



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED: July 28, 2011

CBCA 2025

CERES CARIBE, INC.,

Appellant,

v.

DEPARTMENT OF AGRICULTURE

Respondent.

Karl Dix, Jr. of Smith, Currie & Hancock, LLP, Atlanta, GA, counsel for Appellant.

Mark R. Simpson, Office of the General Counsel, Department of Agriculture, Atlanta, GA, counsel for Respondent.

POLLACK, Board Judge.

ORDER

This appeal was from a final decision dated March 12, 2010, wherein the contracting officer (CO) addressed matters contained in a proposal from Ceres Caribe (Caribe). Soon after, it became apparent that the final decision was defective in that it was not in response to a formal claim submitted by Caribe. Appellant filed a motion to dismiss, challenging the Board's jurisdiction; noting that it was forced to file its appeal as a protective measure; and asserting that while it had claims under the contract, the claims had not been submitted to the CO. After discussion, both parties agreed that appellant would present its claim to the CO and the CO would issue a new final decision on that claim. Once that was accomplished, the instant appeal would be dismissed.

On January 28, 2011, the CO issued a final decision in response to appellant's claim. That matter was then appealed on March 17, 2011, and docketed as CBCA 2347. By order of June 3, 2011, the Board confirmed to the parties that, as the new appeal had been filed, the Board would dismiss CBCA 2025 and incorporate all documents filed in conjunction with that appeal into CBCA 2347.

Accordingly, CBCA 2025 is **DISMISSED**.

HOWARD A. POLLACK
Board Judge