

# CLIENT ALERT

## When Size Matters, SBA Has Final Say

May 18, 2010

In *DynaLantic Corp.*, GAO denied a protest based on an allegation that the awardee in a small business set-aside procurement proposed a flight training device simulator that did not comply with the nonmanufacturer rule because the awardee procured the simulators from another country. GAO explained that the protester had concurrently filed a size protest with SBA, which determined that the awardee did comply with the nonmanufacturer rule because it transformed the simulators from a COTS product to a specific product solicited, and that SBA's decision was binding on GAO because SBA has "conclusive authority" to determine the size status of offerors. For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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