



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MOTION FOR RECONSIDERATION DENIED: August 23, 2024

CBCA 7213-R, 7393-R

ADAPT CONSULTING, LLC,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Andrew Gillman, Denver, CO; and Nathan McKibben, Patrick B. Kernan, and Joseph A. Whitcomb of Whitcomb, Selinsky, P.C., Denver, CO, counsel for Appellant.

Michael Converse and David C. Charin, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **LESTER**, **ZISCHKAU**, and **SULLIVAN**.

ZISCHKAU, Board Judge.

Appellant, Adapt Consulting, LLC, seeks reconsideration under Board Rule 26 (48 CFR 6101.26 (2023)) of the Board's decision of July 22, 2024. *See Adapt Consulting, LLC v. General Services Administration*, CBCA 7213, et al., 24-1 BCA ¶ 38,625. That decision sustained Adapt's challenge of a partial termination for default of its contract and granted in part certain monetary claims. Familiarity with the decision is presumed. In its reconsideration motion, Adapt argues that we improperly denied it compensation on its "fault/fault clear" investigation claim (Claim F) based on an erroneous determination that Adapt had not provided the underlying substantiating documentation necessary to support its claim. We find Adapt's arguments mistaken and therefore deny reconsideration.

Discussion

Regarding our decision on quantum for Claim F, we found that Adapt failed to properly support its claimed hours with time entries, daily logs, or other contemporaneous substantiating documentation. In a footnote in our decision, we noted that although Adapt had submitted (in response to a post-hearing Board order requesting supplementation of the record) a spreadsheet with time entries, dates, and hours, we declined to consider this post-hearing documentation because it was not produced to GSA during discovery, and GSA did not have an opportunity to cross-examine Adapt's program manager during the hearing on this documentation. *Adapt Consulting, LLC*, 24-1 BCA at 187,764 n.2.

In its motion for reconsideration, Adapt claims that GSA was in possession of the "above referenced spreadsheet since at least November 4, 2020." Adapt states that it sent an email to the GSA contracting officer on November 4, 2020, with a document titled "COR-09_R2_actuals_201104.pdf" attached and that later the same day it sent GSA contracting staff another email, with the spreadsheet "COR 9 Time Accounting.xlsx" attached. Adapt argues that GSA was responsible for adding this document to the appeal file, and its exclusion from the appeal file was inadvertent and harmless. Adapt further argues that GSA was not prejudiced by this inadvertent error because GSA had possession of the spreadsheet since November 2020.

Adapt is mistaken. The spreadsheets Adapt refers to relate to Claim C and its change order request (COR) number 9, which concerned the replacement of existing conduit involving fishing wires through the wall cavities in lieu of using existing undersized conduit. The November 4, 2020, email from Adapt's project manager confirms this when she states in the body of the email that she is attaching "COR #9, Revision 2 with Adapt's retrospective actual costs for the fish-wire activities." The spreadsheet that Adapt submitted post-hearing, which relates to Claim F, is titled "EPA AC FFC Effort Summary Spreadsheet (version 1)." What we wrote in our decision about this document remains unchallenged by Adapt, namely, that this spreadsheet of time entries for the fault/fault clear investigation was not provided to GSA during discovery and was not included in the Board's record prior to the hearing. Thus, GSA did not have an opportunity to cross-examine its author during the hearing.

Decision

Adapt's motion for reconsideration is **DENIED**.

Jonathan D. Zischkau

JONATHAN D. ZISCHKAU

Board Judge

We concur:

Harold D. Lester, Jr.
HAROLD D. LESTER, JR.
Board Judge

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge