

CLIENT ALERT

Shades of Lazarus: Is Blacklisting Rule Coming Back to Life?

July 17, 2017

On June 26, 2017, Senator Elizabeth Warren (D-MA) introduced a new bill titled the Contractor Accountability and Workplace Safety Act of 2017 (S. 1440) aimed at holding Department of Defense (DoD) contractors and covered subcontractors accountable for workplace safety and health violations of federal and equivalent state labor laws. Three days later, during a closed mark-up of the National Defense Authorization Act (NDAA) for Fiscal Year 2018 in the Senate Armed Services Committee (SASC), Senator Warren introduced – and the SASC accepted – an amendment to the NDAA at Sections 830 and 831, similar to S. 1440. Under both S. 1440, and Sections 830-831 in the Senate’s version of the NDAA, which echo the Obama-era “Fair Pay and Safe Workplaces” EO and implementing regulations, DoD contracting officers would be required to consider workplace safety and health violations when evaluating the responsibility of a prospective DoD contractor prior to awarding or renewing a contract valued in excess of \$1,000,000, and, as appropriate, refer matters related to these violations to the DoD Suspension and Debarment Official, ostensibly to ensure contractors’ compliance with these existing laws and establish a goal for DoD to work with responsible, compliant contractors. For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Kris D. Meade

Partner – Washington, D.C.
Phone: +1.202.624.2854
Email: kmeade@crowell.com

Stephen J. McBrady

Partner – Washington, D.C.
Phone: +1.202.624.2547
Email: smcbrady@crowell.com

Laura J. Mitchell Baker

Counsel – Washington, D.C.
Phone: +1.202.624.2581
Email: lbaker@crowell.com