



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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GRANTED IN PART: May 20, 2008

CBCA 2

ROESLER INDUSTRIAL DISTRIBUTING COMPANY,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Ruth G. Tiger of Saltman & Stevens, P.C., Washington, DC, counsel for Appellant

Michael E. Trow, Office of the General Counsel, Department of Agriculture,  
Portland, OR, counsel for Respondent.

Before Board Judges **POLLACK, STEEL, and DRUMMOND.**

**POLLACK**, Board Judge.

This appeal arises out of timber sale contract no. 075902 between Roesler Industrial Distributing Company (Roesler) and the United States Department of Agriculture, Forest Service (FS). Roesler filed its appeal on March 27, 1997, at the Department of Agriculture Board of Contract Appeals, claiming \$1,037,167. The matter was docketed as AGBCA No. 97-139-1. Thereafter, the appeal was placed in suspense and ultimately reinstated on the board's docket in January 2003 as AGBCA No. 2003-141-1. The matter was then transferred to the Civilian Board of Contract Appeals and docketed as CBCA 2, upon consolidation of the civilian agency boards of contract appeals.

The parties thereafter engaged in discovery, as well as awaited decision on a case at the Court of Federal Claims (on further appeal to the Court of Appeals for the Federal Circuit), involving another contractor, but similar issues. The parties anticipated that the decision in that case could serve to resolve a number of issues in the instant appeal.

On June 1, 2007, the Board issued a ruling, denying cross-motions for summary judgment filed by the parties, and on November 29, 2007, the Board issued a proof of costs order. Thereafter, appellant filed its proof of cost submission, and the next step was for the FS to file its reply.

By letter of May 13, 2008, the parties notified the Board that they had reached a settlement. With the letter, the parties filed an executed Joint Stipulation and Request for Decision Granting the Appeal. The Joint Stipulation was also dated May 13, 2008. Under it, the parties agreed that they had settled any and all claims by either party arising out of or relating to contract no. 075902 and the instant appeal. Further, the parties agreed to abide by the Board decision requiring the FS to pay appellant, \$235,000, plus interest, with interest being calculated pursuant to the Contract Disputes Act and running from January 1, 2003, until paid. Each party agreed to bear its own costs and attorney fees. The parties additionally stipulated that the decision of the Board would be final and binding upon the parties and not subject to further appeal.

#### Decision

Accordingly, the appeal is **GRANTED IN PART**. In accordance with the parties' joint stipulation, the Board awards the sum of \$235,000, plus interest on said amount under the Contract Disputes Act, 41 U.S.C. § 611(2000), beginning January 1, 2003. Payment is to be made from the permanent indefinite judgment fund, 31 U.S.C. § 1304.

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HOWARD A. POLLACK  
Board Judge

We concur:

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CANDIDA S. STEEL  
Board Judge

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JEROME M. DRUMMOND  
Board Judge