



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 5, 2026

CBCA 8411-RELO

In the Matter of KEVIN K.

Kevin K., Claimant.

Lisa A. Iselo, Director, Travel Pay and Oversight, Total Force Pay, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

O'ROURKE, Board Judge.

Claimant seeks reconsideration of the Board's decision in *Kevin K.*, CBCA 8411-RELO, 26-1 BCA ¶ 38,968, pursuant to Board Rule 407 (48 CFR 6104.407 (published in eCFR)). In that decision, the Board granted reimbursement of temporary quarters subsistence expenses, a homeowners association (HOA) estoppel certificate fee, and title insurance for the residence. The Board denied reimbursement of a seller's credit because the record did not establish that such credits were customary in the relevant community and claimant did not respond to the Board's requests to provide the additional supporting information.

In seeking reconsideration, claimant submits additional evidence regarding the seller's credit and renews arguments previously presented to the Board. Reconsideration is not warranted to consider evidence available, but not submitted, prior to the Board's decision or when a claimant reargues matters previously considered. Accordingly, the request is denied.

Background

Prior to the entry of the Board's decision, we informed claimant of the legal standard regarding the establishment of custom and the necessary data needed to meet that standard. However, "[i]nstead of providing the requested data, claimant submitted a legal brief

challenging the Board's interpretation of 'customary' as a function of time." *Kevin K.*, 26-1 BCA at 189,700. Claimant's attempt, post-decision, to provide the requested data is untimely. For the Board to consider new information submitted for the first time in a request for reconsideration, the information must have been *unavailable* prior to resolution of the matter for which reconsideration is being sought. *See Alexandria N.*, CBCA 8196, 25-1 BCA ¶ 38,832, at 188,940 (citing *Tiffany B.*, CBCA 8007-RELO, 24-1 BCA ¶ 38,609, at 187,681 (citing *Delaware Valley Floral Group, Inc. v. Shaw Rose Nets, LLC*, 597 F.3d 1374, 1384 (Fed. Cir. 2010))).

Here, the Board requested the data well before it issued its decision. Although claimant had several opportunities to provide the requested data before issuance of the decision, he chose instead to make legal arguments regarding the applicable standard. Furthermore, there is no indication that the data was previously unavailable. Accordingly, the Board will not consider the claimant's submissions which were provided to the Board for the first time with the request for reconsideration.

Claimant also renews his contention that the Board should evaluate customary practice using the statistical methodology he previously advocated. These arguments were considered in the original decision and do not provide a basis for reconsideration.

Decision

Claimant's request for reconsideration is denied.

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