ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -	)	
	)	
Dashti Sanat Logistics and General Contracting	)	ASBCA No. 63643
	)	
Under Contract No. W56KGZ-17-A-6014	)	

APPEARANCE FOR THE APPELLANT:	Salma William Saikaly, Esq. Law Offices of Salma William Saikaly & Associates Willoughby Hills, OH
APPEARANCES FOR THE GOVERNMENT:	Dana Chase, Esq. Army Chief Trial Attorney LTC Cali Y. Kim, JA Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE ARNETT ON THE GOVERNMENT'S MOTION FOR SUMMARY JUDGMENT

This matter comes before the Board on the government's motion for summary judgment as to the complaint filed by Dashti Sanat Logistics and General Contracting (Dashti or appellant) seeking $384,114 for damage to vehicles leased by the U.S. Army (Army or government) under a Blanket Purchase Agreement (BPA).

The government asserts that it is entitled to summary judgment because Dashti was identified as providing funds under a covered contract directly to covered persons or entities under Section 841, Prohibition on Providing Funds to the Enemy, of the National Defense Authorization Act (NDAA) for Fiscal Year 2015, and the Army Head of the Contracting Activity (HCA) issued a memorandum voiding all past Army contracts with Dashti (gov't mot. at 1-2, 7). The government, therefore, contends that the contract at issue is void and unenforceable (*id.*). Dashti opposes the government's motion alleging that genuine issues of material fact remain in dispute (*see generally*, app. opp'n).

The Board requested that the parties provide supplemental briefing regarding two issues: 1) whether NDAA Section 841 requires the HCA to issue a written determination that a specific contract provides funds directly or indirectly to a covered person or entity in order for the HCA to void said contract; and 2) whether the HCA issued a written determination that the contract at issue provided funds directly or indirectly to "covered persons or entities" under Section 841.

Because we find material facts in dispute, the motion is denied.

STATEMENT OF FACTS (SOF) FOR PURPOSES OF THE MOTION

1. On March 8, 2017, the Army issued Blanket Purchase Agreement (BPA) No. W56KGZ-17-A-6014 to Dashti for the lease of non-tactical vehicles (NTVs) in northern Iraq (R4, tab 1).[1] Dashti is identified in the BPA by Cage Code SRS92 (*id.*).

2. On March 25, 2017, the Army issued Order No. 0001 under the BPA for lease of NTVs for $1,781,082 (R4, tab 171 at 1). Dashti is identified in the Contract by Cage Code SRS92 (*id.*). The Contract awarded numerous Contract Line Items (CLINs) for lease of specified types and quantities of NTVs to be delivered to Erbil International Airport, Iraq (*id.* at 3-7). The period of performance (POP) was March 20, 2017 to September 20, 2017 (*id.* at 7). Dashti performed Order No. 0001 (the Contract) (R4, tab 167), thereby establishing a contractual obligation between the parties.

3. Through several modifications, the Army exercised options which awarded additional CLINs, extending services through March 2018 and increasing the contract value to $4,209,705 (R4, tabs 5 at 1-10, 7 at 1-5, 9 at 1-2, 4-5, 169 at 1, and 170 at 1-3).

Dashti's REA:

4. On or about February 15, 2018, Dashti submitted hard copies of "claims" to the Army contracting officer (CO) who acknowledged receipt on February 26, 2018 (R4, tab 189). It appears that Dashti's submission sought compensation for damage to leased vehicles and was handled informally as a Request for Equitable Adjustment (REA) (*id.*).[2]

5. On May 21, 2018, the Army CO acknowledged that a "significant amount of vehicles sustained damages" during the base year and option year 1 and that "all damages were thoroughly documented" (R4, tab 163). He determined that Dashti was "eligible for $384,114 . . . in equitable adjustment based upon all provided documentation" (*id.*).

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[1] All Rule 4 file references are to the record filed in ASBCA No. 63525. This appeal was consolidated with ASBCA No. 63525, before that appeal was dismissed.

[2] The current record does not appear to include a copy of the February 2018 "claims"; however, contemporaneous emails document the submission (*see* R4, tab 189). The Army CO concluded that Dashti was due an "equitable adjustment" (R4, tab 163). There is no indication that a final decision was issued to address this submission.

6. Correspondence indicates that the Army prepared a draft modification dated August 27, 2019 to address Dashti's REA (R4, tabs 191, 164, 333). The draft modification proposed to increase the contract amount by $384,114 for "REA Vehicle Turn In Damages" (R4, tabs 164 at 1, 4; 333 at 1, 4). It included an accounting line of funding and stated, "The additional funding is to cover the vehicle damages sustained during the term of the contract by the Government users" (*id.*).

7. As of January 10, 2020, Chief of the Regional Contracting Office (Erbil) for the Army, MAJ Jaren B. Glover, notified Dashti that the Army had obtained funding to pay Dashti's "really old REA" but needed to obtain "modification approval" (R4, tab 192). On January 16, 2020, MAJ Glover notified Dashti that its "request for vehicle damages" was denied and requested that Dashti resubmit the matter as a certified claim (R4, tab 193 at 1).

8. We find no evidence that the draft modification was ever executed.

<u>*Dashti's Claim and Appeals*</u>:

9. On February 2, 2023, Dashti filed a notice of appeal, which the Board docketed as ASBCA No. 63525. On March 14, 2023, the government moved to dismiss ASBCA No. 63525 for lack of jurisdiction because the government had not received a certified claim.

10. On March 15, 2023, Dashti submitted a claim to the CO for damages to leased vehicles, late return of leased vehicles, speeding fines, traffic violations, and two leased vehicles which Dashti contends were not returned (R4, tab 179). The claim included a certification consistent with the language required by the Contract Disputes Act (CDA) but lacked a signature (*id.*).

11. On April 21, 2023, the government issued a contracting officer's final decision denying Dashti's March 15, 2023 claim (R4, tab 182). On June 20, 2023, Dashti requested that the government reconsider its April 21, 2023 decision (R4, tabs 188-334). Dashti's June 20, 2023 re-submission included a signed CDA certification (R4, tab 334). On June 21, 2023, the CO reiterated that he had issued a final decision on April 21, 2023 (R4, tab 335).

12. On June 27, 2023, Dashti filed its second notice of appeal, which the Board docketed as ASBCA No. 63643 and consolidated with ASBCA No. 63525

13. On January 30, 2024, the Board dismissed ASBCA No. 63525 for lack of jurisdiction because the government had not received Dashti's claim prior to the filing of the notice of appeal in ASBCA No. 63525. *Dashti Sanat Logistics and Gen.*

Contracting, ASBCA Nos. 63525, 63643, 24-1 BCA ¶ 38,512. The Board concluded that Dashti's appeal would proceed under ASBCA No. 63643. *Id.*

<u>Contemporaneous Administrative Actions</u>:

14. On November 24, 2021, United States Central Command (USCENTCOM) issued a memorandum indicating that "DASHTI SANAT LOGISTICS AND GENERAL CONTACTING [sic] (DSLC) (9UNS: 850512937) [sic] to include all their name variants, is identified . . . as providing funds under a covered contract, directly to covered persons or entities" (gov't mot., ex. G-1). Citing the FY2015 National Defense Authorization Act (NDAA) §§ 841-43, Never Contract with the Enemy, the memorandum recommended that the Heads of Contract Activity (HCA) restrict award of future contracts and terminate or void existing contracts pursuant to § 841(c) (*id.*). Tab A of the memo listed the company information as "Dashti Sanat Logistics and General Contacting Ltd" (sic), located in Erbil, Iraq with a Cage Code of SRS92 and DUNS No. 557898965 (*id.* at 3). We find that appellant is the company listed at Tab A of the memo. The memo does <u>not</u> identify appellant as a "covered entity."

15. NDAA Section 841(c), Authority to Terminate or Void Contracts, Grants, and Cooperative Agreements and to Restrict Future Award, provides that, upon notice from the head of an executive agency or the commander of a covered combatant command, **the head of contracting activity** of an executive agency **may** do the following:

> (1) Restrict the award of contracts, grants, or cooperative agreements of the executive agency concerned upon a written determination by the head of the contracting activity . . . that the contract, grant, or cooperative agreement would provide funds received under such contract, grant or cooperative agreement directly or indirectly to a covered person or entity.
>
> (2) Terminate for default any contract, grant, or cooperative agreement of the executive agency concerned upon a written determination by the head of contracting activity or other appropriate official that the contractor, or the recipient of the grant or cooperative agreement, has failed to exercise due diligence to ensure that none of the funds received under the contract, grant, or cooperative agreement are provided directly or indirectly to a covered person or entity.

> (3) **Void** in whole or in part **any contract**, grant, or cooperative agreement of the executive agency concerned **upon a written determination** by the head of contracting activity or other appropriate official **that the contract**, grant, or cooperative agreement **provides funds directly or indirectly to a covered person or entity**.

Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 841(c), 128 Stat. 3292, 3450-52 (2014) (emphasis added).

16. NDAA Section 843, Definitions, paragraph (6), defines "covered person or entity" as "a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities." We find no evidence in the current record indicating that appellant has been identified as a "covered person or entity" as defined by Section 843 of the NDAA.

17. In addition, the Contract included clause 252.225-7993, PROHIBITION ON PROVIDING FUNDS TO THE ENEMY (DEVIATION 2015-O0016) (SEP 2015), which states:

> (a) The Contractor shall –
>
> (1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this contract are provided directly or indirectly (including through subcontracts) to a person or entity who is actively opposing United States or Coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities;
>
> . . .
>
> (b) The Head of the Contracting Activity has the authority to–
>
> . . .
>
> (2)(i) Void this contract, in whole or in part, if the Head of the Contracting Activity determines in writing that any funds received under this contract have been provided directly or indirectly to a person or entity who is actively opposing United States or Coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

(R4, tab 3 at 20)

18. On October 4, 2022, the Army HCA executed a memorandum indicating her determination to exercise authority under NDAA Section 841 and restrict future contract awards to Dashti (gov't mot., ex. G-2).[3] At that time, the Army HCA concluded that there were "no active contracts" with Dashti and directed no other action (*id.*).

19. On June 6, 2024, the Army HCA issued a memorandum, indicating that she was exercising "authorities outlined in Section 841" but did not identify any specific contracts (gov't mot., ex. G-5 at 1-2). The memorandum stated:

> I reviewed all available information, and **I have determined to void, in whole, all past Army contracts**, grants, and cooperative agreements and restrict future awards for Dashti Sanat Logistics and General Contracting . . . . The Army has no active contracts with the below identified entity,[4] all related entities, individuals, and name variants. . . .
>
> . . . This determination to void past contracts and restrict future award consideration is effective immediately and remains in effect until rescinded in writing.

(*Id.* at 1-2) (emphasis added) The memo provided for an administrative review of the HCA's determination, if timely requested (*id.* at 2).

20. On June 25, 2024, Dashti requested an administrative review of the HCA's June 6, 2024 determination (gov't mot., ex. G-6). On April 25, 2025, the HCA indicated she had conducted an administrative review and decided to "retain the determination to restrict future award consideration and voiding of all past contracts, grants, and cooperative agreements for Dashti" (gov't mot., ex. G-7 at 1).

21. On May 30, 2025, the Army issued a modification purportedly voiding the Contract effective April 30, 2025 (gov't mot., ex. G-9 at 1). As authority, the modification cited Sections 841-43 of the NDAA for Fiscal Year 2015 (Pub. L. 113-291), as amended by Section 820 of the NDAA for FY 2023 (Pub. L. 117-263) (*id.*).

[3] By January 16, 2023, Dashti was identified in SAM.gov as indefinitely excluded from future awards (gov't mot., ex. G-3).

[4] The "below identified entity" is appellant.

DECISION

I. The Parties' Contentions:

In its motion, the government asserts that it is entitled to summary judgment because Dashti was identified as providing funds under a covered contract directly to covered persons or entities under NDAA Section 841 and the Army HCA issued a memorandum voiding all past Army contracts with Dashti (gov't mot. at 1-2, 7). The government contends that the contract at issue is void and unenforceable and argues that "neither USCENTCOM's identification, the HCA's determination, nor the Army's actions, are subject to review by the Board, or even by the courts" (*id.* at 2, 9-10).

In response to the Board's request for supplemental briefing, the government asserts that the HCA "does not have to issue a written determination that details or specifies that a particular contract provides funds directly or indirectly to a covered person or entity to void that contract" (gov't resp. at 2). The government argues that Section 841 gives the HCA "wide latitude to void all covered contracts" and that the HCA may "void any contract, without naming a specific contract, on the basis that the party the U.S. Government (USG) contracted with, in this case Dashti, is designated as a covered person or entity, pursuant to § 841" (*id. at* 2-3). Thus, the government alleges that Dashti is a "covered person or entity" for purposes of Section 841 (*id.* at 6). Finally, the government argues that the Board lacks jurisdiction to review the HCA's Section 841 determination and that the Board's questions "are not anchored on issues within the Board's jurisdictional foundation, the Contract Disputes Act (CDA) or the Board's charter" (*id.* at 7).

In opposition, Dashti makes a litany of arguments, many of which are not pertinent to the government's motion. Dashti alleges that it was erroneously identified as providing funds under a covered contract, questions whether it is the entity identified by the government's determination, seeks a protective order to explore the grounds for its debarment, alleges due process violations relating to its debarment, asserts that the government did not follow the debarment process set forth in Federal Acquisition Regulation (FAR) 9.407-3, and contends that genuine issues of material fact are in dispute regarding the facts underlying its claim (app. opp'n at 5-8).

In response to the Board's request for supplemental briefing, Dashti asserts that NDAA Section 841 authorizes the HCA to void a contract only upon a written determination and requires a contract-specific written notice to the contractor (app. resp. at 1). Dashti contends that the HCA's determination did not include a written determination that the contract at issue provided funds directly or indirectly to a covered entity and asserts that the Contract is a "past contract" (as opposed to an existing contract) because completion of the work predates the HCA's debarment decision (*id.* at 2-3). Dashti continues to raise issues generally unrelated to the issues presented in the pending motion (*id.* at 1-4).

II. The Board's Jurisdiction

Challenging our jurisdiction over this matter, the government alleges that the contract underlying this appeal was voided by the HCA in June 2024 (gov't mot. at 9-10, 12; gov't resp. at 7-9). Although not raised as an affirmative defense,[5] the government now contends that the Contract is void and the HCA's Section 841 determination should foreclose our jurisdiction over the matter entirely. We disagree. Voidness, or alleged voidness, does not impact our jurisdiction. *R&R Sys. Sols., LLC*, ASBCA Nos. 61269, 61405, 19-1 BCA ¶ 37,269 at 181,358. Whether a contract is void goes to the merits of the appeal, not to the Board's jurisdiction. *Black Tiger Co*., ASBCA No. 59189, 16-1 BCA ¶ 36,423 at 177,570.

The issue of voidness will be addressed on the merits.

III. Standards of Review

The standards for summary judgment are well established. Summary judgment should be granted if it has been shown that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Any significant doubt over factual issues, and all reasonable inferences, must be resolved and drawn in favor of the party opposing summary judgment. *Mingus Constructors, Inc. v. United States*, 812 F.2d 1387, 1390-91 (Fed. Cir. 1987) (citing *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962)).

IV. Genuine issues of material fact remain regarding whether the Contract at issue is void.

In its motion, the government argues that the Contract is void for two reasons. First, it asserts that Dashti's contract was "properly voided in accordance with Section 841 of the 2015 NDAA (gov't mot. at 9-11). Second, the government argues that the Contract is void as a matter of public policy in accordance with FAR clause 252.225-7993, Prohibition on Providing Funds to the Enemy (*id*. at 12).

Section 841 of the NDAA states that the HCA may void any contract "upon a written determination" that "**the contract** . . . provides funds directly or indirectly to a

[5] The government's Answer was filed September 6, 2023—nine months before the HCA issued its June 6, 2024 memorandum purporting to void "all past Army contracts" (SOF ¶ 19).

covered person or entity" (SOF ¶ 15)(emphasis added). Similarly, Contract clause 252.225-7993, PROHIBITION ON PROVIDING FUNDS TO THE ENEMY (DEVIATION 2015-O0016) (SEP 2015) authorizes the HCA to void "**this contract**" if the HCA "determines in writing that any funds received **under this contract** have been provided directly or indirectly to a person or entity who is actively opposing United States or Coalition forces. . . ." (SOF ¶ 17) (emphasis added).

We conclude that the express language of both NDAA Section 841 and Contract clause 252.225-7993 require a written determination that the specified contract provided funds directly or indirectly to a person or entity actively opposing the United States or coalition forces in order for the HCA to void the specified contract.

Although the government argues that we cannot judge the merits of the HCA's written decision, we need not resolve that issue today because the current record does not include a written determination by the HCA that the contract at issue provided funds to a covered person or entity. While the HCA's June 6, 2024 memorandum declares "all past Army contracts" to be void (SOF ¶ 19), it does not include a determination that the contract at issue provided funds, directly or indirectly, to a covered person or entity. Further, the HCA memorandum does not identify any specific contract through which Dashti provided funds to a covered person or entity.

V. Genuine issues of material fact remain regarding whether Dashti is a "covered entity" as defined by NDAA Section 843.

In its response to the Board's questions, the government alleges for the first time that Dashti is a "covered person or entity" for purposes of Section 841 (gov't resp. at 2). A "covered person or entity" is defined as a person or entity that is "actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities" (SOF ¶ 16). The USCENTCOM memo states that Dashti had been identified as "providing funds under a covered contract, directly to covered persons or entities" (SOF ¶ 14). It does not identify Dashti as a "covered person or entity" (*id.*).

We find no evidence in the current record to support the government's bare assertion and note that appellant had no opportunity to respond to this new allegation. Thus, genuine issues of material fact remain regarding Dashti's status.

CONCLUSION

For the reasons stated, the government's motion for summary judgment is denied.

Dated: August 11, 2026

LAURA J. ARNETT
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

J. REID PROUTY
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I concur

DAVID D'ALESSANDRIS
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. 63643, Appeal of Dashti Sanat Logistics and General Contracting, rendered in conformance with the Board's Charter.

Dated: August 11, 2026

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