



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: November 20, 2008

CBCA 1401

LEON D. DeMATTEIS CONSTRUCTION CORP.,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

David Westermann, Jr. of Westermann Hamilton Sheehy Aydelott & Keenan, LLP, Garden City, NY; and Michael J. Schaengold and Robert S. Brams of Patton Boggs, LLP, Washington, DC, counsel for Appellant.

Thomas Y. Hawkins, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **SOMERS**, **VERGILIO**, and **STEEL**.

STEEL, Board Judge.

On November 10, 2008, appellant, the Leon D. DeMatteis Construction Corp., filed an appeal with the Board from a November 7, 2008, decision by a General Services Administration (GSA) contracting officer under contract no. GS-02P-04-DTC-0032(N). On November 18, 2008, this Board received a stipulation for partial judgment which notes that the parties have reached a settlement on claims raised in the appeal as a result of mediation. The parties have agreed to the immediate entry of partial judgment in favor of appellant in

the amount of \$17 million to be paid by GSA, with interest allowable under the Contract Disputes Act (CDA), 41 U.S.C. §§ 601- 613(2000), commencing thirty days from the date of this order. They have further agreed that they shall not seek review or reconsideration of this partial judgment, and waive their rights to reconsideration under Board Rule 26, rights to relief from judgment under Rule 27, and rights to appeal the decision.

The parties have also agreed to a second partial judgment to be entered upon the completion of the project at issue, in an amount to be determined pursuant to a written settlement agreement. They request that the Board suspend the balance of this proceeding until the amount of the second partial judgment can be determined under that agreement.

Decision

Accordingly, the Board **GRANTS IN PART** this appeal in favor of appellant in the amount of \$17 million plus interest under the CDA commencing thirty days from the date of this order. The Board suspends the balance of the appeal until further order of the Board. The parties are to submit a joint status report no later than December 31, 2009.

CANDIDA S. STEEL
Board Judge

We concur:

JERI K. SOMERS
Board Judge

JOSEPH A. VERGILIO
Board Judge