

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

GRANTED IN PART: December 13, 2006

GSBCA 16855, 16856

FIREMAN'S FUND INSURANCE COMPANY,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Douglas L. Patin and Michael S. Koplan of Bradley Arant Rose & White LLP, Washington, DC, counsel for Appellant.

Catherine C. Crow and Richard Hughes, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **BORWICK**, and **HYATT**.

DANIELS, Board Judge.

These cases involves claims against the General Services Administration (GSA) under a contract for construction of the project known as the New U. S. Courthouse at 225 Cadman Plaza East, Brooklyn, New York.

GSA awarded the contract to J. A. Jones Construction Group, LLC (Jones) in 1999. Jones and Fireman's Fund Insurance Company (Fireman's) provided GSA a payment bond and a performance bond for this project. Four years later, J. A. Jones, Inc. and certain of its

subsidiaries, including Jones, filed voluntary petitions for bankruptcy. In 2004, GSA and Fireman's entered into a takeover agreement under which Fireman's undertook to complete contract work and GSA recognized Fireman's rights to assert all claims of Jones arising under or in connection with the performance of the contract. The court in the Jones Bankruptcy Proceedings approved Jones's motion to assume and assign the contract to Fireman's.

Jones submitted a claim under the contract in the amount of \$36,269,034, as amended. After taking over the contract, Fireman's submitted a separate claim in the amount of \$45,235,388, as amended. The GSA contracting officer issued two decisions, each denying one of these claims. Fireman's appealed his decisions to the Board, and the cases were docketed as GSBCA 16855 and 16856. After the cases were filed, Fireman's submitted yet another claim, in the amount of \$8,900,580.

On December 12, 2006, Fireman's and GSA filed a Joint Motion for Entry of Judgment of Stipulated Award in GSBCA 16855 and 16856. In the motion, the parties ask that the Board enter judgment for Fireman's in the amount of \$18,711,000, inclusive of interest, costs, and attorney fees. The settlement agreement attached to the motion specifies that with the exception of various provisos included in the agreement, payment of this amount "is intended to settle and resolve any past, present or future claims for additional compensation, including [the three claims whose amounts are noted in the preceding paragraph], and including any claims by GSA for liquidated damages, relating to the Post Office Project."

In their motion, the parties state that they will not seek reconsideration of, or relief from, the Board's decision, and that they will not appeal the decision.

Decision

The appeals are **GRANTED IN PART**. The General Services Administration shall pay to Fireman's Fund Insurance Company the sum of \$18,711,000. Rule 136(e) (48 CFR 6101.36(e) (2005)). Payment shall be made from the permanent indefinite judgment fund. 31 U.S.C. § 1304 (2000).

STEPHEN M. DANIELS
Board Judge

We concur:

ANTHONY S. BORWICK
Board Judge

CATHERINE B. HYATT
Board Judge