



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED IN PART: January 29, 2009

CBCA 1390

MWH AMERICAS, INC.,

Appellant,

v.

AGENCY FOR INTERNATIONAL DEVELOPMENT,

Respondent.

Steven M. Masiello and Arash Heidarian of McKenna Long & Aldridge LLP, Denver, CO, counsel for Appellant.

John B. Alumbaugh and Elizabeth A. Ransom, Office of General Counsel, Agency for International Development, Washington, DC, counsel for Respondent.

GILMORE, Board Judge.

ORDER

On October 27, 2008, appellant, MWH Americas, Inc. (MWH), timely appealed the final decision of the contracting officer (CO) for the Agency for International Development (respondent), who demanded payment from MWH in the amount of \$5,182,162, under contract numbers 263-C-00-99-0008-00, 263-C-00-99-0018-00, 263-C-00-01-00007-00, 284-C-00-00-00025-00, LAG-I-00-98-00002-00, LAG-I-00-00034-00, LAG-I-00-98-00004-00, and LAG-I-804-98-00024-00. Appellant filed its complaint on November 26, 2008. On December 9, 2008, the CO issued an amendment to the final decision, allowing previously disallowed costs under contract numbers 263-C-00-99-0018-00, 284-C-00-00-00025-00,

LAG-I-00-98-00002-00, LAG-I-00-00034-00, LAG-I-00-98-00004-00, and LAG-I-804-98-00024-00. The parties requested a conference call with the Board for guidance on how to proceed in light of the amended final decision. A telephonic conference with the parties was convened on January 9, 2009, and it was agreed that the parties would file a stipulation of settlement regarding the costs that were disallowed in the initial final decision, and subsequently allowed in the amended final decision.

The parties filed a joint stipulation on January 21, 2009, stating in pertinent part:

6. The amendment to the Final Decision reduces the amount disallowed by the CO to \$2,227,484 and limits the contracts at issue to contract numbers 263-C-00-99-0008-00 and 263-C-00-01-00007-00. Thus, the Final Decision, as amended, no longer raises any actual controversy between the parties concerning MWH's entitlement to payment of \$2,954,678 under contract numbers 263-C-00-99-0018-00, 284-C-00-00-00025-00, LAG-I-00-98-00002-00, LAG-I-00-00034-00, LAG-I-00-98-00004-0 and LAG-I-804-98-00024-00 (the "Undisputed Costs").

7. In accordance with the Final Decision, as amended, the parties agree that the amount remaining at issue in this appeal is \$2,227,484 under contract numbers 263-C-00-99-0008-00 and 263-C-00-01-00007-00.

In light of the above stipulation, appellant's claims in this appeal pertaining to contract numbers 263-C-00-99-0018-00, 284-C-00-00-00025-00, LAG-I-00-98-00002-00, LAG-I-00-00034-00, LAG-I-00-98-00004-0, and LAG-I-804-98-00024-00, in the amount of \$2,954,678, are hereby **DISMISSED**. The Board retains jurisdiction over appellant's appeal of disputed costs under contract numbers 263-C-00-99-0008-00 and 263-C-00-01-00007-00, in the amount of \$2,227,484.

BERYL S. GILMORE
Board Judge