



# CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



## Biweekly Report—Period Ending March 14, 1998

### Consolidated Technical Services Inc. (CONTECH) — Agency Level Protest

NIST has received an agency-level protest (above the contracting officer) against the planned contract award to National Forensic Science and Technology Center, Inc. The basis of the protest is that the underlying solicitation was not truly competitive and that two of the technical evaluators had an organizational conflict of interest with the awardee. Although the protestor's proposal was rated technically lower and priced higher than the other offerors, it appears that the protest may have some merit. We will review the protest on behalf of the agency's protest decision authority and draft a response. Lisa J. Obayashi has the case.

### Franchising Agreement with the Architect of the Capitol

We have been asked to advise EASC on the terms of an MOU with the Architect of the Capitol (AOC) where NOAA would provide procurement services for them. This arrangement raises interesting questions concerning the nature of the contracts that would be awarded and administered by EASC, as well as the authority of NOAA contracting officers under their warrant to award these contracts. The AOC is a legislative agency that is not subject to the FAR or the Contract Disputes Act. We will be consulting with AOC's General Counsel to work through these issues. Ken Lechter has the matter.

### Proposed Executive Order

We have been asked to participate in a review and discussion of a proposed Executive Order on the Federal Government's policy on computer software piracy. Lisa J. Obayashi is advising.

### Techno-Science, Inc.— GAO No. B-277620.2 & B-277260.3

The Department submitted its post hearing comments on Friday, March 6, 1998, and began work on the Agency Report for TSI's third protest, B-277260.3. On Tuesday, March 10, GAO granted the Department's request for an extension to file its Agency Report to March 16. On that same day, TSI filed a response to the "new issues and arguments" raised by the Government in its post

hearing comments. The Department immediately filed a motion to strike on the basis that no new issues were raised in the comments, however, GAO denied the motion but granted the Department's request to file a response. (Mark Langstein and Amy Freeman have the case.)

### NIST Construction Automation Program

At the request of the Director of Administration of NIST, we attended a briefing on a new technology being developed by NIST and private sector partners to enable real time remote access to job site status, as well as instantaneous generation of three dimensional "as built" drawings. This presentation was offered in the context of employing this technology for the construction of the Advanced Metrology Laboratory. Preliminary funding for this \$240 Million project has been approved by Congress. We will be advising the Director of legal issues that might arise if this technology is used. Ken Lechter is advising

### NMFS Santa Cruz Laboratory

Mark Langstein reviewed the \$12.5 million Acquisition Plan for construction of this facility and had several outstanding questions. It also did not appear that this has received OAM review.

