



In the Matter of:

**REVIEW AND RECONSIDERATION  
OF WAGE RATES FOR THE DEPARTMENT  
OF NAVY, MILITARY SEALIFT COMMAND  
REP N00033-00-R-3100 and REP N00033-99-R-3201,**

**ARB CASE NO. 00-058**

**DATE: June 6, 2000**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER TO SHOW CAUSE**

Pursuant to 29 C.F.R. §8.2(a), American Maritime Officers (AMO) filed a petition for review with the Administrative Review Board on May 5, 2000. AMO alleges that on April 5, 2000, it submitted a request for review and reconsideration to the Administrator, Wage and Hour Division, challenging wage determinations that had been issued to the Department of Navy, Military Sealift Command (MSC) in connection with Requests for Proposal N00033-00-R-3100 and N00033-99-R-3201. *See* 29 C.F.R. §4.56. AMO objected to the wage determinations because they did not include classifications and wage rates for officer positions that would be employed under the contracts.

Section 4.56(a) provides in pertinent part:

(a) *Review by the Administrator.* (1) Any interested party affected by a wage determination issued under section 2(a) of the [McNamara-O'Hara Service Contract] Act may request review and reconsideration by the Administrator. . . . (2) . . . The Administrator will render a decision within 30 days of receipt of the request or will notify the requesting party in writing within 30 days of receipt that additional time is necessary.

29 C.F.R. §4.56(a). AMO alleges that it is an interested party, as defined in 29 C.F.R. §8.2(b), because it is a labor organization that represents prospective employees for both solicitations. AMO further alleges that the Administrator of the Wage and Hour Division did not issue a decision on AMO's challenge within 30 days of receiving the request for review and reconsideration, nor did the Administrator notify AMO within 30 days that additional time to issue a decision was needed, as provided by 29 C.F.R. §4.56(a).

Pursuant to 29 C.F.R. §4.56(b) “any decision of the Administrator under [29 C.F.R. §4.56(a)] may be appealed to the Administrative Review Board within 20 days of issuance of the Administrator’s decision.” A similar time limitation is found in 29 C.F.R. Part 8, which provides that “[r]equests for review of wage determinations must be filed within 20 days of issuance of the Wage-Hour Administrator’s decision denying a request to make a change in the wage determination.” 29 C.F.R. §8.3. It does not appear that the Administrator affirmatively has issued the requisite “decision denying a request to make a change in the wage determination”; however, the Administrator’s failure to issue within 30 days either a decision or a written notice indicating the need for additional time (29 C.F.R. §4.56(b)) in effect could be construed as a denial of AMO’s request for review and reconsideration.

The Administrator is ordered to **SHOW CAUSE**, within fourteen days from the date of this order, why the Board should not view the failure to issue either a timely decision on AMO’s request or a written notice that additional time to respond was needed to be a denial of AMO’s challenge, and therefore ripe for review by this Board pursuant to 29 C.F.R. §4.56(b) and 29 C.F.R. Part 8. AMO may reply to the Administrator’s response within seven days of the date on which AMO receives the response.

**SO ORDERED.**

**PAUL GREENBERG**  
Chair

**E. COOPER BROWN**  
Member

**CYNTHIA L. ATTWOOD**  
Member