



January 17, 2024

Ronald Sullivan, Regional Director
Southwest and Rocky Mountain Region
U.S. Department of Labor
Office of Federal Contract Compliance Programs
525 S Griffin St
Room 840
Dallas, TX 75202

Investigation Request: Southwest Airlines Co.

Dear Mr. Sullivan:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans. Your office is charged with responsibility for achieving the aims of parts II, III, and IV of Executive Order 11246 for the promotion and insuring of equal opportunity for all persons, without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, employed or seeking employment with Government contractors. *See* 41 C.F.R. § 60-1. We write, pursuant to 41 C.F.R. § 60-1.21, seeking a complaint investigation into alleged violations of Executive Order 11246 by Southwest Airlines Co. (“Southwest”).

Southwest publicly traded corporation under your jurisdiction, having its headquarters at 2702 Love Field Drive, Dallas, Texas.¹ Since 2007, Southwest has received nearly \$330,000,000 in total from thousands of federal government contracts—primarily concerning transportation services for the Department of Defense.²

Federal law requires all federal government contracts to include an equal opportunity clause prohibiting the contractor from discriminating against an employee or an applicant for employment because of race, color, religion, sex, or national origin. The law provides:

¹ Southwest Airlines Co., *2022 Annual Report to Shareholders* at 176 (Feb. 6, 2023) <http://tinyurl.com/yh3chejd>.

² *Southwest Airlines Co.*, USASPENDING, <http://tinyurl.com/mr3uantu> (last visited Jan. 16, 2024).

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship ... The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

41 C.F.R. §§ 60-1.4(a)(1), (2). This clause is a part of every federal contract and subcontract, whether or not it is physically incorporated and whether or not the contract between the agency and the contractor is written. 41 C.F.R. § 60-1.4(e). If the contractor violates this provision, then the Secretary of Labor may cancel, terminate, or suspend its contracts, and the contractor may be declared ineligible for further federal government contracts and subject to other sanctions. 41 C.F.R. §§ 60-1.26–27.

The evidence is that Southwest is knowingly, intentionally, and systematically violating its equal opportunity covenants and assurances. Since at least 2020, Southwest has engaged in discriminatory hiring and promotion processes under the guise of creating “more diverse, equitable, and inclusive opportunities and candidate pipelines.”³ Southwest readily admits that, in 2020, it set a goal of “[d]oubling the percentage of racial diversity and increasing gender diversity in our Senior Management Committee (Executives) by 2025 as compared to 2020” and “[i]ncreasing diversity in Senior Leadership as compared to 2020.”⁴ Southwest’s stated goals in 2020 were to have 20% “Racial/Ethnic Diversity” in its Senior Management Committee by 2025 and 16% “Racial/Ethnic Diversity” in Senior Leadership by the same 2025.⁵ Similarly, its stated goals in 2020 were to have 30% female membership in its Senior Management Committee by 2025 and 34% female membership in Senior Leadership by that same year.⁶

³ SOUTHWEST, 2022 SOUTHWEST AIRLINES DIVERSITY, EQUITY, & INCLUSION REPORT: BUILDING A STRONG FOUNDATION at 18, 20 (2022) <http://tinyurl.com/msxnkthp>; *see also* 2022 SOUTHWEST AIRLINES DIVERSITY, EQUITY, & INCLUSION REPORT: OUR PRIORITIES & PATH FORWARD at 7 (2022), <http://tinyurl.com/4b2nxh5w>.

⁴ SOUTHWEST, 2022 SOUTHWEST AIRLINES DIVERSITY, EQUITY, & INCLUSION REPORT: BUILDING A STRONG FOUNDATION at 18.

⁵ *Id.* at 20.

⁶ *Id.*

AFL is concerned⁷ that Southwest is following through on its promise to engage in discriminatory race-based and gender-based hiring practices through its use of explicit quotas, all in the name of “Diversity, Equity, and Inclusion.” Specifically, and as described in Southwest’s 2022 One Report:

- Out of Southwest’s 18,000 new hires in 2022 “63% were racially diverse, increasing [its] overall racial diversity from 40% in 2021 to 44%.”⁸
- Additionally, out of those 18,000 new hires, 51% were women, thus “increasing [its] gender diversity from 43% in 2021 to 44%.”⁹
- From 2020 to 2022, “[a]mong Senior Leadership (Directors and Senior Directors), racial diversity increased from 15% to 17%” and “gender diversity has increased from 33% to 37%.”¹⁰
- From 2020 to 2022, Southwest “increased the racial diversity of [its] Senior Management Committee (SMC) Members by two percentage points.”¹¹

Through its statements in its *Diversity, Equity, and Inclusion Report*, its *One Report*, and its demographic trends in recent years, Southwest appears to be unlawfully considering sex, race, and color in its hiring practices. As a recipient of thousands of federal contracts, it appears to have admitted to intentional violations of 41 C.F.R. §§ 60-1.4(a)(1), (2). Accordingly, your office should exercise its authority and undertake a compliance evaluation of Southwest; on this record, failing to do so would be arbitrary and capricious, and an abuse of your discretion.

Thank you in advance for your consideration. Please feel free to contact me if you have any questions.

Sincerely,

/s/ Will Scolinos

Will Scolinos

America First Legal Foundation

⁷ AMERICA FIRST LEGAL, *America First Legal Files Civil Rights Complaints Against American, United, and Southwest Airlines for Illegal Racial and Sex Discrimination* (Nov. 1, 2023), <http://tinyurl.com/2k9ws2mf>.

⁸ SOUTHWEST, 2022 ONE REPORT at 12 (Apr. 22, 2022), <https://tinyurl.com/3z6k6nma>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

CC: The Hon. James Comer, Chair, House Committee on Oversight and Accountability

The Hon. Jamie Raskin, Ranking Member, House Committee on Oversight and Accountability

The Hon. Sam Graves, Chair, House Committee on Transportation and Infrastructure

The Hon. Rick Larsen, Ranking Member, House Committee on Transportation and Infrastructure

APPENDIX

Progress Toward Our 2025 Goals

In 2020 we set Company goals to strengthen and improve our efforts to create more diverse, equitable, and inclusive opportunities. One of these goals included increasing the diverse representation among Executives and Senior Leaders.

Since 2020, we have increased the racial/ethnic diversity of our Senior Management Committee (SMC) and continue to focus on gender diversity.

We have increased both racial/ethnic and gender diversity in Senior Leadership—and we continue to measure our progress and evolve our hiring and development practices to support these goals.

Executive Diversity

Goal: Doubling the percentage of racial diversity and increasing gender diversity in our Senior Management Committee (Executives) by 2025 as compared to 2020.



Senior Leadership Diversity

Goal: Increasing diversity in Senior Leadership³ as compared to 2020.



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Based on Employees' voluntary self-identification as of December 31, 2022.
¹As of 7/31/2020
²As of 12/31/2022
³Directors and Senior Directors (Senior Director was changed to Managing Director in early 2023)

INTRO CULTURE & VALUES BRAND & REPUTATION COMMUNICATIONS & REPORTING TALENT

Supplier Diversity

Southwest is proud of our Corporate Commitment to Supplier Diversity and diversifying our supplier base. This strengthens our relationships with our Customers, Communities, and Suppliers to help us achieve our goals to be the most loved, most efficient, and most profitable airline in the world. The Southwest Supplier Diversity Program is comprised of two programs—Small Business Program and Diverse Business Program.

Small Business Program

Qualifications: Must meet the North American Industry Classification Systems (NAICS) standards for small businesses and be at least 51% owned, controlled, and operated by U.S. citizens who are socially and economically disadvantaged as defined by the SBA.

- Small Business Enterprise (SBE)
- Small Disadvantaged Business (SDB)
- Women Owned Small Business (WOSB)
- Historically Underutilized Business Zone (HUB Zone)
- Veteran Owned Small Business (VOSB)
- Service-Disabled Veteran Owned Small Business (SDVOSB)

Diverse Owned Business Program

Qualifications: A diverse-owned business that must be at least 51% owned, controlled, and operated by a member of a socially disadvantaged group as defined by the SBA.

- Minority Business Enterprise (MBE)
- Women Business Enterprise (WBE)
- Gay, Bisexual, and Transgender Owned Business (LGBT)
- Disabled Owned Business Enterprise (DOBE)
- Historically Underutilized Business (HUB)
- Veteran Business Enterprise (VBE)
- Service-Disabled Veteran Owned Business (SDVOB)

We are proud of the Supplier connections created:

- Multi-year contract award to a HUB Zone certified safety training company.
- Strategic technology supplier (MBE) that connects original equipment manufacturers and professional services resources with customers for technology support and modernization.
- Small and diverse business (MBE, SBE, SDV) that provides support to ensure accuracy with various asset shipments throughout our stations.

Southwest continues to partner with federal, state, local, and non-profit certifying agencies and organizations in support of the growth and development of small and diverse-owned businesses. We are committed to fostering an environment that moves us forward and makes a difference in the communities that we serve.

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Creating a Sense of Belonging Through DEI

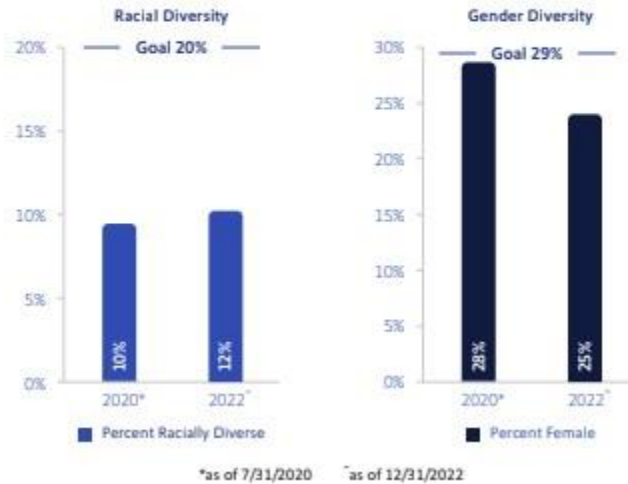
We reflect our commitment to DEI in the practices and Teams that turn that commitment into innovation and positive change, including increasing diversity among Leadership and the Board of Directors; evolving our hiring and development practices; and creating robust community partnerships.

The following table outlines the DEI goals we set in 2020 and the actions we've taken toward achieving them. Our DEI goals are aimed at strengthening our Culture and continuing to represent the communities we serve.

Goal	Actions Taken
<p>Hiring & Development Practices: Evolving hiring and development practices to support diversity goals, including posting all new open Leadership positions (Vice Presidents and below) and requiring diverse Candidate slates for each role.</p>	<ul style="list-style-type: none"> Created required diversity hiring training for all Hiring Managers. Created a Diversity Center of Excellence to help identify partners across the country to aid in diversifying our talent pipeline. In 2022, of our more than 18,000 New Hires, 63% were racially diverse, increasing our overall racial diversity from 40% in 2021 to 44%. Additionally, 51% were women, increasing our gender diversity from 43% in 2021 to 44%.
<p>Senior Leadership Diversity: Measuring progress in increasing diversity in Senior Leadership as compared to July 2020.</p>	<ul style="list-style-type: none"> Published our first DEI Report in April 2022 highlighting our efforts in People, Culture, community, and supply chain and shared a diversity breakdown at each level of the organization. Among Senior Leadership (Directors and Senior Directors), racial diversity increased from 15% to 17% and gender diversity has increased from 33% to 37%.
<p>Senior Management Committee (Executive) Diversity: Doubling the percentage of racial diversity and increasing gender diversity in our Senior Management Committee by 2025 as compared to July 2020.</p>	<ul style="list-style-type: none"> Our requirement for posting all new, open Vice President positions is part of our overall Talent and Succession planning activities, which includes a focus on building a diverse bench for our Senior Management Committee. Since 2020, we increased the racial diversity of our Senior Management Committee (SMC) Members by two percentage points.
<p>Community Partners: Engaging a breadth of community partners to leverage the Company's relationships in sourcing diverse talent.</p>	<ul style="list-style-type: none"> With more than 150 community partners, we're working to grow these relationships across the country. We look to our partners to identify diverse Candidate pipelines. In 2022, participated in 78 DEI-focused hiring and outreach events, resulting in nearly 15,000 new Candidates in our resource management system and 263 New Hires.

Executive Leadership⁴ Diversity

Since 2020, we've seen an increase in the racial diversity of our Senior Management Committee (SMC) from 10% to 12%



Inclusion Wearables: Pronoun Pins



We understand that self-expression is important to our Employees as is the opportunity to bring their best and whole selves to work. In 2022, we introduced inclusion-focused wearables which were Company-approved and optional for all Employees to wear in adherence with our uniform appearance standards. This included pronoun pins which allow Employees to express their gender identity and for others to easily know how someone identifies.

"The pronoun pin launch was extremely important to me for many reasons. As a Non-Binary identifying Leader, it allowed me to be my true authentic self without having to re-introduce myself to others while subtly offering a place for other Employees to have a conversation. Where it may not have initially been brought up, it has been able to spark more inclusive conversations that are led by compassionate curiosity. It made me proud that the Company I LUV backed me for who I am, allowing me to wear these pins either on my lanyard or as a uniform piece as a statement to our Customers and Passengers reinforcing Southwest's commitment to celebrating Pride!"

Heather R., BWI Ramp Manager

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