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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, Plaintiff, v. GOOGLE, INC., Defendant.	**Case No.: 2017-OFC-00004** RECEIVED JAN 24 2017 Office of Administrative Law Judges San Francisco, Ca

ANSWER TO ADMINISTRATIVE COMPLAINT AND REQUEST FOR HEARING

Defendant Google, Inc. (hereinafter "Google"), by and through its undersigned counsel, hereby files this Answer in response to the Administrative Complaint ("Complaint"), filed by the Office of Federal Contract Compliance Programs, United States Department of Labor ("OFCCP"), and OFCCP's request for an expedited hearing pursuant to 41 C.F.R. § 60-30.31. Google submits that this Complaint should not be adjudicated pursuant to the expedited hearing procedures set forth at 41 C.F.R. §§ 60-30.31 through 60-30.3, and on that basis objects to OFCCP's request for an expedited hearing.

Google answers below the allegations in the Complaint in paragraphs that correspond to the paragraphs in the Complaint, without waiving the subsequent affirmative and other defenses.

JURISDICTION

1. Answering paragraph 1 of the Complaint, Google can neither admit nor deny the material allegations contained therein because they are purely legal contentions for which no admission or denial is required.

DEFENDANT AND ITS GOVERNMENT CONTRACTOR STATUS

2. Answering paragraph 2 of the Complaint, Google admits that it is a wholly-owned subsidiary of Alphabet, Inc. Google admits that it offers, among other things, Internet advertising services. Google admits that its headquarters and principal place of business is located at 1600 Amphitheatre Parkway, Mountain View, California.

3. Answering paragraph 3 of the Complaint, Google lacks sufficient knowledge or information to admit or deny the material allegations contained therein on the basis that the term "at all times relevant hereto" is not defined and, on that basis, denies them. Google admits that it has had 50 or more employees since at least September 30, 2015.

4. Answering paragraph 4 of the Complaint, Google denies knowledge or information sufficient to form a belief as to whether it has had at least one contract with the federal government of $50,000 or more "at all relevant times hereto." Google admits that, on or about June 2, 2014, the General Services Administration awarded Google Contract No. GS07F227BA for "Advertising and Integrated Marketing Solutions." Google denies all other allegations in paragraph 4.

5. Answering paragraph 5 of the Complaint, Google denies OFCCP's characterization of the referenced document, and refers the Court to the full contents of the referenced document in response to the Complaint's specific averments therein.

6. Answering paragraph 6 of the Complaint, Google denies OFCCP's characterization of the referenced document, and refers the Court to the full contents of the referenced document in response to the Complaint's specific averments therein.

7. Answering paragraph 7 of the Complaint, Google can neither admit nor deny the material allegations contained therein because they are purely legal contentions for which no admission or denial is required.

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GOOGLE'S DENIAL OF ACCESS TO RECORDS OFCCP REQUESTED AS PART OF ITS COMPLIANCE EVALUATION

8. Answering paragraph 8 of the Complaint, Google admits that it received a letter from OFFCP, dated September 30, 2015, stating that OFCCP had selected Google's establishment at 1600 Amphitheater Parkway in Mountain View, California, for a compliance evaluation. Google denies knowledge or information sufficient to form a belief that OFCCP selected the facility pursuant to a neutral selection process. Google denies OFCCP's characterization of the September 30, 2015 correspondence, and refers the Court to the full contents of the September 30, 2015 letter from OFCCP in response to the Complaint's specific averments therein. Google denies the remainder of the allegations of this paragraph.

9. Answering paragraph 9 of the Complaint, Google denies that the items requested on or before June 1, 2016 were "relevant to Google's compensation policies" or "relevant to the compliance evaluation." Google denies OFCCP's characterization of the items requested, and refers the Court to the items requested by OFCCP in response to the Complaint's specific averments therein. Google denies the remainder of the allegations of this paragraph.

10. Answering paragraph 10 of the Complaint, Google denies the allegations therein.

11. Answering paragraph 11 of the Complaint, Google admits that OFCCP served a Notice to Show Cause on or around September 16, 2016. Google denies the remainder of the allegations of this paragraph.

VIOLATIONS

12. Answering paragraph 12 of the Complaint, Google denies the allegations therein.

13. Answering paragraph 13 of the Complaint, Google denies the allegations therein.

14. Answering paragraph 14 of the Complaint, Google denies the allegations therein. Google also objects that the allegations therein are argumentative.

15. Answering paragraph 15 of the Complaint, Google submits that this Complaint should not be adjudicated pursuant to the expedited hearing procedures set forth at 41 C.F.R. §§ 60-30.31 through 60-30.31. Google objects to OFCCP's request for an expedited hearing and denies that an expedited hearing is appropriate. Although Google does wish to resolve this matter expeditiously, Google needs discovery beyond that prescribed under the expedited hearing procedures of 41 C.F.R. § 60-30.31.

AS TO OFCCP'S "PRAYER FOR RELIEF" CLAUSE"

Google denies each and every allegation, demand, claim and statement contained in the PRAYER FOR RELIEF clause of the Complaint, including subsections "(a)" through "(d)".

REQUEST FOR HEARING

Google requests an administrative hearing in accordance with 41 C.F.R. § 60-30.6(b) and/or 41 C.F.R. 60-30.32(c).

DEFENDANT'S AFFIRMATIVE DEFENSES AND OTHER DEFENSES

Without assuming the burden of proof as to any of the following defenses where the law does not impose such burden on Google, Google asserts the following defenses:

FIRST DEFENSE

The Complaint should be dismissed, in whole or in part, because it fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The Complaint and/or requests for relief are barred by the applicable statutes of limitations.

THIRD DEFENSE

The Complaint, in whole or in part, is barred by the doctrines of laches, waiver, estoppel, and/or unclean hands.

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FOURTH DEFENSE

The Complaint, in whole or in part, should be dismissed due to OFCCP's failure to conciliate in good faith, exhaust administrative remedies, and/or satisfy all of conditions precedent to filing this Complaint with this Court under Executive Order 11246, as amended; section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793; section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act, 38 U.S.C. § 4212; and the rules and regulations located at 41 C.F.R. Chapter 60.

FIFTH DEFENSE

At all relevant times Google acted in good faith and without denying access.

SIXTH DEFENSE

To the extent the Complaint asserts or attempts to assert any allegations, claims, damages or requests for relief other than those contained in the original Notice to Show Cause with attached Violations and/or amended Violations served on Google by OFCCP, such claims are barred for failing to fulfill conditions precedent to maintaining such claims.

SEVENTH DEFENSE

To the extent any of the claims concern any period of time prior to two years before the date of OFCCP's Scheduling Letter in this matter, such claims are time-barred.

RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES

Google has not knowingly or intentionally waived any applicable defenses, and it reserves the right to assert and rely upon other applicable defenses that may become available or apparent during discovery in this matter. Google reserves the right to amend or seek to amend its answer, affirmative defenses and/or other defenses.

WHEREFORE, Google requests that the Court:

1. Dismiss with prejudice the Complaint;
2. Issue an order denying the injunction and relief sought;
3. Deny each and every demand, claim and prayer for relief contained in the Complaint;

4. Award to Google reimbursement for its costs, including attorneys' fees;

5. Schedule an administrative hearing in accordance with 41 C.F.R. § 60-30.6(b) and/or 41 C.F.R. 60-30.32(c);

6. If the case remains on the expedited calendar, issue an order permitting the parties to undertake additional discovery as permitted by 41 C.F.R. § 60-30.2; and,

7. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: January 24, 2017

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By: _____
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of January, 2017, I caused a true and correct copy of Defendant's ANSWER TO ADMINISTRATIVE COMPLAINT AND REQUEST FOR HEARING to be served by sending a copy of same by overnight mail to:

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