

DRB Recommendation

Dragados, FDOT District Two

I-295 Express Lanes from the Buckman Bridge to I-95

Project 213345-7-52-01/213345-7-56-01

Contract No. E2S01

County Duval

Payment for Traffic Control Officers

June 19, 2019

1:00 PM

Members of the Disputes Review Board:

James MacLaughlin, Chairman

John Duke

William E. Waddell

I. Issue in Dispute

The issue in dispute is Dragados USA entitlement to compensation for off-duty law enforcement officers for traffic control as provided in DCE Memo 06-18

II. Contractor's Position

Dragados USA (DUSA) position is that compensation for their use of law enforcement officers met all the criteria specified in Specification 102-7 and DCE MEMORANDUM NO.06-18 ("DCE Memo"). Specification 102-7 provides for compensation to the contractor's use of off duty law enforcement for five traffic control situations, and DCE Memo added a sixth situation. The additional traffic

situation added was for nighttime lane closures on roadways with posted speeds of 55 mph or greater.

III. FDOT Position

The DOT position was that DCE Memo was issued 7 weeks after the expiration of contract time, and as a result this modification was not incorporated into the contract, and as a result DUSA was not entitled to reimbursement.

IV. Points of Discussion

- Specification 102-11, Method of payments states that payment for traffic control devices, which would include law enforcement, will be paid on a daily basis.
- The CEI stated that had the contract been completed within allowable time this issue would have never have been an issue.
- The revision included in the DCE Memo was never incorporated into the contract.
- A DCE memo does not modify the contract. Any change must be added by a contract modification of some type.

V. Recommendation

The DRB believes that the DOT has the prerogative to offer a change and the prerogative to withdraw such offer. The fact is the DCE memo was not incorporated into the contract, and the revision it addresses does not apply. The contractor furnished Law Enforcement Officers as were needed and as he expected at the time of bid, and is not entitled to any additional compensation.

Submitted on behalf of the Board:

James W. MacLaughlin
Chairman Disputes Review Board