

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of - )  
)  
Dari Concepts, LLC ) ASBCA No. 63889  
)  
Under Contract No. W912ER-22-C-0011 )

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OPINION BY ADMINISTRATIVE JUDGE WITWER DISMISSING THE APPEAL  
WITHOUT PREJUDICE FOR FAILURE TO STATE CLAIM

Respondent, the U.S. Army Corps of Engineers, moves to dismiss this appeal without prejudice, arguing that appellant, Dari Concepts, LLC, failed to state a sum certain for each distinct claim in its October 27, 2023, submission to the contracting officer (gov't mot. at 1). Dari joins the Corps in requesting dismissal, stating that it did not intend the October 2023 submission to be a claim but rather a Request for Equitable Adjustment (REA) (app. resp. at 1-2). Dari asserts the contracting officer mistakenly treated the submission as a claim and issued a final decision (*id.* at 2). After the contracting officer denied Dari's request to rescind the final decision, Dari filed a protective appeal with the Board (*id.* at 3). Dari acknowledges that its October 2023 submission lacks a sum certain for each distinct claim (*id.* at 2).


Upon review of the submission (R4, tab 4), we agree that it fails to include a sum certain for each distinct claim seeking monetary relief under the Contract Disputes Act (CDA), as required. *See ECC Int'l Constructors, LLC v. Sec'y of Army*, 79 F.4th 1364, 1380 (Fed. Cir. 2023) ("[I]t is mandatory for . . . a claim under the

CDA seeking monetary relief to include a sum certain for . . . each distinct claim . . . . A claim that does not state a sum certain has not sufficiently pleaded the elements of a claim under the CDA and may be . . . dismissed on appeal to the boards or Court of Federal Claims for failure to state a claim.”). Accordingly, we dismiss this appeal without prejudice. *Mindseeker, Inc.*, ASBCA No. 63197, 24-1 BCA ¶ 38,666 at 187,961 (dismissal for failure to state a sum certain constitutes dismissal without prejudice, allowing the claimant to revise and refile the claim).

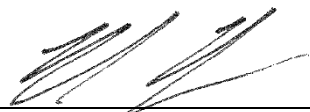
Dated: January 28, 2025

  
ELIZABETH WITWER  
Administrative Judge  
Armed Services Board  
of Contract Appeals

I concur

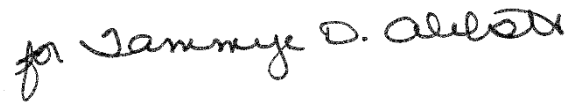
  
OWEN C. WILSON  
Administrative Judge  
Acting Chairman  
Armed Services Board  
of Contract Appeals

I concur

  
J. REID PROUTY  
Administrative Judge  
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. 63889, Appeal of Dari Concepts, LLC, rendered in conformance with the Board’s Charter.

Dated: January 29, 2025

  
PAULLA K. GATES-LEWIS  
Recorder, Armed Services  
Board of Contract Appeals