



# CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance & Litigation



## Biweekly Report - Period Ending November 9, 1996

### **International Data Products, Corp. v. U.S.DOC**

We were informed by the U.S. Attorney's Office that IDP's action against PTO challenging PTO's decision to override a statutory stay will be dismissed at the request of the plaintiff. Lisa J. Obayashi has the case

**International Data Products, Corp. v. DOC—GAO No. B-274654, Dunn Computer Corporation v. DOC—GAO No. B-274654.2, I-Net, Inc. v. DOC—GAO No. B-274654.3**

In the companion bid protests against the award of PTO's DeskTop procurement, I-NET and Dunn have both filed supplemental protests based on the Government's Agency Reports. GAO has decided to resolve these new protests on an expedited basis utilizing the express option process. The new protests continue to challenge PTO's evaluation of the protestors' proposals. Lisa J. Obayashi assisted by Mark Langstein and Catherine Shea.

### **Manomet—Cost-plus-percentage-of cost Issue**

Attorneys for Manomet have responded to our demand for repayment of excess costs. NMFS contracted with Manomet for Supplemental Observer Program. The letter disagrees with the IG and CLD opinions that the

contract is a cost-plus-percentage-of-cost contract in violation of 41 U.S.C. § 254(b). The attorneys request that NOAA reconsider the demand. This issue has been floundering in the Government and at EASC for more than four years. The contract was executed over nine years ago. Catherine Shea is advising EASC.

### **Andre Kimboko v. U.S. 96-WY-1305 (D. Colo.)**

The Court dismissed this \$6 billion case for lack of jurisdiction. Under the Tucker Act, the U. S. Court of Federal Claims (COFC) has exclusive jurisdiction of federal contract matters of this nature. We have not yet received a copy of the Court's decision or order dismissing the case. It is likely that the Plaintiff will file in the COFC. However, Catherine Shea believes it is unlikely the Plaintiff will have any luck in that forum either.

### **AWIPS**

This week, we advised NWS, the Systems Acquisition Office, and the Deputy Under Secretary for Oceans and Atmosphere of legal issues associated with planned contractual revisions to the AWIPS contract. In addition, we attended the briefing at which NWS presented its proposed status report for congressional staff members. Roxie Jones and Jerry Walz

### **North Florida Shipyards**

In response to the issuance of the Contracting Officer's Final Decision, the attorney representing NFSY requested a meeting to discuss settlement. We consulted with EASC and determined the Government would agree to discussions only if NFSY agreed to a cap on settlement. NFSY rejected the proposed cap. We expect NFSY to file an appeal within the next 45-60 days. Catherine Shea and Ken Lechter are advising EASC.

### **BPR/CONOPS--Census Pilot Projects**

(1) Geographic Updates: We reviewed and provided comments on the latest draft of the Project Agreement; reviewed and commented on the FAR clauses proposed to be included at the solicitation stage. (2) Laptops: We attended a meeting with the contractor and IBC Credit Corp. to discuss contract financing and having BOC enter into a separate agreement with IBM; reviewed draft documents and provided comments to the CO. Fred Kopatich is advising.

### **Actions Completed/Received during Period**

	From 10/27/96	To 11/9/96
	Received	Completed
Franchis	1	1
NIST	1	1
NOAA	7	6
O/S	1	1
PTO	4	6
<b>Total</b>	<b>14</b>	<b>Total 15</b>

### **Contract Law Division—Client Workload Period Ending 11/09/96**

