



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED: April 18, 2023

CBCA 7714, 7715, 7716

MERCER FRASER COMPANY,

Petitioner,

v.

DEPARTMENT OF TRANSPORTATION,

Respondent.

Richard M. Harris and Neil H. O'Donnell of Rogers Joseph O'Donnell, PC, San Francisco, CA, counsel for Petitioner.

Jack F. Gilbert, Office of the Chief Counsel, Federal Highway Administration, Department of Transportation, Lakewood, CO, counsel for Respondent.

LESTER, Board Judge.

ORDER

On March 17, 2023, Mercer Fraser Company (MFC) filed a petition with the Board under section 7103(f)(4) of the Contract Disputes Act (CDA), 41 U.S.C. § 7103(f)(4) (2018), requesting that we order the Federal Highway Administration (FHWA) contracting officer to expedite issuance of decisions on three separate certified claims that MFC submitted seeking monetary relief under a contract for highway repair work. The FHWA contracting officer received two of the three claims at issue on October 28, 2022, and the third on December 16, 2022. By letters dated December 28, 2022, and February 15, 2023, the FHWA, pursuant to 41 U.S.C. § 7103(f)(2)(B), notified MFC that decisions on the three claims would be issued by April 28, May 31, and October 31, 2023, respectively, instead of within sixty days after the contracting officer's receipt of each claim. Because the petition

involved three separate certified claims, the Clerk of the Board viewed the petition as dealing with three separate matters and assigned a separate docket number to each of the three claims. The Board, by order dated March 21, 2023, consolidated the three docket numbers.

The parties have now filed what they have titled “Joint Agreement on Petitioner’s Requested Relief” in which they represent that they have resolved their disagreement about the deadlines for issuance of final decisions, and they ask the Board to memorialize their agreement in this order. Specifically, the FWHA has agreed, with MFC’s approval, that the contracting officer will issue a consolidated final decision addressing all three claims no later than May 31, 2023. The parties have also agreed that, if MFC has any other related claims stemming out of the contract, MFC will submit them as quickly as possible with the hope that the FHWA contracting officer can address them in his May 31, 2023, decision. The parties also agree to address any future claims as expeditiously as possible.

Based upon the parties’ agreement, the petition referencing the three claims, which was docketed separately for each claim and then consolidated, is **DISMISSED**.

Harold D. Lester, Jr.
HAROLD D. LESTER, JR.
Board Judge