

## CLIENT ALERT

### DOD's Affirmative Action Program Unconstitutional

Nov.06.2008

The Federal Circuit in *Rothe Dev. Corp. v. DOD* (Nov. 4, 2008) has struck down as unconstitutional DOD's program under "section 1207" setting a goal of 5% of its contract dollars to small disadvantaged firms by giving them certain competitive advantages. The court found that Congress had not had before it sufficient evidence of specific discrimination in DOD contracting to satisfy the strict scrutiny standard required for legislation based on racial classifications.

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

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