

**crowell**  **moring**



Strategizing for

# **GOVERNMENT CONTRACTORS' GAME PLAN**

**Under the  
New Administration**



# **Turbulent Seas – Competing Policies Roil International Procurement**

Addie Cliffe

Alan Gourley

Jana del-Cerro

Yuan Zhou

Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## International Procurement

- Tension between protectionist, “America First” rhetoric on the one hand, and internationalism/leveraging U.S. leadership on the other
- In first 100 days, this tension has resulted in conflicting goals and policies and swift changes in course
- Uncertainty in terms of government contracting rules and regulations even more pronounced with respect to international issues



Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## Domestic Preferences

- No new requirements or changes to existing laws yet, but signals heightened enforcement on domestic source restrictions, and potential renegotiation of trade treaties
  - EO 13788 on Buy American and Hire American
  - EO on Establishment of Office of Trade and Manufacturing Policy
  - Pending Legislation
  - Recent CBP Determinations

Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## National Security Import Reviews

- Section 232 Investigations of Imported Steel & Aluminum
  - 270 days to conclude
  - Impact of imports on national security
  - Broad authority to address
- Industry
  - May be required to provide information
  - Should monitor if significant inputs could become subject to exclusion or tariffs



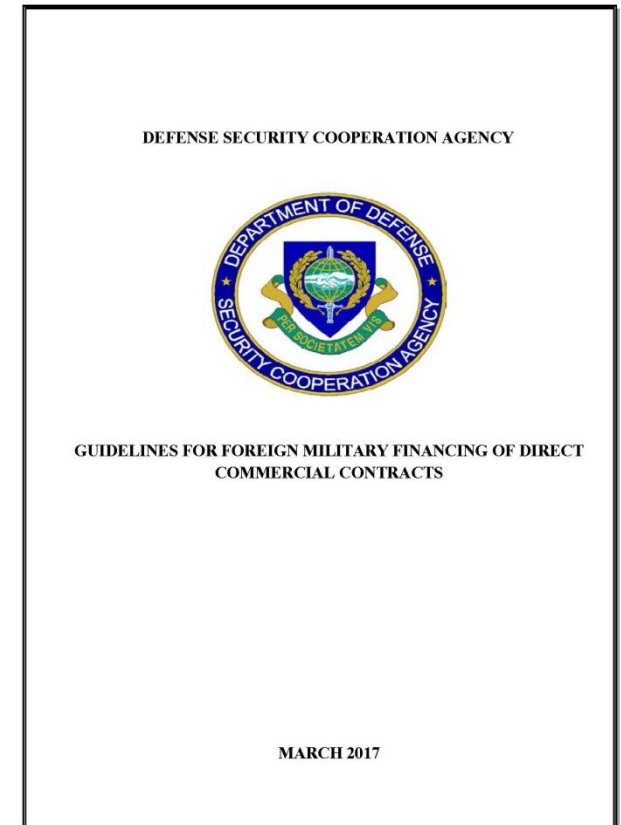
Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## March 2017 FMF Guidelines

- 1<sup>st</sup> Revision in 8 years
- Focused on Key Trouble Areas:
  - Commissions
  - Non-US Content
- Audits of sales thru Resellers



Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## Key Changes to FMF Rules

- Commissions
- Calculating U.S. vs. non-U.S. vs. Host Country content
  - 1<sup>st</sup> Tier Subcontractors
  - Subsidiaries
- Special content rules
  - IT hardware
  - Software
  - Inventoried Raw Materials | Components



Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## Export Controls

- **Export Control Reform marches on?**
  - Definitions, rounding out the USML revisions (Categories I-III), refreshing/revising USML going forward
  - Export control modernization - DDTC moving to automated forms VSDs/M&A notices, web-based CJs
- **Other priorities in new Administration?**
  - BIS intrusion and surveillance rule/ Wassenaar updates
  - DOJ/NSD voluntary disclosure guidance

Strategizing for

# GOVERNMENT CONTRACTORS' GAME PLAN

Under the  
New Administration

## Sanctions

- **Iran:**
  - New sanctions & narrower interpretation of the JCPOA?
- **Cuba:**
  - Rolling back opening of trade and investment?
  - Prospect for legislative repeal?
- **Russia:**
  - Relationship reset or stronger measures?



Strategizing for  
**GOVERNMENT  
CONTRACTORS'  
GAME PLAN**  
Under the  
New Administration

# Contacts



Addie Cliffe  
Partner  
202-624-2816  
[acliffe@crowell.com](mailto:acliffe@crowell.com)



Alan Gourley  
Partner  
202-624-2561  
[agourley@crowell.com](mailto:agourley@crowell.com)



Jana del-Cerro  
Counsel  
202-624-2843  
[adel-cerro@crowell.com](mailto:adel-cerro@crowell.com)



Yuan Zhou  
Associate  
202-624-2666  
[yzhou@crowell.com](mailto:yzhou@crowell.com)