



Issue Date: 24 August 2009

Case No.: 2009-WIA-00003

In the Matter of

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY,**
Complainant

v.

UNITED STATES DEPARTMENT OF LABOR,
Respondent

ORDER OF DISMISSAL

This matter arises under the Workforce Investment Act (“WIA”), 29 U.S.C. §§ 2801 *et seq.*, and the administrative adjudication regulations at 20 C.F.R. §§ 667.800 *et seq.* On January 23, 2009, the United States Department of Labor’s Employment and Training Administration (“Respondent”) issued an Initial Determination regarding its audit of WIA programs run by the Commonwealth of Pennsylvania’s Department of Labor and Industry (“Complainant”). On April 9, 2009, Complainant filed a response. On April 28, 2009, Respondent issued a Final Determination affirming the Initial Determination. In particular, Respondent concluded that Complainant had not corrected issues involving its ETA 563 reporting process. Respondent also disallowed \$1,053,675 in costs charged to federal programs, noting that the entire amount was subject to federal debt collection.

On May 18, 2009, Complainant filed a Notice of Appeal with the Office of Administrative Law Judges. On June 11, 2009, the undersigned issued a Notification of Receipt of Request for Hearing and Prehearing Order. On June 25, 2009, Respondent issued a revised Final Determination. Therein, Respondent found that Complainant had “provided documentation and an explanation that corrected the questioned cost finding.” While Respondent ultimately disallowed the costs, it determined that the sum was “not subject to Federal debt collection.” Respondent did not disturb its administrative finding regarding the ETA 536 issue. On July 20, 2009, Complainant filed a letter seeking to withdraw its hearing request based on Respondent’s revised determination.¹ Since Complainant’s withdrawal request was unequivocal, it appears that Complainant does not oppose Respondent’s administrative finding.

¹ It is unclear whether Complainant properly served this letter on all parties of record.

As Complainant no longer wishes to prosecute its appeal, it is hereby **ORDERED** that the withdrawal request is **GRANTED** and that this matter is **DISMISSED**.

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JOHN M. VITTON

Chief Administrative Law Judge

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, Suite S-5220, 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).