

CLIENT ALERT

Federal Circuit Clarifies Implied Duty of Good Faith and Fair Dealing

February 19, 2014

In an important decision clarifying the implied duty of good faith and fair dealing, the Federal Circuit in *Metcalf Constr. Co. v. United States* (Feb. 11, 2014) held that specifically targeted conduct is not required to prove a breach and rejected the government's assertion that violation of an express provision of the contract is a prerequisite to liability, while observing that the scope of the duty depends on the context of the particular contract and its "contemplated value." The court also vacated the judgment for the government on the ground that the contractor was not to bear the risk of error in the government's affirmative representations made in pre-bid documents.

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

Brian Tully McLaughlin

Partner – Washington, D.C.

Phone: +1.202.624.2628

Email: bmclaughlin@crowell.com