

## **CLIENT ALERT**

### **ASBCA Delivers Bad News to Contractor Who Violated SBA's Nonmanufacturer Rule**

**May 27, 2016**

In *Third Coast Fresh Distrib., LLC* (Apr. 6, 2016), the ASBCA held that a small business' failure to comply with the requirements of the SBA's Nonmanufacturer Rule justified its default under a small business set-aside contract for produce delivery. Rejecting the contractor's argument that it was only required to represent in good faith that it would comply with the requirements, the Board held that the rule was a condition of performance and, by subcontracting out delivery of the produce, the contractor had changed its performance and had become "other than small" for the procurement, which constituted a default.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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