



U.S. DEPARTMENT OF LABOR
ADMINISTRATIVE LAW JUDGES

In the Matter of:)
)
 ST. LOUIS VIETNAM VETERANS)
 LEADERSHIP PROGRAMS, INC.,)
)
 Complainant,)
)
 v.)
)
 DEPARTMENT OF LABOR,)
)
 Respondent.)

Date Issued: May 31, 1985

Case No.: 85-JTP-2

ORDER OF DISMISSAL

This proceeding arises from denial of an application for funding under the Job Training Partnership Act, 96 Stat. 1322, 29 U.S.C. § 1501 et seq., and the Regulations issued thereunder, which are found in Title 20 of the Code of Federal Regulations. Regulation section numbers 'In this Order are contained In that title.

A request for a formal hearing was filed on January 29, 1985, with the Office of Administrative Law Judges.

ISSUE

Whether the Office of Administrative Law Judges has jurisdiction over this dispute.

STATEMENT OF FACTS

The Office of the Assistant Secretary for Veterans' Employment and Training published a notice in the Federal Register on July 6, 1984, announcing the availability of \$7,780,000 and the schedule for Solicitation for Grant Application and award of funds to implement programs authorized under Title IV, Part C of the Job Training Partnership Act (JTPA), 49 Fed. Reg. 27,906 (July 6, 1984). The announcement stated that eligible applicants are limited to (1) State Governors utilizing the JTPA administrative entity in each State, and (2) service delivery area administrative entities as described in Sections 101 and 103 of JTPA, including single statewide service delivery areas.

Section 101 of the JTPA provides in pertinent part that:

(a)(1) The Governor shall, after receiving the proposal of the State job training coordinating council, publish a proposed designation of service delivery areas for the State each of which -

(A) is comprised of the State or one or more units of general local government. ...

. . .

(4)(A) The Governor shall approve any request to be a service area from -

(i) any unit of general local government with a population of 200,000 or more;

(ii) any consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part of a labor market area; and

(iii) any concentrated employment program grantee for a rural area which served as a prime sponsor under the Comprehensive Employment and Training Act.

(B) The Governor may approve a request to be a service delivery area from any unit of general local government or consortium of contiguous units of general local government, without regard to population, which serves a substantial portion of a labor market area.

Section 103 of the JTPA pertains to functions of the private industry council.

The July 6, 1984, announcement provided further that applications for funds must be received by the appropriate State Director for Veterans' Employment and Training not later than August 1, 1984, and that award of funds will be made through a competitive discretionary grant process utilizing the criteria for award specified in the solicitation.

The Solicitation for Grant Applications (SGA), dated June 4, 1984, provides in pertinent part in Section C that:

Eligible Applicants

Applications for funds under this solicitation will be accepted only from (1) the various States/Governors (i.e. the designated JTPA administrative entity for the State/Governor) and (2) Service Delivery Area (SDA) administrative entities as described in Sections 101 and 103 of the JTPA, including single State **SDAs**.

. . .

Clarification # 2 - A local Vietnam Veterans Leadership Program (VVLV) project is not an eligible applicant for the direct receipt of funds under the provisions of this SGA. A VVLV project may, however, make arrangements with an SDA or Governor's administrative entity to act as a service provider through a **subgrant** agreement with the eligible recipient.

On July 31, 1984, the St. Louis Agency of Training and Employment (SLATE), as the administrative entity for Service Delivery Area 6 (City of St. Louis), submitted an application for funds under Title IV, Part C, JTPA, on behalf of the St. Louis Vietnam Veterans Leadership Program to the State Director, Veterans Employment and Training Services, Jefferson City, Missouri. On the application (Federal Assistance, Standard Form 424), the City of St. Louis is listed as the applicant, and the St. Louis Agency on Training and Employment is listed as the organizational unit, and the applicants' project is listed as "Grant Application (JTPA, Title IV-C) from SLATE for the St. Louis Vietnam Veterans Leadership Program for job placement **activities/OJT.**"

The Chief, Division of Contract Negotiations, Office of Procurement Services, Department of Labor, notified the applicant on January 7, 1985, that its application was not funded for Program Year 1984, and that award of JTPA Title IV-C funds for the State of Missouri was made to the Kansas City Job Training Consortium.

JURISDICTION

Under the provisions of 20 C.F.R. § 635.15(c), any applicant whose grant is denied by the Department may request administrative review as provided in § 629.57.

Section 629.57 provides in pertinent part that:

(a) Jurisdiction. The jurisdiction of the OALJ extends only to those complainants identified in Sections 164(f) and 166(a) of the Act. All other disputes under the Act shall be adjudicated under the appropriate recipient or subrecipient grievance procedures or other applicable law.

. . .

(c) Procedures for filing request for hearing. Within 21 days of receipt of the determination imposing the sanction or corrective action, or denying financial assistance, the applicant, Governor, SDA grant recipient or other subrecipient of funds may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor"

Section 164(f) of the Act deals with emergency situations, and section 166(a) of the Act provides that:

Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 167, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

Section 167 deals with prohibitions against discrimination.

Although the provisions of §§ 629.57(a) and (c) are unclear as to the jurisdiction of the Office of Administrative Law Judges, the legislative history of the Job Training Partnership Act shows that Congress intended that only applicants for financial assistance which are dissatisfied because the Secretary has determined not to provide assistance in whole or in part and recipients upon whom the Secretary has imposed a corrective action are entitled to request a hearing before an administrative law judge of the Department of Labor. All other disputes, except those covered by the nondiscrimination provisions, shall be adjudicated under grievance procedures established by the

SERVICE SHEET

CASE NAME: ST. LOUIS VIETNAM VETERANS
LEADERSHIP PROGRAM, INC. CASE NO.: 85-JTP-2

TITLE OF DOCUMENT: ORDER OF DISMISSAL

Copies of this document have been mailed to the following:

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recipient or under other applicable laws. S. Rep. No. 97-469, 97th Cong., 2d. Sess., reprinted in 1982 U. S. Code Cong. & Ad. News 2690; H. Conf. Rep. No. 97-889, 97th Cong., 2d. Sess., reprinted in 1982 U. S. Code & Ad. News 2744. The Congressional intent is codified in Section 166(a) of the Job Partnership Training Act.

It is clear from the pertinent provisions of the Job Partnership Training Act and the Congressional history of such Act that the right to request a hearing before an administrative law judge of the Department of Labor when the Secretary has made a determination not to award financial assistance is restricted to the applicant for financial assistance. Since the St. Louis Vietnam Veterans Leadership Program was not the applicant for financial assistance, it is not the proper party to request a hearing before an administrative law judge of the Department of Labor.


Daniel Lee Stewart
Administrative Law Judge

NOTICE OF APPEAL RIGHTS. Pursuant to 20 C.F.R. § 725.481, any party dissatisfied with this order may appeal it to the Benefits Review Board within 30 days from the date of this order by filing a notice of appeal with the Benefits Review Board, 1111 20th Street, N.W., Suite 757, Washington, D.C. 20036.