

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Individual Development Associates, Inc.) ASBCA No. 53910
)
Under Contract No. M00264-00-C-0004)

APPEARANCE FOR THE APPELLANT: Robert A. Klimek Jr., Esq.
Klimek, Kolodney & Casale, P.C.
Washington, D.C.

APPEARANCES FOR THE GOVERNMENT: Thomas B. Pender, Esq.
Chief Trial Attorney
Douglas R. Jacobson, Esq.
Trial Attorney
Defense Contract Management Agency
Ft. Snelling, MN

OPINION BY ADMINISTRATIVE JUDGE STEMLER

Appellant has filed a Motion for Reconsideration of our decision granting the government's motion for summary judgment in part and granting its motion for summary judgment in part. *Individual Development Associates, Inc.*, ASBCA No. 53910, 04-2 BCA ¶ 32,740.* Appellant's motion does not challenge our holding that the government had the contractual right to partially terminate the contract for convenience, nor does it challenge our holding that appellant was not contractually entitled to an equitable adjustment to the unterminated portion of the contract work. Appellant does ask us to reconsider our decision and hold that appellant is entitled to 100% of the contract price for the Contract Line Item (CLI) that was partially terminated for convenience (CLIN 0001). (App. mot. at 1) The government has opposed the motion, stating that appellant has merely reargued matters already argued and decided. Familiarity with our opinion is presumed.

DECISION

We must deny appellant's motion because it asks us to determine the quantum of its recovery for the partial termination for convenience, a matter which we did not decide in our entitlement decision on cross-motions for summary judgment. In our decision, (at 161,925) we returned the dispute to the contracting officer for a determination of

* Administrative Judge Coldren, who authored the Board's opinion, has since died.

quantum after resubmittal of a termination settlement proposal by appellant. The record reflects that appellant has not resubmitted a termination settlement proposal to the contracting officer. (App. mot., fn. 2 at 6) Our opinion did not decide the quantum of appellant's recovery and we will not decide it on a motion for reconsideration. Appellant's motion anticipates that the government will take the position in termination settlement proposal negotiations that appellant is not entitled to 100% of the contract price of CLIN 0001. To the extent that appellant is requesting clarification of our decision, which we here affirm, there is nothing therein that can be reasonably construed as supporting the proposition that appellant is entitled to 100% of the contract price for CLIN 0001.

CONCLUSION

The motion for reconsideration is denied.

Dated: 1 June 2005

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

I Concur

Carroll C. Dicus, Jr.
Administrative Judge
Acting 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. 53910, Appeal of Individual Development Associates, Inc., rendered in conformance with the Board's Charter.

Dated:

CATHERINE A. STANTON
Recorder, Armed Services
Board of Contract Appeals