

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 01 November 2011**

Case Number: 2011-WIA-00006

In the Matter of:

TURTLE MOUNTAIN  
BAND OF CHIPPEWA INDIANS,

Complainant

v.

UNITED STATES DEPARTMENT OF LABOR,

Respondent

Before: STEPHEN L. PURCELL  
Chief Administrative Law Judge

**DECISION AND ORDER**

This case arises under Title I of the Workforce Investment Act (WIA), 29 U.S.C. §§ 2801 *et seq.*, and the regulations issued thereunder at 20 C.F.R. Part 667, Subpart H.

On December 20, 2010, the Employment and Training Administration of the United States Department of Labor (Respondent) initially notified Turtle Mountain Band of Chippewa Indians (Complainant) that it had performed an audit on Grant Numbers: AB-17246-08-55 and AB-18319-09-55. Audit Report Number 24-11-502-03-385 for the aforementioned grants covered the period beginning October 1, 2008 through September 9, 2009. In violation of WIA and its governing regulations, the audit found one (1) administrative finding and \$71,559 in questionable costs in Complainant's grants. Complainant was afforded an opportunity to resolve this matter within thirty (30) days. By letter dated March 7, 2011, Complainant provided an outline for the administrative finding and justification for the questioned costs in the grants. In its Final Determination (FD) dated March 18, 2011, Respondent found that the administrative finding was still uncorrected and questioned costs in the amount of \$71,559 were not resolved.

On April 22, 2011, Complainant filed a request for an administrative hearing on the FD with the Office of Administrative Law Judges (Office). This Office issued a Notice of

Receipt of Request for Hearing and Prehearing Order (Prehearing Order) on April 29, 2011. The parties were instructed to file and exchange certain information within specified time frames. On May 27, 2011, Respondent filed the Administrative File in this matter. Forty-five days from the Prehearing Order, the parties were to exchange and submit Prehearing Exchange information. Due to the failure of the parties to comply with the Prehearing Order, on July 6, 2011, an Order to Show Cause was issued. The parties were ordered to explain why a default judgment should not be entered against the non-complying party. On July 8, 2011, Respondent filed a response to the Order to Show Cause. According to the response, Respondent believed, but could not verify, that the Grant Officer's Prehearing Exchange had been filed on June 20, 2011. Respondent therefore re-dated and re-submitted the Prehearing Exchange which was received July 8, 2011 in this Office.

To date, Complainant has failed to file its Prehearing Exchange information 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, . . . 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 a decision of the proceeding be rendered against the non-complying party, or both.

After reviewing the record and considering Complainant's failure to participate in this matter, it is hereby ORDERED that a Judgment by Default be entered against Complainant. From the record, the Administrative Finding remains uncorrected and Questioned Costs in the amount of \$71,599 are subject to Federal Debt Collection.

In light of the foregoing:

1. The Final Determination issued herein is AFFIRMED; and
2. This case is DISMISSED.

SO ORDERED,

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STEPHEN L. PURCELL  
Chief Administrative Law Judge

Washington, DC  
SLP/jsp

