

TREE TEX,)	AGBCA No. 2004-196-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Alex Rodriguez, Owner)	
5113 Shorey Avenue)	
Midland, Texas 79703)	
)	
Representing the Government:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

April 13, 2005

BEFORE POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge POLLACK.

This appeal arises out of Purchase Order No. 43-7512-0068 between Tree Tex of Midland, Texas, and the United States Department of Agriculture, Forest Service (FS), Lincoln National Forest, Alamogordo, New Mexico. The purchase order was for tree thinning services. By letter of August 25, 2004, Tree Tex filed an appeal from a final decision of the Contracting Officer (CO) dated August 21, 2004, where the CO denied Tree Tex's claim for an additional \$5,950. In the appeal letter, Tree Tex addressed modifying the claim amount. The modification would have increased the amount that the Appellant had initially claimed to the CO. The Board wrote back to Appellant and noted that the Board could not determine if Appellant's revision was simply a recalculation of dollars or involved an additional claim. In Appellant's Complaint, filed on September 30, 2004, Appellant claimed \$9,800.50 which was consistent with the amount Appellant had identified in the appeal letter. The matter, of whether the amount included new claims, remained unclear.

By letter dated October 26, 2004, FS counsel wrote to the Board and expressed concern that the \$9,800.50, being sought by Appellant, involved matters that had not been presented to the CO. She indicated the CO would consider issuing a new decision. On November 1, 2004, the Board

conducted a conference with counsel for the FS and Mr. Rodriguez of Tree Tex. After some limited discussion, it was determined that the CO would issue a new decision.

By letter of December 6, Appellant notified the Board that it had received the above discussed decision. By letter of December 21, 2004, Appellant advised the Board that it had received a release of claims. The release specified that Tree Tex was releasing the United States from any and all obligations arising under the contract and any modifications thereof, except as reserved below. There were no reservations set out.

DECISION

The Board dismisses the appeal with prejudice.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
April 13, 2005