



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

PETITION GRANTED IN PART: February 21, 2014

CBCA 3728

BRASFIELD & GORRIE, LLC,

Petitioner,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Laurence Schor, Dennis C. Ehlers, and Robert Pratt of Asmar, Schor & McKenna, PLLC, Washington, DC; and Axel Bolvig III of Bradley Arant Boult Cummings, LLP, Birmingham, AL, counsel for Appellant.

Stacey North-Willis, Beth Chesney, Ogochukwu Ekwuabu, Benjamin Diliberto, and Charlma Quarles, Office of the General Counsel, Department of Veterans Affairs, Washington, DC, counsel for Respondent.

DANIELS, Board Judge (Chairman).

On February 18, 2014, Brasfield & Gorrie, LLC, filed a “notice of appeal” regarding its claim #4 under a contract with the Department of Veterans Affairs for construction of a hospital and clinic at the Orlando, Florida, Veterans Affairs Medical Center. In its submission, the contractor “requests the Board to take jurisdiction of this appeal and direct the Contracting Officer to issue a final decision on or before **March 25, 2014.**”

The contractor appended to its submission a letter from the contracting officer, dated February 12, 2014, which states that the agency is analyzing the claim and that she expects

the analysis to be completed by March 25, 2014, and a decision to be issued by April 15, 2014.

Under the Contract Disputes Act, on a certified claim of more than \$100,000, such as claim #4, the contracting officer may within sixty days of receipt of the claim notify the contractor of a reasonable time within which a decision will be issued. 41 U.S.C. § 7103(f)(2), (3) (Supp. IV 2011). A contractor may request the Board to direct a contracting officer to issue a decision in a specified period of time, in the event of undue delay on the part of the contracting officer. *Id.* § 7103(f)(4).

In asking the Board to direct the contracting officer to issue a decision by a specific date, the contractor's submission appears to be a petition for such a direction, rather than an appeal of a decision which has already been issued. Consequently, we treat the submission as a petition, not an appeal.

The contracting officer has notified the contractor that she will issue a decision by April 15, 2014. After hearing the views of both parties in a telephonic conference, the Board considers this date to be reasonable, but a later date to represent undue delay. Consequently, we **GRANT THE PETITION IN PART** by directing the contracting officer to issue her decision on claim #4 by April 15, 2014. If the contracting officer does not issue a decision by that date, the contractor may at any time thereafter file an appeal from the deemed denial of the claim. 41 U.S.C. § 7103(f)(5).

STEPHEN M. DANIELS
Board Judge