

A Legacy of Government Contracts at GW Law: A conversation between Lesley Busch, LL.M. '11, and Richard Forest Busch II, LL.M. '87



Lori, Richard, and Lesley Busch

When Professor Schooner originally approached me with the idea of conducting an interview with my father, Richard Busch, for this newsletter, I immediately had a flashback to the time that I interviewed him about the legal system for a seventh-grade class. That was quite awhile ago! Now, I am able to relate much more to my father's extensive legal experience because I am a practicing attorney myself, and I also received a GW LL.M. in Government Procurement. My father has more than 30 years of practice in government procurement through a wide variety of roles, including as an attorney in the government, in-house counsel of a large defense contractor, and partner at multiple law firms. Below is what I learned when I asked him about his experiences and how GW assisted him with each aspect of his career.

How did you end up becoming an Army attorney?

My professional path has been long and far from a straight line. Upon graduation from college I was commissioned a second lieutenant in the Army's Air Defense Artillery branch through the ROTC

program. Although I received an educational delay to go to law school, that delay was cancelled in October of my first year due to a national crisis. We were released about seven months later and I returned to law school. Upon graduation and passing the bar, I requested a branch transfer to the Army Judge Advocate General Corps, the JAGC. After completing the JAGC School in Charlottesville, Virginia, I was assigned to Fort Shafter, Hawai'i. I like to think that the assignment to Hawai'i was due to the U.S. Army feeling real bad about jerking me out of law school.

At the end of that assignment, I was honored to be selected as the first U.S. Army JA to fill a position at the National Security Agency (NSA) in the procurement law branch of the General Counsel's Office. In that position, I worked with very talented attorneys supporting the chief of the Procurement Office. Fortunately, I was then selected by the Army to attend GW's Government Procurement Law LL.M. Program. My experience in the JAGC and pursuing my LL.M. provided a focal point and direction in my legal career that has led to more than 30 years practicing government procurement law. Any success I have had, I owe to the education I received at

GW under the guidance of Professors Nash and Cibinic.

What led you to corporate practice?

Again, my path to corporate law was far from normal. I was very happy with the experiences I was having practicing classified procurement law at NSA and looking forward to my next assignment. Due to unexpected family medical challenges, I did not feel it was right to be on a possible unaccompanied tour or year-long residence course at the JAGC. Although I was just selected to be Regular Army, I tendered my resignation and was subsequently recruited by Martin Marietta, now Lockheed Martin. I was transferred to Denver as a staff attorney in the Aerospace Product area. I later became the Chief Counsel for Martin Marietta Denver's Information & Communication Services (I&CS) product area and later the Data System Group. Finally, I was appointed as General Counsel for the Space Launch Systems product area—a multi-billion dollar group supporting the Titan II, Titan III, Titan 34D, and Titan IV missile systems, among other duties.

Was the transition difficult, moving from NSA to corporate practice at Martin Marietta?

This sort of transition, although challenging, must be guided by the phrase "position determines perspective." When I was in the JAGC, the JAG School Procurement Manual had a caricature of a robber holding up Uncle Sam. The robber was labeled "Contractor." While I cannot say that is an accurate depiction of the contract parties, there were some people on both sides who hindered the process with just that sort of confrontational approach. I do not know if government procurement is an "art" or "science" or something else, but in a perfect world the Federal Acquisition Regulation, the

FAR, provides the framework to avoid those types of preconceived notions. As taught at GW, a thorough understanding of the FAR is essential to understanding the many facets of a problem to weave a resolution or position that best serves that client and promotes the public trust.

As we have discussed so many times, I try to focus on the provisions of FAR 1.102, Statement of Guiding Principles for the Federal Acquisition System. Paraphrasing this subpart, the acquisition team (government and contractor) MUST focus on the best value product or service to the customer and public trust in the system through fulfilling public policy and cooperative relationships and focus less on “risk avoidance” and more on “risk management.” Most important, however, is for both parties to remember that if a policy, procedure, or particular strategy or practice is in the best interest of the government but NOT specifically addressed in the FAR, nor prohibited by the law, executive order, or other regulations, the parties should NOT assume it is prohibited. I was lucky enough to have these principles explained to me as the foundation of how to approach a procurement problem during my studies at GW and those principles assisted me in the transition to corporate practice.

Starting in 1996, I remember you began practicing government contracts as a partner in large law firms with offices in Denver. Did you have a particular focus in your practice?

After more than 13 years with Lockheed Martin, I was presented with an opportunity to join a large regional firm to start a government contract practice group. I was excited to use my experiences with the government and a large defense contractor to form a practice approach as described earlier. The challenge was integrating this specialty with other specialties within the firm. The culture of the firm was to embrace the specialty of government procurement law and weave a synergistic relationship with its other practice groups, like corporate, IP, employment, lobbying, etc. That was the

real challenge. My focus was to create a team of experts within the firm in various fields to draw on those talents to address a client’s specific procurement problems.

How are you currently practicing in the field?

There are not many firms that have government procurement law expertise in the Rocky Mountain region. After a few years, I decided to open my own practice focused on government contract law, general counsel services, and ADR, but with a unique focus. I found I could provide better value to my clients by co-counseling with my prior firms and other firms, rather than limiting my approach to the talents of just one firm for support. While I am a sole practitioner, I have been able to establish synergistic relationships with firms in Colorado and across the country to assist me when needed. Many of these firms have expertise in practice areas that are complementary to my practice, and mine to theirs, so we do not compete. By combining our talents, we attempt to offer the best representation for the client. In addition, our rates are overall far more cost effective due to the region and lower overhead. We strive to have our legal representation be considered as an “asset” rather than an “expense” to our clients.

In your opinion, what is the largest challenge you have experienced being a government contracts lawyer in private practice in Colorado?

Although I enjoy my current practice, I have found that the government contract practice outside the major hubs of expertise on the East and West Coasts is a little different. When I deal with practitioners, clients, and other lawyers who are experienced in government contracts, I can focus on the issues much more quickly and use the regulations, laws, and other authorities to either craft a resolution or define the issues in a more effective manner. Although many of my clients are technically sophisticated in high technology or other precise work, they usually

do not understand the nuances of the government marketplace. Consequently, we must help form their government procurement strategy, as well as help them with specific issues like requests for equitable adjustment and protest actions. I always start my discussions with these folks with the direction to “Do it Right.” While Colorado has vast government procurement opportunities, there are few true practitioners in this region.

“As a father, I can only sit back and marvel at your talent and the success that you achieved...”

What has been the greatest “achievement” in your 30+ years of practicing government contract law?

That is easy. When you came back to Colorado to study for the bar exam you helped me in my practice, and after a short time you let me know that you found government contract law extremely interesting. You decided on your own to apply to GW’s LL.M. program and to follow in my footsteps. After graduating from the program and completing internships with HUBZone, GSA, and a clerkship with the Civilian Board of Contract Appeals, you are now a very successful government litigator. As a father, I can only sit back and marvel at your talent and the success that you achieved through your hard work and training at GW. I would like to believe that you focus your government procurement practice on the principles of FAR 1.102 and the concepts of “Do it Right” and a broad perspective. ■