



**In the Matter of:**

**UNITED GOVERNMENT SECURITY  
OFFICERS OF AMERICA LOCAL 34**

**ARB CASE NO. 05-051**

**DATE: June 2, 2005**

**Petition for Substantial Variance Hearing  
for Police Officers Employed by Systems  
Training and Resource Technologies, Inc.  
at the U.S. Department of Agriculture in  
Washington, D.C., under Contract No.  
N-00-600-01-D-0592**

**Appearances:**

***For the Petitioner:***

**Jonathan D. Newman, Esq., *Sherman, Dunn, Cohen, Leifer & Yelling, P.C.,  
Washington, D.C.***

***For the Respondent Administrator, Wage and Hour Division:***

**Ford F. Newman, Esq., William C. Lesser, Esq., Steven J. Mandel, Esq., Howard  
M. Radzely, Esq., *U.S. Department of Labor, Washington, D.C.***

**FINAL DECISION AND ORDER DISMISSING APPEAL WITHOUT  
PREJUDICE**

On January 28, 2005, the United Government Security Officers of America Local 34 filed with the Administrative Review Board a Request for Review and Notice of a Request for Reconsideration to the Acting Administrator in this case arising under the Service Contract Act of 1965, as amended (SCA),<sup>1</sup> and its implementing regulations.<sup>2</sup> Because Local 34 had requested the Administrator to reconsider his decision,<sup>3</sup> we held this appeal in abeyance pending the Administrator's decision.

---

<sup>1</sup> 41 U.S.C.A. §§ 351-358 (West 1994).

<sup>2</sup> 29 C.F.R. Parts 4 and 8.

<sup>3</sup> On January 10, 2005, the Acting Administrator had denied Local 34's request for a substantial variance hearing concerning a contract between Systems Training and Resource Technologies, Inc. and the United States Department of Agriculture.

Tiffany Allen-Holmes, Section Chief, Branch of Service Contract Wage Determinations, informed Local 34 on February 15, 2003, that the Wage and Hour Division refused to reconsider the decision because Local 34 had filed an appeal with the Board. In response, Local 34 filed with the Board a Notice of Administrator's [sic] failure to issue a Decision on Request for Reconsideration and Request for Ruling on the Merits, or in the Alternative, an Expeditious Ruling on the Acting Administrator's Procedural Determination, and Notice of Address Change.

On March 17, 2005, the Deputy Administrator filed a response to Local 34's Notice stating that the decision refusing to reconsider the denial of the hearing "was sent in error." Accordingly, the Deputy Administrator requested "that the Board reinstate its Order Holding Case in Abeyance until such time as the Deputy Administrator has responded to Local 34's request for reconsideration of this matter." We granted the Deputy Administrator's motion.

The Deputy Administrator filed a status report with the Board on April 29, 2005, informing the Board that he had informed counsel for Local 34 that "the Wage and Hour Division, upon reconsideration, had determined that a substantial variance may exist, based upon review of the wage rates contained in the applicable collective bargaining agreement as compared with other available data." The Deputy Administrator further stated that he has "advised Local 34's counsel that Wage and Hour is proceeding with the necessary action to facilitate a hearing in accordance with the provisions of 29 C.F.R. 4.10."

Accordingly, given that the Deputy Administrator has granted Local 34's motion for reconsideration and has reversed his denial of Local 34's request for a substantial variance hearing, the Board ordered Local 34 to show cause why the Board should not dismiss its appeal of Wage and Hour's denial of its request for a substantial variance hearing, as moot. Local 34 responded to the show cause order by withdrawing its appeal of the denial of its request for a substantial variance hearing as moot but requested that we grant it permission to re-file its appeal if Wage and Hour fails to schedule the substantial variance hearing. Accordingly we **DISMISS** Local 34's appeal without prejudice to re-file the appeal should the Wage and Hour Administrator fail to schedule a substantial variance hearing.

**SO ORDERED.**

**WAYNE C. BEYER**  
**Administrative Appeals Judge**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**