

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Veteran Facility Services, LLC) ASBCA No. 62235
)
Under Contract No. FA6606-15-C-0003)

APPEARANCE FOR THE APPELLANT: Edward J. Kinberg, Esq.
Stewart Law
Melbourne, FL

APPEARANCES FOR THE GOVERNMENT: Jeffrey P. Hildebrant, Esq.
Air Force Deputy Chief Trial Attorney
Phillip E. Reiman, Esq.
Trial Attorney

ORDER OF DISMISSAL

On October 26, 2018, appellant, Veteran Facility Services, LLC (VFS), filed an appeal challenging the government's demand for reprocurement costs, on the basis of a deemed denial, which the Board docketed as ASBCA No. 62235. In its notice of appeal, VFS acknowledged that the Air Force had not issued a contracting officer's final decision (COFD) seeking reprocurement costs. Instead, VFS contended that the Air Force's previous refusals to issue a final decision "establish that it would be fruitless for VFS to request a final decision and that doing so would only delay the resolution." VFS stated that it "is submitting this Notice of Appeal based on the 'deemed' final decision of the Contracting Officer to assess re-procurement costs." (Notice of Appeal at 2)

During a January 22, 2020 conference call with the parties, the Board addressed whether it possessed jurisdiction to entertain this appeal, in the absence of a COFD seeking reprocurement costs. After discussion, the parties agreed that the Board would dismiss ASBCA No. 62235 without prejudice and that the government would issue a COFD seeking reprocurement costs by no later than February 26, 2020. Following the issuance of the final decision, appellant would be free to file a new appeal of that decision.

Accordingly, we dismiss, without prejudice, ASBCA No. 62235.

Dated: January 28, 2020



KENNETH D. WOODROW
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. 62235, Appeal of Veteran Facility Services, LLC, rendered in conformance with the Board's Charter.

Dated:

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