

JOHN C. GRIMBERG CO., INC.,)	AGBCA Nos. 98-129-1
)	98-130-1
Appellant)	98-131-1
)	98-132-1
Representing the Appellant:)	98-133-1
)	98-134-1
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DECISION OF THE BOARD OF CONTRACT APPEALS

April 9, 1999

OPINION BY ADMINISTRATIVE JUDGE EDWARD HOURY

These appeals arose from Contract No. 50-3K15-4-1331 between the Agricultural Research Service (ARS), U. S. Department of Agriculture, and the John C. Grimberg Co., Inc., of Rockville, Maryland (Appellant). The contract was for renovation of Building-001, Beltsville Agricultural Research Center (BARC)-West in Greenbelt, Maryland. The building was a laboratory and office building consisting of four stories, plus an attic totaling approximately 60,000 square feet.

The renovation essentially required rebuilding the entire interior of the building including asbestos removal; replacement of windows, plumbing, electrical, heating, ventilating and air conditioning systems; architectural structure work; and installing slate roofing and laboratory case specialities. The contract was awarded September 16, 1994, in the amount of \$7,328,500.

Appeal AGBCA No. 98-129-1 includes 20 separately-priced claims submitted on behalf of Appellant and its subcontractors in the approximate total amount of \$257,000. These claims

included repair of counter tops due to changed work, additional motor starters, removing and replacing slate, providing additional insulation, filling holes in attic floors, providing inertial bases for exhaust fans, unanticipated saw cutting at basement plumbing, and unanticipated ceiling demolition. The bases for the 20 claims included defective specifications and changes to the contract. The Government refused to pay the various requests for equitable adjustments, and on October 1, 1997, Appellant converted these requests to claims. On January 9, 1998, Appellant appealed based on a deemed denial, given the Contracting Officer's (CO's) failure to render a decision.

Appeal AGBCA No. 98-130-1 includes 21 separately-priced claims submitted on behalf of Appellant and its subcontractors in the approximate total amount of \$207,000. These claims included general delay, inefficiency, installing a duct-mounted wash-down system, precast masonry delays, wood cornices, window changes, casework and elevator delays, replacing rotten gable wood, and providing certain pressure switches. The bases for these claims were defective specifications and changes to the contract. The Government refused to pay the various requests for equitable adjustments. On October 1, 1997, Appellant converted these requests to claims. On January 9, 1998, it appealed based on a deemed denial, given the CO's failure to render a decision.

Appeal AGBCA No. 98-131-1 involved a delay and disruption claim in the amount of \$1,658,325, allegedly not covered by other delay and disruption claims. When the Government failed to respond to Appellant's proposal, Appellant converted the request for payment to a claim. On January 9, 1998, Appellant appealed based on a deemed denial.

Appeal AGBCA No. 98-132-1 involved a claim in the amount of \$155,015 for overhead and profit for contract modifications 1 through 10. Appellant claimed that the amount paid for overhead and profit under modifications 1 through 10 was less than allowed by the contract. After the Government failed to respond to Appellant's proposal, on October 1, 1997, Appellant converted the proposal to a claim. On January 9, 1998, Appellant appealed based on a deemed denial.

Appeal AGBCA No. 98-133-1 involved a claim in the amount of \$498,924 on behalf of Appellant and its electrical subcontractor, based upon defective specifications and changes. The claim included additional supervision and cleanup costs, increased cost for equipment and tools, increased cost for temporary electrical service, unabsorbed overhead, labor inefficiency, and acceleration expenses for the fire alarm and security systems. After the Government failed to respond to Appellant's proposal, on October 1, 1997, Appellant converted the proposal to a claim. On January 9, 1998, Appellant appealed based on a deemed denial.

Appeal AGBCA No. 98-134-1 involved a \$109,784 claim on behalf of Appellant and a subcontractor for additional duct insulation allegedly required by the Government. After the Government failed to respond to its request for payment, Appellant filed a claim on October 1, 1997. On January 9, 1998, Appellant appealed based on a deemed denial.

The appeals were consolidated for purposes of processing. Some extensions were granted to the parties to file the Complaints, Answers and Rule 4¹ file. The Board convened a telephone conference call on September 8, 1998, to assist the parties with a dispute over objections to certain Rule 4 documents. The Board established a May 1, 1999, cutoff date for the completion of all discovery.

On October 1, 1998, the Board received a facsimile copy of a Government settlement proposal that had been accepted by Appellant. Appellant accepted a settlement offer of \$1,420,000 payable in two installments subject to the availability of certain funding. By letter dated March 25, 1999, from Appellant's counsel, the Board was informed that the parties had settled all claims and that the appeals should be dismissed.

DECISION

The appeals are dismissed as settled.

EDWARD HOURY
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, DC
April 9, 1999

¹ 7 C.F.R. § 24.21, Rule 4.