

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Bagram Eagle Construction and Logistic) ASBCA No. 62997
Company)
)
Under Contract No. 000000-00-0-0000)

APPEARANCE FOR THE APPELLANT: Mr. Mohammad Agul
CEO

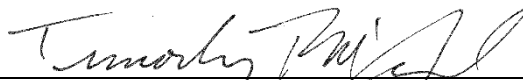
APPEARANCES FOR THE GOVERNMENT: Scott N. Flesch, Esq.
Army Chief Trial Attorney
MAJ Michael R. Tregle, Jr., JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL ON GOVERNMENT’S
MOTION TO DISMISS FOR LACK OF JURISDICTION

The government moves to dismiss the appeal for lack of jurisdiction, saying that appellant is not a contractor within the meaning of the Contract Disputes Act (CDA), 41 U.S.C. §§ 7101-7109 (gov’t mot. at 3). It is the responsibility of appellant to establish the Board’s jurisdiction. *Hellenic Air Force*, ASBCA No. 60802, 17-1 BCA ¶ 36,821 at 179,457. Pursuant to the CDA, 41 U.S.C. § 7105(e)(1)(A), the Board “has jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration relative to a contract made by that department or agency.” Although to establish Board jurisdiction under this provision an appellant need only make a non-frivolous allegation of the existence of a contract with the government, *Siemens Gov’t Techs., Inc.*, ASBCA No. 62806, 21-1 BCA ¶ 37,924 at 184,185, appellant says in its notice of appeal only that it had a contract with a company based in the United States by the name of General Atomics Aeronautical Systems, Inc.

Because appellant does not even allege that it had a contract with the government, appellant fails to establish the Board's jurisdiction to entertain the appeal, and the appeal is dismissed for lack of jurisdiction.

Dated: May 13, 2022



TIMOTHY P. MCILMAIL
Administrative Judge
Armed Services Board
of Contract Appeals

I concur



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

I concur



OWEN C. WILSON
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. 62997, Appeal of Bagram Eagle Construction and Logistic Company, rendered in conformance with the Board's Charter.

Dated: May 13, 2022



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