

Client Alert

DoD Implements Franken Amendment For Non-Commercial Contracts

March 4, 2010

On February 17, DOD issued a class deviation implementing the prohibitions of the "Franken Amendment" to the 2010 Defense Appropriations Act restricting the use of arbitration clauses in employment contracts and will consider comments received within two weeks of publication date in the formulation of an interim rule incorporating the clause into the DFARS (<http://www.acq.osd.mil/dpap/policy/policyvault/USA000476-10-DPAP.pdf>). Under the new DFARS clause, 252.222-7999, which is only applicable to new non-commercial contracts or orders in excess of \$1 million that utilize funds appropriated by the FY10 Act, contractors agree (1) not to enter into any agreement with any of its employees that require, as a condition of employment, that the employee agree to resolve through arbitration certain types of employment disputes; (2) not to enforce such clauses in existing contracts; and (3) for contracts awarded after June 17, 2010, to require covered subcontractors to comply with these requirements.

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

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