



INTERIOR BOARD OF INDIAN APPEALS

Pierre Indian Learning Center v. Aberdeen Area Director, Bureau of Indian Affairs

33 IBIA 90 (12/30/1998)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

PIERRE INDIAN LEARNING CENTER,	:	Order Docketing and Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 99-11-A
ABERDEEN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 30, 1998

On October 6, 1998, the Board of Indian Appeals received a notice of appeal from the Pierre Indian Learning Center. Appellant sought review of a September 15, 1998, decision of the Aberdeen Area Director, Bureau of Indian Affairs, which affirmed an April 10, 1998, decision of the Aberdeen Area Contracting Officer. From the materials furnished by Appellant, it appeared that Appellant objected to the award of FY 1996 Contract No. A002506705, concerning fire protection services, to R.C.S. Construction, Inc., and that it also objected to the manner in which the contractor installed a sprinkler system.

Although the Area Director advised Appellant that her decision could be appealed under 25 C.F.R. Part 2, it was not clear that either of the apparent issues in this appeal was within the Board's jurisdiction. Further, Appellant's filing did not make clear what relief Appellant sought from the Board. Indeed, some of Appellant's statements suggested that it was seeking an investigation, rather than an adjudication.

Therefore, by order of October 8, 1998, the Board ordered Appellant to show that the Board had jurisdiction over its appeal. Appellant's response was received on December 14, 1998. The response attaches an October 9, 1998, letter from the Area Director to Appellant's attorney, stating that her September 15, 1998, letter was not an appealable decision and that her statement to the contrary was in error. Noting that the contract to which Appellant objects was awarded in August 1996, she stated that "[a]ny appealable decision relating to this contract was made prior to August 1996." Area Director's Oct. 9, 1998, Letter at 1. 1/

1/ Because Appellant had already filed its notice of appeal on Oct. 9, 1998, it was technically improper for the Area Director to issue this letter. See Burlington Northern Railroad v. Acting Billings Area Director, 31 IBIA 180 (1997), and cases cited therein. However, it appears likely that the Area Director was unaware that the notice of appeal had been filed.

Appellant's response to the Board's October 8, 1998, order includes a general discussion of the Board's jurisdiction but fails to relate its general statements to the apparent issues in this appeal. Appellant states that the relief it seeks is that "a remedy be crafted that will foreclose similar abuse in the future, is reasonable and with [sic] the authority of the Secretary." Response to Oct. 8, 1998, Order at 11. The referenced abuse is apparently related to the award of the contract in 1996 and/or the manner in which the contract was, or is being, performed.

Neither the award of Federal procurement contracts nor performance under those contracts are matters which arise under 25 C.F.R. Chapter I, or which fall with any of the other areas of the Board's jurisdiction, as described in 43 C.F.R. § 4.1(b)(2).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, this appeal is docketed but is dismissed for lack of jurisdiction.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge