



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED WITH PREJUDICE: January 12, 2016

CBCA 3554, 3718, 3721, 3723, 3900, 3906, 3959, 3976, 3990, 3991, 4014, 4016, 4039,
4063, 4064, 4066, 4072, 4107, 4119, 4120, 4142, 4144, 4145, 4149, 4151, 4313, 4314,
4316, 4319, 4320, 4321, 4324, 4326, 4327, 4328, 4331, 4397, 4414, 4425, 4537, 4538,
4556

KIEWIT-TURNER, A JOINT VENTURE,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

William E. Dorris, Chad V. Theriot, Reginald A. Williamson, and Elizabeth C. Akins of Kilpatrick Townsend & Stockton LLP, Atlanta, GA; and Michael A. Branca of Peckar & Abramson, P.C., Washington, DC, counsel for Appellant.

Charlma Quarles, Cecily Chambliss, Eyvonne Mallett, Benjamin Diliberto, and Khaliah M. Wrenn, Office of General Counsel, Department of Veterans Affairs, Washington, DC, counsel for Respondent.

DANIELS, Board Judge (Chairman).

ORDER

The Department of Veterans Affairs (VA) contracted with Kiewit-Turner, a Joint Venture (KT) for the construction of a medical center campus in Aurora, Colorado. KT has submitted numerous claims to the VA contracting officer regarding work done under this contract. KT has appealed from the contracting officer's decisions on those claims.

CBCA 3554, 3718, 3721, 3723, 3900, 3906, 3959, 3976, 3990, 3991, 4014, 4016, 4039, 4063, 4064, 4066, 4072, 4107, 4119, 4120, 4142, 4144, 4145, 4149, 4151, 4313, 4314, 4316, 4319, 4320, 4321, 4324, 4326, 4327, 4328, 4331, 4397, 4414, 4425, 4537, 4538, 4556 2

On January 8, 2016, the parties filed a joint motion to dismiss with prejudice forty-two of those appeals, as follows:

- CBCA 3554 (PCO (proposed change order) #167, BP (bid package) #037, structural steel, \$3,326,236);
- CBCA 3718 (PCO #422, BP #154, toilet compartments, \$86,081);
- CBCA 3721 (PCO #168, BP #032, energy center structural steel, \$475,063);
- CBCA 3723 (PCO #242, BP #149, loading dock equipment, \$9654);
- CBCA 3900 (PCO #425, BP #133, resinous flooring, \$196,182);
- CBCA 3906 (PCO #162, BP #017, earthwork and site demolition, \$267,808);
- CBCA 3959 (PCO #437, BP #128, tiling, \$486,682);
- CBCA 3976 (PCO #159, CM (change management) #377.002, BP #162, pneumatic chutes, \$3,360,056);
- CBCA 3990 (PCO #189, CM #377.014, BP #048, architectural precast, \$6,161,880);
- CBCA 4014 (PCO #434, CM #377.063, BP #070, site fencing, \$1,276,838);
- CBCA 4016 (BP #78, interior glass and glazing, \$8,682,889);
- CBCA 4039 (PCO #324R1, CM #377.038, BP #145, doors, frames, and hardware, \$2,297,775);
- CBCA 4063 (PCO #421, CM #377.050, BP #153, miscellaneous joint sealants, \$531,663);
- CBCA 4064 (PCO #327, CM #377.040, BP #113, concrete masonry unit partitions, \$1,694,357);

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- CBCA 4066 (PCO #247, CM #377.025, BP #057, fire protection, \$1,056,536);
- CBCA 4072 (PCO #384, CM #377.042, BP #027, low voltage, \$44,822,018);
- CBCA 4107 (PCO #310, CM #377.035, BP #050, roofing, \$13,362,698);
- CBCA 4119 (PCO #171, CM #377.013, BP #072, elevators and conveying, \$5,924,904);
- CBCA 4120 (PCO #411, CM #377.044, BP #054, metal wall panels, \$6,176,176);
- CBCA 4142 (PCO #257, CM #377.019, BP #084, food service equipment, \$515,207);
- CBCA 4144 (PCO #431, CM #377.066, BP #160, miscellaneous metals, \$2,472,099);
- CBCA 4145 (PCO #300, CM #377.034, BP #046, expansion joints, \$83,677);
- CBCA 4149 (PCO #321, CM #377.036, BP #112, acoustic metal ceiling panels, \$1,438,989);
- CBCA 4151 (PCO #240, CM #377.017, BP #056, fireproofing, \$396,775);
- CBCA 4313 (PCO #434, CM #377.063, BP #070, site fencing, \$1,276,838);¹
- CBCA 4314 (PCO #159, CM #377.002, BP #162, pneumatic chutes, \$3,360,056);²

¹ This claim is duplicative of the claim at issue in CBCA 4014. CBCA 4014 is an appeal from a deemed denial of the claim; CBCA 4313 is an appeal from a subsequent contracting officer decision.

² This claim is duplicative of the claim at issue in CBCA 3976. CBCA 3976 is an appeal from a deemed denial of the claim; CBCA 4314 is an appeal from a subsequent contracting officer decision.

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- CBCA 4316 (PCO #324R1, CM #377.038, BP #145, doors, frames, and hardware, \$2,297,775);³
- CBCA 4319 (PCO #310, CM #377.035, BP #050, roofing, \$13,362,698);⁴
- CBCA 4320 (PCO #327, CM #377.040, BP #113, concrete masonry unit partitions, \$1,694,357);⁵
- CBCA 4321 (PCO #189, CM #377.014, BP #048, architectural precast, \$6,161,879);⁶
- CBCA 4324 (PCO #411, CM #377.044, BP #054, metal wall panels, \$6,176,176);⁷

³ This claim is duplicative of the claim at issue in CBCA 4039. CBCA 4039 is an appeal from a deemed denial of the claim; CBCA 4316 is an appeal from a subsequent contracting officer decision.

⁴ This claim is duplicative of the claim at issue in CBCA 4107. CBCA 4107 is an appeal from a deemed denial of the claim; CBCA 4319 is an appeal from a subsequent contracting officer decision.

⁵ This claim is duplicative of the claim at issue in CBCA 4064. CBCA 4064 is an appeal from a deemed denial of the claim; CBCA 4320 is an appeal from a subsequent contracting officer decision.

⁶ This claim is duplicative of the claim at issue in CBCA 3990. CBCA 3990 is an appeal from a deemed denial of the claim; CBCA 4321 is an appeal from a subsequent contracting officer decision. The appellant asserts a claim to one dollar less in CBCA 4321 than in CBCA 3990.

⁷ This claim is duplicative of the claim at issue in CBCA 4120. CBCA 4120 is an appeal from a deemed denial of the claim; CBCA 4324 is an appeal from a subsequent contracting officer decision.

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- CBCA 4326 (PCO #257, CM #377.019, BP #084, food service equipment, \$515,207);⁸
- CBCA 4327 (PCO #431, CM #377.066, BP #160, miscellaneous metals, \$2,472,099);⁹
- CBCA 4328 (PCO #300, CM #377.034, BP #046, expansion joints, \$324,477);¹⁰
- CBCA 4331 (PCO #240, CM #377.017, BP #056, fireproofing, \$396,775);¹¹
- CBCA 4397 (PCO #279, CM #649, asbestos containing materials in parking visitor north ramp #4, \$13,613);
- CBCA 4414 (PCO #408R1, CM #809, research building Anderson Drilling remobilization, \$18,091 and one activity day);
- CBCA 4425 (PCO #492, CM #928, JSI (joint supplemental information) #40 firestopping, \$49,819 and twenty-one activity days);
- CBCA 4537 (CM #784, NOC (notice of change) #340, inpatient building south additional louver, \$2761 and one activity day);

⁸ This claim is duplicative of the claim at issue in CBCA 4142. CBCA 4142 is an appeal from a deemed denial of the claim; CBCA 4326 is an appeal from a subsequent contracting officer decision.

⁹ This claim is duplicative of the claim at issue in CBCA 4144. CBCA 4144 is an appeal from a deemed denial of the claim; CBCA 4327 is an appeal from a subsequent contracting officer decision.

¹⁰ This claim is duplicative of the claim at issue in CBCA 4145. CBCA 4145 is an appeal from a deemed denial of the claim; CBCA 4328 is an appeal from a subsequent contracting officer decision.

¹¹ This claim is duplicative of the claim at issue in CBCA 4151. CBCA 4151 is an appeal from a deemed denial of the claim; CBCA 4331 is an appeal from a subsequent contracting officer decision.

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- CBCA 4538 (CM #642, NOC #305, underground sanitary tanks, \$2,434,653); and
- CBCA 4556 (PCO #623, CM #51.001, JSI #6 clinic building south temporary parking, \$30,341 and three activity days).

The motion is granted. CBCA 3554, 3718, 3721, 3723, 3900, 3906, 3959, 3976, 3990, 3991, 4014, 4016, 4039, 4063, 4064, 4066, 4072, 4107, 4119, 4120, 4142, 4144, 4145, 4149, 4151, 4313, 4314, 4316, 4319, 4320, 4321, 4324, 4326, 4327, 4328, 4331, 4397, 4414, 4425, 4537, 4538, and 4556 are **DISMISSED WITH PREJUDICE**.

STEPHEN M. DANIELS
Board Judge