

## CLIENT ALERT

### Rare Decision about Pricing Interorganizational Transfers

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In rare litigation over the pricing of items transferred between a contractor's commonly controlled subdivisions, C&M successfully appealed a Contracting Officer's refusal to pay commercial prices for materials a contractor had transferred between its business units. In *A-T Solutions, Inc. (ATS)*, ASBCA No. 59338, the Board found that ATS was permitted to transfer at price under FAR 31.205-26(e) because it had demonstrated an "established practice" of pricing interorganizational transfers at other than cost for commercial work, as evidenced by records and the testimony of ATS' witnesses and accounting expert. The Board rejected the Government's argument that ATS' internal transfers lacked "economic substance," holding that FAR 31.205-26(e) does not impose any "economic substance" requirement and that ATS' internal transfers were adequately recorded at price, notwithstanding limitations in the detail provided by ATS' accounting software.

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

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