UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MODIFIED ON RECONSIDERATION: November 10, 2010

CBCA 1735-R, 1736-R

CHAMPION BUSINESS SERVICES,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Carol E. McCallister, Chief Executive Officer of Champion Business Services, Aurora, CO, appearing for Appellant.

Joel David Malkin, Office of Regional Counsel, General Services Administration, Chicago, IL, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **HYATT**, and **GOODMAN**.

HYATT, Board Judge.

Appellant, Champion Business Services (Champion), has filed a motion for reconsideration of the Board's decision denying its consolidated appeals of contracting officer decisions asserting government claims under two task orders for the provision of administrative support services to the General Services Administration's (GSA's) field offices in Battle Creek, Michigan field office (CBCA 1735), and Detroit, Michigan (CBCA 1736). *Champion Business Services v. General Services Administration*, CBCA 1735, et al., 10-2 BCA ¶ 34,539. Champion does not actually challenge the Board's conclusion as to entitlement, but instead seeks an explicit award of interest on the amount the Board concluded GSA owed it with respect to unpaid invoices under CBCA 1736.

Background

The appeals arose when GSA determined that it had overpaid Champion under the subject task orders, which were issued pursuant to Champion's schedule contract for the provision of temporary administrative and professional staffing services. Specifically, GSA determined that Champion had improperly invoiced the Government for vacation days and holidays that its employees did not work, and accordingly withheld further payments under the orders. Champion, when it did not get paid for its final invoices, and after attempting to reach a resolution with GSA, submitted claims to the contracting officer for final payment under both task orders on June 26, 2009. Both claim submissions were received by GSA on July 6, 2009. Appeal File (CBCA 1735), Exhibit 21; Appeal File (CBCA 1736), Exhibit 10.

By letter dated August 13, 2009, GSA denied the claims, asserting that Champion was not due any further monies because of the overpayments identified in the closeout audit. The contracting officer determined that the alleged overpayments exceeded the amounts Champion claimed to be due and demanded that Champion reimburse GSA the amount of the alleged overpayments. Champion appealed.

Shortly after the appeals were filed, the Board asked GSA to review and reconcile the final payments claimed by Champion for services provided to, but not yet paid for, by GSA, with the claimed amounts of overpayments asserted by GSA. In a letter dated March 11, 2010, GSA advised that after reviewing the claims, and offsetting the amounts invoiced by Champion with the overpayments identified by GSA, Champion owed GSA a total of $189.92 on the Battle Creek delivery order and GSA owed Champion $406.08 for the Detroit delivery order. Netting out the two contracts, GSA owed Champion a total of $216.16. The Board concluded, based upon its review of the record, that these calculations were accurate.

The Board agreed with GSA's interpretation of the terms of the schedule contract and held that Champion could not bill the agency for holidays and vacation days on which Champion's employees had not actually worked. The Board thus denied Champion's appeals respecting the overpayments asserted by GSA. Nonetheless, since GSA properly determined that, after offsetting the overpayments, the amount of $216.16 was owed under the Detroit contract, the Board awarded this amount to appellant.

Discussion

Although the Board awarded the amount of $216.16 to Champion, the decision was silent with respect to entitlement to interest. Champion has moved for reconsideration of the Board's decision on the ground that interest should have been expressly awarded to it. This motion is not predicated on the usual grounds enumerated in the Board's Rule 26, 48 CFR 6101.26 (2009), but, nonetheless, raises an issue that requires clarification. Appellant's motion appropriately brings to our attention the need to revise the decision to make clear that interest should be paid on the amount found due to Champion.

Champion contends that interest should be awarded from August 13, 2009, the date of the contracting officer's decision denying appellant's claims and demanding that Champion reimburse GSA for the overpayments. GSA disagrees with Champion for several reasons. First, it points out that the agency, in response to a request made by the Board, reconciled the competing claims and, in a letter to the Board dated March 11, 2010, derived the amount that Champion was ultimately awarded. GSA thus maintains that since the amount due was determined on March 11, 2010, this should be the earliest date from which Champion could be deemed eligible for interest. GSA also contends that it should not be accountable for accumulating interest when Champion has not yet invoiced for this amount. According to GSA, under 48 CFR 52.212-4 (2007) FAR 52-212-4, before interest may accrue, Champion must invoice for the amount that GSA found was due in March 2010 and that subsequently was awarded by the Board.

Neither party has it quite right, although Champion is closer to the mark. The Contract Disputes Act of 1978 (CDA) provides for the payment of interest on contractor claims as follows:

> Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 605(a) of this title from the contractor until payment thereof. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board.

41 U.S.C. § 611 (2006); FAR 33.208(a)(1); *accord All Star Metals, LLC v. Department of Transportation*, CBCA 53, 09-1 BCA ¶ 34,039 (2008). The claims were received by the contracting officer on July 6, 2009. Interest on the award should therefore be calculated as of that date. It is unnecessary for Champion to invoice this amount. The contractor had already filed the requisite invoices for work performed when it submitted its disputed claim

to the contracting officer for decision. The contract clause relied on by GSA applies to Prompt Payment Act interest, which is not at issue here.

Decision

The motion for reconsideration is granted. The Board's decision in these appeals is **MODIFIED** to provide that Champion is entitled to interest in accordance with the CDA on the award of $216.16, accruing from July 6, 2009, the date on which the contracting officer received Champion's claims. 41 U.S.C. § 611.

CATHERINE B. HYATT
Board Judge

We Concur:

STEPHEN M. DANIELS
Board Judge

ALLAN H. GOODMAN
Board Judge