



# CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



## Biweekly Report—Period Ending March 28, 1998

### **André Kimboko v. United States, Fed. Cl. No. 98-30C**

This suit, filed against the United States and several of its agencies on February 20, 1998, alleges violations of the unsolicited proposal provisions contained in FAR §15.5 and various civil rights statutes. The plaintiff asserts that his multi-billion dollar proposal for a document retrieval system (which he began “peddling” in 1993) was improperly rejected because of improper evaluation and because of his race. (In the latter regard, plaintiff has advised the CFC in no uncertain terms that it has no jurisdiction over his civil rights claims.) Plaintiff seeks to have the government agencies act in a timely manner, to conduct business with integrity and fairness, to fulfill public policy objectives and to have knowledge of the procurement system. Counsel anticipates filing an agency report within the next two to three weeks.

This plaintiff has been around since 1995, when he filed suit in the federal district court in Colorado. After about two years, the court transferred the case to the CFC in November 1997. Plaintiff appealed the transfer to the Tenth Circuit, which dismissed the appeal. In addition to the suit before the CFC, plaintiff has filed a petition for a writ of certiorari with the Supreme Court to have the transfer of his suit determined to be improper. Terry H. Lee is advising.

### **FCS Procurement Training**

We have just been advised by the Foreign Commercial Office (FCS) Office of Planning that bankcard procurement training has been planned for Mexico City and Vienna during June and July of this year. The training will be part of a week long administrative training course for foreign service personnel from Europe and Central America. Ken Lechter and Lisa Obayashi are handling.

### **Senior Foreign Commercial Officers Conference**

Lisa J. Obayashi and Ken Lechter participated in a presentation on legal issues arising in overseas procurements at the East Asia Pacific Senior Foreign Commercial Officers Conference held in Los Angeles, California.

### **Contech (Agency Level Protest)**

Drafted a decision on behalf of the NIST decision authority in this agency-level bid protest against the award of a contract for the upgrading of crime laboratory accreditation standards. The decision recommends termination of the contract due to a significant potential organizational conflict of interest and that a grant, rather than a contract should have been used to meet the requirements. Lisa J. Obayashi has the matter.

### **Luminair Film Productions**

On February 27, 1998, Luminair submitted a response to the agency’s denial of its protest as untimely. Luminair claims that its earlier January 14, 1998, protest letter, in which it also requested a debriefing regarding its exclusion from the competitive range, was timely filed. PGAS responded on March 20, 1998, by acknowledging the timeliness of the earlier protest, but stating that the earlier protest (to the contracting officer) was denied as a result of the debriefing and that the agency maintained its position to exclude the proposal from the competitive range. The second protest (agency-level) was denied as untimely. Terry H. Lee advised.

