



In the Matter of:

**BHATT CONTRACTING
COMPANY, INC.,**

ARB Case No. 98-097

(Formerly ARB Case No. 97-068)

**Contractor
and**

ALJ Case No. 93-DBA-65

VIJAY A. BHATT

DATE: May 19, 1998

Individually and as President

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**SUPPLEMENTAL DECISION AND ORDER
DENYING FEES AND EXPENSES**

This matter is before the Board pursuant to the Davis-Bacon Act, as amended, 40 U.S.C. §276a *et seq.*, its related Acts (*see* 29 C.F.R. §5.1), and 29 C.F.R. Part 7 (collectively, DBA). Bhatt Contracting Company, Inc. and Vijay Bhatt (collectively, Bhatt) filed a petition pursuant to 29 C.F.R. §5.12(c) requesting removal of their names from the debarred bidders' list. On January 26, 1998 the Board issued a Final Decision and Order granting the petition. Bhatt now requests that the Board grant attorney fees and other expenses pursuant to the Equal Access to Justice Act, 5 U.S.C. §504 (EAJA).

The Board has previously ruled that administrative proceedings under the DBA are not subject to the attorney fee and costs provisions of the EAJA. We have held that DBA administrative proceedings are not "adversarial adjudications" within the meaning of the EAJA, because there is no statutory requirement for an administrative proceeding conducted pursuant to the Administrative Procedure Act. *Paul G. Marshall, Jr.*, WAB Case No. 88-37 (Jan. 31, 1991); *Roderick Construction Co.*, WAB Case No. 88-39 (Dec. 20, 1990). In those decisions we also noted the fact that DBA proceedings are not listed in the enumerated types of Department of Labor administrative proceedings subject to EAJA. 29 C.F.R. §16.104. (The regulation at 29 C.F.R. §6.6(a) explicitly excludes from EAJA coverage DBA administrative proceedings conducted before an Administrative Law Judge.)

Bhatt's request for attorney's fees and expenses is **DENIED**.

SO ORDERED.

KARL J. SANDSTROM

Chair

PAUL GREENBERG

Member

CYNTHIA L. ATTWOOD

Acting Member