

CLIENT ALERT

"Should Have Known" Standard Applied to CDA Statute of Limitations

February 28, 2013

In what seems likely to be a major landmark in the evolving interpretation of the CDA statute of limitations, the ASBCA has held that the statute began to run in 1999, when a DCMA price analyst had all the information the government needed to recognize that it had a claim for an alleged CAS violation, even though the responsible CO may not have been aware of the claim until an audit report was issued in 2006. The ASBCA held that, in the absence of any evidence of trickery or concealment, the government "should have known" that it had a claim based on the contractor's 1999 cost proposal that appeared to be inconsistent with its disclosed accounting practice and that the government could not unilaterally extend the statute of limitations by failing to perform an audit that put the CO on actual notice that there might be a claim.

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

Stephen J. McBrady

Partner – Washington, D.C.

Phone: +1.202.624.2547

Email: smcbrady@crowell.com