



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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DISMISSED WITHOUT PREJUDICE: September 29, 2016

CBCA 5207

VETERANS CONTRACTING, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Scott R. Sylkatis of Sylkatis Law, LLC, Amherst, OH, counsel for Appellant.

David G. Fagan, Office of General Counsel, Department of Veterans Affairs, Portland, OR, counsel for Respondent.

**VERGILIO**, Board Judge.

ORDER

On February 12, 2016, the Board received from Veterans Contracting, Inc. (contractor) a timely-filed notice of appeal concerning its contract, VA250-12-C-0111, with the Department of Veterans Affairs (agency). Formal proceedings were suspended at the request of the parties. On September 27, the Board received from the contractor a motion to dismiss without prejudice pursuant to Rule 12(d) (48 CFR 6101.12(d) (2015)) (“When circumstances beyond the control of the Board prevent the continuation of proceedings in a case, the Board may . . . dismiss the case without prejudice to reinstatement within 180 calendar days after the date of the dismissal”). The motion identifies no reason that might prevent the continuation of proceedings. The contractor is aware that the dismissal will act as a preclusion from pursuing the claim. The agency does not object to the dismissal,

although it opines that voluntary dismissals are under Rule 12(c) and are with prejudice. Given the motion and lack of objection, the Board **DISMISSES WITHOUT PREJUDICE** the appeal.

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JOSEPH A. VERGILIO  
Board Judge