



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DENIED: March 31, 2026

CBCA 8362

BRITTANI WATTIKER,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Brittani Wattiker, pro se, Dallas, TX.

Anne C. McDermott, Office of General Counsel, General Services Administration, Philadelphia, PA, counsel for Respondent.

Before Board Judges **LESTER**, **KULLBERG**, and **O'ROURKE**.

KULLBERG, Board Judge.

Appellant, Ms. Brittani Wattiker, claims damages related to the purchase of three outboard boat motors at an online auction conducted by the General Services Administration (GSA). Appellant contends that the auction website described the outboard motors as “factory rebuilt” but that, instead, they were “cores” that had not been restored and were unusable. Respondent, GSA, argues that appellant did not give notice of a misdescription within fifteen days from the date of award or removal of the property, as required under the terms and conditions of the auction, or inspect those outboard motors before purchasing them. Appellant and GSA have filed cross-motions for summary judgment. For the reasons stated below, the Board denies appellant’s motion, grants GSA’s motion, and denies the appeal.

Background

GSA conducted an online auction in which appellant placed separate bids for each of three outboard motors, which were in the custody of the Department of Homeland Security at a facility in the Commonwealth of Puerto Rico. Exhibit 2 at 2-4, 14-16, 26-28.¹ For each of the three outboard motors, the auction preview provided a description and photograph that advised potential bidders that each outboard motor was “rebuilt by the manufacturer and is in like new condition.”² *Id.* GSA’s online terms and conditions for the auction stated, in pertinent part, the following:

Acknowledgment of Sales Terms and Conditions

To participate in the GSAAuctionsSM bid process, an individual must acknowledge that they have read and accepted ALL terms and conditions detailed on this website and indicate that they agree by marking the required box during the registration process or when prompted to when a change to the terms [has] been implemented. Doing so confirms that a bidder agrees to make a good faith offer. If the offer is accepted by the Government[,] a contract between the bidder and the Government is formed. As per the contract, the bidder agrees to pay for and remove the property by the dates and times specified in the notice of award email.

Photographs

Photographs may not depict an exact representation of the bid item(s) and should not be relied upon in place of written item descriptions or as a substitute for physical inspection. Please contact the custodian for inspection dates and times.

....

¹ All exhibits cited are found in the respondent’s appeal file unless otherwise noted. Exhibits 1, 4, 5, and 7 had three or fewer unnumbered pages, and those pages were manually numbered.

² A total of eight outboard motors were purchased at that GSA online auction, but this appeal involves a claim for only three of those outboard motors. Exhibit 4 at 1.

Contract Disputes

Contracts resulting from the sale of any offer in the GSAAuctions.gov . . . website are subject to the Contract Disputes Act [(CDA)] of 1978 (41 [U.S.C. §§ 7101-7109 (2018)]) . . . as amended.

Successful Bidders are reminded that an award constitutes a binding contract with the United States Government. The online Terms and Conditions[,] as well as the 114C General Sales Terms and Conditions, . . . define the process and conditions under which a bidder may make a claim or dispute a contract. To dispute a contract, bidders must contact the Sales Contracting Officer for the sale.

Description Warranty & Refunds

The Government warrants to the original purchaser that the property listed on GSAAuctions.gov . . . will conform to its written description. Features, characteristics, deficiencies, etc. not addressed in the description are excluded from this warranty. GSA further cautions bidders that GSA's written description represents GSA's best effort to describe the item based on the information provided to it by the owning agency. Therefore, gross omissions regarding the functionality of items, failures to cite major missing parts and/or restrictions with regards to usage may occur.

The Government does not warrant the merchantability of the property or its purpose. The purchaser is not entitled to any payment for loss of profit or any other money damages - special, direct, indirect, or consequential.

Refunds Claim Procedures

Please be advised that refunds are not a frequent practice of GSA AuctionsSM. A request for refund must be substantiated in writing to the Contracting Officer for issues regarding mis-described property, missing property and voluntary defaults within 15 calendar days from the date of award.

Refund Amount

The refund is limited to an amount not to exceed the purchase price of the mis-described property.

Claims of Mis-description

If items have been awarded but not paid for and the successful bidder feels that the property is mis-described, he/she must follow these procedures: A written claim needs to be submitted to the **Sales Contracting Officer within 15 calendar days from the date of award** requesting release of contractual obligation for reasons satisfying that of a mis-description. No verbal contact with the custodian or the Sales Contracting Officer or any other federal official will constitute notice of mis-description.

When items are awarded and payment has been received, regardless of the removal status (removal may or may not have occurred), the successful bidder must submit a written notice to the Sales Contracting Officer with 15 calendar days from the date of payment e-mail (the Purchaser's Receipt). If property has been removed and the claim is accepted by the Sales Contracting Officer, the purchaser must maintain the property in its purchased condition and return it at their expense to the location designated by the Sales Contracting Officer or their designated official.

Exhibit 5 at 1-3.

GSA's Sale of Government Property General Sale Terms and Conditions, Standard Form 114C (Form 114C), which was referenced in the disputes paragraph of the online terms and conditions for the auction, stated, in pertinent part, the following:

1. **INSPECTION.**

The bidder is invited, urged, and cautioned to inspect the property prior to submitting a bid. Property will be available for inspection at the places and times specified in the Invitation.

2. **CONDITION AND LOCATION OF PROPERTY.**

Unless otherwise provided in the Invitation, all property listed therein is offered for sale "as is" and "where is." Unless otherwise provided in the Invitation, the Government makes no warranty, express or implied, as to quantity, kind, character, quality, weight, size, or description of any of the property, or its fitness for any use or purpose.

.....

15. LIMITATION ON GOVERNMENT[']S LIABILITY.

Except for reasonable packing, loading, and transportation costs (such packing, loading, and transportation costs being recoverable only when a return of property at Government cost is specifically authorized in writing by the Contracting Officer), the measure of the Government's liability, in any case where liability of the Government to the Purchaser has been established, shall not exceed refund of such portion of the purchase price as the Government may have received.

Exhibit 6 at 1-2.

A computer screenshot for the individual bidder registration of Brittani Wattiker (user name "BWATTIKER"), dated April 8, 2024, showed that user BWATTIKER "Accepted [Terms & Conditions] during registration." Exhibit 7 at 1. In three separate emails, which were all dated April 15, 2024, GSA advised appellant that her bids for each of the three outboard motors did not meet the reserve price, but GSA stated that it was willing to accept her bids for sale and lot numbers 11QSCI24192/007 (bid \$4516), 11QSCI24192/008 (bid \$4506), and 11QSCI24192/009 (bid \$4006). Exhibit 2 at 5, 17, 29. The three emails, which used the same wording except for the precise hour, minute, and second deadline, instructed appellant as follows:

This offer expires on 04/16/2024 09:34:35 CDT. Please respond back to me by email (accepting or rejecting the offer must be in writing) with either:

- Yes, I accept.
- No, I do not accept.

If you decide to accept this offer at your high bid, this will constitute a Legal, Binding Contract. You will be given 2 business days to pay and 10 business days to remove in accordance with the Online Terms and Conditions.

Id. On that same date, appellant responded to each of GSA's three emails with "Yes, I accept." *Id.* at 6, 18, 30.

On April 16, 2024, GSA awarded to appellant contracts GS01F24FBEA257, GS01F24FBEA258, and GS01F24FBEA259, and she made online payments for each of the contracts that same day. Exhibit 2, at 7-12, 19-24, 31-36. The sales receipt for each contract stated that the customer agreed to pay, subject to the following: "**NO REFUNDS EXCEPT**

AS PERMITTED IN ACCORDANCE WITH THE STANDARD FORM 114C AND THE GSA SALE TERMS AND CONDITIONS APPLICABLE TO [EACH] SALE NUMBER.” *Id.* at 10, 22, 34. The words “customer signature” appeared below those terms. *Id.* On April 29, 2024, appellant’s representative removed the three outboard motors purchased under contracts GS01F24FBEA257, GS01F24FBEA258, and GS01F24FBEA259. *Id.* at 12, 24, 36.

In an email dated May 15, 2024, Mr. Geoffrey Wattiker (Mr. Wattiker), appellant’s husband, informed the sales contracting officer (SCO) at GSA that one of the outboard motors received was not factory rebuilt but was, instead, “a core unit.” Exhibit 3 at 3. Subsequently, Mr. Wattiker informed GSA in a May 25, 2024, email that three of the eight outboard motors purchased by appellant were “core units.” *Id.* at 12. He also claimed that “one actually still has barnacles attached to the unit.” *Id.*

By letter dated December 11, 2024, appellant and Mr. Wattiker, who identified themselves as “claimants,” submitted a claim in the amount of \$72,700 “for the marine engines that were not delivered as contracted for, arising out of our auction contract with the federal government dated on or about April 16, 2024.” Exhibit 4 at 1. In the alternative, they requested that “three new units matching the descriptions in the original contract, plus damages for shipping and travel in the amount of \$7400.” *Id.* at 2. Their letter alleged the following:

[T]he claimants [c]oordinated pick up of the engines from . . . the government’s property custodian . . . on or about April 29[, 2024].

At the time of pickup, all of the units were completely enclosed in factory packaging indicating that they were factory remanufactured units, and [the government’s property custodian] verified on site that all units were in fact, factory rebuilds.

The units were then shipped from Puerto Rico to Dallas where the claimants retrieved them. However, upon opening the crates, three of the units were found to be cores, and not rebuilt engines. On May 15[, 2024,] claimants notified government agents . . . that the three units were not as advertised, but were cores, not rebuilt engines.

Id. at 1-2.

On March 6, 2025, the SCO's final decision (COFD), which was addressed only to appellant, denied appellant's claim. Exhibit 1 at 3. The COFD stated, in pertinent part, the following:

The GSA Auctions Terms & Conditions explicitly state that "bidders have the opportunity to physically inspect the property prior to placing a bid and prior to the auction's closing date and time or thereby waive the opportunity to conduct a physical inspection. In waiving their inspection rights, bidders bear the risk for any gross omissions regarding the functionality of items, failure to cite major missing parts, and/or restrictions with regards to usage that would have been revealed by physical inspection."

Additionally, claims of mis-description must be submitted in writing to the Sales Contracting Officer within 15 calendar days from the date of award if the item has not been paid for, or within 15 calendar days from the date of payment if the property has been paid for. Your initial claim was submitted 29 days after payment, beyond the required 15-day window established in the GSA Auctions Terms & Conditions.

Id. at 2.

Appellant and Mr. Wattiker subsequently appealed the COFD in which they identified themselves as claimants in their notice of appeal to the Board. This appeal was originally docketed with both Ms. Brittani Wattiker and Mr. Geoffrey Wattiker as appellants, but a subsequent order by the Board removed Mr. Wattiker as an appellant because he was not a party to the contract at issue in this appeal, and, consequently, he lacked standing to be an appellant. *See Geoffrey Wattiker and Brittani Wattiker v. General Services Administration*, CBCA 8362, 26-1 BCA ¶ 39,985, at 189,810, *motion for reconsideration denied*, slip op. at 4 (Mar. 19, 2026).³ Both parties have submitted motions for summary judgment and their responses to the opposing party's motion. GSA contends that the terms and conditions of the online auction preclude appellant's recovery because appellant did not give timely notice of a misdescription and failed to inspect the outboard motors before the auction. Appellant's motion argues that there was no agreement to those terms and conditions, that any requirement in the terms and conditions for giving notice of a misdescription conflicts with

³ Appellant's motion for summary judgment and response to GSA's opposition were submitted jointly by both appellant and Mr. Geoffrey Wattiker. For the purpose of consistency with the Board's order, the Board references those submissions as having been submitted only by appellant.

statute, and that the photos and description of the three outboard motors constituted a criminal violation.

Discussion

At issue is whether either party in its motion has established the existence of undisputed material facts that support granting summary judgment. The Board has recognized the following:

Summary judgment is only appropriate where there is no genuine issue of material fact. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.” *Id.* It is not the judge’s function “to weigh the evidence and determine the truth of the matter.” *Id.* at 249. All justifiable inferences and presumptions are to be resolved in favor of the nonmoving party. *Id.* at 255.

The moving party has the initial responsibility of stating the basis for its motion and “identifying those portions of ‘the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any,’ which it believes demonstrate the absence of a genuine issue of material fact.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). “[A]llegations without support are not evidence.” *McAllen Hospitals LP v. Department of Veterans Affairs*, CBCA 2774, et al., 14-1 BCA ¶ 35,758, at 174,970 (quoting *Max Castle*, AGBCA 97-128-1, 97-1 BCA ¶ 28,833, at 143,845). Where both parties move for summary relief, each party’s motion must be reviewed on its own merits, and all reasonable inferences must be resolved in favor of the non-moving party. *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). The fact that cross-motions have been filed does not require the granting of one of the motions. *California v. United States*, 271 F.3d 1377, 1380 (Fed. Cir. 2001).

Optimum Services, Inc. v. Department of the Interior, CBCA 4968, 19-1 BCA ¶ 37,383, at 181,734, *aff’d*, 829 F. App’x 527 (Fed. Cir. 2020). “A fact is material if it will affect our decision, and an issue is genuine if enough evidence exists such that the fact could reasonably be decided in favor of the non-movant at a hearing.” *Danny R. Mitchell v. General Services Administration*, GSBCA 16209, 04-1 BCA ¶ 32,551, at 160,995 (citing *John Al Glasure v. General Services Administration*, GSBCA 16046, 03-2 BCA ¶ 32,284, at 159,746).

GSA contends that the Board should grant summary judgment because “1) [a]ppellant[] failed to submit [her] claim of misdescription within 15 calendar days from the date of Purchaser’s Receipt, as required by the contracts’ terms and conditions, and 2) Appellant[] failed to physically inspect the property prior to purchase, thereby forfeiting [her] misdescription claim.” Respondent’s Motion for Summary Judgment (Respondent’s Motion) at 1. The Board has recognized that either a failure to inspect before the auction or to give notice of a misdescription within fifteen days from the date of contract award will preclude any recovery allowed under the terms and conditions of the auction. *See e.g., Badland Truck Sales, Inc. v. General Services Administration*, CBCA 7281, 22-1 BCA ¶ 38,143, at 185,264-65; *Yasmin Saighi v. General Services Administration*, CBCA 3963, 15-1 BCA ¶ 35,920, at 175,586-87, *aff’d*, 645 F. App’x 993, 999 (Fed. Cir. 2016). Appellant neither inspected the outboard motors before the auction nor gave any notice of a misdescription. Accordingly, GSA has established that there is no material issue of fact as to preclude the Board from denying this appeal.

Although Mr. Wattiker sent emails dated May 16 and 25, 2024, to the SCO concerning the three outboard motors, those emails were sent more than fifteen days after the date of award and receipt of payment, which was April 29, 2024. Mr. Wattiker, however, was not the bidder in the auction, and nothing in the terms and conditions of the auction allow a person who was not the bidder to assume the rights of the contractor to give notice of a misdescription. Even assuming, *arguendo*, that Mr. Wattiker had the authority to act on behalf of appellant in giving notice of a misdescription, his notice was too late to allow for a refund under the online terms and conditions of the auction.

Additionally, appellant never inspected the outboard motors before the auction, and that failure to do so precludes a claim for a misdescription. “It is also well established that ‘to the extent deficiencies could reasonably have been discerned during an in-person inspection, the purchaser cannot establish a misdescription.’” *Randy Preston v. General Services Administration*, CBCA 1465, 10-1 BCA ¶ 34,317, at 169,510 (2009) (quoting *Fred M. Lyda v. General Services Administration*, CBCA 493, 07-2 BCA ¶ 33,631, at 166,572) (At a GSA auction, appellant purchased three paddle boats with damaged propellers, which were not shown in photographs or mentioned in the description, but appellant failed to inspect them before the auction which precludes any relief.). Appellant asserts in her claim that the outboard motors were in crates and that it was only upon the opening of the crates that their actual condition was known. The online terms and conditions of the auction and Form 114C cautioned potential bidders not to rely on written descriptions and encouraged them to inspect items to be sold in the auction before bidding. Appellant has shown no reason why an inspection of the outboard motors could not have been conducted before the auction. Such a failure to conduct an inspection precludes recovery.

Appellant argues that the “Online Terms and Conditions . . . are unenforceable.” Appellant’s Brief in Opposition to Respondent’s Motion for Summary Judgment and in Support of Appellants’ Cross-Motion for Summary Judgment (Appellant’s Motion) at 6. This Board has recognized that “[t]he requirements for a binding contract with the Government, whether express or implied-in-fact, are ‘mutual intent to contract including an offer, an acceptance, and consideration.’” *Navigant SatoTravel v. General Services Administration*, CBCA 449, 09-1 BCA ¶ 34,098, at 168,603 (quoting *Trauma Service Group v. United States*, 104 F.3d 1321, 1325 (Fed. Cir. 1997)). The Board has further recognized the following:

According to the objective theory of contract formation, what is essential is not assent, but rather what the person to whom a manifestation is made is justified as regarding as assent. Thus, if an offeree, in ignorance of the terms of an offer, so acts or expresses himself as to justify the offeror in inferring assent, and this action or expression was of such a character that a reasonable person in the position of the offeree should have know it was calculated to lead the offeror to believe that his offer had been accepted, a contract will be formed in spite of the offeree’s ignorance of the terms of the offer.

Id. at 168,603-04 (quoting 1 Richard A. Lord, *Williston on Contracts* § 4:16 (4th ed. 1990). “[A]s the Supreme Court has said long ago, ‘[i]t will not do for a man to enter into a contract and when called upon to respond to its obligations, to say that he did not read it when he signed it, or did not know what it contained.’” *Id.* (quoting *Fiesta Leasing and Sales, Inc.*, ASBCA 29311, 86-3 BCA ¶ 19,045, at 96,188 (quoting *Upton v. Tribilcock*, 91 U.S. 45, 50 (1875))). “Any other rule would throw chaos into all contract arrangements because a party could avoid responsibility thereunder at his convenience simply by saying that he had signed the contract without reading it.” *Id.* (quoting *Schoeffel v. United States*, 193 Ct. Cl. 923, 935 (1971)).

There is no issue of material fact that appellant entered into a contract as shown in the facts cited above. Appellant submitted bids for the three outboard motors at issue in this appeal, and when asked to confirm her bid, she manifested her agreement to do so for all three. The record of the sale for each of the contracts shows appellant’s signature, and the receipt for each sale references the online terms and conditions of the auction and Form 114C. The online terms and conditions of the auction and Form 114C are part of the record, and appellant has offered no grounds in fact or law to show that she was not subject to those terms of the contract. Appellant acknowledges that “[t]he Federal Standard Form 114C, entitled ‘Sale of Government Property’ controls in general sales, including the case at bar.” Appellant’s Motion at 3. As shown above, the online terms and conditions for the auction referenced Form 114C, and appellant offers no explanation as to how it would be possible

for her to be aware of Form 114C and not the online terms and conditions that referenced Form 114C.

Appellant contends that part of the GSA auction website is a “browsewrap” that “includes the fifteen day limit on notifying the Contracting Officer of a claim, and the waiver of misdescription and photograph clauses, none of which is ‘accepted’ during registration by any user of the site.” Appellant’s Motion at 9. The Court of Appeals for the Ninth Circuit stated that “a browsewrap agreement does not require the user to manifest assent to the terms and conditions expressly . . . [a] party instead gives assent simply by using the website.” *Nguyen v. Barnes & Noble, Inc.*, 763 F.3d 1171, 1176 (9th Cir. 2014) (quoting *Hines v. Overstock.com, Inc.*, 668 F. Supp. 2d 362, 366-67 (E.D.N.Y. 2009)). Appellant misapplies the term browsewrap to the GSA auction website by suggesting that she never accepted those terms that she disputes. To the contrary, a bidder in a GSA auction had to acknowledge all of the terms and conditions of the auction in order to submit a bid, and those terms and conditions include those that she disputes. The Board finds no material issue of fact as to the terms and conditions of the GSA auction. Appellant has only made allegations about the GSA auction website, and, as discussed above, allegations without support are not evidence. *Optimum Services*, 19-1 BCA at 181,734.

Appellant contends that the CDA provides for a six-year period in which to file a claim, and “since the GSA has asserted no basis for overriding the statutory six year limitation period, the GSA’s argument that the Appellant[’s] claim to the contracting officer was out of time should be denied.” Appellant’s Motion at 17. The CDA provides that “[e]ach claim by a contractor against the Federal Government relating to a contract . . . shall be submitted within 6 years after the accrual of the claim. 41 U.S.C. § 7103(a)(4)(A). The Court of Appeals for the Federal Circuit has recognized, however, that, despite the six-year period identified in the CDA, the statute does not preclude a contractor from agreeing, through contract language, to a *shorter* limitations or notification period, as discussed in a prior Board decision:

[A]s the Court of Appeals for the Federal Circuit recognized in *Do-Well Machine Shop, Inc. v. United States*, 870 F.2d 637 (Fed. Cir. 1989), Congress, in enacting the CDA, did not intend “to prevent parties from agreeing to terms [in their contracts] that would further expedite the claim resolution process.” *Id.* at 641. If a contract with the Government contains a term limiting a contractor’s right to bring claims to a period less than the six-year period for which the CDA provides, or (as in this case) to notify the Government of anticipated claims, “[t]he United States can enforce the waiver of, or agreement to, a given limitations period with the same force as a private party.” *Id.* Accordingly, the Federal Circuit in *Do-Well* enforced a contract

provision that limited to one year after contract termination the time that a contractor could submit a termination settlement proposal. *Id.* at 640-41; see *Jonathan Noeldner v. Department of Agriculture*, CBCA 5379, 16-1 BCA ¶ 36,499, at 177,844-45 (clause requiring contractor to submit all claims within sixty days after timber sale is closed “is enforced because ‘[t]he consequences of failing to comply with [the] time limitation provision[] are explicit in the contract language.’” (quoting *Duffy, Inc. v. Department of Agriculture*, CBCA 1369, 09-2 BCA ¶ 34,250, at 169,253)).

[A provision in the contract at issue there] purports to create the same type of limitation: it requires the contractor to notify the [agency] of any claims that it intends to pursue within ninety days after receipt of the [agency’s] draft final voucher and draft release of claims. Although the [agency] describes the provision as creating a “deemed executed and delivered” release of claims,¹ the provision, in essence, acts as a waiver of the contractor’s ability to maintain claims under the contract. If the contractor does not submit a release of claims (with a reservation of specific claims) to the Government within the prescribed time, it waives all claims. Such a waiver provision is not unenforceable simply because the time limit imposed for reserving claims is shorter than the statute of limitations identified in the CDA.

AHTNA Environmental, Inc. v. Department of Transportation, CBCA 5456, 17-1 BCA ¶ 36,600, at 178,304 (2016). In the same manner, the fifteen-day time limit for notifying GSA of misdescriptions is an enforceable provision within the standard GSA online terms and conditions for auctions.

Additionally, appellant has alleged that “GSA’s acts in posting fraudulent photos and false descriptions of the engines . . . constitute a criminal violation of **18 U.S. Code § 1341**, entitled **Frauds and Swindles**.” Appellant’s Motion at 18. It is well established that “our jurisdiction does not extend to torts and criminal matters and is limited to a review of the contracting officer’s decision denying [appellant’s] claim.” *Danny R. Mitchell*, 04-1 BCA at 160,994 (Board’s jurisdiction did not extend to torts and criminal matters despite “dozens of civil and criminal statutes, regulations, treatises, and cases from many jurisdictions [cited by appellant] in support of his position.”). As discussed above, the Board has addressed the issues of this appeal within its jurisdiction. The Board cannot expand its jurisdiction simply because a party urges the Board to apply laws from other jurisdictions.

Decision

Appellant's motion for summary judgment is denied, and respondent's motion for summary judgment is granted. The appeal is **DENIED**.

H. Chuck Kullberg
H. CHUCK KULLBERG
Board Judge

We concur:

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

Kathleen J. O'Rourke
KATHLEEN J. O'ROURKE
Board Judge