

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -- )  
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Elter S.A. ) ASBCA No. 52451  
 )  
Under Contract No. N33191-96-C-0716 )

APPEARANCES FOR THE APPELLANT: Mr. Dimitrios Messadakos  
President & Managing Director  
Mr. Vassilios Messadakos  
Vice President  
Theodor Salichos, Esq.  
Member of the Piraeus-Greece Bar

APPEARANCES FOR THE GOVERNMENT: Fred A. Phelps, Esq.  
Navy Chief Trial Attorney  
John S. McMunn, Esq.  
Senior Trial Attorney  
Naval Facilities Engineering  
Command,  
San Bruno, CA

OPINION BY ADMINISTRATIVE JUDGE HARTY

The subject contract is a firm fixed-price contract, payable in Greek drachmas, for multiple construction projects at Souda Bay, Crete, Greece, in support of the United States Navy. This appeal<sup>1</sup> arises under the Contract Disputes Act from a contracting officer's final decision denying the claim of Elter S.A. (Elter) for a time extension and delay costs due to an alleged Government-caused delay in issuing the notice to proceed and approving the contractually required quality control plan. We are to decide entitlement only. We deny the appeal because Elter has failed to establish that either the delay in issuing the notice to proceed was unreasonable or caused any injury or the Government's review of the contract quality control plan was unreasonable or delayed Elter's performance.

FINDINGS OF FACT<sup>2</sup>

Background

The Department of the Navy, Engineering Field Activity Mediterranean Contracts Office, Souda Bay awarded Contract No. N33191-96-C-0716 to Elter on 28 September 1996 for multiple construction projects at the U.S. Naval Support Activity, Souda Bay, Crete, Greece on a firm fixed-price basis, payable in Greek drachmas. The contract gave the Government the right to award two additional projects within 90 days of contract award. Two days after the contract award, by bilateral Modification P00001, dated 30 September

1996, the Government exercised an option to award project R-500, the Bowling Center, with a completion time of 355 days after notice to proceed. The parties agreed that the notice to proceed was contingent upon obtaining “HOST Nation Approval” and that Elter would not incur any costs for the project until the notice to proceed was issued. It was further agreed that if the approval was not obtained within 90 days, the award of the project would be terminated at no cost. By Modification P00002, dated 7 October 1996, the Government exercised its option for the second project, P-140 Marine General Purpose Operations Building, with completion due 355 days after issuance of the notice to proceed. (52327 R4, tabs 1, 3, 4, 15)

The contract incorporated provisions typical in overseas construction contracts, including: FAR 52.233-1 DISPUTES (OCT 1995) - ALTERNATE I (DEC 1991); FAR 52.243-4 CHANGES (AUG 1987); FAR 52.242-14 SUSPENSION OF WORK (APR 1984) (erroneously dated October 1995); FAR 52. 211-12 LIQUIDATED DAMAGES – CONSTRUCTION (APR 1984) and ALTERNATE I (APR 1984); FAR 52.211-13 TIME EXTENSIONS (OCT 1995); FAR 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (APR 1989); FAR 52.236-15 SCHEDULES FOR CONSTRUCTION (APR 1984); FAR 52.211-10 COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK (APR 1984); FAR 52.236-13 ACCIDENT PREVENTION (NOV 1991) and ALTERNATE I (NOV 1991); FAR 52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991); FAR 52.225-14 INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF CONTRACT (AUG 1989) and a choice of law provision choosing U.S. substantive law in the event of a dispute. (52327 R4, tab 6)

The contracting officer’s notice of award letter, dated 28 September 1996, receipt of which was acknowledged by Elter on 30 September, advised that a pre-construction conference would be held at a mutually agreeable time in the near future. The letter requested, among other things, that the following items be brought to the meeting:

- a. Construction Schedule in accordance with Section 01013
- b. Quality Control Plan in accordance with Section 01400
- c. Safety Plan in accordance with Section 01110
- d. Proof of insurance in accordance with Section 01110
- ...
- g. Schedule of prices in accordance with Section 01110

The letter also stated that “you may not proceed with work on site until the Government is in receipt of an acceptable performance bond . . . which is due in this office within 15 days after the date of this Award.” (52327 R4, tab 1)

### The Notice to Proceed

Clause 1.23 of the contract implemented FAR 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984). Clause 1.23 indicated that insurance certificates and a performance guarantee were required from the contractor

within fifteen calendar days after notice of award. The clause also stated: “Note: A notice to proceed shall not be issued until the Contracting Officer has approved required insurance, performance guarantee and payment bond.” (52327 R4, tab 6 at § 00710-28 - § 00710-29)

The parties held a pre-construction conference on 17 October 1996. At the meeting, Elter submitted the required insurance documentation and performance guarantee. (By faxed letter dated 11 October 1996, Elter had submitted a performance guarantee to the Government, advised that the insurance certificate would be submitted when ready, and promised originals of both at the pre-construction conference.) (R4, tab 5A at att. b, f) The insurance documentation and performance guarantee were found to be in order, although when the review was completed is not established.

The Naval installation at Souda Bay is a tenant of the Hellenic Air Force. An approval by the Greek Ministry of Defense was required before construction could begin at the installation. (Tr. 347-48) Elter also knew that the issuance of the notice to proceed was dependent on approval by Greek authorities (tr. 314). As indicated, by Modification P00001, signed on its behalf by Mr. Dimitrios Messadakos, Elter also agreed two days after contract award to a 90-day host government approval period in connection with the exercise of the option for the bowling alley project. The extent of Elter’s knowledge and whether it learned of the approval requirement before award of the contract is not established.

LT Jason Fournier, who along with Mr. David Sellman had contracting officer authority, testified that at the pre-construction conference on 17 October 1996, Mr. Dimitrios Messadakos asked for additional time to become familiar with various aspects of the work since this was Elter’s first contract with the Navy. Mr. Wayne Uhl, the Government’s project engineer, testified that to the best of his recall Mr. Messadakos asked for a four-month delay in the notice to proceed. LT Fournier recalled that a four-month delay was requested; however, he did not recall Mr. Messadakos’s linking the delay to the notice to proceed, because, in LT Fournier’s opinion, notice to proceed was not a familiar term to Mr. Messadakos. (Tr. 331, 349-50, 56-57) Based on the testimony, we find that Elter sought a four-month delay.

Despite Elter’s request, LT Fournier recalls telling Mr. Messadakos that a delay of four months would not be possible because the Navy needed the construction to start sooner and he wanted to avoid a delay claim later. He testified that normally when the contractor produces the required insurance and performance guarantee at the pre-construction conference, the notice to proceed will be issued “immediately” because of the pressure to get the “clock ticking” in order to get the contract finished. In this case, however, the Navy needed an approval from the Greek Ministry of Defense before construction could commence and the matter had to be dealt with at the ambassadorial level. In the meantime, he was unwilling to put the Navy “at risk” by having Elter ready to commence construction and not being able to begin because the approval had not been received.

In view of Elter’s request for a delay, LT Fournier felt that waiting for the approval was also in Elter’s interest and served the “partnership” approach that was discussed at the pre-construction conference. He considered the time between the pre-construction conference and notice to proceed to be “truly free time,” because the clock on the completion dates had not yet started and Elter was still able to do the administrative things that it needed to do to prepare for actual construction. (Tr. 346-48, 350-51) We find LT Fournier’s explanation credible.

By letter of 14 November 1996, LT Fournier issued the notice to proceed. He issued the notice as soon as he received the approval. At that point, there was “no time left to burn.” (Tr. 351) The notice established the following initial project completion dates based on the delivery schedule for each of the projects proposed in Elter’s offer:

<u>PROJECT NO.</u>	<u>PROJECT TITLE</u>	<u>CONTRACT COMPLETION DATE</u>
P-040	Aircraft Operations Bldg	05 November 1997
P-040	Fire Sprinkler System	05 November 1997
P-040	Exterior Works	05 November 1997
R12-96	Replace Three Substations	07 July 1997
C20-95	Construct MWR Storage	28 May 1997
C5-94	Upgrade Fire Station	28 June 1997
C29-96	Miscellaneous Paving	06 April 1997
R12-94	Repair Water Distribution	09 February 1997
RC9-93	NSA Entrance Improvements	27 August 1997
R32-92	Oil/Water Separator to Washrack	04 February 1997
P-140	Marine General Purpose Ops Bldg	04 November 1997
R-500	Bowling Center	04 November 1997

The contract imposed liquidated damages for each separate project in the event of a failure to meet the specific delivery schedule. (R4, tabs 6, 19)

Approval of the Quality Control Plan

Section 01400 Quality Control of the contract provided, in pertinent part:

1.2 SUBMITTALS

Submit the following in accordance with Section 01300, “Submittals.”

1.2.1 SD-18, Records

a. Quality Control (QC) plan []

Submit a QC plan within 30 calendar days after receipt of Notice of Award.

....

## 1.5 QC ORGANIZATION

### 1.5.1 QC Manager

....

#### 1.5.1.2 Qualifications

A graduate of a five year accredited college program in one of the following disciplines: Engineering, Architecture, Construction Management, Engineering Technology, Building Construction, Building Science with a minimum of 10 years experience as a superintendent, inspector, QC Manager, project manager, or construction manager on similar size and type construction contracts which included the major trades that are part of this Contract.

....

## 1.6 QUALITY CONTROL (QC) PLAN

### 1.6.1 Requirements

Provide for approval by the Contracting Officer, a QC plan that covers, both on-site and off-site work and includes, the following:

- a. A chart showing the QC organizational structure and its relationship to the production side of the organization.
- b. Names and qualifications, in resume format, for each person in the QC organization.
- c. Duties, responsibilities and authorities of each person in the QC organization.

....

#### 1.6.2 Preliminary Work Authorized Prior to Approval

The only work that is authorized to proceed prior to the approval of the QC plan is mobilization of storage and office trailers and surveying.

### 1.6.3 Approval

Approval of the QC plan is required prior to the start of construction. The contracting officer reserves the right to require changes in the QC plan and operations necessary to ensure the specified quality of work.

....

### 1.8 COORDINATION AND MUTUAL UNDERSTANDING MEETING

After submission of the QC plan, but prior to the start of construction, meet with the Contracting Officer to discuss the QC program required by this Contract. The purpose of the meeting is to develop a mutual understanding of the QC details, including forms to be used for documentation, administration for on-site and off-site work, and the coordination of the Contractor's management, production and QC personnel with the Contracting Officer. As a minimum, the Contractor's personnel required to attend shall include the project manager, project superintendent and QC Manager. . . .

(52327 R4, tab 7 at § 01400)

Elter submitted a draft QC plan, dated 16 October 1996, to the Government at the 17 October 1996 pre-construction conference. The submission was within 30 days of award as required by Section 01400. The minutes of the meeting indicated that upon review of the QC plan, a separate meeting would be conducted to review the QC requirements of Section 01400. (R4, tab 5A, atts. f, j; tr. 313, 316, 346)

The QC plan was reviewed, rejected and returned to Elter on 23 October 1996, six days after receipt, including a weekend. Among other things, the plan did not identify the QC manager and alternate manager as required by the contract. The Government's project engineer pointed out in his letter returning the plan that no submittal could be made before an approved QC manager was on-board because, under the terms of the contract, the contractor's QC manager or alternate was required to sign every submittal. No meeting was scheduled pending receipt of a revised plan. (R4, tab 5, att. 1)

Elter submitted a revised QC plan by letter dated 4 November 1996 (R4, tab 5 att. o). This revision was also rejected by the Government and returned to Elter by letter dated 8 November, four days later and two days after receipt. This submittal did identify a QC

manager and alternate; however, there was insufficient detail provided to determine whether they met the experience requirements, although it appeared that neither had the requisite experience. (R4, tab 5 att. q) Elter did not reply until 26 November 1996, although the notice to proceed had been issued on 14 November 1996. The third revision to the QC plan identified a different QC manager than the one proposed on 4 November 1996 and provided detailed resumes for both the QC manager and the alternate. (R4, tab 5 att. r) The Government conditionally approved the QC plan on 2 December 1996, accepting less experience than the ten years experience called for, based on a 90-day probationary period for the QC positions. (R4, tab 5 att. r) The coordination and mutual understanding meeting called for by Section 01400, Paragraph 1.8, of the contract was held on 13 December 1996, eleven days later, including a weekend.

### Compliance With Other Required Submissions

Elter did not submit a safety plan at the pre-construction conference as was requested in the contracting officer's 28 September 1996 letter. An accident prevention and safety plan was subsequently submitted by letter dated 23 October 1996. The Government returned it with comments and requested revisions by letter dated 29 October 1996. (R4, tab 5 atts. m, n) Elter submitted a revised accident prevention and safety plan by letter dated 4 November 1996 (R4, tab 5 att. o). The plan was returned to Elter for further revision by letter of 12 November (R4, tab 5 att. r). Elter responded by letter dated 20 November 1996 with a further revision and the Government approved the accident prevention and safety plan on 25 November 1996, with a minor modification (R4, tab 5 atts. t, u). The record presents no basis for concluding that the Government was unreasonable in its actions.

Elter did not submit the schedule of prices in accordance with Section 01110, which implemented the FAR 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (APR 1989) clause. The schedule of prices was due five days after notice of award, although the contracting officer's 28 September 1996 letter indicated the schedule could be submitted at the pre-construction conference. Elter also did not submit the construction schedules at the pre-construction conference as requested in the notice of award letter, although the schedule was not required until 18 October 1996 in accordance with Section 01013 Critical Path Method-Network Analysis System. At the pre-construction conference, Elter promised to submit the construction progress schedules and the schedule of prices by 25 October 1996. The construction progress schedules and the schedule of prices were not submitted until 10 December 1996, by separate letters to the contracting officer. The letters were not received until 13 December 1996. (52327 R4, tab 7; R4, tab 5A at atts. f, j, c', d'; tr. 313, 316, 346; ex. G-6 at 3)

By letter of 10 December 1996, the Government's project engineer advised Elter, among other things, that no construction could begin until the schedule of prices and construction progress schedules had been received and approved (R4, tab 5A att. e'). The schedule of prices was approved by the Government's project engineer in a letter dated 27 December 1996 (R4, tab 5A att. f'); the Government also approved the progress

schedules on the same day, but the correspondence is not in the record (ex. G-6 at 3). Mr. Patrick Donnelly, Mr. Sellman's successor as contracting officer, testified that the advice that commencement of construction depended on approval of the schedule of prices and the construction progress schedules was an incorrect reading of the contract (tr. 2/342-43). We agree with the contracting officer.

However, we find that the approval process for the schedule of prices and the construction progress schedules did not delay construction. The Government's project engineer has maintained that Elter was allowed to proceed with construction prior to approval of these items, although his office believed that both items should be approved before construction began (R4, tab 5 att. z). Elter has not taken exception to the project engineer's assertion that construction was allowed to proceed without the approvals and has not introduced any contrary evidence. Moreover, when asked approximately when Elter began working in the field, Mr. Uhl testified that significant work in the field did not start until January of 1997, after the holidays (tr. 330). Elter's representative at the hearing did not take exception to this testimony. Elter's representative emphasized that it should be in the contractor's discretion whether it chooses to work before, during or after Christmas (tr. 317).

#### Elter's Claim

By letter of 14 January 1997, Elter's project manager protested the review procedure followed in connection with the submission and ultimate approval of the quality control plan. He argued that the multiple reviews were unnecessary and could have been avoided if the Government had proceeded with the coordination and mutual understanding meeting after receiving the first submittal of the QC plan "as dictated by Paragraph 1.8 of Section 01400." The letter expressed the belief that "the time delay that elapsed from the Notice to Proceed November 14, 1996 to Contract Quality Control plan acceptance by your office dated December 2, 1996, should not rest on contractor's performance time." Elter asked for a time extension of 18 calendar days. (R4, tab 5A att. y)

By letter of 21 January 1997, the Government's project engineer rejected the protest. He emphasized that his office and staff had been available at all times to respond to questions concerning the contract's quality control requirements. In his view, the initial 16 October 1996 plan did not adequately address the requirements of Paragraph 1.6.1, items a through k, of contract Section 01400. With respect to the 4 November 1996 revision, he pointed out that Paragraph 1.6.3 of Section 01400 authorized the Government to review the qualifications of any member of the QC organization to determine whether the individual met contract requirements and that the Government was provided with insufficient information to make that judgment. He also noted that the proposed QC manager changed between the 4 November revision and the 26 November 1996 plan. He emphasized that the coordination and mutual understanding meeting could not have occurred without an approved QC manager in place. He concluded that the requested time extension was unwarranted. (R4, tab 5A att. z)

The matter was not pursued further until 13 August 1999, when Elter submitted a claim to the contracting officer. The claim sought a time extension for a claimed delay from 17 October 1996 to the 13 December 1996 coordination and mutual understanding meeting, a total of 57 calendar days (rather than the 47 days specified in the claim) and 20,182,450 drachmas in delay costs. The claim letter attributed the delay to failure to issue the notice to proceed in a more timely manner, the numerous reviews of the quality control plan and the accident prevention and safety plan and the project engineer's 10 December 1996 letter, advising that no construction could begin until the schedule of prices and the construction progress schedules had been received and approved. The letter asserted that the alleged delay "should exchange (in part or whole) the amount of the liquidated damages to contract project a) C5-94 UPGRADE FIRE STATION, b) R500 BOWLING CENTER, c) P-140 MARINE GENERAL PURPOSE." (R4, tab 5A)

By final decision dated 21 October 1999, the contracting officer, Engineering Field Activity Mediterranean, Naples, Italy, denied the claim (R4, tab 6). Elter subsequently filed a timely appeal.

### DISCUSSION

Elter bears the burden of proving its claim by a preponderance of the evidence. Elter has failed to carry its burden on the notice to proceed issue for two basic reasons. First, Elter's proof is founded on an argument that depends on a reading of the contract that we cannot support – namely, the notice to proceed had to be issued once the insurance and performance guarantee were found to be in order and the failure to do so entitles Elter to a time extension and delay costs for the period from 17 October 1996 until 14 November 1996.

Considered in its entirety, the contract does not set a specific date for issuing the notice to proceed or, for that matter, require it to be issued upon the occurrence of a specific event. In this connection, we understand the "Note" in Paragraph 1.23 to mean only that the notice will not be issued before the contracting officer has approved the required insurance and performance guarantee and not that the notice must be issued at that time. However, it is well settled that when the contract does not contain an express provision as to the time within which the Government will give the notice to proceed, there is an implied obligation to give the notice within a reasonable time. *See Ross Engineering Company, Inc. v. United States*, 92 Ct. Cl. 253, 258 (1940); *Gaffny Corporation*, ASBCA No. 36497, 91-2 BCA ¶ 23,811 at 119,234-35. What constitutes a reasonable period of time depends on an examination of the particular circumstances of the individual case. *See, e.g., Marine Constr. & Dredging, Inc.*, ASBCA Nos. 38412 *et al.*, 95-1 BCA ¶ 27,286 at 136,004-07 (delay of approximately 7-months in issuance of notice to proceed while the Government obtained necessary permits was unreasonable); *Commercial Contractors, Inc. v. United States*, 29 Fed. Cl. 654, 662-64 (1993) (a 40-day delay in issuance of notice to proceed was reasonable).

Elter has simply not addressed the reasonableness of the delay, focusing instead on its legal argument, and we are not prepared to say that a 28-day delay from 17 October 1996 until the notice to proceed was issued on 14 November 1996 is *per se* unreasonable. There is no contemporaneous evidence that Elter was troubled by the delay or lodged any objection. Indeed, the evidence is to the contrary. Mr. Messadakos agreed to a 90-day approval period in connection with the bowling alley project and, as we have found, sought a four-month delay. Though in the typical case LT Fournier would have issued the notice as soon after the insurance and performance guarantee were found to be in order as he could have, we are not prepared to say it was unreasonable to await Greek government approval when the delay served the interests of both contracting parties, or as LT Fournier referred to it – the “partnership.”

Second, and more importantly, putting to one side the question of whether the delay in issuing the notice to proceed was unreasonable, Elter has failed to establish that the delay caused it any injury at all. The demonstration of causation is part of its case. *See Commerce International Company v. United States*, 338 F.2d 81, 89 (Ct. Cl. 1964) (“[N]o matter how unreasonable the Government’s delay, there can be no recovery without proof that the delay caused material damage.”). Moreover, Elter’s request for additional days to offset the “liquidated damages” experienced in connection with the fire station upgrade, the marine general purpose building, and the bowling alley<sup>3</sup> overlooks the fact that there are no delay days for which remission can be granted since the performance schedules were set in reference to when the notice to proceed was in fact issued. *See Service Electric Corp. of Va.*, ASBCA Nos. 30547, 31346, 86-3 BCA ¶ 19,301 at 97,596.

Issuance of the notice to proceed on 14 November 1996 established the delivery schedule for the various projects and triggered other activities under the contract. *See Peter Kiewit Sons’ Co. v. United States*, 151 F. Supp. 726, 731 (Ct. Cl. 1957) (notice to proceed constitutes notice to contractor to get equipment and personnel on the job for the efficient performance of the work). However, under the terms of the contract, Elter could not start actual construction until the QC plan was approved. In the words of paragraph 1.6.2, “[t]he only work that is authorized to proceed prior to the approval of the QC plan is mobilization of storage and office trailers and surveying.”

Elter has acknowledged that an approved QC plan was required before it could begin construction. Its representative has argued, however, that any deficiencies in Elter’s 17 October 1996 QC plan could have been addressed and worked out during the coordination and mutual understanding meeting, which should have been held promptly after the submission of the initial plan. In his view, this approach was the common practice among the company’s other clients. He emphasized that the development of a perfect QC plan would have taken six or seven months and that the contract did not spell out the level of detail required in the QC plan. (Tr. 313-15)

The contract gave the Government the right to review and approve the QC plan and with that authority the right to require corrections as a condition of approval. However, we

do agree with Elter's basic position that the Government must act reasonably in the exercise of its discretion. Based on our review of the record, Elter has failed to persuade us that the Government has acted unreasonably in this case. Apart from any other deficiencies in the QC plan, we think it was reasonable for the Government to insist on knowing who the proposed QC personnel would be and to have an understanding of their qualifications before the coordination and mutual understanding meeting, given the importance of the QC positions to the operation of the contract's quality assurance provisions. Moreover, as our findings show, the Government responded promptly with its comments to each of Elter's revisions. In addition, there is no evidence the coordination and mutual understanding meeting itself was not held in a timely manner. We note in this respect that Elter's 14 January 1997 protest claimed delay only from the issuance of the notice to proceed to the conditional approval of the QC plan on 2 December 1996.

Under the circumstances, Elter must bear the responsibility for any delay that might have been occasioned during the process that led to the approval of the QC plan. Whether Elter was, in fact, delayed by the approval process remains unproved. The scant evidence offered shows that Elter did not start construction until after the Christmas holidays. Further, construction was not held up pending Government approval of the schedule of prices and the construction progress schedules. Though Elter's representative emphasized that it should be in the contractor's discretion whether it chooses to work during the holidays, the decision to defer work until after the holidays undermines a finding of Government-caused delay.

### DECISION

The appeal is denied.

Dated: 9 April 2001

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MARTIN J. HARTY  
Administrative Judge  
Armed Services Board  
of Contract Appeals

I concur

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I concur

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

EUNICE W. THOMAS  
Administrative Judge  
Vice Chairman  
Armed Services Board  
of Contract Appeals

NOTES

<sup>1</sup> This appeal is one of fourteen appeals lodged in connection with the contract and its multiple projects that were the subject of a hearing in Naples, Italy in April of 2000. By decision of 27 February 2001, we denied Elter's appeal that the parties had agreed to convert the contract from payment in drachmas to payment in U.S. dollars (*Elter S.A.*, ASBCA No. 52441, 01- \_\_ BCA ¶ \_\_ (27 February 2001). The other twelve appeals are ASBCA Nos. 52327, 52349, 52354, 52358, 52371, 52385, 52391, 52409, 52415, 52416, 52491 and 52492.

<sup>2</sup> Some record citations in this opinion are to the Rule 4 file submitted in ASBCA No. 52327 and are identified as such.

<sup>3</sup> The bowling alley would not have been eligible for consideration in any event because of the 90-day host government approval period agreed to in bilateral Modification P00001.

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. 52451, Appeal of Elter S.A., rendered in conformance with the Board's Charter.

Dated:

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