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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-218193.2

**DATE:** April 19, 1985

**MATTER OF:** Northwest Forest Workers Association--  
Request for Reconsideration

**DIGEST:**

Prior decision dismissing protest concerning wage rates included in solicitation is affirmed because even though the Department of Labor Board of Service Contract Appeals, which by law has jurisdiction over the matter, is not duly constituted at this time, the question is for resolution under the authority of the Secretary of Labor.

Northwest Forest Workers Association (NFWFA) requests reconsideration of our dismissal of its protest, B-218193, dated March 13, 1985. We affirm the prior dismissal.

NFWFA initially protested the inclusion of allegedly improper Service Contract Act wage determinations in certain solicitations issued by the United States Forest Service and the Bureau of Land Management. Those wage determinations were listed in the subject solicitations as a result of the Department of Labor Wage and Hour Administrator's rescission of recently revised forest labor wage determinations that had been published by that Department. The rescission action was said to have been taken to allow the Forest Service and the Bureau of Land Management time to gather evidence in support of a wage rate lower than the rate most recently established.

Noting that the record indicated the NFWFA had already filed an appeal for review of this matter before the Department of Labor Board of Service Contract Appeals, we dismissed the protest because the Board has jurisdiction of the appeal of actions taken by the Department of Labor Wage and Hour Administrator, and it is authorized to take final action on behalf of the Secretary of Labor on matters arising under the Service Contract Act (SCA), 41 U.S.C. § 351 et seq. (1982). See 29 C.F.R. part 8 (1984).

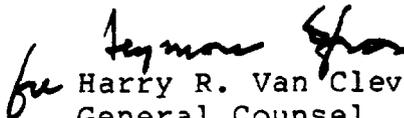
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In its request for reconsideration, NFWFA states that it has been informed by the Department of Labor that the Board of Service Contract Appeals "does not exist" and that the Department is uncertain as to what action will be taken on the appeal. NFWFA is of the view that it is being denied "logical due process," and apparently believes that our Office is an appropriate forum for the consideration of its complaint.

As we stated in our previous decision, the administration and enforcement of the provisions of the SCA are, by law, the responsibility of the Secretary of Labor and the contracting agency. 41 U.S.C. § 352(b). Regulations implementing the provisions of the SCA have been promulgated by the Department of Labor, in accordance with the authorizing statute (see 41 U.S.C. § 353 and 41 U.S.C. § 38) and, therefore, have the force and effect of law. Those regulations set forth procedures for actions under the SCA. See 29 C.F.R. part 4. The Wage and Hour Division and its Administrator are also established under the authority of the Secretary of Labor. (29 C.F.R. § 4.1a (c) and (d)). The actions of that office are subject to final agency review by the Board of Service Contract Appeals, which acts on behalf of the Secretary of Labor. 29 C.F.R. part 8.

As noted by the protester's attorney in a letter to our Office dated March 1, 1985, the Secretary of Labor has ordered the Department of Labor's Office of Administrative Appeals to perform the function of the Board since it is not yet "duly constituted." (See 29 C.F.R. § 8.0.) However, since the actions complained of in this case were taken by the Wage and Hour Division Administrator, they are for resolution by the Department of Labor, notwithstanding the organizational state of the Board before which the matter is reviewable. The protest of NFWFA is essentially an appeal of the actions of the Wage and Hour Administrator and is not a matter for resolution under the bid protest authority of our Office.

The prior decision is affirmed.

  
for Harry R. Van Cleve  
General Counsel