

## CLIENT ALERT

### Fraud Or Indiscretion? It Depends Who You Are

July 8, 2009

In the previously reported case of *Daewoo Eng'g and Constr. Co. v. U.S.* (Fed. Cir. 2009), a contractor inflating its claim as a "negotiating ploy" committed "fraud" and was subject to substantial fines and forfeitures, but in the recent case of *Bell BCI Co. v. U.S.* (Fed. Cir. June 25, 2009), the government's assessment of liquidated damages to create "negotiating leverage" to counter the contractor's changes claims received only passing mention from the Court. *Bell BCI* also provides a caution about releases included with bilateral modifications - releasing "any and all liability for further equitable adjustment attributable to the modification" waived not only claims for direct costs of the changed work, but also claims for delay and disruption occasioned by the changed work, including in any "cumulative changes" claims.

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

**J. Chris Haile**

Partner – Washington, D.C.

Phone: +1.202.624.2898

Email: [chaile@crowell.com](mailto:chaile@crowell.com)