

HOLIDAYS COUNT

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US Pan American Solutions (“US Pan”) moved for reconsideration of the Armed Services Board of Contract Appeals (“Board”) decision dated April 25, 2025 (*US Pan Am. Sols., LLC*, ASBCA No. 63957, 25-1 BCA ¶ 38,814) where the Board dismissed its appeal for lack of jurisdiction as untimely filed. *US Pan Am. Sols.*, ASBCA 63957, August 18, 2025. The appeal was filed 91 days

US Pan contends that its appeal was filed 91 days after the final decision of the contracting officer, but the 91 days included three federal holidays, and should have been considered timely. US Pan expressed concern that the Board’s ruling reflected an undue burden on a small disadvantaged business, and questioned whether the Board gave consideration to its right to be fully heard.

The Board noted that a motion for reconsideration must demonstrate a compelling reason for the Board to modify its decision, but only if the Board made a genuine oversight that affected the outcome of the appeal. Reconsideration might also be appropriate in the event of newly-discovered evidence. However, US Pan did not present any new evidence demonstrating that the time period was extended.

The Board noted that the Contract Disputes Act, 41 USC § 7103(g) states that final decisions are final, unless timely appealed within 90 days of the contracting officer’s decision. FAR 2.101 states that “Day means, unless otherwise specified, a calendar day.” FAR 33.101 further indicates that the 90 day computation period *excludes* the date the contractor received the contracting officer’s decision, but it includes the *last day for computing the 90 days, unless that date falls on a Saturday, Sunday or federal holiday*. The computation of time pursuant to the FAR does not exclude intervening weekends and federal holidays, unless the final 90th day falls on a weekend or federal holiday. The 91 days in this case may have included three federal holidays, but the 90th day was not a federal holiday, Saturday or a Sunday, hence US Pas’s appeal occurred more than 90 days after the final contracting officer’s decision.

The Board noted US Pas’s arguments about “undue burden” and “lack of equitable support” but held that the Contract Disputes Act is clear that the 90 day window is statutory and cannot be waived or extended. The Board therefore denied the motion for consideration.

Takeaway. Boards (and courts) will strictly follow the timeliness rules in statutes. If you miss the filing window, your appeal will be dismissed. US Pas was out of luck, and you will be as well if you do not file within the defined 90 day limit after a contracting officer’s final decision.

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