

ADVANCE CONSTRUCTION SERVICES, INC.,)	AGBCA No. 97-186-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Karl Dix, Jr.)	
Steven L. Smith)	
Smith, Currie & Hancock)	
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)	
Representing the Government:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

 May 18, 1999

OPINION BY ADMINISTRATIVE JUDGE JOSEPH A. VERGILIO

On July 18, 1997, Advance Construction Services, Inc. (Appellant) of Brewton, Alabama, filed this appeal with the Board, concerning a fixed-price contract, No. 50-4101-7-01, with the U. S. Department of Agriculture, Natural Resources Conservation Service (Respondent or Government). The contract required the repair of an existing ditch bank stabilization at site BAL-03-95 (repair 1), Baldwin County, Alabama. The work included removing structures, placing paving stone, seeding and mulching, and installing riprap, grout, and geotextile. The contractor filed a claim to recover \$68,830.92, said to have been incurred for work ordered by the Government, which exceeded the scope of the contract. The contractor asserts that it encountered a subgrade and water conditions not anticipated under the contract, and that the Government required it to use a specific geotextile fabric which cost more than that priced in its bid. The Contracting Officer denied the claim.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act (CDA), 41 U.S.C. §§ 601-613, as amended.

The parties have submitted a complaint, answer, and the appeal file. They have engaged in discovery. The parties have participated in telephone conferences with the Board. The parties have resolved the matter in dispute, as well as all claims and disputes relating to the underlying contract and project. The Government offered, and the contractor has accepted, \$31,500, to be paid within 30 calendar days following the execution of the settlement (with interest added, if paid thereafter). No separate amount will be sought for interest under the CDA or for legal fees under the Equal Access to Justice Act (EAJA). Given the resolution, the parties request that the Board dismiss with prejudice this matter.

DECISION

The Board dismisses with prejudice this appeal.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

EDWARD HOURY

Administrative Judge

HOWARD A. POLLACK

Administrative Judge

Issued at Washington, D.C.

May 18, 1999