ARMED SERVICES BOARD OF CONTRACT APPEALS

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| Appeals of - | ) | |
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| Relyant Global LLC | ) | ASBCA Nos. 64032, 64111, 64230 |
| | ) | 64231, 64517 |
| | ) | |
| Under Contract No. W912GB-21-D-0020 | ) | |
| Task Order No. W912GB-21-F-0244 | ) | |

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Engineer Trial Attorneys
U.S. Army Engineer District, Europe

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL UPON
THE GOVERNMENT'S PARTIAL MOTION TO DISMISS APPEAL NO. 64111

The government moves for partial dismissal of Appeal No. 64111, requesting that we dismiss certain allegations in appellant's complaint and prayer for relief that the government says "seek adjustment of contract price or terms,"[1] that is, claims for which appellant has not submitted a claim seeking additional time or money. This appeal is consolidated with four others concerning the parties' contract for construction services at an air base in Romania, and challenges only the termination of that contract for default.

First, the government requests that we dismiss paragraphs 11 to 15 of the complaint, in which appellant alleges that flaws in the rail design caused delays and resulted in increased costs, and paragraphs 33 to 39, in which appellant alleged that "Other Design Flaws" delayed the project, because appellant never submitted a claim for time and/or money to the contracting officer. Appellant does not challenge these contentions in its brief.[2] We lack jurisdiction to consider those claims. *See Cobeal Consulting Grp.*, ASBCA No. 63815, 25-1 BCA ¶ 38,742 at 188,340-41; *Scot Cardillo dba Eng'rs Tooling Support*, ASBCA No. 61612, 25-1 BCA ¶ 38,861 at 189,097.

[1] Gov't mot. at 1, 8.
[2] App. opp'n at 2.

Second, the government moves to dismiss delay and acceleration claims that relate to motions to dismiss it filed in ASBCA Nos. 64320 and 64321. In ASBCA No. 64231, which relates to lightweight fill and #57 stone, the Board previously dismissed appellant's delay claim because appellant failed to state a sum certain. *Relyant Global LLC*, ASBCA No. 64231, slip op. (July 29, 2026). Consistent with its allegations in ASBCA No. 64231, in paragraphs 16 to 26 of the complaint in ASBCA No. 64111, appellant alleged that it had suffered delays related to the lightweight fill and #57 stone. Because the Board dismissed the corresponding delay claim in ASBCA No. 64231, we dismiss it here as well. With respect to ASBCA No. 64230, the Board has not issued a decision on the government's motion to dismiss and we will take no further action until a decision is issued in that appeal.

Third, the government requests that the Board dismiss allegations related to the contracting officer's representative's processing of submittals other than those for lightweight fill and #57 stone because appellant did not submit them to the contracting officer. However, the government has not identified any submittals other than lightweight fill and #57 stone that appellant is pursuing in ASBCA No. 64111. The government's motion is, at best, premature.

The government appears also to request dismissal of appellant's assertions of flaws in the government's design,[3] even where appellant does not seek additional time or money. However, appellant may challenge the government's reading of the defaulted contract where appellant does not seek an adjustment to the contract's terms. *N. Wind Constr. Servs., LLC*, ASBCA No. 63548, 24-1 BCA ¶ 38,527 at 187,287. We defer to the scheduled hearing of these consolidated appeals what other specific affirmative defenses (not set forth as such in appellant's April 28, 2025 complaint), if any, appellant may assert against the default termination.

The government also requests that we strike paragraphs from the complaint.[4] That request is denied. *See Relyant Global LLC*, ASBCA No. 64230, *et al.*, July 29, 2026, slip op. at 3.

Dated: August 24, 2026

TIMOTHY P. MCILMAIL
Administrative Judge
Armed Services Board
of Contract Appeals

(Signatures continued)

[3] Gov't mot. at 7-8.
[4] Gov't mot. at 8.

I concur

J. REID PROUTY
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I concur

MICHAEL N. O'CONNELL
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA Nos. 64032, 64111, 64230, 64231, 64517, Appeals of Relyant Global LLC, rendered in conformance with the Board's Charter.

Dated: August 24, 2026

PAULLA K. GATES-LEWIS
Recorder, Armed Services
Board of Contract Appeals

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ERRATA SHEET

The Board's August 24, 2026 opinion regarding ASBCA No. 64111 is amended as follows:

on page 2, in the fourth paragraph, "64230" is replaced with "64231".

Dated: August 25, 2026

TIMOTHY P. MCILMAIL
Administrative Judge
Armed Services Board
of Contract Appeals