



# CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending November 04, 2000

## ***ETE Inc. v. United States—98 Civ. 6946 (E.D.N.Y.) and GSBGA 15253-ADR***

This ship repair claim out of EASC, in the amount of approximately \$358,000 plus interest and attorney's fees, has been settled for \$160,000, inclusive of all interest and fees. The claim involved 49 separate Requests for Equitable Adjustments and was subject to the admiralty jurisdiction of the U.S. District Court for the Eastern District of New York. Due to the fact intensive nature of this claim, both parties agreed to use Alternative Dispute Resolution in the nature of a combined mini-trial, early-neutral evaluation, and facilitated mediation session at the U.S. District Court, with Judge Allan Goodman of the General Services Board of Contract Appeals. At a session held in New York over four days, both parties summarized their positions on each one of the issues, had the opportunity to question each other, and answered questions from the judge, who provided his analysis of each side's position. At the end of the week, each side made a settlement proposal that significantly bridged the gap from the party's position going into the session. The parties then completed discovery and further analyzed their positions. Through intensive one on one negotiations over the last several weeks, we were successful in resolving the matter. (Ken Lechter)

## **Protest of J. A. Jones/Bell, A Joint Venture (GAO No. B-286458-1)**

The Protestor elected to continue with its protest after being debriefed a second time. On October 25, 2000, it filed a supplemental protest, adding as protest grounds that meaningful discussions were not conducted prior to requests for final proposal revisions and that its proposal was erroneously scored. We met with the Deputy Director to discuss the continuation of the protest and assisted in drafting the relief from the stay on contract performance. We have met with the Contracting Officer and program officials to discuss strategy and begin drafting of the agency report and supporting declarations (Fred Kopatich).

## **Continuation of GOE Program**

Division attorneys prepared and made a presentation of a case study demonstrating the complexities of handling bid protests before different fora. We also prepared and made a presentation on the purpose and use of protective orders before GAO and the courts. Our final formal

participation will be at the COFC on 11/8, where the Egyptian officials will have lunch and then meet with the Chief Judge and one of the associate judges. (Terry H. Lee and Edward Weber).

## **FSL Supercomputer**

Contractor HPTi has told us that it will be unable to meet the due date for its system upgrade because subcontractor Compaq Computer will not be able to deliver its advanced high-speed chip in time to meet contractual obligations, and the chip, when delivered, may not meet the promised clock speed. We are in the process of scheduling negotiations with the contractor to attempt to reach a resolution satisfactory to all parties. (Mark Langstein)

## **GFDL Supercomputer**

Subcontractor SGI has informed Raytheon that it will only be able to make a partial delivery by the November contractual delivery date and that the remainder of the system will not be delivered until January. Under the contract Raytheon will be liable for liquidated damages due to the late delivery. (Mark Langstein)

## **CLD "Time to Complete"—1.7 Days**

### **Actions by Contract Law Division during Period from 10/22/2000 11/04/2000**

Bureau	Received	Completed
BXA	1	1
NIST	2	2
NOAA	10	7
<b>Totals</b>	<b>13</b>	<b>10</b>

**Contract Law Division—Client Workload Period Ending 11/04/2000**

