

## CLIENT ALERT

### Iraq War Contractor Navigates CDA Jurisdictional Minefield to Victory

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In *Leviathan Corp.* (Apr. 20, 2017), the ASBCA ruled in favor of Crowell & Moring client Leviathan in its 11-year contract dispute with the U.S. Army. Leviathan delivered military supplies to the Iraqi army during the Iraq War. The contract was technically between a different prime contractor and the Coalition Provisional Authority (the predecessor to the new Iraqi government), **not** the U.S. government. The U.S. Army administered the contract and signed a termination settlement agreement. But the Army refused to pay Leviathan because the Government argued that: (1) the Board lacked jurisdiction over Coalition contracts, (2) Leviathan lacked standing because it was not the prime contractor, and (3) a termination settlement is not a CDA “procurement” contract. Leviathan successfully argued that the Army and Leviathan both *became* parties to the contract through two respective implied-in-fact novations. Further, because of the Army’s novation, the Army stepped into the Coalition’s shoes from the outset, thereby converting the original contract into a CDA “procurement” contract.

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

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