



In the Matter of:

FAVATA'S BAKERY, INC.

ARB CASE NO. 99-026

***In re:* Wage determination rates applicable to commissary procurement contracts at Maguire AFB, Wrightstown, New Jersey; Carlisle War College, Carlisle, Pennsylvania; West Point Military Academy, West Point, New York; and Fort Drum, Watertown, New York**

DATE: January 27, 1999

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Patricia A. Favata, *Newburgh, New York*

ORDER OF DISMISSAL

By letter dated December 9, 1998, Favata's Bakery, Inc. (Petitioner) petitioned the Board for review of service contract wage determinations applicable to commissary procurements at Maguire AFB in Wrightstown, NJ; Carlisle War College in Carlisle, PA; West Point Military Academy in West Point, NY; and Fort Drum in Watertown, NY. Although Petitioner attached several documents to its petition, there was no indication that Petitioner had requested review and reconsideration of the contested wage determinations from the Wage and Hour Administrator, pursuant to 29 C.F.R. §4.56(a) (1998).

By regulation, the Board's jurisdiction under the Service Contract Act extends only to 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). It is only *after* the Administrator has reviewed materials submitted by interested parties and issued a final decision that a decision may be appealed to this Board. 29 C.F.R. §4.56(b). When review and reconsideration has not been sought from the Administrator, the Board does not have jurisdiction to consider the matter.

On December 29, 1998, we issued an Order to Show Cause, alerting the Petitioner to the jurisdictional problem and directing Petitioner to demonstrate why the case should not be

dismissed. Because no response to our Order has been received, we hereby dismiss the petition for lack of jurisdiction, without prejudice. If Petitioner seeks review and reconsideration of the challenged wage determination from the Administrator, *see* 29 C.F.R. §4.56(a), and obtains a decision from the Administrator, Petitioner will then be free to submit a new petition for review of the Administrator's ruling. 29 C.F.R. §4.56(c), 29 C.F.R. Part 8B.

SO ORDERED.

PAUL GREENBERG

Chair

E. COOPER BROWN

Member

CYNTHIA L. ATTWOOD

Acting Member