

CLIENT ALERT

One-Sided Discussions with the Awardee—*the Solution, Not the Problem*

February 18, 2016

Last month in *Caddell Construction v. U.S.*, the Court of Federal Claims declared the State Department's award of a contract for construction of a new embassy compound in Mozambique null and void and ordered the agency to reopen discussions with *only the awardee* and to reevaluate the offerors' pricing. In the redacted opinion released on February 10, the Court explained that the unusual remedy of one-sided discussions was appropriate because the agency misled the awardee during discussions into lowering its price when it was already the only price below the Independent Government Estimate and because the awardee would be prejudiced if all offerors were allowed to revise their proposals, given that the misleading discussions affected only the awardee and the award price and IGE had already been publicly disclosed.

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

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