

GOVERNMENT CONTRACTOR RECOVERY PRACTICE

PRO: PERFORMANCE REVIEW OFFERING

For years, Crowell & Moring has been a recovery program leader by proactively identifying potential recovery opportunities for our clients in numerous industries. Our Government Contractor Recovery Practice *Performance Review Offering (PRO)* extends those principles to our Government Contracts clients.

The Federal contracting environment today has changed. As a result of fiscal pressures over the past several years, and the widespread perception that firm fixed-price (FFP) contracting reduces overall Government costs, many agencies have aggressively pursued FFP contracting as a means of shifting performance risk to contractors. Those same agencies, however, often fail to recognize that the Government's obligation to live up to its end of the bargain – with respect to “scope-creep,” accurate specifications, and a myriad of other issues – does not change in a FFP setting.

Over the years, many clients have indicated that they have trouble either identifying potential claims against the Government or asserting those claims in a timely manner. Understandably, contractors are primarily focused on managing programs to maximize performance while fostering a positive relationship with the customer. Sometimes, even when it becomes clear that contracts and programs are losing money or are less financially viable than anticipated, the focus remains on performance and pleasing the customer, and not who is “legally” responsible for these problems.

This is where Crowell & Moring's *Performance Review Offering* comes in. Our PRO team takes the burden of assessing legal responsibility off of our clients' shoulders, and provides a clear-eyed assessment of the potential recovery avenues, with an appreciation for the importance of the customer relationship.

OUR GOAL IS TO STRATEGICALLY PARTNER WITH YOU IN RECOVERING MONEY AND GROWING YOUR BUSINESS

The goal of our *Government Contractor Recovery Practice* is to help our clients identify and remedy problematic contracts. Whether the appropriate remedy is to help the client negotiate a request for equitable adjustment with the customer, or to pursue a claim under the Disputes clause, our lawyers stand ready to help clients pursue a common goal – recover money that is owed to the contractor as a result of cost increases resulting from Government conduct.

OUR PERFORMANCE REVIEW OFFERING

A client identifies a contract or program that is losing money or is not as financially viable as anticipated; our PROs stand ready to deliver.

- A team of experienced Crowell & Moring attorneys will provide a “diagnostic” review of the subject contract at no charge;
- We will meet with the relevant Program personnel to learn more about the facts on the ground and the Government's conduct during performance at no charge; and
- Based on this information, we will – at no charge – make a recommendation regarding whether you are entitled to recover money from the Government on the contract.
- We will also provide you tips at no charge to improve your change identification and management process, to help your contracting and program personnel on the ground be more effective at spotting changes and other issues that impact the bottom line.

CROWELL AND MORING'S GOVERNMENT CONTRACTS GROUP OFFERINGS

Selling goods and services to the government, whether federal, state, local, or foreign, presents businesses with tremendous opportunities, but also significant challenges and risks. For more than 40 years, Crowell & Moring's Government Contracts Group has set the standard for effective legal guidance in this highly complex arena.

- We handle the toughest cases in all forums across the full spectrum of issues arising from work with the government, and we deliver big wins for our clients.
- We advise a broad range of clients, from privately held businesses to multinational, publicly-traded Fortune 100 corporations, as well as small non-profits, academic institutions, and emerging research and development enterprises.
- Our experience covers virtually every aspect of the increasingly complex and heavily regulated government contracts and grants process, from entering the government marketplace and bidding on public contracts to complying with complex regulatory regimes and performing contracts, litigating disputes, and handling terminations.
- The strength of our practice is bolstered by Crowell & Moring's outstanding Corporate, White Collar, Intellectual Property, International Trade, and Labor & Employment groups, to name but a few, who regularly partner with the Government Contracts Group in multidisciplinary teams designed to address the most complex government contracts issues.
- Our clients depend on our experience regarding all aspects of government agreements and subcontracts (domestic or international) including the bidding and award process; ethics and compliance issues, including suspension and debarment; cost accounting rules and defective pricing; claims, terminations, and breaches; audits and investigations, including fraud and whistleblower actions; data rights; cybersecurity and privacy; export controls; security clearances; small business issues; domestic preference requirements; and due diligence and transactional assistance relating to mergers, acquisitions, joint ventures, and strategic alliances.
- We regularly represent clients in bid protests, performance disputes, post-performance audits, government and law-enforcement investigations, and against allegations of fraud and actions under the False Claims Act.

Our experience and litigation victories have been recognized year after year, with Chambers USA listing our Government Contracts Group as a tier-one practice.

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