

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Pigott Asphalt and Sitework, LLC) ASBCA No. 63731
)
Under Contract No. FA2521-22-C-0041)

APPEARANCES FOR THE APPELLANT: Edward J. Kinberg, Esq.
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APPEARANCES FOR THE GOVERNMENT: Caryl A. Potter, III, Esq.
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ORDER OF DISMISSAL

The Board docketed this appeal on October 4, 2023. On October 30, 2023, the government moved to dismiss the appeal for lack of subject matter jurisdiction, arguing that appellant failed to submit a valid claim to the contracting officer. By correspondence dated November 3, 2023, appellant requested that the appeal be dismissed without prejudice. The government has indicated that it would agree to dismiss the appeal as moot. We observe that even if the government were to prevail on its motion to dismiss for lack of jurisdiction, the result would be dismissal without prejudice. *See TTF, L.L.C.*, ASBCA No. 58494, 13 BCA ¶ 35,343 at 173,464. Accordingly, the appeal is dismissed from the Board's docket without prejudice.

Dated: November 21, 2023



RICHARD SHACKLEFORD
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Order of Dismissal of the Armed Services Board of Contract Appeals in ASBCA No. 63731, Appeal of Pigott Asphalt and Sitework, LLC, rendered in conformance with the Board's Charter.

Dated:

PAULLA K. GATES-LEWIS
Recorder, Armed Services
Board of Contract Appeals