



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED: October 1, 2009

CBCA 1367

LUMUS CONSTRUCTION, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Lewis R. Lear of City, Hayes & Dissette, P.C., Boston, MA, counsel for Appellant.

Stephen F. Butera and Dennis McGuire, Office of Regional Counsel, Department of Veterans Affairs, Clarksburg, WV, counsel for Respondent.

DANIELS, Board Judge (Chairman).

ORDER

The Department of Veterans Affairs (VA) and Lumus Construction, Inc. (Lumus) entered into a contract under which Lumus was to perform work on the heating, ventilation, and air conditioning system at the Louis A. Johnson Medical Center in Clarksburg, West Virginia. Lumus claimed that due to incorrect data supplied by VA and a condition of which the agency did not make it aware, it incurred unanticipated costs in resolving issues which arose regarding the system. Lumus claimed that it was entitled to an additional \$76,902.01 to compensate it for these costs. A VA contracting officer denied the claim, and Lumus appealed his decision.

After considerable discussion between the parties, on September 4, 2009, counsel informed the Board in a telephonic conference that all necessary preconditions to a settlement appeared to be in place. Counsel stated that if neither party requested further action in the case by September 28, 2009, the Board could dismiss the case on any day thereafter.

Neither party requested further action on or before September 28, 2009. Accordingly, the case is **DISMISSED**.

STEPHEN M. DANIELS
Board Judge