



**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**OFCCP'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO
ORACLE AMERICA, INC.**

Plaintiff the Office of Federal Contract Compliance Programs, United States Department of Labor ("OFCCP"), under 41 C.F.R. § 60-30.10 and, as applicable, Rule 34 of the Federal Rules of Civil Procedure, requests that Defendant Oracle America, Inc. ("Oracle") produce at the Office of the Solicitor, U.S. Department of Labor, 90 7TH Street, Suite 3-700, San Francisco, California 94103, within 25 days after these requests are served, the documents requested below that are in Oracle's possession, custody, or control, or in the possession, custody, or control of any of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.

DEFINITIONS

1. "YOU" and "YOUR" mean Oracle America, Inc. and all of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.
2. "RELEVANT TIME PERIOD" means **January 1, 2013 to the present** unless otherwise stated.

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3. "AFFINITY GROUP" means any group of people linked by a common interest or purpose and includes, but is not limited to, gender or race.

4. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

5. "ANSWER" means the Answer to the Amended Complaint filed by YOU in this action on February 8, 2017.

6. "COLLEGE RECRUIT" means any PERSON who expresses interest or applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, and recent graduates) for technical positions (as opposed to sales positions), including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business.

7. "COMMUNICATIONS" means all transactions or transfers of information of any kind, whether orally, in writing, or in any other manner, at any time or place, under any circumstances whatsoever.

8. "COMPENSATION" means any payments made to, or on behalf of, an employee as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, commissions, bonuses, vacation and holiday pay, retirement and other benefits, stock options and awards, and profit sharing.

9. "COMPLIANCE REVIEW" means OFCCP's compliance evaluation of YOUR headquarters located at Redwood Shores, California in connection with the scheduling letter OFCCP sent to YOU on or about September 24, 2014 pursuant to 41 C.F.R. Chapter 60: Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, unless

otherwise stated.

10. "DOCUMENT" means all writings of any kind, including any written, printed, typed, electronically stored, or other graphic matter of any kind or nature and all mechanical or electronic sound recordings or transcripts thereof, in YOUR possession and/or control or known by YOU to exist, and also means all copies of documents by whatever means made, including, but not limited to: papers, letters, correspondence, emails, text messages, presentations, manuals, computerized files, computerized spreadsheets, telegrams, interoffice communications, memoranda, notes, notations, notebooks, reports, records, accounting books or records, schedules, tables, charts, transcripts, publications, scrapbooks, diaries, and any drafts, revisions, or amendments of the above, and all other materials enumerated in the definition provided in Rule 34 of the Federal Rules of Civil Procedure.

11. "HIRING" or "HIRE" mean receiving expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary and other COMPENSATION for, and/or extending offers to, PERSONS who express interest in a position with YOU or requisition posted by YOU.

12. "OFCCP" means the Office of Federal Contract Compliance Programs, United States Department of Labor.

13. "OFCCP'S REQUESTS FOR DATA" means all DOCUMENTS and COMMUNICATIONS requested from YOU by OFCCP during the COMPLIANCE REVIEW, whether orally, in writing, or in any other manner.

14. "ORGANIZATIONAL CHART" means a graphic or written representation of the structure of YOUR business or any portion of YOUR business, which shows the relationships of the positions or jobs (including but not limited to reporting relationships) within each line of

business, job function, or any other division or group as YOU have defined them in the normal course of YOUR business operations.

15. "PERSON" means without limitation individuals, firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity.

16. "PERSONNEL" means information relating to YOUR current, former, or prospective employees.

17. "PERSONNEL FILE" means any data, file (including electronic files), collection of DOCUMENTS and COMMUNICATIONS, or other form in which information is stored or maintained by YOU or any of YOUR officers, executives, all levels of management, human resources department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, concerning the employment of a particular employee, whether current, former, or prospective.

18. "POLICIES," "PRACTICES," or "PROCEDURES" means each rule, action, or directive, whether formal or informal, and each common understanding or course of conduct that was recognized as such by YOUR present or former officers, agents, employees, or other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction, that was in effect at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred during the RELEVANT TIME PERIOD.

19. "Relating to" means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, or referring to, whether directly or indirectly, the subject of the particular request.

INSTRUCTIONS

1. Unless otherwise stated, these requests relate to Oracle's POLICIES, PRACTICES, AND PROCEDURES at its headquarters located at Redwood Shores, California.

2. In responding to these requests, furnish all information that is available to YOU. If, after exercising due diligence to secure the DOCUMENTS, YOU cannot produce the requested DOCUMENTS in full, respond to the extent possible, specifying YOUR inability to produce the remainder. If YOU object to any request, state with specificity the basis for the objection, decline to respond to only that portion of the request deemed objectionable, and respond to the balance of the request.

3. If any requested DOCUMENT was, but is no longer, in YOUR possession, custody, or control, or is no longer in existence, state whether such DOCUMENT is:

- a. missing or lost;
- b. destroyed;
- c. transferred to others; or
- d. otherwise disposed of.

For any DOCUMENT so disposed of, summarize the contents of the DOCUMENT in as much detail as possible. If the DOCUMENT is missing, lost, or destroyed, set forth the circumstances surrounding such disposition. If the DOCUMENT was transferred to others or otherwise disposed of, describe in detail the authorization for such disposition, state the date or closest approximate date known to YOU of such disposition, state the current location of the DOCUMENT, and identify the custodian of all copies of such DOCUMENT.

4. These requests are intended to cover all DOCUMENTS in existence or in effect at any time during the RELEVANT TIME PERIOD. If any responsive DOCUMENTS have

changed over the RELEVANT TIME PERIOD, produce all responsive DOCUMENTS, regardless of whether they reflect POLICIES, PRACTICES, or PROCEDURES that are no longer in effect.

5. With respect to the application of privileges: If YOU decline to produce any DOCUMENT or to otherwise provide information on the basis of a claim of privilege, so state in response to the DOCUMENT request. Any part of a DOCUMENT for which YOU do not claim a privilege must be produced. Furnish a complete log of any DOCUMENTS or portions of DOCUMENTS withheld on the basis of privilege, describing each such DOCUMENT or portion thereof in a manner that will enable OFCCP to assess the applicability of the privilege being asserted. This includes, without limitation, setting forth for each such DOCUMENT the dates the DOCUMENT was prepared and transmitted, to whom and from whom the DOCUMENT was transmitted, including copies thereof, the length of the DOCUMENT, the privilege(s) claimed, and the factual basis for the claim of privilege.

6. Under 41 C.F.R. § 60-30.1 and Rule 26(e) of the Federal Rules of Civil Procedure, these requests for production are continuing in nature and, to the extent that the responses may be enlarged, diminished, or otherwise modified by information acquired by YOU or YOUR attorneys after filing this response, YOU and YOUR attorneys are required to promptly serve and file supplemental DOCUMENTS reflecting the changes.

7. The parties responding to these requests are charged with knowledge of what they know, what their agents, employees, servants, representatives, and attorneys know, what is in records available to them, and what others have told them on which they intend to rely in their defense.

8. All DOCUMENT productions made in response to these requests must comply

with OFCCP's technical specifications, which will be provided separately.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify YOUR organizational structure for the Support, Product Development, and Information Technology lines of business or job functions during the RELEVANT TIME PERIOD, including identifying by name and job title, any and all PERSON(S) that are officers, executives, and all levels of management within each job function or line of business, including reporting relationships between PERSONS.
2. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect a COLLEGE RECRUIT's disposition or HIRING, including PERSONS participating in job fairs, evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires for positions in the Professional Technical I, Individual Contributor ("PT1") job group or Product Development line of business during the RELEVANT TIME PERIOD.
3. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S) by name and job title, involved in determining YOUR budget for PERSONNEL costs (i.e., budget for determining number of hires, starting salaries, promotions, any other changes in COMPENSATION, transfers, demotions, layoffs, and all other costs associated with PERSONNEL) during the RELEVANT TIME PERIOD, including but not limited to identifying any and all PERSON(S), by name and job title, with knowledge of how YOU define and determine the "Headcount" term YOU used in YOUR responses to OFCCP during the COMPLIANCE REVIEW.

4. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, involved in determining how, once established, funds allocated in YOUR PERSONNEL budget are distributed within the Product Development, Information Technology, and Support lines of business or job functions, including the distributions to executives, managers or anyone else for further distribution, and distribution of the budget to any team, division, or group within these lines of business.
5. All COMMUNICATIONS relating to OFCCP'S REQUESTS FOR DATA.
6. All COMMUNICATIONS relating to the preparation of YOUR responses (regardless of whether YOU furnished information or objected) to OFCCP'S REQUESTS FOR DATA.
7. All COMMUNICATIONS relating to feasibility (i.e., YOUR ability and efforts to collect information, including but not limited to data or fields of data) in response to OFCCP'S REQUESTS FOR DATA.
8. All DOCUMENTS and COMMUNICATIONS relating to POLICIES, PRACTICES, or PROCEDURES, for YOUR preparation of Affirmative Action Programs ("AAP"), as described in 41 C.F.R. § 60-2.10, for the RELEVANT TIME PERIOD.
9. All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES, for responding to OFCCP'S REQUESTS FOR DATA during compliance reviews, including but not limited to the particular COMPLIANCE REVIEW period cited herein.
10. All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES, for determining how YOU define an "applicant" as that term is used in YOUR responses to OFCCP'S REQUESTS FOR DATA during compliance reviews, including but not limited to the particular COMPLIANCE REVIEW period cited herein. This

includes, but is not limited to, all DOCUMENTS and COMMUNICATIONS relating to how YOU determine which PERSONS to include and exclude as an “applicant,” what factors go into this determination, and identifying any and all PERSON(S) involved in making this determination.

11. All DOCUMENTS and COMMUNICATIONS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES, relating to any and all PERSONS expressing an interest in an Oracle job (whether or not such PERSONS eventually applied for said job) during the RELEVANT TIME PERIOD.
12. All user manuals and training materials for YOUR Compensation Workbench system.
13. All user manuals and training materials for YOUR I-Recruitment system.
14. All user manuals and training materials for YOUR system for tracking HIRING for COLLEGE RECRUITS.
15. All user manuals and training materials for YOUR Taleo system.
16. All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS relating to any criteria that YOU used to evaluate applicants at any stage (i.e., screening, interview, post-interview) of the application process.
17. All DOCUMENTS and COMMUNICATIONS exchanged between YOU and all domestic colleges and universities relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD. This includes all DOCUMENTS and COMMUNICATIONS exchanged between YOU and college and university career services, AFFINITY GROUPS, and any other organizations whose members include college and university students and alumni.

18. All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any internal or external recruiter for YOU relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

19. All DOCUMENTS and COMMUNICATIONS exchanged between YOU and all international colleges and universities relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD. This includes all DOCUMENTS and COMMUNICATIONS exchanged between YOU and college and university career services, AFFINITY GROUPS, and any other organizations whose members include college and university students and alumni.

20. All DOCUMENTS and COMMUNICATIONS relating to “Good Faith Efforts (GFEs) in the U.S. to reach out to interested women and minorities” for any PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD, as stated in YOUR letter to OFCCP dated October 31, 2016.

21. All DOCUMENTS and COMMUNICATIONS relating to efforts to recruit PERSONS internationally for any PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD.

22. All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of COLLEGE RECRUITS who were interviewed during the RELEVANT TIME PERIOD.

23. All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, text messages) stating, summarizing, supporting, or explaining YOUR decision on a disposition of an expression of interest or application at any point of the HIRING process from a COLLEGE RECRUIT during the RELEVANT TIME PERIOD.

24. All COMMUNICATIONS (including but not limited to memos, emails and text

messages) to and from Larry Lynn, Vice President, College Recruiting, relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

25. All COMMUNICATIONS (including but not limited to memos, emails and text messages) to and from Chantal Dumont, Senior Director, College Recruiting, relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

26. All DOCUMENTS and COMMUNICATIONS relating to POLICIES, PRACTICES, or PROCEDURES for YOUR Employee Referral Program.

27. All DOCUMENTS and COMMUNICATIONS relating to PERSONS who were referred under YOUR Employee Referral Program.

28. All DOCUMENTS and COMMUNICATIONS relating to PERSONS receiving a bonus or other form of COMPENSATION through YOUR Employee Referral Program.

29. All DOCUMENTS YOU rely upon or reviewed in making each and every affirmative defense set forth in YOUR ANSWER.

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DATED: February 10, 2017

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CERTIFICATE OF SERVICE

I am a citizen of the United States of America and am over eighteen years of age. I am not a party to the instant action; my business address is 350 S. Figueroa St., Ste. 370, Los Angeles, California, 90071.

On the date indicated below, I served the foregoing **OFCCP'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO ORACLE AMERICA, INC.** by electronic mail, by prior written agreement between counsel, to the following:

Connell, Erin M.: econnell@orrick.com

Kaddah, Jacqueline D.: jkaddah@orrick.com

James, Jessica R. L.: jessica.james@orrick.com

Siniscalco, Gary: grsiniscalco@orrick.com

I certify under penalty of perjury that the above is true and correct.

Executed: February 10, 2017

/s/ Grace A. Kim
GRACE A. KIM
Trial Attorney

Office of the Solicitor
U.S. Department of Labor