

## **CLIENT ALERT**

### **"Meaningful Consideration" of Procurement's Primary Activity Required in Size Standard Determinations**

**October 16, 2014**

In *RLB Contracting, Inc. v. U.S.* (Oct. 3, 2014), the Court of Federal Claims enjoined the USDA from moving forward with a small business set-aside procurement for a shoreline and marsh restoration project issued under a NAICS code for "Other Heavy and Civil Engineering Construction," to which both the USDA and SBA found the code's smaller size standard exception for "contracts which are comprised primarily of dredging and surface clean up" inapplicable. Concluding that the size standard decision by the USDA (which was affirmed by the SBA) was "flawed because the [administrative] record does not show that they gave proper consideration to whether dredging constitutes the primary activity involved," the CFC deemed the size standard determination "irrational."

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

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