

CLIENT ALERT

Do Not Pass Go: Board Dismisses Claim on Jurisdictional Grounds

October 20, 2017

In *Elham Ahmadi Construction Company* (ASBCA No. 61031), the Board determined it lacked jurisdiction to consider a contractor's appeal arising from a termination for default and the contractor's related claim to recover payment for work that was performed and accepted by the Government prior to the termination. First, the Board held that while "a termination for default is both a government claim and contracting officer's final decision that can be directly appealed to the Board," a contractor must appeal such termination within the statutorily-mandated 90 days. Because the contractor did not contest the termination until six years *after* the termination, the Board concluded it lacked jurisdiction to consider the termination's propriety. Second, the Board concluded that the contractor's claim – which requested "about \$71500 Dollars" – *did* not constitute a claim because it lacked the required sum certain. The Board explained that qualifiers such as "about" or "at least" make a sum uncertain and deprive the Board of jurisdiction, a reminder to contractors to observe the jurisdictional prerequisites in the Contract Disputes Act and the FAR, or risk forfeiting otherwise viable claims.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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