



# CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending September 09, 2000

## BIC Marine Contractors, Inc., B-285814

Our office filed the agency report, including statements from the CO, Sharon Walker, and the COTR, John Iliff, in response to the above-referenced protest at GAO. Comments by the Protester on the Agency Report are due within 15 days after receipt of the report. (Amy Freeman Pierce)

## Overseas Personal Service Contract Employees

Lisa Obayashi and Amy Crotts attended a meeting at the State Department's Legal Offices in Rosslyn to discuss Personal Services Employees Contracts to be used for abroad for USFCS. Agreement was reached that the FAR does not apply to these contracts and State requested a memo to this effect, which we are preparing.

## Advanced Measurement Laboratory Procurement

Fred Kopatich met with NIST procurement and program staff to assist in development of Amendment 6 to the solicitation. Fred also assisted NIST in the second round of discussions with the offerors.

## Bureau of Census:

Amy Pierce reviewed and provided advice on data rights issue for BOC's contract for the development of an Automated Export System Internet application with Flagship Custom Services.

## NOAA Vessel Fire

As a follow-up to a previous report regarding a fire on a NOAA vessel while at the vendor's marina for repairs, authorized by a bank card transaction, we have determined that the loss cannot be resolved as a contract claim, and the matter was transferred to the General Litigation Division for pursuit as a tort or other non-procurement contract. (Amy Kiger Crotts)

## Commercial Items

FAR Case 2000-303 has been published as a proposed rule to implement two statutory changes regarding the procurement of commercial items. See FAR Case 2000-303, 65 FR 52283, August 28, 2000. The proposal can be found on our site at

<http://www.contracts.ogc.doc.gov/cld/cld.html - 2000-303>

SUMMARY: Federal Acquisition Regulatory Council

(FARC) is proposing to amend the Federal Acquisition Regulation (FAR) to implement two statutory changes relevant to the definition of "Commercial Items": Section 803(a)(2)(D) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 to revise the definition of "commercial item" to provide specific guidance on the meaning and appropriate application of the term "purposes other than government purposes" at 41 U.S.C. 403(12)(A); and Section 805 of the National Defense Authorization Act for Fiscal Year 2000 to clarify the definition of "commercial item" with respect to associated services.

In addition, the FAR Council is proposing other changes related to the acquisition of commercial items, including conforming the coverage regarding contractor liability for property loss or damage to commercial practice. This proposed rule revises and supersedes the proposed rule FAR case 98-304, Commercial Items--Nongovernmental Purposes, published in the Federal Register at 64 FR 40694, July 27, 1999.

## CLD "Time to Complete"—1.6 Days

### Actions by Contract Law Division during Period

Bureau	Received from 08/27/2000	Completed 09/09/2000
CENSUS	2	2
ITA	1	1
NIST	6	6
NOAA	13	6
PTO	2	2
<b>Totals</b>	<b>24</b>	<b>17</b>

