



CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending February 28, 1998

Lockheed Martin Tactical Defense Systems v. DoC, GSBGA No. 14450-COM

A “new” certified claim was filed on February 20, 1998. Appellant filed its opposition to our motion to dismiss on February 23. We have prepared in draft a motion for leave to file a reply and a reply to appellant’s opposition. Our position is that the case should be dismissed because: (1) the certified claim is not substantially the same as the uncertified claim; (2) the appellant did not oppose the fact that the CO’s decision is invalid as based upon an uncertified claim; and (3) that if the case is not dismissed with prejudice, the government may be prejudiced if it is unsuccessful in its defenses because of the accrual of interest from August 1996. We anticipate filing the reply by no later than Friday, February 27. Ed Weber and Terry Lee have the matter..

Techno-Science, Inc.— GAO No. B-277620.2

GAO granted Protester’s request for a hearing on the issue of whether the Functional Requirements Analysis (FRA) was the appropriate document to use as the basis of a market survey to determine the fair market price of the work contemplated by the Section 8(a) Contract with RPS. GAO requested that William Burkhart (the COTR), Ina Merson (the CO), Ajay Mehta (the drafter of the FRA and design specifications), Aileen Redding (the former CO), and Helene Kram (the Contract Specialist) appear. The day before the hearing, Mr. Burkhart became unavailable for the hearing. The one-day hearing nevertheless was held on February 26, 1998, and the remaining Agency witnesses testified. Post-hearing briefs are due March 6. GAO granted the Agency an extension to file its Agency Report for TSI’s third protest. Amy Freeman and Mark Langstein have the case.

FCS Training

Ken Lechter and Lisa Obayashi have been requested by US&FCS, to make a presentation at the up-coming Asian Senior Commercial Officer Conference on significant legal issues that arise during the conduct of overseas procurements. The conference will be taking place during the week of March 16, 1998. Bankcard procurement training sessions, in coordination with the NOAA Office of Procurement, will be scheduled later in the year at various locations in Asia.

K&I Construction, LLC—FOIA Appeal

We have been informed by the Office of the Assistant General Counsel for Administration that a Bureau of Census contractor has appealed a denial of a FOIA request for an engineering report prepared at the behest of this office. K&I Construction, Inc., a construction contractor, had requested a Government engineering report which was prepared both at our request and in anticipation of litigation and therefore the report has been withheld on the basis of the attorney work-product privilege. Lisa J. Obayashi

Claim for Equitable Adjustment/Technical Systems Associates

A second draft of COFD was submitted for review on February 17. Counsel proposed a re-write of one part of the COFD on February 18, and sent the re-write by facsimile to the CO. On February 17, the CO advised the claimant that the COFD would be issued on March 23. This postponement may result in a GSBGA order to issue a COFD or claimant could appeal on the basis of “deemed denial.” Terry H. Lee.

Actions Completed/Received during Period		
	From 2/15/98	To 2/28/98
	Received	Completed
CENSUS	1	1
ITA	1	1
MBDA	1	0
NIST	3	4
NOAA	6	5
NTIS	1	1
OIG	1	2
Total	14	14

