SHIN & KIM

# Public Contracts

The Public Contracts Practice Group of Shin & Kim LLC provides its clients with various advisory and litigation services In relation to contracts with the state, local governments, and public institutions. The group comprises experts with hands-on experience in public contracts, including public servants who have worked for the Ministry of Economy and Finance, Korea Fair Trade Commission, Public Procurement Service, and the Defense Acquisition Program Administration, and professionals with many years of experience in handling matters and cases relating to relevant laws, including the Act on Contracts to which the State is a Party and Act on Contracts to which a Local Government is a Party.

Contracts entered into with the state, local governments or public institutions often have the nature of the public law, and sanctions or disputes arising in connection with such contracts frequently lead to administrative appeals or administrative litigation. Effective handling of such matters requires in-depth and integrated expertise on not only relevant laws, including the Act on Contracts to which the State is a Party, Act on Contracts to which a Local Government is a Party and the Government Procurement Act but also the administrative rules and authoritative interpretations of the Ministry of Economy and Finance and Public Procurement Service. Furthermore, as the relevant laws and interpretive standards evolve constantly, legal professionals with knowledge and experience in this field play significant roles.

Drawing on its extensive experience and highly qualified professionals described as above, the Public Contracts Practice Group of Shin & Kim LLC provides comprehensive legal services throughout all stages of a public contract-related dispute, including administrative appeals and litigation as well as the submission of written opinions prior to the issuance of a disposition, presentation of opinions during hearing proceedings, and the filing of an application for suspension of execution. The group also provides legal services on administrative litigation and appeals and advisory services on various matters relating to public contracts, including disputes over contracts on construction/service/supply, contract price adjustment and settlement or liability for warranty against defects, claim for state compensation, and fair trade-related issues arising from bid rigging.

The Public Contracts Practice Group of Shin & Kim LLC will continue to proactively address increasingly complex and diverse legal issues relating to public contracts and offer practical solutions to protect the businesses, rights and interests of its clients.

## Key Services

Shin & Kim provides the following services in connection with public contract-related matters.

- Dispute over the cancellation of a contract award or invalidation of a bid
- Objection against the notice/specification of bidding
- Examination of the legality of private contracts/limited competition
- Examination of, and advice on, pre-bidding legal risks
- Dispute over the adjustment of a contract amount (for price fluctuation or design change)
- Dispute over advance payment, progress payment or completion payment
- Dispute over the imposition or reduction/exemption of liquidated damages
- Dispute over the legality of the termination/rescission of a contract
- Lawsuit for cancellation of a sanction disposition against a disqualified bidder and suspension of execution
- Response at pre-disposition investigation stages, including the statement of opinions at hearings prior to sanction disposition
- Response to dispositions of business suspension/penalty surcharge
- Response to criminal investigation/prosecution relating to bidding
- Party litigation on legal relationships under public law
- Civil lawsuit (on claim for construction payment of service fee) relating to a public contract
- Claim for damages against the state or a local government
- Administrative appeal/litigation
- Response to, and objection against, the Board of Audit and Inspection's audit
- Response to a request for authoritative interpretation from the Public Procurement Service or other ministries
- Advice on the establishment of contract-related internal rules/guidelines
- Monitoring of legislative/regulatory changes relating to public contracts
- Legal advice on participation in overseas public procurement
- Advice on, and response to disputes over, other public contract-related matters

## Experience

- Represent the plaintiff in a lawsuit for the cancellation of a disposition of restriction of eligibility to submit bids filed by an accounting firm against the Minister of Construction and Transportation
- Represent the plaintiff in a lawsuit for the cancellation of a disposition of restriction of eligibility to submit bids filed by a company engaged in information processing business, etc. against the Administrator or the Public Procurement Service
- Represent the plaintiff in a lawsuit for the return of unjust enrichment filed by a freight transportation company against the state to secure a judgment in favor of the plaintiff that an agreement not satisfying the requirements and procedures under the Act on Contracts to which the State is a Party is invalid
- Represent a construction company in a lawsuit for a claim for damages filed by a demanding institution or ordering entity against various companies, including the construction company, on the grounds that there was bid rigging

- Represent a company in a lawsuit for the imposition of a corrective order and penalty surcharge by the Fair Trade Commission against such company and a lawsuit for a bidding restriction disposition by the Public Procurement Service against such company, on the grounds that there was bid rigging
- Represent a defense contractor in a lawsuit for a claim for the adjustment of contract amount for price fluctuation filed by such contractor against the Defense Acquisition Program Administration
- Represent a defense contractor in a lawsuit for the confirmation of a change of contract amount filed by the contractor against the state
- Represent a defense contractor in a lawsuit for the exemption of liquidated damages filed by the contractor against the state
- Provide a network equipment supplier with advice, and respond to investigations on behalf of the supplier, in a case in which the Public Procurement Service considered imposing a disposition against the supplier on the grounds that the supplier was engaged in unfair procurement practices relating to a multiple award schedule contract
- Represent a local government in a lawsuit on whether advance payment concerning a construction contract between a manufacturer and the local government may be returned and whether the termination of the contract is effective
- Represent a local government in a lawsuit on whether the termination of an entrustment agreement between the Korea Parkgolf Association and the local government is effective
- Represent a construction project developer in a lawsuit on whether a contract or an agreement between the developer and a local government is valid
- Represent a power producer in a lawsuit in which a local government filed a claim for confirmation of the termination of a water supply agreement against the power producer
- Represent an IT company in a lawsuit for the termination of an agreement and the cancellation of a confiscation disposition filed by the IT company against a public institution
- Represent a CCTV platform company in a lawsuit for the confirmation of winning bidder status and application for provisional disposition of suspension of bidding procedures filed by the CCTV platform company against the state
- Represent a quasi-governmental institution in a lawsuit for the cancellation of a disposition of imposition of indemnification in the amount of tens of billions of won filed by the Seoul Metropolitan Government against the quasi-governmental institution

## Key Contacts


### Ho Keun Bae
Partner

+82-2-316-4006
hkbae@shinkim.com

### Byung-Il Im
Partner

+82-2-316-4050
bilim@shinkim.com

### Moonkyung Kang

### Hyung-Won Kim

Partner

+82-2-316-4302
mkykang@shinkim.com

## Kwangjae Kim
Partner

+82-2-316-1624
kjakim@shinkim.com

## Min-Kwan Kim
Partner

+82-2-316-1735
mkwkim@shinkim.com

Partner

+82-2-316-4287
hywkim@shinkim.com

## Hyung-Soo Kim
Partner

+82-2-316-4087
hsookim@shinkim.com

## Seung-Hyuck Lee
Partner

+82-2-316-4235
shyulee@shinkim.com

Copyright SHIN & KIM LLC. All rights reserved.