

CLIENT ALERT

CFC Denies Fraud Counterclaims for Lack of Scienter

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In response to a contractor's CDA claim for the cancellation of two purchase orders for printed circuit cards when the contractor manufactured the parts itself rather than providing the parts from specified approved sources, the government in *Ulysses, Inc. v. U.S.* (Apr. 30, 2013), brought counterclaims for fraud under the False Claims Act, the fraud provision of the Contract Disputes Act, and the Forfeiture of Fraudulent Claims Act. The CFC denied them all, holding that the contractor did not act in reckless disregard of the truth or falsity of its claims because neither the RFQ nor the contractor's quotation leading to the purchase order specified a particular source and, therefore, its erroneous interpretation of the purchase orders "was not so implausible as to be frivolous" and because it had advised the government that it believed it was an approved source, "making this a classic case for application of the Government knowledge defense."

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

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