

Merle M. DeLancey Jr. | Partner
Government Contracts

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Merle DeLancey's practice focuses on a wide variety of government procurement law. He represents clients contracting with federal and state governments, with an emphasis in the healthcare industry. Merle has experience in a broad spectrum of government contracting issues and litigation, such as:

- Healthcare government contracts covering brand, authorized generic, and generic pharmaceuticals; medical/surgical supplies; capital equipment; services; compounding; complex vaccines; and biologics
- Federal and state court litigation involving False Claims Act allegations, false statements, and defective pricing, including Medicare, Medicaid, and TRICARE fraud
- The impact and nuances of commercial pricing and distribution channels on government price reporting and reimbursement
- Negotiation of highly technical government contracts, grants, and other transactions ("OTAs"), and cooperative agreements for complex biologics, vaccines, equipment, and manufacturing facilities with numerous agencies including the Department of Health Human Services, Biomedical Advanced Research and Development Authority ("BARDA"), the Centers for Disease Control and Prevention ("CDC"), Office of the Assistant Secretary for Preparedness and Response ("ASPR"), the National Cancer Institute ("NCI"), the Department of Defense ("DoD"), including the Defense Logistics Agency, and the Department of Veterans Affairs ("DVA")
- Medicare and Medicaid price reporting compliance and reimbursement
- Department of Veterans Affairs and Public Health Service (340B) price reporting
- Cost accounting compliance including defending audits by agency offices of inspector general, DCAA, and DCMA

- All aspects of GSA and DVA federal supply schedule contracting including defective pricing and price reduction compliance
- Mandatory and voluntary agency disclosures
- Conducting internal investigations and performing compliance reviews and gap analyses
- Protests at the agency level, GAO, and the COFC
- Litigating claims at boards of contract appeals
- Negotiating requests for equitable adjustment
- Defending Congressional investigations and inquiries
- Agency suspension and debarment proceedings
- GSA leasing
- Mergers, acquisitions, novations, and change of name agreements
- Commercial disputes including between government prime contractors and subcontractors
- General FAR compliance including issues such as:
 - Country of origin (BAA and TAA)
 - Service Contract Act
 - Commercial item and COTS contracting
 - Small business subcontracting including mentor-protégé agreements and joint venture agreements
 - Teaming agreements
 - Economic price adjustments

RECENT PUBLICATIONS

- “Defense Health Agency and Defense Logistics Agency Memorandum of Agreement: A Good First Step, but What about Coordination with the Department of Veterans Affairs?” *Government Contracts Navigator*, August 21, 2019
- “Will HHS’s Safe Importation Action Plan Affect How the Federal Government Purchases Drugs?” *Government Contracts Navigator*, August 1, 2019
- “Agency Protest Pros and Cons for Gov’t Contractors,” Law360, July 26, 2019
- “Agency Protests: An Emerging Tool and Potential Threat for Contractors,” *Government Contracts Navigator*, July 15, 2019
- “What’s Happening with Drug Manufacturer Pricing Disclosure Law?” *Pratt’s Government Contracting Law Report*, July 2019
- “Who Is A Subcontractor under a Federal Government Contract?” *Pratt’s Government Contracting Law Report*, May 2019
- “Spring Cleaning for Government Contractors? Think Compliance.” *Government Contracts Navigator*, April 17, 2019
- “OFCCP Releases FY 2019 CSAL,” *Government Contracts Navigator*, March 2019
- “States Pass Fewer Drug Manufacturer Pricing Disclosure Laws in 2018,” *Government Contracts Navigator*, March 2019
- “Who Is a Subcontractor Under a Federal Government Contract?” *Government Contracts Navigator*, January 2019

- “Trade Agreements Act Enforcement Loses a Couple More Teeth,” *Pratt’s Government Contracting Law Report*, December 2018
- “What Is the Christian Doctrine and Why Should You Care?” *Government Contracts Navigator*, November 2018
- “In Department of Veterans Affairs Procurements, Veteran-Owned Businesses Trump All Other Contractors,” *Government Contracts Navigator*, October 2018
- “Drug Manufacturer Pricing Disclosures: 2018 Update,” *Pratt’s Government Contracting Law Report*, October 2018
- “New Rules Affecting Veteran-Owned Small Businesses (Important to Large Businesses, Too),” *Government Contracts Navigator*, October 2018
- “OFCCP Is Staying Busy—So Should Government Contractors,” *Government Contracts Navigator*, September 2018
- “Department of Veterans Affairs Updates Pharmaceutical Federal Schedule Supply,” *Government Contracts Navigator*, July 2018
- “Drug Manufacturer Pricing Disclosures: Mid-Year 2018 Update,” *Government Contracts Navigator*, July 2018
- “Trade Agreements Act Compliance: Some Welcome News for Some Federal Contractors, But Will It Last?” *Government Contracts Navigator*, May 2018
- “The Government’s Use of Data Analytics to Identify Healthcare Fraud,” *Pratt’s Privacy & Cybersecurity Law Report*, May 2018
- “2017 Was a Busy Year for State Imposition of Drug Manufacturer Price Disclosure Obligations and 2018 Isn’t Looking Much Better,” *Pratt’s Government Contracting Law Report*, April 2018
- “New Medicaid Rebate Agreement,” *Government Contracts Navigator*, March 2018
- “Do Federal Supply Schedule Contracts Still Have Value?” *Government Contracts Navigator*, March 2018
- “Buy American, Hire American: Will It Impact a Government Contractor’s Ability to Store Data Offshore?” *Government Contracts Navigator*, February 2018
- “Compounding Pharmacies Should Expect Greater Scrutiny as Government Health Care Budgets Get Squeezed,” *Pratt’s Government Contracting Law Report*, November 2017
- “Targeting Generic Drug Prices,” *Government Contracts Navigator*, June 2017
- “DOJ’s New Healthcare Fraud Target—Medicare Advantage Insurers,” *Government Contracts Navigator*, June 2017
- “Critical GAO Bid Protest Deadlines and Timeline,” *Mainbrace*, January 2017

RECENT SPEAKING ENGAGEMENTS

- “Government Payor Programs 101: Primer on the Pricing Essentials of the Medicare, Medicaid, and Big Four Programs,” 19th Annual ACI Rx Drug Pricing Forum, October 2019
- “Federal Programs 101: Primer for Professionals New to Pharmaceutical Pricing,” 18th Annual ACI Rx Drug Pricing Boot Camp, November 2018

Select Engagements

- National defense counsel for a *Fortune* 500 pharmaceutical and biologics manufacturer concerning federal False Claims Act allegations and more than 25 State Attorneys General actions involving Medicare and Medicaid price reporting and reimbursement.
- Representation of *Fortune* 100 and 500 clients with voluntary and mandatory disclosures to agency offices of inspector general regarding Department of Veterans Affairs, Department of Defense, and Medicare/Medicaid price reporting, price reductions, country of origin, Service Contract Act, and other contract performance issues.
- Representation of a *Fortune* 500 clinical diagnostic laboratory testing company involving protests at the COFC and GAO regarding numerous Department of Veterans Affairs, Veterans Integrated Service Network BPA contracts.
- On behalf of a *Fortune* 500 biologics manufacturer, negotiated complex vaccine production contracts for such potential issues as the H5N1 avian influenza virus, smallpox, anthrax, and tularemia.

Admissions

- District of Columbia
- U.S. District Court - District of Columbia
- U.S. District Court - Eastern District of Virginia
- U.S. District Court - Maryland
- United States Court of Appeals for the Fourth Circuit
- United States Court of Federal Claims
- Virginia

Memberships

- American Bar Association
- National Defense Industrial Association
- Coalition for Government Procurement

Education

- Furman University, BA
- Wake Forest University School of Law, JD

Professional Activities

Merle served on *Law360's* 2021 Government Contracts Editorial Advisory Board. He also served in that capacity in 2019.

In 2020, Merle was appointed to the Board of Editors for *Pratt's Government*

Contracting Law Report.

Merle is a past co-chair of the ABA Health Care Contracting Committee.