

CITI CAPITAL (dba CITICORP)	AGBCA No. 2005-137-1
Vendor Finance, Inc.),)	
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Suzanne Folks)	
Citicorp Vendor Finance)	
CitiCapital)	
1800 Overcenter Drive)	
Moberly, Missouri 65270)	
)	
Representing the Government:)	
)	
John Bennett Munson, Esquire)	
Office of the General Counsel)	
U.S. Department of Agriculture)	
1220 S.W. Third Avenue, Room 1734)	
Portland, Oregon 97204-2825)	

DECISION OF THE BOARD OF CONTRACT APPEALS

June 7, 2005

BEFORE POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

This appeal, received at the Board March 15, 2005, arises out of Contract No. 43-04R4-4-0011, a Copier Rental/Lease Agreement, terminated for default by the Contracting Officer's (CO's) February 11, 2004 decision. The lease agreement appeared to be between CitiCapital¹, of Springfield, Oregon (Appellant), and the U. S. Forest Service (FS or the Government), of Eugene, Oregon.

The Board's docketing letter stated that documents furnished to the Board indicated that the appeal may have been untimely filed. The parties were informed that the issue of jurisdiction would be addressed prior to the initiation of further proceedings. The parties were directed to provide the

¹Citi Capital is one of several spellings for Appellant's name in the record. The spelling contained on each cited document is retained, despite the resultant inconsistency.

Board argument in support of their positions on jurisdiction on or before April 5, 2005. Because documents presented to the Board referred to Appellant by a variety of names, the parties were also asked to make clear the identity of the party in privity of contract with the FS.

A Notice of Appearance filed by Richard L. Friedman, of Bedford Heights, Ohio, on behalf of CityCapital Technology Finance, was entered March 23, 2005.

On March 30, 2005, the Board received a letter from the Government arguing that the appeal should be dismissed, because Appellant failed to meet the jurisdictional requirements in that the notice of appeal was filed more than 90 days after issuance of the CO's decision. The Government provided a copy of the CO's decision which contained a notification of appeal rights.

By letter dated April 6, 2005, the Board informed Appellant's counsel that it had received the Government's March 29, 2005 letter and allowed Appellant an additional thirty days in which to respond. When no response was received within that period, the Board contacted Appellant's counsel to set a telephonic conference with the parties. At that time, Mr. Friedman informed the Board that he was no longer representing Appellant. He said that he would have Appellant contact the Board. The Board has now received Appellant's letter dated May 9, 2005 requesting that the appeal be dismissed.

DECISION

The appeal is hereby dismissed at the request of the parties.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D.C.
June 7, 2005