

## CLIENT ALERT

### False Invoices Under CPA Contract Not False Claims "Presented" To U.S. Government

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In a striking application of the civil False Claims Act's "presentment" element (i.e., FCA liability requires proof that the defendant presented a false claim, or caused one to be presented, to the U.S. government), the federal district court for the Eastern District of Virginia granted defendant's post-trial motion for judgment as a matter of law, thus vacating a \$10 million jury verdict. Although finding that invoices submitted by defendant to its customer, the Coalition Provisional Authority (CPA) in Iraq, were inflated (e.g. portions of a \$3 million "advance" from the CPA to the contractor) and were presented to and paid by the CPA with U.S. government funds, the court ruled in *U.S. ex rel. DRC, Inc. v. Custer Battles, LLC* (No. 1:04cv199, E.D.Va., August 16, 2006) that the CPA is not a U.S. government entity and that no evidence had been introduced to prove that the claims had been presented to the U.S. government itself, where the government funds for the CPA's advance "had already been disbursed" by the government to the CPA by the time the defendant submitted its invoices to the CPA.

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

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