

## DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

APPEALS OF:

|  |   |                         |
|--|---|-------------------------|
| KEYSTONE PLUS CONSTRUCTION             | ) |                         |
| CORPORATION                            | ) |                         |
|  | ) | CAB Nos. D-1410, D-1414 |
|  | ) | (Consolidated)          |
| Under Contract No. POAM-2005-C-0027-DW | ) |                         |

### ORDER DENYING SUBPOENA REQUEST

*Filing ID 54034461*

Before the Board is the Appellant's request for a subpoena *ad testificandum* for Ms. Caroline Baldwin. Specifically, on August 29, 2013, the Appellant moved the Board to issue a subpoena to compel Ms. Baldwin to testify at the hearing proceedings in this matter scheduled for September 16, 2013, through September 27, 2013. (Appellant's Mot. for Trial Subpoena for Caroline Baldwin.) The accompanying subpoena form filed by the Appellant provides for service of the requested subpoena upon Ms. Baldwin at an address in the State of Maryland approximately 60 miles from the Board's location. (Appellant's Proposed Trial Subpoena for Caroline Baldwin 1.)<sup>1</sup>

The Board has the power to compel, by subpoena, the attendance of a witness for the taking of testimony at a hearing on the merits conducted before the Board. D.C. CODE § 2-360.06(a) (2011). Such subpoenas are enforced by the District of Columbia Superior Court. *Id.* § 2-360.06(b). Under the Board's rules, a subpoena requiring the attendance of a witness at a hearing may be served at any place consistent with the subpoena service rules of the District of Columbia Superior Court. Board Rule 114.5 (D.C. Mun. Regs. tit. 27, § 114.5 (2002)).

In this regard, a subpoena issued by the Superior Court to compel the attendance of a witness may be served either within the District of Columbia or "at any place without the District of Columbia that is within twenty-five miles of the place of the hearing or trial specified in the subpoena." D.C. CODE § 11-942(a) (2001). Consistent with statute, the Superior Court's rules similarly provide that a subpoena for a hearing may be served in either the District or at any place outside of the District but that is within 25 miles of the place of the hearing or trial. D.C. Super. Ct. R. Civ. P. 45(b)(2).<sup>2</sup>

Thus, under the foregoing legal provisions, the Board can not issue a hearing subpoena to be served on a non-party outside of a 25 mile radius of the Board's location. In the instant case, however, the Appellant seeks the issuance of a subpoena to be served on Caroline Baldwin at an

---

<sup>1</sup> In particular, Ms. Baldwin's designated address for service of the proposed subpoena is in Avenue, Maryland.

<sup>2</sup> The rule provides, however, that the court may authorize the service of a subpoena at any other place when an applicable statute provides for this action and upon proper application and cause shown. *Id.* The Appellant has cited to no other statute that provides authorization for issuance of a subpoena in this matter beyond the Board's 25 mile limitation.

address in Maryland approximately 60 miles from the Board's location. As set forth herein, this distance is outside of the scope of the District of Columbia Superior Court's subpoena compulsory power and, thus, the Board's as well.

For the foregoing reasons, the Board denies the Appellant's motion for the issuance of a subpoena *ad testificandum* for Caroline Baldwin.

**SO ORDERED.**

Date: September 5, 2013

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

Electronic Service:

John Hardin Young, Esq.  
Sandler Reiff, Young, & Lamb P.C.  
1025 Vermont Ave, N.W. Suite 300  
Washington, DC 20005

Brian Cohen, Esq.  
Greenburg|Spence, LLC  
814 W. Diamond Avenue, Suite 320  
Gaithersburg, MD 20878

Carlos M. Sandoval, Esq.  
Assistant Attorney General  
Office of the Attorney General  
414 4<sup>th</sup> Street, N.W., 6<sup>th</sup> Floor South  
Washington, DC 20001