

## CLIENT ALERT

### Contractor Wins Defective Pricing Battle In Great Engine War

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After denying a \$299,000,000 defective claim involving a competition known as "The Great Engine War" between UTC and GE, the ASBCA in *United Technologies Corporation* faced reconsideration motions from both sides, one from the government reasserting defective pricing, and another from the contractor focusing upon whether the government relied on the cost data. In sustaining the contractor's reconsideration request on January 21, 2005, the ASBCA rejected the Air Force's conclusory, "unpersuasive" assertions of reliance because: (1) the ASBCA was "hard pressed" to see how the Air Force relied on cost data "that no one reviewed"; and (2) the last five years of the six-year procurement were awarded on the basis of "competitive forces," not cost data.

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

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