

CLIENT ALERT

CFC Requires Strict Adherence To FAR's Data Rights Clause

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In what the court characterized as an issue of first impression, the Court of Federal Claims in *Ervin & Associates, Inc. v. U.S.* (Jan. 20, 2004), reviewed the scope of the FAR's "Rights In Data--General" clause (FAR 52.227-14), holding that, among other things, the contractor failed to protect its technical data with the required restrictive legends and thereby granted the government "unlimited rights" in the data. In rejecting numerous defenses raised by the contractor, the court required strict adherence to the procedural and substantive requirements of the clause, finding that the contractor's efforts to remedy its deficiencies were "both too little and too late" – a finding that highlights the necessity for contractors to follow such requirements or risk losing valuable rights to proprietary data.

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

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