

**DEPARTMENT OF ENERGY
BOARD OF CONTRACT APPEALS**

PAL CONSULTANTS, INC.

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EBCA No. C-9812282

Representing Appellant:

**Nick Pal, Ph.D., P.E.
Pal Consultants, Inc.
14380 Story Road
San Jose, CA 95127-3818**

Representing Respondent:

**Debra S. Engel, Esq.
U.S. Nuclear Regulatory Commission
Mail Stop OWFN 15-B-18
Washington, DC 20555-0001**

DECISION

April 21, 2000

Pal Consultants, Inc. ("Pal") claims recovery for costs it allegedly incurred under a cost-type contract. In the Contracting Officer's Final Decision the Nuclear Regulatory Commission ("NRC") disallowed certain of these costs because notice was not given pursuant to the Limitation of Cost clause and because certain costs did not meet the allowability standards of the Federal Acquisition Regulations.

Facts

On July 19, 1989, Pal entered into contract no. NRC-03-89-033 with the Small Business Administration and the NRC to provide technical assistance in evaluating the effect of neutron radiation on structural steel that is used for reactor vessel supports. Pal performed under this contract and received payment. According to the NRC, Pal received \$113,167.15. Pal alleges it received \$110,000.00. The total estimated cost of the contract was \$114,376. This included \$8,059.00 in fixed fee. By DCAA audit report dated September 24, 1997, Pal's Final Indirect Cost Rates for Fiscal Years 1989 through 1992 were determined. Subsequently, by letter of July 6, 1998, Pal submitted a claim under the contract for \$97,793.00. By final decision dated September 28, 1998, the Contracting Officer denied Pal's claim.

Pal appealed to the Energy Board of Contract Appeals and filed a complaint dated July 21, 1999. In this complaint, Pal alleges that it is entitled to \$19,901, which Pal

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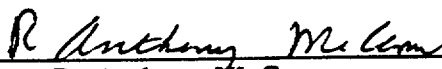
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alleges is the difference between the costs it incurred on the contract and the amount it received in payment. A hearing on this claim was conducted March 7-8, 2000. At the conclusion of the hearing, Dr. Pal, the President of Pal, indicated that the only costs that Pal still claimed were for certain labor hours worked by Dr. Pal and another employee for which Pal had never received payment. The Board was informed that Pal had never submitted invoices for these hours. Dr. Pal indicated that invoices for these labor hours would be submitted forthwith.

To the extent that Pal's pending claims do not pertain to these new invoices, they have been withdrawn by Pal and are hereby dismissed with prejudice. To the extent that Pal's current claims do cover these invoices, these claims are dismissed without prejudice subject to their reinstatement pursuant to Rule 29 of the Board's Rules of Practice. Appellant may apply for reinstatement should the Contracting Officer decide not to pay the invoices, or fail to act upon them within a reasonable length of time.

Decision

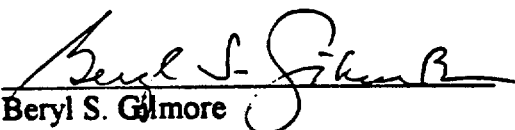
Pal's Appeals are dismissed in accordance with the above opinion.


 R. Anthony McCann
 Administrative Judge

I concur:


 E. Barclay Van Doren
 Chief Administrative Judge

I concur:


 Beryl S. Gilmore
 Administrative Judge