

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -- )  
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Bhate Environmental Associates, Inc. ) ASBCA No. 60903  
 )  
Under Contract No. W912DY-11-D-0013 )

APPEARANCES FOR THE APPELLANT: Anna H. Browning, Esq.  
Jack G. Kowalski, Esq.  
Burr & Forman LLP  
Atlanta, GA

APPEARANCES FOR THE GOVERNMENT: Thomas H. Gourlay, Jr., Esq.  
Engineer Chief Trial Attorney  
Kathryn R. Sommerkamp, Esq.  
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Engineer Trial Attorneys  
U.S. Army Engineer District, Huntsville

ORDER OF DISMISSAL

On 25 November 2016, the Board received the contractor's Notice of Appeal, asserting that its "request for equitable adjustment" was denied by the contracting officer on 29 August 2016. This appeal was docketed as ASBCA No. 60903. The government's motion to dismiss, which was predicated on Bhate's alleged failure to state a proper claim, was received by the Board on 30 January 2017. In the conference call of 27 July 2017, the Board discussed various options with the parties regarding the next step. Bhate advised by correspondence dated 10 August 2017 that it was willing to voluntarily withdraw this appeal without prejudice, subject to Bhate's right to continue pursuit of the matters set forth in its Complaint against the government, including the right, if necessary, to pursue subsequent appeal as appropriate.

By Order dated 14 August 2017, the Board informed the parties that it intended to dismiss this appeal as requested by Bhate unless either party objected within 14 days of the date of the Order. Although the Board received no objection from the government, appellant requested that the order be revised further to remind the government of its obligation to timely issue a contracting officer's final decision.

On 31 August 2017, the Board advised the parties that it proposed to issue this amended Order of Dismissal unless timely objections were received by 8 September 2017, which date was subsequently extended to 27 September 2017. A conference call was convened on 18 September 2017. Accordingly, this appeal is dismissed without prejudice. The parties are reminded of their relative obligations under the Contract

Disputes Act of 1978, 41 U.S.C. § 7103 including, without limitation, the government's obligation to timely issue a contracting officer's final decision.

Dated: 19 September 2017



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REBA PAGE  
Administrative Judge  
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. 60903, Appeal of Bhat Environmental Associates, Inc., rendered in conformance with the Board's Charter.

Dated:

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JEFFREY D. GARDIN  
Recorder, Armed Services  
Board of Contract Appeals