



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MOTION FOR RECONSIDERATION DENIED: February 25, 2026

CBCA 8232-R

MEGA STAR LOGISTIC SERVICES CO.,

Appellant,

v.

DEPARTMENT OF STATE,

Respondent.

Abdul Ghafoor Sultani, Ex-President and Chief Executive Officer of Mega Star Logistic Services Co., Glen Allen, VA, appearing for Appellant.

Erin M. Kriynovich, Office of the Legal Adviser, Buildings and Acquisitions, Department of State, Washington, DC, counsel for Respondent.

Before Board Judges **LESTER**, **GOODMAN**, and **NEWSOM**.

GOODMAN, Board Judge.

Appellant asks the Board to reconsider our decision issued on January 28, 2026, *Mega Star Logistics Services Co. v. Department of State*, CBCA 8232, 26-1 BCA ¶ 38,974. Appellant has not stated grounds for reconsideration. We deny the motion.

Background

In our decision, we dismissed the appeal in part as moot. As to that portion, appellant properly appealed a contracting officer's final decision (COFD), and respondent subsequently made payment to appellant on that claim. Appellant acknowledged that the

payment was in full satisfaction of the unpaid contract balance and associated interest sought in the claim.

In our decision, we also dismissed for lack of jurisdiction a second claim that was not appealed to the Board. We held that the Board lacked jurisdiction over that claim because appellant did not appeal the COFD on the second claim within ninety days of its receipt. Appellant seeks reconsideration of our decision with regard to the dismissal of the second claim.

In its motion for reconsideration, appellant states that it “has consistently maintained its intent to pursue” its appeal of the second claim, “including through formal status reports filed with the Board.” Appellant had filed a status report, dated July 21, 2025, which advised the Board of its submission of the second claim to the contracting officer and its intent to appeal a deemed denial if a COFD was not issued. Appellant did not communicate with the Board again until it filed the motion for reconsideration.

As described in our previous decision, the contracting officer issued a COFD on the second claim on July 23, 2025, which was within sixty days of appellant’s submission of the claim. *Mega Star*, 26-1 BCA at 189,753. This COFD notified appellant of its rights to file an appeal at the Board or a suit at the United States Court of Federal Claims. *Id.* Appellant did not appeal the July 2025 COFD decision to the Board within the ninety-day appeal period, which expired in October 2025. On October 17, 2025, respondent filed a status report (and copied appellant), advising that it would file a motion to dismiss after the Government’s lapse in appropriations ended. Respondent filed a follow-up status report on November 14, 2025, reiterating its intention to file a motion to dismiss, and subsequently filed that motion on November 28, 2025. By order dated January 7, 2026, the Board advised appellant that its response to the Government’s motion was overdue. The order directed appellant to inform the Board by January 16, 2026, if it intended to file a response and, if so, the date that appellant expected to file its response. Appellant did not communicate with the Board, and the Board issued its decision on the motion to dismiss on January 28, 2026, two months after respondent filed the motion to dismiss and almost six months after appellant’s last communication with the Board.

Discussion

The Board stated the grounds for reconsideration in *Y2Fox, Inc. v. Department of State*, CBCA 7805-R, 24-1 BCA ¶ 38,647, *appeal dismissed*, No. 25-1001, 2024 WL 4775422 (Fed. Cir. Nov. 14, 2024):

The three primary grounds that justify reconsideration are: (1) an intervening change in the controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice.

Id. at 187,873 (quoting *Delaware Valley Floral Group, Inc. v. Shaw Rose Nets, LLC*, 597 F.3d 1374, 1383 (Fed. Cir. 2010)).

These grounds are not present here. Instead, appellant (1) did not communicate with the Board for almost six months between July 2025 and filing this reconsideration; (2) did not appeal the COFD that it received in July 2025; (3) was advised by respondent in October 2025 of respondent's intention to file a motion to dismiss; and (4) did not file a response to the motion to dismiss despite the Board allowing additional time to do so.

Appellant states in its motion for reconsideration:

If the Board finds that the ninety-day period has technically elapsed, Appellant respectfully requests guidance as to whether the claim may be pursued through: A new appeal based on deemed denial, or [t]he United States Court of Federal Claims within the statutory twelve-month period.

Motion for Reconsideration at 3.

With regard to the ninety-day appeal period, the contracting officer issued a COFD within sixty days as required by the Contract Disputes Act (CDA), 41 U.S.C. §§ 7101–7109 (2018). As this Board held in *Top Level Construction Co. v. Department of State*, CBCA 8301, 25-1 BCA ¶ 38,815, we possess jurisdiction to entertain an appeal of a COFD only if the contractor files its appeal within ninety days after receiving it:

The CDA provides that a contractor has the right to appeal a contracting officer's final decision to a board of contract appeals "within 90 days from the date of receipt" of the decision. 41 U.S.C. § 7104(a). Our decisions, relying on binding precedent from the [United States] Court of Appeals for the Federal Circuit, have held that the ninety-day requirement may not be waived as it is strictly construed and failure to comply creates a "jurisdictional defect" which precludes the Board from considering the merits of the appeal.

Id. at 188,184 (quoting *Acabay Inc. v. General Services Administration*, CBCA 8185, 25-1 BCA ¶ 38,716, at 188,246 (2024)); see *West Coast General Corp. v. Dalton*, 39 F.3d 312, 315 (Fed. Cir. 1994); *Cosmic Construction Co. v. United States*, 697 F.2d 1389, 1390-91 (Fed. Cir. 1982).

The Board did not have jurisdiction over the second claim because appellant did not file an appeal on that claim within the ninety-day period. There was also no “deemed denial” of the second claim, as the contracting officer issued a timely COFD. Appellant’s appeal rights to the Court of Federal Claims are stated in the July 2025 COFD as well as in our January 28, 2026, decision. Respondent’s Motion to Dismiss (in CBCA 8232), Attachment 3 at 2; *see Mega Star*, 26-1 BCA at 189,754 n.3.

Decision

Appellant’s motion for reconsideration is **DENIED**.

Allan H. Goodman

ALLAN H. GOODMAN
Board Judge

We concur:

Harold D. Lester, Jr.

HAROLD D. LESTER, JR.
Board Judge

Elizabeth W. Newsom

ELIZABETH W. NEWSOM
Board Judge