



In the Matter of:

**UNITED GOVERNMENT SECURITY
OFFICERS OF AMERICA, LOCAL 80,**

ARB Case No. 00-007

DATE: January 27, 2000

***In re: Application of Wage Determination
No. 94-2103, rev. 17, 7/9/98, to work performed
by Court Security Officers in the Washington,
D.C. metropolitan area.***

Appearances:

For the Complainant:

Bruce C. Cohen, Esq., *Clayton, Missouri*

For the Respondent:

Ford F. Newman, Esq., Douglas J. Davidson, Esq., Steven J. Mandel, Esq.
U.S. Department of Labor, Washington, D.C.

ORDER OF DISMISSAL

Pursuant to the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. §351 *et seq.*; the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§327-32; and 29 C.F.R. Part 8, the Administrative Review Board (Board) received a petition for review filed by United Government Security Officers of America, Local No. 80 (Local 80), seeking review of a letter dated October 5, 1999, from Mr. Timothy Helm of the Office of Enforcement Policy in the Department of Labor's Wage and Hour Division. Local 80 wrote to Helm requesting that he reverse the Wage and Hour Division's decision that Wage Determination No. 94-2103, Revision 17, is inapplicable to a court security contract performed by AKAL Security in Washington, D.C. Helm rejected Local 80's request and Local 80 filed a petition for review with the Board.

On November 30, 1999, Charles E. Pugh, Deputy National Office Program Administrator, wrote to Local 80 stating,

[t]his is a supplemental response to your letter concerning application of section 4.165(c) of McNamara-O'Hara Service Contract Act (SCA) Regulations, 29 C.F.R. Part 4, to a court security contract performed by AKAL Security (AKAL) in Washington, D.C. We note that you have already filed with the

Department's Administrative Review Board a petition for review of our previous letter of October 12, 1999, in which we disagreed with your position. However, the October 12 letter did not constitute a final ruling appealable to the Board under its regulations. Because we have nothing further to add on this matter and to expedite the review process, we are restating our position in this letter, from which you may seek review before the Board.

On December 1, 1999, the Deputy Administrator of the Wage and Hour Division filed a motion requesting the Board to dismiss the petition as premature.

The Board's jurisdiction under the Service Contract Act extends only to a review of "final decisions of the Administrator of the Wage and Hour Division or authorized representative, and from decisions of Administrative Law Judges [.]" 29 C.F.R. §8.1(b). Therefore, we **GRANT** the Deputy Administrator's motion and **DISMISS** Local 80's appeal docketed as ARB Case No. 00-007.^{1/} However, once again we note that the Wage and Hour Division's refusal to initially provide a "final" decision upon a request for review of a wage determination, or to at the very least inform the party requesting review that the response is not "final" and detailing the process for obtaining a "final" decision, has resulted in an unnecessary expenditure of time and resources by the parties and this Board. See *e.g.*, *Defense Threat Reduction Agency*, ARB Case No. 99-108.

(Nov. 30, 1999). We again urge the Wage and Hour Division to reconsider this wasteful practice.

SO ORDERED.

PAUL GREENBERG
Chair

CYNTHIA L. ATTWOOD
Member

E. COOPER BROWN
Member

^{1/} Local 80 filed a petition for review of Pugh's "supplemental response" on December 17, 1999. This appeal has been docketed as ARB Case No. 00-030.