

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

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UNITED STATES OF AMERICA, )	8 U.S.C. § 1324b PROCEEDING
)	
COMPLAINANT, )	
)	
v. )	
)	OCAHO CASE NO. _____
CLOUDERA, INC. )	
)	
RESPONDENT. )	
_____ )	

**COMPLAINT**

Complainant, the United States of America, alleges as follows:

1. America’s civil rights and labor laws are clear: if you want to sponsor people with temporary visas for permanent residency, you cannot discriminate against U.S. workers. In fact, employers must sign under penalty of perjury that the job opening “does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or **citizenship.**” 20 C.F.R. § 656.10(c)(5) (emphasis added). These protections are to ensure that U.S. workers are given a fair opportunity to compete for jobs because nonimmigrant visa programs have “been deliberately exploited to replace, rather than supplement, American workers with lower-paid, lower-skilled labor.” Proclamation No. 10973, 90 Fed. Reg. 46027 (Sep. 19, 2025).

2. Yet with Cloudera, Inc. (“Cloudera”), the company upended its normal hiring process and did exactly what the law prohibits: from at least March 31, 2024, until at least January 28, 2025, Cloudera did not consider the applications some U.S. worker candidates submitted because the company earmarked certain jobs for workers on temporary

employment visas.

3. During this time, Cloudera posted numerous ads for lucrative tech jobs paying approximately \$180,000 - \$294,000/year. These advertisements were for varying positions, including Product Manager, Senior Staff Engineer, and Senior Solutions Consultant—at least seven jobs in total.

4. The job advertisements invited U.S. worker candidates to submit applications to a dedicated email address. However, there was a catch: the email address did not accept any messages from external email accounts. Instead, external applicants received an error message saying that their email could not be delivered.

5. Cloudera did not advertise at least seven positions on its website alongside its other job openings, nor did it accept applications through its regular online process. Instead, Cloudera set up a non-functional email address and instructed candidates to individually email resumes for each job they sought.

6. Thus, when an external candidate applied for a job using the faulty email address the company advertised, Cloudera did not receive any record to track that person's application.

7. As a result, for at least nine months, Cloudera did not receive any record of a single resume from an outside applicant through its faulty email address. During that time, Cloudera did not inquire into why external applicants were not applying or attempt to fix the faulty email.

8. The end result is that Cloudera created a different recruitment and hiring process for at least seven positions the company hoped to fill with individuals with temporary work authorization through the permanent labor certification process (“PERM”), based on their

citizenship status.

9. Having created a separate hiring process with an email address where U.S. workers could not succeed, Cloudera then repeatedly attested to the U.S. Department of Labor (“DOL”) that it was unable to find any qualified U.S. workers. This hollow claim violated the PERM certification process because Cloudera was required to recruit U.S. workers before the company could sponsor an individual with temporary immigration status for permanent residency.

10. Cloudera’s actions not only violated DOL rules, but they also violated the Immigration and Nationality Act (“INA”), because the company created a separate hiring process that treated U.S. workers less favorably. This less-favorable treatment was Cloudera’s standard operating procedure from at least March 31, 2024, until at least January 28, 2025, and constituted a pattern or practice of citizenship status discrimination.

11. Complainant, through the Immigrant and Employee Rights Section (“IER”), an office within the Civil Rights Division of the U.S. Department of Justice, brings this action to enforce the anti-discrimination provision of the INA, 8 U.S.C. § 1324b, and to remedy Cloudera’s discriminatory practices against U.S. workers.

### **JURISDICTION**

12. Pursuant to 8 U.S.C. §§ 1324b(c)(2) and (d)(1), IER investigates charges and has authority to initiate independent investigations where it has reason to believe an employer has violated, or is violating, 8 U.S.C. § 1324b. IER also has the authority to bring an action to ensure compliance with the statute. 8 U.S.C. § 1324b(c)(2).

13. Cloudera, a Delaware corporation, maintains its corporate headquarters at 5470 Great America Pkwy, Santa Clara, California 95054.

14. Cloudera employed more than three employees during the period of discrimination described below and is a person or other entity subject to the anti-discrimination requirements of 8 U.S.C. § 1324b(a)(1)(B).

15. On January 10, 2025, IER notified Cloudera that it had opened a charge-based investigation of the company to determine whether Cloudera discriminated against the Charging Party based on citizenship or immigration status, in violation of 8 U.S.C. § 1324b(a)(1)(B). *See* Ex. 1, Ltr. from Department of Justice, Immigrant and Employee Rights Section to Irma Laxmana, Cloudera Chief Legal Officer, January 10, 2025.<sup>1</sup>

16. On March 14, 2025, IER notified Cloudera that it had initiated an independent investigation into whether Cloudera was engaging in unfair recruitment and hiring practices based on citizenship or immigration status, in violation of 8 U.S.C. § 1324b(a)(1)(B). *See* Ex. 2, Ltr. from Department of Justice, Immigrant and Employee Rights Section to Sean M. McCrory, Cloudera Counsel, March 14, 2025.

17. IER found reasonable cause to believe that Cloudera engaged in a pattern or practice of unfair immigration-related employment practices, in violation of 8 U.S.C. § 1324b(a)(1)(B).

18. The United States files this Complaint with the Office of the Chief Administrative Hearing Officer pursuant to 8 U.S.C. § 1324b(e)(1).

19. The Office of the Chief Administrative Hearing Officer has jurisdiction to hear this matter because this Complaint alleges violations of 8 U.S.C. § 1324b. *See* 8 U.S.C. § 1324b(e)(1); 28 C.F.R. §§ 44.101(d) and 68.1.

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<sup>1</sup> Pursuant to IER's regular practice, the exhibit redacts the Charging Party's name.

## **BACKGROUND**

### **PROTECTIONS FOR U.S. WORKERS**

20. In 1986, Congress amended the INA to prohibit employment discrimination because of a worker's citizenship status or national origin in hiring, firing, or referral or recruitment for a fee. 8 U.S.C. § 1324b.

21. Under 8 U.S.C. §§ 1324b(a)(1) and (a)(3), United States citizens and non-U.S. citizens whose work authorization does not expire, are protected from discrimination in hiring, firing or recruitment or referral for a fee, based on their citizenship or immigration status; under the statute, these individuals are referred to as "protected individuals."

22. The uncommon exceptions to this discrimination law are if employers must take a person's citizenship or immigration status into account to comply with a law, regulation, executive order, or government contract. *See* 8 U.S.C. § 1324b(a)(2)(C).

### **SPONSORING TEMPORARY VISA HOLDERS THROUGH THE PERM PROCESS**

23. There are several temporary visa programs that allow individuals from other countries to live and work in the United States on a limited basis. Under one such program, temporary visa holders in H-1B status enter the United States to work for a particular employer in a specialty occupation (requiring a bachelor's degree or higher in a specialty field) for a three-year period, renewable for a second three-year period. 8 U.S.C. §§ 1184(g)(4), (i).

24. Temporary visa holders in H-1B status may qualify for extensions of stay beyond the cumulative six-year cap after the individual's employer successfully completes the PERM process and subsequently files a Form I-140 Immigrant Petition for an Alien Worker on their behalf. American Competitiveness in the Twenty-First Century Act § 106(a), 8

U.S.C. § 1184 note.

25. The PERM process, which DOL administers, allows employers to sponsor temporary visa holders for permanent jobs. These workers may then seek to become lawful permanent residents.

26. DOL will approve an employer's ETA Form 9089 application for permanent employment certification ("PERM application") only if, based on the employer's attestations in the PERM application, it determines that there are no minimally qualified and available U.S. workers for the job that the employer plans to offer to the temporary visa holder ("PERM beneficiary"). *See* 8 U.S.C. § 1182(a)(5)(A); 20 C.F.R. § 656.24(b).

27. Neither INA nor DOL rules permit an employer to prefer to sponsor a temporary visa holder for a permanent job through the PERM process if there is a qualified and available U.S. worker for the position. *See id.*

28. U.S. workers, under DOL rules, are individuals who have indefinite work authorization not tied to a specific employer. They include U.S. citizens, non-citizen nationals, all lawful permanent residents, and those granted refugee or asylum status. 20 C.F.R. § 656.3.

29. DOL rules do not require employers to consider applicants who are not U.S. workers when recruiting for permanent positions through the PERM process. *See* 20 C.F.R. § 656.24(b). As a result, required recruitment under the PERM process is meant to protect U.S. workers, who are also protected from citizenship status discrimination under the INA.

30. To determine whether there are qualified and available U.S. workers for the position, DOL rules require the employer to recruit U.S. workers for the position using three mandatory methods: (A) posting the position to a State Workforce Agency's ("SWA") job

board for at least thirty days; (B) posting a notice internally at the place of employment; and (C) advertising the position in a major newspaper two times. 20 C.F.R. § 656.17(e)(1).

31. Additionally, employers must utilize at least three additional recruitment steps from a list that includes: (A) job fairs; (B) the employer's website; (C) a job search website other than the employer's; (D) on-campus recruiting; (E) trade or professional organizations; (F) private employment firms; (G) an employee referral program with incentives; (H) campus placement offices; (I) local and ethnic newspapers; and (J) radio and television advertisements. *Id.*

32. DOL rules explicitly allow employers to advertise the PERM-related positions on their websites, and do not prohibit them from accepting electronic applications in connection with PERM-related positions. 20 C.F.R. § 656.17(e)(1) (listing minimum requirements for PERM recruitment process, including option of advertising position on employer's website).

33. DOL has made clear that, in conducting this recruitment, employers must also engage in a good faith search resembling the employer's normal recruiting process. *See e.g., Matter of Am. Specialty Pharmacy*, 2016-PER-00016, 2019 WL 2910815, \*2 (BALCA 2019).

34. In addition, the agency's certification form requires employers to sign, under penalty of perjury, that "U.S. workers who applied for the job opportunity were rejected for lawful job-related reasons." U.S. Dep't. of Labor, Form 9089, Application for Permanent Employment Certification (2025).

35. DOL rules also require the employer to prepare a recruitment report describing, among other things, the number of U.S. workers who applied and were rejected (as applicable), for the position the employer was seeking to fill with the PERM beneficiary. 20

C.F.R. § 656.17(g)(1).

36. DOL relies on the employer to accurately and in good faith report its attempt to recruit U.S. workers to determine whether to approve a PERM application.

37. DOL reviews PERM applications and certifies those that meet the agency's requirements based on the employer's attestations. That certification allows the employer to proceed with the process of offering a permanent position to the temporary visa holder. Once U.S. Citizenship and Immigration Services approves other filings in connection with the approved PERM application, the temporary visa holder is granted lawful permanent resident status. *See* 8 U.S.C. § 1182(a)(5)(A).

### **STATEMENT OF FACTS**

#### **CLOUDERA'S REGULAR RECRUITING AND HIRING PRACTICES**

38. From at least March 31, 2024, to at least January 28, 2025 (referred to below as the "relevant period"), Cloudera's standard operating procedure when recruiting for regular (non-PERM-related) vacancies was to advertise the positions on its external website, Cloudera.com/careers.

39. From at least March 31, 2024, to at least January 28, 2025, Cloudera allowed applicants to apply to non-PERM-related positions by completing an applicant profile and uploading their resume through Cloudera's career website.

40. During that time, Cloudera did not require applicants for these positions to submit their applications via email.

#### **CLOUDERA'S PERM RECRUITING AND HIRING PRACTICES**

41. From at least March 31, 2024, until at least January 28, 2025, Cloudera diverged from its normal recruiting protocols during the PERM process by not advertising the

positions on its external website, Cloudera.com/careers, by not accepting applications through its regular process, and by requiring interested applicants to apply to the positions using a specific email address: amerijobpostings@cloudera.com.

42. From at least March 31, 2024, until at least January 28, 2025, Cloudera advertised PERM-related jobs on a SWA Job Board, advertised them in a newspaper of general circulation, and posted a notice of the positions at its work location.

43. Cloudera typically satisfied DOL requirements to use three additional recruitment methods by advertising the jobs in a professional journal, on a job search website other than its own, and in a local newspaper.

44. From at least March 31, 2024, until at least January 28, 2025, Cloudera instructed applicants who saw job postings on newspapers and recruitment websites to apply to each job through amerijobpostings@cloudera.com:

**Product Manager**  
**Location:** US-CA-Santa Clara  
**Jobcode:** 6755.1137  
[Email Job](#) | [Report Job](#)

Cloudera, Inc. Product Manager, Santa Clara, CA. \$170,186 - \$190,000/Year. Oversee the end-to-end product life cycle of Cloudera data replication solutions; collaborate with engineering, design, sales, and customer support teams to deliver industry-leading data replication products that meet the ever-evolving needs to Cloudera customers. May telecommute from anywhere in the US. To apply email resume to [amerijobpostings@cloudera.com](mailto:amerijobpostings@cloudera.com). Must reference job 6755.1137.

45. However, during the relevant period, the email address did not allow external emails.

46. At least one U.S. worker applicant, the Charging Party at the base of the Department's charge-based investigation, received the following bounce-back error email after attempting to apply for a position:

We're writing to let you know that the group you tried to contact (AMERJobPostings) may not exist, or you may not have permission to post messages to the group. A few more details on why you weren't able to post:

- \* You might have spelled or formatted the group name incorrectly.
- \* The owner of the group may have removed this group.
- \* You may need to join the group before receiving permission to post.
- \* This group may not be open to posting.

If you have questions related to this or any other Google Group, visit the Help Center at <https://support.google.com/a/cloudera.com/bin/topic.py?topic=25838>.

Thanks,

[cloudera.com](https://cloudera.com) admins

47. Cloudera did not track who sent resumes to that dedicated email address and, from at least March 31, 2024, until at least January 28, 2025, did nothing to understand why it had no record of any external applicant applying to that email address.

48. Thus, during the relevant period in question, Cloudera did not consider any external applicants who applied for PERM-related jobs to the email address when following Cloudera's own instructions.

49. Yet, in each of the recruitment reports that Cloudera prepared in connection with PERM applications filed between at least March 31, 2024, until at least January 28, 2025, Cloudera included a cover letter in which it certified that it had made a "bona-fide job offer and conducted good faith recruitment, but that despite our recruitment efforts, we did not find an able, willing, qualified and available U.S. worker for the position."

50. Between at least March 31, 2024, until at least January 28, 2025, Cloudera did not hire any U.S. workers for the seven PERM-related vacancies.

## **COUNT I**

### **PATTERN OR PRACTICE OF CITIZENSHIP STATUS DISCRIMINATION IN HIRING: DETERRING**

#### **U.S. WORKERS**

51. Complainant incorporates by reference the allegations set forth in Paragraphs 1

through 50 as if fully set forth herein.

52. Cloudera's standard operating procedure beginning no later than March 31, 2024, until at least January 28, 2025, was to discriminate against U.S. workers by deterring them from seeking PERM-related positions. Cloudera created a more burdensome application process during PERM recruitment, including by not accepting applications through its own dedicated email address, based on the company's preference to sponsor temporary visa holders.

53. Cloudera knowingly and intentionally set up a separate process, different than their normal recruitment methods, that deterred U.S. workers from applying, due to the workers' citizenship or immigration status. U.S. workers who did attempt to apply at the advertised email account received bounce-back responses, preventing their application and further discouraging them from continuing in the process.

54. Cloudera's actions during the relevant period constitute a pattern or practice of unfair immigration-related employment practices prohibited under 8 U.S.C. § 1324b(a)(1)(B) against protected individuals, as defined in 8 U.S.C. § 1324b(a)(3).

55. At the very least, the U.S. workers who had a real and present interest in working for Cloudera, were victims of Cloudera's discriminatory practices if they: (A) applied to similar non-PERM-related positions with Cloudera, (B) would have applied to Cloudera's PERM-related positions but for the discriminatory practices, or (C) tried to apply at the email address set up for the PERM process.

56. No law, regulation, executive order, or government contract required the citizenship status discrimination Cloudera committed.

## COUNT II

### PATTERN OR PRACTICE OF CITIZENSHIP STATUS DISCRIMINATION IN HIRING: FAILING TO

#### CONSIDER U.S. WORKERS

57. Complainant incorporates by reference the allegations set forth in Paragraphs 1 through 56 as if fully set forth herein.

58. Cloudera's standard operating procedure beginning no later than March 31, 2024, and continuing until at least January 28, 2025, was to discriminate against U.S. workers by not considering them for employment, when Cloudera failed to review resumes external applicants sent to the email address Cloudera had advertised.

59. Cloudera knowingly and intentionally created a separate process that failed to consider U.S. workers for its PERM-related positions, when it sought to sponsor temporary visa holders in those roles, because of their citizenship or immigration status.

60. No law, regulation, executive order, or government contract required the citizenship status discrimination Cloudera committed.

61. Cloudera's actions during the relevant period were its standard operating procedures and constitute a pattern or practice of unfair immigration-related employment practices prohibited under 8 U.S.C. § 1324b(a)(1)(B) against protected individuals, as defined in 8 U.S.C. § 1324b(a)(3).

62. At minimum, U.S. workers who had a real and present interest in working for Cloudera, are injured parties if they either: (A) sent resumes to the dedicated email address Cloudera had advertised but were never considered, or (B) were deterred from applying because of Cloudera's irregular application method.

63. No law, regulation, executive order, or government contract required the

citizenship status discrimination Cloudera committed.

**COUNT III**

**PATTERN OR PRACTICE OF CITIZENSHIP STATUS DISCRIMINATION IN HIRING: FAILING TO**

**HIRE U.S. WORKERS**

64. Complainant incorporates by reference the allegations set forth in Paragraphs 1 through 63 as if fully set forth herein.

65. Cloudera's standard operating procedure beginning no later than March 31, 2024, and continuing until at least January 28, 2025, was to discriminate against U.S. workers by denying them employment that the company reserved for temporary visa holders, based on their citizenship or immigration status.

66. Cloudera knowingly and intentionally failed to hire U.S. workers for its PERM-related positions, because it preferred to employ temporary visa holders in those roles, on the basis of their citizenship or immigration status.

67. At minimum, protected individuals are injured parties if they applied with a real and present interest in working for Cloudera, but were not fairly considered or were summarily rejected.

68. No law, regulation, executive order, or contract required the citizenship status discrimination that Cloudera committed.

**REQUEST FOR RELIEF**

THEREFORE, Complainant respectfully requests that the Administrative Law Judge assigned to this proceeding grant the following relief:

- a. Order Cloudera to cease and desist from the alleged illegal practices described in the Complaint and take affirmative steps to address the illegal practices;

- b. Order Cloudera to pay an appropriate civil penalty as determined by the Administrative Law Judge for each individual discriminated against in violation of 8 U.S.C. § 1324b(a)(1)(B);
- c. Order Cloudera to pay back pay, including interest, to each protected individual discriminated against who is found to have suffered uncompensated lost wages due to Cloudera denying or delaying their employment, as a result of the discriminatory practices alleged in this Complaint; and
- d. Order such additional relief as justice may require.

Dated: April 28, 2026

Respectfully Submitted,

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