

CLIENT ALERT

Expedited Contract Closeouts – A Fast Track Available to Select Older Contracts

May 28, 2019

On April 30, 2019, the Department of Defense (DoD) issued a final rule, effective immediately, amending the Defense Federal Acquisition Regulation Supplement (DFARS) to permit expedited closeout of certain contracts (or groups of contracts) through modification of such contracts without completing a reconciliation audit or other corrective action. The new provision—which implements section 836 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 and section 824 of the NDAA for FY 2018—applies when: (1) the contract was entered into on a date that is at least 17 fiscal years before the current fiscal year; (2) there are no further supplies or services due under the contract; and (3) a determination has been made that the contract records are not otherwise reconcilable because either (a) the contract or related payments records have been destroyed or lost, or (b) the time and effort required to establish the exact amount owed is disproportionate to the amount at issue. To accomplish closeout of such contracts, the final rule permits negotiated settlements with the contractor and remaining contract balances to be offset with balances within the contract or on other contracts irrespective of the year, the type of appropriation obligated to fund each contract or contract line item, and regardless of whether the appropriation has closed.

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

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