



Issue Date: 25 July 2019

Case Number: 2019-OFC-00001

In the Matter of:

**OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS,
UNITED STATES DEPARTMENT OF LABOR**

Plaintiff

v.

PATRIOT STEEL, LLC,

Defendant.

RECOMMENDED DECISION AND ORDER OF DEFAULT JUDGMENT

This case arises under Executive Order 11246, 30 Fed. Reg. 12319, as amended, and regulations pursuant to 41 C.F.R. Chapter 60. Jurisdiction over this action exists under Sections 208 and 209 of Executive Order 11246, and 41 C.F.R. Part 60-30.¹ On January 18, 2019, I issued a *Notice of Docketing* (“Notice”)² with a prehearing order instructing the parties, within twenty days, to file certain prehearing information with this Office.³ On February 7, 2019, Plaintiff filed its prehearing information. On March 6, 2019, having not received Defendant’s prehearing information, Plaintiff filed a *Motion for Default Judgment as to Defendant Patriot Steel, LLC* (“Motion for Default Judgement”).

In its Motion for Default, Plaintiff stated that Defendant “has failed to answer the complaint or otherwise participate in this litigation” Defendant requests a decision and

¹ This matter was docketed in the Office of Administrative Law Judges (“Office”) on November 15, 2018, when the Regional Solicitor, Boston office, U.S. Department of Labor, on behalf of the Office of Federal Contract Compliance Programs, (“Plaintiff” or “OFCCP”) filed an Administrative Complaint (“Complaint”). Plaintiff completed its filing on January 15, 2019, when it submitted its Certificate of Service. Plaintiff’s Complaint states that Defendant entered into a Conciliation Agreement in 2013 and an Amended Conciliation Agreement in 2014 to correct violations of the above executive order and regulations. The Complaint further states that Defendant has failed to provide documentation and information required by the Amended Conciliation Agreement. Plaintiff seeks to have Defendant debarred from future government contracts until it satisfies Plaintiff that it has come into compliance.

² The expedited hearing procedures outlined in 41 C.F.R. § 60-30.31 through § 60-30.37 were not applied in this matter because the complaint did not request that the hearing be subject to those procedures. See § 60-30.32(a).

³ The prehearing information consists of a witness list with expected testimony; identification of any related proceedings; suggestions for a suitable hearing location; and an estimate of the number of days required for hearing.

order debaring Defendant “from entering into future Government contracts until such time as [Defendant] satisfies the Director of OFCCP that it has undertaken efforts to remedy its prior noncompliance and is currently in compliance with the provisions” of the above Executive Order and regulations. On April 26, 2019, I issued an *Order to Show Cause* (“Order”) instructing Defendant, within thirty days, to file a written statement why a default judgment should not be entered in this matter. To date, this Office has not received Defendant’s prehearing information or a reply to Plaintiff’s Motion for Default Judgement.

Discussion

The regulations at 41 C.F.R. Part 60 provide the rules of practice for administrative proceedings instituted by the OFCCP related to Executive Order 11246. As stated in the Notice and Order, Defendant must request a hearing and specifically admit, explain, or deny each of the allegations in the Complaint within twenty (20) days of its service. 41 C.F.R. § 60-30.6(a). Failure to timely request a hearing or plead specifically shall constitute an admission of the allegations. 41 C.F.R. § 60-30.6(b). A hearing is deemed to be waived if all the material allegations in the Complaint are admitted. Accordingly, if no material facts are at issue, the administrative law judge may adopt the material facts alleged in the Complaint as proposed findings of fact. 41 C.F.R. § 60-30.6(b).

Based on Defendant’s failure to respond to the Complaint, Notice, or Order, the allegations in the Complaint are deemed to be admitted and, accordingly, the hearing is waived as there are no material facts at issue. Plaintiff’s Motion for Default is hereby GRANTED.

Proposed Findings of Fact and Recommended Order

1. The material facts alleged in the Complaint dated November 9, 2018 are hereby adopted as my proposed findings of fact.
2. In accordance with 41 C.F.R. § 60-1.27, Defendant and its officers, agents, successors, divisions and subsidiaries, and persons in active concert or participation with them are debarred indefinitely from receiving future contracts or modifications or extensions of existing contracts, until Defendant satisfies the Director of the OFCCP that it has undertaken efforts to remedy its prior noncompliance and is currently in compliance with the provisions of the Executive Order and the regulations promulgated thereunder.⁴

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

⁴ This debarment is subject to reinstatement pursuant to § 60-1.31.

NOTICE OF APPEAL RIGHTS: To appeal, you must file exceptions (“Exception”) with the Administrative Review Board (“Board”) within fourteen (14) days of the date of receipt of the administrative law judge’s recommended decision.

The Board’s address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

If filing paper copies, you must file an original and four copies of the Exception with the Board, together with one copy of this decision. If you e-File your Exception, only one copy need be uploaded.

Any request for an extension of time to file the Exception must be filed with the Board, and copies served simultaneously on all other parties, no later than three (3) days before the Exception is due. See 41 C.F.R. § 60-30.28.

On the same date you file the Exception with the Board, a copy of the Exception must be served on each party to the proceeding. Within fourteen (14) days of the date of receipt of the Exception by a party, the party may submit a response to the Exception with the Board. Any request for an extension of time to file a response to the Exception must be filed with the Board, and copies served simultaneously on all other parties, no later than three (3) days before the response is due. See 41 C.F.R. § 60-30.28.

Even if no Exception is timely filed, the administrative law judge’s recommended decision, along with the record, is automatically forwarded to the Board for a final administrative order. See 41 C.F.R. § 60-30.27.