



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 24, 2018

CBCA 5980-RATE

In the Matter of PLATINUM SERVICES, INC.

Robert G. Rothstein of Seaton & Husk, L.P., Vienna, VA; and Carol L. O’Riordan, Anthony J. Marchese, and Kenneth A. Martin of The O’Riordan Bethel Law Firm, LLP, Washington, DC, appearing for Claimant.

George J. Thomas, Jr., Director, Transportation Audits Division, Office of Transportation and Logistics Services, Federal Acquisition Service, General Services Administration, Washington, DC, appearing for General Services Administration.

Bridget Lyons, Chief, Office of Acquisitions and Procurement Law, United States Coast Guard, Department of Homeland Security, Washington, DC, appearing for Department of Homeland Security.

CHADWICK, Board Judge.

Platinum Services, Inc. (Platinum) provided transportation services to the United States Coast Guard and is in a payment dispute with that agency as a result of a prepayment audit conducted for the Coast Guard by a private accounting firm. Platinum filed a request for Board review under the Transportation Act, 31 U.S.C. § 3726 (2012), without having first elevated the dispute to the General Services Administration’s (GSA’s) Transportation Audits Division, as the regulations implementing the Act require. *See* 41 CFR 102-118.580 (2015); *Moyer & Sons Moving & Storage, Inc.*, CBCA 5012-RATE, 16-1 BCA ¶ 36,342; *Tri-State Motor Transit Co.*, GSBICA 13896-RATE, 97-1 BCA ¶ 28,873.

We ordered Platinum to show cause why we should not dismiss its appeal as premature. In response, Platinum explains that it filed the appeal because, “[d]espite multiple, repeated inquiries . . . Platinum is unable to determine that [the] Coast Guard has made any determination as to Platinum’s claims,” or whether the Coast Guard “has made a ‘final full or partial denial of’ any of Platinum’s claims from which Platinum might appeal via administrative claim to [the] GSA Transportation Audits Division” (quoting 41 CFR

102-118.575). Platinum asserts that it “was unable to take any appeal to” the Transportation Audits Division because the Coast Guard will not tell Platinum what audit “documentation,” if any, the Coast Guard has forwarded to GSA under 41 CFR 102-118.300(a). Platinum asks us to “recognize [our] jurisdiction to hear the appeal as it has been filed” or, alternatively, to “defer any action to dismiss this appeal until counsel for GSA and for the Coast Guard shall have advanced a reasonable alternative to the route that Platinum has taken in light of what is known about [the Coast Guard’s] process.”

We are certainly no better situated to review Platinum’s payment dispute with the Coast Guard in the first instance than the Transportation Audits Division would be. More to the point, Platinum does not persuade us that it “was unable to take any appeal” at the administrative level preceding us. To the contrary, should Platinum wish to pursue administrative relief, it could send the Transportation Audits Division the same documentation that it filed with the Board. *See* 41 CFR 102-118.575. Although we cannot prejudge whether GSA would, or should, treat such a filing as a proper audit appeal, Platinum would be, at a minimum, in a position to *argue* that it had followed, to the best of its ability, the steps prescribed by regulation to obtain a “prepayment audit decision” from GSA. *Id.* 102-118.580. Platinum has not attempted to obtain such a decision here.

With no action (or refusal to act) by GSA on this dispute, we have nothing to review, *e.g.*, *Logistics International, Inc.*, CBCA 1255-RATE, 09-1 BCA ¶ 34,123, at 168,721, nor do we have authority under the regulations to “defer” dismissal, as Platinum suggests, pending guidance from the Coast Guard or GSA as to how Platinum should proceed.

Decision

The appeal is dismissed.

KYLE CHADWICK
Board Judge