



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR LACK OF JURISDICTION: July 15, 2019

CBCA 6485

BES DESIGN/BUILD, LLC,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

David A. Horton, Daphne, AL, counsel for Appellant.

Catherine Crow and Brett A. Pisciotta, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **GOODMAN**, **SHERIDAN**, and **RUSSELL**.

SHERIDAN, Board Judge.

On September 27, 2016, the General Services Administration (GSA) awarded task order GS-P-04-16-EX-7500 (task order) to appellant, BES DESIGN/BUILD, LLC (BES), for the construction of holding cells at the Fort Myers Courthouse and Federal Building in Fort Myers, Florida.

BES submitted a certified claim on September 12, 2018, to a GSA contracting officer (CO) seeking a 164-day time extension and \$330,300.56. BES subsequently withdrew its certified claim on February 12, 2019, via an e-mail transmission to the CO. Notwithstanding the claim withdrawal, the instant appeal was filed on May 20, 2019, and docketed as CBCA 6485.

Appellant moved to dismiss the appeal without prejudice.¹ GSA maintained that the claim should be dismissed for lack of jurisdiction. The Board held a telephone conference in this matter in which the status of BES's claim, as well as the jurisdiction of the Board under the Contract Disputes Act (CDA), 41 U.S.C. §§ 7101-7109 (2012), were addressed.

In a joint supplement to appellant's motion to dismiss, the parties now request that the appeal be dismissed for lack of jurisdiction, representing that "[i]n the absence of a CDA claim, the appeal is not properly before the Board."

For the Board to have jurisdiction, there must be a proper claim before the contracting officer. 41 U.S.C. § 7103(b). We agree that this appeal should be dismissed for lack of jurisdiction as there is no claim currently before the contracting officer.

Decision

The appeal is **DISMISSED FOR LACK OF JURISDICTION**.

Patricia J. Sheridan
PATRICIA J. SHERIDAN
Board Judge

We concur:

Allan H. Goodman
ALLAN H. GOODMAN
Board Judge

Beverly M. Russell
BEVERLY M. RUSSELL
Board Judge

¹ Pursuant to Board Rule 12(b)(2), a dismissal without prejudice must be made jointly. 48 CFR 6101.12(b)(2) (2018).