

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -- )  
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Aable Tank Services, Inc. ) ASBCA No. 51415  
 )  
Under Contract No. N62467-96-B-5117 )

APPEARANCE FOR THE APPELLANT: Mr. Edwin J. Quinn  
Vice President  
of Field Operations

APPEARANCES FOR THE GOVERNMENT: Arthur H. Hildebrandt, Esq.  
Navy Chief Trial Attorney  
Kenneth M. Racette, Esq.  
Trial Attorney  
Naval Facilities Engineering  
Command  
Washington, DC

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

On 21 September 1998, we issued a decision in this Rule 12.3 appeal, denying ASBCA No. 51415. *Aable Tank Services, Inc.*, ASBCA Nos. 51407, 51415, 98-2 BCA ¶ 30,024. By letter dated 21 October 1998, appellant advised the Board as follows:

This letter is to notify you of my motion for reconsideration of decision. I am requesting a time extension to allow me to supply you with case histories. Without lawyers, it is very difficult to get access to these histories. I would like 60 days more to research this information and find out what format I have to use to submit this motion to you.

On 8 June 1999, having heard nothing further from appellant, we gave appellant the opportunity to file any additional argument it wished to make in support of its Motion for Reconsideration. Appellant has filed a brief in support of its motion to which the Government has replied in opposition.

We denied the claim for \$81,899 in extra submittal costs because we found that appellant failed to demonstrate with credible evidence that submittals requirements were imposed which were not requirements of the underlying contract.

In its motion for reconsideration, Able states that the basis for the “appeal for damages arises from the fact that it incurred an additional 440 hours in complying with the specifications to the contract as a result of the Government’s failure to attach any submittal lists to the specifications.” We considered that argument in our original decision and found it lacking because appellant did not demonstrate that submittal requirements were imposed which were not required by the underlying specifications. We are not presented with any basis for changing that conclusion.

Additionally, Able argues in its motion for reconsideration that the specifications were defective, that the Government failed to cooperate and that appellant mistakenly misread the specifications. While the specifications mentioned an attached list of submittal requirements which was not attached, the omission of the list does not render the specifications defective since the absence of the list was obvious and the submittal requirements were otherwise included throughout the specifications. There is no credible evidence of a failure to cooperate on the part of the Government. Although appellant argues it should recover due to its mistaken reading of the specifications, we are not told what mistake was made or how the bid would have been computed had the mistake not been made.

Having reconsidered our opinion as requested by appellant, we affirm it. Accordingly, the Motion for Reconsideration is denied.

Dated: 13 March 2000

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RICHARD SHACKLEFORD  
Administrative Judge  
Armed Services Board  
of Contract Appeals

(Signature Continued)

I concur

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MARK N. STEMLER  
Administrative Judge  
Vice 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. 51415, Appeal of Aable Tank Services, Inc., rendered in conformance with the Board's Charter.

Dated:

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