



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: September 8, 2009

CBCA 1460

WALSH/DAVIS JOINT VENTURE,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Barbara G. Werther of Howrey LLP, Washington, DC; and J. Richard Margulies of J. Richard Margulies & Associates, Ltd., Rockville, MD, counsel for Appellant.

Dalton F. Phillips, Leigh Erin S. Izzo, and Heather R. Cameron, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **STERN**, and **HYATT**.

DANIELS, Board Judge.

The General Services Administration (GSA) contracted with Walsh/Davis Joint Venture (Walsh/Davis) for the construction of a building in Washington, D.C., to serve as the headquarters of the Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives. Walsh/Davis submitted to the GSA contracting officer numerous claims relating to this work. The contracting officer denied the claims in a 123-page decision. Walsh/Davis appealed.

The parties have been working diligently to resolve voluntarily the matters at issue in this case. They first divided the case into its constituent direct cost and delay/inefficiency claims and then proceeded to negotiate most of the direct cost claims.

The parties have informed the Board that they have resolved most of the direct cost claims. On September 4, 2009, they jointly moved for a stipulated award as to the settled matters. With regard to claims they have identified as numbers 1-3, 5-22, 23 (part), 24-26, 30-35, 37, 39-48, 50-95, 97, 100-10, 112-14, 116-27, 129-32, 134-36, 138-44, 146-50, 152-67, 169-70, and 177-78; and lump sums 4-5 and 7-10, they have jointly asked the Board to enter judgment for Walsh/Davis in the amount of \$4,089,962.42. This amount includes costs, attorney fees, and interest, except that if the amount is not paid by September 15, 2009, interest shall accrue from that date until the date of payment. The parties have stated that neither of them will seek reconsideration or relief from a decision which directs payment from the permanent indefinite judgment fund in the specified amount, and neither of them will appeal such a decision.

This is the third motion filed by the parties addressing essentially identical matters. The parties filed the first of these motions on May 29, 2009, and the Board issued a decision on June 3, 2009, making the requested stipulated award. The second motion, filed on July 14, asked the Board to vacate the June 3 decision and issue a new decision reflecting a different amount of the stipulated award. The Board granted the motion and issued its second decision on July 17. The third, most recent motion asks the Board to vacate the second decision and issue yet another decision, identical to the second except for a change in the date from which interest is to run.

Decision

The decision issued by the Board in this case on July 17, 2009, is **VACATED**.

This appeal is **GRANTED IN PART**. As to claims numbered 1-3, 5-22, 23 (part), 24-26, 30-35, 37, 39-48, 50-95, 97, 100-10, 112-14, 116-27, 129-32, 134-36, 138-44, 146-50, 152-67, 169-70, and 177-78; and lump sums 4-5 and 7-10, GSA shall pay to Walsh/Davis \$4,089,962.42. This amount includes costs, attorney fees, and interest, except that if the amount is not paid by September 15, 2009, interest shall accrue from that date until the date of payment, at the rates specified pursuant to 41 U.S.C. § 611 (2006). Payment shall be made from the permanent indefinite judgment fund. 31 U.S.C. § 1304.

The presiding judge will schedule further proceedings as to all portions of the case not resolved through this decision.

STEPHEN M. DANIELS
Board Judge

We concur:

JAMES L. STERN
Board Judge

CATHERINE B. HYATT
Board Judge