

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

DISMISSED IN PART: September 14, 2001

GSBCA 15618

EAST COAST SECURITY SERVICES, INC.,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Steven K. Leibel of Steven K. Leibel & Associates, Atlanta, GA, counsel for Appellant.

M. Leah Wright, Office of Regional Counsel, General Services Administration, Atlanta, GA, counsel for Respondent.

Before Board Judges **NEILL**, **HYATT**, and **DeGRAFF**.

DeGRAFF, Board Judge.

Respondent moves to dismiss the parts of this appeal that request money damages and the return of property. Because appellant never submitted a claim for either money damages or the return of property to the contracting officer, we grant the motion.

Background

The General Services Administration (GSA) awarded a contract for guard services to East Coast Security Services, Inc. (East Coast), and later terminated that contract for default. Notice of Appeal (attachment); Complaint ¶ I; Answer ¶ I.

East Coast filed an appeal from the decision to terminate the contract for default. In its complaint, East Coast asks that we 1) determine that GSA should have terminated the contract for the convenience of the Government, not for default, 2) order GSA to return any property belonging to East Coast or to pay for the property, and 3) award East Coast money damages. Complaint ¶ VII.

In response to the complaint, GSA filed an answer and a motion to strike that the Board directed the parties to treat as a motion to dismiss. GSA asks that we dismiss East Coast's request for a return of property and its requests for money damages because East Coast has not submitted these requests to the contracting officer for a decision. Respondent's Motion to Strike.

In response to GSA's motion, East Coast concedes that it never presented a claim for money to the contracting officer and does not deny that it never presented a claim to the contracting officer for a return of property. East Coast asks that, instead of dismissing these portions of its complaint, we stay proceedings in order to allow it to submit its claims to the contracting officer and to allow the parties to attempt to resolve their differences by using an alternative dispute resolution procedure. Appellant's Response to Respondent's Motion to Strike and Request for Stay.

Discussion

GSA's motion to dismiss in part is granted. Before a contractor can file an appeal here, it must submit a written claim to the agency's contracting officer and obtain a decision upon that claim. If a contractor fails to follow these procedures, we must dismiss for lack of jurisdiction. 41 U.S.C. §§ 605, 606, 607 (1994 & Supp. IV 1998); Executive Construction, Inc. v. General Services Administration, GSBCA 15224, 00-2 BCA ¶ 30,977. We lack jurisdiction to entertain East Coast's requests for a return of property and for money damages because it never submitted either of these claims to the contracting officer for a decision. The parts of the complaint that request a return of property and money damages are dismissed. We have jurisdiction to consider only the propriety of the termination for default.

Regarding East Coast's request that we stay proceedings to allow it to submit its claims to a contracting officer and to allow the parties to pursue an alternative dispute resolution procedure, if the parties believe that a stay of what remains of this appeal is appropriate, they should include that suggestion in their September 18, 2001 status reports.

Decision

The motion to dismiss in part for lack of jurisdiction is **GRANTED**.

MARTHA H. DeGRAFF
Board Judge

We concur:

EDWIN B. NEILL
Board Judge

CATHERINE B. HYATT
Board Judge