

ALERT

MD Helicopter Decision

January 28, 2020

WHAT: On January 24, 2020, the U.S. District Court for the District of Arizona dismissed MD Helicopters Incorporated's protest of the Army's Future Attack Reconnaissance Air Craft Competitive Prototype Other Transaction Agreements (OTAs) for lack of jurisdiction. *MD Helicopters Inc. v. United States of America*, 19-cv-2236. This is surprising because the Government had specifically advised the court that because an OTA is not a procurement contract, there was no statutory bar to protest jurisdiction under *Scanwell Laboratories, Inc. v. Shaffer*, 424 F.2d 859 (D.C. Cir. 1970). It is also surprising because it follows on the heels of Government Accountability Office and Court of Federal Claims decisions also declining jurisdiction in this and other similar protests.

The dismissal order remains under seal. Be on the lookout for Wiley's analysis once a public version of the order is available.

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Practice Areas

Government Contracts