



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: October 26, 2018

CBCA 6072

K.O.O. CONSTRUCTION, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS

Respondent.

Herman M. Braude of Braude Law Group, P.C., Rockville, MD, counsel for Appellant.

David G. Fagan, Office of General Counsel, Department of Veterans Affairs, Portland, OR; and Donald C. Mobly, Office of General Counsel, Department of Veterans Affairs, Denver, CO, counsel for Respondent.

Before Board Judges **DRUMMOND**, **SULLIVAN**, and **LESTER**.

LESTER, Board Judge.

In a certified claim submitted to the contracting officer for the Department of Veterans Affairs (VA) on or about August 25, 2017, K.O.O. Construction, Inc. (KOO) alleged that it had incurred additional costs in performing contract no. VA261-C-0528 for which the VA should compensate it. On March 13, 2018, KOO appealed the VA contracting officer's

“deemed denial” of its claim to the Board. The Board docketed KOO’s appeal as CBCA 6072.

At the parties’ request, the Board subsequently suspended proceedings in the appeal to provide the parties with time to attempt to resolve their dispute through mediation. On October 24, 2018, the parties filed a joint motion for entry of judgment in this appeal, indicating that, in a settlement agreement that they had executed earlier that day following mediation, they had stipulated to an award in KOO’s favor in the amount of \$2 million, inclusive of interest, to be paid from the permanent indefinite judgment fund, 31 U.S.C. § 1304 (2012). Under their stipulation, interest will begin to run on December 14, 2018, at rates prescribed by the Contract Disputes Act (CDA), 41 U.S.C. § 7109, 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 appeal is **GRANTED IN PART**. The VA shall pay \$2 million, inclusive of interest, to KOO in full settlement of CBCA 6072, with each party to bear its own costs, attorney fees, and expenses. This payment shall be made in accordance with 41 U.S.C. § 7108 and may be made from the permanent indefinite judgment fund, 31 U.S.C. § 1304. If the \$2 million settlement amount is not paid by December 14, 2018, there shall be added to that amount interest, at rates prescribed pursuant to the CDA, beginning on December 14, 2018, and ending on the date of payment.

Harold D. Lester, Jr.

HAROLD D. LESTER, JR.

Board Judge

We concur:

Jerome M. Drummond

JEROME M. DRUMMOND

Board Judge

Marian E. Sullivan

MARIAN E. SULLIVAN

Board Judge