



In the Matter of:

HONSHY ELECTRIC CO.
New Riviera Nursing and Rehabilitation
Center – Project No. 066-43099

ARB NO. 11-084

DATE: Dec. 8, 2011

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Petitioner:

Michael G. Nearing, Esq., Miami, Florida

Before: Paul M. Igasaki, Chief Administrative Appeals Judge and Luis A. Corchado,
Administrative Appeals Judge

ORDER DISMISSING PETITION FOR REVIEW

On September 16, 2011, the Administrative Review Board received a Petition for Review from the Honshy Electric Co. Honshy stated, “This appeal is taken from a Response to Appeal of Notice of Back Wages Found Due, issued by Dondra J. Merrill, Regional Labor Relations Officer, U.S. Department of Housing and Urban Development, Region IV, in Atlanta, Georgia.” Honshy further avers that it served as a general and electrical subcontractor on the New Riviera Nursing and Rehabilitation Center Project and that it was filing the petition for review pursuant to “rules of practice before the Administrative Review Board with regard to federal and federally assisted construction contracts, 29 C.F.R. Part 7 (2011).”

The Administrative Review Board’s authority to issue final decisions is circumscribed by the terms of the Secretary’s Delegation of Authority to the Board.¹ This delegation provides in pertinent part:

¹ Secretary’s Order 1-2010 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924 (Jan. 15, 2010). The Secretary’s delegation of authority to the Board includes the responsibility to issue final agency decisions under the Davis-Bacon Act, 40 U.S.C.A. §§ 3141-3148 (West 2010).

The Board is hereby delegated authority and assigned responsibility to act for the Secretary of Labor in review or on appeal of the matters listed below, . . .

- a. Final decisions of the Administrator of the Wage and Hour Division or an authorized representative of the Administrator, and final decisions of Administrative Law Judges^[2]

The decision of which Honshy seeks review is neither the decision of the Administrator of the Wage and Hour Administration, nor the decision of a Department of Labor Administrative Law Judge. Instead, Honshy seeks review of a Response to Appeal of Notice of Back Wages Found Due, issued by Dondra J. Merrill, Regional Labor Relations Officer, U.S. Department of Housing and Urban Development. Further, Honshy has not established that Merrill is an authorized representative of the Wage and Hour Administrator.

Additionally, 29 C.F.R. Part 7 specifies who may file a petition for review under that part in section 7.2 and section 7.9. Honshy does not allege that it fits the requirements of either provision.

Accordingly, we ordered Honshy to show cause no later than November 2, 2011, why the Board should not dismiss its appeal because the Board lacks authority to hear it. We cautioned Honshy that if failed to timely respond to the order, the Board may dismiss its appeal without further notice.

Honshy did not file a response to the Board's show cause order. Accordingly, given its failure to show cause why the Board should not dismiss its appeal, its petition for review is **DISMISSED**.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LUIS A. CORCHADO
Administrative Appeals Judge

² *Id.* at § 5(a).