



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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RECONSIDERATION DENIED: April 20, 2021

CBCA 6682-R, 6765-R, 6767-R

PRIME TECH CONSTRUCTION LLC,

Appellant,

v.

DEPARTMENT OF ENERGY,

Respondent.

Chizoma B. Onyems, President of Prime Tech Construction LLC, Auburn, CA, appearing for Appellant.

Thomas M. Cordova, Office of the General Counsel, Department of Energy, Lakewood, CO, counsel for Respondent.

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

**CHADWICK**, Board Judge.

Prime Tech Construction LLC (Prime Tech) timely seeks reconsideration of our decision denying these three appeals. We may “reconsider a decision . . . for a reason recognized in Rule 59 of the Federal Rules of Civil Procedure. Arguments and evidence previously presented are not grounds for reconsideration.” Board Rule 26(a) (48 CFR 6101.26(a) (2019)); *see also Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008) (a motion for reconsideration “may not be used to . . . present evidence that could have been raised prior to the entry of judgment”). We deny reconsideration.

We dismissed CBCA 6682 and denied CBCA 6765 and CBCA 6767. We found that Prime Tech cited (1) no evidence to support recovery of the costs claimed in CBCA 6765 and

(2) no evidence that its failure to complete the construction project was excused, in support of its appeal of the default termination in CBCA 6767.

Prime Tech makes no arguments regarding the dismissal of CBCA 6682. Its motion for reconsideration sets forth an “unlawful evidence suppression ground” and a “Board’s lack of consistency ground.” In the first argument, Prime Tech states it “has attached **EXHIBIT C** equipment, employees and membrane rolls not covered in snow located at the **WAPA facility in Hayden CO** proved Prime Tech mobilized. Defendant cannot suppress any evidence without motion to the Board or the Court.” It appears that Prime Tech wishes us to consider four new photographs attached to its motion. This submission is “simply too late,” *Parsons Evergreene, LLC v. Secretary of the Air Force*, 968 F.3d 1359, 1368 (Fed. Cir. 2020), and the images would not have affected our decision in any event.

In its second argument, Prime Tech says it “is prejudiced due to” what it terms “lack of Consistency” between our decision and prior decisions. Prime Tech does not identify any clear error of law. Mere, continuing disagreement with our resolution of the appeals is “not grounds for reconsideration.” Rule 26(a).

Prime Tech concludes by asserting that it “submitted all necessary records [for] the written decision before [the] case closed.” We explained in our original decision why we did not rule for Prime Tech on the evidence before us.

#### Decision

We **DENY** the request for reconsideration.

*Kyle Chadwick*

KYLE CHADWICK  
Board Judge

We concur:

*Jonathan D. Zischkau*

JONATHAN D. ZISCHKAU  
Board Judge

*Marian E. Sullivan*

MARIAN E. SULLIVAN  
Board Judge