



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED IN PART: June 16, 2015

CBCA 3300, 3354, 3538

BRASFIELD & GORRIE, LLC,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Laurence Schor, Dennis C. Ehlers, and Robert D. Pratt of Asmar, Schor & McKenna, PLLC, Washington, DC; and Axel Bolvig III, Luke D. Martin, and J. Christopher Selman of Bradley Arant Boult & Cummings, LLP, Birmingham, AL, counsel for Appellant.

Stacey North-Willis, Beth Chesney, Benjamin Diliberto, and Charlma Quarles, Office of the General Counsel, Department of Veterans Affairs, Washington, DC, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **HYATT**, and **VERGILIO**.

DANIELS, Board Judge.

The Department of Veterans Affairs (VA) and Brasfield & Gorrie, LLC (B&G) entered into a contract for the construction of a hospital and clinic at the VA's Medical Center in Orlando, Florida. The original contract was in the amount of \$276,773,030.

In the course of construction, B&G submitted many claims to the VA. Among them were:

- Claim 1, for damages the contractor and its subcontractors allegedly incurred as a result of delays caused by the VA. This claim is for 284 days of actual delay, plus future delay, and associated costs in the amount of \$33,555,347.
- Claim 2, for damages the contractor and its subcontractors allegedly incurred as a result of a suspension of work directed by the VA. This claim is for eighty-five days of compensable delay and associated costs in the amount of \$5,046,738.
- Claim 3, for damages the contractor and its subcontractors allegedly incurred as a result of delay caused by the VA. This claim is for sixty-two days of compensable delay and associated costs in the amount of \$10,170,866.

The VA contracting officer denied claim 1. B&G appealed the decision, and the Board docketed the appeal as CBCA 3300.

The VA contracting officer granted claim 2 in part, finding that the contractor was entitled to compensation for fifty-six days of delay. B&G appealed the decision, and the Board docketed the appeal as CBCA 3354.

The VA contracting officer denied claim 3. B&G appealed the decision, and the Board docketed the appeal as CBCA 3538.

The parties have now filed a joint motion for stipulated judgment pursuant to Board Rule 25(b) (48 CFR 6101.25(b) (2014)). In this motion, they ask the Board to award to B&G the following:

- in CBCA 3300, \$30,237,408, plus interest calculated pursuant to the Contract Disputes Act, 41 U.S.C. § 7109 (2012) (CDA), from October 4, 2012, until the date of payment; and an extension of the contract completion date by 284 calendar days, from October 3, 2012, to July 14, 2013;
- in CBCA 3354, \$4,657,106, minus \$1,687,100 already paid by the VA, for a net amount of \$2,970,006, plus interest on the net amount calculated pursuant to the CDA from December 10, 2012, until the date of payment; and an extension of the contract completion date by eighty-five calendar days, from July 14, 2013, to October 7, 2013; and
- in CBCA 3538, \$7,550,000, plus interest calculated pursuant to the CDA from June 10, 2013, until the date of payment; and an extension of the contract

completion date by sixty-two calendar days, from October 7, 2013, to December 8, 2013.

The parties state that B&G will not seek attorney fees in conjunction with the prosecution of these appeals. The parties state further that they will not seek reconsideration of, or relief from, a Board decision which awards the stipulated amounts and extensions of contract completion date, and that they will not appeal the decision.

Decision

CBCA 3300, 3354, and 3538 are each **GRANTED IN PART**. The Department of Veterans Affairs shall pay the following amounts to Brasfield & Gorrie, LLC: in CBCA 3300, \$30,237,408, plus interest calculated pursuant to the Contract Disputes Act from October 4, 2012, until the date of payment; in CBCA 3354, \$2,970,006, plus interest calculated pursuant to the CDA from December 10, 2012, until the date of payment; and in CBCA 3538, \$7,550,000, plus interest calculated pursuant to the CDA from June 10, 2013, until the date of payment. All payments may be made from the permanent indefinite judgment fund, 31 U.S.C. § 1304.

The Board also extends the contract completion date, as stipulated by the parties in their joint motion.

STEPHEN M. DANIELS
Board Judge

We concur:

CATHERINE B. HYATT
Board Judge

JOSEPH A. VERGILIO
Board Judge