



# CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending July 3, 1999

## ***The Austin Co. v. DOC—GSBCA No. 14941-COM***

This appeal involved the question of whether providing certain furniture and furnishings in the NIST Advanced Chemical Sciences Laboratory should be considered base scope obligations of the contractor or were a change for which the contractor should be entitled to additional compensation. The claim was denied. This is the first instance where binding arbitration has been employed as an ADR technique in a contract appeal by DOC. Judge Allan Goodman of the GSBCA agreed, pursuant to an agreement between the parties and the approval of the Justice Department, to act as the neutral and rendered a binding decision within 30 days of the submission of a joint record. (Ken Lechter)

### **OAM/GWAC/IT**

Awards announced at press conference on June 29, 1999. (See *Washington Post*, June 30, 1999). Three pre-award protests have been filed, two at the CO level and one with GAO. See *Samalex, Inc., TRESP Associates, Inc.* and *Columbia Services Group, Inc. v. DoC*. Procurement office has been established (OAM will rent an office near the Executive Office Building), and the program manager and contracting officer have been selected. Ordering procedures are in development. (Terry H. Lee)

### ***Eastern Technical Enterprises Inc. v. U.S.—U.S.***

District Court for the Eastern District of New York, 98 Civ. 6946

This is one of two contract appeals involving the same contractor presently pending in the U.S. District Court pursuant to the rarely employed admiralty jurisdiction of the Contract Disputes Act. It results from a NOAA ship repair contract ("Relentless") out of EASC. The contractor's claim is approximately \$358,000. The contracting officer denied a substantial part of the claim based upon substandard and incomplete work that had to be completed by other contractors. Discovery has not commenced. Plaintiff's counsel has inquired into the possibility of ADR. At the request of the Justice Department counsel assigned, we will be traveling to New York on July 17 to meet with the Justice Department and Plaintiff's counsel to discuss ADR options. (Ken Lechter)

### ***Technical Systems Associates, Inc. v.***

DoC—GSBCA Nos. 13277-COM and 14538-COM

Our Motion for an Extension of Time in which to file the post-hearing brief was granted until August 23, 1999. Reply briefs are due on October 7th. (Terry H. Lee)

## **National Data Buoy Center**

CSC has submitted a letter from its attorney stating that it will no longer assert a claim for payment of its insurance deductible arising from an auto accident of its employee. Fred Kopatich

## ***The Austin Co. v. DOC—GSBCA No. 15011-COM***

This \$600,000 appeal concerns whether the contractor had a right to rely, as both the designer and constructor of the Advanced Chemical Sciences Laboratory (ACSL) at NIST, on the percentage of completion in the drawings supplied and whether the contracting officer adequately compensated the contractor for the design of certain changes. A DCAA audit has questioned almost all of the claimed costs. (Ken Lechter)

## ***DRC v. DOC (GSBCA No. 14919-COM)***

The Board held a telephonic conference last week to discuss the schedule for proceedings. At that time, Appellant was not ready to make an election on how to proceed but stated that it will chose either to proceed under the Board's small claim procedures or accelerated procedures due to the amount in controversy, approximately \$34,000. The Board also suggested use of its new round-table hearings and attached draft rules for discussion purposes. (Amy Freeman)

## **CLD "Time to Complete"—3.2 Days**

Bureau	Received	Completed
CENSUS	0	1
NIST	10	10
NOAA	18	13
O/S	1	1
OIG	1	1
PTO	2	3
<b>Total</b>	<b>32</b>	<b>29</b>

