

Client Alert

"Rule of Two" For Small Business Set-Asides Extended to Award of Task and Delivery Orders

October 21, 2008

In *Delex Systems, Inc.* (Oct. 8, 2008, <http://www.gao.gov/decisions/bidpro/400403.pdf>), GAO expanded the reach of FAR 19.502-2(b), which requires an agency to limit competition to small businesses when it concludes it has a reasonable expectation of receiving offers from at least two responsible small businesses and award can be made at a fair and reasonable price. GAO held that the so-called "Rule of Two" applies to task and delivery order competitions among multiple-award contract holders, opening up a new class of award decisions to the small business set-aside requirements and potential bid protests.

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

Marc F. Efron

Retired Partner – Washington, D.C.

Email: mefron@crowellretiredpartners.com

Amy Laderberg O'Sullivan

Partner – Washington, D.C.

Phone: +1.202.624.2563

Email: aosullivan@crowell.com