

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Favor Company) ASBCA No. 58843
)
Under Contract No. 000000-00-0-0000)

APPEARANCE FOR THE APPELLANT: Mr. Majid Hamid
President

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.
Army Chief Trial Attorney
MAJ Nancy J. Lewis, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE DICKINSON ON
APPELLANT'S MOTION FOR RECONSIDERATION

By decision dated 16 October 2014 this appeal was dismissed for lack of jurisdiction. Appellant Favor Company (Favor) timely filed a motion for reconsideration. The government has opposed the motion.

We dismissed the appeal on the basis that it has not been alleged that we have jurisdiction over the alleged contract under anything other than the Contract Disputes Act (CDA) and there is no evidence in the record of a claim submitted by Favor to a contracting officer (CO) for a final decision under the CDA. It is well established that the linchpin of our jurisdiction under the CDA is a proper claim submitted to a CO for decision. 41 U.S.C. § 605¹; *Zara Co.*, ASBCA No. 58632, 14-1 BCA ¶ 35,588; *The Boeing Co.*, ASBCA No. 57490, 12-1 BCA ¶ 34,916 at 171,676. Because it is a jurisdictional prerequisite, compliance with 41 U.S.C. § 605 is mandatory and strictly enforced. *Sharman Co. v. United States*, 2 F.3d 1564, 1568-69 (Fed. Cir. 1993).

Prior to dismissing the appeal for lack of jurisdiction, there had been multiple requests from the government and the Board to appellant to produce a copy or any other evidence of a proper CDA claim submitted to a CO for decision. Such evidence was never produced. In its motion for reconsideration and its reply to the government's opposition, appellant still has not produced evidence of a proper claim.

¹ Effective 4 January 2011, 41 U.S.C. § 605 was re-codified as 41 U.S.C. § 7103, with no substantive change. Because the relevant facts at issue in this appeal occurred prior to 2011, we refer to the section number prior to the re-codification.

We, therefore, remain without jurisdiction to consider the present appeal under the CDA.

CONCLUSION

Appellant's motion for reconsideration is denied.

Dated: 17 December 2014



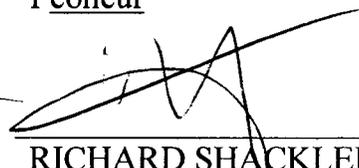
DIANA S. DICKINSON
Administrative Judge
Armed Services Board
of Contract Appeals

I concur



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

I concur



RICHARD SHACKLEFORD
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. 58843, Appeal of Favor Company, rendered in conformance with the Board's Charter.

Dated:

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