

FEDERAL DISPUTE RESOLUTION CENTER,)	AGBCA No. 2003-163-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Michael J. Beattie, Esquire)	
Beattie and Associates)	
9502 B Lee Highway)	
Fairfax, Virginia 22031)	
)	
Representing the Government:)	
)	
L. Benjamin Young, Jr., Esquire)	
Mark G. Garrett, Esquire)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
Room 3311, South Building)	
1400 Independence Avenue, SW)	
Washington, D.C. 20250)	

DECISION OF THE BOARD OF CONTRACT APPEALS

August 16, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

On March 28, 2003, the Board received from Federal Dispute Resolution Center of Fairfax, Virginia (vendor), a notice of appeal of a decision of the same date by a contracting officer. Underlying the dispute is the vendor's Blanket Purchase Agreement, No. 45-6395-1-1808, with the U. S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) and with the Agricultural Marketing Service (AMS). The vendor maintains that the Government has breached the agreement, as modified by a settlement agreement, and has interpreted the agreement in a manner that is impossible to perform.

The vendor asserts Board jurisdiction pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, as amended. The parties have had the opportunity to engage in discovery and to informally resolve the dispute.

On August 3, 2004, the Board initiated a telephone conference with the parties. A one-sentence letter, dated August 13, 2004, addressed to the Board, states: "The Federal Dispute Resolution Center does not wish to continue and pursue additional action in the above referenced case." The letter is signed by the attorney representing the vendor. As confirmed in a telephone conference with the parties on August 16, 2004, the vendor seeks a dismissal with prejudice.

DECISION

The Board dismisses with prejudice this matter.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

HOWARD A. POLLACK

Administrative Judge

ANNE W. WESTBROOK

Administrative Judge

Issued at Washington, D.C.

August 16, 2004