

UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED STATES  
DEPARTMENT OF LABOR,

Plaintiff,

v.

ACCUWEATHER, INC.,

Defendant.

Case No. \_\_\_\_\_

**ADMINISTRATIVE  
COMPLAINT**

**EXPEDITED HEARING  
PROCEDURES**

**COMPLAINT AGAINST ACCUWEATHER, INC. FOR DENIAL OF ACCESS TO  
RECORDS AND ITS FACILITY**

Plaintiff, Office of Federal Contract Compliance Programs, United States Department of Labor (“OFCCP”), by its undersigned attorneys, alleges:

1. This action is brought by OFCCP to enforce the contractual obligations imposed by Executive Order 11246 (30 Fed. Reg. 12319), as amended, and the rules and regulations issued pursuant thereto at 41 C.F.R. Chapter 60.

2. This Court has jurisdiction over this action under Sections 208 and 209 of Executive Order 11246, 41 C.F.R. § 60-1.26 and 41 C.F.R. Part 60-30.

3. Defendant, AccuWeather, Inc. (“AccuWeather”), is a corporation organized under the laws of the Commonwealth of Pennsylvania. Its headquarters and principal place of business is located at 385 Science Park Road, State College, PA.

4. AccuWeather is in the business of weather forecasting and also provides a wide range of enterprise solutions to media, business, government, and other institutions, as well as news, weather, content, and video for third-party websites.

5. At all times relevant hereto, AccuWeather has been a government contractor or subcontractor within the meaning of Executive Order 11246, and is now, and at all relevant times has been, subject to the contractual obligations imposed on government contractors and subcontractors by Executive Order 11246, as amended, and the implementing regulations issue thereunder.

6. At all times relevant hereto, AccuWeather held a government contract or subcontract with an aggregate total value exceeding \$10,000. The United States General Services Administration's Federal Procurement Data System identifies, *inter alia*, the following contracts worth in excess of \$10,000 held by AccuWeather in the relevant time period:

- a. Contract No.: SP330015M0442  
Agency: Defense Logistics Agency (DLA)  
Value: \$11,845.00  
Effective Date: 5/20/2015  
Completion Date: 5/23/2020
- b. Contract No.: N00189-15-P-N170  
Agency: Dept. of the Navy  
Value: \$74,107.41  
Effective Date: 6/24/2015  
Completion Date: 6/30/2018

7. AccuWeather is a government contractor within the meaning of Executive Order 11246.

8. The regulations implementing Executive Order 11246 require that every federal contractor "furnish, in the form requested, within reasonable limits, such information as the Deputy Assistant Secretary . . . deems necessary for the administration of [Executive Order 11246]." 41 C.F.R. § 60-1.7(a)(3). Further, a federal contractor must permit OFCCP to access its premises within normal business hours for the purpose of conducting on-site complaint investigations. 41 C.F.R. § 60-1.43.

9. OFCCP received a complaint from a former employee of AccuWeather alleging discriminatory employment practices. The former employee alleged that she was subject to a hostile work environment and ultimately terminated on the basis of her sexual orientation. Executive Order 11246, as amended by Executive Order 13672 (79 Fed. Reg. 42971), prohibits discrimination against an employee or applicant for employment on the basis of race, color, religion, sex, national origin, sexual orientation, or gender identity.

10. After interviewing the complainant, OFCCP determined that there was specific evidence of a violation of the equal opportunity provision of Executive Order 11246. Specifically, the complainant reported that a Vice President of AccuWeather called her derogatory names on the basis of her sexual orientation. Further, she reported that the same Vice President, as well as persons that worked for him, interfered with her work performance by cutting her out of communications and refusing to follow her instructions.

11. On October 25, 2016, OFCCP sent a letter to AccuWeather to schedule an on-site complaint investigation to commence on November 8, 2016.

12. Counsel for AccuWeather responded by letter dated November 2, 2016 stating that AccuWeather, Inc. would not permit OFCCP to conduct the on-site complaint investigation on the belief that AccuWeather is not a federal contractor subject to Executive Order 11246.

13. OFCCP discussed the issue by phone with AccuWeather's counsel on November 4, 2016 and November 10, 2016. AccuWeather's counsel reaffirmed that AccuWeather was denying access for OFCCP to conduct its complaint investigation. AccuWeather's counsel confirmed AccuWeather's denial of access by letter date November 10, 2016.

14. On November 10, 2016, OFCCP issued to AccuWeather a Notice to Show Cause why enforcement proceedings should not be initiated pursuant to Sections 208 and 209 of Executive Order 11246.

15. AccuWeather's counsel responded to the Notice to Show Cause by letter dated December 15, 2016, in which he reaffirmed AccuWeather's refusal to produce the requested documents or permit OFCCP access to its facility to conduct its complaint investigation.

16. Since at least November 8, 2016, AccuWeather has violated Executive Order 11246, and the regulations promulgated thereunder, in carrying out its government contracts by refusing to allow OFCCP to perform an onsite complaint investigation and refusing to provide requested documents.

17. The acts and practices described in paragraphs 12-15 violate Executive Order 11246 and the regulations promulgated thereunder. Plaintiff has attempted to secure voluntary compliance through means of conciliation and persuasion. These efforts have been unsuccessful.

18. This matter is subject to the expedited hearing procedure set forth at 41 C.F.R. §§ 60-30.31 through 60-30.37 because AccuWeather "has refused to give access to or supply records or other information as required by the equal opportunity clause" and has refused to allow an on-site investigation. OFCCP requests that expedited hearing procedures be applied in this case so that it can complete its investigation in a timely manner.

WHEREFORE, Plaintiff prays for a recommended decision and order pursuant to 41 C.F.R. §§ 60-30.35 and 60-30.37, providing the following relief:

1) permanently enjoining AccuWeather, its officers, agents, servants, successors, divisions and subsidiaries and those persons in active concert or participation with them from violating Executive Order 11246 and the regulations issued thereunder;

2) directing AccuWeather to grant OFCCP access to its facility to conduct an on-site complaint investigation and to provide to OFCCP the documents that it requested;

3) subjecting AccuWeather to the following, in the event that AccuWeather fails to provide the above-identified relief:

a. an order cancelling all of its federal contracts and subcontracts and those of its officers, agents, successors, divisions, subsidiaries and those persons in active concert or participation with them, and declaring said persons and entities ineligible for the extension or modification of any such existing government contract or subcontract;

b. an order debarring AccuWeather and its officers, agents, successors, divisions, subsidiaries and those persons in active concert or participation with them from entering into future government contracts and subcontracts until such time as AccuWeather satisfies the Director, Office of Federal Contract Compliance Programs, that it has undertaken efforts to remedy its prior noncompliance and is currently in compliance with the provisions of Executive Order 11246 and the regulations issued thereunder; and

4) all other appropriate relief.

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Date: January 18, 2017

Respectfully submitted,

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U.S. DEPARTMENT OF LABOR

Attorneys for Plaintiff