



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED: February 4, 2008

CBCA 900

UT-BATTELLE, LLC,

Appellant,

v.

DEPARTMENT OF ENERGY,

Respondent.

Quinn Windham, Assistant General Counsel of UT-Battelle, LLC, Oak Ridge, TN, counsel for Appellant.

Wendy E. Bryant and Kristopher D. Muse, Office of General Counsel, Department of Energy, Oak Ridge, TN, counsel for Respondent.

DANIELS, Board Judge (Chairman).

ORDER

UT-Battelle, LLC is the management and operating contractor of the Oak Ridge National Laboratory, a facility owned by the Department of Energy. In 2006, an employee of UT-Battelle filed a claim with the Tennessee Human Rights Commission, alleging that she had been exposed to inappropriate material in the workplace and that such exposure constituted sexual harassment. According to UT-Battelle, the parties voluntarily resolved the employee's claim for a gross amount of approximately \$7400. UT-Battelle maintained that the claim was without merit but that it settled because the agreed-upon amount was far less than the cost of legal fees the contractor would have incurred if it had had to litigate the

matter. UT-Battelle then asked the Department of Energy to reimburse it for the settlement payment.

The department's contracting officer believed that this cost was not reimbursable because "a major reason for the misconduct exhibited in this case was due to UT-Battelle not having an effective sexual harassment policy in place for its employees and its failure to enforce the policy that is in place." UT-Battelle then submitted a claim for the \$7400 at issue, maintaining that the settlement cost was reasonable and that reimbursement was allowable under the contract. The contractor asserted that it had an effective sexual harassment policy and enforced that policy. The contracting officer disagreed and formally denied the claim. UT-Battelle appealed his decision to this Board, which docketed the case as CBCA 900.

On January 16, 2008, while the case was pending here, the contracting officer wrote to UT-Battelle, "I have reconsidered my decision and, in full relief of UT-Battelle's present claim (CBCA 900), the settlement costs in the amount of \$7,400 are hereby deemed allowable under the contract along with any associated interest provided under the Contract Disputes Act." On February 1, UT-Battelle asked the Board to dismiss the case, given that the contracting officer had vacated the decision from which the appeal had been taken by agreeing to pay everything sought in the contractor's claim.

Accordingly, the case is **DISMISSED**.

STEPHEN M. DANIELS
Board Judge