

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DATE: May 22, 1991
CASE NO. 83-CTA-205

IN THE MATTER OF
UNITED STATES DEPARTMENT OF LABOR,

v.

ILLINOIS MIGRANT COUNCIL.

BEFORE: THE SECRETARY OF LABOR

FINAL DECISION AND ORDER

This case arises under the Comprehensive Employment and Training Act (CETA), 29 U.S.C. §§ 801-999 (Supp. V 1981),^{1/} and the implementing regulations at 20 C.F.R. Parts 675-80 (1990).

BACKGROUND

Before me for review are two rulings of the Administrative Law Judge (ALJ) resolving various small disallowances of CETA expenses chargeable to the Illinois Migrant Council (IMC) in the Grant Officer's Final Determination of March 11, 1983.

1. DISALLOWANCE FINDING ONE (D.F. 1)

While the parties argue numerous points regarding D.F. 1, the simple fact is that the ALJ merely agreed to the stipulation of the parties reducing this disallowance from \$88,602 to \$949.

Both the CETA regulations, 20 C.F.R. § 676.89(f)(ii), and the

^{1/} CETA was repealed by the Job Training Partnership Act, 29 U.S.C. §§ 1501-1781 (1982), but CETA administrative or judicial proceedings pending on October 13, 1982, were not affected. 29 U.S.C. § 1591(e) (1988). Hence, this proceeding remains timely.

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, 29 C.F.R. § 18.51 (1990), applicable to this proceeding, ^{2/} specifically authorize such stipulations. Accordingly, I find the hearing stipulation and its receipt by the ALJ for **D.F. 1** a proper disposition of the D.F. 1 issue.

2. Disallowance Findina 26 (D.F. 26)

In D.F. 26, the Grant Officer disallowed certain IMC expenditures for payments to migrants, based upon a cursory audit of a limited number of documents to which the auditors applied questionable standards based upon subjective and arbitrary factors. When challenged by **IMC's** motion to dismiss this finding, the Grant Officer presented his case on this item, calling numerous witnesses, including the auditors and the supervisor of the Final Determination for the Grant Officer. IMC countered by submitting its oral and documentary evidence on these expenditures, with the result that a full hearing on the merits was had on this issue. The ALJ heard all this evidence, and weighed it in light of his view of the witnesses' credibility, particularly that of witness Brand. He concluded that the evidence supported **IMC's** position, and my extensive review of the Record herein, including the transcript of the proceedings before the ALJ, does not reveal any reason to disagree with the **ALJ's** conclusions. Indeed, my review reveals that the parties had ample opportunity to present their cases,

^{2/} See 29 C.F.R. § 18.1(a) (1990).

that they took full advantage of that opportunity, and that no prejudice has occurred to any party. ^{3/}

ORDER

I therefore AFFIRM the **ALJ's** disposition of Disallowance Findings Numbers 1 and 26.

SO ORDERED.



Secretary of Labor

Washington, D.C.

^{3/} The contentions herein regarding "**estoppel**" are inapposite. The **ALJ** went well beyond the disallowance finding itself and adjudicated the underlying audit basis for that finding, in light of the evidence presented. Nor did he hold the Government to its prior finding: to the contrary, he rejected the finding because of an improper audit. Permitting the Government to "**withdraw**" its own findings long after the expenditures occurred and after an extensive adverse ALJ adjudication would seriously disrupt and prolong these proceedings. I decline to do so.

CERTIFICATE OF SERVICE

Case Name: In the Matter of United States Department of Labor
v. Illinois Migrant Council

Case No. : 83-CTA-205

Document : Final Decision and Order

A copy of the above-referenced document was sent to the following
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