

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

UNITED STATES OF AMERICA,)	
)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
v.)	
)	OCAHO Case No. 2023A00064
MENDOZA MAINTENANCE)	
GROUP, INC.,)	
)	
Respondent.)	
)	

Appearances: Oscar J. Montemayor, Esq., for Complainant
Mendoza Maintenance Group, Inc., pro se Respondent

ORDER GRANTING JOINT MOTION TO REFER MATTER TO A SETTLEMENT
OFFICER, REFERRING CASE TO THE SETTLEMENT OFFICER PROGRAM,
AND DESIGNATING SETTLEMENT OFFICER

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. On June 6, 2023, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Mendoza Maintenance Group, Inc. Complainant alleges that Respondent, Mendoza Maintenance Group, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for nine individuals and failed to ensure proper completion of Forms I-9 for seventeen individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6. On March 5, 2024, Respondent, filed Respondent's Answer to Complainant's Complaint Regarding Unlawful Employment Practices.

On July 22, 2025, the Court held an initial prehearing conference in this matter with both parties, pursuant to 28 C.F.R. § 68.13.¹ During the prehearing conference, the Court discussed the OCAHO Settlement Officer Program, and both parties affirmed that they understood the program's policies and procedures and were interested in a referral to the program. The Court found that the case was appropriate for a referral to the program. If the parties wished to participate in the program, the Court explained that they should file a jointly signed motion consenting to participate in the OCAHO Settlement Officer Program.

On July 28, 2025, the parties filed The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral. Through the motion, which was signed by Complainant's counsel and Mr. Jaime Mendoza on behalf of Respondent, the parties represented that they "have informally engaged in settlement discussions but are unable to resolve this matter and remain at an impasse." Joint Request for Settlement Officer Prog. Referral 2, 4.² The parties then requested a referral to the OCAHO Settlement Officer Program "to mediate and assist with a resolution of this matter." *Id.* at 2.

II. RULES GOVERNING THE OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO announced its Settlement Officer Program in August 2020 through the Executive Office for Immigration Review (EOIR) Policy Memorandum (PM) 20-16.³ It is a voluntary program through which the parties use a Settlement Officer to mediate settlement negotiations as a means of alternative dispute resolution. The Settlement Officer convenes and oversees settlement conferences and negotiations, confers with the parties jointly and/or individually, and seeks voluntary resolution of issues. The proceedings before the Settlement Officer are subject to the confidentiality provisions of 5 U.S.C. § 574. The presiding Administrative Law Judge (ALJ) may refer a case for up to sixty days for settlement negotiations before the Settlement Officer. However, with the consent of the parties, the Settlement Officer

¹ OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), generally govern these proceedings and are available on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

² Pinpoint citations to The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral are to the page numbers of the PDF version of the motion on file with the Court.

³ Chapter 4.7 of the OCAHO Practice Manual also discusses the OCAHO Settlement Officer Program and is available at <https://www.justice.gov/eoir-policy-manual/iv/4/7>.

may seek the approval of the presiding ALJ to extend the period for negotiations for a reasonable period of time, not to exceed an additional thirty days. If the parties reach a settlement, the provisions of 28 C.F.R. § 68.14 apply. If the parties' settlement negotiations are unsuccessful, the case is returned to the presiding ALJ to set appropriate procedural deadlines.

The presiding ALJ may refer a case to a Settlement Officer upon: (1) receipt of written confirmation of consent to a referral from each party in the case and (2) subject to 5 U.S.C. § 572(b) and the eligibility provisions of the program, a determination by the presiding ALJ that the case is appropriate for referral. PM 20-16, Section II.A. The eligibility provisions include, as relevant, that an ALJ shall not refer a case if (a) either party objects to the referral, (b) one or more parties are proceeding pro se unless the pro se parties are fully informed regarding program's procedures and consent to their use, or (c) a case is not appropriate for referral. *Id.* Section I.C.

III. DISCUSSION AND ANALYSIS

Pending before the Court is The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral. The motion is signed by both parties, notes that they "have informally engaged in settlement negotiations but . . . remain at an impasse," and requests "that this matter be referred to OCAHO's Settlement Officer Program to mediate and assist with a resolution of this matter." Joint Request for Settlement Officer Prog. Referral 2, 4. The Court finds that, through their Joint Request, the parties have satisfied the OCAHO Settlement Officer Program's requirement that no referral be made without "receipt of written confirmation of consent to referral from each party in this case." PM 20-16, Section II.A.1. During the initial prehearing conference on July 22, 2025, the Court explained the program and both parties affirmed their understanding of the program's governing policies and procedures.

Based on the Court's discussions with the parties during the initial prehearing conference and its review of the filings in this case, including the complaint, Respondent's answer, the parties' prehearing statements, and their Joint Request for Settlement Officer Program Referral, the Court finds that this matter meets the eligibility requirements for the OCAHO Settlement Officer Program, as set out in Section I.C.1–2 of PM 20-16 and Chapter 4.7(a)(3)(A)–(B) of the OCAHO Practice Manual, and is appropriate for referral. In making this finding, the Court has considered Respondent's pro se status, however, it fully informed Respondent about the program's procedures during the initial prehearing conference on July 22, 2025, and Respondent affirmed its understanding of the program and consented to the use of program's procedures in accordance with Chapter 4.7(a)(3)(B) of the OCAHO Practice Manual. Moreover, the Court does not find that any of the factors in 5 U.S.C.

§ 572(b), Section I.C.3. of PM 20-16, and Chapter 4.7(a)(3)(C) of the OCAHO Practice Manual counsel against a referral of this case to the program. Accordingly, the Court now grants The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral and refers this case to the program for settlement negotiations for a total of sixty days, pursuant to 28 C.F.R. § 68.28(a) and Sections II.C and II.D.2 of PM 20-16. The sixty-day referral shall begin on September 2, 2025, and conclude on November 3, 2025.⁴ The Court designates Administrative Law Judge Andrea R. Carroll-Tipton as the Settlement Officer for this case.

The Court finds that no procedural deadlines need to be stayed during this case's referral to the OCAHO Settlement Officer Program. *See* PM 20-16, Section II.C. As the Court explained during the initial prehearing conference, the parties may engage in discovery during mediation or seek a stay if discovery requests become burdensome.

During the referral period, the parties shall comply with the OCAHO Settlement Officer Program's confidentiality requirements, *see* PM 20-16, Section IV, and, as specified in the program, the statutory provisions of 5 U.S.C. § 574 "which generally prohibit disclosure of dispute resolution communications by parties and a settlement officer unless a specific enumerated exception applies." *Id.* Section IV.B.

As the Court explained during the initial prehearing conference, if the parties reach a settlement agreement through the OCAHO Settlement Officer Program, the Court may issue an order setting deadlines for the filing of any settlement materials. The parties may consult 28 C.F.R. § 68.14, which sets forth the two avenues for leaving this forum upon settlement. If the parties enter into a settlement agreement, 28 C.F.R. § 68.14(a)(2) provides that the parties may file a notice of settlement and a joint motion to dismiss signed by representatives for both parties. If the parties pursue this avenue, the Court may require the filing of the parties' settlement agreement. The parties should state in their joint motion whether they are seeking dismissal with or without prejudice.

If the parties do not reach a settlement during the referral to the OCAHO Settlement Officer Program, they may seek an extension of the referral period for up to an additional thirty days. PM 20-16, Section II.D.2. When the referral period ends, the Settlement Officer will terminate negotiations and return the case to the presiding ALJ. *Id.* Section V.B. Settlement negotiations before the Settlement Officer also will be terminated and the case will be returned to the presiding ALJ if a party unambiguously indicates that it does not wish to participate or if the Settlement Officer determines that further negotiations would be unproductive or inappropriate. *Id.* Section V.C.

⁴ Due to the last day of the period falling on a holiday, the referral period terminates on the next business day, namely, Monday, November 3, 2025. *See* 28 C.F.R. § 68.8(a).

IV. ORDERS

IT IS SO ORDERED that The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral, filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, Mendoza Maintenance Group, Inc., is GRANTED;

IT IS FURTHER ORDERED that, pursuant to 28 C.F.R. § 68.28(a) and EOIR Policy Memorandum 20-16, Sections II.C and II.D.2, this case is referred to the OCAHO Settlement Officer Program for settlement negotiations for a sixty-day period beginning on September 2, 2025, and ending on November 3, 2025;

IT IS FURTHER ORDERED that OCAHO Administrative Law Judge Andrea R. Carroll-Tipton is designated as the Settlement Officer for this case; and

IT IS FURTHER ORDERED that, should the parties reach a settlement agreement, they shall proceed in accordance with 28 C.F.R. § 68.14.

SO ORDERED.

Dated and entered on August 19, 2025.

Honorable Carol A. Bell
Administrative Law Judge