

## CLIENT ALERT

### Knowingly False Certification of Davis-Bacon Act Compliance Results in Treble Damages

September 2, 2014

In *U.S. ex rel. Wall v. Circle C Constr., LLC* (Aug. 22, 2014), the district court was tasked with calculating damages after the prime contractor was found liable under the False Claims Act for falsely certifying that its subcontractor for electrical work on construction contract had paid proper wages under the Davis-Bacon Act. The district court held that (1) the proper measure of single damages is the amount the government paid the defendant for electrical work performed by the subcontractor, and not simply the amount of the underpayments to the subcontractor's workers; (2) because the Army contract did not break out pricing for the electrical work, it is acceptable for the court to rely on an expert witness who estimated the amount paid to the defendant for the electrical work by consulting RS Means, a data compendium of construction costs used to generate construction project estimates; and (3) although not expressly addressed, there is no offset from the trebled damages for the value of the electrical services actually provided to the government.

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

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