



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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GRANTED IN PART: June 11, 2015

CBCA 4088, 4091, 4557

KEVCON, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

William L. Bruckner and Thomas M. Regan of Bruckner Law Firm, APC, San Diego, CA, counsel for Appellant.

David G. Fagan, Office of Regional Counsel, Department of Veterans Affairs, Portland, OR, counsel for Respondent.

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

**DANIELS**, Board Judge.

The Department of Veterans Affairs (VA) entered into two contracts with Kevcon, Inc. (Kevcon), one to provide design-build services for the renovation of a building at the VA Roseburg Healthcare System in Roseburg, Oregon, and another to renovate portions of a building at the VA Puget Sound Health Care System in Seattle, Washington.

Kevcon has filed appeals of contracting officer decisions regarding disputes under the two contracts. Two of the appeals involve the Roseburg contract: CBCA 4088 (addressing the contracting officer's termination for default of the contract) and CBCA 4091 (addressing the contracting officer's deemed denial of Kevcon's claim for damages due to delays

allegedly caused by the VA). The third appeal, CBCA 4557, addresses Kevcon's claim for damages due to alleged delays and defective specifications on the Seattle contract.

The parties successfully engaged in mediation of these disputes, with Board Judge Candida S. Steel acting as mediator.

The parties have now filed a settlement agreement which provides that the VA will convert the termination of the Roseburg contract to a no fault termination, notify the Small Business Administration of this conversion, and issue a satisfactory evaluation of contract performance and allow Kevcon to make comments on the evaluation. The settlement agreement also asks the Board to issue a decision which makes a stipulated award of \$540,000 to Kevcon, with interest to run on that amount, at rates prescribed pursuant to the Contract Disputes Act (41 U.S.C. § 7109 (2012)), beginning on July 11, 2015, and ending on the date of payment. The parties state that they will not seek reconsideration or relief from such a decision, and they will not appeal the decision. Rule 25(b) (48 CFR 6101.25(b)) (2014).

### Decision

The appeals are **GRANTED IN PART**. The Department of Veterans Affairs shall pay \$540,000 to Kevcon, Inc. This sum shall be paid from the permanent indefinite judgment fund, 31 U.S.C. § 1304. If this amount is not paid by July 10, 2015, there shall be added to it interest, at rates prescribed pursuant to the Contract Disputes Act, beginning on July 11, 2015, and ending on the date of payment.

This decision addresses only the monetary aspect of the matters addressed in the settlement agreement. The non-monetary aspects remain before the Board. The parties have promised that once the Department of Veterans Affairs performs the actions to which it has agreed under the settlement agreement, the parties will file a joint motion to dismiss the non-monetary aspects of the appeals – and consequently, the appeals in full.

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STEPHEN M. DANIELS  
Board Judge

We concur:

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ALLAN H. GOODMAN  
Board Judge

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JONATHAN D. ZISCHKAU  
Board Judge