

DIDION MILLING,)	AGBCA No. 2004-125-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
John Didion, CEO)	
P.O. Box 400)	
Johnson Creek, Wisconsin 53038)	
)	
Representing the Government:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

June 2, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion by Administrative Judge VERGILIO.

On January 2, 2004, the Board received a notice of appeal from Didion Milling of Johnson Creek, Wisconsin (contractor), regarding the assessment of liquidated damages under contracts (numbers VEPE01037, VEPE01058, VEPE01065, VEPE01076, VEPE01133) to deliver a corn-soy blend product. The contractor disputes the assessment of \$33,842.84, said to arise from the late delivery of railcars. The respondent, the U. S. Department of Agriculture (USDA) (Government), identifies the Farm Service Agency, the Kansas City Commodity Office, and the Commodity Credit Corporation as agencies and corporations falling within the term USDA and this dispute.

The contractor maintains that this Board has jurisdiction over this appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended (CDA). Following some development of the record and telephone conferences, the parties resolved the dispute. On May 27, 2004, the Board received from the parties a signed settlement agreement. Among the particulars of the agreement, the parties indicate that the agreement is a compromise of all disputed claims, and the contractor will not pursue further action regarding the claims. The amount of liquidated damages is reduced to \$21,500. Because the Government has already collected the full amount of the liquidated damages

through offset, the Government will pay the contractor \$12,342.84 after receipt of this order of dismissal with prejudice. The parties request a dismissal with prejudice, while noting that each party shall bear its own costs incurred.

DECISION

Given the settlement of the dispute and the request of the parties, the Board dismisses with prejudice this appeal.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

HOWARD A. POLLACK

Administrative Judge

ANNE W. WESTBROOK

Administrative Judge

Issued at Washington, D.C.

June 2, 2004