



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MOTION FOR SUMMARY JUDGMENT DENIED: February 25, 2020

CBCA 6292, 6386

CSI AVIATION, INC.,

Appellant,

v.

DEPARTMENT OF HOMELAND SECURITY,

Respondent in CBCA 6292,

and

GENERAL SERVICES ADMINISTRATION,

Respondent in CBCA 6386.

Jason N. Workmaster, Abigail T. Stokes, and Caroline J. Watson of Miller & Chevalier Chartered, Washington, DC, counsel for Appellant.

Cassandra A. Maximous, Office of the Principal Legal Advisor, Immigration and Customs Enforcement, Department of Homeland Security, Washington, DC, counsel for Respondent in CBCA 6292.

Sarah E. Park, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent in CBCA 6386.

Before Board Judges **DRUMMOND**, **KULLBERG**, and **CHADWICK**.

CHADWICK, Board Judge.

These consolidated appeals have a complicated procedural history that we need not recite here. The case involves a claim by the appellant, CSI Aviation, Inc. (CSI). In May 2019, CSI filed a motion for summary judgment in CBCA 6386 under Board Rule 8(f) (48 CFR 6101.8(f) (2018)). CSI’s statement of undisputed material facts under Rule 8(f)(1) contains two paragraphs and cites only the contracting officer’s decision on the certified claim. Rule 8(f)(1) requires a movant to “cit[e] appeal file exhibits, admissions in pleadings, and/or evidence filed with the motion.” Because we decide government contract claims de novo, 41 U.S.C. §§ 7104(b)(4), 7105(e)(2) (2012), we cannot treat statements in contracting officers’ decisions as evidence or as otherwise binding on the Government. *E.g.*, *BES Design/Build, LLC v. Department of Veterans Affairs*, CBCA 5640, 17-1 BCA ¶ 36,840 (citing, inter alia, *Wilner v. United States*, 24 F.3d 1397, 1402 (Fed. Cir. 1994) (en banc) (“[O]nce an action is brought following a contracting officer’s final decision, the parties start in court or before the board with a clean slate.”)). CSI therefore offers no basis to find that “it is entitled to judgment as a matter of law based on undisputed material facts.” Rule 8(f).

Decision

CSI’s motion for summary judgment is **DENIED**. We **DENY AS MOOT** the ancillary motions filed during the briefing, such as a motion to strike and a motion to consider briefs filed in another case.

Kyle Chadwick

KYLE CHADWICK

Board Judge

We concur:

Jerome M. Drummond

JEROME M. DRUMMOND

Board Judge

H. Chuck Kullberg

H. CHUCK KULLBERG

Board Judge