

## CLIENT ALERT

### ASBCA Rules that Navy's Desires Are Not an Option

Feb.13.2019

In *Fluor Federal Solutions* (Jan. 10, 2019), the ASBCA agreed with Fluor that the Navy erroneously modified the terms of a contract option and granted summary judgment to Fluor. The Navy argued that it had the right to make the modification, which reduced the amount it paid for services Fluor provided at four military bases for the option year. The Board concluded the modification could only be made with proper documentation of the rationale behind the change. As the Navy failed to provide such documentation, the Board held that the modification to exercise the option was “unenforceable” (as opposed to a “defective” option). The ASBCA awarded Fluor \$14.8 million, the difference between Fluor’s estimate of its costs to perform the modification (plus reasonable profit) and the amount the Navy awarded for the contact option. Fluor’s estimate was based on its actual costs to perform the contract in the prior year.

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

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