

Court of Federal Claims Sinks Contract Claim Against Coast Guard

On January 28, 2014, the U.S. Court of Federal Claims granted the Government's motion to dismiss a portion of an amended complaint for lack of jurisdiction, and for summary judgment on the remaining claim. The lawsuit, brought by K-Con Building Systems, Inc., sought to recover money allegedly owed to it by the U.S. Coast Guard under a construction contract, and the wrongful assessment of liquidated damages by the Coast Guard.

Under the contract at issue in the case, K-Con would design and construct a prefabricated metal building in Port Huron, Michigan. From the outset, the project was fraught with issues. The Coast Guard, for instance, identified three problems with K-Con's proposal but approved the contract with its understanding that the project would be completed in accordance with the drawings and specifications that the Coast Guard furnished to K-Con. In returning the executed contract to the Coast Guard, however, K-Con reiterated its position that its proposal would take precedence over the Coast Guard's solicitations.

Ultimately, K-Con built the structure, which the Coast Guard later declared to be substantially complete. But K-Con claimed that the Coast Guard owed it additional money for changes not required under the contract, and that the Coast Guard had wrongfully assessed liquidated damages against it for delays in contract performance.

The Government argued that K-Con's liquidated damages claim should be dismissed because K-Con had failed to submit a valid claim to the contracting officer before commencing suit on the claim, a jurisdictional requirement. The trial court agreed and granted dismissal on that basis.

The trial court also granted the Government's motion for summary judgment, agreeing that K-Con could not establish that it provided the Coast Guard with the written notice required by the contract for changes or that it suffered any damages resulting from the changes.

There is one remaining issue in the case to be resolved—the Government's counterclaim.

To read the case, click [here](#).