

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

March 19, 2026

RAVI SHARMA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2022B00023
	)	
NVIDIA CORP.,	)	
Respondent.	)	
_____	)	

Appearances: Robert J. Barton, Esq., and Marie-Lise Baroutjian, Esq., for Complainant  
K. Edward Raleigh, Esq., and Samantha Caesar, Esq., for Respondent

PREHEARING ORDER FOUR – ORDER SUMMARIZING PREHEARING CONFERENCE

On March 12, 2026, the Court held a prehearing conference following its last prehearing conference on January 7, 2026.<sup>1</sup>

I. PROCEDURAL HISTORY & ARGUMENT (SUBPOENA REQUEST)

On June 2, 2025, Respondent timely filed its prehearing statement. In this prehearing statement, Respondent informed the Court it would call the following witnesses:<sup>2</sup> (1) Head of Global Recruiting Operations; (2) Senior Logic Design Engineer (interviewer and recommender of candidates); (3) Senior ASIC Engineer (interviewer and recommender of candidates); and (4) Hiring Manager. Resp’t’s Preh’r’g State. 5; *id.* at Appendix C.

<sup>1</sup> In that prior prehearing conference, the Court resolved a number of issues brought by the parties.

The Court also provided notice of the structure of the hearing, and discussed hearing logistics with the parties.

Additionally, during this prehearing conference, the Complainant provided notice to Respondent and the Court it intended to file a request for subpoenas.

<sup>2</sup> Complainant did not depose these individuals, and Respondent declined to make them available for a brief interview prior to hearing.

On June 30, 2025, Complainant filed a motion seeking subpoenas. Mot. This motion was opposed by Respondent. Opp'n.

On July 21, 2025, the Court issued an order entitled Pre-Hearing Order One in which it denied Complainant's motion for subpoenas for the hearing. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450t (2025).<sup>3</sup> In that Order, the Court denied the request for subpoenas because Complainant failed to explain with sufficient thoroughness and specificity why the individuals identified possess information that is not in the record at present (via exhibits), would not be offered into the record via an exhibit at hearing, or is not available through cross examination of individuals that Respondent has agreed to produce at the hearing. *Id.* at 5.

On January 21, 2026, Complainant filed a "Renewed" Motion<sup>4</sup> seeking subpoenas for several individuals. In this Motion, Complainant narrows its proposed list of individuals down to seven, and proffers that each individual participated in the evaluation of at least H-1B candidate hired during the hiring process. Mot. 1. Complainant identifies no new individuals in this request. Complainant proffers "all" requested individuals "would address the qualifications of the H-1B hires, the interview process, and the interview scores..." Mot. 5-6.

On February 4, 2026, Respondent filed an Opposition to the Motion, arguing that the Complainant's request is an attempt to reopen discovery does not meet the standard outlined in the Court's prior Order. Opp'n. The Respondent argues that the information through proposed subpoenaed testimony already been provided and is available in the record or through the testimony of its four witnesses. Opp'n.

On February 19, 2026, the Court issued a Notice pertaining to the March 12, 2026 Prehearing Conference.

The Notice informed the parties they would be permitted to provide additional argument pertaining to the issues raised in the motion and opposition. To assist the parties, the Notice detailed factual findings made during summary decision (as the Court relied or will rely on these facts in evaluating the subpoena request and the opposition to the subpoena request). In the Notice, the Court relayed

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<sup>3</sup> 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 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 "FIM-OCAHO," or in the LexisNexis database "OCAHO," or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions> .

<sup>4</sup> On February 17, 2026, Complainant filed a motion seeking leave to reply to the opposition filing. This motion is DENIED as moot because this Notice explains how the Complainant will be provided an opportunity to be heard once more (with the benefit of additional insight and focus from the Court).

that the Complainant does not appear to demonstrate the necessity of a subpoena as to some issues or potential witnesses (specifically those involved in hiring C-295); however, as to a remaining issue or potential witness, the record (as developed to this point) was less clear (i.e. the record surrounding the hiring of C-827).

On February 23, 2026, Respondent filed additional matters for the Court's consideration on this issue, which will be discussed below within the section pertaining to the oral argument.

On March 12, 2026, during the prehearing conference the Court permitted further argument by the parties consistent with the Notice - specifically pertaining to potential witness testimony surrounding C-827. To that end, the Court first asked for a proffer from Respondent's counsel pertaining to anticipated testimony of witnesses on its witness list and potential exhibits. Respondent proffered that it would offer as an exhibit (previously provided to Complainant) interview notes for C-827. Additionally, Respondent proffered the Hiring Manager interviewed C-295 and C-827, and the Principal Engineer (Senior Logic Design Engineer) interviewed all three candidates.

#### A. Complainant's Argument

In its oral argument pertaining to subpoenas, Complainant argued the testimony of the three individuals from Respondent's witness list will be insufficient because all interviewers should testify to provide a full picture of the relative strength of the candidates, noting that scores were compiled by several interviewers' perceptions and evaluations.

As to the proposed exhibit with additional interview feedback, this too, according to Complainant, is insufficient. This proposed exhibit contains only short comments, technical shorthand, and conclusions. Further, this record was created days after the interview. To highlight this point, Complainant provides an example related to C-295, who, according to her interview notes "made some mistakes" in interview responses, and "took awhile" to answer questions. This interviewer, according to Complainant, assigned a numeric score of "3" to C-295, the same score Complainant received. Complainant asserts that the meaning of interview notes and how the interview scores were compiled cannot be understood without the testimony of additional live witnesses.

On Reply, Complainant noted the Court's precedential decisions,<sup>5</sup> arguing these precedential decisions are consistent with Complainant's position on subpoenas and its theory of the case (i.e. if Complainant has equal or superior qualifications, then Complainant may be able to establish an inference of discrimination). Complainant argued that the head of recruitment had no direct involvement in interview and that two of the witnesses subpoenaed were directly involved in the how the interviews took place.

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<sup>5</sup> *Zajradhara v. Ranni's Corp.*, 16 OCAHO no. 1426e (2023); *Zajradhara v. Aljeric Gen. Servs., LLC*, 16 OCAHO no. 1432 g (2023).

## B. Respondent's Argument

Respondent first reminded the Court of the limits of the forum, relaxed evidentiary rules, and maintained its proposed witnesses are more than sufficient to develop the record under Complainant's comparator theory. Respondent noted that Complainant failed to depose individuals in discovery. Respondent stated that Complainant was rated ninth in the succession of hiring and received the same interview score as 15 other candidates. Respondent asserted its proposed witnesses could address interview scores and the interview process. Respondent emphasized the Court's prior rationale wherein it declined to issue subpoenas in instances where it was not clear additional witnesses would provide new evidence not already in the record, and not otherwise available through new exhibits or cross examination.

## C. The Court DENIES Complainant's January 21, 2026 Request for Subpoenas

### 1. Factual Background

Because the Court ruled on a motion seeking summary decision, it has already made some findings of fact in this case. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 14501 (2024).

Specifically, Complainant applied to an advertised Senior Logic Design Engineer, FPGA Position with Respondent. *Id.* at 9. According to the advertisement, the position requires technical experience/ qualifications and "strong communication and interpersonal skills." *Id.*

Respondent received applications in excess of the number of vacancies, and only interviewed some of the applicants. *Id.* at 10. Complainant was interviewed, but was not selected. *Id.* at 11. Ultimately four individuals accepted an offer for this position. *Id.* at 10. Two individuals were, like Complainant, U.S. citizens. *Id.* The other two selected individuals (who accepted) were not U.S. citizens, and are referred to as C-295 and C-827 respectively. *Id.*

As to C-295, reliable record evidence indicates C-295 was an internal candidate, who worked for Respondent for nine years prior to applying for the vacancy at issue. *Id.* at 13. The record contains impressions of her interview performance memorialized close in time to the interview (in Respondent's personnel database/ system known as "Workday.") *Id.* at 14. She was interviewed by at least one individual who also interviewed Complainant. *Id.* at 13. It is the Court's understanding that this shared interviewer is already slated to testify.

Distinct from C-295, C-827 was (according to proffer from Respondent) an external candidate. Respondent submitted reformatted "Interview Feedback" notes for C-827 as a proposed exhibit at hearing. Respondent's Notice Regarding Interviewers and Interview Notes, Ex. C. While not yet a part of the record, an examination of the proposed exhibit reveals it memorializes feedback and comments from the six interviewers identified in the notes. Respondent's Notice Regarding Interviewers and Interview Notes, Ex. C. Respondent has also submitted an updated exhibit list identifying exhibits. Respondent's Notice Regarding Updated Exhibit List.

According to the Complainant's Motion, only two or possibly three of the seven requested individuals interviewed C-827. Mot. 7-8. The remainder interviewed C-295 or were involved in staffing or recruiting. Mot. 7-10.

## 2. Law & Analysis

As the Court noted previously:

The moving party "has the burden to establish relevancy" [when it requests the Court issue a subpoena]. *Zajradhara v. HDH Co.*, 16 OCAHO no. 147b, at 3. The Court has previously declined to issue subpoenas requested by a § 1324b complainant where the requested testimony "[was] not sufficiently narrow," despite potentially being relevant. *Zajradhara v. Aljeric Gen. Servs., LLC*, 16 OCAHO no. 1432g, 4 (2023).

Indeed, the Court must be cautious in its approach when it issues subpoenas. Issuance of a subpoena is, in essence, the Court leveraging its statutory authority to compel attendance and participation in a particular matter. Relevance is the floor, not the ceiling. An opposed subpoena request requires more.

*Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450t, 5 (2025).

Complainant's Renewed Motion to Approve Subpoenas requests subpoenas for seven individuals. Much like the prior motion denied by the Court, as to subpoenas pertaining to C-295 or generalized recruiting and staffing, Complainant's renewed motion does not show "with requisite thoroughness and specificity why these individuals uniquely possess information that is not already in the record, and/or not already contained in a proposed exhibit, and/or unavailable via cross examination of the individuals Respondent has already indicated it will produce at hearing." *Id.*

The Complainant also requests subpoenas pertaining to individuals who may testify as to C-827. Mot. 7-10. According to Complainant, "Financial Planning and Analysis Manager and/or Senior Architect [M.A]"<sup>6</sup> interviewed C-827 as did "Senior Staff ASIC Hardware Engineer [T.I.]"<sup>7</sup> Mot. P. 7-8. Through Respondent's proffer clarifying likely witness testimony and its proposed exhibit (interview notes) along with the additional oral argument, it seems clear that two of the witnesses proposed by Respondent did interview C-827 (in addition to Complainant).

While Complainant argued for additional testimony from others who interviewed C-827, Complainant did not show that the desired information is not already in the record or could not be

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<sup>6</sup> Initials refer to the individual's initials, as identified in the motion.

<sup>7</sup> It is less clear from the motion, but there may be a third individual also identified who interviewed C-827. Complainant proffers in its motion C-827 was interviewed by a panel of five individuals. The Respondent's Notice states that C-827 had six interviewers. Respondent's Notice Regarding Interviewers and Interview Notes at 1.

produced through the witnesses already proposed. Specifically, it appears as though Respondent's witnesses could be cross-examined on the interview process and evaluation of the candidates.

Further, Respondent intends to offer an additional exhibit with notes created relatively close in time to the interview process for C-827. Complainant has raised concerns about the sufficiency of the notes, but fails to explain how this point could not be further developed via argument on the probative value of the exhibit, or through cross examination of the witnesses. *See generally Saini v. Sheridan Community Hospital, et al.*, 21 OCAHO 1644c, 6 (2025).

For these reasons, the Renewed Motion for Subpoenas is DENIED.

## II. HEARING LOGISTICS

The Court provided an update to the parties as to the proposed location for the hearing. Specifically, the Court will hold the hearing at the San Francisco Immigration Court, and has secured a courtroom for the week of May 11, 2026.

The Court encouraged parties to meet and confer over additional hearing logistics, and be prepared to discuss their proposals and positions at the next prehearing conference, scheduled for April 2, 2026 at 9:00am PST.

SO ORDERED.

Dated and entered on March 19, 2026.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge