

## **CLIENT ALERT**

### **Agency Liable For Negligent Estimate In LOE Contract**

**October 7, 2004**

In *Sanford Cohen & Assocs., Inc.* (Sept. 8, 2004), the Interior BCA held the EPA liable for a negligently-prepared estimate included in a level-of-effort (LOE) contract when the EPA ordered significantly less than its estimated quantities for each performance period. Because the contractor reasonably relied on the EPA's original estimate in arriving at its offered prices, the board ordered an equitable adjustment and condemned both the "egregious" manner in which the EPA unilaterally modified the contract language to shirk liability for lesser orders and the EPA's "essential[ly] unfair[]" but routine practice of ordering substantially less than 90% of the specified LOEs in its contracts.

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