

## Robert H. Hosay

### Partner

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Robert Hosay is a partner at Foley & Lardner LLP. He chairs the firm's State and Local Government Solutions Practice that operates on Foley's national platform. Robert's practice is focused on helping clients traverse the opportunities and challenges at the intersection of government and business. Much of Robert's time is spent advising clients that are either doing business with government or faced with the obstacles of a highly regulated industry. His clients are spread across many industries, but the practice is heavily weighted in technology, healthcare, government operations, government procurement, and compliance.

Robert's clients benefit from his experience with Florida government. Robert served as secretary of the Florida Department of Management Services (DMS) under Governor Jeb Bush. During Robert's tenure at DMS, he was responsible for several key areas of government operation, including the state of Florida's procurement policies and procedures; technology initiatives and policies; state health plans and insurance products; real estate asset management; building construction; fleet management; and human resource and benefits programs. He was instrumental in developing and updating state procurement policy during his tenure as the director of state purchasing.

### Government Procurement

Robert has over 20 years of experience advising clients throughout the United States in all facets of state and local procurement, including analyzing and pursuing government business opportunities, responding to competitive solicitations, negotiating terms and conditions of government contracts, managing contract implementations, addressing compliance and programmatic matters, contract disputes, and defending or challenging government contract award decisions in administrative, state, and appellate courts. Robert has represented clients in state and local procurement in over 15 states involving contracts of significant importance and value in multiple sectors including health care, technology, transportation, corrections, and miscellaneous government operations projects.

### Government Regulation, Compliance, and Administrative Law

Robert represents clients who are regulated by government and need counsel with significant experience in regulatory matters and administrative law. He assists clients in every aspect of representation before state agencies, including health care regulatory matters, licensing, permitting, disciplinary matters, rulemaking, and rule challenges.

Robert's experience includes significant healthcare regulatory work within the scope of Florida's Agency for Health Care Administration (AHCA). Robert's practice has been focused on Medicaid policy and regulation since Florida's move to a managed care model. Recently, to adjust to the post certificate of need (CON) regulatory environment, Robert represented AHCA in negotiated rulemaking to update rules applicable to Florida's health care systems.

### **Public Records, Freedom of Information Laws, and Confidential Information**

Robert has extensive experience representing both government and private clients regarding public records and public meetings matters. His representation of corporate clients often involves protecting client trade secrets and confidential information. Robert has negotiated settlements and handled multiple matters across the nation involving government open records and open meetings laws.

### **Representative Experience**

- Successfully defended Palm Beach County Tax Collector's notice of intent to levy to collect Tourist Development Tax. *Parker v. Palm Beach County Tax Collector*, No. 23-002213 (Fla. DOAH Sept. 25, 2023)
- Secured contract for State of Florida's HMO business awarded by the Florida Department of Management Services despite losing bidder's protest related to best value determination justified by a capitation and cost analysis. *AvMed Inc. v. Florida Dep't of Mgmt. Servs.*, No. 23-002342BID (Fla. DOAH Sept. 5, 2023)
- Obtained reversal and rescission of contract award for Florida's Turnpike Operations finding the Department's responsiveness determinations related company experience and qualifications were in violation of the RFP criteria. *Shimmick Construction Co., Inc. v. Florida Dep't of Transportation*, No. 22-000173BID (Fla. DOAH Sept. 2, 2022)
- Successfully defended rule challenge involving multiple hospital systems regarding the Agency for Health Care Administration's negotiated rulemaking process for Neonatal Intensive Care Unit (NICU) regulatory scheme after certificate of need (CON) repeal. *Jackson Health Sys. and UF Health Shands Hosp. v. Agency for Health Care Admin.*, No. 22-000161RP (Fla. DOAH April 5, 2022)
- Secured contract award by defending decision to reject losing bidder's response pursuant to a cone of silence violation. *Egis Projects Inc., v. Dep't of Transportation*, No. 21-002161BID (Fla. DOAH Aug. 25, 2021)
- Secured contract for Managed Care Organization (MCO) under Florida's multi-billion-dollar Medicaid managed care program despite appeal of Agency's disqualification of bidder for cone of silence violation, lack of standing, non-responsiveness, and non-responsibility. *AHF MCO of Florida, Inc. v. Agency for Health Care Admin.*, 308 So. 3d 1136 (Fla. 1st DCA 2020)

- Successfully upheld contract award despite losing bidder's appeal arguing improper negotiations by the Department. *Securus Technologies, Inc. v. State of Florida, Dep't of Corrections*, 308 So. 3d 282 (Fla. 1st DCA 2020)
- Successfully defended winning bidder against protest challenging the negotiation process and improper consideration of the selection criteria by state agency. *Gateway Retail Center v. Dep't of Children and Families*, No. 20-002660BID (Fla. DOAH Sept. 30, 2020)
- Obtained contract award despite protest related to improper application of federal program in relation to Department's scoring and pricing analysis. *Mead Johnson and Co., LLC v. Dep't of Health*, No. 19-005326BID (Fla. DOAH Nov. 12, 2019)
- Secured contract award despite allegations that the Department improperly considered value-added services and failed to negotiate in accordance with the ITN specifications. *Securus Technologies, Inc. v. Dep't of Corrections*, No. 19-000126BID (Fla. DOAH Apr. 24, 2019)
- Successfully defended protest of contract award of State HMO plan alleging errors in best value determination relying on cost justification for regional awards. *United Healthcare Servs., Inc v. Florida Dep't of Mgmt. Servs.*, No. 17-002898BID (Fla. DOAH June 12, 2017)
- Secured dismissal of bidder's petition for administrative hearing challenging the statutory authority of the Department to award a contract without a competitive solicitation. *Wexford Health Sources, Inc., v. Florida Dep't of Corrections*, No. 16-001145BID (Fla. DOAH Apr. 6, 2016)
- Successfully upheld contract award of State of Florida's backbone network and infrastructure despite appeal challenging Florida's ITN process and Department's modification of terms during best value determination process. *AT&T Corp. v. Dep't of Mgmt. Servs.*, 201 So. 3d 852 (Fla. 1st DCA 2016)
- Obtained contract extension by settling issues raised in protest setting forth procurement process discrepancies and flaws in the best value determination. *St. John & Partners Advertising and Public Relations, Inc. v. Dept of Lottery*, No. 16-003864BID (Fla. DOAH Aug. 5, 2016)
- Successfully defended winning vendor for the State's telecommunications network against losing bidder's challenge of responsiveness. *AT&T Corp. v. Dep't of Mgmt. Servs.*, No. 15-005002BID (Fla. DOAH Jan. 4, 2016)
- Obtained settlement and agreement to contract after challenging award based on bias and evaluation flaws. *Disaster Strategies and Ideas Group, LLC v. Florida Division of Emergency Mgmt.*, No. 15-002538BID (Fla. DOAH July 10, 2015)
- Successfully protested procurement process involving showings of favoritism for incumbent bidder including impromptu additional negotiation sessions and competitive insider intelligence. *JPay Inc. v. Dep't of Corrections*, No. 14-005642BID (Fla. DOAH Jan. 20, 2015)
- Obtained favorable settlement for client as primary subcontractor for winning bidder. *SHI International Corp., v. Dep't of Mgmt. Servs.*, No. 14-003249BID (Fla. DOAH Aug. 11, 2014)
- Successfully defended award of State of Florida real estate services state term contract related to allegations of fatal flaws in the evaluation and recommendation of award process. *Cushman and Wakefield of Florida, Inc. v. Dep't of Mgmt. Servs.*, No. 13-003894BID (Fla. DOAH Feb. 5, 2014)
- Defended award of Medicaid Managed Care contract by proving that protestor was neither responsive nor responsible. *Little Havana v. Agency for Health Care Admin.*, No. 13-000706BID (Fla. DOAH June

10, 2013)

- Overturned agency award and received award of contract by proving that awarded bidder's proposal contained material deviations from the specifications of the RFP. *Pro Tech Monitoring, Inc. v. Dep't of Corrections*, No. 11-005794BID (Fla. DOAH May 10, 2012)
- Successfully defended award of contract by proving that petitioner's proposal was non-responsive to the terms of the ITN. *CTS America v. Dep't of Highway Safety and Motor Vehicles*, No. 11-003372BID (Fla. DOAH Nov. 14, 2011)
- Successfully defended protest alleging arbitrary and capricious award where ITN reply was \$12 million more expensive. *Keystone Peer Review Organization, Inc. v. Agency for Health Care Admin.*, No. 10-009969BID (Fla. DOAH Feb. 2, 2011)

## Awards and Recognition

- Recognized, *Florida Trend* Legal Elite, Government & Public Policy

## Affiliations

- Current executive board member and past chair, The Florida Bar's Administrative Law Section
- Former two-term board member, Florida Engineers Management Corporation (provides administrative, investigative, and prosecutorial services to the Florida Board of Professional Engineers)
- Leadership, Florida Tax Watch Privatization and Outsourcing Tax Force (goal was to strengthen Florida's acquisition process)

## Community Involvement

- Executive Board Member and Former Chair, The Florida Bar's Administrative Law Section
- Former two-term member of the board of directors of the Florida Engineers Management Corporation, which provides administrative, investigative, and prosecutorial services to the Florida Board of Professional Engineers
- Served in a leadership role on the Florida Tax Watch Privatization and Outsourcing Tax Force, where the goal was to strengthen Florida's acquisition process

## Presentations and Publications

- Featured in *Influence Magazine's* cover article "Lobbying Avengers" (Winter 2016)
- Featured author among six leading government contract lawyers in *Inside the Minds: The Impact of Recent Changes in Government Contracts* (Aspatore Books, 2010)
- Authored chapter "The Future of the 'Most Favored Nation' Clause in Government Contracts and the Growing Compliance Nightmare" for *Inside the Minds: Government Contracts Compliance* (Aspatore Books, 2012)

## Sectors

- [Artificial Intelligence](#)
- [Cloud Computing Infrastructure & Solutions](#)



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- Innovative Technology
- Manufacturing
- Medical Devices
- Payor Provider Convergence
- Pharmaceuticals
- Power & Renewables
- Providers of Health Care Services
- Smart Manufacturing
- Supply Chain

## Practice Areas

- Corporate
- Economic Development & Government Incentives
- Government Procurement
- Government Solutions
- Mergers, Acquisitions & Complex Reinsurance Transactions
- Public Policy & Government Relations
- Regulatory Compliance
- State Attorneys General
- Technology Transactions, Cybersecurity, and Privacy

## Education

- Florida State University College (J.D., 1999)
  - Articles editor and associate editor, *Florida State University Law Review*
  - Judicial intern clerk to Justice Ben F. Overton of the Florida Supreme Court
- Valdosta State University (B.A.)

## Admissions

- Florida