

## CLIENT ALERT

### Uncooperative: Court Holds That Cooperative Agreement is Not a Contract

Dec.14.2017

In *St. Bernard Parish Gov't v. U.S.* (No. 15-637C), the Court of Federal Claims granted the Government's motion to dismiss, finding that the cooperative agreement on which the Parish brought suit did not contemplate money damages, and thus the Court did not have jurisdiction under the Tucker Act. The Court found that the agreement obligated the Government to provide financial and other assistance to the Parish to repair damage from Hurricane Katrina, but did not "'acquir[e] (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government.' 31 U.S.C. § 6505." Thus, the Court construed the agreement as a cooperative agreement, under which "damages cannot be implied," and the Parish did not point to any specific provision in the agreement contemplating money damages in the event of breach. The Court went on to find that, even assuming that the cooperative agreement contemplated money damages, it nonetheless provided no direct benefit to the Government, and therefore was unenforceable for lack of consideration. The Court concluded that, "[w]hile debris removal is a worthy project, it cannot be construed as providing consideration (i.e.: a direct benefit) to the government in this context."

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