

Space News

An \$84 million judgment against the government could hinge on a single letter

Grumman Aerospace contends in a case pending in the Court of Federal Claims that it was promised a piece of the International Space Station, only to be forced out of the program later after Boeing became the lead contractor, an action that cut hundreds of jobs, including about 72 in Huntsville, Ala. Grumman seeks \$84 million in lost profits.

The Justice Department, is argueing that Grumman was promised nothing after the space station program was revamped in 1993 and it has asked that the case be dismissed, but Court of Claims Judge Robert H. Hodges Jr. has not yet ruled on whether to do that or move to a trial.

The case, which was filed in May 1997, hinges on a key meeting on July 23, 1993, between NASA Administrator Dan Goldin and the CEOs of the space station's main contractors. Goldin told the company CEOs that one of them would take control of the station program. Boeing later filled that spot. The lawsuit hinges on what Goldin said in the July 23 meeting. Did he assure the other companies that they would retain some station work under the new prime contractor, or did he leave the door open for one or more of them to be pushed out of the program?

The station was in political trouble in 1993 and both inside and outside review panels had advocated replacing the complicated contracting plan with a single prime contractor.

At that time, there were four primary contractors working on the space station: Grumman, now part of Northrop Grumman; Boeing; Rockwell International; and McDonnell Douglas, which has since been bought by Boeing.

Grumman was to be the engineering and integration contractor, making it responsible for combing the software and hardware produced by the other companies.

Grumman's lawyers contend that Goldin had made a promise at the July 23 meeting, and that is tantamount to a contract, one that was broken a couple of months later when NASA ordered Grumman to cut back its station personnel by about 93 percent and then canceled the contract altogether.

However, the typed notes of Goldin aide Susan Garman from that meeting showed that Goldin had said other other prime contractors "could be directed subcontracts."

During questioning, Grumman's lawyers learned that Garman had handwritten her original notes and had only typed them up years later, in 1997, when asked for them as part of the lawsuit.

Grumman wanted the originals. When Garman produced them, they showed she had written "other (current) primes cd/b directed subcs," which she said was her own shorthand for "could be directed subcontracts."

The handwriting on "cd/b" looked slightly garbled, as if it had been overwritten. Erich Speckin, a forensic document analyst, performed an infrared test on the page and said a change had been made.

"A visible change had been made to change a 'w' to 'cd,' he wrote in an affidavit that is part of the court record. "The changes were made with a different ink than had been used to write the original text."

In other words, he said her original notes showed that Goldin said the former prime contractors "would" keep some work through subcontracts to Boeing.

Grumman attorney William Eshelman said in court papers that the FBI had verified this finding, but Garman said she didn't remember changing the notes.

"I do not recall making any changes to these notes, but whatever I may have done certainly would not have been done in contemplation of your lawsuit," Garman said in a deposition last year.

In his own depositions in the case, taken last year and early this year, Goldin said it was important that NASA change the station contract to save money, and it was also important that the contractors not challenge that process. But, he said, "It was not a binding contractual meeting. I can't imagine that I would go make a commitment at a meeting that was not a commitment meeting."
