

## **CLIENT ALERT**

### **T4D Slam Dunked To T4C When Contractor Misled**

**July 30, 2004**

In *Divecon Services, LP*, the GSBCA overturned the National Oceanic and Atmospheric Administration's termination for default of a contract to charter a remotely operated vehicle (ROV), despite the ROV's failure to operate properly or obtain the ultimately desired data. The board reasoned that NOAA had waived any contract completion date by (1) encouraging the contractor right up to the day of termination (the originally specified contract completion date) to incur substantial costs for ROV repair work necessary for continued contract performance, (2) failing to set a new completion date, and (3) leading the contractor during last minute negotiations to believe that agreement on a contract extension was a "slam dunk."

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