



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

**THIS OPINION WAS INITIALLY ISSUED UNDER PROTECTIVE ORDER AND
IS BEING RELEASED TO THE PUBLIC IN ITS ENTIRETY ON
NOVEMBER 14, 2018**

GRANTED IN PART; DISMISSED WITH PREJUDICE IN PART: November 5, 2018

CBCA 3760, 4822, 5281

SMITH MANAGEMENT CONSTRUCTION, INC.,

and

BRC LEASE COMPANY, L.L.C.,

Appellants,

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Respondent.

Richard A. DeTar of McAllister, DeTar, Showalter & Walker, Easton, MD, counsel for Appellants.

Richard G. Bergeron, Office of the General Counsel, Department of Health and Human Services, Washington, DC, counsel for Respondent.

Before Board Judges **BEARDSLEY**, **DRUMMOND**, and **ZISCHKAU**.

BEARDSLEY, Board Judge.

CBCA 3760, CBCA 4822, and CBCA 5281 were filed and docketed on October 15, 2013, September 29, 2014, and October 23, 2014, respectively. The parties have reached a settlement resolving all three appeals.

On October 31, 2018, pursuant to Board Rule 25(b) (48 CFR 6101.25(b) (2018)) and the terms of a settlement agreement, the parties jointly moved for a judgment in CBCA 5281 in the amount of \$325,000, to be paid to Smith Management Construction, Inc. (on whose behalf BRC Lease Company, L.L.C. passed through its claim). In a decision dated January 24, 2017, the Board ruled that it possessed subject matter jurisdiction to decide CBCA 5281. Appellants have waived all further rights to recover interest, attorney fees, costs, or expenses incurred in conjunction with the appeals. In addition, the parties stated that no party will seek reconsideration of, seek relief from, or appeal the Board's decision.

The parties also request dismissal of CBCA 3760 and CBCA 4822 with prejudice.

Decision

Pursuant to the parties' joint motion for entry of decision by stipulation, the Board **GRANTS CBCA 5281 IN PART**. Appellants are awarded a total of \$325,000, this amount to be paid to Smith Management Construction, Inc. CBCA 3760 and CBCA 4822 are **DISMISSED WITH PREJUDICE**.

Erica S. Beardsley

ERICA S. BEARDSLEY
Board Judge

We concur:

Jerome M. Drummond

JEROME M. DRUMMOND
Board Judge

Jonathan D. Zischkau

JONATHAN D. ZISCHKAU
Board Judge