



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: December 14, 2016

CBCA 2727, 3539, 4006

KEPA SERVICES, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

William L. Bruckner and Nicholas A. Arcamone of Bruckner Law Firm, APC, San Diego, CA, and Timothy F. Noelker and Scott F. Lane of Thompson Coburn LLP, St. Louis, MO, counsel for Appellant.

Cecily Chambliss, Stacy North-Willis, and Charlma J. Quarles, Office of General Counsel, Department of Veterans Affairs, Washington, DC, and Helen S. Henningsen, Office of General Counsel, Department of Veterans Affairs, Milwaukee, WI, counsel for Respondent.

Before Board Judges **VERGILIO, LESTER, and RUSSELL.**

LESTER, Board Judge.

On or about August 4, 2010, the Department of Veterans Affairs (VA) awarded contract no. VA101CFM-C-0093 (the contract) to appellant, Kepa Services, Inc. (Kepa), to improve and expand the Abraham Lincoln National Cemetery in Elwood, Illinois. The

cemetery expansion involved the development of twenty acres, including but not limited to the provision of 12,122 pre-placed crypts, 325 conventional grave sites, 2677 cremains burial sites, and 6584 columbarium niches for cremains. Cemetery improvements included walkways, site furnishings, grading, drainage, fencing, landscaping, a utility distribution system, and the removal and replacement of roadways and a main entrance gate.

Kepa submitted several claims to the contracting officer during and following contract performance seeking additional monetary compensation from the VA under the contract. The Board docketed Kepa's appeals of the contracting officer's decisions on three of those claims as CBCA 2727, 3539, and 4006.

On December 9, 2016, the parties, in furtherance of a settlement agreement that they executed on December 8, 2016, filed a joint motion for entry of judgment in CBCA 2727, 3539, and 4006. In the settlement agreement, a copy of which accompanied the parties' motion, the parties stipulated to an award in Kepa's favor in CBCA 2727, 3539, and 4006 in the amount of \$2 million, with interest to run at rates prescribed by the Contract Disputes Act (CDA), 41 U.S.C. § 7109 (2012), beginning thirty days after the Board's entry of judgment, if the permanent indefinite judgment fund has not paid the stipulated amount by that date. The parties further stipulated that they will not seek reconsideration of or relief from, and will not appeal, the Board's decision awarding the stipulated amount.

Decision

The appeals are **GRANTED IN PART**. The Department of Veterans Affairs shall pay \$2 million, inclusive of interest, to Kepa in full settlement of CBCA 2727, 3539, and 4006, with each party to bear its own attorney fees and expenses. This payment shall be made in accordance with 41 U.S.C. § 7108. If this amount is not paid by January 13, 2017, there shall be added to it interest, at rates prescribed pursuant to the CDA, beginning on January 13, 2017, and ending on the date of payment.

HAROLD D. LESTER, JR.
Board Judge

We concur:

JOSEPH A. VERGILIO
Board Judge

BEVERLY M. RUSSELL
Board Judge