



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

CONSOLIDATION GRANTED:
June 24, 2020

CBCA 6734, 6845, 6846, 6847

GILBANE-GRUNLEY JOINT VENTURE,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Michael A. Branca and Jennifer L. Harris of Peckar & Abramson, PC, Washington, DC counsel for Appellant.

James F. H. Scott and Michael Converse, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

RUSSELL, Board Judge.

ORDER

On June 17, 2020, the parties filed a joint motion to consolidate CBCA 6734, CBCA 6845, CBCA 6846, and CBCA 6847. The parties stipulate that these appeals involve similar claims for unforeseen costs incurred on one contract and that neither party will be prejudiced by consolidation.

Under Rule 2(f), the Board may consolidate cases involving common questions of law or fact. 48 CFR 6101.2(f) (2019); *see also CSI Aviation, Inc. v. Department of Homeland*

Security, CBCA 6581, et al., 20-1 BCA ¶ 37,519; *Harris IT Services Corp. v. Department of Veterans Affairs*, CBCA 5814, et al., 17-1 BCA ¶ 36,901. The Board has broad discretion in whether to grant motions to consolidate and uses a two-pronged inquiry to determine whether consolidation is appropriate: (1) whether the cases present common questions of law or fact and (2) whether the “‘the interests of judicial economy’ outweigh ‘the potential for delay, confusion and prejudice that may result from consolidation.’” *Harris IT Services Corp.* (quoting *Lowry Economic Redevelopment Authority v. United States*, 71 Fed. Cl. 549, 553 (2006)); see also *JBG/Federal Center, L.L.C. v. General Services Administration*, CBCA 5506, et al., 18-1 BCA ¶ 37,019. Boards encourage parties to pursue consolidation where the result is judicial efficiency but the board may deny even a joint motion for consolidation where the result would waste judicial resources. *Goss Fire Protection, Inc.*, DOT BCA 2782E, 98-1 BCA ¶ 29,713.

All four of these claims involve substantially the same questions of law and fact because they involve a single contract for a single project and the overarching dispute is between one named contractor and one agency. More specifically, these disputes all arise out of a particular subset of the Herbert C. Hoover Modernization Project, the perimeter security upgrades portion of the work. Additionally, the basis for which the contracting officer rejected the contractor’s claims is consistent throughout: that the claim presented lacked sufficient documentation, evidence, and analysis.

Procedurally, all of these claims are at the same point in litigation: only notices of appeals have been filed while the complaints have not yet been filed. As such, consolidating the four appeals will not result in a delay in any particular appeal. Nor will it result in any other form of prejudice to either party, as they both stipulate. Additionally, these four appeals are likely to involve similar discovery and if the parties request a hearing, the same witnesses are likely to be called throughout all four appeals. *In Re EMC Corp.*, 677 F.3d 1351, 1360 (Fed. Cir. 2012) (The Board “has considerable discretion to consolidate cases for discovery and for trial”). For these reasons the Board concludes that the appeals present common questions of law and fact and the interests of judicial economy outweigh the potential for delay or prejudice resulting from consolidation, which the parties stipulate to be none.

The joint motion to consolidate is **GRANTED**.

Beverly M. Russell
BEVERLY M. RUSSELL
Board Judge