



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 13, 2010

CBCA 1757-FEMA

In the Matter of MISSISSIPPI STATE PORT AUTHORITY

Paul J. Delcambre, Jr. of Balch & Bingham LLP, Gulfport, MS, counsel for Applicant.

Thomas M. Womack, Executive Director, Mississippi Emergency Management Agency, Pearl, MS, appearing for Grantee.

Amy M. Weinhouse, Linda M. Davis, and Kim A. Hazel, Office of Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC, counsel for Federal Emergency Management Agency.

Before the Arbitration Panel consisting of Board Judges **SOMERS**, **POLLACK**, and **DRUMMOND**.

DRUMMOND, Board Judge.

ORDER

FEMA has asked the panel in this arbitration proceeding to affirm the agency's determination unless we find that it is arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law -- i.e., the standard set forth in the Administrative Procedure Act, 5 U.S.C. § 706 (2006). The applicant and the grantee both oppose FEMA's request.

For the reasons explained by another arbitration panel in *Bay St. Louis - Waveland School District*, CBCA 1739 (Dec. 8, 2009), this panel denies FEMA's request. A copy of the decision of the other panel is attached. We will consider all evidence in the record created for this arbitration proceeding, and we will review that evidence *de novo*.

JEROME M. DRUMMOND
Board Judge

JERI K. SOMERS
Board Judge

HOWARD A. POLLACK
Board Judge