

## CLIENT ALERT

### Attribution of Affiliate Past Performance Improper Without Proposed Meaningful Involvement in Performance

Dec.11.2017

In a recent protest decision, *Language Select LLP, dba United Language Group* (released Dec. 1, 2017), GAO sustained a protest of a Federal Supply Schedule blanket purchase agreement by the Social Security Administration for worldwide telephone interpreter services because the agency improperly credited the awardee with the experience and past performance of a subsidiary division based on identification of the division on the awardee's stationary and in its FSS contract, even though the awardee's proposal made no mention of the division's resources nor any meaningful involvement in the awardee's performance under the BPA, holding that common management is insufficient to support awarding past performance credit for an affiliate. GAO also sustained on the bases that the agency held unequal discussions with the awardee and the agency failed to provide (and document) a rational basis for discounting the significance of the awardee's recent termination for cause on a similar contract. For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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