



In the Matter of:

DAVID A. BRAMBLE, INC.,

PETITIONER,

ARB NOS. 14-090
14-091

DATE: December 17, 2014

**Disputes concerning additional
wage rates requested on Project/
Contract Nos. TA446517, and
XY4205177, with respect to Wage
Decision MD140062 Mod. 0.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For Petitioner:

**Debbie Glebe, Payroll Manager: *David A. Bramble, Inc., General Contractors,*
Chestertown Maryland**

For Respondent Administrator, Wage and Hour Division:

**Eirik J. Cheverud, Esq.; Jonathan T. Rees, Esq.; Jennifer S. Brand, Esq.; M.
Patricia Smith, Esq.; *U.S. Department of Labor, Washington, District of Columbia***

**Before: Paul M. Igasaki, *Chief Administrative Appeals Judge* and Joanne Royce,
*Administrative Appeals Judge***

ORDER DISMISSING PETITIONS FOR REVIEW WITHOUT PREJUDICE

On November 17, 2014, the Administrator of the Wage and Hour Division moved the Board to dismiss the Petition for Review¹ filed by the Petitioner David A. Bramble, Inc. (DAB)

¹ The Petitioner filed two separate Petitions for Review; one pertained to Contract XY4205177 (ARB No. 14-090) and the other to TA446517 (ARB No. 14-091). We construe the Administrator's motion to relate to both Petitions.

in this case arising under the Davis-Bacon Act (DBA or the Act).² The Administrator avers that the Petition for Review should be dismissed without prejudice on the grounds that the matter is not ripe for review because “there has not been a final ruling” in this matter.³

According to the Administrator:

Teresa Van Kirk of the Maryland State Highway Administration filed a request with Wage Hour proposing the addition of classifications and wage rates to Wage Decision Number MD140062 mod. 0, in accordance with 29 C.F.R. § 5.5(a)(1)(ii). In late June, 2014, Kenneth Reinshuttle, Section Chief, Davis-Bacon Branch, Wage and Hour Division, sent a letter to Ms. Van Kirk approving one proposed job classification at the proposed wage rate and denying the remaining proposed job classifications at the wage rates proposed in the request. Upon receiving Mr. Reinshuttle’s letter, DAB wrote to Mr. Reinshuttle to request a further review by Wage Hour of the minimum conformed wage rate set forth in Mr. Reinshuttle’s late June letter. When DAB did not receive a response to its appeal to Wage Hour in the ensuing weeks, DAB filed a Petition for Review with the Board on August 15, 2014.^[4]

The regulations addressing the Board’s jurisdiction in cases like this one provide in pertinent part, “the Board has jurisdiction to hear and decide in its discretion appeals concerning questions of law and fact from **final** decisions under parts 1, 3, and 5 of this subtitle”⁵ The Administrator contended that Reinshuttle’s letter was not a final ruling in this matter and that the Board therefore lacks jurisdiction to review DAB’s petition.⁶

Therefore, we ordered Petitioner to show cause no later than December 15, 2015, why we should not dismiss its Petitions for Review without prejudice because it has failed to obtain a final decision from the Administrator as required by 29 C.F.R. § 7.1. The Petitioner has not responded to the Show Cause Order.

² 40 U.S.C.A. §§ 3141-3148 (West 2010). The regulations that implement the Act are found at 29 C.F.R. Parts 1, 7 (2013).

³ Acting Administrator’s Motion to Dismiss the Petition for Review and to Suspend the Briefing Schedule (Mot.) at 1.

⁴ Mot. at 2.

⁵ 29 C.F.R. § 7.1(b) (emphasis added).

⁶ Mot. at 3.

Accordingly, because Petitioner has failed to show cause why the Board should not dismiss its petition, the petition is **DISMISSED**, without prejudice.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge