QUESTION PRESENTED:

1. Whether the government can maintain its claim against a party when it invokes the state-secrets privilege to completely deny that party a defense to the claim.

2. Whether, contrary to nearly a century of government contracts law, a court can uphold a default termination on factual grounds never relied on by the contracting officer, and can dispense with the requirement that the contracting officer exercise discretion when terminating for default.

3. Whether one panel of a court of appeals can use the law-of-the-case doctrine to overrule another panel's prior decision in the same case as clearly erroneous or manifestly unjust and thereby circumvent the law-of-the-circuit doctrine, which permits only the en banc court to overrule a precedential panel decision.