

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -- )  
 )  
Environmental Safety Consultants, Inc. ) ASBCA No. 58847  
 )  
Under Contract No. N62470-95-C-2399 )

APPEARANCE FOR THE APPELLANT: Mr. Peter C. Nwogu  
President

APPEARANCES FOR THE GOVERNMENT: Ronald J. Borro, Esq.  
Navy Chief Trial Attorney  
Ellen M. Evans, Esq.  
Senior Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE FREEMAN  
ON THE GOVERNMENT'S MOTION TO DISMISS

On 24 August 2013, Environmental Safety Consultants, Inc. (ESCI) filed a notice of appeal from the deemed denial of its claim submitted to the contracting officer on 20 June 2013 (ex. A to notice of appeal), for payment of its Invoice No. 7 in the amount of \$138,506.50 for work allegedly performed under the captioned contract. This same invoice was a claim before the Board in *Environmental Safety Consultants, Inc.*, ASBCA No. 56415, 07-1 BCA ¶ 33,483 at 165,984. In that appeal, we found the claim for payment of the invoice time barred under the Contract Disputes Act and dismissed the appeal for lack of jurisdiction. 07-1 BCA ¶ 33,483 at 165,984, 165,986. The government has moved first for a dismissal for lack of jurisdiction, asserting the claim is time barred under the Contract Disputes Act. Alternatively, the government moves to dismiss the appeal on principles of *res judicata*. The claim for payment of Invoice No. 7 was time barred then. It is time barred now. We do not reach the government's alternative argument.

The appeal is dismissed for lack of jurisdiction.

Dated: 23 January 2014

  
MONROE E. FREEMAN, JR.  
Administrative Judge  
Armed Services Board  
of Contract Appeals

(Signatures continued)

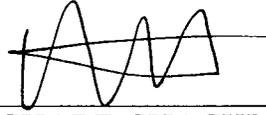
I concur



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MARK N. STEMLER  
Administrative Judge  
Acting Chairman  
Armed Services Board  
of Contract Appeals

I concur



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RICHARD SHACKLEFORD  
Administrative Judge  
Acting Vice Chairman  
Armed Services Board  
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 58847, Appeal of Environmental Safety Consultants, Inc., rendered in conformance with the Board's Charter.

Dated:

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JEFFREY D. GARDIN  
Recorder, Armed Services  
Board of Contract Appeals