

CLIENT ALERT

Curing Claim Certification Defects No Longer Limited to Technical Defects

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In *DAI Global, LLC, FKA Development Alternatives, Inc. v. U.S.* (Dec. 27, 2019), the Federal Circuit reversed the Civilian Board of Contract Appeals's dismissal of five defectively-certified claims for lack of jurisdiction. The Board had dismissed the claims because their certification bore no resemblance to the required statutory language, thereby rendering the claims unsalvageable. On appeal, the Federal Circuit focused on the plain language of the Contract Disputes Act in holding "that § 7103(b)(3) does not limit [certification] defects to those that are technical in nature nor does it limit a contractor's right to correct a defect if the initial certification was made with 'intentional, reckless, or negligent disregard for the applicable certification requirements.'" Although contractors should continue to be diligent in properly certifying their claims when appropriate, this decision eliminates the distinction between defective and technically-defective certifications for the purpose of perfecting jurisdiction.

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