



# CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



## Biweekly Report—Period Ending September 13, 1997

### Hughes STX Corporation v. DOC

Hughes STX has filed an appeal, GSBCA No. 14296-COM, of the NOAA Contracting Officer's final decision denying Hughes' claim in the amount of \$196,994 for expenses allegedly incurred under four contracts as a result of the federal Government shutdown in December, 1995-January, 1996. The largest part of Hughes' claim is for two-weeks' salary for its employees who were idled during the shutdown.

### Med-National, Inc.—GAO B-277430

GAO denied this protest in which the Protester challenged NOAA's decision to exclude its late proposal from consideration for an EAP contract. After holding a hearing on the merits in San Francisco last month, GAO determined that the Protester had failed to prove by a preponderance of the evidence that its proposal was timely delivered. Cecilia R. Jones had the case. [The decision is on our web site.]

### NMFS-Copyright Infringement Claim

The Software Publishers Association (SPA), on behalf of its member companies, has written NMFS claiming that it has information that NMFS may have "pirated" copyrighted software in violation of federal copyright law. SPA is requesting that NMFS voluntarily cooperate in an investigation as a means of avoiding litigation. Lisa J. Obayashi is in consultation with the Office of the Chief Counsel for Technology. Recommendations as to what actions should be taken will be provided to NMFS.

### Contractor use of Govt. Shuttle

Amy Freeman researched question raised as to whether Government contractors could use the shuttle service that is provided to Government employees to transport the contractors to work at the Census Bowie Computer Site and back to the contractor's facility. After discussing the issue with GSA, and reviewing GAO case law, it appears that transporting these contractors to the Bowie facilities fits squarely within the general prohibition against using appropriated funds for commuting expenses. The prohibition applies not only to commuting expenses from an individual's residence to the individual's place of work, but also to any intermediate stop prior to the arrival at the

place of work. We are drafting a memo on the issue.

### AWIPS

Staff members from the House Committee on Appropriations are conducting an investigation of the AWIPS program and requested an interview with our office. The interview, with Jerry Walz and Steven Carrara, primarily focused on the justification of the Modification "B" settlement agreement negotiated by the program office. We provided our understanding of the agreement and referred them to the individuals with detailed knowledge of the negotiations.

### NCDC Scanning

Mark Langstein visited NCDC and met with NCDC and NESDIS staff and a representative of IDM, which had performed pilot image scanning under a canceled subgrant with the West Virginia Consortium. After gaining a better understanding of the nature of the work which needs to be performed, we affirmed our tentative conclusion that this could not be justified as a sole-source procurement. However, we are investigating the possibility of arranging for the work to be performed under an existing GWACS contract.

