

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeals of --)
)
Kellogg Brown & Root Services, Inc.) ASBCA Nos. 57530, 58161
)
Under Contract No. DAAA09-02-D-0007)

APPEARANCES FOR THE APPELLANT:

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OPINION BY ADMINISTRATIVE JUDGE MELNICK ON APPELLANT'S
MOTION FOR RECONSIDERATION AND REQUEST FOR REFERRAL TO THE
SENIOR DECIDING GROUP

Kellogg Brown & Root Services, Inc. (KBR), seeks referral of these appeals to the Board's Senior Deciding Group, and seeks reconsideration of the Board's November 19, 2018 decision denying the appeals.*

* The Professional Services Council and the National Defense Industrial Association filed a supporting brief as amici curiae. KBR was also supported by a letter from the International Stability Operations Association. KBR also seeks oral argument upon its motion for reconsideration, which is denied.

Requests that an appeal be referred to the Board's Senior Deciding Group are addressed in the Board's Rules and Charter. ASBCA Rules, Preface, § II(c); ASBCA Charter, 84 Fed. Reg. 4360-01, 4361 (Feb. 15, 2019) (to be codified at 48 C.F.R., ch. 2, appx. A, pt. 1, ¶ 3). The Chairman has considered KBR's request pursuant to those provisions and denies it.

Motions for reconsideration do not grant "an opportunity to reargue issues that were previously raised and decided." *John C. Grimberg Co.*, ASBCA Nos. 58791, 59717, 19-1 BCA ¶ 37,227 at 181,211 (citing *Precision Standard, Inc.*, ASBCA No. 58135, 16-1 BCA ¶ 36,504 at 177,860). Nor do they allow a "second bite at the apple" or an "opportunity to advance arguments that properly should have been presented in an earlier proceeding." *Id.* (quoting *Dixon v. Shinseki*, 741 F.3d 1367, 1378 (Fed. Cir. 2014)). Motions for reconsideration are granted "if we have made a genuine oversight that affects the outcome of the appeal." *Id.* (quoting *Relyant, LLC*, ASBCA No. 59809, 18-1 BCA ¶ 37,146 at 180,841). KBR's motion reargues some points already considered by the Board, raises new arguments it could have previously advanced but did not, and substitutes prior contentions with new ones that it now prefers. But mostly, it does not persuade us that we have made an oversight that affects the outcome of the appeal

CONCLUSION

KBR's motion for reconsideration is denied.

Dated: May 1, 2019



MARK A. MELNICK
Administrative Judge
Armed Services Board
of Contract Appeals

I concur



RICHARD SHACKLEFORD
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I concur



OWEN C. WILSON
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 Nos. 57530, 58161, Appeals of Kellogg Brown & Root Services, Inc., rendered in conformance with the Board's Charter.

Dated:

JEFFREY D. GARDIN
Recorder, Armed Services
Board of Contract Appeals