



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DENIED: February 13, 2018

CBCA 6017

VXL ENTERPRISES, LLC,

Petitioner,

v.

DEPARTMENT OF STATE,

Respondent.

Eden Brown Gaines of Brown Gaines, LLC, Washington, DC, counsel for Petitioner.

Morgan L. Cosby, Office of the Legal Advisor, Buildings and Acquisitions, Department of State, Rosslyn, VA, counsel for Respondent.

Before Board Judges **BEARDSLEY**, **GOODMAN**, and **LESTER**.

BEARDSLEY, Board Judge.

VxL Enterprises, LLC (VxL) submitted a certified claim in the amount of \$3,039,565.98 to a United States Department of State contracting officer on November 13, 2017. On January 11, 2018, the contracting officer issued a communication to VxL indicating that the claim would not be decided for an additional sixty days, or until March 13, 2018. On February 6, 2018, VxL filed a petition under 41 U.S.C. § 7103(f)(4) (2012) and Board Rule 2(a)(2) (48 CFR 6101.2(a)(2) (2016)) for an order directing the contracting officer to issue a final decision “on or before February 13, 2018,” twenty-eight days earlier than promised.

We have jurisdiction over the petition because VxL's claim, which is attached to the petition, is greater than \$100,000, was certified, and was submitted more than sixty days ago. *See CTA I, LLC v. Department of Veterans Affairs*, CBCA 5748, 17-1 BCA ¶ 36,882, at 179,769 (citing *Hawk Contracting Group, LLC v. Department of Veterans Affairs*, CBCA 5527, 16-1 BCA ¶ 36,572, at 178,118).

VxL filed the petition seven calendar days and five business days before the date by which it seeks the contracting officer's final decision. The reason given by VxL for demanding a final decision in five days is to ensure continued and uninterrupted security operations at the U.S. embassy in Guyana. VxL asserts that its line of credit is

strained and in danger of recall or diminution because of the government's failure to process equitable adjustments and timely pay invoices. . . . Should VxL's line of credit change, contract operations will be compromised. VxL's lender will make a decision in the next weeks and the status of the instant Contract will factor in the decision.

Five business days is not a reasonable amount of time to require a decision from the Board. This time period does not give respondent a reasonable amount of time to respond to the petition, petitioner to reply to the response, or the Board to consider either. Moreover, VxL's concern regarding its line of credit is not an exigent situation that demands action in five business days. Even assuming that the lender's timeline for making a decision on VxL's line of credit could lead to immediate action on the petition, in this case, the lender is not even making its decision next week but in the "next weeks." Thus, this petition is unfounded and not based on realistic considerations. *CTA I, LLC*, 17-1 BCA at 179,770 (denying a petition that asked for a final decision seventeen calendar days or twelve business days from the date the petition was filed as unsupported on its face).

Decision

The petition is **DENIED**.

ERICA S. BEARDSLEY
Board Judge

We concur:

ALLAN H. GOODMAN
Board Judge

HAROLD D. LESTER, JR.
Board Judge