

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 17 June 2008

Case Number: 2008-WIA-00001

In the Matter of:

LUMMI INDIAN BUSINESS COUNCIL,
AB-14118-04-55

Complainant

v.

UNITED STATES DEPARTMENT OF LABOR,
Respondent

Before: JOHN M. VITTONI
Chief Administrative Law Judge

DECISION AND ORDER

This matter arises under Title I of the Workforce Investment Act (WIA), 29 U.S.C. § 2801 et seq., and the regulations issued under 20 C.F.R. § 667.800 et seq.

By letter dated December 12, 2007, the Employment and Training Administration of the United States Department of Labor (Respondent) informed Lummi Indian Business Council (Complainant) that it was delinquent in filing program reports for Grant Number AB-14118-04-55. Complainant was notified that continued filing of untimely reports may result in the termination of the grant. In violation of WIA, its governing regulations, and delinquent warning, Complainant continued to file untimely reports. Consequently, on January 14, 2008, Respondent terminated the aforementioned grant and Complainant was afforded an opportunity to appeal the decision to the Office of Administrative Law Judges (Office).

On February 21, 2008, Complainant filed a request for an administrative hearing with this Office. This Office issued a Notification of Receipt of Request for Hearing and Prehearing Order (Prehearing Order) on March 6, 2008. The parties were instructed to exchange and file certain information within specified time frames. On April 8, 2008, and April 11, 2008, Respondent filed the Administrative File and a Motion to Dismiss for Lack

of Jurisdiction (Motion to Dismiss), respectively. In the Motion to Dismiss, Respondent argues that Complainant's appeal is untimely and that it should be dismissed.

Due to the failure of Complainant to comply with the Prehearing Order and Motion to Dismiss, an Order to Show Cause was issued on May 5, 2008. Therein, Complainant was ordered to explain why a default judgment should not be entered in this matter and why it should not be dismissed. To date, Complainant has failed to respond to the Prehearing Order, Motion to Dismiss or Order to Show Cause Order.

The regulations at 29 C.F.R. § 18.6 (d) (2) (v) provide that:

If a party or an officer or agent of a party fails to comply with a subpoena or with an order . . . or any other order of the administrative law judge, the administrative law judge, for the purpose of permitting resolution of the relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may . . . [r]ule that a pleading, or part of a pleading, or a motion or other submission by the non-complying party, concerning which the order or subpoena was issued, be stricken, or that decision of the proceeding be rendered against the non-complying party, or both.

After reviewing the record and considering Complainant's nonparticipation, a Judgment by Default is entered against Complainant in this matter.

In light of the foregoing:

1. The January 14, 2008, termination of Grant Number AB-14118-04-55 is hereby AFFIRMED; and
2. This case is hereby DISMISSED.

SO ORDERED,

A

JOHN M. VITTON
Chief Administrative Law Judge

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