

## CLIENT ALERT

### CFC Finds Unreasonable Deviation from Customary Commercial Practices

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In *U.S. Foodservice, Inc. v. U.S.*, the Court of Federal Claims, while finding that the Army DLA Troop Support had demonstrated a rational basis for a number of provisions that deviated from standard commercial terms and conditions in the food service industry, nonetheless enjoined the procurement because the solicitation's Most Favored Customer clause, itself a deviation from customary commercial practices, was an "irrational and unreasonable attempt towards pursuing [DLA's] overall goals of increasing transparency and reducing fraud." The court explained that the MFC provision was overbroad and would force offerors to submit and certify a price that would include elements that are "completely untethered from ascertainable or predictable knowledge." For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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