DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

APPEAL OF:		
COMPREHENSIVE COMMUNITY HEALTH)	CAD No. D. 1467
Under Contract No. CSOSA II-CT-0014)	CAB No. D-1467

For the appellant: Donald M. Temple, Esq. For the District of Columbia: Brett A. Baer, Esq., Assistant Attorney General.

Opinion by Administrative Judge Maxine E. McBean with Chief Administrative Judge Marc D. Loud, Sr., concurring.

ORDER DISMISSING APPEAL

Filing ID #53909542

On February 26, 2013, Comprehensive Community Health ("appellant") filed a notice of appeal challenging the termination of its Contract No. CSOSA ll-CT-0014 (the "Contract") by the Director, Office of Procurement, Court Services and Offender Supervision Agency ("CSOSA"). The appellant had been providing psychiatric evaluations, interventions, medication management services, and training at CSOSA's Re-Entry and Sanctions Center. (Notice of Appeal 1.) The District has not filed an answer herein, but has moved to dismiss this action on the ground that the Board lacks jurisdiction over CSOSA because it is a federal agency. (Mot. to Dismiss 1-3.) The appellant has not filed an opposition to the District's motion to dismiss, nor has the appellant filed its complaint herein pursuant to D.C. Mun. Regs. tit. 27, § 204 (2002). Upon review of the District's motion to dismiss, the lack of opposition thereto, and the entire record herein, we dismiss appellant's claim with prejudice.

The Board's jurisdiction over contractor claims is conferred by D.C. Code § 2-360.03(b) (2011). In pertinent part, this section provides:

Jurisdiction of the Board shall be consistent with the coverage of this chapter as set forth in § 2-351.05, except that the Board may enter into fee-for-service agreements with agencies, departments, boards, commissions, and instrumentalities of the District or other public entities that are not subject to the Board's jurisdiction. The agreements shall provide for the Board to resolve contract disputes, including appeals and protests of those agencies, departments, boards, commissions, and instrumentalities. With agreements of the parties, the Board may provide alternate dispute resolution services.

D.C. Code § 2-360.03(b)

The referenced D.C. Code § 2-351.05(a), in turn, subjects "all subordinate agencies, instrumentalities, and employees of the *District government*, independent agencies, boards, and

commissions" to the jurisdiction of the Board (emphasis added). *Id*. The Board finds that it does not have jurisdiction over CSOSA because CSOSA is not an agency, instrumentality, board or commission of the District government, subject to the District's procurement statute.

We also note that D.C. Code § 24-133 established CSOSA. Under § 24-133, CSOSA was founded thusly (in pertinent part):

(a) *Establishment.* -- There is established within the executive branch of the Federal Government the Court Services and Offender Supervision Agency for the District of Columbia (hereafter in this section referred to as the "Agency") which shall assumes its duties not less than one year or more than three years after August 5, 1997.

(b) Director. --

- (1) Appointment and compensation. -- The Agency shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Director shall be compensated at the rate prescribed for Level IV of the Executive Schedule, and may be removed from office prior to the expiration of term only for neglect of duty, malfeasance in office, or other good cause shown.
- (2) *Powers and duties of Director.* -- The Director shall:
- (A) Submit annual appropriation requests for the Agency to the Office of Management and Budget;
- (B) Determine, in consultation with the Chief Judge of the United States District Court for the District of Columbia, the Chief Judge of the Superior Court of the District of Columbia, and the Chairman of the United States Parole Commission, uniform supervision and reporting practices for the Agency; ...

Id.

Therefore, it is clear to the Board from the plain language of D.C. Code § 24-133 that CSOSA is a federal agency. The statute describes CSOSA as a federal agency; its Director is appointed by the President, paid according to the federal payment schedule and confirmed by the United States Senate. CSOSA's annual appropriation requests are made directly to the federal Office of Management and Budget. Conversely, this Board's jurisdiction is limited to District agencies as per the language provided in D.C. Code § 2-351.05(a). Accordingly, we grant the District's unopposed motion, and dismiss this matter with prejudice.

SO ORDERED.

Date: August 27, 2013 /s/ Maxine E. McBean MAXINE E. MCBEAN

Administrative Judge

CONCURRING:

/s/ Marc D. Loud, Sr. MARC D. LOUD, SR. Chief Administrative Judge

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