

CLIENT ALERT

FAR Council Introduces Limits on the Single-Offer Adequate Price Competition Exception

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On June 12, 2019, the FAR Council issued a [final rule](#) amending the FAR to address an exception from certified cost or pricing data requirements when price is based on adequate competition. In particular, the final rule amends the definition of “adequate price competition” in FAR 15.403-1(c) for submission of certified cost or pricing data to DoD, NASA, and the Coast Guard so that the adequate price competition exception now applies only when “two or more responsible offerors, competing independently, submit priced offers that satisfy the Government’s expressed requirement.” This means that if only one offer is received, even if submitted with the expectation of competition, the exception no longer applies. For all other agencies, the exception still applies even when only one offer is received, provided there is a reasonable expectation that two or more responsible offerors would submit offers, or price analysis demonstrates that the proposed price is reasonable. Though this rule represents a change to the FAR, we note that a similar rule has existed in the Defense Federal Acquisition Regulation Supplement at 215.371-3 for a number of years.

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

Nicole Owren-Wiest

Partner – Washington, D.C.

Phone: +1 202.624.2863

Email: nowrenwiest@crowell.com

Charles Baek

Associate – Washington, D.C.

Phone: +1 202.624.2894

Email: cbaek@crowell.com

Catherine O. Shames

Associate – Washington, D.C.

Phone: +1 202.688.3446

Email: cshames@crowell.com