



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

GRANTED: January 20, 2015

CBCA 3258

COLUMBIA CONSTRUCTION COMPANY,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Reginald M. Jones and Alexa A. Santora of Fox Rothschild LLP, Washington, DC, counsel for Appellant.

James F. H. Scott and Claire O'Donnell, Office of the General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **STERN**, **POLLACK**, and **SHERIDAN**.

SHERIDAN, Board Judge.

This is a claim brought by Columbia Construction Company (Columbia) on behalf of itself and its subcontractor, Wayne J. Griffin Electric, Inc. (Griffin). Columbia was contracted by the General Services Administration (GSA) to modernize the Internal Revenue Service (IRS) service center in Andover, Massachusetts. Among other things, the contract specified that Columbia was to provide a security system, and that the security cabling was

required to be “concealed or in conduit (EMT).”¹ Columbia seeks an equitable adjustment of \$491,450 for what it characterizes as a GSA-directed change that it asserts occurred when GSA required it to install the security wiring in EMT conduit, instead of allowing its planned method of installation in cable trays under the raised access flooring system and above the drop ceilings. After considering the evidence, including testimony presented at the hearing, and the parties’ pre- and post-trial briefs, we find that appellant reasonably interpreted the contract to allow installation of the security cabling below the raised access floor and above the ceilings because that installation “concealed” the cables as required by the contract.²

Background

On May 6, 2009, GSA issued solicitation GS-01P-09-BZ-C-0014, seeking a contractor to provide all supervision, labor, materials, and equipment necessary to modernize the IRS service center. Columbia was awarded the contract on July 21, 2009. Deborah Fournier was the GSA contracting officer (CO) assigned to administer the contract. The IRS service center project included upgrades to the building’s superstructure, exterior glazing and doors, heating, ventilation, electrical, fire alarms, and security systems. The design for the renovated facility also called for installation of a raised access flooring system over the original concrete pad in approximately eighty percent of the facility. The distance between the access floor and the original concrete floor varied, from eight inches to two-and-a-half feet, depending on the conditions encountered. The design for the building incorporated a security scheme that integrated a variety of security devices including, but not limited to, glass break detectors, closed circuit televisions, card readers, electronic door locks, panic buttons, and intercoms. Pre-renovation, the security system cabling was “open,” and not run in conduit or raceways.

The project was to be completed in two phases to accommodate partial occupancy of the service center by the IRS during construction. Prior to entering into the contract, Griffin submitted a bid to Columbia for the division 26 (electrical), 27 (communications), and 28 (security) contract work. Columbia entered into a subcontract with Griffin for that work on October 20, 2009. As part of its work, Griffin was required to furnish and install cabling and devices for the security system at the service center in accordance with the contract.

¹ EMT (electrical metallic tubing) is a type of metal tubing used as conduit in commercial and industrial buildings that is thin enough to be bent.

² Per its order requiring that all documents, unless mutually agreed upon, be submitted prior to the hearing, the Board did not accept into the record or consider the affidavits and documents that were attached to the parties’ post-hearing briefs.

The security system work is primarily detailed in the specifications at section 281000, “Security Systems.” Part 1 contains the “General Provisions” related to the security systems. Subpart 1.02.C, titled “Protection Scheme,” provides: “Security systems and equipment for this project shall include, but are not limited to the following . . . 12. *All security system cabling shall be enclosed in conduit when exiting the protected hardline area.*” (Emphasis added.)³ Subpart 1.07.B of section 281000 provides a list of definitions and instructions that includes, in pertinent part:⁴

7. “Concealed” (as applied to circuitry) – *Covered completely by building materials, except for penetrations (by boxes and fittings) to a level flush with the surface as necessitated by functional or specified accessibility requirements.*

8. “Exposed” (as applied to circuitry) – Not covered in any way by building materials.

11. “Raceway” – Any pipe, duct, extended enclosure or conduit (as specified for a particular system) which is used to contain wires, and which is of such nature as to require that the wires be installed by a “pulling in” procedure.

(Emphasis added.)

Subpart 1.07.C provides: “Where the word ‘conduit’ is used without specific reference to type it shall be understood to mean ‘raceway.’” Subpart 1.07.L states:

It shall be understood that the specifications and drawings are complementary and are to be taken together for a complete interpretation of the security systems work. Where there are conflicts between the drawings and

³ Hardline areas are areas which have been designated as limited access areas.

⁴ Specification section 281000.1.07 does not define or interpret the terms “building materials” or “covered completely.”

specifications or within the specifications or drawings themselves, the items of higher standard shall govern.

Subpart 1.17.F, titled “Work of Other Trades,” provides in pertinent part:

All cabling shall be concealed or in conduit (EMT) unless specifically approved in writing by the contracting officer. Unless otherwise specified, electrical contractor shall supply electrical conduit and pull strings for all security. Conduit is required in the following spaces:

1. *All unfinished areas where cables cannot be concealed above the ceilings in raceways or in hollow walls or placed in existing cable trays.*
2. All intermediate rooms housing security head end equipment.
3. All exterior areas.
4. All security console areas.

(Emphasis added.)

Subpart 3 of section 281000 contains the “Installation” portion of the security systems specifications, and provides in pertinent part:

3.01.G Electrical work should be installed to specifications. *All security wiring shall be concealed or in conduit as noted.*

....

3.02.B All cabling run in ceiling cavities shall be neatly strapped, dressed, and adequately supported every 8-10 foot. Cable installations shall conform to good engineering practices and to the standard of the most current National Electrical Code.

....

3.03.A Firestopping shall be provided for all penetrations of conduit, wire ways, bus ducts, cable trays, etc., through fire-rated walls and floors and other fire rated separations as follows.

....

- 3.03.F If applicable, where cable trays pass through fire rated partitions or floors utilize fittings specifically manufactured for this purpose.

(Emphasis added.)

Other specifications, not part of section 281000 (the security systems specifications), contain language that may be pertinent to the issues before us. Section 010900, “Definitions and Standards,” provides in pertinent part:

- 1.2.A Where there appear to be overlapping or conflicting requirements in the drawings and specifications, the order of precedence established by the clauses “Specifications and Drawings for Construction” and “Specification and Drawings” of the contract clauses shall govern.

....

- 1.2.C Except for overlapping or conflicting requirements, where more than one set of requirements are specified for a particular unit of work, option is intended to be contractor’s regardless or whether or not it is specifically indicated as such.

Other related work was provided for in specification section 260519, “Conductors and Cables,” which provides direction for wires and cables for the service center’s low voltage wiring systems (rated 600 volts and less), and directs in pertinent part:

- 3.2.A *Conceal cables in finished walls, ceiling and floors unless otherwise directed.*”

....

- 3.2.C Use pulling means including fish tape, cable, rope, and basket-weave wire/cable grips, that will not damages cables or raceway.

(Emphasis added.) The security and communications cabling were low voltage systems.

Section 260520, which relates to the “Underfloor Modular Wiring System,” provides direction for the service center’s underfloor modular wiring system, and subpart 3.1.A directs: “*Conceal cables in finished floors.*” (Emphasis added.)

Section 271000, which applies to the project’s “Communications Cabling Systems,” provides direction and “wiring methods,” in the “Execution” subpart for the service center’s communications cabling system and directs in subpart 3.3.A: “*Conceal conductors and cables in accessible ceilings, walls, and floors where possible.*” (Emphasis added.) Subpart 3.5.F.2 requires the cabling to be installed after the raised access flooring system had been installed.

FAR 52.236-21, “Specifications and Drawings for Construction (Feb 1997) Alternate 1 (APR 1984) (Alternate 1),” was also incorporated into the contract by reference. 48 CFR 52.236-21(a) (1997).

Several security detail drawings (SE) were made part of the contract. The legend in drawing SE 301 required that all security system cabling be plenum or polyvinyl chloride (PVC) cable. At various places throughout the SE drawings, three-quarter-, one-, and two-inch diameters of conduit are called out as being required. Specific notations as to conduit and size can be found in: SE 401, details 1-11; SE 402, details 1-7; SE 403, details 1-6; SE 404, details 1-9; SE 405, details 1-3, and 7-9; and SE 406, details 4-6. Other drawings that also identify conduit as being called for include: SE 200, detail 5; and SE 301, detail 5.

Sean Brady, Griffin’s senior project manager, worked on this project and was the appellant’s primary witness in this appeal. Mr. Brady was not involved in Griffin’s bid for this project, but according to him, Griffin planned on using cable trays for the security cabling. Mr. Brady testified, based on twenty-five years of experience, that he typically has seen in federal buildings “security wire run in either cable tray or in J-hooks, typically above hung ceilings, because the raised floor is not as popular or as common.” Although he did not state it outright, Mr. Brady appeared to infer that security cable is a type of telecommunications cable and for purposes of this project all of the security and telecommunications cable was low-voltage cable and should, therefore, have been able to be placed in cable trays or J-hooks.⁵ He “had no concept that anybody would not consider a

⁵ In addressing the installation of non-security system cabling, principally telecommunications cabling, Mr. Brady testified:

[E]lectrical [high voltage] . . . and telecommunications [systems] are two separate different animals. In regard to communications, low voltage, all of that cabling either goes in J-hooks, or goes in cable tray or is concealed behind a wall. And conduit is only used when you have no other choice. For

raised floor part of the building material.” Noting that plenum and PVC cable are “cable tray rated,” and that the legend on drawing SE 301 required the security cabling to be plenum or PVC cable, Mr. Brady opined, “[i]n my experience, there [would] be no reason whatsoever to use plenum cable inside of pipe [conduit]. It’s far more expensive, and it would serve absolutely no purpose.” When queried by counsel about what the contract’s calling for plenum cable meant to him, Mr. Brady responded: “It means, obviously, [the plenum cable is] not being installed in pipe [conduit].” Mr. Brady also testified that because the security cabling could only be installed after the raised access floor had been installed “it would be physically impossible to put cable in the cable tray without pulling it in.”

In August 2010, GSA observed Griffin installing security cabling in cable trays in the raised access flooring system. The CO wrote Columbia on August 27, 2010, that the “cable tray [did] not adequately conceal security wiring [and] does not represent a concealed condition.” The CO instructed Columbia to install the security cabling in conduit “per the contract.”⁶ In a September 1, 2010, letter to Columbia, Griffin noted its disagreement with GSA’s interpretation of the contract documents as well as the CO’s instruction to install all the security cabling in conduit. Ultimately, per the CO’s instruction, Griffin installed most of the phase one security cabling at the project in conduit.

A request for an equitable adjustment (REA) setting forth the extra costs Griffin claimed it would incur as a result of installing security cable in EMT conduit was submitted to GSA through Columbia via a letter dated January 4, 2012.

On April 4, 2012, representatives from Columbia, Griffin, and GSA met to discuss Griffin’s request to use cable trays in lieu of conduit for the security cabling for phase two of the project. As of April 4, phase one of the project was substantially complete and phase two demolition had just started. Griffin brought to the meeting pictures of J-hook assemblies and other documents showing cable trays to explain how they wanted to “enclose” the security cabling. GSA electrical engineer Jeffrey Schetrompf attended the meeting. Mr. Schetrompf was the lead electrical engineer for GSA’s New England Region and had assisted Griffin in the past with some other interpretation issues. Prior to the meeting, Mr.

example, an unfinished room that just has bare concrete walls, in those cases we use conduit.

⁶ The parties agree that for purposes of the CO’s instruction to install all the security cabling in conduit, the CO intended “conduit” to mean EMT conduit. When installing cable in EMT conduit, each wire must be pulled in individually; when installing cable in cable tray, multiple wires may be pulled in together. Installing cable in conduit, as opposed to cable tray, is more labor intensive.

Schetrompf began drafting a document analyzing whether the security cabling was required to be installed in conduit. In that undated document, Mr. Schetrompf wrote:

From a review of specification section 281000, it is felt that GSA's explicit requirement to use conduit exceeded the limitations of [the specifications] as set forth within the body of this section. As a result, if this case were to proceed forward, the government would likely be found responsible for a large portion of the stated costs. Additionally, part of the government's basis for requiring the use of conduit was that the raised floor should be 'treated the same as if it is a piece of equipment or furniture' and does not act to conceal the cabling. An informal survey amongst personnel within GSA, [the Design and Construction Division] specifically, shows that there is not consensus with this view. If we're unable to agree with this statement ourselves, we'd likely be on shaky ground if this case were to proceed.^[7]

Mr. Brady testified that at the April 4 meeting, Griffin mentioned a few alternative products that it posited would be less expensive to install than EMT conduit, but GSA was not receptive to considering those options.⁸ Mr. Brady testified that GSA did not discuss its position at the meeting, but, according to Mr. Brady, there "was never any question" that GSA wanted Griffin to install EMT conduit. GSA witnesses assert that while alternatives to EMT conduit may have been discussed by Griffin and Columbia, none of those options were presented to GSA at the meeting. The meeting ended without GSA explaining its position, but instead stating it would get back to Columbia with its decision on Griffin's request.

Surran Dilks, GSA's project manager and the contracting officer's technical representative (COTR) throughout the design and construction of the project, explained that the contract allowed for security cable in cable trays and J-hooks in the hardline areas, which

⁷ During his testimony at the hearing, Mr. Schetrompf explained that after discussing his position with other persons at GSA and through subsequent reviews of additional specifications and drawings which he did not have when he reached his initial conclusion, his opinion had "evolved" since he prepared the draft memorandum. He no longer believes that GSA's requirement to use conduit for the security cabling exceeds the limitations set forth in section 281000. Mr. Schetrompf also believes that conduit and raceway provide more protection to the security cabling and, therefore, are a "higher standard" than cable trays.

⁸ Mr. Schetrompf and another GSA engineer who testified at the hearing, Patrick Sbardelli, do not recall alternatives to conduit being discussed before the April 4 meeting.

are restricted access areas, and GSA did not require Columbia to install conduit in the hardline areas. However, he testified that “cable tray is not raceway,” and the security cable outside the hardline areas was required to be in conduit.⁹ In comparing Griffin’s position with his review of the specifications and drawings, Mr. Dilks believes that “the plans are very clear in excruciatingly repetitive fashion that [the security cabling] is in conduit of varying sizes and it is to be run in conduit from the individual device to the field controller, the head end, basically back into one of the . . . hardline areas.” It was Mr. Dilks’ impression that once GSA informed Columbia that the cable tray installation would not be allowed, Columbia “wanted [GSA] to direct them specifically what type of conduit to put in,” and did not suggest to him another type of raceway. According to Mr. Dilks, GSA was willing to consider other types of raceways besides EMT conduit so long as the system fully enclosed the security wiring and installation occurred using a “pulling in” method. However, he testified that during the time the conduit was being discussed, Columbia sought GSA’s “explicit direction” from him as to what type of conduit should be used.

On April 9, 2012, Griffin wrote to the CO urging her to consider allowing it to use the cable trays for the security cabling and noting that in making its bid to Columbia Griffin’s plan was to use the cable tray and that it “chose the least expensive installation method within the written plans, specifications, and addenda, in order to offer Columbia Construction Company the best possible price.” Columbia asserts it relied on Griffin’s bid and Griffin’s interpretation of the division 26, 27, and 28 contract requirements in formulating its own proposal for the project.

CO Fournier denied the REA on May 3, 2012, and required Columbia to continue installing the security cabling in conduit during phase two of the project. Griffin installed most of the security cabling at the project in EMT conduit, which was more labor intensive and expensive than a cable tray installation.

Columbia submitted its certified claim to the CO on October 4, 2012, seeking \$491,450 in extra costs for installing the cabling in conduit. The certified claim was denied on December 4, 2012, and duly appealed to the Civilian Board of Contract Appeals, where it was docketed as CBCA 3258.

In its statement of costs, Columbia provided a detailed breakdown of the extra costs it incurred as a result of having to install conduit throughout the project.¹⁰ Through the

⁹ In the hardline areas, most of the security cabling was not installed in conduit.

¹⁰ According to appellant’s breakdown in its statement of costs, Columbia and Griffin calculate the following damages as a result of GSA’s requiring that most of the security cabling be installed in conduit:

statement of costs and at the hearing, Columbia and Griffin highlighted the locations of all the conduit they assert were subject to changes during phase one of the contract and the material costs associated with the conduit. Other materials needed to install the conduit (couplings, connectors, and other fasteners) were calculated based on the length of conduit installed. The per unit costs for materials were derived from Griffin's actual invoices. Griffin also tracked, in the daily reports for phase one, the actual labor hours it expended installing the conduit. The quantities reflected on the daily reports add up to the 33,850 feet of conduit that Griffin calculated as being installed during phase one of the project. Labor-related damages were calculated by multiplying the labor hours attributable to the change by the hourly rate of each type of worker. Griffin used the same process to estimate the extra costs associated with providing conduit in phase two of the project. Griffin then added markups to those estimates for supervisor hours, clean-up, safety, as-built warranty, labor burdens, overhead, profit, and bond costs. Columbia's overhead, profit, insurance, and bond percentages were then added.¹¹

Material	\$ 82,333.00
Labor	\$303,034.54
Griffin Overhead	\$ 42,390.43
Griffin Profit	<u>\$ 17,110.32</u>
SUBTOTAL	\$444,868.29
Griffin Bond	\$ 4,448.68
Columbia Overhead	\$ 13,165.00
Columbia Profit	\$ 23,124.00
Columbia Insurance	\$ 2,914.00
Columbia Bond	<u>\$ 2,930.00</u>
TOTAL	\$491,450.00 (appellant rounds the total to reach this figure)

¹¹ The percentages utilized by Griffin for clean-up, safety, and as-built warranty were agreed to by GSA at the inception of the project. The parties stipulated that the following items were reasonable and consistent with industry standards: 1) the rate for as-built drawings and additional warranty costs is a combined 3% of the underlying labor burden; 2) a 24.4% labor burden rate; 3) an 11% overhead rate; 4) a 4% profit rate; 5) a 1% increase in bond premiums based on quantum awarded; and 6) 2.93% overhead, 5% profit, .06% insurance, and 0.6% bonding mark-ups for Columbia. The parties also stipulated that under the contract's Davis-Bacon Act requirements, journeymen electricians were to be paid \$64 per hour and telecommunications technicians were to be paid \$51.96 per hour.

Discussion

The crux of this dispute relates to the contract's requirement that all the security cabling was required to be "concealed or in conduit (EMT)." "Concealed" is defined by the contract as "[c]overed completely by building materials." The contract also contemplated using a "pulling in" method for installation of the security cable.

Appellant argues that Griffin's plan to place most of the security cabling in cable trays below the raised access flooring or above the drop ceiling, rather than in EMT conduit, met the requirements of the contract because both the raised access flooring and drop ceiling "concealed" the security cables by covering the cables completely with building materials. While Columbia acknowledges that a cable tray in itself is an "open" system as opposed to an "enclosed" system, it argues that once the security system cabling is placed underneath the raised access flooring system or above the drop ceiling, it meets the contract requirement of being "concealed," because the raised access flooring or drop ceiling each are composed of "building materials" that completely cover the cables. Appellant also asserts that installation of the security cables in the cable trays is accomplished using a "pulling in" method, thereby meeting that contract requirement.¹²

GSA disagrees that running security cables in cable trays below the raised access flooring or above the drop ceiling meets the contract requirements that the security cabling be "concealed or in conduit (EMT)" and argues that such an interpretation creates a patent ambiguity. GSA posits that the "raised access flooring is not a building material any more than a demountable wall or demountable cube" is a building material,¹³ and that the raised access flooring and drop ceiling "cannot completely cover wiring in an area of such vast volume."

As discussed below, pursuant to the terms of this contract, Columbia and Griffin had the option of using EMT conduit or another installation method that concealed the security cabling by covering it completely in building materials and used a "pulling in" installation method. We conclude that Griffin's intent to use cable tray below the raised access flooring system and above the drop ceiling was reasonable and met the contract requirements, and that GSA changed the contract when it required Griffin to use conduit.

¹² Columbia makes the same argument regarding security system cable placed in the walls and ceilings – that the walls and ceilings are composed of "building materials" and therefore "conceal" the cable.

¹³ Respondent equates the term "demountable" with the term "removable."

Contract interpretation begins with an examination of the plain language of the contract. *LAI Services, Inc. v. Gates*, 573 F.3d 1306, 1314 (Fed. Cir. 2009) (citing *M.A. Mortenson Co. v. Brownlee*, 363 F.3d 1203, 1206 (Fed. Cir. 2004)). The contract must be read as a whole and in light of its purpose. Reasonable meaning must be given all parts of the agreement so as not to render any portion meaningless, or to interpret any provision so as to create a conflict with other provisions of the contract. *Fortec Constructors v. United States*, 760 F.2d 1288, 1292 (Fed. Cir. 1985); *United States v. Johnson Controls, Inc.*, 713 F.2d 1541, 1555 (Fed. Cir. 1983); *Arizona v. United States*, 575 F.2d 855, 863 (Ct. Cl. 1978) (“[A]n interpretation which gives a reasonable meaning to all parts will be preferred to one which leaves a portion of [the contract] useless, inexplicable, inoperative, void, insignificant, meaningless, superfluous, or achieves a weird and whimsical result.”). Contract language should also be given the plain meaning that would be derived by a reasonably intelligent person acquainted with the contemporaneous circumstances. *Firestone Tire & Rubber Co. v. United States*, 444 F.2d 547, 551 (Ct. Cl. 1971); *Hol-Gar Manufacturing Corp. v. United States*, 351 F.2d 972, 975 (Ct. Cl. 1965). The contract must be construed to effectuate its spirit and purpose, giving reasonable meaning to all of its parts. *Gould, Inc. v. United States*, 935 F.2d 1271, 1274 (Fed. Cir. 1991); *Electronic Data Systems, LLC v. General Services Administration*, CBCA 1552, 10-1 BCA ¶ 34,316, at 169,505 (2009). Context also informs the meaning of any given term or provision in a government contract. *Metric Constructors, Inc. v. National Aeronautics and Space Administration*, 169 F.3d 747, 752 (Fed. Cir. 1999); *Fulcrum Worldwide, LLC v. United States*, 97 Fed. Cl. 523, 537-38 (2011); *Linc Government Services, LLC v. United States*, 96 Fed. Cl. 672, 708 (2010).

If the plain language of the contract is unambiguous on its face, the inquiry ends, and the contract’s plain language controls. *Hunt Construction Group v. United States*, 281 F.3d 1369, 1373 (Fed. Cir. 2002). The mere fact that the parties differ on the proper interpretation of contractual language does not necessarily mean that it is ambiguous. See *Tri-Cor, Inc. v. United States*, 458 F.2d 112, 126 (Ct. Cl. 1972) (per curiam).

A review of the contract’s plain language reveals that Columbia and Griffin had the option of either concealing the security cable in building materials or installing it in EMT conduit. The raised access flooring and drop ceiling were areas that were covered by building materials and the wire cable trays necessitated that the contractor “pull in” the bundles of security cabling. As such, the terms of the contract allowed appellant to install the security cabling in cable trays under the raised access floor and above the drop ceiling. Where conduit was specifically called out by size in drawings, Columbia and Griffin had the option of using cable trays, so long as the surrounding building materials covered the cables completely and the security cable was installed using a pulling in method.

During the hearing, much discussion was had about whether appellant's proffered cable trays would require the installation method referred to as "pulling in." To the extent respondent makes the argument that the contract required the security cabling to be installed using a "pulling in" method, and that this should have informed appellant that some form of conduit or raceway was required, we note that using the cable trays on this project required that the security cable be "pulled in," even though a greater number of cables could be pulled in at one time than if one was pulling wire through conduit.

There are other portions of the contract where the drafters indicated that security cables are sufficiently "concealed" when they are run below the raised flooring system or above the ceilings in cable trays. Subpart 1.17 of section 281000 states: "Conduit is required in . . . [a]ll unfinished areas where *cables cannot be concealed above the ceilings in raceways or in hollow walls or placed in existing cable trays.*" Such language reasonably envisions the option of using cable trays to conceal the security cable in the ceilings. In specification sections 260519.3.2.A, 260520.3.1.A, and 271000.3.2.A, cables are also referred to as being "concealed" when they are run below the raised flooring and above the drop ceiling. GSA failed to provide a convincing argument as to why it believed the communications cable could be concealed below the raised access flooring and above the drop ceiling but the security cabling could not be concealed by those same building materials. We see no discernable reason why the term "concealed," as defined in the security system specifications, should be interpreted differently from its use in other parts of the contract.¹⁴

Considering the contract as a whole, appellant's plan to conceal the security cabling in wire trays below the raised flooring and above the drop ceiling was reasonable. GSA unreasonably stopped appellant's planned installation and now must pay the increased price for demanding that the security cabling be installed in conduit. As to the calculation of damages, thanks to the parties' stipulations, the Board need only decide the amount of materials and number of additional labor hours associated with this change.

¹⁴ We are not persuaded by respondent's arguments that the raised access flooring and drop ceiling were not building materials because they were "removable." Every building material is, in particular circumstances, removable; even concrete slabs and roofs are potentially removable. The raised access floor and drop ceiling were building materials that were fully incorporated into the renovation of the building and integral to its current operation, even though in some distant renovation of the building they might be removed. To the extent there may have been minor gaps in the ceiling where security wiring in cable trays might have been able to be observed (and arguably not covered completely by building materials), this assertion was not factually developed by respondent and we do not find the argument to be a compelling reason to support the Government's position that conduit was extensively required for the project.

GSA disagrees with the amount of out-of-scope conduit installed and the general manner of calculating labor-related damages. It argues that some of the lengths of conduit running to certain devices were called out in the drawings and that appellant should not receive compensation for a large number of instances where certain sizes of conduit were specifically called for in the drawings. We earlier concluded that Columbia and Griffin were not restricted to using conduit in the areas depicted on the SE drawings because GSA failed to establish that only conduit would work in those areas. More importantly, even if we had found merit in respondent's argument, GSA failed to articulate sufficient facts and a methodology to quantify the conduit lengths allegedly affected. The Board gave respondent sufficient opportunity to review appellant's measurements and quantum calculations and offer an alternative pricing scheme of its own. On the whole, respondent failed to provide any compelling evidence establishing how the damages might be overstated, much less provide an alternate pricing scheme for compensating appellant for the changed work. Appellant's quantum calculations appear reasonable to us, particularly in the absence of a strong rebuttal from respondent delineating the in-scope versus out-of-scope of work.

Decision

The appeal is **GRANTED**. Appellant is entitled to payment of \$491,450, plus interest pursuant to the Contract Disputes Act, 41 U.S.C. § 7109 (2012), from October 4, 2012, the date respondent received appellant's certified claim, until the date of payment.

PATRICIA J. SHERIDAN
Board Judge

We concur:

JAMES L. STERN
Board Judge

HOWARD A. POLLACK
Board Judge