



CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance & Litigation



Biweekly Report - Period Ending January 18, 1997

Comint Systems Corporation, GAO B-274853

The GAO sustained this Protest alleging that the Government acted in bad faith, violated SBA regulations, and improperly awarded a PTO 8(a) contract for computer hardware and software support. GAO found that PTO's failure to advise SBA that Protestor had previously performed 2% of the contracted work constituted a technical violation of SBA rules. Although GAO found no bad faith by the Government, it determined that there had been a slight miscalculation of the Government estimate which brought the corrected estimate over the \$3,000,000 § 8(a) contract threshold requiring competition. However, as the contract being protested was an interim contract awaiting the award of a long-term contract, and was being terminated because of the imminent award of this long-term contract, GAO failed to grant any remedy to Protestor, save reasonable counsel fees. Ken Lechter had the case.

GEM Engineering Co. v. DOC, GSBGA No. 13566-COM

Discovery schedules and parties have been confirmed in this case. GEM's counsel will take the deposition of a NEXRAD program officer and review the NEXRAD contract on January 30 and January 31. We are coordinat-

ing this discovery request with Roxie Jones who will attend the deposition as well. Catherine Shea and Mark Langstein will travel to Houston the week of February 3 to take the deposition of Todd McCombs, GEM's Vice President and Everett Dickson, the site manager.

Hatfield Marine Science Center

NMFS and Oregon State University share facilities on the OSU campus. The two agencies have outgrown the available space. Congress has appropriated \$3.5 million for NMFS to improve facilities. OSU wants the money. NMFS has requested what legal vehicle is the most appropriate to transfer monies to OSU and improve its own space. Catherine Shea is coordinating the issue with other OGC offices to address the available options.

Federal Court Bid Protests

Jerry Walz and Mark Langstein have attended the initial meetings of committees to discuss and formulate the Government's position and strategy as to how the recent statutory grant of bid protest authority should be implemented by the federal courts. We anticipate that the meetings will continue in the immediate future until strategy and positions are solidified and as the courts decide the initial protests filed.

ADR Success Story

Cecilia Jones filed a pre-ADR legal brief on January 6 for ADR session held in Kansas City on January 9, for the *Federal Builders, LLC v. DOC*, case. Following presentations by both sides, the Judge gave his impressions of the case and the likely outcome. This served as a basis for settlement discussions which resulted in the parties reaching a settlement agreement on the two claims before the Board and an additional claim that the Appellant had not yet filed. The parties expect to file a Motion to Dismiss the case next week.

OAM and CLD Brown Baggers

The first of a new series of monthly meetings between the staffs of the Office of Acquisition Management and the Contract Law Division was held on January 15th. Deborah O'Neill reviewed some the recent OAM projects and a spirited discussion was held regarding the proposed new contract format from the CONOPS program. Thanks to Mike Sade for a this forum which should prove valuable over the upcoming months. [CLD is also available for similar programs at the ASCs, if they pay the travel bill. ;>]

Actions Completed/Received during Period

| | From 1/5/97 | To 1/18/97 |
|--------------|-------------|------------|
| | Received | Completed |
| BXA | 1 | 1 |
| CENSUS | 1 | 1 |
| NIST | 1 | 1 |
| NOAA | 10 | 14 |
| NTIS | 1 | 1 |
| O/S | 1 | 0 |
| PTO | 5 | 5 |
| Total | 20 | 23 |

Contract Law Division—Client Workload Period Ending 01/18/97

