

## CLIENT ALERT

### DoD Lightens Contractors' Burden on Voluntary Defective Pricing Disclosures

May.07.2018

On May 4, 2018, the Department of Defense (DoD) issued a final rule ([83 FR 19645](#)), effective immediately, amending the Defense Federal Acquisition Regulation Supplement (DFARS) to give DoD contracting officers (COs) more leeway in evaluating contractors' post-award defective pricing disclosures. To promote voluntary disclosures and reduce paperwork burdens on defense contractors, DoD rejected a proposed requirement to always conduct an audit of a contractor's voluntary disclosure of defective pricing. Although the proposed rule ([80 FR 72699](#)) required DoD COs to request, at a minimum, a limited-scope audit of the affected cost elements, the final rule requires only a discussion between the CO and the Defense Contract Audit Agency (DCAA) to determine whether a limited-scope audit, full-scope audit, or technical assistance is appropriate for the circumstances (*i.e.*, nature or dollar amount of the disclosure). The CO's discussion with DCAA must cover: (i) the completeness of the contractor's voluntary disclosure, (ii) the accuracy of the contractor's cost impact calculation, and (iii) the potential impact on the contractor's other existing contracts or proposals.

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

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