

**U.S. Department of Labor**

Office of Administrative Law Judges  
800 K Street, NW, Suite 400-N  
Washington, DC 20001-8002

(202) 693-7300  
(202) 693-7365 (FAX)



**Issue Date: 07 August 2008**

Case Number: 2008-WIA-00002

In the Matter of:

LUMMI INDIAN BUSINESS COUNCIL,  
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.*

By letter dated March 3, 2008, the Employment and Training Administration of the United States Department of Labor (Respondent) informed Lummi Indian Business Council (Complainant) that its application for a WIA grant under SGA/DFA-PY-07-04 had been denied. Complainant was given the rationale for the denial and afforded an opportunity to appeal the decision to the Office of the Office of the Administrative Law Judges (Office). On March 21, 2008, Complainant filed a request for an administrative hearing with this Office.

On April 7, 2008, this Office issued a Notification of Receipt of Request for Hearing and Prehearing Order (Prehearing Order). The parties were instructed to exchange and file certain information within specified time frames. In compliance with the Prehearing Order, the following documents were filed (1) Complainant's Statement of Intent to Participate dated April 21, 2008, and (2) Administrative File and Prehearing Statements by Respondent dated May 5, 2008, and May 28, 2008; respectively.

Due to the failure of Complainant to file Prehearing Statements, an Order to Show Cause was issued on June 17, 2008. Within thirty (30) days from the issuance of the Order to Show Cause, Complainant was ordered to explain why a default decision should not be entered in this matter. To date, Complainant has failed to file its Prehearing Statement or respond to 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 March 3, 2008, denying Complainant's grant application is hereby AFFIRMED; and
2. This case is hereby DISMISSED.

SO ORDERED,

**A**

JOHN M. VITTON  
Chief Administrative Law Judge

Washington, D.C.  
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