

CLIENT ALERT

Stick to the Plan!: Anticipated March 2013 SBA Final Rule

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On January 8, the SBA disclosed its plan to issue a final rule in March to implement several requirements of the Small Business Jobs Act of 2010 (Pub. L. No. 111-240) related to "covered contracts" for which a small business subcontracting plan is required (currently, construction contracts in excess of \$1.5 million or other contracts exceeding \$650,000). The rule, which has undergone two comment periods ([76 Fed. Reg. 61626](#) and [76 Fed. Reg. 74749](#)), is intended to allow the funding agency to monitor a prime's small business subcontracting more closely and to encourage it to meet its subcontracting plan through regulation to include: a requirement that the prime represent that it will make good faith efforts to award subcontracts to small businesses at the same percentage as indicated in its plan and, if the percentage is not met, a written justification and explanation to the CO for the failure; a requirement that the prime notify the CO if it pays a reduced price to a subcontractor; and the ability for the funding agency to establish goals at the individual order level for multi-agency, FSS, MAS, and IDIQ contracts.

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

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