

ARMED SERVICES BOARD OF CONTRACT APPEALS

Petition of -)
)
Maersk Line, Limited) ASBCA No. 62905-PET
)
Under Contract Nos. SPM300-10-D-3373)
SPM300-12-D-3571)

APPEARANCE FOR THE PETITIONER: Robert E. Korroch, Esq.
Williams Mullen
Norfolk, VA

APPEARANCES FOR THE GOVERNMENT: Daniel K. Poling, Esq.
General Counsel
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ORDER OF DISMISSAL

Maersk Line, Limited (Maersk or contractor) filed a request, under Rule 1(a)(5), for an order directing the contracting officer to render a decision on two December 22, 2020 certified claims no later than June 25, 2021. In response to contractor’s petition, the government filed a motion to dismiss for lack of jurisdiction, alleging that only US TRANSCOM and not the Defense Logistics Agency (DLA or government) was the proper entity to issue a COFD. In its reply in support of the motion to dismiss, DLA stated that the US TRANSCOM would “issue its COFD to Maersk.”

On August 6, 2021, the Board ordered the petition stayed and the motion to dismiss held in abeyance, pending issuance of the COFD by US TRANSCOM. Furthermore, the Board stated

[i]f the contracting officer fails to issue the COFD within 30 days of the date of this Order, such failure will be deemed a decision by the contracting officer denying the claim, and the contractor may appeal to the proper Board or sue in the United States Court of Federal Claims pursuant to the Contract Disputes Act, 41 U.S.C. §§ 7103(f)(5) or 7104, as appropriate. If after the issuance of the COFD, the issues

presented in the motion to dismiss remain, the parties may request the Board lift the suspension.

After receiving no status update from the parties, the Board sent an Order on November 19, 2021, requesting the parties provide a reason the appeal should not be dismissed as moot, as more than 30 days had passed from the August 6, 2021 Order. In response, appellant filed a request to withdraw the petition and dismiss without prejudice.

As noted in the Board's August 6, 2021 Order, if the contracting officer did not issue its final decision within 30 days, the claim would be deemed denied. Although the parties did not provide a status update on the issuance of the COFD, if it has not yet been issued, the claim is still deemed denied as of September 6, 2021. As such, the petition is now moot. This Order completes all necessary action by the Board.

Dated: December 2, 2021



RICHARD SHACKLEFORD
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Order of Dismissal of the Armed Services Board of Contract Appeals in ASBCA No. 62905-PET, Petition of Maersk Line, Limited, rendered in conformance with the Board's Charter.

Dated: December 2, 2021



PAULLA K. GATES-LEWIS
Recorder, Armed Services
Board of Contract Appeals