

## CLIENT ALERT

### A New Frontier: ASBCA Issues First Ever CPAR Decision on the Merits

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On June 3, 2019, the ASBCA published its first ever decision addressing the merits of a CPAR evaluation – i.e., whether CPAR ratings were “fair and accurate” pursuant to FAR 42.15. In *PROTEC GmbH* (ASBCA Nos. 61161, 61162), the Board analyzed a CPAR’s factual assertions, compared them to the parties’ evidence of contract performance, and ultimately held that the CPAR was indeed “fair and accurate” due to the contractor’s noncompliance and poor performance. The Board also considered the contractor’s allegation of a procedural violation – i.e., that the Government failed to perform a CPAR review “at a level above the CO” as required by FAR 42.1503(d). The Board held that the contractor “lacked standing” to challenge the violation because it could not establish “prejudice,” i.e., that the CPAR rating would have been different without the violation.

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