

## → Claims

Not every contract proceeds as planned. During performance of a Government contract you may discover that the Government furnished technical data package contains errors or ambiguities, Government furnished information or equipment was delivered late or doesn't work, inspections were more rigorous than could have been reasonably expected, or that you encountered any number of other performance problems. Each problem likely caused delay and increased the cost of performance. Most of these kinds of problems are addressed administratively and resolved by the parties as they are discovered.

Sometimes the cause for delay and increased costs is not immediately recognized or known. On other occasions, the Government disagrees that a problem exists or that, if it exists, the problem is the responsibility of the Government. In these instances a "claim" must be pursued.

Sheppard Mullin attorneys have extensive experience in the identification, development, costing, negotiation, and, if necessary, litigation of claims. We have assisted in the preparation of claims for such diverse clients as shipbuilders, aircraft manufacturers, software developers, communication equipment suppliers, water filtration plant designers, and engineering/technical support contractors.

### **The Sheppard Mullin Difference**

To identify, develop and negotiate a successful claim, the legal team you use must have certain fundamental capabilities. It must be well versed in applicable law. It must be knowledgeable of the requirements of the disputes process as well as the rights and obligations of the contracting parties under key clauses such as the Changes, Government Property, Inspection, Government Delay of Work, and Limitation of Cost or Funds clauses. In addition, your legal team must be well versed in damages calculations and FAR/CAS cost allowability/allocability issues.

- Our attorneys pride themselves in taking complex technical and factual scenarios and presenting them in a way that is easily understood - - by contracting officers, Government lawyers, and, if necessary a court or board.
- Claims are best settled rather than litigated and that is always our objective. If the Government (or any defendant) perceives, however, that you are not prepared to litigate or not comfortable litigating the claim, you will not receive "top dollar" in negotiations. Our lawyers are prepared and fully capable of litigating the claims we develop. Indeed, the claims are prepared in a way that renders litigation a natural next step rather than a new development that requires extensive additional work. Our lawyers are not strangers to litigation before the courts and boards. We try cases, if necessary, and do so vigorously and the Government is aware of those facts.
- Our lawyers strive to utilize client resources wherever that option makes sense. Those resources may be people - - to help develop facts or identify costs. The resources may be technical - - client developed computerized databases, intranet resources, video technologies. The client resource might be something as straightforward as copying or travel services. The utilization of client services not only saves cost, but often trains company personnel on the claims development process permitting future claims development to be handled, in many instances, in-house. As a result, the claims process adds value beyond whatever recovery

may be obtained from the claim itself.