

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Information Systems & Networks Corp.) ASBCA No. 42659
)
Under Contract No. N00612-88-C-0185)

APPEARANCE FOR THE APPELLANT: Norman H. Singer, Esq.
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Bethesda, MD

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Philadelphia, PA

OPINION BY ADMINISTRATIVE JUDGE COLDREN
ON APPELLANT'S MOTION FOR RECONSIDERATION

Appellant has filed a motion for reconsideration of our decision dated 18 November 1999, 00-1 BCA ¶ 30,665, awarding appellant convenience termination costs in the amount of \$6,364,413 which was \$515,056 more than that granted by the contracting officer. In its motion, appellant seeks an additional \$574,352. It points to specific items which it claims were included on its books but not in its physical inventory whose value was stipulated by the parties. Its motion does not cite to the record or otherwise support its request for amounts beyond what was granted in our earlier opinion.

Appellant seeks \$31,232 for concrete, \$8,574 for miscellaneous office supplies, \$41,550 for equipment rental costs, \$103 for gas and oil products, \$61,700 for shipping, \$1,610 for insurance on shipping, and \$159,927 for other vendor supplies and materials. It also seeks 10.97% G&A and 8.75% profit on these costs.

Its motion fails to take into account, as discussed in detail in our prior opinion, that the parties have settled by stipulation all of the direct material costs except consumables (findings 49, 50). Appellant argued at the hearing that the difference between what was recorded in its accounting records for materials and other direct costs less what was stipulated as the physical inventory was recoverable as consumables (finding 53). In its

opening post-hearing brief, appellant pointed to the approximately \$30,000 in concrete as one of the items included in these consumables (finding 62). We rejected this attempt to add this and other materials as consumables for lack of proof as to what happened to these materials and as violating the stipulation on inventory and other direct costs (*id.*; findings 51-67; 00-1 BCA ¶ 30,665 at 151,419-20). We also rejected appellant's attempt to use the total cost method to establish the value of consumables beyond those it could point out (finding 67; 00-1 BCA ¶ 30,665 at 151,419-20). We see no ground for granting reconsideration of our decision limiting the value of consumables to the \$47,888 specifically identified by appellant and verified by DCAA (*id.*).

Appellant also seeks \$85,827 for temporary labor and engineering. However, the parties have stipulated the value of the recovery for direct labor (finding 68). We are unable to sustain any recovery beyond this and deny this aspect of appellant's motion.

Turning to settlement costs, appellant seeks warehouse rent in the amount of \$44,484 for the period of 1 October 1991 through 31 December 1991. Appellant claims that we did not consider this period in our decision. However, we clearly denied any additional recovery for rental storage costs during the period 21 June 1990 through 31 December 1991 because appellant was unable to establish that these rental costs had not previously been recovered as a part of G&A (finding 41; 00-1 BCA ¶ 30,665 at 151,424). This period clearly includes the 1 October 1991 through 31 December 1991 period argued in appellant's motion. Thus, we affirm our decision and deny this aspect of appellant's motion.

Finally, appellant seeks \$35,149 for freight and inventory transfer costs. We have been unable to find any references to the record for these costs in appellant's motion for reconsideration. However, DCAA estimated the costs of transferring the inventory and we have allowed these costs (findings 98, 100). Thus, we did not omit these costs and deny this aspect of appellant's motion.

Appellant's motion for reconsideration is denied.

Dated: 3 April 2000

JOHN I. COLDREN, III
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

MARK N. STEMLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 42659, Appeal of Information Systems & Networks Corporation, rendered in conformance with the Board's Charter.

Dated:

EDWARD S. ADAMKEWICZ
Recorder, Armed Services
Board of Contract Appeals