



Issue Date: 19 June 2017

CASE NO.: 2017-OFC-00006

In the Matter of:

**OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS, U.S.
DEPARTMENT OF LABOR,**
Plaintiff,

vs.

ORACLE AMERICA, INC.,
Defendant.

**ORDER GRANTING IN PART, AND DENYING IN PART,
MOTION FOR A RULING OVERRULING
ORACLE'S OBJECTIONS REGARDING THE TEMPORAL SCOPE
OF DISCOVERY**

This matter arises under Executive Order 11246 (30 Fed.Reg. 12319), as amended, and associated regulations at 41 C.F.R. Chapter 60. It is currently set for hearing in San Francisco, California, on June 26, 2018.

Plaintiff Office of Federal Contract Compliance Programs ("OFCCP") moves the court for an Order declaring it may conduct discovery into alleged acts of discrimination occurring after OFCCP's pre-hearing investigation in this matter. Defendant opposes the motion, contending this action is limited as a matter of law to the period of January, 2013, to June, 2014.

This dispute presents, in only slightly different dress, the same issue Defendant raised by way of a Motion for Judgment on the Pleadings. Defendant cites no authority which directly holds this action must be limited to the period of OFCCP's pre-filing investigation. Instead, Defendant asks the court to infer such a limitation 1) from court decisions involving the obligations of a plaintiff under Title VII of the Civil Rights Act of 1964 to exhaust administrative remedies before filing suit; and 2) from the regulations issued under Executive Order 11246 (Defendant's Opposi-

tion, pp. 4-7). *OFCCP v. Uniroyal, Inc.*, 77-OFCCP 1 (Sec'y June 28, 1979) militates against such an inference.

At the same time, neither the court nor the parties can properly prepare for a hearing unless the relevant period under court review ends before the hearing begins. No one will be in any position to offer or analyze data that is changing even as the hearing is going forward. Accordingly, the court will fix a date, after notice to the parties and an opportunity to be heard, after which it will not consider, in this action, Defendant's alleged non-compliance with Executive Order 11246. Such a determination will be without prejudice to OFCCP's right to seek relief in a different action.

Accordingly, the court grants the Motion in part. Oracle must respond to discovery in this case relevant to OFCCP's claims asserting discrimination, failure to provide documents, and other alleged violations from 2013 through a date the court will, after notice to the parties and an opportunity to be heard, fix by further Order.

SO ORDERED.

CHRISTOPHER LARSEN
Administrative Law Judge