

## Client Alert

### Non-Offeree Has Standing, and FAR Part 12 Commercial Item Restrictions Apply to GSA Schedule Procurements

**March 12, 2015**

In *CGI Fed. Inc. v. U.S.* (Mar. 10, 2015), the Federal Circuit held that CGI was a "prospective offeror" and therefore had standing to pursue its preaward protest, despite the fact that CGI did not submit a proposal, which was due after CGI filed at GAO but before CGI filed at the CFC. The Federal Circuit also reversed the CFC on the merits, holding that the proscription in FAR part 12 of terms that are inconsistent with customary commercial practice does apply to solicitations for orders under FAR 8.4 (Federal Supply Schedule) contracts.

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

**John E. McCarthy Jr.**

Partner – Washington, D.C.

Phone: +1.202.624.2579

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

**Jonathan M. Baker**

Partner – Washington, D.C.

Phone: +1.202.624.2641

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

**Skye Mathieson**

Partner – Washington, D.C.

Phone: +1.202.624.2606

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