



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR LACK OF JURISDICTION: June 29, 2026

CBCA 8931

FOUR LLC,

Appellant,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Respondent.

Daniel Strouse and Sam Van Kopp of Cordatis LLP, Arlington, VA, counsel for Appellant.

Emily E. Warner, Office of the General Counsel, Office of Personnel Management, Washington, DC, counsel for Respondent.

Before Board Judges **LESTER**, **SULLIVAN**, and **RUSSELL**.

RUSSELL, Board Judge.

Appellant, Four LLC, requests that the Board dismiss this appeal for lack of jurisdiction without prejudice. For reasons stated below, we grant appellant's request and dismiss the appeal for lack of jurisdiction.

Background

On June 16, 2026, appellant filed a notice of appeal, attaching its claim to the contracting officer (CO), dated May 20, 2026, through which it sought damages of \$967,000 for an alleged breach of contract relating to appellant's provision of hosting and licensing

services. The notice references—but does not attach—a purported March 9, 2026, contracting officer’s final decision (COFD), which inexplicably predates the May 20, 2026, claim. Instead of attaching the COFD, appellant attached certain emails to its notice.

Pertinent here, in one email, dated May 21, 2026, the CO stated that she would issue a final decision by August 31, 2026, and, in another, dated June 4, 2026, the CO denied appellant’s request to supplement its claim. Additionally, other emails seem to reference other claims or versions of claims that were submitted to the agency, rather than the May 20 claim. For example, one email, dated March 31, 2026, from appellant to respondent agency, indicated that a claim was attached to the email. However, this March 31 email (possibly attaching a claim) also predates the claim dated May 20, 2026, that was submitted with appellant’s notice before the Board.

After filing its notice of appeal, appellant consulted with the respondent agency which took the position that the agency’s email communications did not constitute a final agency decision under the Contract Disputes Act (CDA), 41 U.S.C. §§ 7101–7109 (2024). Appellant agreed and moved to dismiss the appeal for lack of jurisdiction without prejudice.

Discussion

Although the parties agree that we lack jurisdiction to entertain this appeal, the Board must make its own determination on jurisdictional questions, regardless of the parties’ positions on jurisdiction or dismissal. Rule 12(b)(3) (48 CFR 6101.12(b)(3) (published in eCFR)). In this instance, we agree with appellant that dismissal is warranted.

Pursuant to the CDA, the Board may not exercise jurisdiction over an appeal through which a contractor seeks monetary relief unless, before the appeal was filed, the contractor submitted a claim to the contracting officer and the contracting officer issued a final decision denying that claim (either in writing or through a “deemed denial”). 41 U.S.C. § 7103. Here, appellant submitted its claim to the CO on May 20, 2026. By statute, “the contracting officer has sixty days from receipt of a certified claim over \$100,000 to either ‘issue a decision’ or ‘notify the contractor of the time within which a decision will be issued.’” *Agbayani Construction Corp. v. Department of Commerce*, CBCA 5534, 17-1 BCA ¶ 36,582, at 178,188 (quoting 41 U.S.C. § 7103(f)(2)). Unless the CO actually issues a final decision, the contractor must wait until the sixty-day period for the CO’s issuance of a decision (or notification of a new deadline for a decision) has passed before filing an appeal, at which point, if the CO has not issued a written decision, the contractor can appeal the “deemed denial” of its claim. *Id.* at 178,189 (citing *Fire Security Systems, Inc. v. General Services Administration*, GSBGA 12350, 93-3 BCA ¶ 26,047). If a contractor files a CDA appeal prematurely, the Board lacks jurisdiction to entertain it. *Id.*

The CO here has not yet issued a final decision on the May 20 claim, and the sixty-day deadline for the CO to issue a decision (or to set a new date for a decision) has not expired. Without a contracting officer's final decision, either in writing or through a "deemed denial," we lack jurisdiction to consider the appeal. Relevant here, a dismissal for lack of jurisdiction—that is, one not on the merits of a case—is by definition without prejudice. *Wheeler v. United States*, 11 F.3d 156, 159-60 (Fed. Cir. 1993).

Decision

The appeal is **DISMISSED FOR LACK OF JURISDICTION**.

Beverly M. Russell

BEVERLY M. RUSSELL
Board Judge

We concur:

Harold D. Lester, Jr.

HAROLD D. LESTER, JR.
Board Judge

Marian E. Sullivan

MARIAN E. SULLIVAN
Board Judge