ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --	)	
	)	
Centex Construction Company, Inc.	)	ASBCA No. 51073
	)	
Under Contract No. DACA21-95-C-0007	)	

APPEARANCES FOR THE APPELLANT: Pat A. Cook, Esq.
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Engineer Chief Trial Attorney
Connie Ledford Baran, Esq.
Engineer Trial Attorney
U.S. Army Engineer District,
Savannah

OPINION BY ADMINISTRATIVE JUDGE SHACKLEFORD

Appellant submitted a claim on behalf of its subcontractor, Atlantic Coast Mechanical, Inc. (ACM), for additional costs incurred to provide stainless steel steam traps, instead of carbon steel steam traps, on humidifiers associated with air handling units. The claim, for $41,193, was denied by the contracting officer. The parties have elected to submit this matter on the record under Board Rule 11.[*] Only entitlement is before us. We deny the appeal.

FINDINGS OF FACT

1. On 16 December 1994, the U.S. Army Engineer District, Savannah (Government), awarded Contract No. DACA21-95-C-0007 to Centex Bateson Construction Company, Inc., now known as Centex Construction Co., Inc. (appellant or Centex), for phase

[*] The Government submitted a Rule 4 file (R4) and exhibits G-1 through G-9. Appellant submitted exhibits A-1 through A-8. Appellant also submitted exhibits A and B as attachments to its reply brief with a request that they be admitted into the record. The Government did not object. We admit the exhibits. In response to a Board request of the parties, the Government submitted two contract drawings and three additional exhibits. Drawing MH1-81 is deemed R4, tab 13; Drawing MMS-15 is R4, tab 14; Design Criteria is R4, tab 15; Technical Manual TM5-838-2 is R4, tab 16; and ASHRAE Handbook, Chapter 7 is R4, tab 17. All are admitted into evidence.

III of a hospital replacement project at Ft. Bragg, NC. The contract amount was $190,977,335. (R4, tab 4)

2. Centex entered into a subcontract with ACM, which in turn subcontracted with various suppliers including York International Corporation (York) for air handling units (AHUs) with humidifiers and James M. Pleasants Company, Inc. (JMP) for duct mounted humidifiers (exs. G-2, -5). The record does not include any evidence as to appellant's bidding documents, or the bidding documents of ACM or its suppliers.

3. Division 15 of the specifications was devoted to mechanical requirements. Section 15050 BASIC MECHANICAL MATERIALS AND METHODS had broad applicability to other sections in Division 15. Section 15050 provided in part as follows:

> 1.1.1 This Section includes . . . products that are common to more than one Section of Division 15.
>
> 1.1.2 This Section also includes supplemental requirements and installation materials common to more than one Section of Division 15.

(R4, tab 12)

4. Section 15050 specified the following for "steam drips and traps:"

> ¶ 3.2.7 Steam Drips and Traps
>
> . . . .
>
> 3.2.7.2. Pipe steam traps with a strainer, unions, gate valves and other fittings or components as shown or indicated on the contract documents. For specific types of trap applications, see Section 15556 FORCED HOT WATER HEATING SYSTEMS USING WATER AND STEAM HEAT EXCHANGERS.

(*Id.*)

5. Section 15556 FORCED HOT WATER HEATING SYSTEMS USING WATER AND STEAM HEAT EXCHANGERS, referred to above, set forth the composition requirements of steam traps according to their application as follows:

> 2.9 Steam Traps
>
> . . . .

2.9.2 Float-and-Thermostatic Traps:

2.9.2.1 . . . . Each float-and-thermostatic trap shall be provided with an internal air vent that is a balanced pressure phosphor bronze disc diaphragm type caged in brass, with inlet connections on both sides. Bodies and caps shall be cast iron and all stainless steel float mechanisms with heat treated chrome steel valves and stainless steel seals. . . . Inlet to each trap shall have a cast iron strainer, either an integral part of the trap or a separate item of equipment.

. . . .

2.9.2.4. Float and thermostatic traps used on the humidification (clean steam) system shall be 316L stainless steel body and stainless steel internals . . . .

. . . .

2.9.3 Bucket Traps

2.9.3.1 . . . Each trap shall have a heavy body and cap of fine-grained, gray cast iron. Valve seat and valve heat treated body thimble, integral strainer and gasket shall be stainless steel. Integral strainer installed in the suction connection of each trap and gasket shall be stainless steel.

2.9.3.2 Inverted bucket traps: . . . Cap and body: cast iron ASTM A 278, Class 30. Valve seat and valve heat treated body thimble, integral strainer and gasket: stainless steel.

2.9.3.3. Steam traps for drips on steam mains of all pressures shall be inverted bucket type.

. . . .

2.9.3.5. Inverted bucket traps used on the humidification (clean steam) system shall be stainless steel body and stainless steel internals, with a maximum operating pressure of 150 psig.

6. Section 15895 AIR-SUPPLY AND DISTRIBUTION SYSTEM (FOR AIR-CONDITIONING SYSTEM) called for steam traps as a component of humidifiers at the AHUs and in the ductwork, in part as follows:

> 2.9 AIR SYSTEMS EQUIPMENT
>
> . . . .
>
> 2.9.4 HUMIDIFIERS
>
> 2.9.4.1 Humidifiers shall be steam injection type grid humidifiers, utilizing a steam-jacketed duct distribution manifold, including a steam separating chamber, steam-jacketed re-evaporation chamber and integral modulating control valve properly orificed for maximum moisture capacities. Require each humidifier to be supplied by the manufacturer as a packaged unit, including steam trap, strainer, distribution manifold(s), integral valve operator and temperature switch.
>
> 2.9.4.2 Location: humidifiers shall be provided at the air handling units and in the ductwork at the locations and of the capacities shown.

(R4, tab 12) The material composition of the steam traps was not specified in § 15895.

7. The parties agree that a "humidification (clean steam) system" is a humidification system using steam that does not contain contaminants and is constructed of material such as stainless steel that will not corrode and introduce contaminants into the system (see Government and Appellant responses to Board questions both dated 28 June 2001). We are unable to conclude from this record, however, that all components of a "humidification (clean steam) system" are required to be made of stainless steel. We find that the AHU humidifiers, which are connected with the hot water heating system (*see, e.g.*, R4, tab 11), were part of the "humidification (clean steam) system."

8. By transmittal to ACM dated 11 July 1995, subcontractor York provided submittals for AHUs. The submittals included product data on Armstrong Series 9000 humidifiers with cast iron inverted bucket steam traps. York provided 27 clarifications, of which No. 27 stated: "27. Steam traps are to be furnished and installed by others. Trap flows are therefore not listed in this submittal." The record apparently does not include a separate submittal for these traps. ACM forwarded the submittal to Centex which in turn forwarded it to the Government as Transmittal No. 208. (Ex. G-2 at 18-21, 36)

9. On 28 August 1995, Mr. Peter Kozak of the Corps of Engineers required resubmittal of Transmittal No. 208 and provided extensive comments to be addressed. With respect to Clarification No. 27, Mr. Kozak merely "noted" the clarification, but did not provide any other comment on the steam traps. (*Id*. at 6-7)

10. On 15 September 1995, York and the Government met to discuss the Government's comments (ex. G-2). The Government approved appellant's resubmittal, Transmittal No. 208B, on 11 December 1995 (ex. G-5).

11. By transmittals dated 20 July 1995 and 23 August 1995, ACM subcontractor JMP provided submittals for duct mounted humidifiers. During the submittal process, the issue of the composition of steam traps was discussed. Mr. Kozak commented that § 15556, ¶ 2.9.2.4 required stainless steel traps for humidification. The issue was essentially resolved when JMP resubmitted its humidifier data to ACM on 13 December 1995 modifying the steam traps to be stainless steel apparently at no additional cost to the Government. (Exs. G-3, G-6; app. reply br., ex. A)

12. On 13 September 1996, Mr. Kozak observed the initial inspection for AHU coil installation at the site. He asked why the traps for the AHU humidifiers were not stainless steel. Centex' quality control representative stated that stainless steel was only required for the humidifiers for the ductwork. (Ex. G-7)

13. Following an exchange of correspondence, in a directive dated 14 November 1996, the Government required that appellant provide stainless steel steam traps for the AHU humidifiers. By letter to Centex dated 6 December 1996, ACM claimed $33,744 to supply and install the traps. Centex added markups for a total claim of $41,193, which was submitted to the Government on 6 December 1996. (R4, tab 3)

14. The contracting officer denied appellant's claim by letter dated 18 July 1997, from which appellant filed a timely appeal (R4, tab 2).

DECISION

Appellant requests reimbursement for the costs to provide stainless steel, vice carbon steel, steam traps in the AHU humidifiers, asserting primarily that the contract documents did not establish a requirement for stainless steel (app. br. at 3). In matters of contract interpretation we are guided by the rules set forth in *Hol-Gar Manufacturing Corp. v. United States*, 351 F. 2d 972, 979 (Ct. Cl. 1965), which establish that an interpretation which gives a reasonable meaning to all parts of an instrument will be preferred to one which leaves a portion of it useless, inexplicable, inoperative, void, insignificant, meaningless or superfluous; nor should any provision be construed as being in conflict with one another unless no other reasonable interpretation is possible.

Applying these principles, the only reasonable construction of Division 15 (the mechanical specifications) warrants a conclusion that stainless steel was required for steam traps used on humidifiers for the AHUs (§ 15895). Section 15050 BASIC MECHANICAL MATERIALS AND METHODS applies to all of the mechanical specifications, of which § 15556, the forced hot water heating system and § 15895, the air supply and distribution system (for the air conditioning system), are a part. Appellant argues that § 15050's reference to § 15556 applies only to steam traps within the forced hot water heating system, and not to steam traps within the air conditioning system of which the AHUs were a part. (App. br. at 5) This argument is not persuasive, and is a strained interpretation of what we perceive as clear language. We read § 15050, ¶ 3.2.7.2 to require that, for all steam traps, not only those within the forced hot water heating system, the applicable composition requirements are in § 15556. Section 15556, in turn, requires that traps used on the humidification (clean steam) system, of which we found the AHUs to be a part, be stainless steel.

Appellant argues that the requirement in § 15895 (for the AHU's humidifier's steam traps) fails to specify a required material for the steam traps, and does not cross-reference any other section, and that it is not obliged to assume that requirements for one system, *i.e.*, the forced hot water heating system (§ 15556), apply to the air supply and distribution system (§ 15895). (App. br. at 5-6) Such a reading of the language would require placement of the steam trap composition requirements in multiple places within the specifications. We reject these arguments. It is well settled that the Government is not required to write specifications in a way which separates the work among the various trades, and that the prime contractor is obligated to coordinate the various parts of the contract in order to assure that all the required work is performed. *W.R. Johnson, Inc.*, ASBCA Nos. 40251, 40707, 91-3 BCA ¶ 24,172 at 120,911 (wiring requirements for electrical roll-up doors in the door, not electrical, section of specifications did not justify an equitable adjustment).

Appellant's reply brief asserts that § 15556 only requires stainless steel steam traps with respect to a "humidification (clean steam) system," that a "clean steam" system would consist of all stainless steel, and since certain of the related parts are carbon steel rather than stainless steel it was reasonable for ACM to conclude when bidding the project that stainless steel steam traps were not a requirement for the humidifiers because it was not a "clean steam" system. There is no credible evidence in this record that a clean steam system must be composed of all stainless steel components. (*See* finding 7) Since the factual basis for appellant's interpretation is not established, its interpretation is unreasonable.

Even if appellant's interpretation could be construed as reasonable, appellant has the burden to prove that its bid was based on the advocated interpretation. *Fruin-Colnon Corp. v. United States*, 912 F.2d 1426, 1430 (Fed. Cir. 1990); *Hensel Phelps Construction Co.*, ASBCA No. 44259, 96-1 BCA ¶ 28,227. Here, ACM asserts that it is entitled to an

equitable adjustment, a claim passed through Centex. There is no evidence in the record with regard to reliance prior to bid with regard to either York or ACM or Centex.

We have considered appellant's remaining arguments and conclude they are without merit.

We deny the appeal.

Dated: 31 December 2001

RICHARD SHACKLEFORD
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

I concur

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

EUNICE W. THOMAS
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. 51073, Appeal of Centex Construction Company, Inc., rendered in conformance with the Board's Charter.

Dated:

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