



Douglas P. Hibshman

Partner

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Doug is a partner in the firm's Federal Government Contracts; Construction; Tax Controversy & Litigation; Litigation; Privacy & Data Security; Mergers & Acquisitions; White-Collar Compliance & Defense; Health Law; and Architecture, Engineering & Design Professional Firms practice groups. He also serves as Washington D.C. Office Managing Partner.

Doug represents national and international clients in the defense, health care, engineering, information technology, construction, manufacturing, and services industries with all manner of complex contract, compliance, tax controversy, and litigation issues. Doug's clients are involved in the manufacture, procurement, and providing of unique and complex goods and services around the world to both governmental and commercial parties.

First and foremost, Doug is a contracts and compliance attorney who assists clients with navigating and managing the life cycle of complex contracts and ensuring regulatory compliance during the entirety of a contract. The contract life cycle includes the pre-contract phase, contract administration phase, and post-contract phase. He provides pragmatic, effective, and common sense advice to clients to manage and mitigate challenges encountered during all phases of a contract's life cycle.

During the pre-contract phase, Doug assists clients with drafting contract documents, assessing contract risk, conducting due diligence, negotiating contract terms, and preparing to perform and administer complex contracts, subcontracts, purchase orders, and other agreements calling for the procurement, transfer, licensing, or sale of a wide variety of unique and specialized goods and services. During the contract administration phase, Doug advises clients on effectively mobilizing and implementing their assets and capabilities, structuring their contract management teams for maximum effectiveness, advising on "best practices," and ensuring that clients have robust and wide-reaching compliance and internal governance programs. During the post-contract phase, Doug assists clients with closing out contract issues, finalizing payment obligations, and litigating complex claims and disputes that arise during the contract.

Federal, State, and Local Government Contracts / Commercial Contracts

Doug guides clients through all facets of contracting with federal, quasi-federal, state, and local government agencies for goods and services. Doug advises clients on contract matters involving numerous governmental entities, such as the U.S. Army Corps of Engineers, Department of Energy, General Services Administration, Center for Medicare & Medicaid Services, Naval Facilities Engineering Command, Naval Air Systems Command, Defense Logistics Agency, Environmental Protection Agency, Department of Homeland Security, National Aeronautics and Space Administration, Veterans Administration, the District of Columbia, Virginia, Maryland, and many other governmental entities. He currently possesses a Top Secret/SCI clearance and is able to assist clients with a host of classified federal contract matters. Specifically, Doug provides guidance to clients on the following contract issues:

- Preparing teaming agreements, joint venture agreements, and contract/subcontract/purchase order documents;
- Identifying contract risks and advising on complying with FAR/DFARS, state and local law, agency-specific regulations, contract terms and conditions, and other contract performance and administration requirements;
- Representing clients in bid protests before the U.S. Court of Federal Claims, the GAO, and various federal, state, and local procuring agencies;
- Navigating the GSA Schedule process;
- Managing subcontractors/suppliers/lower-tier contractors and implementing federal contracting "best practices;"
- Implementing or challenging termination for default or termination for convenience actions, to include preparing termination settlement packages;
- Managing and litigating complex claims/appeals for contractors under the Contract Disputes Act (CDA) and other applicable jurisdictional statutes seeking monetary relief from procuring agencies at the U.S. Court of Federal Claims, state courts, federal courts, and the various boards of contract appeals;
- Managing DCAA/DCMA and other governmental audits; and
- Overseeing acquisitions/mergers/novations of contractor business entities.

Similarly, Doug provides contract guidance to clients on all manner of contract agreements between commercial entities, such as project owners and general contractors, general contractors and subcontractors, purchasers and suppliers, and manufacturers and customers. Doug routinely assists his clients with drafting various commercial contract documents, conducting due diligence regarding contract partners and contracting opportunities, negotiating and administering complex contracts, assessing risk in and managing third party contracts, implementing contracting "best practices," and litigating complex contract disputes between partners at all levels of the contract hierarchy. Doug works closely with each of his clients as a member of their respective contract teams to enable him to provide timely, comprehensive, and matter-of-fact advice. His primary goals are to assist clients in obtaining the best value from their contract relationships, while at the same time, avoiding costly and time intensive contract disputes.

Compliance and Internal Governance

Doug represents clients on all manner of compliance and internal governance issues, to include the following:

- Ensuring compliance with multiple regulatory requirements, such as the False Claims Act, federal data rights and cyber security requirements, counterfeit parts restrictions, the Foreign Corrupt Practices Act, Organizational Conflicts of Interest (OCI) prohibitions, subcontracting plan requirements, allowable cost principles under FAR Part 31, the SBA size regulations, the Buy American Act, the Center for Medicare & Medicaid Services regulations, the Cost Accounting Standards, the Department of Labor Office of Federal Contract Compliance Programs standards (OFCCP), Department of Labor affirmative action and preferential hiring standards, federal employee post-employment bans related to work performed as a federal employee, contractor debarment/suspension processes, and many other compliance-related requirements;
- Establishing, managing, and maintaining robust compliance and internal governance programs/control systems to ensure continued compliance with applicable regulatory and contract standards, to include drafting contractor Codes of Business Ethics and Conduct as required by the FAR;
- Conducting a wide range of internal investigations to determine if a client is required to make a mandatory disclosure of potential fraud to government agencies, and if required, managing the mandatory disclosure process;
- Providing in-house ethics and compliance training to client leadership, employees, and contractors;
- Managing and litigating federal and state civil and criminal allegations raised against contractors for fraud and other potential non-compliance issues;
- Challenging entity and individual suspension and debarment actions;
- Complying with applicable ITAR/export controls/supply chain regulations;
- Understanding and applying the U.S. Small Business Administration (SBA) regulations related to small business size, certification, and affiliation, and representing clients in SBA size protests;
- Understanding and applying federal data rights and cyber security requirements, to include ensuring IT system compliance with FAR 52.204-21 (Basic Safeguarding of Covered Contractor Information Systems) and DFARS 52.204-7012 (Safeguarding Covered Defense Information and Cyber Incident Reporting);
- Representing entities in obtaining and maintaining facility clearance and personnel security clearances; and
- Representing individuals in personnel security clearance denial actions.

Construction, Engineering and Infrastructure Contracts

Doug has a national and international practice in which he represents contractors, subcontractors, engineers, suppliers, architects, project owners, and other parties on all manner of contract issues involved in large-scale government and commercial construction, engineering, and infrastructure projects related to industrial and pharmaceutical production facilities, military installations, airports, mass transportation projects, roads and bridges, water treatment plants, dams and levee walls, school facilities, multi-unit residential complexes, and various other projects. In addition to providing services throughout the lifecycle of construction, engineering, or architectural contracts, he also manages and litigates complex disputes between parties associated with a project. He has successfully handled complex cases related to defective contract specifications, differing site conditions, delays, acceleration and lost productivity, mechanic's and material liens, defective work and damage to work, breach of design/engineering/construction standards of care, contract terminations, project close-out and punch list disputes, indemnification, contribution and subrogation, surety bond claims, disputes, and Miller Act claims.

State and Local Tax Controversy

Doug represents clients in state and local tax controversies regarding taxpayer challenges related to income and franchise tax; sales and use tax; property tax litigation involving real and personal property; intangibles tax; excise and license taxes; and other forms of state and local taxation. Doug routinely represents manufacturers, service providers, healthcare entities, defense contractors, consultants, and clients in other industries in complex and unique tax challenges arising in Virginia, the District of Columbia, and Maryland, and assists his clients in navigating the complex administrative and litigation procedures involved in obtaining tax relief from state and local entities. Doug leverages his and Fox Rothschild's numerous relationships with tax consultants, expert witnesses, appraisers, and specialists to provide clients comprehensive representation in these tax matters. Prior to joining Fox Rothschild, Doug received a Taxation LL.M. from Georgetown University Law Center in Washington, DC, and administered complex tax appeals against the federal government as a judicial clerk at the U.S. Court of Federal Claims.

Services

- Federal Government Contracts
- Architecture, Engineering & Design Professional Firms
- Construction
- Tax Controversy & Litigation
- Health Law
- Mergers & Acquisitions
- Litigation
- Privacy & Data Security
- White Collar Criminal Defense & Government Investigations
- Infrastructure & Development

Before Fox Rothschild

From 2008 to 2011, prior to joining Fox Rothschild, Doug was a senior associate with the Atlanta-based, construction and government contracts litigation firm, Smith, Currie & Hancock LLP in the firm's Washington, DC office.

From 2007 to 2008, Doug served as law clerk for the Honorable Mary Ellen Coster Williams of the U.S. Court of Federal Claims, Washington, DC, where he focused on federal bid protests, contract claims and tax cases.

From 1999 to 2007, Doug served nine years as an active duty Judge Advocate (military attorney) in the United States Marine Corps, where he held numerous roles including legal assistance attorney, unit commander, military prosecutor and Special Assistant United States Attorney (SAUSA). He also served as an administrative law attorney, providing legal advice to senior officers and executives regarding various legal issues affecting the Marine Corps, and as head of the judge advocate policy and plans branch at the headquarters of the Marine Corps located at the Pentagon, where he served as the principal legal advisor to the Staff Judge Advocate to the Commandant of the Marine Corps on matters involving future planning and doctrine development, personnel structure and policy, and fiscal and financial matters.

Beyond Fox Rothschild

Doug continues to serve as a member of the Marine Corps Reserve and is currently assigned as a judge advocate at the International and Operational Law Branch of Judge Advocate Division, Headquarters Marine Corps, where he provides advice, guidance and training on operational law issues affecting the Marine Corps, such as rules of engagement, targeting, detainee operations, domestic operational law, war crimes, the Geneva Conventions and other international agreements. His current rank is Colonel and he possesses a Top Secret security clearance.

Doug lives with his wife and four children in Alexandria, Virginia, where he is active in the Alexandria Junior Titans Wrestling Club, Boy Scouts of America and various other youth sports and clubs.

Client Resources

Federal Government Contracts & Procurement Blog

Doug contributes to the Federal Government Contracts & Procurement blog, addressing current and future issues affecting federal contractors and procurement professionals in both the Washington, DC, area and throughout the United States.

[View Blog](#)

Federal Contractors' Guide to Small Business Administration Set-Aside Contracts, Size Standards, Size Protests, and Affiliation

This e-book answers key questions for federal contractors about Small Business Administration procurement and contracts.

[View E-Book](#)

Practical Advice (pdf files)

[Contractor's Guide to Maryland's Apprenticeship and Training Fund](#)

[Federal Contractors' Guide to Affirmative Action Plans](#)

Bar Admissions

- District of Columbia
- Maryland
- Virginia

Court Admissions

- U.S. Court of Appeals, Federal Circuit
- U.S. Court of Federal Claims
- U.S. District Court, District of Maryland
- U.S. District Court, Central District of Illinois
- U.S. Bankruptcy Court, District of Maryland
- Armed Services Board of Contract Appeals
- Civilian Board of Contract Appeals

Education

- Georgetown University Law Center (LL.M., 2006)
 - Taxation
- University of Cincinnati College of Law (J.D., 1998)
- Bloomsburg University of Pennsylvania (B.A., *magna cum laude*, 1993)

Memberships

- Armed Forces Communications and Electronics Association
- American Bar Association, Section of Public Contract Law
- American Bar Association, Forum on the Construction Industry

- Associated General Contractors of America
- Associated Builders and Contractors, Inc., Virginia and Metro Washington Chapters
- Society of American Military Engineers
- National Defense Industrial Association
- National Contract Managers Association
- Design Build Institute of America
- American Road & Transportation Builder's Association
- Marine Corps Association
- Alexandria Virginia Chamber of Commerce

Honors & Awards

- Named to the "Super Lawyers" list by *DC Super Lawyers* (2016, 2017)

Representative Matters

Doug has successfully represented:

- An aeronautical engineering contractor against a classified bid protest involving allegations of OCI before the GAO.
- A general contractor in False Claims Act *qui tam* action related to a large-scale, multimillion-dollar construction project for the Department of Defense.
- A manufacturing contractor and its key employees against suspension and debarment actions initiated by the Department of Defense.
- An ENR Top 20 federal construction contractor with pursuing multimillion-dollar delay and extra cost claims related to a \$1 billion hurricane mitigation and levee wall project in New Orleans, Louisiana.
- A computer services and software company against OCI claims raised by the Department of Defense.
- A solid waste disposal contractor with pursuing and defending against multiple SBA size protests and GAO bid protests related to numerous solicitations for federal services.
- A construction subcontractor in pursuing multimillion-dollar extra cost claims against a prime contractor related to multiple hospital construction projects managed by the Veterans Administration.
- A construction prime contractor and its key employees against suspension and debarment actions initiated by the Environmental Protection Agency (EPA).
- An unexploded ordnance removal subcontractor in pursuing multimillion-dollar extra cost and delay claims against the Department of Defense related to the clearing and mitigation of numerous mine fields and artillery ranges.
- A commercial general contractor on more than 100 retail, office space, mixed use and restaurant projects throughout the country in obtaining payment for extra cost and delay claims from multiple commercial owners.
- A prime contractor in pursuing extra cost and delay claims related to a multimillion-dollar border fence project for the Department of Defense/Department of Homeland Security.
- A federal prime contractor in overturning a default termination and converting it to a termination for convenience in relation to a multimillion-dollar levee wall project in New Orleans, Louisiana.
- A prime contractor in pursuing extra cost and delay claims related to a multimillion-dollar dam project for the Department of Defense in Puerto Rico.
- A federal prime contractor in mediation against extra costs and delay claims brought by its subcontractor on a multimillion-dollar boiler plant design and construction project managed by the U.S. Army Corps of Engineers.
- An international construction manager from construction defects claims related to an \$85 million hospital construction project in Maryland.