

## CLIENT ALERT

### Board Wields Sanctions To Enforce CDA Subpoena Against DOJ

Aug.01.2006

In *Mountain Valley Lumber, Inc.* (July 18, 2006), the AGBCA dealt strongly with a Department of Justice refusal to produce documents (or even a privilege log) in response to a board-issued subpoena, ordering sanctions in the form of adverse inferences against the defendant Forest Service if DOJ did not comply within fourteen days. Examining both its inherent power to impose sanctions and its subpoena authority under the Contract Disputes Act, the Board rejected DOJ's argument that a federal agency is not a "person" subject to subpoena under the CDA, scuttled the DOJ suggestion that it was the final arbiter under the Touhy regs, and, observing that both DOJ and the Forest Service are part of the executive branch, shunted aside the Forest Service's argument that it would be unfair to sanction it for DOJ's refusal to comply with the subpoena.

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

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