



# CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



## Biweekly Report—Period Ending November 21, 1998

### Digicon Corporation v. DOC—GSBCA 14257-COM

We have successfully settled this case for \$87,500, approximately 1/2 of the Government's risk. If this case had gone to trial, the Board would have been required to resolve a factual dispute as to whether the work performed by the Appellant (for which it had already been paid) constituted a cost overrun or a constructive change. If the Board had determined the work had represented a change, appellant would have been entitled to its fee, together with interest and attorneys' fees. The entitlement to the fee was the subject of the appeal. (Ken Lechter)

### Harris Corp. v. FAA, Ct. of Fed. Cl.

Counsel for Harris Corp. requested our assistance to identify the author of several handwritten notes on documents submitted pursuant to the subpoena by NDBC. In the agency's response, we submitted a new copy of an excerpt from the document that disclosed the identity of the author. We are coordinating our responses with counsel for the FAA and the DOJ. (Amy Freeman and Fred Kopatich)

### Eastern Technical Enterprises, Inc. v. DOC—GAO B-281319,20

On October 16, 1998, this protest was filed challenging EASC's cancellation of an IFB for ship repair after bid opening, but before award. The requirement was converted to an RFP. The protestor was the putative awardee under the IFB and complains that the change in the government's requirements that served as the basis for the cancellation and conversion were not of such significance as to justify the cancellation. This week, the Government cancelled the procurement in its entirety. We are consulting with Protestor's counsel to determine whether this matter can now be resolved without further proceedings before the GAO. (Ken Lechter)

### National Data Buoy Center Technical Services Contract

NOAA's National Data Buoy Center (NDBC) is beginning the procurement process for the recompetition of its technical services contract. Among other services, the contract covers

fabrication, deployment and refurbishing of the buoys. We traveled to the NDBC to assist in training of the Source Evaluation Board and to assist in developing a draft Statement of Work. (Fred Kopatich)

### Year 2K

Lisa Obayashi attended a Federal Bar Association meeting to discuss the Y2K issue. Attendees included private and public sector bar members. Viewpoints from both sides were presented. Among the issues discussed was whether the Y2K warranty provisions conflicted with the inspection clause in a cost reimbursement contract and the degree or amount of flexibility the Government had in the warranty language.

### Agency Protest Procedures

Catherine Shea notes that Contracting Officers should be reminded to include the agency protest procedures in every solicitation. Until these procedures are published for notice and comment in the Federal Register, offerors and bidders must be made aware of the protest procedures in every solicitation.

### "Time to Complete"—4.1 Days

Actions Completed by Contract Law Division during Period  
From 11/8/98 to 11/21/98

Bureau	Received	Completed
CENSUS	0	1
NIST	1	1
NOAA	7	8
OIG	2	2
Totals	10	10

Contract Law Division—Client Workload  
Period Ending 11/21/98

