



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DENIED: February 23, 2010

CBCA 1564

PARKVIEW ENGRAVING LLC,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Lawrence J. Sklute of Sklute & Associates, Potomac, MD, counsel for Appellant.

Tracy Downing, Office of the General Counsel, Department of Veterans Affairs, Augusta, GA, counsel for Respondent.

Before Board Judges **SOMERS**, **BORWICK**, and **McCANN**.

BORWICK, Board Judge.

This appeal involves a claim for alleged increased inscriptions under a requirements contract for inscribed headstones between appellant, Parkview Engraving LLC, and respondent, the Department of Veterans Affairs. Appellant claims that the contract price of fifty-nine dollars covers inscriptions to only one face of a headstone, and that it is entitled to additional compensation when a contract order called for inscriptions on two faces of a headstone. Respondent maintains that under the unambiguous terms of the contract, the fifty-nine dollar price is the all-inclusive price, regardless of whether an order provided for inscriptions on one or two headstone faces.

Appellant and respondent have submitted cross-motions for summary relief. We grant respondent's motion and deny the appeal. Based upon the unambiguous terms and conditions of the contract, we conclude that respondent's interpretation of the contract's terms and

conditions is correct and that respondent fully paid appellant for the work appellant performed.

Background

The solicitation and resulting contract established a contract base period from October 1, 2007, through September 30, 2008, for contract line item (CLIN) 001, with three option years through September 30, 2011 (CLINs 101, 201, and 301, respectively). Appeal File, Exhibit 2, § B.2. The contract, awarded on October 1, 2007, is a commercial item description requirements contract with an estimated value of \$798,899.

CLIN 001 described the supplies and services as “U1 Inscription of Upright Marble Headstones (13"x42"x4")” with an estimated quantity of 3111. Appeal File, Exhibit 2, § B.2. Offerors were to provide a unit price and a total price. *Id.* CLINs 101 through 301 contained the same description of the supplies and services as CLIN 001, but with varying estimated quantities. However, as with CLIN 001, offerors were to provide a unit price and a total price. *Id.*

The description and statement of work provide in pertinent part as follows:

1.0 BACKGROUND

The Department of Veterans Affairs (VA) National Cemetery Administration (NCA), furnishes headstones and markers for graves of veterans worldwide.

.....

This specification provides for inscriptions of headstones made from marble. The inscription layout and design are both historical and contemporary.

Each type is assigned a product code. These codes are used by NCA to identify the products in two different operating databases, as well as in all drawings referenced in this solicitation. Following is a list of types:

Product Code	Inscription Type	Stone Dimensions/Type
U1	Inscription for Upright Marble Headstones	13"x42"x4" (U1)

2.0 GENERAL

2.1 DESCRIPTION

This work includes all labor and materials necessary to provide inscriptions to Government-provided upright marble headstones and delivery of these to Fort Logan National Cemetery.^[1]

....

The government will ship to the contractor furnished blank upright marble headstones for the purpose of this contract. The contractor is required to . . . deliver inscribed headstones, F.O.B. destination to Fort Logan National Cemetery. . . .

2.2 Related Work

2.2.1. Incising of Headstones

Incising of upright marble headstones is required as a part of this contract.

2.3 Applicable Publications and Drawings

Drawing No.	Type	Drawing Date
A-UI-1	Upright Marble Headstone, 13"x42"x4"	6/05/03
A-U1-2	Upright Marble Headstone, 13"x42"x4"	6/05/03, Rear Face Inscription Layout
A-LNC&E-1	Letters, Numbers, Characters & Emblems	6/05/03
A-LNC&E-2	Letters, Numbers, Characters & Emblems	6/05/03
A-LNC&E-3	Letters, Numbers, Characters & Emblems	6/05/03

¹ The cemetery is located in Denver, Colorado.

....

3.0 STATEMENT OF WORK

3.1 Scope

Contractor shall deliver . . . inscribed upright marble headstones, of the type and style shown on the delivery order, in accordance with these specifications, drawings, terms and conditions. This contract covers the period from October 1, 2007 through September 30, 2008 with three 1 year options, if exercised through September 30, 2011.

....

4.0 PRODUCTS (U1 INSCRIPTIONS)

The contractor shall inscribe all information contained on headstone orders. The Contractor's pricing in the Schedule is an all-inclusive price. This all inclusive price includes any and all items as shown on drawings A-LNC&E (3 pages), to be inscribed on the headstone ranging from the minimum number of lines to the maximum number of lines, as shown on the drawings listed in Section 2.3 above.

Appeal File, Exhibit 2.

Contract drawing A-U1-1 referenced in section 2.3 shows a "TYPICAL FRONT FACE OF STONE" depicting an emblem and an eleven-line inscription, which reads from the top to bottom of the inscription: (1) and (2) the name of the deceased; (3) the deceased's service rank; (4) the deceased's service branch; (5) the war in which the deceased participated; (6) date of birth; (7) date of death; (8) a medal earned by the deceased; (9) the division in which the deceased served; and (10) and (11) a commemorative inscription (e.g., "beloved husband and father"). Appeal File, Exhibit 4.

Contract drawing A-U1-2 shows a "TYPICAL FRONT FACE OF STONE" like A-U1-1, plus the "REAR FACE OF STONE SHOWING CORRECT LOCATION OF SECTION AND GRAVE NUMBER AND REVERSE INSCRIPTION MAXIMUM SCENARIO." Appeal File, Exhibit 4. The rear face of the stone depicts an emblem plus an eleven-line inscription for the deceased service member's family, e.g., wife, daughter, and son, with the dates of birth and death for each family member and a commemorative

inscription (e.g. beloved wife, daughter and son”). *Id.* Contract drawing A-U1-2 depicts a total of twenty-two lines inscribed, plus two emblems. *Id.*

Both contract drawings A-U1-1 and A-U1-2 show engraving and scale marks for placement of the inscriptions on the front and rear faces of the headstones. Appeal File, Exhibit 4.

Drawing A-LNC&E-1 depicts common religious symbols and four available lettering sizes and fonts labeled items L-1 through L-4. Appeal File, Exhibit 4. Drawing A-LNC&E-2 show available emblems of belief. Drawing A-LNC&E-3 depicts two non-published emblems of belief and three medal of honor emblems. *Id.*

In filling out the schedule of prices for CLIN 001, appellant offered a \$59 unit price for an estimated quantity of 3111 headstones for a total estimated price of \$183,549. Appeal File, Exhibit 2. For CLIN 201, the second option year, appellant offered a \$61 unit price for an estimated 3173 headstones for a total estimated price of \$193,553. *Id.*

The following statement of facts submitted by appellant and respondent are not contested. In the base year, when a headstone was inscribed on both the front and the back, the Government compensated appellant \$59 for the headstone, rather than \$59 x 2, i.e., \$59 for the inscription on the front of the headstone and \$59 for the inscription on the back of the headstone. Appellant’s Statement of Undisputed Facts ¶ 2. On December 28, 2007, during the base year, appellant wrote respondent and complained, among other items, that of the 918 units ordered, 261 of them had a requirement for a reverse inscription along with initial inscriptions, increasing appellant’s engraving by another 28% “over the RFP [request for proposals].” Appellant stated that its bid was developed with engraving on only one side of the monument. Appellant noted that it previously had the R2 contract at Fort Logan and was receiving \$99 for each on-site engraving. Appeal File, Exhibit 3; Respondent’s Statement of Undisputed Facts ¶ 4.

On September 28, 2008, respondent exercised its option to continue the contract through option year one of the contract. Appeal File, Exhibit 4; Respondent’s Statement of Undisputed Facts ¶ 6. On November 18, 2008, appellant submitted a claim for \$39,235 for additional inscriptions allegedly not included in the \$59 unit price covered by the contract. Respondent’s Statement of Undisputed Facts ¶ 7; Appeal File, Exhibit 3. The contracting officer denied the claim, stating that the price was all-inclusive, requiring front and back inscriptions on headstones. The contracting officer stated that respondent “expects that the price submitted by a contractor must cover any and all items regardless of the number of lines in the inscription order.” Appeal File, Exhibit 1.

Discussion

The parties have cross-moved for summary relief. Summary relief is appropriate when the moving party is entitled to judgment as a matter of law, based on undisputed material facts. The moving party bears the burden of demonstrating the absence of genuine issues of material fact. All justiciable inferences must be drawn in favor of the non-movant. *Government Marketing Group v. Department of Justice*, CBCA 964, 08-2 BCA ¶ 33,955, at 167,990-91 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)).

When, as here, both parties have moved for summary relief, each party's motion must be evaluated on its own merits and all reasonable inferences must be resolved against the party whose motion is under consideration. *First Commerce Corp. v. United States*, 335 F.3d 1373, 1379 (Fed. Cir. 2003); *DeMarini Sports, Inc. v. Worth, Inc.*, 239 F.3d 1314, 1322 (Fed. Cir. 2001); *Metlakatla Indian Community v. Department of Health and Human Services*, CBCA 181-ISDA, et al., 09-2 BCA ¶ 34,307, at 169,466; *Government Marketing Group*, 08-2 BCA at 167,991 (citing *California v. United States*, 271 F.3d at 1380 (Fed. Cir. 2001)). The mere fact that both parties have moved for summary relief does not impel a grant of one of the motions. *California*, 271 F.3d at 1380; see also *Electronic Data Systems, LLC v. General Services Administration*, CBCA 1552, 10-1 BCA ¶ 34,315, at 169,505 (2009).

Pure contract interpretation, however, is a question of law that may be resolved on summary relief. *Electronic Data Systems*, 10-1 BCA at 169,505 (citing *P. J. Maffei Building Wrecking Corp. v. United States*, 732 F.2d 913, 916 (Fed. Cir. 1984)). Based upon a review of the parties' statement of undisputed facts, and the terms and conditions of the contract, the Board concludes that there are no material disputed facts and that this case is appropriate for summary resolution, since the case involves a matter of pure contract interpretation.

Principles of contract interpretation

In interpreting the language of a contract, 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); *Electronic Data Systems*, 10-1 BCA at 169,505. An interpretation that 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. *Gould, Inc. v. United States*, 935 F.2d 1271, 1274 (Fed. Cir. 1991); *Johnson Controls*, 713 F.2d at 1555, *Arizona v. United States*, 575 F.2d 855, 863 (Ct. Cl. 1978); *Electronic Data Systems*, 10-1 BCA at

169,505. Additionally, contract language should 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); *Electronic Data Systems*, 10-1 BCA at 169,505. The contract must be construed to effectuate its spirit and purpose, giving reasonable meaning to all of its parts. *Gould, Inc.*, 935 F.2d at 1274.

Appellant's contentions

Appellant maintains that the contract is for acquisition of inscriptions to government-supplied headstones. Therefore, the only reasonable interpretation of the contract--specifically section B.2--requires the Government to compensate appellant the unit price for each inscription provided to each face of a headstone. Appellant's Memorandum in Support of Motion for Summary Relief at 12-13. From that premise, appellant argues that where an inscription is provided to each face of a headstone, the respondent must pay appellant \$59 for each face of the headstone inscribed. *Id.* at 13.

Analysis

Appellant's arguments are not persuasive. The contract did not call for inscriptions ethereally separated from the headstones. Indeed, section 3.0 of the contract provides that "Contractor shall deliver . . . inscribed upright marble headstones" to the Fort Logan National Cemetery. Appellant's argument ignores the "all-inclusive" pricing provision of section 4.0 and the part of that section which states that the offered price includes "any and all items . . . as shown on the drawings listed in Section 2.3 above." The drawings referenced in section 2.3 show inscriptions on both sides of a headstone with a maximum of twenty-two inscribed lines, eleven inscribed lines per side (not including the depicted emblems).

The contract is as clear as words can make it. Considering all specifications and drawings together, the contract unambiguously provides that appellant shall be compensated at a rate of \$59 for a headstone inscription, whether a particular order calls for inscriptions on one or both faces of a headstone. Respondent compensated appellant as required under the contract. Appellant has not established that it is entitled to greater compensation than what it has received for the contract work it provided.

Decision

Respondent's motion for summary relief is granted and the appeal is **DENIED**.

ANTHONY S. BORWICK
Board Judge

We concur:

JERI K. SOMERS
Board Judge

R. ANTHONY McCANN
Board Judge