



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MOTION FOR RECONSIDERATION DENIED: May 16, 2016

CBCA 5064-R

PACIFIC COAST COMMUNITY SERVICES, INC.,

Appellant,

v.

DEPARTMENT OF HOMELAND SECURITY,

Respondent.

Christopher T. Flynn, President and Chief Executive Officer of Pacific Coast Community Services, Inc., Richmond, CA, appearing for Appellant.

Denise A. McLane, Office of the General Counsel, Department of Homeland Security, Philadelphia, PA, counsel for Respondent.

Before Judges **DANIELS** (Chairman), **HYATT**, and **SHERIDAN**.

SHERIDAN, Board Judge.

Appellant moves for reconsideration of the Board's decision in *Pacific Coast Community Services, Inc. v. Department of Homeland Security*, CBCA 5064, 16-1 BCA ¶ 36,213. Familiarity with that decision is presumed. For the reasons below, we deny reconsideration.

Background

Appellant, Pacific Coast Community Services, Inc. (PCCS), filed an appeal with the Board seeking compensation for additional services that it alleges should be provided under Department of Homeland Security (DHS) contract HSHQW9-13-C-0001. We dismissed the appeal for lack of jurisdiction, finding that appellant's claim to the contracting officer had failed to state a sum certain, a prerequisite to a money claim filed under the Contract Disputes Act, 41 U.S.C. §§ 7101-7109 (2012) (CDA).

Arguing that “[t]he Board has rejected Appellant’s attempts to define a sum-certain,” appellant posits:

To determine the sum certain, the primary issue regarding how many productive hours PCCS is required by contract to deliver must be resolved. The dispute is about whether Appellant is required by contract to deliver for each of five positions either 1888 productive hours (which varies based on average contract seniority) or 2008 productive hours or productive hours to include 100 to 200 additional hours of trained and ready to go reserve hours for never vacant deliverable requirements (a total of about 2200 deliverable productive hours).

....

The Court of Federal Claims has stated that “[t]he sum certain requirement is met if the contracting officer can determine the amount claimed by a simple mathematical calculation.” In this case, a single determinative sum certain can only be ascertained by a simple mathematical calculation if there exists an agreed upon quantified number of deliverable hours requirement in the contract. The basis of the calculation specific agreed upon quantification of deliverable hours and the terms of the deliverable productive hours (with or without replacement). PCCS contends that for the Board to require PCCS to act from uncertainty (not specified or disputed productive hours) and arrive at a certainty, a sum certain, presents PCCS with impossibility. The Board statement “**For what appears to be the primary issue, the number of hours a PCCS employee was required to work per month, PCCS failed to seek a sum certain**” requires a computation based on an unknown to create with specificity a singular sum- certain — this is not possible. The circle cannot be squared.

(Citations omitted.)

Discussion

PCCS made these same arguments in advancing its case earlier. As our Rules of Procedure explain, “Arguments already made and reinterpretations of old evidence are not sufficient grounds for granting reconsideration.” Rule 26(a) (48 CFR 6101.26(a) (2015)). Asking us to reconsider our decision is not appropriate here based on the same arguments and is not a valid basis for Board reconsideration. The first year of services for which appellant seeks additional compensation appears to have been performed, and appellant should be able to quantify in a sum certain the costs its seeks for that year of performance. Appellant should follow the direction provided in our earlier decision and “submit to the contracting officer a claim that contains a clear and unequivocal statement that gives adequate notice of the basis and amount of the claim.” 16-1 BCA at 176,693.

Decision

Appellant’s motion for reconsideration is **DENIED**.

PATRICIA J. SHERIDAN
Board Judge

We concur:

STEPHEN M. DANIELS
Board Judge

CATHERINE B. HYATT
Board Judge