

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

December 30, 2024

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
)	8 U.S.C. § 1324a Proceeding
v.)	OCAHO Case No. 2024A00094
)	
)	
TERRAPOWER, LLC,)	
Respondent.)	
_____)	

Appearances: Margaret LaDow, Esq., for Complainant
Diane M. Butler, Esq. and Rebecca R. Schach, Esq., for Respondent

NOTICE – REVISED DEADLINES & GUIDANCE

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a.

On October 23, 2024, the Court issued an order memorializing discovery deadlines discussed at a prehearing conference. *United States v. Terrapower, LLC*, 19 OCAHO no. 1548c (2024).¹ Specifically, the Court set December 4, 2024 as the deadline for Respondent to file an updated/revised motion to compel, and a December 18, 2024 response deadline. *Id.* at 1-2.

On December 10, 2024, Respondent filed² Respondent’s Amended Motion to Compel Discovery.

¹ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet been reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² Under OCAHO’s Rules of Practice and Procedure, pleadings, which include “any motions” and “any supplements or amendments to any motions or amendments,” 28 C.F.R. § 68.2 (defining key terms), that

Respondent's Amended Motion to Compel was untimely filed. "The Court has discretion to accept late filings." *United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486a, 5 (2024); *see also US Tech Workers v. Sharma Strategy Grp.*, 20 OCAHO no. 1599, 2 (2024). In exercising its discretion, the Court considered the filing was only six days late. Acceptance of this untimely filed motion would also benefit the progression of this matter through discovery, as an amended motion to compel should encompass updates from the parties as to matters which remain at issue.

Because the Court exercised its discretion to the benefit of Respondent, it now provides additional time to Complainant to respond. Complainant's response to the amended motion to compel is **due 30 days from the date of this Order**.³

Any response should indicate, with specificity, whether Respondent's characterization of Complainant's position is accurate, and identify what, if anything, Complainant did provide. To the extent Complainant did not provide documents to Respondent, it may explain its rationale in its response. Complainant should not rely on or cite to Freedom of Information Act (FOIA) exemptions as the FOIA is a statute covering release of information to the public.

On December 20, 2024, both parties emailed court staff about various discovery-related issues and requests. Requests "for some action by an Administrative Law Judge" should be contained in an oral or written motion. *See* 28 C.F.R. 68.2 (defining a motion).⁴ The Court REJECTS both parties' December 20, 2024 emails – they will not be considered as motions. If parties desire the Court consider a particular request made in these emails, it must be properly filed as a motion.

Based on the untimely filing and extended response time afforded; the Court will postpone the next prehearing conference to March 2025. Separate guidance will be provided.

Finally, the Court reiterates guidance provided at its October 22, 2024 prehearing conference – That if Respondent so desires, it may postpone scheduling of depositions of Complainant employees until after the document-related discovery issues have been resolved. Parties should confer and resolve any scheduling-related issues on their own where possible.

are mail filed "are not deemed filed until received by the office of the Chief Administrative Hearing Officer, the Chief Administrative Law Judge, or the Administrative Law Judge." 28 C.F.R. § 68.8(b).

³ This deadline accounts for the time it takes for parties to receive this Order via the mail and submit filings via the mail. If parties desire more expeditious case processing, then e-filing status is worth considering.

⁴ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024). The rules are also available through OCAHO's webpage on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

SO ORDERED.

Dated and entered on December 30, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge