Chair
- Colorado Bar Association
- NCMA Denver, Board of Advisors, CPCM, Fellow

Areas of focus

Practices

- Privacy and Cybersecurity
- White Collar and Government Investigations

- Government Contracts - US
- Bid Protests
- Claims and Terminations
- Commercial Products and Services
- Costs, Pricing, Business Systems and Appropriations Law
- GSA Schedule Contracting
- State and Local Government Contracts
- Government Contracts - US

Industry sectors

- Defense and Space
- Construction
- Health Care

Region

- Denver

Education

- University of Denver Sturm College of Law, 2004, JD, *Order of St. Ives*
- University of Colorado, 2000, BA

Admissions and qualifications

- Colorado
- US Court of Appeals for the Federal Circuit
- US Court of Federal Claims
- US District Court for the District of Colorado