

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Paragon Defense Solutions, Inc.) ASBCA No. 64312
)
Under Contract No. SPE7L3-22-P-6059)

APPEARANCE FOR THE APPELLANT: Mr. Weiwei Jian
President

APPEARANCES FOR THE GOVERNMENT: Gary P. Bilski, Esq.
DLA Chief Trial Attorney
John J. Pritchard, Esq.
Adam J. Heer, Esq.
Julie K. Phillips, Esq.
Trial Attorneys
DLA Land and Maritime
Columbus, OH

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL

Appellant, Paragon Defense Solutions, Inc. (Paragon), requests that the Board award \$3,682.78, and convert to a termination for convenience what Paragon says was the improper termination of its contract.¹ Paragon elected to proceed under the Board's Small Claims (Expedited) procedures, pursuant to Board Rule 12.2. The Contract Disputes Act, 41 U.S.C. §§ 7106(b)(4)-(5), as implemented by Board Rule 12.2, provides that this decision shall have no precedential value, and that in the absence of fraud the decision shall be final and conclusive and may not be appealed or set aside. In addition, the parties agreed to proceed under Board Rule 11; that is, on the written record, without an in-person hearing.

FINDINGS OF FACT

On June 14, 2022, the government issued a unilateral purchase order to Paragon pursuant to Federal Acquisition Regulation (FAR) Part 13, for 118 propeller shafts for \$212,400, to be delivered within 210 days; that is, by January 10, 2023.² On January 17, 2023, the government unilaterally issued Modification No. 1, extending the delivery date to April 10, 2023.³ By April 10, 2023, Paragon had not delivered any

¹ App. br. at 3-4.

² See R4, tab 1 at 1-2, 5.

³ R4, tab 13 at 149-50.

of the propeller shafts.⁴ On April 14, 2023, the contracting officer cancelled the purchase order.⁵ On May 27, 2025, Paragon submitted to the contracting officer a claim for \$3,682.78.⁶ The contracting officer has not issued a decision upon that claim.⁷

DECISION

A unilateral purchase order is an offer to create an option contract. *DODS, Inc.*, ASBCA No. 57816, 12-2 BCA ¶ 35,082 at 172,287. Purchase orders have three distinct phases — (1) the offer, (2) the option contract, and (3) the completed purchase and sale contract. *Id.* In the offer phase there is no contract and the government is free to revoke the offer at any time before an option contract arises. *Id.* If the contractor engages in “substantial performance” in attempting to supply the item, an option contract is created wherein the offer becomes irrevocable. *Id.* If the contractor successfully performs the contract by delivering conforming services or supplies *on time*, a completed purchase and sale contract comes into existence. *Id.* However, if complete performance in accordance with the offer’s terms and conditions is not tendered, the option contract and purchase order lapse without the need for any action on the part of the government. *See id.*; *Warfighter Def. Inc.*, ASBCA No. 63924, 25-1 BCA ¶ 38,863 at 189,136; *Comptech Corp.*, ASBCA No. 55526, 08-2 BCA ¶ 33,982 at 168,082; *see also Coiltron, Inc.*, ASBCA No. 50664, 97-2 BCA ¶ 29,179 at 145,112.

The government concedes that Paragon engaged in substantial performance of the purchase order, creating an option contract wherein the government’s offer became irrevocable.⁸ However, because Paragon did not deliver the propeller shafts on time—that is, by April 10, 2023 (or at all)—the option contract and the purchase order lapsed without the need for any action on the part of the government. Because Paragon never delivered the propeller shafts, no completed purchase and sale contract came into existence.

The parties’ other contentions have been considered and found unnecessary to address. For all these reasons, the appeal is denied.

⁴ *See* compl. at 2 ¶¶ 8-10; app. br. at 2 ¶ 5, 3-4; gov’t br. at 1; app. reply at 2-3.

⁵ *See* R4, tab 18.

⁶ R4, tab 20 at 1-2.

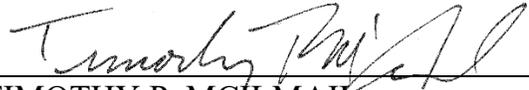
⁷ Compl. at 2 ¶ 12; answer at 4 ¶ 12.

⁸ *See* gov’t brief at 4.

CONCLUSION

The appeal is denied.

Dated: November 25, 2025



TIMOTHY P. MCILMAH
Administrative Judge
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 64312, Appeal of Paragon Defense Solutions, Inc., rendered in conformance with the Board's Charter.

Dated: November 25, 2025



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