

CLIENT ALERT

A Rose and a Thorn: Federal Circuit Permits Contractor to Add New Claim to Pending Complaint, but Enforces Notice Provision to Bar Recovery

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In *K-Con Building Systems Inc. v. United States*, the Federal Circuit held that a contractor could amend its COFC complaint to add new, denied claims related to the appeal if the new claims either requested different remedies (*e.g.*, additional compensation, remission of funds, non-monetary relief) *or* asserted legal grounds for relief that were materially different from the claims under appeal. This holding may prove helpful to contractors at the COFC who identify additional bases for recovery/remedies after filing their complaint; however, the Court also denied recovery because the contractor's two-year delay before notifying the government of the alleged "changes" failed to provide the adequate notice required by the Changes Clause, distinguishing the facts in *K-Con* from those in prior cases where notice provisions were not strictly enforced.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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