

Expect Continued Antitrust Enforcement In Procurement

By **Kristen Broz, John Hundley and Kelly Lenahan-Pfahlert** (February 13, 2025)

Although the scope of federal antitrust enforcement under the second Trump administration remains uncertain, the Procurement Collusion Strike Force is expected to remain active.

The PCSF, which was started by the first Trump administration, collaborates with federal and state entities to enforce antitrust laws in the procurement space. Recent trends in criminal and civil enforcement highlight risks for government contractors and the need for ongoing antitrust training.

The Upshot

The extent to which the Trump administration may depart from the antitrust enforcement policies and priorities of the Biden administration remains uncertain. Despite the uncertainties, the PCSF is expected to continue its active enforcement efforts, particularly targeting antitrust crimes and related schemes in government procurement.

Since its launch in 2019, the PCSF has initiated over 140 investigations and secured more than 60 guilty pleas and trial convictions, demonstrating its effectiveness in combating bid rigging, price-fixing and market allocation schemes.

Criminal antitrust enforcement is becoming more aggressive and sophisticated, with prosecutors focusing on individual accountability and using advanced technology to uncover complex schemes.

The Bottom Line

Businesses must stay updated on regulatory and enforcement developments to ensure compliance with evolving antitrust guidelines and avoid legal risks. Developing and enhancing antitrust compliance programs can help prevent violations and demonstrate good corporate citizenship.

That there is uncertainty concerning federal antitrust enforcement in the second Trump administration is perhaps the understatement of the year. With proposals to roll the Federal Trade Commission's antitrust enforcement into the U.S. Department of Justice, and a statement from now-FTC Chair Andrew Ferguson that the "Biden-Harris FTC has no future," American companies are left confused as to what antitrust guidelines currently apply and what may change in the coming months.

For government contractors, however, we expect that antitrust enforcement will remain active through the second Trump administration. The PCSF is a national initiative led by the DOJ's Antitrust Division that targets antitrust crimes and related schemes in government procurement, grants, and program funding at federal, state and local levels.

Given the politically neutral objective of preventing misuse of government funds in the



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procurement process, it stands to reason that this administration will continue antitrust enforcement in the procurement space.

The PCSF, in collaboration with various U.S. attorneys' offices, the FBI and inspectors general from different federal agencies, aims to deter, detect, investigate and prosecute bid rigging, price-fixing and market allocation schemes that undermine fair competition and harm consumers and taxpayers.

Since its launch in November 2019, the initiative has trained over 39,000 agents, attorneys, auditors, analysts and procurement officials; initiated more than 145 investigations; and secured over 60 guilty pleas and trial convictions involving government contracts worth over \$575 million.[1]

Trends in Criminal Antitrust Enforcement

The landscape of criminal antitrust enforcement is becoming increasingly aggressive and sophisticated. Prosecutors are pursuing charges under both Title 15 (antitrust offenses) and Title 18 (fraud, obstruction, money laundering and conspiracies), with a heightened focus on individual accountability.

Advanced technology, including machine learning and network analysis, is employed to uncover complex schemes. Collaboration between federal, state and international law enforcement agencies has strengthened enforcement efforts, addressing cross-border conspiracies and disrupting global cartels targeting public procurement markets.[2]

Leniency policies and compliance programs remain a priority for the Antitrust Division, incentivizing good corporate citizenship. It is recommended that companies develop comprehensive instructions on designing and implementing compliance measures that align with DOJ standards. Key topics that should be covered include:

- Proper use of artificial intelligence: Companies should ensure the responsible use of artificial intelligence in their business operations to prevent any anticompetitive practices.
- Management of ephemeral messaging: Effective management of ephemeral messaging is crucial to prevent data deletion that could hinder investigations. Companies should implement policies to manage and retain important communications.
- Appropriate use of nondisclosure agreements: Companies should use nondisclosure agreements in a manner that ensures they do not facilitate anticompetitive practices.

Moreover, companies are encouraged to stay informed and continuously update their compliance programs to address evolving legal standards and enforcement practices. By following these recommendations, businesses can enhance compliance measures and maintain good corporate citizenship.

Recent Significant Matters

In the past year alone, the PCSF has pursued civil and criminal cases involving, among other things, bid rigging, price-fixing and monopolization. Below, we highlight noteworthy recent cases.

Maryland IT Services Fraud and Bribery Case

In *U.S. v. Brandon Scott Glisson*, four defendants pled guilty in the U.S. District Court for the District of Maryland to schemes involving bid rigging, defrauding the government, and bribery related to the sale of IT products and services to federal government purchasers, including the U.S. Department of Defense.

These pleas were part of the Justice Department's ongoing investigation into IT manufacturers, distributors and resellers selling to government purchasers.

On Nov. 7 and Nov. 13, 2024, respectively, Glisson, a government contractor, and Lawrence Eady, a federal government official, pled guilty to bribery. Between August 2019 and October 2020, Glisson paid approximately \$630,000 in bribes to Eady.

In return, Eady ensured government purchases from a co-conspirator's company at inflated prices, with the excess diverted to Glisson's company, Alpha Greatness Omega.

Antwann Rawls, an on-site government IT consultant, and Scott Reefer, an IT sales executive, also pled guilty. On Jan. 8, Reefer pled guilty to conspiracy to defraud the U.S. and commit wire fraud. On Jan. 13, Rawls pled guilty to conspiracy to defraud the U.S.

From at least 2018 to May 2019, they used insider information to rig bids for government IT procurements, causing a loss of at least \$1,300,000 to the U.S. government.

Sentencing hearings will be set later. Glisson and Eady face up to 15 years in prison, Reefer up to 20 years, and Rawls up to five years.

Wildfire-Fighting Fuel Truck Monopoly Scheme

In *U.S. v. Ike Tomlinson and Kris Bird*, the former owner of contractor companies providing fuel truck services to the U.S. Forest Service's wildfire fighters pled guilty to conspiring to monopolize, rigging bids, and allocating territories in violation of Sections 1 and 2 of the Sherman Antitrust Act.

This plea followed a wiretap investigation that led to the indictment of two executives in December 2023.

According to a plea agreement and information filed in the U.S. District Court for the District of Idaho, Tomlinson conspired with co-defendant Bird and others in at least two conspiracies. From March 2015 to March 2023, Tomlinson rigged bids and allocated territories in the market for wildfire-fighting fuel truck services for the U.S. Forest Service's Great Basin wildfire dispatch region.

Additionally, from February 2020 to March 2023, Tomlinson and Bird conspired to monopolize this market, excluding competitors and maintaining higher prices. In March 2023, Tomlinson coordinated with Bird to disadvantage two competing vendors on the Forest Service's dispatch priority lists.

Assistant Attorney General Jonathan Kanter emphasized the importance of prosecuting

monopolistic conduct. At the same time, U.S. Attorney for the District of Idaho Josh Hurwit and FBI officials highlighted the commitment to fair bidding processes and holding contractors accountable.

Oklahoma Transportation Contracts Price-Fixing

Four erosion control company owners or managers pled guilty in the U.S. District Court for the Western District of Oklahoma to rigging bids and fixing prices as part of a scheme targeting more than \$100 million in publicly funded transportation construction contracts in Oklahoma.

Stanley Mark Smith, Roy Henry Heinrich, Ryan Ashley Sullivan and James Travis Feazel conspired to allocate contracts, raise prices and manipulate bids from 2017 to various points up to April 2023. Court documents from the four cases detailed the actions of sending high-priced bids or declining to bid.

Smith's company aimed at more than \$42 million in contracts, Feazel's at over \$50 million and Heinrich's at over \$7 million. Sullivan's involvement concluded in April 2019.

The Justice Department's Antitrust Division and the PCSF emphasized the importance of protecting fair competition in public contracts. Kanter and other officials highlighted the commitment to prosecuting those who targeted infrastructure contracts through criminal schemes.

The defendants faced penalties under Section 1 of the Sherman Act, including up to 10 years in prison and a \$1 million criminal fine, potentially increased based on the crime's impact.

These cases illustrate ongoing efforts to detect, investigate and prosecute antitrust crimes and related schemes in government procurement. The use of advanced technology, collaboration with federal, state and international law enforcement agencies, and a focus on individual accountability are key elements of this strategy.

PCSF Summit

On Nov. 16, 2024, the PCSF held a summit to discuss strategies for combating emerging threats in government procurement.

The summit focused on enhancing data analytics to identify collusion, increasing training and awareness for procurement officials, strengthening law enforcement partnerships, and implementing targeted initiatives such as the Data Analytics Project and PCSF: Global.

The discussions also addressed risks associated with recent legislation like the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, with an aim to mitigate procurement-related threats and protect taxpayer funds.

Although there is uncertainty regarding the future of federal antitrust enforcement, the PCSF remains an active initiative.

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[1] <https://www.justice.gov/atr/procurement-collusion-strike-force>.

[2] <https://www.justice.gov/archives/opa/pr/antitrust-division-announces-new-policy-incentivize-corporate-compliance>.