

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 10 December 2007

Case Number: 2007-WIA-00005

In the Matter of:

STATE OF WYOMING, DEPARTMENT
OF WORKFORCE SERVICES,
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 at 20 C.F.R. § 667.800 et seq.

On July 1, 2007, the Employment and Training Administration of the United States Department of Labor (Respondent) notified the State of Wyoming's Department of Workforce Services (Complainant) that its Grant Application for SGA/DFA-PY 06-04 was denied. Complainant was afforded an opportunity to appeal the decision to the Office of the Administrative Law Judges (Office). On July 17, 2007, Complainant requested an administrative hearing before this Office. A Notification of Receipt of Request for Hearing and Prehearing Order (Prehearing Order) was issued on July 20, 2007, instructing the parties to exchange and file certain information within a specified time frame.

In compliance with the Prehearing Order, Respondent filed the Administrative File and Prehearing Exchange information on August 21, 2007, and September 10, 2007; respectively. Due to the failure of Complainant to comply with the Prehearing Order, an Order to Show Cause was issued on October 3, 2007. Within thirty (30) days from the issuance of the Order to Show Cause, Complainant was to explain why a default decision should not be entered in this matter.

To date, Complainant has failed to comply with the Prehearing Order and the Order to Show Cause. 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 nonresponsive action, a Judgment by Default is entered against Complainant in this matter.

In light of the foregoing:

1. The Final Determination issued on July 1, 2007, denying Complainant's grant application is hereby AFFIRMED; and
2. This case is hereby DISMISSED.

SO ORDERED,

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JOHN M. VITTON
Chief Administrative Law Judge

Washington, D.C.
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