

CLIENT ALERT

Accurate Historical Data Yields Negligent Estimate

Feb.28.2017

In *Agility Def. & Gov't Servs., Inc. v. United States* (Feb. 6, 2017), the Court of Appeals for the Federal Circuit held that the government's volume estimate in a requirements-contract solicitation cannot rely solely on historical workloads when the government expects conditions to change going forward. FAR 16.503 requires solicitations for requirements contracts to include a "realistic estimate of total quantity" based on "the most current information available." Reversing a decision from the Court of Federal Claims, the CAFC revived the contractor's negligent-estimate claim, holding that the government failed to comply with FAR 16.503 when its estimate relied on historical data rather than the agency's actual expectation that changing conditions would create a surge in requirements above and beyond the historical workloads.

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

J. Chris Haile

Partner – Washington, D.C.

Phone: +1 202.624.2898

Email: chaile@crowell.com

Brian Tully McLaughlin

Partner – Washington, D.C.

Phone: +1 202.624.2628

Email: bmclaughlin@crowell.com

Skye Mathieson

Counsel – Washington, D.C.

Phone: +1 202.624.2606

Email: smathieson@crowell.com