

DECISION

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

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Shan K5
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FILE: B-218193

DATE: March 13, 1985

MATTER OF: Northwest Forest Workers Association

DIGEST:

The General Accounting Office will not review legal authority or procedures under the Service Contract Act by which the Department of Labor Wage and Hour Division Administrator rescinded a published wage determination, since this is a matter within the jurisdiction of the Department of Labor Board of Service Contract Appeals.

Northwest Forest Workers Association (NFWFA) (a trade association) and two potential bidders protest that certain solicitations issued by the United States Forest Service and the Bureau of Land Management are defective in that they include, or will include, improper Service Contract Act (41 U.S.C. § 351, et seq. (1982)) wage determinations.

The protesters contend that the alleged defects in these solicitations resulted when the Department of Labor Wage and Hour Division Administrator improperly and illegally rescinded revised wage determinations that the Department had published following its review of certain forestry labor wage determinations. (The review of the previously established wage determinations had been requested by NFWFA in accordance with Service Contract Act (SCA) regulations, 29 C.F.R. § 4.55 (1984).) According to NFWFA, the rescission action was taken by the Wage and Hour Administrator to allow the contracting agencies 30-45 days to gather evidence to support their position that the prevailing wage is lower than the wage rate established by the Department of Labor following its most recent review.

The protester contends that because of the rescission of the "currently effective" wage determination, the subject solicitations will contain--and the season's work will be performed at--the previous lower wage determination and will result in irreparable harm to its members, including the two potential bidders who have joined in the protest. The protester requests that the General Accounting Office "review the legality of procedures and the reasonableness of government actions" in this case.

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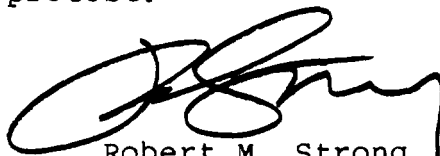
The Service Contract Act places the responsibility for enforcing its provisions on the contracting agency head and the Secretary of Labor. 41 U.S.C. § 352(b). Thus, as the protester notes in its submission, our Office does not review wage rate determinations under the SCA. Contract Management, Inc.; Industrial Technical and Professional Employees, B-208899, Oct. 4, 1982, 82-2 C.P.D. ¶ 309; Geronimo Service Co., B-210008.2, Feb. 7, 1983, 83-1 C.P.D. ¶ 131. The primary responsibility for interpreting and administering the SCA is vested in the Department of Labor. 29 C.F.R. § 4.101(b); Charles Judd, B-205990, Apr. 22, 1982, 82-1 C.P.D. ¶ 572.

Based on the record before us, it appears that the exclusion by the Forest Service and the Bureau of Land Management of the most recent wage determinations from the subject solicitations is based upon the action taken by the Wage Hour Administrator. Thus, in essence, we are being asked to review the propriety of the protested actions taken by the Department of Labor Wage and Hour Division Administrator.

The Department of Labor Wage and Hour Division and its Administrator are established under the authority of the Secretary of Labor. 29 C.F.R. § 4.1a. Appeals from actions of the Administrator of the Wage and Hour Division are within the jurisdiction of the Board of Service Contract Appeals, which acts with finality as the authorized representative of the Secretary of Labor in matters arising under the SCA. 29 C.F.R. part 8.

The protester, through its attorney, has advised this Office that it has appealed to the Board of Service Contract Appeals for review of the wage determinations issued on January 11, 1985, and the subsequent rescission or withdrawal of those determinations by the Wage and Hour Division Administrator. The issues presented in the subject protest are properly before the Department of Labor Board of Contract Service Appeals and will not be reviewed by the General Accounting Office.

We dismiss the protest.



Robert M. Strong
Deputy Associate General Counsel