



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED WITH PREJUDICE: August 22, 2013

CBCA 2593

AERO UNION CORPORATION,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Gerard J. Leimkuhler, Managing Partner of Berwyn Capital Interests, Berwyn, PA, appearing for Appellant.

Elin M. Dugan, Office of the General Counsel, Department of Agriculture, San Francisco, CA, counsel for Respondent.

Before Board Judges **VERGILIO**, **GOODMAN**, and **SHERIDAN**.

VERGILIO, Board Judge.

On October 14, 2012, the Board received a notice of appeal from Aero Union Corporation (contractor) disputing the termination for default of its contract, AG-024B-C-08-9277, with the Department of Agriculture, Forest Service (agency), under which the contractor had provided aircraft for use in fighting forest fires. With a hearing on the merits set and the date for the submission of pre-hearing briefs and witness and exhibit lists passed, the contractor provided notice that because it lacks resources it does not intend further to pursue the appeal. The agency has filed a motion to dismiss with prejudice based upon the contractor's failure to prosecute. The contractor opted to file no response.

Because the contractor is not pursuing the appeal, the appeal is hereby **DISMISSED WITH PREJUDICE**.

JOSEPH A. VERGILIO
Board Judge

We concur:

ALLAN H. GOODMAN
Board Judge

PATRICIA J. SHERIDAN
Board Judge