

LEON J. PETTY INSURANCE AGENCY,)	AGBCA No. 2004-163-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Leon J. Petty)	
Leon J. Petty Insurance Agency)	
3303 N. 3 rd Street, Suite 202)	
Abilene, Texas 79603)	
)	
Representing the Government:)	
)	
Kenneth E. Cohen, Esquire)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
Room 3311 South Building)	
1400 Independence Avenue, SW)	
Washington, D.C. 20250)	

DECISION OF THE BOARD OF CONTRACT APPEALS

September 14, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge POLLACK.

By letter of April 23, 2004, Leon Petty Insurance Agency sought to have the Board take Petty’s appeal from a dispute with the civil rights department of the U. S. Department of Agriculture (USDA). According to Petty, it was the low bidder for liability insurance with the Texas Boll Weevil Eradication Foundation (Foundation). It was not clear from Petty’s letter how the USDA became involved in the matter; however, Petty did note that an investigator from the civil rights department did come to Texas to take statements on the case. According to Petty, the Foundation officials would not visit with the investigator.

By letter of April 26, 2004, the Board wrote to Petty. Petty was advised that the Board was docketing the appeal; however, the Board further pointed out that it appeared that there was no contract with a U. S. Government agency or Department in dispute. The Board further advised

Petty that it appeared from its letter, that the dispute involved a matter of source selection and that the Board's jurisdiction is limited to contract matters. The Board did advise Petty that if he provided the Board with the name and address of the investigator, or other civil rights office official, the Board would forward Petty's letter to an appropriate official.

Petty was advised that the appeal appeared to be appropriate for dismissal on the basis of lack of jurisdiction. To assure that the Board had the proper facts, the Board advised Petty by letter that it would withhold dismissing the action pending hearing from Petty as to whether the Board's understanding of the facts and nature of the dispute was correct. Given what appeared to be a lack of jurisdiction on the part of the Board, the Board did not require any action by the USDA, Office of the General Counsel, pending a reply from Petty to the Board's letter.

The Board received no reply to its letter.

DISCUSSION

Based on the information provided by Petty in its letter of April 23, 2004, and lack of any support from Petty establishing a contract with the Department, we conclude that there is not a contract dispute between Petty and any element of the USDA. Accordingly, we have no jurisdiction over this non-CDA matter and the matter should be dismissed.

DECISION

The appeal is dismissed for lack of jurisdiction in accordance with Board Rule 31.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
September 14, 2004