



**Issue Date: 04 December 2007**

CASE NO.: 2007 WIA 10

In the Matter of

**COMMONWEALTH OF PUERTO RICO,  
DEPT. OF LABOR AND HUMAN RESOURCES,  
RIGHT TO EMPLOYMENT ADMINISTRATION (“REA”)**  
Complainant

v.

**U.S. DEPARTMENT OF LABOR (“DOL”)**  
Respondent

and

**RURAL OPPORTUNITIES, INC. (“ROI”)**  
Party-in-Interest

Appearances: Mr. Steven D. Cundra, Attorney  
For the Complainant

Mr. Gary M. Buff, Attorney  
Mr. Stephen R. Jones, Attorney  
For the Respondent

Mr. Thomas A. Fink, Attorney  
Mr. Dennis Annechino, Attorney  
For the Party-in-Interest

Before: Richard T. Stansell-Gamm  
Administrative Law Judge

**DENIAL OF MOTION FOR IMMEDIATE REMOVAL OF ROI AS GRANTEE &  
REQUEST FOR EVIDENTIARY HEARING**

On November 13, 2007, I issued a summary judgment vacating: a) the disqualification of REA as an applicant for the National Farmworkers Jobs Program for the state service area of the Commonwealth of Puerto Rico for the Program Years 2007 and 2008 (“NFJP”) under section 167 of the Workforce Investment Act (“WIA”), and b) the award of the NFJP grant to ROI as the sole qualified applicant.

On November 30, 2007, I received from the Complainant: a) a Motion for the immediate removal of ROI as the NFJP grantee, and b) a request for an evidentiary hearing on the issues of whether REA should receive the subject grant on the basis of the disqualification of ROI's grant application due to misconduct and misrepresentations.

#### A. Motion for Immediate Removal

In its motion request, the Complainant asserts that despite my order vacating the NFJP grant award to ROI, the Respondent continues to fund ROI under the grant. Consistent with that allegation, in its November 29, 2007 response to ROI's appeal of my summary judgment to the Administrative Review Board ("ARB"), the Respondent indicated that "ROI will continue as the grantee for Puerto Rico while the new grantee selection process is underway, to maintain continuity of services for migrant and seasonal farmworkers." REA seeks an order directing the Grant Officer to discontinue further funding ROI.

As the parties are well aware, and the Complainant correctly notes, 20 C.F.R. § 667.825(c) directs the grant officer to provide "instructions on transition and close-out to a grantee which is removed." Based on my November 13, 2007 vacation order, that grantee is ROI. However, the same provision does not mandate a specific timeframe for those actions and certainly does not direct immediate termination of grant funding. Additionally, this case does not involve a situation in which a valid grantee has been designated so that a transition may occur. Further, while not directly on point, 20 C.F.R. § 667.825(b) gives the grant officer 90 days to initiate funding to an applicant designated the proper grantee by an administrative law judge. Finally, ROI has appealed my vacation order and the ARB has not yet indicated whether it will accept the appeal. Accordingly, under these circumstances, the motion for an order directing immediate termination of grant funding to ROI, as a precursor to the initiation of contempt proceedings under 29 C.F.R. § 18.29(b), is premature and denied at this time.

#### B. Request for an Evidentiary Hearing.

Since on November 13, 2007 I also dismissed Complainant's summary decision motion that ROI be disqualified and REA be awarded the NFTP grant due to material issues of disputed fact, REA now requests an evidentiary issue on those issues.

This case was presented to me primarily as a complaint by REA that no rational basis existed for the panel review's disqualification of its grant application and the grant officer's selection of ROI as the sole qualified applicant. In my November 13, 2007 summary judgment, I established that REA's complaint was valid, vacating its disqualification as a grant applicant and the NFTP grant award to ROI. By those determinations and issuance of the summary judgment, I effectively relinquished any further jurisdiction over other aspects the applicants' respective grant applications. Accordingly, REA's request for an evidentiary hearing on additional issues is denied.

## ORDER

1. The motion for the immediate removal of ROI as the NFJP grant holder is **DENIED**.
2. The request for an evidentiary hearing concerning the award of the NFJP grant to REA on the basis of ROI's disqualification is **DENIED**.

### SO ORDERED:

**A**

RICHARD T. STANSELL-GAMM  
Administrative Law Judge

Date Signed: December 3, 2007  
Washington, D.C.

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file exceptions ("Exception") with the Administrative Review Board ("Board") within twenty (20) days of the date of issuance of the administrative law judge's decision. See 20 C.F.R. § 667.830. The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Your Exception must specifically identify the procedure, fact, law, or policy to which exception is taken. You waive any exceptions that are not specifically stated. 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 20 C.F.R. § 667.830; Secretary's Order 1-2002, ¶4.c.(42), 67 Fed. Reg. 64272 (2002).

A copy of the Exception must be served on the opposing party. See 20 C.F.R. § 667.830(b). Within forty-five (45) days of the date of an Exception by a party, the opposing party may submit a reply to the Exception with the Board. Any request for an extension of time to file a reply to the Exception must be filed with the Board, and a copy served on the other party, no later than three (3) days before the reply is due. See 20 C.F.R. § 667.830(b).

If no Exception is timely filed, the administrative law judge's decision becomes the Final Decision and Order of the Secretary of Labor pursuant to 20 C.F.R. § 667.830(b) unless the Board notifies the parties within thirty (30) days of the date of issuance of the administrative law judge's decision that it will review the decision. Even if an Exception is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the filing of the Petition notifying the parties that it has accepted the case for review. See 20 C.F.R. § 667.830(b).