

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Worth & Company, :
Petitioner :
 :
v. : No. 2078 C.D. 2005
 : Argued: April 21, 2010
Department of General Services and :
State System of Higher Education, :
Respondents :

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE DAN PELLEGRINI, Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE PELLEGRINI

FILED: May 19, 2010

Before this Court is a motion for summary relief¹ in an appeal filed by Worth & Company (Worth) from an order of the Department of General Services

¹ The matter is on remand from the Pennsylvania Supreme Court which reversed and remanded our decision in *Pennsylvania Associated Builders and Contractors, Inc. v. Commonwealth, Department of General Services*, 899 A.2d 389 (Pa. Cmwlth. 2006) (*Associated Builders I*). By reversing that case, our Supreme Court also reversed and remanded our accompanying decision in a memorandum opinion, *Worth & Company v. Department of General Service and State System of Higher Education*, No. 2078 C.D. 2005 (filed May 18, 2006), where we granted Worth's petition for review addressing the same issues.

(DGS) denying its protest relating to DGS' use of competitive sealed proposals. Worth requests this Court to find that DGS' use of the competitive sealed proposal rather than the competitive sealed bid method of selection for a construction project at Cheyney State University was not authorized by the Pennsylvania Procurement Code.² DGS has filed a cross-motion for summary relief requesting us to dismiss its motion as moot except for the constitutional issue.

In *PA Associated Builders and Contractors, Inc., v. Commonwealth, Department of General Services*, (Pa. Cmwlth. No. 526 M.D. 2005, filed May 19, 2010) (*Associated Builders III*), which was argued with this appeal, we have addressed all of the issues raised by Worth in this appeal. Because we have addressed all the issues in that case, which necessarily means that those issues will not escape judicial review, and because the Cheyney State University Project is built, necessarily meaning that we cannot enjoin the award of the contract, we dismiss Worth's request for summary relief and its appeal as moot.

DAN PELLEGRINI, JUDGE

² 62 Pa. C.S. §§101-4509.

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ORDER

AND NOW, this 19th day of May, 2010, the Department of General Services and State System of Higher Education's cross-motion for summary relief is granted and the motion for summary relief filed by Worth & Company is dismissed as moot. The request for attorney's fees is denied.

DAN PELLEGRINI, JUDGE