**U.S. Department of Labor**

Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

(415) 625-2200
(415) 625-2201 (FAX)

**Issue Date: 12 June 2019**

CASE NO.: 2017-OFC-00006

*In the Matter of*

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS,
U.S. DEPARTMENT OF LABOR,
Plaintiff,

v.

ORACLE AMERICA, INC.,
Defendant.

**ORDER DENYING REQUEST FOR IMMEDIATE HEARING**

This matter arises under Executive Order 11246 (30 Fed. Reg. 12319), as amended, ("EO 11246") and associated regulations at 41 C.F.R. Chapter 60. Hearing is set to begin on December 5, 2019. On June 5, 2019, OFCCP filed a "Request for Immediate Hearing." On June 7, 2019, Oracle filed a responsive letter. On June 11, 2019, OFCCP filed an unsolicited reply letter.

OFCCP's request is in effect a motion. OFCCP did not indicate that it met and conferred as required prior to filing any motion seeking an immediate hearing. *See* Pre-Hearing Order at 3; *see also* 29 C.F.R. § 18.33(c)(3). Further, the motion did not comply with the requirements for filing motions at this office. *See* 29 C.F.R. § 18.33(a); Pre-Hearing Order at 2 n.2. Specifically, the motion was not supported by affidavit, declaration or other evidence supporting the requested relief. *See* 29 C.F.R. § 18.33(a)(4); Pre-Hearing Order at 2 n.2. These are not idle requirements. They encourage the parties to work out their disputes without escalating them and ensure that when a dispute does require adjudication, it is properly presented for a decision. Further, OFCCP filed a reply letter without seeking permission. *See* 29 C.F.R. § 18.33(d); Pre-Hearing Order at 2 n.2. The reply is stricken.

The request for "immediate hearing" is based on Oracle beginning to arrange interviews with some of its employees to gather information potentially relevant to this case. The manner in which those contacts are made is already the subject of a motion for a protective order or in the alternative leave to amend. That motion remains pending. Oracle's opposition was filed on June 7, 2019. On June 11, 2019—shortly after it filed its unsolicited reply letter—OFCCP filed a request to file a reply to Oracle's opposition. Hence, by OFCCP's election, briefing on the motion that overlaps with the request for immediate hearing is not even complete and the motion is not ripe for decision.

There should no confusion that the parties to this case are OFCCP and Oracle, and counsel represent one or the other of those parties. The case is currently in litigation and there has been no decision on the merits. No counsel appearing in this case represents Oracle's current or former employees. Any interviews conducted by any party are voluntary and the employee may leave at any time without any reprisal. This information can be passed on to any Oracle employees that either side wishes to interview.

There are a number of pending motions in this matter, including OFCCP's motion for a protective order and Oracle's related motion regarding OFCCP's communications. The pending, properly filed, motions will be addressed in due course, after briefing is complete. When filing motions—however those motions are styled—the parties must comply with the pre-hearing order and rules of procedure, including meeting and conferring and presenting evidence to support the motion.

OFCCP's request for immediate hearing is denied.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge