

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD**

APPEAL OF:)
)
FORT MYER CONSTRUCTION CORP.) CAB No. D-1458
)
Under Contract No. DCKA-2009-C-0090)

ORDER PARTIALLY DENYING MOTION TO AMEND SCHEDULING ORDER

Filing ID #58176772

Presently before the Board is the parties' November 5, 2015, Joint Motion to Amend the Scheduling Order in this case whereby the parties primarily seek additional time to exchange both expert and non-expert discovery, as well as an extension of the current hearing date in this matter.¹ The parties claim that an extension of these discovery deadlines, and the hearing date, is warranted in order to produce a significant number of documents to each other as well as to obtain information from third parties that are necessary for the discovery responses.² (Joint Mot. to Amend Scheduling Order 2.) Moreover, the District contends that it recently had a major personnel restructuring that has changed the composition of the litigation team assigned to manage this appeal and, thus, that new counsel for the District requires additional time to become more familiar with the issues involved in the present case to prepare for the hearing on the merits.

Board Rule 124 provides that a continuance of any scheduled hearing or the extension to file any pleading shall be approved only for "good cause" shown. Board Rule 124.2. The Board finds that given the recent personnel changes in the Office of the Attorney General there is "good cause" for extending the hearing date in this matter so that new counsel for the District can become familiar with the case to adequately prepare for the hearing. However, the Board finds that the additional request by the parties to also extend the non-expert and expert discovery deadlines in this matter, including the dates to disclose expert reports, is unwarranted and without "good cause" given the extensive period of time that the parties have previously had to complete discovery even before new counsel for the District assumed this case. Indeed, since the first Scheduling Order was issued in this matter on August 21, 2013, the parties have had more than two years to complete both non-expert and expert discovery even before prior counsel for the District withdrew from this case on September 4, 2015. The request to substantially extend the discovery deadlines in this case is, therefore, denied.

¹ The present hearing on the merits in this matter is scheduled to take place on February 2, 2016, and the parties seek to postpone the hearing until July/August 2016.

² In particular, the parties assert that an extension is warranted because Fort Myer's complete response to interrogatories depends in part on information held by former employees and that Fort Myer is still working on acquiring such information. (Joint Mot. to Amend Scheduling Order 2.)

Accordingly, based upon the rulings contained herein, the Board solely amends the following dates in this matter related to the hearing as follows:

May 13, 2016: Parties shall file a Joint Pretrial Statement with the Board, which shall include: (a) a statement of the case for each party, including the factual basis for all amounts being claimed by either party; (b) a statement of the legal issues involved in each party's case; (c) the claims and defenses of each party; (d) stipulations of fact; (e) stipulations as to the admissibility of certain exhibits; (f) the parties' respective hearing witness lists, with each witness listed in the order of examination, and which shall include a proffer of testimony for each witness to be provided at the hearing and the anticipated duration of their examination; and (g) the parties' respective exhibit lists, which shall identify the witness through which each exhibit will be introduced.

June 8, 2016: Prehearing conference at the Board shall begin at 11 a.m.³

August 22, 2016: Hearing on the merits of the claims in the Board courtroom shall begin at 9:00 a.m. daily to conclude no later than September 2, 2016. The District shall provide a court reporter.

No further amendments to the scheduling order are made or permitted beyond those provided for herein.

SO ORDERED.

DATED: November 17, 2015

/s/ Monica C. Parchment
MONICA C. PARCHMENT
Administrative Judge

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³ The November 18, 2015, prehearing conference in this matter is, therefore, postponed until this new date.