

## CLIENT ALERT

### Past Performance CDA Appeal Revisited

Aug.04.2009

In *Todd Constr. L.P. v. U.S.* (July 22, 2009), Judge G. Miller, following up on his prior decision that a contractor may file a CDA appeal of an adverse past performance determination, provided guidance on the scope of relief available to the plaintiff, namely, a remand to the agency with "just and proper" directions from the court to assist the agency in addressing identified concerns. The court cites to and adopts a number of the recommendations made in a [recent article by C&M's John McCarthy and Addie Cliffe](#).

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)

**Adelicia R. Cliffe**

Partner – Washington, D.C.

Phone: +1 202.624.2816

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