

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. 2026A00010
SONGHAI CONSTRUCTION, LLC,	)	
	)	
Respondent.	)	
_____	)	

Appearances: Kenneth R. Knapp, Esq., for Complainant
Songhai Construction, LLC, Respondent

ORDER REFERRING CASE TO OCAHO SETTLEMENT OFFICER PROGRAM
AND DESIGNATING SETTLEMENT OFFICER

I. PROCEDURAL HISTORY

This case arises under the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on December 19, 2025.

Complainant alleges that Respondent, Songhai Construction, LLC, failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for eleven individuals (Count I) and failed to ensure the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for fourteen individuals (Count II), all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 4–12. Complainant seeks a fine of \$60,800 for the alleged violations. *Id.* at 6.

On February 11, 2026, the Court issued a Notice and Order to Show Cause. *See United States v. Songhai Constr., LLC*, 22 OCAHO no. 1691 (2026).¹ The Court found that OCAHO perfected service of the Complaint package on Respondent on January 9, 2026. *Id.* at 4. The Court explained that under OCAHO's Rules of Practice and Procedure for Administrative Hearings,² which generally govern these proceedings, Respondent's answer to the complaint was due no later than February 9, 2026. *Id.* (citing 28 C.F.R. §§ 68.8(a), 68.9(a)). The Court noted that Respondent had failed to file a timely answer. *Id.*

On February 23, 2026, Respondent filed what it described as a response to the complaint.

On March 12, 2026, the Court issued a Second Notice and Order to Show Cause. *See United States v. Songhai Constr., LLC*, 22 OCAHO no. 1691a (2026). The Court acknowledged the Respondent's response on February 23, 2026, which it construed as an untimely answer to the complaint. *Id.* at 4. The Court informed Respondent that it had not submitted a filing proffering good cause for its failure to file a timely answer as directed by the Court. *Id.* The Court further informed Respondent that it remained in violation of the Court's Notice and Order to Show Cause. *Id.* The Court again ordered Respondent, within twenty-one days of the date of issuance of the Second Notice and Order to Show Cause, being April 2, 2026, to submit a response providing facts sufficient to show good cause for its failure to timely answer the complaint. *Id.*

On April 2, 2026, Respondent filed Respondent's Motion to Accept Late Filing and Response to Order to Show Cause.

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 after 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 "FIM-OCAHO," the LexisNexis database "OCAHO," or on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2026), are available in the Electronic Code of Federal Regulations. *See* <https://www.ecfr.gov/current/title-28/chapter-I/part-68>.

On April 6, 2026, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference, which ordered the parties to make initial disclosures and file prehearing statements with the Court within twenty-one days of the date of the order and scheduled the initial prehearing conference for Thursday, April 30, 2026, at 11:30 a.m. Eastern Time.

On April 20, 2026, Complainant filed Complainant's Prehearing Statement. On April 29, 2026, Respondent filed Respondent's Prehearing Statement.

On April 30, 2026, the Court held the initial prehearing conference and discussed the parties' filings, including Respondent's untimely answer, the parties' discovery needs, and their interest in participating in the OCAHO Settlement Officer Program. The parties requested a referral to the OCAHO Settlement Officer Program for sixty days, and the Court described the program's procedures. Both parties consented to their use and agreed to mediate in good faith. At the parties' request, the Court deferred setting a case schedule in this matter to permit the parties to engage in settlement negotiations through mediation. The Court declined to stay the case during its referral to the Settlement Officer Program and noted that discovery was available to the parties. The Court explained that the program's rules necessitated that it receive written confirmation of consent to referral.

On April 30, 2026, Complainant filed Complainant's Request to Refer Matter to a Settlement Officer (Referral Request).

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 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

³ EOIR PM 20-16 has been incorporated into the OCAHO Practice Manual. Chapter 4.7 of the OCAHO Practice Manual discusses the OCAHO Settlement Officer Program and is available at <https://www.justice.gov/eoir/policy-manual-eoir/part-IV/ocaho/chapter-4-7>.

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. OCAHO Prac. Manual § 4.7(b)(1). 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 the program's procedures and consent to their use, or (c) a case is not appropriate for referral. *Id.* § 4.7(a)(3).

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide that the settlement officer may preside over settlement conferences in person, by telephone, or by video teleconference. 28 C.F.R. § 68.13(d)(1). "The settlement officer may require that a representative for each party be present at or participate in settlement conferences, and may require that the parties or agents of the parties with full settlement authority be present or available by telephone or video teleconference." *Id.* § 68.13(d)(2). OCAHO's Rules also discuss the confidentiality requirements of the Settlement Officer Program. *See id.* § 68.13(d)(3).

III. DISCUSSION AND ANALYSIS

During the initial prehearing conference on April 30, 2026, the parties requested a referral to the OCAHO Settlement Officer Program. The Court fully informed the parties about the program's procedures, and they consented to their use. The parties requested an initial referral to the program for sixty days and agreed to mediate in good faith. After the conference, on April 30, 2026, Complainant filed its Request to Refer Matter to a Settlement Officer. Through that filing, Complainant confirmed in writing its consent to a referral to the program, *see* OCAHO Prac. Manual § 4.7(b)(1)(A), and noted that "Respondent has also requested the same." Referral Req. 1. Further, Complainant reiterated that it would "uphold its commitment to negotiate in good faith." *Id.* Respondent, in its prehearing statement, likewise indicated that it "is open to discussing resolution of this matter." Resp'ts Prehr'g Statement 4.⁴

⁴ Pinpoint citations to Respondent's Prehearing Statement are to the page numbers of the PDF version of the motion on file with the Court. The Court reminds Respondent that all multi-page filings and exhibits must be paginated. *See* Apr. 6, 2026, Order Prehr'g Statements and Scheduling Initial Prehr'g Conference 5.

Both parties having been fully informed about the OCAHO Settlement Officer Program's rules and having consented to their use, the Court finds that referral of this matter to the program is appropriate. The Court has also considered the factors in section 4.7(a)(3) of the OCAHO Practice Manual and finds that they do not counsel against a determination that referral to the Settlement Officer Program is appropriate. The Court's referral is based on the nature of the case, its review of the pleadings in this matter, the parties' consent to referral, and the Court's discussions with the parties during the initial prehearing conference in which they affirmed their understanding of the policies and procedures for the program, consented to their use, and agreed to mediate in good faith.

Accordingly, and as discussed and agreed to by the parties during the initial prehearing conference, the Court exercises its discretion and now refers this case to the OCAHO Settlement Officer Program for settlement discussions for sixty days, beginning on May 7, 2026, and continuing through July 6, 2026. The Court designates the Honorable Andrea R. Carroll-Tipton as the Settlement Officer for this case.

As the Court explained to the parties during the prehearing conference, although it has deferred setting a case schedule in this matter, it finds no need for a stay of discovery during this case's referral to the OCAHO Settlement Officer Program. Because these proceedings have not been stayed, the parties may engage in discovery during mediation or seek a stay if discovery obligations prevent them from meaningful mediation.

During the referral period, the parties shall comply with the OCAHO Settlement Officer Program's confidentiality requirements, *see* OCAHO Prac. Manual § 4.7(d) and 28 C.F.R. § 68.13(d)(3), and 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." OCAHO Prac. Manual § 4.7(d)(2).

Should the parties reach a settlement agreement, they shall follow the guidelines of 28 C.F.R. § 68.14 in seeking dismissal of the action. This regulation provides two avenues for settlement, one which permits the parties to file a notice of settlement and joint motion to dismiss signed by both parties. 28 C.F.R. § 68.14(a)(2). If the parties pursue this avenue, the Court may require them to file a copy of the settlement agreement. Additionally, any joint motion to dismiss should indicate whether the parties seek a dismissal with or without prejudice. Absent notification by the Settlement Officer and/or the parties of this matter's resolution through the OCAHO Settlement Officer Program, the parties should expect order(s) from the Court requesting status reports and/or setting a date for a prehearing conference during which the Court shall set a schedule for the remainder of this case.

IV. ORDERS

IT IS SO ORDERED that, pursuant to 28 C.F.R. § 68.13(d) and section 4.7 of the OCAHO Practice Manual, this case is referred to the OCAHO Settlement Officer Program for settlement negotiations for a total of sixty days, from May 7, 2026, through July 6, 2026.

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 May 7, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge