

CLIENT ALERT

DOD Issues Final OCI Rule For Major Programs

December 30, 2010

In its much anticipated final OCI rule, issued December 29, 2010, DOD limited the new provisions to changes required by the Weapons Systems Acquisition Reform Act of 2009 for major defense acquisition programs ("MDAPs") and pre-MDAP programs, in contrast to the proposed rule, which would have been applicable to all DOD acquisitions. Additional key changes from the proposed rule include: (i) making clear that this final rule takes precedence over FAR subpart 9.5, to the extent that there are inconsistencies; (ii) adding an explanation of the basic goals to promote competition and preserve DOD access to the expertise of qualified contractors; (iii) removing the formal preference for mitigation as the preferred resolution strategy; (iv) tightening the System Engineering and Technical Assistance ("SETA") contractor exception for domain experience and expertise to require a head of the contracting activity determination; and (v) refining definitions of *major subcontractor* and *systems engineering and technical assistance*.

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

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