

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Heart & Core LLC) ASBCA No. 63403
)
Under Contract Nos. FA7000-18-D-0004)

APPEARANCE FOR THE APPELLANT: Ms. Jen Swendseid
President
Minnetonka, MN

APPEARANCES FOR THE GOVERNMENT: Caryl A. Potter, Esq.
Air Force Deputy Chief Trial Attorney
Isabelle P. Cutting, Esq.
Maj Alissa J. Schrider, USAF
Trial Attorneys

OPINION BY ADMINISTRATIVE JUDGE MELNICK DENYING APPELLANT’S
REQUEST FOR RECONSIDERATION

Appellant, Heart & Core LLC, has moved for reconsideration of the Board’s January 11, 2023, decision denying the appeal. Heart & Core had elected to conduct the appeal under the Board’s Rule 12.2, Small Claims (Expedited) procedure and the parties agreed to brief the matter under Board Rule 11. A response from the government is deemed unnecessary.

Heart & Core was awarded firm-fixed price contracts to provide, among other things, comforters and bathrobes for the United States Air Force Academy and sought price increases to account for unexpected cost increases. The Board denied the appeal given the fixed price nature of the contracts.

“Reconsideration might be appropriate if the request ‘is based upon newly discovered evidence, mistakes in the findings of fact, or errors of law.’” *Green Valley Co.*, ASBCA No. 61275, 18-1 BCA ¶ 37,044 at 180,330 (quoting *Alliance Roofing & Sheet Metal, Inc.*, ASBCA No. 59663, 15-1 BCA ¶ 36,063). However, reconsideration is not an opportunity for a party to reargue its position. *Id.* Motions for reconsideration are granted when we have made an oversight affecting the outcome of the appeal. *Kellogg Brown & Root Servs, Inc.*, ASBCA Nos. 57530, 58161, 19-1 BCA ¶ 37,321 at 181,535.

Heart & Core complains that the Board’s decision did not adequately address a reference in its Rule 11 reply brief to generalized government communications about

the impact of inflationary pressures upon small contractors and possible solutions that might be mutually agreeable. Heart & Core is simply rearguing its case, which did not establish contractual entitlement to recovery. It has not persuaded us that we have made an oversight that affects the outcome of the appeal. Accordingly, the motion for reconsideration is denied.

Dated: February 1, 2023



MARK A. MELNICK
Administrative Judge
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. 63403, Appeal of Heart & Core LLC, rendered in conformance with the Board's Charter.

Dated: February 1, 2023



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